



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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26-ORD-283

June 22, 2026

In re: Kenneth Tracy/Franklin County Sheriff's Office

Summary: The Franklin County Sheriff's Office (the "Sheriff's Office") violated the Open Records Act ("the Act") when it did not grant or deny a request within five business days, and when it delayed access to records without invoking KRS 61.872(5) or providing a detailed explanation for the delay.

Open Records Decision

On May 11, 2026, Kenneth Tracy ("the Appellant") submitted a request to the Sheriff's Office seeking copies of "complaint or reports" made against a named individual dated between May 1, 2021, and the date of the request. That same day, the Sheriff's Office stated that it had begun "locating the records" but that its records custodian "is out of the office," which "will create a delay in obtaining all the requested records." Subsequently, on May 21, 2026, the records custodian informed the Appellant that he had returned, that he had between 15 and 20 requests to respond to, and that he was addressing them in order of receipt. This appeal followed.

Upon receiving a request to inspect records, a public agency must decide within five business days whether to grant the request or deny the request and explain why. KRS 61.880(1). A public agency may also delay access to responsive records beyond five business days if such records are "in active use, storage, or not otherwise available." KRS 61.872(5). A public agency that invokes KRS 61.872(5) to delay access to responsive records must also notify the requester of the earliest date on which the records will be available and provide a detailed explanation for the cause of the delay.

Here, the Sheriff's Office issued a timely response stating that there would be a delay in its response to the request. However, the Sheriff's Office did not invoke KRS 61.872(5) or otherwise explain that the records were "in active use, storage, or not otherwise available." Instead, it relied upon its records custodian's absence. But "[t]he Office has historically and consistently found that an employee's absence does not excuse the timely processing of requests under the Act." *See, e.g.,* 23-ORD-325

(noting “the agency must establish a process to facilitate fulfillment of requests while the official records custodian is absent”); 22-ORD-169 n.3; 15-ORD-174; 10-ORD-151 n.2. Moreover, the Sheriff’s Office did not state the date on which records would be made available. Accordingly, the Sheriff’s Office violated the Act when it did not invoke KRS 61.872(5) to delay its production of records and when it did not timely grant or deny the Appellant’s 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/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

Tera Hensley, Appellant
Dwayne Depp, Franklin County Sheriff
Jason Palmer, Franklin County Sheriff’s Office, Captain
Logan Curry, Franklin County Sheriff’s Office, Lieutenant
Max Comley, Franklin County Attorney