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26-ORD-094

March 13, 2026

In re: Lisa Tobe/Kentucky Association of Sexual Assault Programs, Inc.

Summary: The Kentucky Association of Sexual Assault Programs, Inc. (“KASAP”) subverted the intent of the Open Records Act (“the Act”) when it failed to properly invoke KRS 61.872(5).

Open Records Decision

On November 17, 2025, Lisa Tobe (“the Appellant”) submitted a 48-part request to KASAP seeking “records related to [her] recruitment, employment, and termination as Chief Executive Officer of KASAP.” On November 24, 2025, KASAP stated its belief that the Appellant intended to disrupt its essential functions, within the meaning of KRS 61.872(6), but nevertheless states that it would “review its records and provide a response to [the Appellant] on or before December 31, 2025.” On December 29, 2025, the Appellant initiated this appeal.

Under KRS 61.880(1), a public agency has five business days to fulfill or deny a request for public records. This period may be extended if the records are “in active use, in storage or not otherwise available,” but the agency must give “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5). Under KRS 61.880(4), a person may petition the Attorney General to review an agency’s action if the “person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to . . . delay past the five (5) day period described in [KRS 61.880(1) or] excessive extensions of time.”

Here, KASAP’s initial response did not grant or deny the Appellant’s request. Instead, without invoking KRS 61.872(5), KASAP stated that it would provided a final response on December 31, 2025. No explanation, let alone a “detailed explanation,” was given to explain why KASAP could not timely provide the requested records.

On appeal, KASAP asserts that it “knew that it was facing an unreasonably large open records request” and that it “told [the Appellant] . . . that it needed this additional time because of the breadth of the requests.” However, a vague statement about the volume of a request is not a “detailed explanation” under KRS 61.872(5). *See, e.g.*, 25-ORD-008; 22-ORD-164; 17-ORD-194. KASAP also refers to the “requirements of staff to attend to other duties and staff’s entitlement to take off time for the holidays” as reasons for its delay. But concerns regarding staff workload are an insufficient justification for delay. *See, e.g.*, 23-ORD-320; 22-ORD-167. A public agency must “make proper provision for the uninterrupted processing of open records requests” by having “an individual available to timely process” those requests. 04-ORD-088. Moreover, KASAP’s original response stated only the date on which it would provide a final response; it did not contain any explanation for the delay.¹ Therefore, KASAP subverted the intent of the Act by delay, within the meaning of KRS 61.880(4), when it failed to adequately invoke KRS 61.872(5).²

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/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

¹ The Office takes no position regarding whether the Appellant’s 48-part request for records implicates so large a large number of records that a delay in their production was justified. Ultimately, the burden is on the agency to provide a detailed explanation for why its delay was reasonable. *See* KRS 61.880(2)(c).

² On December 30, 2025, KASAP issued its final response to the Appellant’s request, which granted the request in part and denied it in part. The Appellant then objected to this new response. Under KRS 61.880(2)(a), this Office’s mandate is to review the request for records and the agency’s response to determine whether the agency violated the Act. In finding that KASAP’s initial response subverted the intent of the Act, the Office has carried out its mandate. The Office declines to consider the new issues raised on appeal regarding KASAP’s final response. *See, e.g.*, 23-ORD-333 n.1; 22-ORD-200 n.2; 22-ORD-170 n.2; 22-ORD-142 n.3; 21-ORD-177 (the Office may decline to consider new issues raised by the parties’ correspondence on appeal). Rather, the Appellant may initiate this Office’s review of any newly alleged violations by initiating a new appeal. She may do so by providing the Office a copy of her original request and the agency’s final response. *See* KRS 61.880(2)(a).

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Distributed to:

Lisa Tobe
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