



COMMONWEALTH OF KENTUCKY
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23-ORD-337

December 18, 2023

In re: Bradley Morris/Mayfield Police Department

Summary: The Office cannot find that the Mayfield Police Department (“the Department”) violated the Open Records Act (“the Act”) because the Office cannot resolve the factual dispute between the parties.

Open Records Decision

On October 27, 2023, inmate Bradley Morris (“Appellant”) submitted a request to the Department for a “redacted copy of medical records” it had received regarding the victim in his criminal case. Having received no response by November 13, 2023, the Appellant initiated this appeal.

Upon receiving a request to inspect records, a public agency must decide within five business days whether to grant the request or deny the request and explain why. KRS 61.880(1). Here, the Appellant claims he submitted a request to the Department on October 27, 2023, but it did not respond to that request. On appeal, the Department states it received the Appellant’s request on November 1, 2023, and issued a timely response the next day. As proof, the Department provides a copy of that response.¹ The Office has previously found that it is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received an agency’s response to his request. *See, e.g.,* 23-ORD-220. Accordingly, the

¹ The Department explains that, shortly after its attorney mailed its response, it received a “return to sender” notice from the Department of Corrections instructing the Department to visit “the DOC website to register and use the new legal mail system.” The Office notes that beginning in 2023, the Department of Corrections began refusing to process mail sent by attorneys to inmates if the attorney-sender does not preregister with its online legal mail portal. It is not clear if the Department of Corrections has promulgated this policy by administrative regulation. *See* <https://corrections.ky.gov/Facilities/AI/Pages/legalmail.aspx> (last accessed Dec. 18, 2023).

Office cannot find the Department violated the Act because the Office cannot resolve the factual dispute between the parties as to whether the Appellant received the Department's response to his request.²

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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.

Daniel Cameron
Attorney General

s/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

Bradley Morris #188310

Nathan Kent

Jay M. Matheny

² On December 11, 2023, the Appellant informed the Office that it had received the “redacted copy of medical records” and now objects to the Department’s redactions. However, the Office notes that the Appellant’s request appears to concern the same medical records that were at issue in 23-ORD-281. There, the Office determined that “a crime victim’s medical records would also be exempt from public disclosure under KRS 61.878(1)(a), absent any countervailing public interest.” 23-ORD-281 n.2. That holding would support making redactions to a crime victim’s medical records, and the Office declines to reconsider its decision in 23-ORD-281. *See* 40 KAR 1:030 § 4 (“The Attorney General shall not reconsider a decision rendered under the Open Records Law . . . Parties dissatisfied with a decision may appeal the decision to circuit court as provided by KRS 61.880(5).”).