

BEFORE THE MISSISSIPPI ETHICS COMMISSION

CINDY MALLEY

COMPLAINANT

VS.

PUBLIC RECORDS CASE NO. R-24-009

TIPPAH COUNTY SHERIFF'S OFFICE

RESPONDENT

FINAL ORDER

This matter came before the Mississippi Ethics Commission through a Public Records Complaint filed by Cindy Malley against the Tippah County Sheriff's Office. The Sheriff's Office failed to file a response to the complaint. The Ethics Commission has jurisdiction over this matter pursuant to Section 25-61-13, Miss. Code of 1972. A Preliminary Report and Recommendation was issued in this matter on the 1st day of November 2024 in accordance with Rule 5.6, Rules of the Mississippi Ethics Commission. The parties did not object to the Preliminary Report and Recommendation and have thereby waived a right to a hearing on the merits. Accordingly, this Final Order is entered in accordance with Rule 5.6 of the Rules of the Mississippi Ethics Commission.

I. FINDINGS OF FACT

1.1 On February 5, 2024, Cindy Malley requested "access to and copies of all records including police reports, CAD traffic, dispatcher logs, phone calls, text messages, investigative reports, emails, citations, statements, photos, and/or video regarding a cockfight" reported on February 3, 2024 in Tiplersville, Mississippi. The complainant states that she has received no responsive documents nor any type of denial in writing. She further states "[w]e have made numerous phone calls to try and obtain the status of this request but we have received no documents and no denial." Accordingly, Ms. Malley filed this complaint with the Ethics Commission on February 26, 2024.

II. CONCLUSIONS OF LAW

2.1 The Mississippi Public Records Act of 1983 (the "Act"), codified at Section 25-61-1, et seq., Miss. Code of 1972, provides that public records shall be available for inspection or copying by any person unless a statute or court decision "specifically declares" a public record to be confidential, privileged, or exempt. Sections 25-61-2 and 25-61-11. Section 25-61-5(1)(a), Miss. Code of 1972, of the Act mandates that "[n]o public body shall adopt procedures which will authorize the public body to produce or deny production of a public record later than seven (7) working days from the date of the receipt of the request for the production of the record." The Public Records Act is clear that a public body has a duty to either provide records or a written denial after receiving a valid public records request. Section 25-61-5(3).

2.2 Based on the record before the Ethics Commission, it appears the Tippah County Sheriff's Office failed to timely provide any response to Ms. Malley. The Public Records Act is clear that a public body has a duty to either provide records or a written denial after receiving a valid public records request.

2.3 Section 25-61-15 states that “[a]ny person who shall deny to any person access to any public record which is not exempt from the provisions of this chapter or who charges an unreasonable fee for providing a public record may be liable civilly in his personal capacity in a sum not to exceed One Hundred Dollars (\$100.00) per violation, plus all reasonable expenses incurred by such person bringing the proceeding.” The failure to provide any response to Ms. Malley is a violation of the Act which can result in the imposition of a civil penalty against the individuals who are responsible for responding to requests made under the Mississippi Public Records Act. Based on the record in this case, Sheriff Karl Gaillard is responsible for the Tippah County Sheriff’s Office and its duty to respond to public records requests under the Public Records Act.

III. CONCLUSION

WHEREFORE, it is hereby ordered as follows:

3.1 The Ethics Commission finds the Tippah County Sheriff’s Office violated Section 25-61-5 by failing to respond to Ms. Malley’s public records request.

3.2 The Ethics Commission orders the Tippah County Sheriff’s Office to provide an estimate of the actual cost to respond to Ms. Malley’s public records request, within seven (7) business days after the issuance of a Final Order in this matter.

3.3 The Ethics Commission imposes a civil penalty in the amount of \$100.00 against Sheriff Karl Gaillard, in his personal capacity. The penalty shall be paid to the General Fund of the State of Mississippi upon receipt of a Final Order.

3.4 The Ethics Commission orders the Tippah County Sheriff’s Office, through its officials and employees, to strictly comply with the statutory deadlines and procedures set forth in Section 25-61-5.

SO ORDERED, this 11th day of December 2024.

SONIA SHURDEN, Hearing Officer
Mississippi Ethics Commission