



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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25-ORD-002

January 2, 2025

In re: Jerry Eldridge/Little Sandy Correctional Complex

Summary: The Little Sandy Correctional Complex (“the Complex”) did not violate the Open Records Act (“the Act”) when it could not provide records it had not created.

Open Records Decision

On October 15, 2024, Jeffrey Gegler (“the Appellant”) submitted a request to the Complex seeking two Complex employees’ badge numbers and names. On October 17, 2024, the Appellant submitted another request asking that a particular unit and video be “preserved.” Subsequently, on November 21, 2024, claiming the Complex had “ignored” his requests, the Appellant submitted this appeal.¹

On appeal, the Complex claims to have never received the Appellant’s requests. Under the Act, a public agency “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” KRS 61.880(1). Here, the Complex claims it did not receive the Appellant’s requests until this appeal was initiated.² The Office cannot resolve factual disputes, such as whether a public agency actually received a request. *See, e.g.*, 23-ORD-071; 23-ORD-005; 22-ORD-216; 22-ORD-148; 22-ORD-125; 22-ORD-100; 22-ORD-051; 21-

¹ The Appellant also included a copy of his October 31, 2024, request for grievances he submitted to the Complex, which was granted. The Appellant complains only of “ignored” requests and does not identify any deficiencies with the Complex’s response to his October 31 request. Accordingly, the Office declines to assume, without evidence, that the Appellant has challenged the Complex’s grant of his October 31 request.

² In its appeal response, the Complex claims the Appellant’s October 15 and 17 requests did not seek documents but, instead, sought information or demanded that the Complex take certain actions. However, because the Complex had not yet denied the Appellant’s requests on those grounds, those arguments are not ripe for review.

ORD-163. Thus, the Office cannot find the Complex violated the Act when it did not respond to requests it claims it did not receive.³

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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

#492

Distributed to:

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³ Much of the Appellant's appeal letter complains about his attempts to file grievances related his incarceration at the Complex. But that is an issue beyond the scope of the Office's review for compliance with the Act. *See, e.g.*, 23-ORD-048 n.1 (noting the Office "cannot adjudicate ancillary legal disputes in the context of an appeal brought under KRS 61.880(2)"); 22-ORD-244 n.3 (same).