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26-ORD-150

April 3, 2026

In re: Bethany Baxter/Oldham County Detention Center

Summary: The Oldham County Detention Center (“the Center”) violated the Open Records Act (“the Act”) when it did not adequately explain how 8 C.F.R. § 236.6 applies to the records withheld.

Open Records Decision

On January 20, 2026, Bethany Baxter (“Appellant”) submitted a ten-part request to the Center seeking “records relating to the [Center’s] housing individuals under immigration detainers.” Specifically, the Appellant requested:

- 1) All contracts, correspondence, emails, memoranda of understanding, or other written agreements (including any amendments and modifications), relating to the [Center’s] housing of individuals pursuant to immigration detainers or otherwise on behalf of the U.S. Immigration and Customs Enforcement (ICE) from January 1, 2024, to present.

- 2) Communications, whether written or electronic, along with any accompanying documents, between the [Center], or any agent thereof, and any agent or representative of ICE and/or the U.S. Marshal Service related to the contract between Oldham County and ICE [and/or U.S. Marshals] to detain individuals pursuant to immigration detainers or otherwise on behalf of ICE. This request includes, but is not limited to: communications and attachments relating to requests, approvals, or denials of waivers of contract provisions regarding the [Center].

- 3) Invoices, receipts, and other records of payment made pursuant to any agreement between ICE and the [Center] and/or Oldham County from January 1, 2024, relating to the [Center] housing individuals pursuant to immigration detainers or otherwise on behalf of ICE.
- 4) Communications regarding the revenue and/or costs to Oldham County accruing from the use of the [Center] for immigration detention from January 1, 2024, to present.
- 5) Records evidencing the average daily population and average length of detention of people detained in ICE custody at the [Center] from January 1, 2024, to present.
- 6) Complaints or grievances filed by people detained in ICE custody at the [Center] from January 1, 2024, to present.
- 7) Records relating to any annual inspection of the [Center] conducted for ICE from January 1, 2024, to present. These records include the full annual inspection report and any documents or communications, including emails and accompanying attachments, relating to the inspection whether created before, during, or after the inspection.
- 8) Records relating any other inspections of the [Center] conducted from January 1, 2024 to present, including by the Office of the Inspector General (OIG). These records include the full annual inspection report and any documents or communications, including emails and accompanying attachments, relating to any such inspection(s) whether created before, during, or after the inspection.
- 9) Records relating to the ICE ERO Facility Significant Incident Summary (SIS) produced in connection to [sic] any inspection(s) of the [Center] from January 1, 2024 to present. These records include any documents or communications, including emails and accompany attachments, relating to the SIS report.

- 10) Records relating to any policies regarding the process for reviewing and handling legal mail sent between any person in the [Center] and their attorney.

In response, the Center denied the request, stating that under 8 C.F.R. § 236.6,¹ “any information regarding Immigration and Customs Enforcement must be requested directly from Immigration and Customs Enforcement.” This appeal followed.

When a public agency denies a request for 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). The agency must “provide particular and detailed information” in giving its explanation, not merely a “limited and perfunctory response.” *Edmondson v. Alig*, 926 S.W.2d 856, 858 (Ky. 1996). “The agency’s explanation must be detailed enough to 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). Thus, when the agency withholds records under KRS 61.878(1)(k), which applies to “public records or information the disclosure of which is prohibited by federal law or regulation or state law,” it must identify the provision of law that prohibits disclosure. *See Edmondson*, 926 S.W.2d at 858; *see also* 20-ORD-060; 97-ORD-178. Here, the Center cited 8 C.F.R. § 236.6 without explaining why the withheld records are exempt under that section. Therefore, the Center’s initial response violated the Act.

On appeal, the Center has elaborated on its reliance on 8 C.F.R. § 236.6. That regulation provides, “No . . . state or local government entity . . . that houses, maintains, provides services to, or otherwise holds any detainee on behalf of the Service . . . shall disclose or otherwise permit to be made public the name of, or other information relating to, such detainee.” 8 C.F.R. § 236.6. Moreover, the regulation also states, “Such information shall be under the control of the Service and shall be subject to public disclosure only pursuant to the provisions of applicable federal laws, regulations and executive orders. Insofar as any documents or other records contain such information, such documents shall not be public records.”²

The Appellant argues that 8 C.F.R. § 236.6 is inapplicable here because she does not seek records that are made exempt by that regulation. Rather, she asserts that the “requested records do not encompass records identifying individual detainees or ongoing ICE investigations” and that 8 C.F.R. § 236.6 “does not restrict the release of any and all records related to the facilities and conditions in which detained

¹ This federal regulation is incorporated into the Act by KRS 61.878(1)(k).

² As used in the regulation, “Service” means U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, or U.S. Immigration and Customs Enforcement. 8 C.F.R. § 1.2

noncitizens are being held.” The Office agrees. The plain language of 8 C.F.R. § 236.6 states that a local government entity like the Center may not disclose records that would make public the “name of, or other information relating to” a detainee of the Service. Further, any record containing that information “shall not be public records.” *Id.* Thus, the regulation applied only to records related to detainees of the Service; it does not exempt records *solely* related to the administration of a facility.

Turning to the Appellant’s request, the Center has not provided any description of the records it has withheld under 8 C.F.R. § 236.6. As such, the Office cannot find that it has adequately invoked the regulation to withhold the records.³ However, because of the regulation’s unique declaration that any record containing the name of or information related to a detainee of the Service is not a public record, the Office will analyze each part of the Appellant’s request.

Parts 1–4 of the request sought records related to agreements and payments made between the Center and ICE. The Center has not explained that any records requested under parts 1–4 contain the names of or are related to detainees of the Service. Therefore, the Center has not adequately explained how records responsive to parts 1–4 of the request are exempted by 8 C.F.R. § 236.6.

Part 5 of the request seeks records showing “the average daily population and average length of detention of people detained in ICE custody at the [Center] from January 1, 2024, to present.” It appears to the Office that this request is more like the request at issue in 26-ORD-138, which sought recordings detailing the date and time of various Center actions related to detainees of the Service. As such, the Office concludes that such records may be withheld under 8 C.F.R. § 236.6. *See* 26-ORD-138.

Part 6 of the request seeks “[c]omplaints or grievances filed by people detained in ICE custody at the [Center].” To the extent that a complaint or grievance filed by a detainee of the Service contains that person’s name or information about them, those records are not public records under 8 C.F.R. § 236.6. As such, the Office concludes that such records may be withheld under 8 C.F.R. § 236.6.

Parts 7–9 of the request seek records related to inspections conducted by the Center. The Center has not described the content of these inspections. Without any

³ Rather than describe how 8 C.F.R. § 236.6 applied to the requested records, the Center states that it “consulted with ICE on the propriety of the disclosure” and that “counsel for ICE advised against disclosure.” The Office does not doubt that counsel for ICE is best placed to determine whether a particular record is exempt under 8 C.F.R. § 236.6. However, the Center did not provide an analysis from ICE’s counsel explaining how the regulation applies to the requested records. Instead, it stated only that that counsel “advised against disclosure.” That bare statement is insufficient for the Center to meet its obligation under the Act to provide more than a “limited and perfunctory response.”

description of the inspections, the Office is not aware that they focused on detainees of the Service, or focused more generally on the operation of the Center and its facilities. This distinction is important because only records containing the name of a detainee of the Service or other information related to him or her is exempt under 8 C.F.R. § 236.6. Thus, the Center has not adequately explained how records responsive to parts 7–9 of the request are exempted by 8 C.F.R. § 236.6.

Finally, part 10 of the request seeks “[r]ecords relating to any policies regarding the process for reviewing and handling legal mail sent between any person in the [Center] and their attorney.” This request appears to seek a general policy of the Center, not records related to specific detainees of the Service. The Center has not explained how a general policy regarding the handling of mail would necessarily contain the name of or information related to a detainee of the Service. Thus, the Center has not adequately explained how records responsive to part 10 of the request are exempted by 8 C.F.R. § 236.6.

At bottom, because the Center has not described the records it withheld, the Office cannot find that the Center has adequately invoked 8 C.F.R. § 236.6. However, because it is apparent that parts 5 and 6 of the request seek records that would contain either the name of or information related to a detainee of the Service, the Office can conclude that records responsive to those parts of the request were properly withheld.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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/ Zachary M. Zimmerer
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Assistant Attorney General

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