



COMMONWEALTH OF KENTUCKY  
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**20-ORD-161**

October 13, 2020

In re: Jeffery Walther/Cabinet for Health and Family Services

**Summary:** The Cabinet for Health and Family Services (“Cabinet”) violated the Open Records Act (“the Act”) when it denied a person previously suspected of causing dependency, abuse, or neglect from inspecting the case assessment against him.

***Open Records Decision***

On August 17, 2020, Jeffery Walther (“Appellant”), an attorney, requested an unredacted copy of the Cabinet’s case assessment of his client. In a timely written response, the Cabinet denied the request under KRS 620.050(5), which generally makes reports of dependency, abuse, and neglect confidential. However, KRS 620.050(5)(a) specifically permits the “[p]erson suspected of causing dependency, neglect, or abuse” to inspect the report. The Cabinet claimed that Appellant’s client was no longer suspected of causing dependency, abuse, or neglect because the investigation determined the report to be unsubstantiated. This appeal followed.

The public policy of the Act “is that free and open examination of public records is in the public interest[.]” KRS 61.871. Accordingly, the General Assembly has instructed that “the exceptions provided for by KRS 61.878 or otherwise provided by law shall be strictly construed[.]” *Id.* The general rule is that public records are open for inspection. Here, KRS 620.050(5) is an exception to the general rule. It provides that “[t]he report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter . . . shall not be divulged to anyone[.]” The statute contains an

exception, however, and permits the Cabinet to disclose such reports to “[p]ersons suspected of causing dependency, neglect, or abuse[.]” KRS 620.050(5)(a). The statute is plain and unambiguous. The term “persons suspected” is in the past tense, meaning that if the person ever was a suspect, then he or she is permitted to inspect the report.<sup>1</sup> The Cabinet’s interpretation reads words into the statute that do not exist and would require KRS 620.050(5)(a) to say “persons *currently* suspected.” This Office is not at liberty to read words into a statute that do not exist. *Commw. v. Harrelson*, 14 S.W.3d 541, 546 (Ky. 2000).

Appellant’s client was, at some time in the past, suspected of causing dependency, neglect, or abuse. KRS 620.050(5)(a) permits him to inspect the report made against him. By denying Appellant the right to inspect this report, the Cabinet violated the Act.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court per KRS 61.880(5) and KRS 61.882. 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 proceeding.

Daniel Cameron  
Attorney General

/s/Marc Manley  
Marc Manley  
Assistant Attorney General

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Distributed to:  
Jeffery Walther  
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<sup>1</sup> KRS 620.050(11) prohibits the Cabinet from releasing information that would identify the individual initiating the report, even to those suspected of causing dependency, neglect, or abuse. Recognizing this, Appellant stated that he would accept copies of the report that redacted this type of information.