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25-ORD-051

February 18, 2025

In re: Tim Arnold/Department of Corrections

**Summary:** The Department of Corrections (“the Department”) did not violate the Open Records Act (“the Act”) when it denied two requests that did not precisely describe the records requested.

***Open Records Decision***

Attorney Tim Arnold (“Appellant”) submitted a request to the Department seeking “copies of all final agency decisions of the [Department] in appeals under CPP 17.4<sup>[1]</sup> . . . in which the issue identified for review was the parole eligibility date.” The Appellant further specified that he sought decisions issued between August 15 to December 13, 2024. In response, the Department denied the request under KRS 61.872(3)(b) because it failed to “precisely describe” the requested records.

The Appellant then submitted a second, narrowed request seeking documents that met five criteria: “1. CPP 17.4 responses under part I.C.2. of CPP 17.4, 2. Created by [Department] staff, 3. Which has the effect of exhausting administrative remedies on the issue complained of, 4. Which was generated between August 15, 2024[,] and December 15, 2024, and 5. Which is related to calculation of initial parole eligibility dates.” The Appellant further requested “any logs generated by Frankfort staff of decisions under CPP 17.4” for the period of “August through December, 2024.” In response, the Department denied the request under KRS 61.872(3)(b) because it

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<sup>1</sup> See Corrections Policy and Procedure (“CPP”) 17.4, available at <https://corrections.ky.gov/About/cpp/Documents/17/CPP%2017.4.pdf> (last accessed Feb. 14, 2025). CPP 17.4 authorizes an inmate to “request a review or explanation of the method of sentence calculation for the sentences on which he is presently committed to the Department” and requires the Department to issue a corresponding response explaining “the method of calculation.” The inmate may then appeal the initial response to the Department’s Offender Information Services office which shall issue a “response on appeal” that include an “explanation of the method of calculation” and “any statutes applied in the calculation.”

failed to “precisely describe” the requested records. The Department also stated that it did not possess records responsive to the Appellant’s request for “logs generated by Frankfort staff.”<sup>2</sup> This appeal followed.

On appeal, the Department argues that both requests do not precisely describe the records sought because they would require the Department to manually search the files of more than 19,000 inmates for responsive records.

When a person requests copies of public records under the Act, “[t]he public agency shall mail copies of the public records to a person . . . after he or she precisely describes the public records which are readily available within the public agency.” KRS 61.872(3)(b). A description is precise “if it describes the records in definite, specific, and unequivocal terms.” 98-ORD-17 (internal quotation marks omitted). This standard may not be met when a request does not “describe records by type, origin, county, or any identifier other than relation to a subject.” 20-ORD-017 (quoting 13-ORD-077). Requests for any and all records “related to a broad and ill-defined topic” generally fail to precisely describe the records. 22-ORD-182; *see also* 21-ORD-034 (finding a request for any and all records relating to “change of duties,” “freedom of speech,” or “usage of signs” did not precisely describe the records); *but see Univ. of Ky. v. Kernel Press, Inc.*, 620 S.W.3d 43, 48 n.2 (Ky. 2021) (holding a request was proper when it sought “all records detailing [the] resignation” of a specific employee). A request that does not precisely describe the records “places an unreasonable burden on the agency to produce often incalculable numbers of widely dispersed and ill-defined public records.” 99-ORD-14.

Here, the Department explains that it does not maintain its CPP 17.4 decisions in a single location, nor does it “possess the ability to electronically search those decisions to determine whether they relate to the subjects” identified by the Appellant.<sup>3</sup> Thus, to locate responsive records, the Department would have to search through the files of more than 19,000 inmates to locate CPP 17.4 decisions and then review those decisions to determine whether they related to the “calculation of initial parole eligibility dates” or “had the effect of exhausting administrative remedies.”<sup>4</sup>

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<sup>2</sup> The Appellant has not challenged the Department’s assertion that it does not possess responsive “logs.”

<sup>3</sup> Indeed, an inmate may request a review under CPP 17.4 for reasons other than the “parole eligibility date.” The Department’s administrative review form identifies ten other subjects related to sentence calculations that are subject to a CPP 17.4 review.

<sup>4</sup> The Department also explains that inmates use the CPP 17.4 “administrative review form” for more than just requesting a review of his or her sentence calculation. According to the Department, that form is often used “to air miscellaneous grievances” or “submit [records] requests.” Thus, the

The Office has previously found that a request did not precisely describe the records sought when locating responsive records would require the agency to manually search nearly 8,000 employee files. *See, e.g.,* 23-ORD-066 n.2. Here, to locate responsive records, the Department would need to search over 19,000 files. Thus, the Appellant's request did not "precisely describe[ ] public records which are readily available within the public agency," as required by KRS 61.872(3)(b). Accordingly, the Department did not violate the Act when it denied the request.

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:

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existence of the CPP 17.4 form in an inmate's file does not necessarily mean there has been a request for a sentence calculation review and corresponding action by the Department.