



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-200

May 6, 2026

In re: Dewey McMillen/Bullitt County Detention Center

**Summary:** The Office cannot find that the Bullitt County Detention Center (“the Center”) violated the Open Records Act (“the Act”) when it did not provide records it does not possess.

***Open Records Decision***

On April 5, 2026, Dewey McMillen (“the Appellant”) submitted three records requests to the Center. Those requests sought: (1) video and audio recordings of the “booking area” on December 14, 2025, between 6 a.m. and 6 p.m.; (2) video and audio recordings of a specific wing of the Center on June 16, 2023, between 12 p.m. and 6 p.m.; and (3) “the names and addresses of anyone requesting” copies of the Appellant’s personnel file. In response to each request, the Center stated that it did not possess the requested record. This appeal followed.<sup>1</sup>

Once a public agency states affirmatively that a record does not exist, the burden shifts to the requester to make a *prima facie* case that the requested record does or should exist. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). If the requester makes a *prima facie* case that the record does or should exist, then the public agency “may also be called upon to prove that its search was adequate.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341). A requester’s bare assertion that a public agency should or must possess the requested records is not adequate to make a *prima facie* case that the agency does, in fact, possess the records. *See, e.g.*, 22-ORD-040.

---

<sup>1</sup> The Appellant also complains that the Bullitt County Jailer has engaged in political censorship by “block[ing] any negative comments” on a specific Facebook account. Such a complaint is beyond the scope of the Office’s review under the Act. *See* KRS 61.880(2)(a) (limiting the Office’s review to “whether the agency violated provisions of KRS 61.870 to 61.884”).

The Appellant has not attempted to make a *prima facie* case that the Center possesses responsive records. Simply asserting that records exist or should have been provided is not adequate to make a *prima facie* case that the Center possesses the requested records. Accordingly, the Office cannot find that the Center violated the Act by not providing records it does not possess.<sup>2</sup>

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/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
Assistant Attorney General

#295

Distributed to:

Dewey McMillen, Appellant  
Bryan Whittaker, Jailer, Bullitt County Detention Center  
Dinarte Pimentel, Major, Operations, Bullitt County Detention Center  
Tammy Baker, Bullitt County Attorney

---

<sup>2</sup> The Office notes that the Appellant's third request for the "names and addresses of anyone requesting" copies of the Appellant's personnel file sought information, not public records. The Act does not require an agency to provide information, but only to produce to public records. See KRS 61.872(2)(a) (a request to inspect records must include, *inter alia*, a description of "the records to be inspected").