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26-ORD-442

October 1, 2026

In re: Matthew Johnson/Kentucky State Police

Summary: The Kentucky State Police ("KSP") did not violate the Open Records Act ("the Act") when it denied two requests that did not precisely describe the records requested. KSP did violate the Act when it denied the Appellant's second request, which did precisely describe the records sought. However, on appeal, KSP has demonstrated that that request posed an unreasonably burden under KRS 61.872(6).

Open Records Decision

This appeal concerns three separate requests for records submitted to KSP by Matthew Johnson ("Appellant") on July 1, 2026.

The first request sought "All EEO, discrimination, harassment, retaliation, or civil rights complaint(s) records from July 1, 2021 through July 1, 2026 involving [KSP] employees or former employees."

The second request sought "All Internal Affairs or Professional Standards Division records from July 1, 2021 through July 1, 2026 involving Kentucky State Police employees or former employees as subjects, complainants, or investigative targets."

The third request sought "All grievance, appeal, and administrative review records from July 1, 2021 through July 1, 2026 involving Kentucky State Police employees or former employees."

KSP denied each request under KRS 61.872(3)(b) due to the "broad nature of [the] request[s] implicating multiple categories and subcategories of records over a five (5) year span." Regarding the first and third requests, KSP also explained that it is unclear what "particular records" are sought because the Appellant did not identify

"any particular employee's grievance or case number or description." These appeals followed.[1]

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." 98-ORD-17 (internal quotation marks omitted). This standard may not be met when a request does not "describe records by type, origin, county, or any identifier other than relation to a subject." 20-ORD-017 (quoting 13-ORD-077). In particular, requests for any and all records "related to a broad and ill-defined topic" generally fail to precisely describe the 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 proper when it sought "all records detailing [the] resignation" of a named employee).

Regarding the Appellant's first and third requests, KSP explains that the types of records sought by the Appellant are not stored in a single central location. Rather, records related to EEO investigation or administrative grievances are either located in the individual file of the relevant employee or might also be held by the investigating body if there are related criminal charges. The location of the records depends on whether the associated individual is a KRS Chapter 16 employee or a KRS Chapter 18A employee.[2] KSP further states that it currently employees approximately 1,811 individuals and that determining whether a record is responsive to the request would require it to manually review the files of every employee for the last five years to first determine if they were associated with an EEO investigation or an administrative grievances.[3]

The Office has previously found that a request for records which can only be fulfilled by manual review of a large number of individual files does not precisely describe the public records sought. *See, e.g.*, 25-ORD-317; (implicating the review of 3,500 files); 23-ORD-066 (implicating the review of 8,000 files); 25-ORD-051 (implicating the review of 19,000 files). Here, the Appellant's first and third requests

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[1] The Appellant filed three separate appeals of KSP's denials. Because KSP's challenged responses raise the same exemptions to the Act, the Office has consolidated them. *See, e.g.*, 22-ORD-167.

[2] KSP explains that "Chapter 16 employees are the sworn officers of [KSP], such as State Troopers and Commercial Vehicle Enforcement (CVE) officers governed by KRS Chapter 16" and "Chapter 18A employees are the civilian personnel who fill administrative, logistical, and technical support roles within the agency.

[3] KSP's estimation relates to its *current* employees. Thus, the number of files that must be reviewed, presumably, is greater than 1,811.

implicate more 1,811 employee files. Thus, the Appellant's request did not "precisely describe[ ] public records which are readily available within the public agency," as required by KRS 61.872(3)(b). Accordingly, KSP did not violate the Act when it denied the request.[4]

Turning to the Appellant's second request, KSP explains that all records associated with internal affairs ("IA") investigations are located in IA files and that 201 files exist for the time period identified by the Appellant. As such, it is apparent that the records responsive to this request are readily identifiable by KSP, meaning the Appellant's description of the records was "adequate for a reasonable person to ascertain the nature and scope of [the] request." *Commonwealth v. Chestnut*, 250 S.W.3d 655, 661 (Ky. 2008). Thus, KSP violated the Act by initially denying the second request as too imprecise.

On appeal, KSP now explains that fulfilling the Appellant's second request would impose an unreasonable burden on it. The Office agrees. Under KRS 61.872(6), a public agency may deny a request to inspect records "[i]f the application places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency." However, an agency must substantiate its denial "by clear and convincing evidence." *Id.*

When determining whether a particular request places an unreasonable burden on an agency, the Office considers the number of records implicated, whether the records are in a physical or electronic format, and whether the records contain exempt material requiring redaction. *See, e.g.*, 97-ORD-088 (finding a request implicating thousands of physical files pertaining to nursing facilities to be unreasonably burdensome, where the files were maintained in physical form in several locations throughout the state, and each file was confidential under state and federal law). Of these, the number of records implicated "is the most important factor to be considered." 22-ORD-182. In addition to these factors, the Office has found that a public agency may demonstrate an unreasonable burden if it does not catalog its records in a manner that will permit it to query keywords mentioned in the request. *See, e.g.*, 96-ORD-042 (finding that it would place an unreasonable burden on the agency to manually review thousands of files for the requested keyword to determine whether such records were responsive).

KSP explains that the Appellant's request implicates 201 IA files created in the last five years. Those files each contain "approximately 25 pages of written records (often significantly more), consisting of memoranda and preliminary

[4] Because the Office agrees that the Appellant has not adequately described these records, the Office need not consider KSP's additional argument on appeal that fulfilling these requests would impose an unreasonable burden on it.

preparations for an investigation" implicating KRS 61.878(1)(i) and (j). KSP also explains that "each IA file contains a minimum of one recorded interview with the subject of the investigation." KSP states that if it is assumed that each interview is only 10 minutes long, the request would implicate 33.5 hours of interview footage. Finally, KSP asserts that many of the IA files contain "multiple interviews and hundreds of pages of documents" and that other files "contain multiple body worn camera videos, dash cam videos, interviews of other witnesses, photographs, and other information pertinent to the investigation." Thus, KSP has explained that it can reasonably estimate that, at a minimum, the Appellant's second request implicated at least 5,000 pages of records and 33.5 hours of video but that the total number of records is likely to be greater than those minimum estimates.

Regarding the content of the files, KSP explains that all records will need to be reviewed for personal information, implicating KRS 61.878(1)(a); records that are exempt due to the location depicted in the record (*i.e.*, hospital, interior of a residence), implicating KRS 61.168(4); records that depict death or serious injury, implicating KRS 61.878(1)(q); or records the release of which could harm an ongoing investigation, implicating KRS 61.878(1)(h).

In 14-ORD-109, the Office found unreasonably burdensome a request for "at least 6,200" emails exchanged between two school systems. In finding that that request posed an unreasonable burden, the Office noted that the estimate of the total of number of implicated records was likely to be greater than the initial estimate because some records were stored offline. Similarly, here, KSP has explained that its estimate of 5,000 pages of records and 33.5 hours of video is likely to be eclipsed by the actual number of records implicated by the request. Accordingly, KSP has met its burden of proof under KRS 61.872(6) as to the Appellant's second request, and it therefore did not violate the Act when it denied the Appellant's second request.

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.

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