



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN  
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE  
SUITE 200  
FRANKFORT, KY 40601  
(502) 696-5300

25-ORD-361

November 17, 2025

In re: Kenneth Padgett/Energy and Environment Cabinet

**Summary:** The Energy and Environment Cabinet (“the Cabinet”) did not violate the Open Records Act (“the Act”) when it redacted the names of private individuals from public complaints.

### ***Open Records Decision***

On October 15, 2025, Kenneth Padgett (“Appellant”) submitted a request to the Cabinet seeking copies of a complaint form, the call registry, and all emails related to an incident he identified by log number. According to the Appellant, as part of the Cabinet’s response, he received a “heavily redacted DEP complaint form.”<sup>1</sup>

On October 16, 2025, the Appellant submitted a new request seeking an “[u]nredacted incident report form” related to the same incident and identified by log number. The Appellant also stated that he is the individual against whom the complaint was made. In response, the Cabinet stated that information regarding the complainant would remain redacted under KRS 61.878(1)(a) because “disclosure would constitute an unwarranted invasion of personal privacy.”<sup>2</sup>

While it is true that the “unambiguous purpose of the Open Records Act is the disclosure of public records even though such disclosure ‘may cause inconvenience or embarrassment to public officials or others,’” *Beckham v. Bd. of Educ. of Jefferson Cnty.*, 873 S.W.2d 575, 577 (Ky. 1994) (quoting KRS 61.871), KRS 61.878(1)(a)

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<sup>1</sup> The Appellant did not provide a copy of the Cabinet’s response to his October 15 request. Therefore, the Office lacks jurisdiction regarding the merits of the Cabinet’s response to the October 15 request. See KRS 61.880(2)(a).

<sup>2</sup> The Cabinet also advised the Appellant that it would remove any redactions related to him once he provided a copy of his driver’s license to prove his identity. The Appellant has not challenged this portion of the Cabinet’s response.

exempts from disclosure “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” To determine whether a public record may be redacted or withheld under KRS 61.878(1)(a), this Office must weigh the public’s right to know that a public agency is properly executing its government functions against the “countervailing public interest in personal privacy” when the records in dispute contain information that touches upon the “most intimate and personal features of private lives.” *Ky. Bd. of Exam’rs of Psychologists v. Courier-Journal & Louisville Times Co.*, 826 S.W.2d 324, 328 (Ky. 1992). This balancing test requires a “comparative weighing of the antagonistic interests. Necessarily, the circumstances of a particular case will affect the balance. . . . [T]he question of whether an invasion of privacy is ‘clearly unwarranted’ is intrinsically situational, and can only be determined within a specific context.” *Id.* at 327–28.

In *Kentucky New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76 (Ky. 2013), the Supreme Court of Kentucky recognized that private citizens’ addresses, telephone numbers, social security numbers, and driver’s license numbers rarely provide insight regarding whether a public agency is properly executing its government functions, and that information may be categorically redacted. *See also Zink v. Commonwealth, Dept. of Workers’ Claims*, 902 S.W.2d 825 (Ky. App. 1994). Significantly, however, the *Kentucky New Era* Court did not authorize the categorical redaction of private citizens’ names.

The Office has previously recognized that “a person’s name is personal but it is the least private thing about him . . . [and] should not be deleted from a public record unless there is some special reason provided by statute or court order (i.e., adoption records).” OAG 82-234; 20-ORD-089. However, this Office has also deemed a request for anonymity to be critical in determining whether KRS 61.878(1)(a) permits withholding a person’s identity. *Compare* 12-ORD-149 (finding that the agency failed to demonstrate that the complainant sought anonymity) *with* 16-ORD-055 (finding that agency met its burden because the complainant sought anonymity out of fear of retaliation).

In 20-ORD-089, this Office recognized that in some instances a private citizen’s identity is necessary to assess the propriety of the actions taken by a public agency. For example, in *Cape Publications, Inc. v. University of Louisville Foundation, Inc.*, 260 S.W.3d 818, 822 (Ky. 2008), the Court found that the public had a legitimate interest in knowing the names of private donors to a public university to assess potential impropriety and sources of undue influence via monetary contributions.

However, the determination of whether the University was required to release a specific donor's name was dependent upon what steps, if any, the private donor had taken to preserve his or her privacy. *Id.* "As a result, the names of those donors who sought anonymity could be properly withheld, but not the names of donors who failed to request anonymity." 20-ORD-089 (citing *Cape Publications*, 260 S.W.3d at 824).

Regarding the redaction of complainant's names, the Office has considered the circumstances of the resulting investigation and agency action to determine the efficacy of those redactions. In 20-ORD-089 and 20-ORD-091, the Office found that the agency could not redact the names of complainants because the public had a strong interest in learning the names of the complainants where the agency had taken action based on those complaints without providing any due process to the affected individuals and companies. In 20-ORD-185, the Office found that the agency could redact the names of complainants because that agency did not simply take a claim of noncompliance at face value and, instead, sent an investigator to observe and report his or her findings. There, final action was based on the independent observations of the investigator, and the complainant's allegations had no bearing on the agency's determination of whether a violation had occurred. *Id.*

Here, the Cabinet maintains that, when a complainant alerts it of potential violations, it conducts its own investigation and any "potential determination made by [the] Cabinet is based upon" that investigation. Thus, it asserts that it properly redacted the name of the complainant from the responsive report. The Office agrees. The Cabinet has represented that its final action is based on its own investigation, and the complaint merely alerts that it should conduct an investigation. The complainant's identity is largely irrelevant to the matter of the conduct of the Cabinet. As such, the privacy interest weigh in favor of redaction and the Cabinet properly relied on KRS 61.878(1)(a) to redact the name of the complaint from the requested records.

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  
Zachary M. Zimmerer  
Assistant Attorney General

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Distributed to:

Kenneth Padgett  
Brittany Hayes Koenig, Esq.  
Sarah Noble, Esq.  
Capella McFarland