



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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26-ORD-049

February 12, 2026

In re: Holly Alhasaei/Nelson County Correctional Center

Summary: The Nelson County Correctional Center (“the Jail”) did not violate the Open Records Act (“the Act”) when it conducted a diligent search and provided the requester with a copy of all existing, responsive records it possesses upon receipt of her request. The Office also cannot find that the Jail violated the Act because the Office cannot resolve the factual dispute between the parties regarding the records provided.

Open Records Decision

On January 13, 2026, Holly Alhasaei (“the Appellant”) submitted a request to the Jail asking for a copy of all “records related to my detention on or about 06/25/2025,” including:

1. Any written notes, logs, reports, or internal documentation created by detention officers or supervisors describing the information communicated to nursing staff during the nurse consultation referenced in my jail records;
2. Any documentation created by nursing staff reflecting the information received from jail staff during that consultation;
3. Any call logs, phone records, or other records reflecting the date, time, duration, and participants of the call to nursing staff;
4. Any draft, supplements, or internal versions of incident or medical reports prepared prior to the finalized report;
5. Any policy, form, or procedure used by detention staff to relay inmate medical complaints or symptoms to nursing staff; [and]
6. Any audio recording of the nurse consultation call, if such calls are recorded. If no recording exists, please confirm in writing.

By letter dated January 16, 2026, the Nelson County Attorney (“the County Attorney”) sent a timely response to the Appellant on behalf of the Jail, stating it had responded to her previous request on January 12, 2026, and provided her with a copy

of the “jailer’s entire file on [the Appellant].” The County Attorney further stated, “The Jailer has no more records that relate to your incarceration on 6/25/2025. Therefore, the answer of [the Jail] to your latest request is that [it is] not in possession of the records you have requested.” In her appeal to the Office, the Appellant stated that records the Jail provided to her in response to her previous request include a reference to a nurse being consulted “and a medical clearance being given, while failing to identify the nurse, produce any call logs, or provide any contemporaneous medical documentation.” Thus, the Appellant contends, “records reflecting that consultation are required to exist and be maintained.”

In response, the County Attorney, on behalf of the Jail, first explains that the Jail provided the Appellant with an online link by which to access the responsive records it possesses.¹ Next, he reiterates that the Jail has provided the Appellant with all responsive records it possesses. Rather, the nursing staff to which the Appellant refers “is a private healthcare company, Comprehensive Correctional Care [‘CCC’], that treats the inmates at the jail. That company maintains all of the records related to any patient, not the [Jail].” Citing 12-ORD-012, the County Attorney also argues that the Jail “is not required to create records that do not currently exist to comply with [a request] under [the Act].”

As the Jail has correctly noted, it cannot produce that which it does not have. Nor is it required to “prove a negative” to refute a claim that certain records exist. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 340–41 (Ky. 2005); 07-ORD-188; 07-ORD-190; 17-ORD-026. Once a public agency states affirmatively that it does not possess responsive records, the burden shifts to the requester to make a *prima facie* showing that the requested records do or should exist. *See Bowling*, 172 S.W.3d at 341. If the requester makes a *prima facie* showing that records do or should exist, “then the agency may also be called upon to prove that its search was adequate.” *City of Ft. Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341). Similarly, once a public agency claims to have provided the requester with all existing, responsive records it possesses, the burden shifts to the requester to make a *prima facie* showing that additional records exist because, in essence, the agency has argued that no additional records exist in the possession of the agency.

The Office is unable to resolve factual disputes between the parties, such as a dispute about whether the public agency has provided the requester with all responsive records. *See, e.g.*, 94-ORD-121; 19-ORD-083; 23-ORD-317. Thus, when presented with appeals involving claims that additional, responsive records exist but

¹ The County Attorney has provided a copy of the Appellant’s request and the Jail’s timely response, which includes a referral to CCC, and provided an email address to which the Appellant directed a request on February 3. The Appellant supplemented her appeal by providing the Office with a copy of her February 3 email to CCC and the February 4 response from CCC stating that, “All Medical Requests must be made to the facility that holds the records.”

have not been provided, as in this instance, the Office can only decide whether a public agency's search was adequate. However, the Office will only make such a determination after the requester has made a *prima facie* showing that the agency's search was inadequate "because a statute, regulation, or other factual evidence supports the potential existence of responsive records that have not been provided." 24-ORD-027.

Even assuming the Appellant has made the necessary showing, by referencing the content of records that she already received from the Jail, on appeal the Jail has provided an affidavit of Jailer Justin Hall in which he states he provided the Appellant "with an entire copy of all the documents that the [Jail] had regarding her." The Jailer also confirms that the Jail "contracts with a private health care company" that maintains any records that "detail any interaction with inmates" and reiterates that the Jail "does not possess those records." In other words, the Jail "is not in possession of any additional documents regarding [the Appellant] that were not provided [to her] in [response to her] original request." This affidavit is sufficient to rebut any presumption that the Jail possesses additional records responsive to her January 13 request. In addition, by email dated February 4, the Jail supplemented its response on appeal by attaching an email from CCC in which its CEO advised the County Attorney, "There would be no additional clinical records beyond what you already have. The only documentation would be what was attached previously and what was entered in the facility chart related to an after-hours on-call provider." CCC further noted that in the interim, "the system has changed and all after-hours calls are now recorded."

Notwithstanding the Appellant's unsubstantiated belief that the Jail possesses additional, responsive records, the fact remains that "we do not have a sufficient basis on which to dispute the [agency's] representation that no such records were created or maintained in this instance notwithstanding [the Appellant's] understandable assumption that [such] records were created." 15-ORD-206; 09-ORD-214; 12-ORD-065; 14-ORD-004. Because the Jail made "a good faith effort to conduct a search using methods which [could] reasonably be expected to produce the record(s) requested," and provided the Appellant with a copy of all existing and responsive records it possesses, there is no basis upon which to find that the Jail violated the Act in the disposition of the Appellant's request.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to 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/ Michelle D. Harrison
Michelle D. Harrison
Assistant Attorney General

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Distributed to:

Holly Alhasaei, Appellant
Arch C. McKay, County Attorney
Justin Hall, Jailer