



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-201

July 28, 2025

In re: Justin Dubiel/Northpoint Training Center

Summary: The Office cannot find that the Northpoint Training Center (“the Center”) violated Open Records Act (“the Act”) by failing to timely respond to a request because the Office is unable to resolve the factual disputes between the parties. The Center did not violate the Act when it denied an inmate’s request for a record that does not contain a specific reference to him. However, the Center violated the Act when it failed to explain how an exception to the Act applies to a particular record.

Open Records Decision

On June 10 and 11, 2025, inmate Justin Dubiel (“Appellant”) submitted two requests for a specific Center employee’s personnel file and for a particular email sent by the same employee. On June 11, 2025, the Appellant submitted a request for a “copy of CPP 15.3.” The Center timely denied that request because the identified policy “contains no specific reference to” the Appellant. On June 25, 2025, the Appellant initiated this appeal, alleging the Center had (1) failed to respond to his requests for the personnel file and particular email and (2) had violated the Act by denying his request for “CPP 15.3.”¹

¹ The Appellant included three additional requests for records in this appeal, but the Office lacks jurisdiction to consider any of them. The first two requests were submitted to the Center on May 23 and 29, 2025. The Center responded on May 23 and 30, 2025, to those requests, respectively. Under KRS 197.025(3), “all persons confined in a penal facility shall challenge any denial of an open record [request] with the Attorney General by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial.” The Appellant submitted this appeal to the Office on June 25, 2025, as reflected by the postmark of his appeal. Thus, the Appellant’s appeals from the Complex’s responses to these requests are time-barred under KRS 197.025(3). The Appellant’s third request was dated June 9, 2025. The Center’s response to that request stated, “Granted—See Attached.” The Appellant did not allege any violation of the Act in this appeal regarding this last request. Thus, there is nothing for the Office to resolve regarding that request.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” Here, the Appellant claims that he submitted his requests to the Center between June 10 and 11, 2025, and that he did not receive a timely response. On appeal, the Center claims it received the requests on June 13, 2025, and issued timely responses on June 23, 2025. As proof, the Center provides a copy of the requests and its responses.

The Office has routinely found that it is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received a response to his request or whether an agency received a request. *See, e.g.*, 24-ORD-184 (factual dispute as to whether an agency received a request); 23-ORD-276 (factual dispute as to whether a requester received a response to his request). Accordingly, the Office cannot find the Center violated the Act because the Office cannot resolve the factual dispute between the parties as to when the Appellant received the Center’s responses to his requests.²

When a public agency denies inspection of public records, it must “include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” KRS 61.880(1). The agency must “provide particular and detailed information,” not merely a “limited and perfunctory response.” *Edmondson v. Alig*, 926 S.W.2d 856, 858 (Ky. 1996). “The agency’s explanation must be detailed enough to permit [a reviewing] court to assess its claim and the opposing party to challenge it.” *Ky. New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76, 81 (Ky. 2013). Here, the Complex apparently intended to rely on KRS 197.025(2), which is incorporated into the Act under KRS 61.878(1)(l) and provides that no inmate is entitled to a record unless it “contains a specific reference to” him. However, the Center’s response did not cite to either statute or explain how they applied to the specific record withheld. Thus, the Center’s initial denial violated the Act.

On appeal, the Center has fully explained its denial under KRS 197.025(2). Under that exception, the Department of Corrections “shall not be required to comply with a request for any record from any inmate confined in a jail or any facility . . . unless the request is for a record which contains a specific reference to that individual.” The Office has held that the phrase “specific reference to that individual”

² The substance of the Center’s responses is the subject of a separate appeal filed by the Appellant.

requires the record to refer to the requesting inmate by name. *See, e.g.*, 23-ORD-347; 17-ORD-073. Specifically, the Office has found a record does not contain a “specific reference” to a requesting inmate under KRS 197.025(2) simply because it is relevant to, pertains to, or personally affects him. *See, e.g.*, 22-ORD-087; 17-ORD-119; 17-ORD-073. Here, initially and on appeal, the Center affirms that the requested record does not contain a “specific reference” to the Appellant. Thus, under KRS 197.025(2), the Center was not required to grant the Appellant’s request to inspect policy “CPP 15.3,” and it did not violate the Act when it denied his request.

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.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
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Distributed to:

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