



COMMONWEALTH OF KENTUCKY
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25-ORD-293

October 2, 2025

In re: Austin Price/Kentucky State Police

Summary: The Office is unable to find that the Kentucky State Police (“KSP”) violated the Open Records Act (“the Act”), because the Office is unable to resolve the factual dispute between the parties.

Open Records Decision

On February 24, 2025, Austin Price (“Appellant”) submitted a request to KSP for “any and all records from 2007 to 2023” related to a specific person formerly employed by the McCreary County School District whom the Appellant states “was recently indicted” on multiple charges. On September 9, 2025, the Appellant initiated this appeal, claiming he had yet to receive a response from KSP.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” Here, the Appellant submitted his request to KSP on February 24, 2025, but as of September 9, 2025, the Appellant claimed he had yet to receive a response from KSP. As proof, the Appellant provides a facsimile transmission log showing an entry on February 24, 2025, at 5:42 p.m. that was successfully transmitted.

For its part, KSP asserts it received the Appellant’s request on February 24, 2025, and “sent a timely, written response per KRS 61.880(1).” As proof, KSP provides a four-page history of the Appellant’s request containing an entry indicating a reply was “[s]ent” on March 3, 2025, at 10:03 a.m.¹ The Office has routinely found

¹ KSP also asserts it informed the Appellant in its response to his request that it does not possess any records responsive to his request. Once a public agency states affirmatively that it does not possess any responsive records, the burden shifts to the requester to make a *prima facie* case that the records

that it is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received a response to his request. *See, e.g.*, 23-ORD-276. Accordingly, the Office cannot find KSP violated the Act because the Office cannot resolve the factual dispute between the parties as to whether the Appellant received the KSP's response to his February 24 request.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

**Russell Coleman
Attorney General**

/s/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

Austin Price
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do exist and that they are within the agency's possession, custody, or control. *See Bowling v. Lexington-Fayette Urb. Cnty. Gov't*, 172 S.W.3d 333, 341 (Ky. 2005). If the requester makes a *prima facie* case that the records do or should exist, "then the agency may also be called upon to prove that its search was adequate." *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341). However, because the Appellant initiated this appeal due to KSP's alleged failure to respond to his request, the substance of KSP's response is not ripe for review. *See, e.g.*, 23-ORD-135 n.3.