

Brian Garner

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April 29, 2025

Office of the Attorney General
Open Records Division
700 Capitol Avenue, Suite 118
Frankfort, KY 40601

RE: Open Records Complaint – City of Union, Kentucky

To Whom It May Concern:

Pursuant to KRS 61.880(2), I am filing this formal complaint with the Office of the Attorney General regarding the City of Union's failure to comply with Kentucky's Open Records Act in response to multiple records requests submitted by me between March and April 2025.

Summary of Events:

- **March 19, 2025:** I submitted an Open Records Request to the City of Union via email to the official records custodian and city clerk, Tammy Wilhoite, at *twilhoite@cityofunionky.org*.
- **March 25, 2025 at 1:11 PM:** I received a partial response. The City stated, "There are no phone logs," which is demonstrably false. Commission members receive a \$100 monthly stipend for "electronic expenses." If a member uses those funds toward a personal phone and conducts city business on it, those records fall under the scope of the Open Records Act.
- **March 26, 2025:** I submitted an **amended Open Records Request**, expanding the timeframe of the original request.
- **March 27, 2025:** The City provided some phone records, but the records were incomplete. There are multiple instances where calls listed in one individual's log did not appear in the corresponding log of the other party. I believed this was accidental so I requested the City provide complete records.
- **March 28, 2025:** I emailed the records custodian trying to determine if the missing records were being withheld by the custodian OR if the officials were not cooperating. I did not receive a response to these questions.

- **April 1, 2025:** I emailed the records custodian citing 4 instances where the logs were incomplete to demonstrate my concerns were legitimate.
- **April 2, 2025 at 8:29 AM:** I received an email from Attorney Jeff Otis, acting on behalf of the City, asserting that the City had fully complied with the request and had no further obligation to provide additional records. He did not address many of the concerns I submitted to the city on 03/28/2025. He invited further inquiries to be directed to him at objlaw@yahoo.com.
- **April 2, 2025 at 9:53 AM:** I emailed Mr. Otis 2 examples of my concerns where the call logs show inconsistencies.
- **April 2, 2025 at 11:28 AM:** Just hours later, from the Records Custodian I received **two additional pages of phone logs**—demonstrating that the request had not, in fact, been fully fulfilled when Attorney Otis made his statement.
- **April 2, 2025 at 1:39 PM:** I informed Mr. Otis that I had received **additional incomplete records since his email**, citing specific discrepancies between logs, and requested confirmation as to whether the City would address these issues or maintain its position.
- **No response was received.** Despite his invitation to communicate with him, Mr. Otis did not reply to this inquiry.
- **April 15, 2025:** I again contacted Mr. Otis. He responded, stating:

“I was under the belief that Ms. Wilhoite supplemented this Open Records Response with additional call logs as they became available. I will reach out to her tomorrow and get confirmation one way or another if this is the case and follow up with you.”

I received no further response or records as of 04/29/2025

- **April 18, 2025:** I entered my final plea to the City of Union asking them to comply with the law. I laid out my concerns as well as citing the statute to remind them they’re well beyond the 5 days granted under the law.

I received no response or records as of 04/29/2025

Grounds for Complaint:

The City of Union has violated the Kentucky Open Records Act by:

1. **Failing to provide a complete and timely response** to my March 19 and March 26, 2025 requests;

2. **Providing contradictory and inconsistent communication**, including denying additional records existed while simultaneously releasing more records;
3. **Failing to acknowledge or address evidence of omissions** in the records provided;
4. **Failure to respond to reasonable follow-up communications, despite inviting such contact.**

It is especially concerning that the City of Union—despite having a City Attorney with over 30 years of experience—chose not to handle these routine records requests in-house. Instead, the City opted to hire outside counsel, raising questions about the handling of this process and the apparent lack of transparency.

I respectfully request that the Attorney General's Office investigate this matter and issue a determination as to whether the City of Union violated KRS 61.870 to 61.884. I also ask that the City be compelled to provide complete and accurate records, including any withheld or omitted records.

Attached are copies of my original requests, the City's responses, and all related correspondence.

Thank you for your attention to this matter.

Sincerely,
Brian Garner