



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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26-ORD-274

June 11, 2026

In re: Paul Hendrix/Oldham County Attorney's Office

**Summary:** The Oldham County Attorney's Office ("the County Attorney's Office") did not violate the Open Records Act ("the Act") when it denied under KRS 61.878(1)(h) a request for records contained in its criminal investigation or litigation files.

### *Open Records Decision*

On May 12, 2026, Paul Hendrix ("the Appellant") submitted a request to the County Attorney's Office seeking 13 categories of records related to two criminal cases.<sup>1</sup> In response, the County Attorney's Office denied the request under KRS 61.878(1)(h), (i), (j), and (l) and explained that the requested materials are "prosecutorial and investigative records, internal memoranda and communications, attorney work-product, privileged attorney-client communications, and records related to criminal proceedings and law enforcement activities." This appeal followed.

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<sup>1</sup> Specifically, the Appellant sought: (1) communication records between the County Attorney's Office and five individuals regarding the two criminal cases; (2) "memoranda, notes, e-mails, calendar entries, and case-management records" related to the two criminal cases; (3) communications between the County Attorney's Office, the Cabinet for Health and Family Services ("the Cabinet"), and three law enforcement agencies located in Oldham County regarding "the Victim" and "the Victim's father" and related to a child abuse and neglect investigation conducted by the Cabinet; (4) records related to evidence given to the County Attorney's Office by the victim's family; (5) records related to an interview conducted by a law enforcement agency; (6) records related to County Attorney's Office compliance with "Marsy's Law"; (7) the County Attorney's Office's "complete file" related to "any complaint, accusation, or referral against the Victim's father, Paul M. Hendrix"; (8) records related to a diversion agreement with the defendant; (9) communications about the two criminal cases with the Commonwealth's Attorney's Office; (10) communications with the Attorney General's Office regarding the applicability of SCR 3.130(4.2) to the County Attorney's Office's communications with the victim; (11) communications with law enforcement officers assigned to the investigations underlying the two criminal cases; (12) communications between the County Attorney's Office and Norton Healthcare regarding the victim or her family; (13) records related to "any policy, procedure, training, or guidance" the County Attorney's Office has either issued or relied on that concerns "compliance with Marsy's [L]aw."

Under KRS 61.878(1)(h), “records or information compiled and maintained by county attorneys or Commonwealth’s attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the [Act] and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action.” Thus, “a prosecutor’s litigation files are excluded *in toto* from the Act.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 853 (Ky. 2013). “[T]his exemption is unique because it *categorically* exempts county attorneys’ and Commonwealth’s attorneys’ criminal litigation or investigative files.” 23-ORD-106 (emphasis in original); *see also* 02-ORD-112 (finding investigative records in the possession of a county attorney or Commonwealth’s attorney are “permanently shielded from disclosure”).

The County Attorney’s Office, on appeal, explains that the “requested records were compiled and are maintained in connection with criminal investigations and prosecutions.” Such records are permanently exempt under KRS 61.878(1)(h). The Appellant argues that the relevant investigations and prosecutions have ended, meaning records are no longer exempt under KRS 61.878(1)(h). The Appellant is correct insofar as KRS 61.878(1)(h) also makes exempt certain law enforcement records that will “be used in a prospective law enforcement action.” However, the Appellant has not requested records from a law enforcement agency, he has requested records belong to the County Attorney’s Office and those records are permanently exempt. Thus, the County Attorney’s Office did not violate the Act when he denied the Appellant’s request.<sup>2</sup>

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

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<sup>2</sup> Because the records are exempt under KRS 61.878(1)(h), the Office need not address the County Attorney’s Office’s alternative arguments under KRS 61.878(1)(i), (j), and (l).

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Distributed to:

Paul Hendrix, Appellant  
Berry Baxter, Oldham County Attorney