



COMMONWEALTH OF KENTUCKY
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20-ORD-203

December 17, 2020

In re: Levi Henson/Lexington Police Department

Summary: The Lexington Police Department (“Department”) did not violate the Open Records Act (“the Act”) when it denied a request for copies of records where the request did not precisely describe the records sought.

Open Records Decision

On November 13, 2020, Levi Henson (“Appellant”) requested from the Department a copy of all public records that document “investigations, cases, [and] incidents,” in which a particular officer conducted an investigation with or communicated with the Lancaster Police Department. The request also sought *all* records of *all* investigations in which that officer had contact with a specific Garrard County Sheriff’s deputy “from August 2014 through the present.” Although the Department denied the request as unreasonably burdensome under KRS 61.872(6), it invited Appellant to provide more information to narrow the scope of his request. Instead, this appeal followed.

Under the Act, an individual who resides outside the county where the records are located and who requests that a public agency mail him copies of records, must “precisely describe the public records.” KRS 61.872(3)(b). In addition, a public agency may deny a request for records that places an unreasonable burden on the public agency. KRS 61.872(6). A public agency that denies a request as unreasonably burdensome must carry its burden with clear and convincing evidence. *Id.*

This Office has previously found that “any and all” types of requests, which seek “any and all” records pertaining to an identified person, place an unreasonable burden on public agencies. *See, e.g.*, 99-ORD-014 (finding that an “any and all” request pertaining to one individual failed to describe “with reasonable particularity” the records sought and was therefore unreasonably burdensome). To comply with such a request would require public agencies to search incalculable numbers of records for each instance in which the name appears.

The same is true here. Appellant has requested “any and all” records related to any investigations that a particular officer conducted in coordination with another police department and another specified officer. He has not “precisely described” the nature of the investigations he believes were conducted, i.e., whether they be drug or theft investigations. KRS 61.872(3)(b). He has not “precisely described” a specific time period within which he believes the officers may have conducted such investigations. *Id.* And he has not “precisely described” where the alleged investigations occurred. *Id.*

On appeal, the Department explains that its officer does not recall having conducted any investigations with the Lancaster Police Department or the Garrard County Sheriff’s deputy referenced in the request. Therefore, to honor Appellant’s request, the Department would be required to identify every record pertaining to the specified officer and then search those documents to find each reference to the Lancaster Police Department or the specified deputy sheriff. Such a request clearly places an unreasonable burden on the Department. It would require the Department to search an incalculable numbers of records. Therefore, the Department did not violate the Act when it denied Appellant’s request.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. 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 proceeding.

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Distributed to:

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