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26-ORD-078

March 5, 2026

In re: Kevin Moulton/Bullitt County Judge/Executive

**Summary:** The Bullitt County Judge/Executive (“Judge/Executive”) violated the Open Records Act (“the Act”) by failing to either provide the requester with all existing, responsive, and nonexempt records within five business days or properly invoke KRS 61.872(5) by providing a detailed explanation of the cause for the delay in providing some records and the earliest date on which those records will be made available.

***Open Records Decision***

On January 5, 2026, Kevin Moulton (“the Appellant”) submitted a request to the Judge/Executive asking for copies of 12 categories of “EMS-related public records” from 2025 “unless otherwise stated.”<sup>1</sup> By email dated January 12, 2026, the Bullitt County Attorney (“the County Attorney”) responded on behalf of the Judge/Executive, acknowledging “that the Bullitt County Judge Executive’s [sic] Office is in receipt of your Open Records Request dated January 5, 2026[,]” and further stating, “The request asks for a voluminous amount of records. We are currently working to fill the request but will need more than five business days. We will transmit records to this email address as they become ready.”

On January 21, 2026, the Appellant followed up regarding the status of the request, acknowledging that he “received a partial response with responsive records on January 21, 2026, via the thumb drive provided.” However, upon review of the records provided to him, the Appellant determined that certain records were “missing or incomplete” among those provided in response to items 1–4, 6, and 9 of the request. On January 22, 2026, the County Attorney advised the Appellant she was reattaching

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<sup>1</sup> The Appellant generally characterized the records that he requested as follows: 1. Response Times and Call Volume; 2. Staffing; 3. Scheduling; 4. Coverage and Unit Availability; 5. Ambulances, Equipment and Maintenance; 6. Mutual Aid; 7. Policies and Quality Assurance; 8. Body-Worn Cameras; 9. Training; 10. Budgets and Expenditures; 11. Contracts; and 12. Billing, Revenue, Grants, and Audits.

“the response again for your convenience. The response is very clear that we are still working on gathering some of the documents given the voluminous nature of the request. I will email you as the documents become available.” This appeal followed.

The Appellant contends that “Bullitt County remains noncompliant with the Kentucky Open Records Act. The County has failed to produce all responsive records, has not invoked any exemption under KRS 61.878 to justify withholding records, and has not provided a definite or reasonable timeframe for compliance as required by KRS 61.872(5).”<sup>2</sup> Upon receiving notice of this appeal from the Office, the Judge/Executive did not respond or provide any further information or context.

Under the Act, a public agency must respond to a request for public records “within five (5) days, excepting Saturdays, Sundays, and legal holidays, 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.” If a public agency denies a request, in whole or in part, its response must include “a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” *Id.* A public agency cannot simply ignore portions of a request. *See, e.g.*, 24-ORD-182; 21-ORD-090. If the records exist but a statutory exception permits the agency to withhold or redact the records, the agency must cite the statutory exception and explain how it applies. KRS 61.880(1). Conversely, if requested records do not exist, then the agency must affirmatively state that such records do not exist in the possession of the agency. *See Bowling v. Lexington–Fayette Urb. Cty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005); 24-ORD-182. Here, the Judge/Executive failed to affirmatively indicate whether any of the records do not exist and identify which records, if any, his office is withholding and on what basis. Thus, the Judge/Executive failed to comply with KRS 61.880(1) and, therefore, violated the Act.

Moreover, the Judge/Executive’s initial response did not fully grant or deny the Appellant’s request, nor did it properly invoke KRS 61.872(5), which permits a public agency to delay production of the records, but only if the records are “in active use, in storage or not otherwise available.” To delay production of records under KRS 61.872(5), a public agency must issue a timely, written response that explains the reason for the delay, and specifies the “earliest date” on which the records will be made available. KRS 61.872(5). The statute places the burden on the public agency to give a “detailed explanation of the cause” for delay. *Id.*; 25-ORD-151; 21-ORD-125; *see also* KRS 61.880(2)(c). Here, the Judge/Executive sent a written response to the Appellant within five business days, but he did not cite KRS 61.872(5), provide a “detailed explanation” of the cause for delay, or provide a specific date by which he would provide the records. Accordingly, his initial response also violated the Act by

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<sup>2</sup> The Appellant also lists the records that he maintains the Judge/Executive has failed to produce.

failing to either provide timely access to all existing, responsive, and nonexempt records or properly invoke KRS 61.872(5).

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to 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/ Michelle D. Harrison  
Michelle D. Harrison  
Assistant Attorney General

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Distributed to:

Kevin Moulton, Appellant  
Tammy Baker, Bullitt County Attorney  
Justin Warren, Director, Bullitt County EMS