



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

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

26-ORD-145

April 2, 2026

In re: Michael Padgett/Kentucky State Penitentiary

Summary: The Kentucky State Penitentiary (“the Penitentiary”) did not violate the Open Records Act (“the Act”) by denying an inmate request because the request failed to comply with the institution’s corresponding internal policy, which is consistent with relevant provisions of the Act.

Open Records Decision

By undated request, which the Penitentiary received on February 25, 2026, inmate Michael Padgett (“the Appellant”) requested copies of the following records: (1) the Emergency Occurrence Report (“EOR”) filed on July 6, 2025, “over the Staff medical emergency called to 7 cellhouse [m]edical room dur[ing] surgery on my back”; (2) “all incident reports filed by all Correctional employees involved” in the July 6, 2025, medical incident in 7 cellhouse; and (3) the video footage of 7 cellhouse medical room on July 6, 2025, “depicting the surgical operation on me by APRN Heather Madahar and Amy Mitchell.”

In a response dated February 25, 2026, the Penitentiary denied the request because the Appellant had not complied with CPP 6.1 § II.B.¹ by submitting a

¹ CPP 6.1 was previously incorporated by reference into 501 KAR 6:020. However, that administrative regulation has been repealed, and it appears the Department has yet to promulgate another administrative regulation that incorporates CPP 6.1 by reference. The Department’s policies and procedures must be prescribed by administrative regulation. KRS 13A.100(1). Thus, CPP 6.1 is no longer effective and may not be enforced directly against an inmate. This is not the first time recently when the Department or other agencies within the Justice and Public Safety Cabinet have purported to apply policies and procedures at variance with those properly adopted in administrative regulations under KRS Chapter 13A. *See, e.g.*, OAG 24-13, 2024 WL 5236632, at *1 n.4 (holding the Department’s policies and procedures related to transgender inmate medical procedures were not effective because they were not incorporated into administrative regulations); *Sholler v. Ky. Parole Bd.*, No. 21-CI-00889 (Franklin Cir. Ct. Oct. 2, 2024), *appeal pending*, No. 2024-SC-0517-TG (Ky.) (holding a unilateral directive of the Parole Board’s Chair violated KRS 13A.130 and KRS 13A.100, and therefore did not amend the Parole Board’s administrative regulations). The Office notes that 501 KAR 6:350 § 3(6),

“properly signed Cash Paid Out (CPO)” form with his request. In further support of its denial, the Penitentiary cited Kentucky State Penitentiary Policy and Procedure (“KSP”) 02-12-02,² pursuant to which “the inmate’s signature on the CPO must be verified by a staff member.” By letter dated February 27, 2026, the Appellant initiated this appeal, challenging the Penitentiary’s reliance on the omitted signature of his caseworker as the sole basis for denying his request and noting that he submitted the appropriate forms to his caseworker with the Unit Administrator “witnessing [him] sign his [CPO] form and hand both the CPO and the” request to his caseworker, who delivered the forms to the Penitentiary’s Records Custodian.

Even assuming the accuracy of his assertion that a member of the Penitentiary staff delivered his request to its Records Custodian, however, that fact does not relieve him of the responsibility to comply with KSP 12-12-02 and the Act.

On appeal, the Penitentiary relies on 08-ORD-242. There, as in this instance, the inmate’s appeal resulted from the denial by the Penitentiary of his request due to his failure to include a properly signed and verified CPO. In denying the inmate’s request, the Penitentiary cited the relevant section of KSP 02-12-02, just as it does here. Given the considerations unique to a correctional setting, the Office determined that requiring verification of the inmate’s signature is “merely incidental to application of KRS 61.874(1) and exists for entirely legitimate reasons.”³ 08-ORD-242; *see also* 16-ORD-277. This appeal presents no basis to depart from 08-ORD-242 or the authorities referenced therein. *See* 23-ORD-045 (holding the institution did not violate the Act by denying an inmate request that did not include a completed money authorization form).

The Office has long recognized that inmates in correctional facilities are uniquely situated with respect to exercising their rights under the Act. 19-ORD-129; 08-ORD-242; 95-ORD-105; 92-ORD-11236; OAG 82-394; OAG 79-546. Likewise, the Office has consistently held that “an inmate must accept the necessary consequences of his confinement, including policies relative to application for, and receipt of, public records.” *Id.* And the Office has also found the requirement of submitting a completed and verified CPO “does not interfere with an inmate’s statutory right to obtain copies of nonexempt public records and corresponds to [the Penitentiary’s] authority under KRS 61.874(1) to require advance payment and [its] discretion to create policies with respect to advance payments that maintain order and security in the institutional setting.” 16-ORD-277. Here, as before, the Office finds that KSP 02-12-02

though not relied on or cited by the Department in this appeal, is substantively equivalent to CPP 6.1 § II.B.6. Thus, the Department’s failure to incorporate CPP 6.1 into an administrative regulation does not affect the outcome of this appeal.

² KSP 02-12-02 is incorporated by reference into 501 KAR 6:040.

³ When copies of public records are requested, “the custodian may require a written request and advance payment of the prescribed fee, including postage where appropriate.” KRS 61.874(1).

“corresponds to a statutory enactment, rather than purporting to impermissibly add a requirement, and . . . provides a legitimate basis for denying” the Appellant’s request. 08-ORD-242. As such, the Penitentiary’s denial did not violate 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.

Russell Coleman
Attorney General

/s/ Michelle D. Harrison
Michelle D. Harrison
Assistant Attorney General

#180

Distributed to:

Michael Padgett, #257283
Charles B. Bates, Staff Attorney III, JPSC
Nathan Goens, Assistant General Counsel, JPSC
Sara Talarigo, Paralegal, JPSC
Ann Smith, Executive Staff Advisor, JPSC