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26-ORD-287

June 24, 2026

In re: Jennifer Grigsby/Pulaski County

Summary: Pulaski County (“the County”) violated the Open Records Act (“the Act”) when it failed to give a detailed explanation of the cause for delay in providing records and the earliest date when records would be available, as required under KRS 61.872(5). The County did not violate the Act when it provided all responsive records in its possession and informed the requester it had done so.

Open Records Decision

On December 15, 2025, Jennifer Grigsby (“the Appellant”) submitted a request for 21 categories of records regarding the County’s response to a tornado on May 16, 2025, and various subsequent actions related to emergency procedures. In a response from the Pulaski County Emergency Management Center on December 19, 2025, the County stated it would “need some time to gather the data” because some records were “located outside of Pulaski County.” The County explained it had “already made requests from the appropriate supporting county and state agencies to get as complete a record as possible.” Additionally, the County stated, “due to[] Federal and County scheduled days off (Dec 24, 25, 26, 31, and Jan 1-2), personnel will not be available to assist with the requests.” The County asserted it would “likely have most of the data compiled . . . by the week” of January 12, 2026.¹ Finally, the County stated that it was “not the records custodian for” certain portions of the request “having to do with CAD records” and that the Appellant would “need to file a separate and distinct request with that agency for those records.”

On December 22, 2025, the Appellant requested “a definite calendar date for production of responsive records already in [the] County’s possession” and a clarification as to whether any department of the County possessed “CAD records or

¹ The Appellant complains that the County’s initial response indicated it would provide a “summary,” as opposed to extant public records. However, it appears the agency’s final disposition of the request was production of the responsive records themselves, not merely a “summary.”

CAD-derived records” relating to the tornado incident. Although the County did not respond to the latter question, it stated the Appellant would “receive an answer by January 8” due to the “holiday schedule” and the public information officer’s “upcoming vacation days of December 29 and 30.” On January 8, 2026, the public information officer informed the Appellant he was running “a little behind” due to a meeting and asked whether it would be acceptable to provide the records by January 12, 2026. The Appellant responded, “That timeline is ok [sic].”²

On January 12, 2026, the County shared an online link with the Appellant to a folder it described as containing “everything we have” in response to the request. After some technical problems, the County reshared the link on January 13, 2026, and the Appellant confirmed she was “able to access the files.” This appeal followed.

Under KRS 61.880(1), a public agency must decide within five business days whether to grant a request or deny it. This time may be extended under KRS 61.872(5) when records are “in active use, in storage or not otherwise available,” but only if the agency gives “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record will be available for inspection.” Here, the County stated it would need to obtain some records from “state agencies” that were “outside of Pulaski County.” However, a public agency “is responsible only for those records within its own custody or control.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 856 (Ky. 2013) (citing *Kissinger v. Reporters Comm. for Freedom of the Press*, 445 U.S. 136 (1980)). Therefore, the scope of a request under the Act is “properly understood as limited to the [agency’s] own records.” 25-ORD-266. Although the County apparently went beyond the scope of its statutory obligations in attempting to obtain some records from other agencies, which were not readily available, an agency must independently justify its delay in providing records that *are* readily available to it. *See, e.g.*, 26-ORD-270. Moreover, the “earliest date” when records will be available consists of “a day, a month, and a year.” 23-ORD-093. Here, the County did not initially provide a date, but only a week when it believed records would be available. Accordingly, the County violated the Act when it initially delayed fulfillment of the Appellant’s request under KRS 61.872(5)³ without giving a detailed explanation or the earliest date when records would be available.

² In general, a public agency subverts the intent of the Act, within the meaning of KRS 61.880(4), when it fails to meet a self-imposed deadline to make records available. *See, e.g.*, 23-ORD-079; 21-ORD-011. Here, however, the Appellant agreed to this slight additional delay and has not raised it as an issue on appeal.

³ The Appellant complains that the County incorrectly cited KRS 61.872(5) as “KRS 64.875.5.” However, the correct citation of the statute is not part of the information KRS 61.872(5) requires an agency to provide to the requester when it delays production of records.

Subsequently, on the fifth business day after it received the Appellant's request, the County provided a date of January 8, 2026. However, it gave no further explanation for the delay, except for the "holiday schedule" and one employee's scheduled vacation days. Although "legal holidays" are excluded from an agency's response time under KRS 61.880(1), vacation days are not an excuse for delay, as "[i]t is the duty of a public agency 'to make proper provision for uninterrupted processing of open records requests' in the absence of its records custodian." 20-ORD-024 (quoting 98-ORD-161). Therefore, the County violated the Act when it failed to give a detailed explanation for its need to delay production of records until January 8, 2026.

In addition, under KRS 61.872(4), "[i]f the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records." Here, in its initial response, the County stated it was not the custodian of records related to computer-aided dispatch ("CAD") reports, but merely directed the Appellant to contact "that agency" without identifying a particular agency. An agency violates KRS 61.872(4) when "the circumstances indicate the person responding to the request can reasonably be charged with knowledge of the name and location of the custodian of the records" and it does not provide that information. 26-ORD-268. But here, it is not entirely clear that the County was aware of what specific agency possessed the CAD records in question. Therefore, the Office cannot find that the County violated KRS 61.872(4).

As to the records ultimately provided by the County, the Appellant claims the County "did not clearly identify," with respect to each of the 21 categories of records requested, which records did not exist or were not in the County's possession. However, the County stated it had provided "everything."⁴ A statement from a public agency that it has disclosed all responsive records is "tantamount to an affirmative statement that the remaining records requested do not exist." 04-ORD-040. Therefore, the County did not violate the Act when it provided all responsive records in its possession and informed the Appellant it had done so.

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.

⁴ The County's full statement was that it had given the Appellant "access to everything we have [a]nd then some," presumably in reference to the additional records it had obtained from outside agencies.

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