



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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25-ORD-007

January 7, 2025

In re: Vivian Miles/Department of Corrections

**Summary:** The Department of Corrections (“the Department”) violated the Open Records Act (“the Act”) when it directed the Appellant to the public agency possessing the requested records but declined to identify the agency’s official custodian.

***Open Records Decision***

Vivian Miles (“the Appellant”) submitted a request to the Department seeking security video of an inmate at Little Sandy Correctional Complex (“the Complex”) and body worn camera footage from a specified date and time. In response, the Department stated it is not the custodian of the requested records and directed the Appellant to the Complex, providing the Appellant with the Complex’s mailing address. The Appellant then requested the name and email address of the Complex’s records custodian, to which the Department responded that it was “not giving out email addresses.” This appeal followed.

Under KRS 61.872(4), “[i]f the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the *name* and location of the official custodian of the agency’s public records.” Here, the Department only identified the agency that would possess any responsive records, but failed to provide the name and email address of the agency’s records custodian. Although KRS 61.872(4) does not require an agency that receives a misdirected request to provide an email address of the proper records custodian, it does require the agency to identify the proper records custodian.<sup>1</sup>

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<sup>1</sup> After this appeal was initiated, the Department provided the name and email address of the Complex to the Appellant and requested that the appeal be considered moot. *See* 40 KAR 1:030 § 6 (“If the requested documents are made available to the complaining party after a complaint is made, the Attorney General shall decline to issue a decision in the matter.”). But the requested records have yet to be “made available” to the Appellant, and so this appeal is not moot.

Accordingly, the Department violated the Act when it did not identify the Complex's records custodian.<sup>2</sup>

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

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Distributed to:

Vivian Miles

Michelle Harrison, Executive Advisor, Justice and Public Safety Cabinet

Renee Day, Paralegal, Justice and Public Safety Cabinet

Ann Smith, Executive Staff Advisor, Justice and Public Safety Cabinet

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<sup>2</sup> The Appellant also complains that the Complex's name and email address are not available on its website. However, that issue is not before the Office because the Complex is not a party to this appeal. Further, the Appellant did not previously raise the issue of the Complex website's compliance with the Act. *See, e.g.*, 22-ORD-165 (holding a person must first submit to the agency a request to inspect records or a complaint alleging the agency's failure to comply with the Act before seeking the Office's review under KRS 61.880(2)).