



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

21-ORD-081

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In re: Emily Lacey/Kentucky State Police

Summary: Kentucky State Police (“KSP”) did not violate the Open Records Act (“the Act”) when it denied copies of JC-3 forms under KRS 620.050(5) or when it did not provide records that do not exist in its possession.

Open Records Decision

On February 22, 2021, Emily Lacey (“Appellant”) requested copies of all Kentucky Incident-Based Reporting System (“KYIBRS”) reports containing the name “Crystal Rogers.” KSP responded to state that it possessed no responsive records. On March 3, 2021, the Appellant requested copies of all “JC-3” forms, which are “Child Abuse, Adult Abuse, and Domestic Abuse Standard Reports,” containing the same name. KSP denied the request under KRS 620.050(5), which makes confidential any “report of suspected child abuse, neglect, or dependency.” Additionally, KSP stated that the JC-3 forms relate to an ongoing investigation and are therefore exempt from inspection under KRS 17.150(2)(d), KRS 61.878(1)(l), and KRS 61.878(1)(h). This appeal followed.

Once a public agency states affirmatively that it does not possess any responsive records, the burden shifts to the requester to present a *prima facie* case that the requested records do exist. *Bowling v. Lexington-Fayette Urban Cty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). The Appellant argues that KSP must possess KYIBRS reports referring to Ms. Rogers because it possesses JC-3 forms relating to her. However, even if the Appellant’s claim is sufficient to establish a *prima facie* case that KSP should possess KYIBRS reports, KSP explains why it does not possess these reports. KSP claims that it merely assisted the Nelson County Sheriff’s Office with its investigation relating to

Ms. Rogers, and that the Nelson County Sheriff's Office would possess the KYIBRS report. KSP has therefore adequately explained why no such report is in its possession.¹

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/ James M. Herrick

James M. Herrick
Assistant Attorney General

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Distributed to:

Ms. Emily Lacey
Michelle D. Harrison, Esq.
Ms. Stephanie Dawson

¹ On appeal, the Appellant does not challenge KSP's assertion that the JC-3 forms are exempt from the Act under KRS 620.050(5), which is incorporated into the Act under KRS 61.878(1)(l). The Appellant claimed only that the existence of JC-3 forms related to Ms. Rogers is evidence that KSP should possess other records related to her.