



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-377

November 26, 2025

In re: Timothy Wade/Department of Corrections

Summary: The Department of Corrections (“the Department”) violated the Open Records Act (“the Act”) when it failed to conduct an adequate search for records. The Office cannot resolve the factual dispute regarding whether the Department has now provided all responsive records.

Open Records Decision

On September 17, 2025, Timothy Wade (“Appellant”) submitted a request to the Department seeking records related to an internal affairs investigation at a particular correctional facility involving him. The Appellant specifically sought “all documents,” “audio recordings,” “photographic and video evidence,” and “materials collected or used by” a named individual. On September 24, 2025, the Department invoked KRS 61.872(5) and advised that it would issue its final response to the request on October 8, 2025. On that date, the Department issued its response providing responsive records with redactions and further stating that responsive audio records would be made available on October 22, 2025. The Department issued its final response on October 22, 2025, providing redacted copies of audio records and withholding certain security footage. On October 29, 2025, the Appellant initiated this appeal, alleging that he had not been provided with all responsive audio records or emails.¹

On appeal, the Department states that, upon notice of this appeal, it conducted a subsequent search for records and identified three emails and 30 audio recordings responsive to the request. The Department states that it will provide redacted copies

¹ The Appellant does not challenge any of the Department’s redactions or denials of records nor does he challenge its invocation of KRS 61.872(5).

of the records and so the appeal is now moot. Under 40 KAR 1:030 § 6, “[i]f the requested documents are made available to the complaining party after a complaint is made, the Attorney General shall decline to issue a decision in the matter.” However, mootness only applies when the agency provides the requested records in their entirety, not redacted copies. *See, e.g.*, 25-ORD-204 n.2; 23-ORD-313 n.2; 20-ORD-078; 12-ORD-046. Because the Department states that it will produce redacted records, this appeal is not moot.²

Here, the Appellant initiated his appeal asserting that the Department did not provide all responsive records to his request, and when the Department undertook another search, it identified additional responsive records. When a subsequent search reveals additional records not previously found, the agency’s initial search “was clearly insufficient to locate all responsive records.” 25-ORD-165; 21-ORD-242, 21-ORD-178. Here the Department’s subsequent production of documents demonstrates that its initial search was inadequate and, therefore, violated the Act.

Finally, the Appellant asserts that the Department still has not produced all the emails he requested. For its part, the Department has explained that it has now issued all records responsive to the request. The Office has long held it cannot resolve factual disputes about whether all records responsive to a request have been provided, or whether requested records should contain additional content. *See, e.g.*, 25-ORD-031; 23-ORD-027; 22-ORD-010; 19-ORD-083; 03-ORD-061; OAG 89-81. Accordingly, the Office is unable to find the Department violated the Act when it provided what it considered to be all emails 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.

² The Department states that it will complete its review and redaction of the audio records on December 4, 2025.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
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