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25-ORD-258

September 12, 2025

In re: Daniel Feldman/Louisville Metro Government

Summary: The Office cannot find that the Louisville Metro Government (“Metro”) violated the Open Records Act (“the Act”) when it claims it provided all records responsive to the Appellant’s requests. Metro did not violate the Act when it withheld records belonging to the Louisville Metro Human Rights Commission under KRS 344.250(6).

Open Records Decision

Between June 16 and July 31, 2025, Daniel Feldman (“Appellant”) submitted four multi-part requests to Metro seeking records belonging to three different Metro agencies.

On June 16, 2025, the Appellant submitted two requests for MetroSafe¹ records. Specifically, the Appellant requested all MetroSafe records, audio, and logs related to three emergency responses associated with specific Louisville Metro Police Department (“LMPD”) incident numbers. The Appellant also requested the same types of records associated with three addresses. In response, Metro provided the Appellant with responsive records.²

On June 16, 2025, the Appellant requested LMPD records. Specifically, the Appellant requested additional incident reports and footage related to specific LMPD incident numbers. In response, Metro provided the Appellant with responsive records.³

¹ MetroSafe is an agency of Metro’s Division of Emergency Services and is responsible for handling 911 calls and referring them to the appropriate police, fire, and emergency medical agencies.

² Metro initially delayed its response to this request under KRS 61.872(5). Metro also redacted certain information under KRS 61.878(1)(a) and (s). The Appellant has not specifically challenged Metro’s delay or redactions.

³ Metro initially delayed its response to this request under KRS 61.872(5). The Appellant has not challenged that delay.

Last, on July 31, 2025, the Appellant requested Louisville Metro Human Rights Commission (“HRC”) records related to a particular “HUD case.” Specifically, the Appellant sought (1) resident files, tenant files, or housing records “reviewed, generated, or shared” with HRC; (2) “emails, memos, notes, and communications” containing nine keywords or phrases; (3) “[a]ll investigative materials”; (4) “[a]ll correspondence between HRC” their legal counsel, law enforcement, or any other party “discussing slanderous allegations or eviction motivations”; (5) records referencing the reasons for the Appellant’s eviction; and (6) records concerning the closure of the Appellant’s HRC case. Metro denied the Appellant’s request as unduly burdensome under KRS 61.872(6) because it identified 57,079 responsive records.

This appeal, challenging portions of each of Metro’s responses, followed. The Appellant claims Metro has violated the Act because (1) body-worn camera footage responsive to his LMPD request has three minutes of footage missing and he should have received additional records, (2) he should have received additional records responsive to this MetroSafe requests, and (3) because his HRC request is not unreasonably burdensome.⁴

On appeal, Metro states that it has confirmed that there is no “gap” of missing footage in the LMPD body-worn camera footage provided to the Appellant. Similarly, Metro asserts that it has produced all MetroSafe records responsive to the Appellant’s request. Once a public agency states affirmatively that it does not possess any additional records, the burden shifts to the requester to make a *prima facie* case that additional records do exist. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). If the requester makes a *prima facie* case that additional records do or should exist, “then the agency may also be called upon to prove that its search was adequate.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341). To carry his burden, the Appellant must produce some evidence that calls into doubt the adequacy of the agency’s search. *See, e.g.*, 95-ORD-96. A requester’s bare assertion that additional records exist does not make a *prima facie* case that the Agency possesses additional responsive records. *See, e.g.*, 23-ORD-042.

Here, the Appellant has not made a *prima facie* case that Metro possesses additional records responsive to any of the Appellant’s requests. Instead, he simply asks this Office to order Metro to produce the records he has not received. Such a

⁴ The Appellant also claims that the Jefferson County Sheriff’s Office constructively denied his request by not responding. Metro has explained that it is not the custodian of the Jefferson County Sheriff’s Office’s records. Additionally, the request the Appellant claims was ignored was the subject of the 25-ORD-257.

request does not make a *prima facie* case that additional records exist.⁵ Accordingly, the Office cannot find that Metro failed to provide all responsive records in its possession.

Finally, regarding the Appellant's request for HRC records, Metro abandons its reliance on KRS 61.872(6)⁶ and instead explains that all responsive records are exempt under KRS 344.250(6). KRS 344.250(6), which is incorporated into the Act by KRS 61.878(1)(l), states that "[i]t is unlawful for a commissioner or employee of the commission to make public with respect to a particular person without his consent information obtained by the commission pursuant to its authority under this section except as reasonably necessary to the conduct of a proceeding under this chapter."

The Office has previously held that, "[i]f the proceeding . . . results in a dismissal of the complaint or the entering of a conciliation agreement, then only the order of dismissal or the terms of the conciliation agreement are subject to public inspection." OAG 85-5. The Appellant has stated that the HRC case was "closed." Thus, the only records available for inspection are either the order of dismissal or the terms of any conciliation agreement. Because the Appellant has not requested such records, Metro did not violate the Act when it denied the Appellant's request in its entirety.

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
Zachary M. Zimmerer
Assistant Attorney General

⁵ Moreover, the Office is limited to issuing a decision stating whether the provisions of the Act were violated. *See* KRS 61.880(2)(a). The Office cannot order an agency to produce records or take any particular action.

⁶ Metro explains that because the Appellant identified the records as those being related to a "HUD case," it construed the request as seeking records belonging to the Metro Office of Housing. Upon receiving notice of this appeal, Metro corrected its response and its reliance on KRS 61.872(6).

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Distributed to:

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