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26-ORD-141

April 1, 2026

In re: Bobby Gumm/Pulaski County Detention Center

Summary: The Pulaski County Detention Center ("the Center") violated the Open Records Act ("the Act") when it denied a request as ambiguous and overly broad and did not explain how its cited exemptions applied to the records withheld. The Center did not violate the Act when it redacted its employees' names from responsive records or when it did not provide records it does not possess.

Open Records Decision

This appeal concerns three requests for records Bobby Gumm ("the Appellant") submitted to the Center. The Office will consider each, in turn.

First, on February 18, 2026, the Appellant requested records regarding the Center's staff roster.[1] In response, the Center denied the request under KRS 61.878(1)(a) and KRS 197.025(1). The Center explained that KRS 197.025(1) allows it to withhold the records because they would pose a security risk to the safety of its staff by releasing the combined information. This appeal followed.

On appeal, the Center now states that it will release records containing all information sought by the Appellant except for its employees' names. Therefore, the only issue still before the Office regarding this request is the redaction of the Center's employees' names. All other parts of the Center's original denial are moot. *See* 40 KAR 1:030 § 6.

Under KRS 197.025(1), which is incorporated into the Act by KRS 61.878(1)(l), "no person shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security

[1] Specifically, the Appellant sought (1) a list of all Center employees; (2) each employees' salary or hourly wage; (3) each employees' job title and department assignment; (4) the effective date of each employees' current pay rate; (5) and other records documenting additional pay.

of the inmate, any other inmate, correctional staff, the institution, or any other person." The Office has historically deferred to the judgment of correctional facilities in determining whether the release of certain records would constitute a security threat under KRS 197.025(1). The Office has previously upheld the denial of unredacted correctional facility staff rosters. *See* 06-ORD-160. Here, the Center states that it only seeks to redact the names of its employees from the records disclosed to prevent the potential disclosure of its employees' home addresses and to prevent the ability to tie specific employees to specific job duties and, therefore, learn their routines. The Center has adequately articulated the security risk that would result from disclosure of its employees' names. Accordingly, it did not violate the Act by withholding its employees' names.

Next, on February 24, 2026, the Appellant requested records related to the commissary accounts of the Center's inmates. The Appellant specified that he sought any external or internal audits of those accounts conducted between January 1, 2019, and January 1, 2026. The Appellant also requested records showing the current balance of inmate accounts. In response, the Center advised that it does not possess the fiscal records requested. Rather, it explains that the Pulaski County Treasurer maintains the fiscal records relevant to jail operations. Further, the Center explains that audits are conducted and maintained by the Auditor of Public Accounts.[2]

On appeal, the Appellant argues that, even if "another public agency maintains these records," the Act requires "access to those records through the appropriate custodian rather than a blanket denial of the request." The Appellant is incorrect. A public agency "is responsible only for those records within its own custody or control." *City of Fort Thomas v. Cincinnati Enquirer,* 406 S.W.3d 842, 856 (Ky. 2013) (citing *Kissinger v. Reporters Comm. for Freedom of the Press,* 445 U.S. 136 (1980)). When an agency receives a request for records it does not possess, it is required to notify the request and advise of the "name and locations of the official custodian of the agency's public records." *See* KRS 61.872(4). The Center did so by explaining which records are maintained by different agencies and identifying those agencies. As such, the Center did not violate the Act when responding to this request.

Last, the Appellant requested records "reflecting any reported in-custody death of an individual held in the custody" of the Center between January 1, 2019, and January 1, 2026.[3] The Center denied the request, arguing the term "in-custody death" is ambiguous because it could include individuals who were pronounced dead at the Center or those who had a "medical crisis" at the Center but later died at a

[2] The Center also stated that it was not provided records showing the balance of individual inmate accounts under KRS 61.878(1)(a). The Appellant has not challenged this portion of the Center's response.

[3] The Appellant further provided seven categories of information that, he said, would make a record responsive to the request.

"hospital or other emergency facility." The Center also stated that responsive records would be exempt under KRS 61.878(1)(h) and KRS 17.150(2) if they indicate that an "in-custody death" is being investigated. The Center also stated that the records may be exempt under KRS 61.878(1)(a) or the Health Insurance Portability and Accountability Act ("HIPAA"). Finally, the Center stated that records "concerning the circumstances of death . . . may constitute a threat to inmates, correctional staff, and the" Center.

Under the Act, a public agency's custodian of records "may require a written application . . . describing the records to be inspected." KRS 61.872(2)(a). A request to inspect public records must describe those records in a manner "adequate for a reasonable person to ascertain the nature and scope of [the] request." *Commonwealth v. Chestnut*, 250 S.W.3d 655, 661 (Ky. 2008). If the request is for copies of public records, it must "precisely describe[ ] the public records which are readily available within the public agency." KRS 61.872(3)(b). A description is precise "if it describes the records in definite, specific, and unequivocal terms." 98-ORD-17 (internal quotation marks omitted).

Here, the Center claims the term "in-custody death" is unclear because an inmate housed at the Center might either die while at the Center or at an emergency facility. The Office disagrees. "In-custody death" clearly refers to the death of any inmate that occurs while the Center maintains custody of that individual. The Center does not argue that it relinquishes custody of an inmate when he or she is transferred to a medical facility. Thus, even if an inmate has a medical emergency at the Center but dies later at an emergency facility not located at the Center, that does not change the of the fact that the inmate was in "custody" at the time of death.[4] Accordingly, the Center violated the Act when it denied this request as ambiguous and overbroad.

When a public agency denies a request for 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); 61.880(2)(c). 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). In other words, "The agency's explanation must be detailed enough to

[4] Here, the definition of "custody" used in Kentucky's criminal escape statutes is insightful. In that context, "custody" means "restraint by a public servant *pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes*. . . ." KRS 520.010(2) (emphasis added). Even if an inmate had to be transported to an outside medical facility, the Center would still have control of the inmate pursuant to the arrest or court order that landed the inmate in the Center's custody in the first place. For example, the inmate would not be legally entitled to discharge himself from the medical facility and go home; he or she would still have to return to the Center. Thus, the inmate would not be free from restraint by the Center while at the medical facility, and so, he or she would still be in the Center's custody while there.

permit [a reviewing] court to assess its claim and the opposing party to challenge it." *Ky. New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76, 81 (Ky. 2013).

The Center cites several exemptions under the Act but has not explained their applicability to the records that are responsive to this request. Regarding KRS 61.878(1)(h) and KRS 17.150(2), the Center says that records relating to deaths currently being investigated may be withheld. The Center does not state whether any such investigations are currently ongoing, but merely hypothesizes that such an investigation might be possible. Regarding KRS 61.878(1)(a) and HIPAA, the Center does not identify any records exempt under those provisions or explain what information they contain that is exempt. Regarding KRS 197.025(1), the Center says that responsive records "may constitute a threat to inmates, correctional staff, and the" Center. It does not identify any records that would pose such a threat, describe their contents, or explain how their disclosure would cause a threat. As such, the Center has not complied with KRS 61.880(1) when withholding records responsive to this request. The Center therefore violated the Act.

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.

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/s/ Zachary M. Zimmerer
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Distributed to:

Bobby Gumm, Appellant
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