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**21-ORD-054**

March 25, 2021

In re: Christopher Hawkins/Kentucky State Penitentiary

**Summary:** The Kentucky State Penitentiary (the “Penitentiary”) did not subvert the intent of the Open Records Act (“the Act”) when it provided records that were responsive to an inmate’s request.

***Open Records Decision***

Inmate Christopher Hawkins (“Appellant”) requested copies of “all entries” made to his medical records by “Ison.”<sup>1</sup> He specified that his request excluded any lists of medications prescribed by Ison. He further sought other medical records, but did not include similar exclusionary language in his request. In a timely response, the Penitentiary provided over 100 records responsive to Appellant’s request. However, the Appellant alleges that the Penitentiary included records that were unresponsive, blank, or illegible. He also claims that the Penitentiary provided records in which the top and bottom portions of the pages were missing. The Appellant paid for all of these records, but he brings this appeal and asks to be reimbursed for the cost of those records that he believes were unresponsive to his request.

A person may challenge a public agency’s response to a request if he “feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees or the misdirection of the applicant[.]” KRS 61.880(4). This Office has found that a public agency subverts the intent of the Act when it comingles unresponsive

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<sup>1</sup> It is not clear from this record whether Ison is an employee of the Penitentiary or some other medical service provider.

records with responsive records in an effort to thwart efficient inspection of the records. *See, e.g.*, 08-ORD-032.

But public agencies need not modify the format of responsive records to satisfy a request made under the Act. KRS 61.874(3). On appeal, the Penitentiary explains that the records are stored electronically. To print and mail copies of the records to the Appellant, the Penitentiary must print the entire medical record. Therefore, the Penitentiary would have to create records in a non-standardized format in order to exclude the items that the Appellant sought to exclude. The Penitentiary also explains that it did not provide “blank pages.” Rather, the Penitentiary claims that the alleged blank pages are the result of entries that have “run over to an additional page at the end of some entry.” The Penitentiary also claims that it did not make any records illegible. If any records were illegible, according to the Penitentiary, it is because the original record appears that way.<sup>2</sup>

The Penitentiary has adequately explained that the records were produced in the format in which they are stored. The Penitentiary has no duty to tailor the production of records in a non-standardized format. KRS 61.874(3). Thus, the Penitentiary did not subvert the intent of the Act.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to 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 proceedings.

**Daniel Cameron**  
**Attorney General**

/s/Marc Manley  
Marc Manley  
Assistant Attorney General

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<sup>2</sup> The Penitentiary, however, does not explain why some pages were missing the top or bottom portions of the page. The Penitentiary has agreed to reimburse the Appellant for costs associated with these pages.

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Distributed to:

Chris Hawkins #103061

Amy V. Barker