



COMMONWEALTH OF KENTUCKY
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26-ORD-146

April 2, 2026

In re: James Harrison/Justice and Public Safety Cabinet

Summary: The Justice and Public Safety Cabinet (“the Cabinet”) did not violate the Open Records Act (“the Act”) by denying an inmate request for copies of records that do not contain a “specific reference” to him pursuant to KRS 197.025(2). Likewise, the Cabinet did not violate the Act by denying a request for a nonexistent record. The Office is unable to resolve the factual dispute between the parties regarding the delivery and receipt of the requests.

Open Records Decision

In a letter dated February 4, 2026, inmate James Harrison (“the Appellant”) requested from the Cabinet a copy of the disposition of his January 15, 2026, complaint regarding the “restrictive lockdown” at Eastern Kentucky Correctional Complex (“EKCC”). By separate letter dated February 13, 2026, the Appellant requested from the Cabinet “a copy of the parole regulations that allowed for a death row inmate to be paroled between the years 1976 to 1983.” In a letter dated February 25, 2026, the Appellant initiated this appeal, claiming the Cabinet violated the Act by failing to send written responses to him within five business days of receiving both requests. However, upon receiving the notice of this appeal from the Office, the Cabinet advised it received both requests on February 25, 2026, and sent timely responses to both requests within five business days per KRS 197.025(7) by separate letters dated March 4, 2026, copies of which it enclosed with its March 27, 2026, appeal response.

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 requests are dated February 4 and 13, 2026, respectively, but the Cabinet states it did not receive either of them until February 25, 2026. If so, the Cabinet’s March 4, 2026, responses were timely under KRS 61.880(1) and 197.025(7). However, 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 Cabinet violated the Act by failing to respond in writing within five business days of receiving either of the Appellant's requests because the Office cannot resolve the related factual dispute between the parties.

However, the Department's March 4 responses to both requests complied with the Act. Regarding the Appellant's February 4 request for a copy of the disposition of his alleged complaint, the Cabinet advised, following a diligent search, it did not locate any responsive records because the Cabinet did not receive a complaint from the Appellant regarding the restrictive lockdown at EKCC.

Once a public agency states affirmatively that it does not possess a requested record, the burden shifts to the requester to make a *prima facie* showing that such a record does or should exist. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov't.*, 172 S.W.3d 333, 341 (Ky. 2005). Here, the Appellant has not attempted to make a *prima facie* showing that the Cabinet possesses his January 15, 2026, complaint or any disposition thereof. Accordingly, the Cabinet did not violate the Act when it denied the Appellant's request for its disposition of his alleged complaint.

The Cabinet also denied the Appellant's February 13 request for "a copy of the parole regulations that allowed for a death row inmate to be paroled between the years 1976 to 1983," stating that it maintains the Department of Corrections Policies and Procedures ("CPPs") on its behalf; those records do not contain a "specific reference" to the Appellant; and, therefore, KRS 197.025(2), which is incorporated into the Act by KRS 61.878(1)(l), prohibits the Cabinet from disclosing the record to him. The Cabinet's position is consistent with existing legal authority.

Under KRS 197.025(2), the Department, a public agency within the Cabinet, "shall not be required to comply with a request for any record from any inmate confined in . . . any facility . . . unless the request is for a record which contains a specific reference to that individual." The Office has previously interpreted KRS 197.025(2) as applying to the Cabinet, *see, e.g.*, 23-ORD-139; 12-ORD-129, and it is incorporated into the Act by KRS 61.878(1)(l), which exempts from disclosure public records "the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly." Historically, the Office has construed "specific reference" to mean that a record must mention the inmate requester by name. *See, e.g.*, 23-ORD-139; 22-ORD-119; 22-ORD-087; 17-ORD-119; 09-ORD-057; 03-ORD-150. In other words, a record does not contain a "specific reference" to the inmate requester "simply because it is relevant to, pertains to, or personally affects him." 23-ORD-139; 22-ORD-087; 19-ORD-226; 17-ORD-073. Because any responsive policies within the possession of the Cabinet do not contain

a “specific reference” to the Appellant, “as required by the language of KRS 197.025(2), he is not entitled to inspect such records, or to receive copies thereof, notwithstanding any underlying concerns that he may have.” 19-ORD-226. *See* 17-ORD-054; 99-ORD-161. Thus, the Cabinet did not violate the Act by denying the Appellant’s request for the specified regulations because such records are exempt under KRS 197.025(2).

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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