



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-205

July 31, 2025

In re: Justin Dubiel/Northpoint Training Center

**Summary:** The Northpoint Training Center (the “Center”) violated the Open Records Act (“the Act”) when it failed to issue a response to a request that complied with KRS 61.880(1) within five business days of receiving that request. 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. The Office cannot find that the Center violated the Act by providing an email that the Appellant does not believe is responsive to his request.

### *Open Records Decision*

On June 10, 2025, inmate Justin Dubiel (“Appellant”) submitted two requests for a specific Center employee’s personnel file, a copy of the Appellant’s “SOR” response, and for a particular email sent by the same employee. On June 23, 2024, the Center responded, stating it had received the Appellant’s request on June 13 and invoked KRS 197.025(7) because the records are “in use, storage[,] or not otherwise available” and will be provided on June 24. Regarding the records requested, the Center provided the Appellant with the identified email and “SOR” response, but denied the request for the employee’s personnel file because it does not contain a specific reference to him. This appeal followed.

Under KRS 61.880(1), a public agency must decide within five business days whether to grant a request or deny it.<sup>1</sup> This time may be extended under KRS 61.872(5) when records are “in active use, in storage or not otherwise available,” if the agency gives “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record will be available for

inspection.” The burden of proof rests with the public agency to sustain its actions. KRS 61.880(2)(c).

KRS 61.872(5) requires the public agency to notify the requester that the records are “in active use, storage, or not otherwise available.” The statute also places the burden on the agency to give a “detailed explanation of the cause” for further delay. *Id.* Here, however, the Center did not specifically indicate that the records at issue were in “in active use, storage, or not otherwise available” or give a “detailed explanation of the cause” for further delay. The Center merely cited KRS 197.025(7) and asserted that “time may be extended [beyond five business days], however, if the records are in use, storage or not otherwise available.” Thus, because it failed to provide the “detailed explanation” required under KRS 61.872(5), the Center’s initial responses violated the Act.

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.” *Kentucky New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76, 81 (Ky. 2013). Here, regarding the request for an employee’s personnel file, the Center apparently intended to rely upon KRS 197.025(2), which provides that no inmate is entitled to a record unless it “contains a specific reference to” the requesting inmate. As an enactment of the General Assembly, KRS 197.025(2) is incorporated into the Act under KRS 61.878(1)(l). However, the Center did not cite either of these provisions 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” 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 personnel file 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 the file, and it did not violate the Act when it denied that portion of his request.

Finally, the Appellant claims the email he received is not the email he requested. However, the Office has consistently stated that it cannot resolve factual disputes, such as competing claims about whether all responsive records have been provided. *See, e.g.*, 23-ORD-113; 22-ORD-261; 22-ORD-010; 19-ORD-083 (stating the Office cannot “resolve the factual dispute between the parties regarding the disparity between records which have been provided and those sought but not provided”). Thus, the Office cannot find that the Center violated the Act when it provided a single email responsive to the Appellant’s 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](mailto:OAGAppeals@ky.gov).

**Russell Coleman**  
**Attorney General**

/s/ Zachary M. Zimmerer  
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