



# KLC'S FIRST AND SECOND QUARTER 2016 OAG OPINION REVIEW



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# Table of Contents

Attorney General Opinions - - - - 2

Open Meetings - - - - - 4

Open Records - - - - - 6

## **Attorney General Opinions**

### **OAG 16-001 March 15, 2016**

Subject: Whether a Governor has the power, under KRS 63.080, to remove a duly appointed member of the Kentucky Horse Park Commission during his or her set term, as fixed by KRS 148.060.

Syllabus: KRS 63.080 does not provide a Governor with the power to remove a duly appointed member of the Kentucky Horse Park Commission or other boards and authorities with set or defined terms. A Governor must wait until the term set forth under KRS 148.260 ends before he may replace a member.

Statutes construed: KRS 63.080(1); KRS 148.260

### **OAG 16-002 April 22, 2016**

Subject: Effective date of certain legislation passed during the 2016 Regular Session of the Kentucky General Assembly

Syllabus: In accordance with [Section 55 of the Constitution of Kentucky](#), the effective date of legislation passed by the 2016 Regular Session of the Kentucky General Assembly, except for general appropriation measures and those containing emergency or delayed effective date provisions, is the first moment of Friday, July 15, 2016, since 90 full days will then have passed after final adjournment on April 15, 2016.

Constitutional provision construed: [Ky. Const. § 55](#)

OAG cited: OAG 07-002

**OAG 16-003**  
**April 29, 2016**

Subject: Whether the use of digital imaging technology meets the quadrennial physical examination requirement set forth in [KRS 132.690\(1\)](#), or whether [KRS 132.690\(1\)](#) requires on-site inspections.

Syllabus: The use of digital imaging technology by the PVA of a Kentucky county to examine each parcel of taxable real property or interest therein satisfies the requirement under [KRS 132.690\(1\)](#) that each parcel of taxable real property or interest therein be physically examined at least once every four (4) years, so long as such use fairly and equitably assesses property based on its individual physical characteristics.

Statute construed: [KRS 132.690](#)

**OAG 16-004**  
**May 17, 2016**

Subject: Whether the Governor may remove a Kentucky Retirement Systems trustee at will prior to the expiration of the trustee's appointed term, and whether a particular appointee to the Kentucky Retirement Systems Board of Trustees is qualified for that appointment

Syllabus: The Governor may not remove a Kentucky Retirement Systems trustee at will prior to the expiration of the trustee's appointed term. The Governor's recent appointee to the Kentucky Retirement Systems Board of Trustees does not qualify as a professional with at least ten years of experience in finances.

Statutes construed: [KRS 61.645](#); [KRS 63.080](#)

OAGs cited: OAG 16-001

## **Open Meetings**

**16-OMD-007**  
**January 12, 2016**

In re: Chad Murray/Gallatin County Fiscal Court

Summary: Gallatin County Fiscal Court violated KRS 61.846(1) by failing to make a written response to a complaint under the Open Meetings Act, but did not substantively violate the Act.

**16-OMD-065**  
**March 31, 2016**

In re: Lawrence Trageser/University of Louisville Board of Trustees

Summary: Conflicting evidence presented on appeal prevents the Attorney General from conclusively resolving the question of whether members of the University of Louisville Board of Trustees had a private meeting with President James Ramsey for the purpose of discussing public business, namely, his future with the University. Even assuming that a few Board members, but less than a quorum, did have such a meeting with President Ramsey as the complaint alleged, the requirements of the Open Meetings Act would not have applied. In the absence of convincing proof that a quorum of the members of the Board was present at a single meeting from which the public was excluded, this office has no basis upon which to find that the Board violated KRS 61.810(1) or (2).

**16-OMD-011**  
**February 2, 2016**

In re: Michael Murphy/Glencoe City Council

Summary: Glencoe City Council did not violate KRS 61.823(3) as fair notice could be imputed to the public that a vote on the rezoning issue scheduled for discussion at its November 23, 2015, special meeting and listed on the agenda might be held following the discussion. However, the City Council's failure to specifically reference a "special meeting" or "agenda" in the public notice was inconsistent

with KRS 61.823(3). The record on appeal does not contain sufficient information for this office to conclusively determine whether the City Council violated KRS 61.823(2) and (4)(a) and (b).

**16-OMD-036**  
**March 10, 2016**

In re: Lawrence Trageser/Spencer County Fiscal Court

Summary: Relying on 10-OMD-043, Attorney General holds that members of the Spencer County Fiscal Court violated KRS 61.810(2) by conducting a series of less than quorum meetings with the sheriff to discuss his proposed budget.

**16-OMD-102**  
**May 19, 2016**

In re: The Courier-Journal/Energy and Government Cabinet - Lead in Drinking Water Work Group

Summary: Weight of legal authority supports complainant's position that the Energy and Environment Cabinet's Lead in Drinking Water Work Group is a public agency for open meetings purposes and that its unpublicized March 2016 telephonic meeting constituted a violation of the Open Meetings Act. Work Group presents no arguments supporting the propriety of the unpublicized telephonic meeting or its position on the application of the Open Meetings Act to it.

**16-OMD-109**  
**June 6, 2016**

In re: Appalachian News Express/Pike County Fiscal Court

Summary: The Pike County Fiscal Court violated the Open Meetings Act in posting an insufficiently specific special meeting agenda and in discussing multiple potential layoffs in a closed session under the individual personnel discussions exemption.

**16-OMD-124**  
**June 13, 2016**

In re: Jim Carroll/The Kentucky Retirement Systems Board of Trustees

Summary: The Kentucky Retirement Systems Board of Trustees violated the Open Meetings Act at its public meeting on May 19, 2016, when a Board member indicated that other Board members faced arrest and/or investigation if they participated in the meeting or stood for election as Board Chair. These indications and/or threats were supplemented by the presence of third parties from other state governmental entities, including the Governor's Chief of Staff, as well as the presence of multiple law enforcement officers prior to the meeting and during the meeting. These actions violated [KRS 61.840](#) by placing a condition other than those required for the maintenance of order on the attendance of any member of the public. However, the Board did not violate [KRS 61.810\(1\) or \(2\)](#) by conducting any meeting of a quorum of Board members outside of the public meeting, or a series of less than quorum meetings where the members attending one or more of the meetings collectively constituted at least a quorum of members.

**Open Records**

**16-ORD-001**  
**January 12, 2016**

In re: Lawrence Trageser/Commonwealth's Attorney, 53<sup>rd</sup> Judicial Circuit

Summary: Commonwealth's Attorney did not substantively violate the Open Records Act by not retaining a copy of requested records where the Prosecutors Advisory Council had the responsibility of maintaining those records.

**16-ORD-002**  
**January 12, 2016**

In re: Chris Hawkins/Green River Correctional Complex

Summary: Although it originally omitted records responsive to inmate request, Green River Correctional Complex corrected this error on appeal by making those records available to inmate upon receipt of prepaid copying costs. If any portion of the responsive record(s) was “torn off,” GRCC must explain the statutory basis or legal rationale for doing so.

**16-ORD-003**  
**January 12, 2016**

In re: Dock Sellers, Jr./Oldham County Police Department

Summary: Although its response was admittedly untimely, Oldham County Police Department properly disposed of open records requests for officers' notes taken at the scene of an accident by notifying requester that neither officer took notes. Department was not legally obligated to honor requests for information but, to its credit, did so by providing narrative responses to questions asked.

**16-ORD-004**  
**January 12, 2016**

In re: Bernard Watts/Louisville Pontiac Club

Summary Because it is not a public agency within the meaning of KRS 61.870(1), Pontiac Club did not violate the Open Records Act in the disposition of former member's request for records relating to certificate of deposit.



**16-ORD-005**  
**January 12, 2016**

In re: Lawrence Trageser/City of Taylorsville

Summary: City of Taylorsville did not establish by clear and convincing evidence that an otherwise proper request for records documenting its costs and expenditures related to past open records requests was unreasonably burdensome or intended to disrupt essential city functions under KRS 61.872(6). Waiver and laches are not defenses in statutory appeal to the Attorney General.

**16-ORD-006**  
**January 12, 2016**

In re: Stacey Spencer/Kentucky State Reformatory

Summary: Under KRS 197.025(3), all persons confined in a penal facility shall challenge any denial of a request made under the Open Records Act by sending the “appropriate documents” to the Attorney General per KRS 61.880(2) within twenty (20) days of the denial. Those documents include the complaining party's written request and the agency's written denial, if any. Because inmate requester failed to submit a copy of his written request, as required to perfect his appeal, KRS 61.880(2)(a) and 40 KAR 1:030, Section 1 prohibit consideration of the appeal.

**16-ORD-008**  
**January 14, 2016**

In re: Bryan Reinhardt/Todd County Standard, Inc., D/B/A Quality Web Printing

Summary: Because it is not a public agency under KRS 61.870(1), Todd County Standard, Inc., D/B/A Quality Web Printing, is not subject to the requirements of the Open Records Act and cannot be said to have violated the Act in its handling of a request for employment records.

**16-ORD-009**  
**January 14, 2016**

In re: Michael Wells/Gary S. Logsdon

Summary: Decision adopting 01-ORD-24 and subsequent open records decisions recognizing that private attorneys are not public agencies within the meaning of KRS 61.870(1) to whom the Open Records Act applies. Private attorney cannot, therefore, be said to have violated the Act in his handling of client's request for records.

**16-ORD-010**  
**January 15, 2016**

In re: April DeFalco/City of Falmouth

Summary: Although its response violated KRS 61.880(1) because it was not issued within three business days, city cannot be said to have violated Open Records Act in denying request for information relating to city police department and its officers that did not yet exist or was not compiled in a list. If, however, multiple records exist from which the information can be extracted, requester must be afforded the opportunity to inspect all nonexempt portions of those records to create her own list.

**16-ORD-012**  
**February 2, 2016**

In re: Robert D. Cron/Butler County Sheriff

Summary: Butler County Sheriff did not waive the right to redact bank account numbers by previous inadvertent disclosure. Redaction of bank account numbers did not violate the Open Records Act. Redaction of signatures on checks and failure to address missing records did violate the Open Records Act.

**16-ORD-013**  
**February 3, 2016**

In re: Lawrence Trageser/Spencer County Ethics Commission

Summary: Spencer County Ethics Commission violated KRS 61.880(1) by failing to respond to a request for records relating to two ethics complaints filed in 2015 and a complaint relating to noncompliance with KRS 61.876(1) and (2). Commission's failure to adopt and post rules and regulations that included the title and address of the Commission's official custodian of records, its principal office, and its regular office hours constituted a violation of KRS 61.876(1) and (2).

**16-ORD-014**  
**February 5, 2016**

In re: Lachin Hatemi/University of Kentucky

Summary: University of Kentucky did not violate the Open Records Act where no records contained the statistical information sought in the request; federal Student Right-To-Know Act did not compel reporting of statistics according to program, field of study, school, or academic division.

**16-ORD-015**  
**February 5, 2016**

In re: Philip B. Setters/Jefferson County Board of Education

Summary: Open Records Act did not authorize Jefferson County Board of Education to substitute website reference for inspection or copies of requested documents, or to require an appointment for inspection of public records; the board's open records policy was not prominently displayed as required by KRS 61.876(2). Officer of a public agency need not also be an employee to serve as official custodian of records as defined in KRS 61.870(5).

**16-ORD-016**  
**February 5, 2016**

In re: Michael Murphy/Gallatin County Planning Commission

Summary: Gallatin County Planning Commission's response to open records request satisfied the requirements found at KRS 61.880(1) as to timing and written format but was deficient in failing to adequately address each subpart of request and in failing to notify requester that responsive records were available for inspection during the Commission's regular business hours.

**16-ORD-017**  
**February 5, 2016**

In re: Kevin Wheatley/Department of Agriculture

Summary: Insufficient evidence to determine why Department of Agriculture did not possess hard copies of employee work logs that were allegedly produced; records management issue warrants inquiry by the Department for Libraries and Archives.

**16-ORD-018**  
**February 5, 2016**

In re: Reverend Russell/City of West Buechel

Summary: City of West Buechel violated the Open Records Act from a procedural standpoint in failing to either properly invoke KRS 61.872(5) if appropriate or provide requester with timely access to any existing responsive documents in compliance with KRS 61.880(1). The City also committed a substantive violation of the Act in failing to either provide requester with a copy of a responsive canceled check or provide a written explanation for the inability to provide that check, and in failing to affirmatively indicate whether additional responsive documents existed in responding to request.

**16-ORD-019**  
**February 5, 2016**

In re: Lawrence Trageser/City of Taylorsville

Summary: Because the itemized telephone billing records in dispute were not prepared, owned, used, in the possession of or retained by the City of Taylorsville, the City did not violate the Open Records Act in denying a request for such records. By disclosing all existing responsive public records documenting public funds expended for use of landline and cellular telephones under its contract with a private provider, the City satisfied the requirement of public accountability. This office is not empowered to declare, in the context of an Open Records Appeal, that the City's failure to require that certain records be submitted to it, and managed and maintained as public records, violated the Open Records Act

**16-ORD-020**  
**February 8, 2016**

In re: Robbie Popplewell/Bullitt Circuit Court Clerk

Summary: Decision adopting 98-ORD-6 and holding that because she is not bound by the provisions of the Open Records Act, Bullitt Circuit Court Clerk did not violate the Act in the disposition of request for records.

**16-ORD-021**  
**February 10, 2016**

In re: Minnie McCord/Fleming County Board of Education

Summary: Fleming County Board of Education did not meet its burden to establish that requests were intended to disrupt its essential functions. Fleming County Board of Education did not violate the Open Records Act in not providing all ““financial records,” but did violate the Open Records Act in withholding specific financial documents such as bonds, certificates of deposit, and reports relating to specific funds.

**16-ORD-022**  
**February 23, 2016**

In re: Glenn Odom/Kentucky State Penitentiary

Summary: Decision adopting 08-ORD-044; Kentucky State Penitentiary did not violate the Open Records Act in declining to provide copies to inmate without prepayment of reproduction charges. In accordance with KRS 61.874(1), *Friend v. Rees*, Ky. App., 696 S.W.2d 325 (1985), and prior decisions of this office, the denial is affirmed.

**16-ORD-023**  
**February 23, 2016**

In re: Christopher Brown/Kentucky State Penitentiary

Summary: Kentucky State Penitentiary properly relied on KRS 197.025(1) in denying inmate's request for photographs of his tattoos and records relating to his gang affiliation.

**16-ORD-024**  
**February 23, 2016**

In re: Chris Henson/Covington Fire Department

Summary: Covington Fire Department initially assessed requester a fee which exceeded the actual costs associated with copying and mailing the specified fire incident report but corrected its error before the requester submitted payment. Because the CFD subsequently recalculated the copying fee and postage costs to reflect its actual costs per KRS 61.874(3), this office finds that the CFD did not subvert the intent of the Open Records Act within the meaning of KRS 61.880(4) by imposing an excessive fee.

**16-ORD-025**  
**February 23, 2016**

In re: Marvin Pennington/Kentucky State Reformatory

Summary: Kentucky State Reformatory lawfully withheld case notes under KRS 61.878(i) and (j) where the notes were merely aids to memory and were not adopted as the basis of final agency action. Failure to explain application of the exception to particular records withheld was a procedural violation of KRS 61.880(1).

**16-ORD-026**  
**February 26, 2016**

In re: The Courier-Journal/University of Louisville

Summary: University of Louisville, on behalf of and at the request of the Commonwealth's Attorney, could properly invoke KRS 61.878(1)(h) to withhold grand jury subpoenas served on the University, based on the likelihood of harm to an ongoing investigation being conducted by the Jefferson County Grand Jury.

**16-ORD-027**  
**February 26, 2016**

In re: Kentucky Center for Investigative Reporting/University of Louisville Foundation, Inc.

Summary: Decision adopting 16-ORD-026; University of Louisville Foundation, Inc., on behalf of and at the request of the Commonwealth's Attorney, could properly invoke KRS 61.878(1)(h) to withhold requests for records by law enforcement agencies and responses thereto, based on the likelihood of harm to an ongoing investigation being conducted by the Jefferson County Grand Jury.

**16-ORD-028**  
**February 26, 2016**

In re: Kentucky Center for Investigative Reporting/University of Louisville

Summary: Decision adopting 16-ORD-026; University of Louisville, on behalf and at the request of the Commonwealth's Attorney, could properly invoke KRS 61.878(1)(h) to withhold requests for records by law enforcement agencies and responses thereto, based on the likelihood of harm to an ongoing investigation being conducted by the Jefferson County Grand Jury; however, University failed to make a timely response to the open records request under KRS 61.880(1).

**16-ORD-029**  
**February 26, 2016**

In re: Kentucky Center for Investigative Reporting/University of Louisville Athletic Association

Summary: Decision adopting 16-ORD-026; University of Louisville Athletic Association, on behalf of and at the request of the Commonwealth's Attorney, could properly invoke KRS 61.878(1)(h) to withhold requests for records by law enforcement agencies and responses thereto, based on the likelihood of harm to an ongoing investigation being conducted by the Jefferson County Grand Jury.



**16-ORD-030**  
**March 2, 2016**

In re: Lawrence Trageser/Spencer County Ethics Commission

Summary: This office declines to make a finding as to whether the Spencer County Ethics Commission complied with relevant sections of the Spencer County Ethics Code as those issues are beyond our scope of review under KRS 61.846(2). Because a meeting of a quorum of the members of the Ethics Commission was not held for the purpose of discussing or taking action regarding the subject ethics complaints, the Attorney General does not reach the question of whether it complied with KRS 61.823.

**16-ORD-031**  
**March 2, 2016**

In re: Jeremy Henley/Correct Care Solutions, LLC

Summary: Decision relying on 15-ORD-161 and holding that Correct Care Solutions, LLC, is not a public agency as defined in KRS 61.870(1)(a) through (k).

**16-ORD-032**  
**March 2, 2016**

In re: Leo Spurling/Administrative Office of the Courts

Summary: Decision adopting 02-ORD-24 and holding that Administrative Office of the Courts is not bound by, and therefore cannot be said to have violated, the Open Records Act in the handling of a request for a record maintained by AOC.

**16-ORD-033**  
**March 7, 2016**

In re: Lachin Hatemi/Child Development Center of the Bluegrass, Inc.

Summary: Child Development Center of the Bluegrass, Inc., was not a “public agency” under KRS 61.870(1)(h), (i), or (j), where the record did not indicate that it derived 25% or more of its funds expended in Kentucky from state or local authority funds; had a governing body whose majority was appointed by a public agency or member or employee thereof; or was established, created, or controlled by a public agency.

**16-ORD-034**  
**March 7, 2016**

In re: Cincinnati Enquirer/Ludlow Police Department

Summary: The Ludlow Police Department did not violate the Open Records Act in not providing documents and videotapes which were not in its possession. The Ludlow Police Department procedurally violated the Open Records Act in failing to state the proper custodian of the records in its written response, but subsequently cured that deficiency by identifying the proper custodian.

**16-ORD-035**  
**March 9, 2016**

In re: Jeff King/Kentucky State Police

Summary: Juvenile sexual assault victim's recorded statement was exempted from disclosure under KRS 61.878(1)(a) due to heightened privacy interest; records from centralized intelligence database were confidential under KRS 17.150(4); records of Child Protective Services were confidential under KRS 620.050(6)(a).

**16-ORD-037**  
**March 10, 2016**

In re: Doy S. Beasley/Commonwealth's Attorney for the 38<sup>th</sup> Judicial Circuit

Summary: Records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or litigation are permanently exempt from disclosure under KRS 61.878(1)(h). The Commonwealth's Attorney for the 38th Judicial Circuit failed to issue a timely written response citing this exception per KRS 61.880(1) but properly invoked KRS 61.878(1)(h) on appeal to justify his denial of a request for such records.

**16-ORD-038**  
**March 11, 2016**

In re: Artis Anderson/Cabinet for Health and Family Services

Summary: Because requester asked for records “establishing” a named person's incompetence, and that determination was pending at the time of the request, Cabinet for Health and Family Services did not violate the Open Records Act in denying the request based on the nonexistence of a responsive record. Cabinet's response was, however, procedurally deficient.

**16-ORD-039**  
**March 16, 2016**

In re: Louisville Public Media/Office of the Governor

Summary: The Office of the Governor did not violate the Open Records Act in withholding emails pertaining to the Governor's schedule as preliminary. The Office of the Governor did not violate the Open Records Act in withholding emails concerning certain clinics as preliminary, attorney-client privileged, or both, with the exception of two emails. The Governor's Office initially violated the Open Records Act in not providing a brief explanation of how the exemption applied to the records withheld, but subsequently cured that deficiency on appeal.

**16-ORD-040**  
**March 16, 2016**

In re: Richard Leal/Hardin County Fiscal Court

Summary: Hardin County Fiscal Court substantially complied with the Open Records Act by producing all thirty-four pages of responsive non-exempt records in its possession. However, HCFC should have provided a more detailed explanation for postponing access to the records pursuant to KRS 61.872(5). While not required by the act, HCFC voluntarily provided written answers to improperly framed requests for information. The Attorney General declines to render a decision on the propriety of the fiscal court's invocation of KRS 61.872(6) at this time.

**16-ORD-041**  
**March 16, 2016**

In re: Lachin Hatemi/Piramal Enterprises

Summary: Piramal Enterprises is not a “public agency” within the meaning of KRS 61.870(1)(a) through (k). Neither Piramal nor its records are subject to the requirements of the Open Records Act

**16-ORD-042**  
**March 17, 2016**

In re: Uriah Pasha/Kentucky State Reformatory

Summary: Kentucky State Reformatory properly relied on KRS 197.025(1) in denying inmate request for video footage.

**16-ORD-044**  
**March 21, 2016**

In re: Anthony C. Clyburn/Jeffersontown Police Department

Summary: Jeffersontown Police Department’s blanket denial of request for personnel records of a former detective, including those relating to allegations of misconduct, and the resulting correspondence, reports, disciplinary actions, etc. on the basis of KRS 61.878(1)(a) violated the Open Records Act. JPD is entitled to redact personal information per KRS 61.878(4) and existing legal authority but erred in withholding all existing responsive documents in their entirety based largely on the identity and purpose of the requester. JPD also initially violated KRS 61.880(1) in failing to issue a timely written response citing the applicable statutory exception and briefly explaining how it applied to specific records or portions thereof being withheld.

**16-ORD-045**  
**March 22, 2016**

In re: Leo Spurling/Kentucky State Penitentiary

Summary: Decision based on 15-ORD-007; inmate attempted to initiate appeal prior to expiration of the time for the Kentucky State Penitentiary to issue a written response under KRS 197.025(7).

**16-ORD-046**  
**March 24, 2016**

In re: Artis Anderson/Cabinet for Health and Family Services

Summary: Cabinet for Health and Family Services did not deny request for client records but instead properly requested verification of applicant's entitlement to those records.

**16-ORD-047**  
**March 24, 2016**

In re: Doy S. Beasley/Department of Corrections

Summary: Department of Corrections issued a written response to inmate requester within five business days of receiving the request per KRS 197.025(7) and ultimately complied with KRS 61.872(4) in referring the requester to custodial agencies of any responsive documents not in the possession of DOC. Any issues regarding the letters requested were rendered moot per 40 KAR 1:030, Section 6 upon release of those documents by DOC.

**16-ORD-048**  
**March 24, 2016**

In re: Doy S. Beasley/Department of Corrections

Summary: Department of Corrections issued a written response to inmate requester within five business days of receiving the request per KRS 197.025(7) and ultimately complied with KRS 61.872(4) in referring the requester to custodial agencies of any responsive documents not in the possession of DOC. Any issues regarding the letters requested were rendered moot per 40 KAR 1:030, Section 6 upon release of those documents by DOC.

**16-ORD-049**  
**March 28, 2016**

In re: Lawrence Trageser/City of Taylorsville

Summary: Decision relying on 08-ORD-173 and holding that the City of Taylorsville violated KRS 61.880(1) by failing to respond, in full, to request for all police reports created by the Taylorsville Police Department relating to a particular address, including, but not limited to, “an incident report dated on 9/13/2013, so documented at 14:55:03.”

**16-ORD-050**  
**March 28, 2016**

In re: Johnny R. Phillips/Northpoint Training Center

Summary: Northpoint Training Center properly relied on KRS 197.025(1) in partially denying inmate request for records containing references to other inmates. NTC properly required inmate to prepay for copies of requested records. Factual dispute concerning delivery of request precludes resolution of procedural issue.

**16-ORD-051**  
**March 29, 2016**

In re: Lawrence Trageser/City of Taylorsville

Summary: No violation of Open Records Act where record did not exist; open records requests and responses did not together constitute a “register” as described in records retention schedule.

**16-ORD-052**  
**March 29, 2016**

In re: R. G. Dunlop/Department of Corrections

Summary: Department of Corrections was not required to produce or create a list that did not exist, but was required to determine and disclose its nonexistence.

**16-ORD-053**  
**March 29, 2016**

In re: Christopher Brown/Kentucky State Penitentiary

Summary: Inmate's second request for the same records was not timely appealed under [KRS 197.025\(3\)](#).

**16-ORD-054**  
**March 29, 2016**

In re: George Coy/Louisville Metro Department of Corrections

Summary: Louisville Metro Department of Corrections violated [KRS 197.025\(7\)](#) in failing to issue a written response to request within five business days of receipt. LMDC did not properly invoke [KRS 61.872\(5\)](#) by providing a detailed explanation of the cause for delay and the specific date when the records would be available in writing. However, LMDC did not violate the Open Records Act in withholding responsive telephone recordings on the basis of [KRS 197.025\(1\)](#), incorporated into the Act by operation of [KRS 61.878\(1\)\(l\)](#).

**16-ORD-055**  
**March 30, 2016**

In re: Jonathan J. Schmidt/University of Louisville

Summary: University of Louisville properly withheld certain responsive documents on the basis of [KRE 503\(b\)](#), incorporated into the Open Records Act by operation of [KRS 61.878\(1\)\(l\)](#), but improperly denied access to small number of responsive documents that did not satisfy all elements of the attorney-client privilege. The University did not violate the Open Records Act in redacting the identities of complainants from other documents responsive to request on the basis of [KRS 61.878\(1\)\(a\)](#) under the facts and circumstances presented.

**16-ORD-056**  
**March 31, 2016**

In re: Joe Gaddie/Cabinet for Health and Family Services

Summary: Cabinet for Health and Family Services did not violate the Open Records Act in denying a request for a nonexistent letter but committed various procedural violations of the Open Records Act in the disposition of the request.

**16-ORD-057**  
**March 30, 2016**

In re: Lachin Hatemi/Kentucky Medical Services Foundation, Inc.

Summary: Decision adopting 15-ORD-205; Kentucky Medical Services Foundation, Inc., is a public agency subject to the Open Records Act, but failed to establish that it was subject to FERPA or to explain privacy interest implicated by disclosing names of Dean's Fund Scholarship recipients under [KRS 61.878\(1\)\(a\)](#); nor was there clear and convincing evidence of unreasonable burden or an intent to disrupt essential functions under [KRS 61.872\(6\)](#).

**16-ORD-058**  
**March 31, 2016**

In re: Kyle Elliott/Louisville Metro Air Pollution Control District

Summary: Louisville Metro Air Pollution Control District initially violated [KRS 61.880\(1\)](#) in denying request for a specific Best Available Control Technology (BACT) report without providing any explanation of how the statutory exceptions it relied upon applied to that record. However, based upon the information ultimately provided in response to requests made by this office under authority of [KRS 61.880\(2\)\(c\)](#), the District justified its reliance on [KRS 61.878\(1\)\(i\)](#) and [\(j\)](#) by establishing that said report was not adopted, in whole or in part, as the basis of its final action.



**16-ORD-059**  
**March 31, 2016**

In re: Philip Setters/Jefferson County Board of Education

Summary: Jefferson County Board of Education failed to meet its statutorily assigned burden of proving that requested video footage was exempted from disclosure by [KRS 61.878\(1\)\(m\)](#)1.g. The board also was untimely in responding to an open records request and did not sufficiently explain its need for time to copy video footage prior to inspection.

**16-ORD-060**  
**March 31, 2016**

In re: Greg Trout/Frankfort Plant Board

Summary: Decision relying upon 09-ORD-196; Frankfort Plant Board could not rely upon purported privacy interest under [KRS 61.878\(1\)\(a\)](#) to withhold water and sewer billing records for multi-user entities as opposed to residential customers.

**16-ORD-061**  
**March 31, 2016**

In re: Greg Trout/Frankfort Plant Board

Summary: Decision relying upon 09-ORD-196; Frankfort Plant Board could not rely upon purported privacy interest under [KRS 61.878\(1\)\(a\)](#) to withhold water and sewer billing records for multi-user entities as opposed to residential customers.

**16-ORD-062**  
**March 31, 2016**

In re: Greg Trout/City of Henderson - Henderson Water Utility

Summary: Decision relying on 09-ORD-196; City of Henderson - Henderson Water Utility improperly denied a request for the monthly water and sewer billing records of a multi-user entity on the basis of [KRS 61.878\(1\)\(a\)](#) because those records would not implicate the privacy interests of specific individuals.

**16-ORD-063**  
**March 31, 2016**

In re: Greg Trout/City of Pikeville

Summary: Decision relying on 09-ORD-196; City of Pikeville improperly denied a request for the monthly water and sewer billing records of a multi-user entity on the basis of [KRS 61.878\(1\)\(a\)](#) because those records would not implicate the privacy interests of specific individuals.

**16-ORD-064**  
**March 31, 2016**

In re: Lachin Hatemi/Kentucky Medical Services Foundation, Inc.

Summary: Decision relying on 15-ORD-205; Kentucky Medical Services Foundation, Inc. is a public agency within the meaning of [KRS 61.870\(1\)\(j\)](#). KMSF failed to justify its denial of the subject request with particular and detailed information per [KRS 61.880\(1\)](#) as required to satisfy its burden of proof under [61.880\(2\)\(c\)](#).

**16-ORD-066**  
**March 31, 2016**

In re: Tom Fox/Commonwealth's Attorney for the Thirtieth Circuit

Summary: [KRS 61.878\(1\)\(h\)](#) authorizes Commonwealth's Attorneys to withhold “information ... pertaining to criminal investigations or criminal litigation ... after enforcement action, including litigation, is completed or a decision is made to take no action.” This statute does not recognize an exception for records that are available elsewhere or records that are alleged to have been altered.

**16-ORD-067**  
**April 1, 2016**

In re: Ruben R. Salinas/Department of Corrections, Health Services Division

Summary: Relying on 95-ORD-105, Attorney General finds no violation of the Open Records Act based on agency's refusal to waive copying fees for “indigent” inmate.

**16-ORD-068**  
**April 5, 2016**

In re: Eric Lyvers/Kentucky State Police

Summary: The Open Records Act does not require public agencies to honor mere requests for information.

**16-ORD-069**  
**April 5, 2016**

In re: John Haight/Cabinet for Health and Family Services

Summary: Cabinet for Health and Family Services procedurally violated the Open Records Act by failing to respond to an open records request due to internal mishandling. No substantive violation where records did not exist.

**16-ORD-070**  
**April 5, 2016**

In re: Chris Hawkins/Little Sandy Correctional Complex

Summary: Little Sandy Correctional Complex properly relied on [KRS 197.025\(1\)](#) in redacting transfer form requested by inmate to omit information relating to inmate conflict and security threat group.

**16-ORD-071**  
**April 13, 2016**

In re: Jonathan Young/Kentucky State Reformatory

Summary: Kentucky State Reformatory did not substantively violate Open Records Act by not providing an inmate with records that did not contain a specific reference to him as provided in [KRS 197.025\(2\)](#), or a report that was deemed to pose a potential security risk under [KRS 197.025\(1\)](#); a handwritten report used as a temporary aid to memory no longer existed. KSR's denial failed to cite statutory basis, a procedural violation of [KRS 61.880\(1\)](#).

**16-ORD-072**  
**April 13, 2016**

In re: Uriah M. Pasha/Kentucky State Reformatory

Summary: Kentucky State Reformatory cannot produce nonexistent Inmate Property Forms and ultimately explained that any responsive forms not already provided were properly destroyed in accordance with applicable records retention schedule. Nothing else is required.

**16-ORD-073**  
**April 14, 2016**

In re: Doy Beasley/Butler County Jailer

Summary: Butler County Jailer violated [KRS 61.880\(1\)](#) by failing to respond to request for records relating to Prison Rape Elimination Act (PREA) grievance filed by inmate. Jailer did not violate the Open Records Act in conditioning release of records, albeit belatedly, on prepayment of copying fees.

**16-ORD-074**  
**April 14, 2016**

In re: Artis Anderson/Cabinet for Health and Family Services

Summary: Decision adopting 16-ORD-046 based on requester's submission of abbreviated but otherwise identical request for information relating to client records. Cabinet for Health and Family Services did not deny request but instead properly required verification of requester's entitlement to those records.

**16-ORD-075**  
**April 14, 2016**

In re: Leonel Martinez/MPD, Inc.

Summary: Because it is a private, for profit, corporation that receives no state or local authority funds, MPD, Inc., is not a public agency as defined in [KRS 61.870\(1\)\(a\) through \(k\)](#). Videotape generated by MPD, Inc.'s, security cameras in 2006, as opposed to a copy of the videotape that MPD, Inc., shared with the Owensboro Police Department for purposes of criminal investigation, was not funded by state or local authority and is not a public record as defined in [KRS 61.870\(2\)](#).

**16-ORD-076**  
**April 14, 2016**

In re: Leonel Martinez/MPD, Inc.

Summary: Because it is a private, for profit, corporation that receives no state or local authority funds, MPD, Inc., is not a public agency as defined in [KRS 61.870\(1\)\(a\) through \(k\)](#). Videotape generated by MPD, Inc.'s, security cameras in 2006, as opposed to a copy of the videotape that MPD, Inc., shared with the Owensboro Police Department for purposes of criminal investigation, was not funded by state or local authority and is not a public record as defined in [KRS 61.870\(2\)](#).

**16-ORD-077**  
**April 15, 2016**

In re: William Aucott/Luther Lockett Correctional Complex

Summary: Relying on analysis in 08-ORD-181, Office of the Attorney affirms Luther Lockett Correctional Complex's denial of inmate request for “[h]ow much money was used from the Inmate Canteen fund to pay for the new M.R.T. class.” LLCC properly characterized the request as a request for information as opposed to a request for an existing public record.

**16-ORD-078**  
**April 19, 2016**

In re: Angel Juarez/Boone Circuit Court Clerk

Summary: Decision adopting 98-ORD-6 and holding that because she is not bound by the provisions of the Open Records Act, Boone Circuit Court Clerk did not violate the Act in the disposition of request for records.

**16-ORD-079**  
**April 20, 2016**

In re: William Mountlouis/McCracken Circuit Court Clerk

Summary: McCracken Circuit Court Clerk is not a “public agency” as defined in [KRS 61.870\(1\)\(a\) through \(k\)](#), and is not bound by the requirements of the Open Records Act. Nonetheless, the Circuit Court Clerk advanced multiple legally persuasive arguments supporting her actions.

**16-ORD-080**  
**April 20, 2016**

In re: Donald Barker/Logan Circuit Court Clerk

Summary: Relying on the legal analysis set forth in 16-ORD-079, Attorney General concludes that Logan Circuit Court Clerk is not bound by the requirements of the Open Records Act and therefore cannot be said to have violated the Act in the disposition of records request.

**16-ORD-081**  
**April 27, 2016**

In re: Helena Ball/Carroll County Sheriff's Office

Summary: The Carroll County Sheriff's Office ultimately complied with the Open Records Act on appeal in referring the requester to the proper custodian of other records. The Carroll County Sheriff's Office initially violated the Open Records Act in not responding in writing to two open records requests. The Attorney General is unable to resolve factual disputes about the existence and production of records in the context of an open records appeal.

**16-ORD-082**  
**May 2, 2016**

In re: Russell Carollo/Office of the Attorney General

Summary: A circuit court order incorporating by reference the confidentiality provisions of a settlement agreement is dispositive as to an open records request for documents subject to that order; the issue of public access must be resolved by the court.

**16-ORD-083**  
**May 2, 2016**

In re: David Wilson/Education Professional Standards Board

Summary: Education Professional Standards Board subverted the intent of the Open Records Act, short of denial of inspection and within the meaning of [KRS 61.880\(4\)](#), by imposing costs beyond a reasonable copying fee and postage for production of documents responsive to request. EPSB also subverted the intent of the Act insofar as it advised requester to schedule an appointment if he wished to exercise his right of conducting onsite inspection.

**16-ORD-084**  
**May 3, 2016**

In re: Ameer Mabjish/Kentucky State Police

Summary: The Kentucky State Police violated the Open Records Act in failing to state the harm caused to the agency in releasing laboratory files that are part of an ongoing prosecution, and in failing to justify withholding the reports with specificity.



**16-ORD-085**  
**May 3, 2016**

In re: Cincinnati Enquirer/City of Independence

Summary: The City of Independence substantively and procedurally violated the Open Records Act in withholding a police incident report and in failing to justify withholding with specificity.

**16-ORD-086**  
**May 3, 2016**

In re: James Hightower/Kentucky State Police

Summary: The Kentucky State Police violated the Open Records Act in failing to justify the harm that would result from the release of records from an investigative file, and in failing to justify the refusal with specificity.

**16-ORD-087**  
**May 3, 2016**

In re: Mike Burns/Kentucky State Police

Summary: The Kentucky State Police initially violated the Open Records Act in failing to state the harm caused by the release of investigative records and in failing to justify the refusal with specificity, but subsequently cured those deficiencies on appeal.

**16-ORD-088**  
**May 3, 2016**

In re: Cincinnati Enquirer/Kentucky State Police

Summary: The Kentucky State Police did not violate the Open Records Act in failing to respond to an improperly submitted request. The Kentucky State Police procedurally violated the Open Records Act in failing to state the harm caused by release of law enforcement records, and in failing to state the reasons for withholding law enforcement records with specificity, but subsequently cured those deficiencies on appeal. The record is insufficient to conclude that KSP violated the Open Records Act in withholding 911 calls. KSP violated the Open Records Act in withholding police dispatch logs.

**16-ORD-089**  
**May 10, 2016**

In re: David Hoff/Kentucky State Reformatory

Summary: Kentucky State Reformatory did not violate the Open Records Act in denying inmate's request for a copy of his March 2016 Prison Rape Elimination Act ("PREA") Assessment on the basis of [KRS 197.025\(1\)](#), incorporated into the Open Records Act by operation of [KRS 61.878\(1\)\(1\)](#).

**16-ORD-090**  
**May 10, 2016**

In re: Kirk Catinna/Woodford County Public Schools

Summary: Woodford County Public Schools discharged its duty under the Open Records Act in providing requester with a copy of the responsive Kentucky Daily School Bus Incident Report in a timely manner. WCPS was not statutorily required to compile information or create a record in order to comply with subsequent questions and improperly framed requests for information.

**16-ORD-091**  
**May 10, 2016**

In re: Kirk Catinna/Kentucky Department of Education

Summary: Kentucky Department of Education discharged its duty under the Open Records Act in providing requester with a copy of the responsive Kentucky Daily School Bus Incident Report in a timely manner. KDE was not statutorily required to compile information or create a record in order to comply with subsequent questions and improperly framed requests for information.

**16-ORD-092**  
**May 13, 2016**

In re: Johnny R. Phillips/Little Sandy Correctional Complex

Summary: With one exception relating to the scope of its search for responsive records, Little Sandy Correctional Complex complied with the Open Records Act in responding to inmate request for various records relating to him.

**16-ORD-093**  
**May 17, 2016**

In re: Johnny R. Phillips/Little Sandy Correctional Complex

Summary: With one exception relating to the scope of its search for responsive records, Little Sandy Correctional Complex complied with the Open Records Act in responding to inmate request for various records relating to him.

**16-ORD-094**  
**May 17, 2016**

In re: Tyler Fryman/City of Danville

Summary: City of Danville failed to afford requester timely access to nonexempt records in city police officer's personnel file and to explain the statutory basis for withholding exempt records. With limited exception, city properly relied on [KRS 61.878\(1\)\(a\)](#) in denying requester access to records containing information of a personal nature the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy, including cell phone video of an incident involving the officer that occurred on a school bus and that identified multiple students.

**16-ORD-095**  
**May 17, 2015**

In re: Jason McGee/Kentucky State Police

Summary: Kentucky State Police violated Open Records Act in denying attorney's requests for "records pertaining to all approved traffic safety checkpoints for Ohio County, Kentucky (Post 16)" on two separate dates because the records could have been obtained through discovery. KSP failed to meet its burden of proving that it properly relied on [KRS 61.878\(1\)\(h\)](#) and [\(j\)](#) in alternative arguments.

**16-ORD-096**  
**May 17, 2016**

In re: Uriah Pasha/Kentucky State Reformatory

Subject: With one exception, Kentucky State Reformatory fully complied with the Open Records Act in responding to inmate requests for records relating to an incident for which he was disciplined.

**16-ORD-097**  
**May 17, 2016**

In re: Rick Rash/City of Orchard Grass Hills

Summary: Although city erred in failing to respond in writing, and within three business days, to open records request, it discharged its duties on appeal by undertaking an extensive, albeit unsuccessful, search for responsive records.

**16-ORD-098**  
**May 17, 2016**

In re: Sarah Teague/City of Henderson

Summary: City of Henderson improperly waited indefinitely for a former officer to assert privacy rights in his personnel records without providing a date when requested records would be made available. An entire personnel file is a proper subject for an open records request, as the public agency is required to separate out any exempt material and produce the remainder.

**16-ORD-099**  
**May 18, 2016**

In re: Leonel Martinez/Kentucky State Penitentiary

Summary: Kentucky State Penitentiary cannot produce nonexistent records, namely, logs documenting the outgoing legal mail of the requester from specified months, nor does KSP have to “prove a negative” in order to refute an unsubstantiated claim that such records exist under governing legal authority; however, KSP violated [KRS 61.880\(1\)](#) in failing to affirmatively indicate whether the requested logs existed until after this appeal was filed.

**16-ORD-100**  
**May 18, 2016**

In re: Peggy D. Guier/Hopkinsville Surface and Stormwater Utility

Summary: Hopkinsville Surface and Stormwater Utility did not violate the Open Records Act in denying the December 2015 request for design plans, federal or state permits, and correspondence with federal and state agencies regarding a specific proposed structure as no such records currently exist. By conducting a reasonable search and notifying the requester in writing that no records were located, the Utility discharged its duty. The Utility violated the Act in denying the January 2016 request for certain records discussed in a November 2015 meeting as neither of the statutory exceptions invoked apply.

**16-ORD-101**  
**May 19, 2016**

In re: Lachin Hatemi/University of Kentucky Healthcare Compensation Planning Committee

Summary: The Attorney General has the authority to request additional documents in deciding Open Records or Open Meetings appeals. The record before the Attorney General shows that the University of Kentucky Healthcare Compensation Planning Committee is a public agency and failed to meet its statutorily assigned burden of proving that it conducted an adequate search for requested meeting minutes.

**16-ORD-103**  
**May 19, 2016**

In re: Floyd County Chronicle/City of Allen

Summary: City of Allen was not required to provide or create lists that did not exist.

**16-ORD-104**  
**May 19, 2016**

In re: Mark Williams/Kentucky State Penitentiary

Summary: Kentucky State Penitentiary did not violate the Open Records Act in denying inmate's request for specified letter and envelope on the basis of [KRS 197.025\(2\)](#), incorporated into the Act by operation of [KRS 61.878\(1\)\(l\)](#), as those records do not contain a specific reference to him. KSP ultimately discharged its duty under the Act in denying access to a separate nonexistent letter but initially failed to affirmatively indicate to requester that no such letter was ever created; its response was deficient in this regard. Issues relating to requested handwriting sample are moot per 40 KAR 1:030, Section 6.

**16-ORD-105**  
**May 25, 2016**

In re: Matthew Wallace/Graves Circuit Court Clerk

Summary: Decision adopting 98-ORD-6 and holding that circuit court clerk is not bound by Open Records Act and did not violate the Act in disposition of records request.

**16-ORD-106**  
**May 27, 2016**

In re: Lawrence Trageser/Kentucky State Police

Summary: Kentucky State Police violated the Open Records Act in denying access to all records contained in two Internal Affairs investigative files, except for the initiating complaints and the final actions by the agency, on the bases of [KRS 61.878\(1\)\(i\)](#) and [\(j\)](#) as the records forfeited their preliminary characterization to the extent adopted by the final decision maker.

**16-ORD-107**  
**May 31, 2016**

In re: Abdullah Rahman White/Larue Circuit Court Clerk

Summary: Decision adopting 98-ORD-6 and holding that circuit court clerk is not bound by Open Records Act and did not violate the Act in disposition of records request.

**16-ORD-108**  
**June 3, 2016**

In re: Joseph Simpson/Kentucky State Police

Summary: Decision based on 14-ORD-054; inmate failed to appeal within twenty (20) days of denial by Kentucky State Police of his initial request for a copy of disciplinary records, as required by [KRS 197.025\(3\)](#), and his appeal is consequently time-barred despite his making a subsequent request for the same record.

**16-ORD-110**  
**June 6, 2016**

In re: Johnny R. Phillips/Department of Corrections

Summary: Department of Corrections' failure to search the Kentucky Offender Management System, and to contact DOC Population Management, for “emails, notes, ... requests for transfer, approvals, [or] justifications,” until asked by the Office of the Attorney General to describe its search, suggests an inadequate search for records responsive to inmate request. Its denial of access to the records belatedly located is not supported by [KRS 61.878\(1\)\(i\) and \(j\)](#) as construed in 15-ORD-103. DOC did not, however, violate the Open Records Act in requiring prepayment for copies of records responsive to the request or in failing to issue a timely written response as alleged.



**16-ORD-111**  
**June 7, 2016**

In re: Maggie McDowell/Laurel County Animal Shelter and Laurel County Sheriff's Department

Summary: Laurel County Animal Shelter and Laurel County Sheriff's Department failed to document adequate search for records responsive to request relating to named individuals and a named animal rescue shelter. Agencies also failed to meet their burden of proving that records located after appeals were filed warrant nondisclosure under any open records exception.

**16-ORD-112**  
**June 7, 2016**

In re: Douglas Krusley/Brent Cox

Summary: Conflict attorney for the Department of Public Advocacy ("DPA") did not violate the Open Records Act in denying former client's request for "all discovery" regarding Indictment No. 12-CR-00343 as he cannot provide the requester with records that he does not possess. Having provided a written explanation as to why he does not possess the requested file, and notified the requester to direct his request to DPA, conflict attorney discharged his obligations under the Open Records Act.

**16-ORD-113**  
**June 7, 2016**

In re: Lachin Hatemi/Kentucky Medical Services Foundation, Inc.

Summary: Communications among Kentucky Medical Services Foundation, Inc., private counsel, and accountants were not shown to be protected by attorney-client privilege where Attorney General was not given records to review in camera.

**16-ORD-114**  
**June 8, 2016**

In re: Leonel Martinez/Owensboro Police Department

Summary: Owensboro Police Department ultimately discharged its duty under the Open Records Act in conducting a reasonable search for the requested surveillance video and notifying the requester in writing that no such video was ever in the agency's possession; OPD cannot produce that which it does not have.

**16-ORD-115**  
**June 8, 2016**

In re: R. G. Dunlop/Department of Corrections

Summary: Department of Corrections properly relied on [KRS 197.025\(1\)](#) in withholding records of off-duty employment of Corrections staff.

**16-ORD-116**  
**June 8, 2016**

In re: Al Nesteruk/City of Goshen

Summary: City of Goshen's rules and regulations satisfy the Open Records Act, with one exception. Goshen violated the Act by not responding to requester's complaint, but adequately responded on appeal.

**16-ORD-117**  
**June 8, 2016**

In re: Charles Sanders/Pike County Fiscal Court

Summary: Pike County Fiscal Court was not required to provide or create lists that did not exist.

**16-ORD-118**  
**June 8, 2016**

In re: Linda Duncan/Harlan Police Department

Summary: Harlan Police Department denies receipt of two open records requests for records relating to applicant's deceased aunt. Response issued after applicant appealed department's inaction was deficient.

**16-ORD-119**  
**June 10, 2016**

In re: Justin Barker/City of Newport

Summary: City of Newport provided all responsive records.

**16-ORD-120**  
**June 10, 2016**

In re: Jason McGee/Kentucky State Police

Summary: Decision based on 16-ORD-095; Kentucky State Police initially improperly denied records relating to traffic safety checkpoints, but subsequently released records with permissible redactions of personal information under [KRS 61.878\(1\)\(a\)](#) and centralized criminal history records under [KRS 17.150\(4\)](#).

**16-ORD-121**  
**June 10, 2016**

In re: Jason McGee/Kentucky State Police

Summary: Decision based on 16-ORD-095; Kentucky State Police initially improperly denied records relating to traffic safety checkpoints, but subsequently released records with permissible redactions of personal information under [KRS 61.878\(1\)\(a\)](#) and centralized criminal history records under [KRS 17.150\(4\)](#).

**16-ORD-122**

**June 10, 2016**

In re: Corbin News Journal/London-Laurel County 911 Center

Summary: London-Laurel County 911 Center's response to request for a copy of the recording of a 911 call violated the procedural and substantive requirements of the Open Records Act.

**16-ORD-123**

**June 10, 2016**

In re: William Epling/Saint Joseph Health System, Inc. d/b/a Saint Joseph Berea

Summary: In the absence of any indication that Saint Joseph Health System, Inc., was a “public agency” as defined in [KRS 61.870\(1\)](#), it was not required to comply with the Open Records Act.