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OFFICE OF THE ATTORNEY GENERAL

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25-ORD-088

March 31, 2025

In re: Kaylae Price/Louisville Metro Government

Summary: Louisville Metro Government (“Metro”) did not violate the Open Records Act (“the Act”) when it provided all records responsive to a request and the requester did not present a *prima facie* case that additional records existed.

Open Records Decision

On February 19, 2025, Kaylae Price (“the Appellant”) submitted a request to Metro for “any and all . . . files associated with the death” of her father in 1997, including “witness statements, who called into 911 and the time, and official police report/death investigation including the weapon that was use[d], if gun residue was present on his hands, etc.” Subsequently, the Appellant added that she wished to see the photographs of the scene and “the results to the gun shot residue test and any investigation of the type of bullet and the gun that was at the scene and if there’s anything that shows it matched what was used, fingerprints, etc.” In response, Metro provided the relevant police records it possessed, including the investigative case file, the Crime Scene Unit file, photographs of the scene, and autopsy photographs.¹ After receiving those records, the Appellant inquired as to whether Metro possessed any reports relating to gunshot residue or the identification of the weapon. Metro advised her it had no additional records responsive to the request and that any gunshot residue testing “would have been completed by KSP” (*i.e.*, the Kentucky State Police), or might not have been completed at all. This appeal followed.

The Appellant claims Metro has not provided all responsive records in its possession. Specifically, she still seeks the results of gunshot residue testing or weapon and bullet testing. Metro, however, reiterates that it has provided all responsive records in its possession.² Once a public agency states affirmatively that

¹ Metro made certain minor redactions to the records that are not at issue in this appeal.

² Metro asserts that any 911 records from 1997 have since been destroyed in accordance with the Louisville Metro Records Retention Schedule.

it does not possess any additional records, the burden shifts to the requester to present a *prima facie* case that additional records do exist. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). If the requester establishes a *prima facie* case that additional records do or should exist, “then the agency may also be called upon to prove that its search was adequate.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341). To support a claim that the agency possesses responsive records it did not provide, the Appellant must produce some evidence that calls into doubt the adequacy of the agency’s search. *See, e.g.*, 23-ORD-259; 95-ORD-96.

Here, the Appellant provides a copy of a report dated December 11, 1997, from the Louisville Division of Police, Evidence Technician Unit, which refers to having obtained “Exh. #1 – GSR test from victim.” The report further states Exhibit #1 was “placed in the LPD Property Room under tag #97-14111.” While this report indicates the former Louisville Division of Police was, at one time,³ in possession of a gunshot residue test, it does not indicate that any report was ever generated from that test. Accordingly, the Appellant has not presented a *prima facie* case that any missing test reports exist. Therefore, the Office cannot find that Metro violated the Act in this case by failing to conduct an adequate search or failing to provide additional records.⁴

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. 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. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

Russell Coleman
Attorney General

/s/ James M. Herrick
James M. Herrick
Assistant Attorney General

³ The Appellant acknowledges that the physical evidence relating to the case no longer exists.

⁴ In an effort to show a pattern of inadequate searches for records by Metro, the Appellant provided copies of certain other open records requests she submitted to Metro. Because the Appellant submitted them in reference to this appeal, those submissions have been treated as correspondence pertaining to the present appeal, rather than as new appeals.

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Distribution:

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