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26-ORD-144

April 2, 2026

In re: James Harrison/Department of Corrections

Summary: The Department of Corrections (“the Department”) did not violate the Open Records Act (“the Act”) in denying a request for copies of records under KRS 61.872(3)(b) because it did not precisely describe the records. However, the Office cannot resolve the related factual dispute regarding when the Department received and responded to the request.

Open Records Decision

On February 4, 2026, inmate James Harrison (“the Appellant”) mailed a request to the Department, asking for a copy of the disposition of his January 15, 2026, complaint regarding the “restrictive lockdown” at Eastern Kentucky Correctional Complex (“EKCC”). On February 25, 2026, the Appellant initiated this appeal, claiming the Department violated the Act by failing to send a written response to his request within five business days of receipt. However, upon receiving the notice of this appeal from the Office, the Department advised it received the Appellant’s request on February 17, 2026, and sent a timely response per KRS 197.025(7) by letter dated February 23, 2026. To substantiate its position, the Department provided a date-stamped copy of the Appellant’s February 4, 2026, request and a copy of its February 23, 2026, response, which denied the Appellant’s request under KRS 61.872(3)(b) because it does not “precisely describe” the record he seeks.

On appeal, the Department further explains that it denied the Appellant’s request “because it could not search its records based on the criteria provided in the [request]. The request did not identify a relevant time period for the request or to whom the complaint was directed, and therefore, [the Department] could not locate the complaint on which the requested disposition was premised.” In short, because the Department was unable to “locate the alleged complaint, it could not conduct a search for a record of its disposition in response to that alleged complaint.” Citing *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842 (Ky. 2013), and prior

decisions by the Office construing KRS 61.872(3)(b), the Department explains that the Appellant's request "did not describe records by type, origin, county, or any identifier other than relation to a subject, an ambiguously identified complaint that did not provide a relevant time frame or to whom at [the Department] the complaint was directed." Moreover, the Department "was unable to locate the complaint on which the requested disposition was premised. As such, the request did not identify records in 'definite, specific, and unequivocal terms.' 98-ORD-17." Accordingly, the Department maintained "it was not reasonably possible to locate the records requested."

Under KRS 61.880(1), a public agency has five business days upon receipt of a request in which to send a written response and either comply or deny the request and explain why. *See also* KRS 197.025(7). Here, the Appellant's request is dated February 4, 2026, but the Department states it did not receive the request until February 17, 2026. If so, the Department's February 23, 2026, response was timely under KRS 61.880 and KRS 197.025(7). The Office has consistently recognized that it cannot resolve factual disputes between a requester and a public agency, including disputes regarding when a person sent a request, when a public agency received a request, and if or when a public agency sent a response. *See, e.g.*, 23-ORD-220. Accordingly, the Office cannot find that the Department violated the Act by failing to send a written response within five business days of receiving the Appellant's request because the Office cannot resolve the related factual dispute between the parties regarding when the Department received the Appellant's request, when the Department sent its response, and when the Appellant received that response. However, the Department properly denied the request on appeal because it does not "precisely describe" the records per KRS 61.872(3)(b).

When a person requests copies of public records under the Act, "[t]he public agency shall mail copies of the public records to a person . . . after he or she precisely describes 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." 13-ORD-077; 98-ORD-17 (internal quotation marks omitted). A request fails to comply with KRS 61.872(3)(b) when it does not "describe records by type, origin, . . . or any identifier other than relation to a subject." 20-ORD-017 (quoting 13-ORD-077). A request must be "specific enough so that a public agency can identify and locate the records in question." 19-ORD-132; 13-ORD-077 (quoting OAG 89-8). Further, a request for any and all records "related to a broad and ill-defined topic" generally fails to precisely describe records. 22-ORD-182; *see also* 21-ORD-034 (finding a request for any and all records relating to "change of duties," "freedom of speech," or "usage of signs" did not precisely describe the records); *but see Univ. of Ky. v. Kernel Press, Inc.*, 620 S.W.3d 43, 48 n.2 (Ky. 2021) (holding a request was adequately precise when it sought "all records detailing [the] resignation" of a

specific employee). This degree of precision applies whether the request asks for hard copies of the records or asks to receive the record(s) electronically, as the difficulties associated with identifying and locating the responsive record(s) to ensure full compliance are the same when the records are not searchable based on the criteria provided. *See* 19-ORD-132; 18-ORD-068; 16-ORD-242; 14-ORD-073; 02-ORD-196. A request that does not precisely describe the records “places an unreasonable burden on the agency to produce often incalculable numbers of widely dispersed and ill-defined public records.” 25-ORD-051; 99-ORD-14.

Here, the Department has explained initially and on appeal that it cannot reasonably search for the record that Appellant seeks using the limited criteria that he provides. In other words, the Department does not have an existing mechanism by which to identify and locate the record without additional parameters to define the search. Accordingly, the requested disposition cannot be properly characterized as “readily available” within the Department. A public agency is required to make “all reasonable efforts to locate records responsive to the requester’s application,” but a requester is required “to describe the records he or she seeks so as to make locating them reasonably possible.” *City of Fort Thomas*, 406 S.W.3d at 855. The Appellant did not satisfy this requirement by asking for the disposition of his January 15 complaint regarding his “restrictive lockdown” at EKCC, rather than a specific incident. Because the Department was unable to locate the subject complaint,¹ it logically follows it could not reasonably locate the disposition of that complaint. For this reason, the Department properly denied the Appellant’s request under KRS 61.872(3)(b).

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.

¹ Once a public agency states affirmatively that it does not possess a record, the burden shifts to the requester to make a *prima facie* showing that the record exists. *Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). A requester must provide facts or evidence to make a *prima facie* showing that a record exists, *i.e.*, the existence of a statute or regulation that requires the creation of the record. *See, e.g.*, 25-ORD-300; 21-ORD-177; 11-ORD-074.

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