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26-ORD-107

March 19, 2026

In re: Jennifer Simpson/Adair County Sheriff's Office

Summary: The Adair County Sheriff's Office ("the Sheriff") violated the Open Records Act ("the Act") by not conducting a diligent search for any existing, responsive records upon receipt of the request and providing copies of the nonexempt records that search yielded. However, the Sheriff did not violate the Act by providing copies of the only existing records that she possesses upon receipt of this appeal. The Office cannot resolve factual disputes regarding perceived discrepancies between the records that were requested and those ultimately provided.

Open Records Decision

On February 13, 2026, Jennifer Simpson ("the Appellant") submitted a request to the Sheriff seeking "[a]ll records pertaining to The Barn at Cedar [G]rove [the Barn] located at 1000 Brockman Keltner Rd. Greensburg, KY 42743," from the past 20 years. The Appellant explained she was "looking for any records for this business [reflecting] that the Sheriff's Office was called for any type of disturbance, fight, disagreement and/or where somebody was hurt." Later that day, the Sheriff advised the Appellant she was "unaware of anything at that location coming through our office. You are more than welcome to file an open records request with 911 [D]ispatch[.]"¹

Upon receipt of the Sheriff's response, the Appellant asked whether the Sheriff had performed a search or was relying on her memory. The Sheriff responded that her office "was not aware of any other incidents by either paperwork or calls coming through our location[.] [D]ispatch would be your only source for this information." When the Appellant asked for additional clarification regarding how the Sheriff verified the lack of records, the Sheriff explained, "The Barn at Cedar Grove has only been an existing venue since 2011 so (14 years [maximum]) most events would happen during weekends or evenings," meaning 911 Dispatch would have received

¹ The Sheriff also provided the phone number for the 911 Dispatch.

any calls or complaints. For this reason, the Sheriff referred the Appellant again to 911 Dispatch for any such records. This appeal followed.

The Adair County Attorney, responding on behalf of the Sheriff, advised that the Sheriff had located “reports from two incidents at The Barn at Cedar Grove from May 2019 and November 2025,” but that the Sheriff does “not have any reports or records related to [the Appellant’s] incident at The Barn at Cedar Grove.” Upon receipt of the responsive uniform citations, the Appellant reiterated that she does “not believe these 2 records are all they have in regard[] to my request.” The Appellant maintains that she was “assaulted at this business . . . on 10-09-24 and Jamie Richard, Sheriff, showed up with the Kentucky State Police [‘KSP’].” The Appellant further questions whether there must be some form of “proof” the Sheriff was present even though KSP handled the related investigation.

When a public agency receives a request to inspect public records, that agency must decide within five business days “whether to comply with the request” and notify the requester in writing “of its decision.” KRS 61.880(1). A public agency cannot simply ignore portions of a request. *See, e.g.,* 21-ORD-090. If the records exist but a statutory exemption applies that allows the agency to withhold the records, the agency must cite that exemption and explain how it applies. KRS 61.880(1). Conversely, if the records do not exist, then the agency must affirmatively state that the records do not exist following a diligent search for the records. 25-ORD-376. A public agency responding to an open records request must “expend reasonable efforts to identify and locate the requested records.” 18-ORD-164; 95-ORD-96. Discharging this duty entails “a search using methods which can reasonably be expected to produce the records requested.” *Id.* (quoting *Cerveney v. Cent. Intel. Agency*, 445 F. Supp. 772, 775 (D. Col. 1978)); 18-ORD-164. When a subsequent search locates responsive records that were not found during the initial search, as in this case, the agency’s initial search “was clearly insufficient to locate all responsive records.” 25-ORD-376; 25-ORD-165; 21-ORD-242; 21-ORD-178. Because the Sheriff did not provide the Appellant with any existing, responsive records, her initial search was necessarily inadequate. However, the Sheriff has now remedied this deficiency and provided the Appellant with copies of the only existing records in her possession.

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 agency does or should possess the requested records. *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 a public agency possesses the records, “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). Here, the Appellant has not made a *prima facie* case that the Sheriff possesses additional, responsive records beyond the uniform citations she received.

To support her claim that the Sheriff possesses additional records, the Appellant relies on her unsubstantiated belief that there should or must be records documenting the Sheriff's presence at The Barn on October 9, 2024. However, the Sheriff's presence following the incident does not confirm that documentation was created. Moreover, the Sheriff maintains that she has now provided the Appellant with copies of the only existing, responsive records that her office possesses. Simply put, given the scope of this Office's review under KRS 61.880(2), it cannot resolve factual disputes between the parties, including a dispute regarding whether the public agency has provided all responsive records. *See, e.g.*, 22-ORD-010 (declining to resolve a factual dispute regarding the perceived discrepancy between the records provided and those requested); 21-ORD-163 (declining to resolve conflicting factual narratives); 19-ORD-083; 03-ORD-61; OAG 89-81. Here, the Appellant is asking the Office to make a factual determination regarding what records the Sheriff possesses. Thus, the Office cannot find that the Sheriff violated the Act when it did not provide records it does not possess.

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:

Jennifer Simpson, Appellant
Gary Roy, Adair County Sheriff
Jennifer Hutchison-Corbin, Adair County Attorney