



# KLC'S 2017 OAG OPINION REVIEW



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**Attorney General Opinions**

**OAG 17-001**

**January 6, 2017**

**Subject:** Whether a public ambulance service may provide non-emergency transportation services, and whether those services may be funded in part by an ambulance service district tax.

**Syllabus:** A Class I public ambulance service may provide non-emergency transportation for medically necessary health services. Such non-emergency public ambulance services may be funded in part by an ambulance service district tax.

**Statutes construed:** KRS 67.083; KRS 108.080; KRS 108.090; KRS 108.100; KRS 108.105; KRS 108.175; KRS 311A.025; KRS 311A.030

**OAGs cited:** OAG 81-332

**OAG 17-002**

**January 23, 2017**

**Subject:** Who may remove members of the Board, pursuant to KRS 96.760(2), the Mayor or the City Council.

**Syllabus:** The Glasgow City Council, not the Mayor, has the authority to remove members of the Glasgow Electric Plant Board, pursuant to KRS 96.760(2) of the Little TVA Act, KRS 96.550 et. seq.

**Statutes construed:** KRS 83A.130; KRS 96.550; KRS 96.760

**OAGs cited:** OAG 80-63; OAG 82-138

**OAG 17-003**

**March 3, 2017**

**Subject: Whether a proposed local ordinance that imposes a license tax to companies for the privilege of locating oil and gas wells would violate KRS 353.500(2), which states that the state government has responsibility for regulating all aspects of oil and gas exploration, production, development, gather and transmission.**

**Syllabus: The proposed ordinance would not violate KRS 353.500(2) because the Fiscal Court is authorized to levy taxes under KRS 67.083(2) and KRS 353.500(2) is subordinate to the basic powers of municipalities.**

**Statutes construed: KRS 353.500**

**OAGs cited: OAG 79-385; OAG 95-9**

**OAG 17-004**

**March 3, 2017**

**Subject: Whether the Northern Kentucky Independent District Health Department may fund a chemical dependency program at the Campbell County Detention Center with revenue generated by a special ad valorem public health tax.**

**Syllabus: The Northern Kentucky Independent District Health Department may fund a chemical dependency program because it is a public health program that will provide services for which a local health department is authorized to fund pursuant to KRS 212.240(2) and KRS 212.245.**

**Statutes construed: KRS 212.782; KRS 212.784; KRS 212.725; KRS 212.794; KRS 212.755; KRS 212.240; KRS 212.245; KRS 441.045; KRS 92.330; KRS 92.340; KRS 92.330**

**OAGs cited: OAG 76-753**

**OAG 17-005**

**March 24, 2017**

**Subject: Whether a deputy sheriff must resign the position upon announcing candidacy for sheriff.**

**Syllabus: A deputy sheriff may run as a candidate for sheriff without creating a conflict until being sworn into office as sheriff.**

**Statutes construed: KRS 61.080, KRS 61.090**

**OAGs cited: OAG 84-103, OAG 77-117**

**OAG 17-006**

**March 24, 2017**

**Subject: The eligibility of a firefighter employed in a fire protection district where he does not live to serve as a member of the board of trustees and if such a firefighter may vote in the relevant election pursuant to KRS 75.031.**

**Syllabus: A firefighter for the Jessamine County Fire Protection District is eligible to be elected trustee of the board and vote in such an election if he or she is twenty-one years of age and a citizen of Kentucky.**

**Statutes construed: KRS 75.100, KRS 75.031**

**OAG 17-007**

**April 7, 2017**

**Subject: Effective date of certain legislation passed during the 2017 Regular Session of the Kentucky General Assembly**

**Syllabus: In accordance with Section 55 of the Constitution of Kentucky, the effective date of legislation passed by the 2017 Regular Session of the Kentucky General Assembly, except for general appropriation measures and those containing emergency or delayed effective date provisions, is the first moment of Thursday, June 29, 2017, since 90 full days will then have passed after final adjournment on March 30, 2017.**

**Constitutional provision construed: Ky. Const. § 55**

**OAG cited: OAG 07-002**

**OAG 17-008**

**April 7, 2017**

**Subject: Whether an educator preparation program provider may award credit towards a student teaching requirement for student teaching or field experience hours if the student also received a financial incentive from a school district or an education cooperative.**

**Syllabus: Kentucky law does not prohibit an educator preparation program provider from awarding credit towards a student teaching requirement for student teaching or field experience hours in which the student also received a financial incentive from either the school district or an education cooperative.**

**Statutes construed: KRS 161.010; KRS 161.042; KRS 160.290**

**OAGs cited: OAG 63-269**

**OAG 17-009**

**April 21, 2017**

**Subject: Whether the City of Frankfort may appropriate money to the Frankfort Independent School District to create kiosks to access the internet throughout the city, to upgrade technology to enable wireless internet at schools, and to purchase advertising space to promote the schools.**

**Syllabus: The City may perform any function within its boundaries that is in furtherance of a public purpose and not in conflict with the Kentucky Constitution or statutes. The appropriations contemplated by the City are in furtherance of a public purpose and not in conflict with the Constitution or any statute.**

**Statutes construed: KRS 160.020; Ky Const. Section 156b; Ky Const. Section 179; KRS 82.082; KRS Title XIII**

**OAGs cited: OAG 84-62; OAG 99-5; OAG 99-10**

**OAG 17-010**

**April 28, 2017**

**Subject: Whether the Lincoln County Ambulance Board substantially complied with the notice provisions in levying a tax exceeding the compensating tax rate and may distribute the revenue from that tax, where the second notice was published five days before the public hearing instead of the required seven days.**

**Syllabus: The Lincoln County Ambulance Board substantially complied with the notice provisions in levying a tax rate exceeding the compensating tax rate, where the second notice was published five days before the public hearing instead of the required seven days, and is not prohibited from distributing the revenue from the tax on those grounds.**

**Statutes construed: KRS 132.017; KRS 132.023**

**OAG 17-011**

**May 19, 2017**

**Subject: Whether the Scott County Fiscal Court may accept a street as a county road and deem such acceptance a correction of its prior denial, and whether the Scott County Fiscal Court may accept any street that does not meet the minimum street standards as set forth by the county.**

**Syllabus: The Fiscal Court may not accept a road or street as a county road unless the street meets the requirements set forth in KRS 178.010. The Fiscal Court may not retroactively accept as a county road a private street that it previously denied acceptance for as a county road and which is not shown to currently meet the requirements set forth in KRS 178.010(3). The Fiscal Court may not accept any street that does not meet the requirements set forth in KRS 178.010.**

**Statute construed: KRS 178.010**

**OAG 17-012**

**June 30, 2017**

**Subject: Sam A. Francis Benevolent Trust.**

**Syllabus: Some of the proposed terms of the trust violate the mandatory provisions of Kentucky's codification of the Uniform Trust Code. However, this would not cause the trust to fail in whole or in part, and the conflicting proposed terms would yield to the mandatory Code provisions as necessary.**

**Statutes construed: KRS 386B.1-030, KRS 386B.4-020, KRS 386B.5-020, KRS 386B.8-010**

**OAG 17-013**

**June 30, 2017**

**Subject: Whether The Kentucky Manufactured Home, Mobile Home, and Recreational Vehicle Community Act of 2002, and the regulations adopted thereunder, generally pre-empt local regulation of mobile and/or manufacture home parks enacted under KRS Chapter 100.**

**Syllabus: The Act and its implementing regulations are not in conflict with county zoning ordinances that prescribe standards that are as stringent as or more stringent than the state standard in accordance with KRS 67.083.**

**Statutes construed: KRS 67.083 KRS Chapter 100, KRS 219.310-410.**

**OAGs cited: OAG 79-258.**

**OAG 17-014**

**June 30, 2017**

**Subject: Whether the City of Burgin is required to have a city attorney, and if so, whether it must provide a line item in the budget for the city attorney's compensation and what may be done if city council refuses to approve line item; what procedures must be followed when hiring a city attorney; what may be done if city council does not approve a mayor's appointment of city attorney.**

**Syllabus: The City of Burgin is not required to establish the office of city attorney. If it does so, it must follow the procedures set forth in KRS 83A.080. The City may establish compensation for the city attorney by ordinance.**

**Statutes construed: KRS 83A.080; KRS 82.082; KRS 83A.130.**

**OAGs cited: OAG 81-403.**

**Open Meetings**

**17-OMD-003**

**January 9, 2017**

**In re: Donald Fulton/Jefferson County Board of Assessment Appeals**

**Summary: The Jefferson County Board of Assessment Appeals violated the Open Meetings Act in not responding to a complaint within three business days, but did not violate the Open Meetings Act in deliberating in closed session with only board members and staff present.**

**17-OMD-021**

**February 8, 2017**

**In re: John Gray/City of Frankfort**

**Summary: City of Frankfort violated KRS 61.815(1)(a) with generic reference to “closed session per KRS 61.810(1)(c) litigation” as its entire notification for going into closed session regarding pending litigation. OAG 80-248 and OAG 83-377 are modified by this decision.**

**17-OMD-044**

**March 14, 2017**

**In re: Northern Kentucky Tribune/Northern Kentucky University**

**Summary: Northern Kentucky University did not violate the Open Meetings Act in discussing specific business proposals in closed session and in informing employees of matters to be discussed at a special meeting. Northern Kentucky University violated the Open Meetings Act in providing an insufficiently specific special meeting agenda, but did not further violate the Open Meetings Act in failing to indicate that a vote may be taken on the topics discussed in that executive session.**

**17-OMD-069**

**April 17, 2017**

**In re: Brenda Huff/Corbin Public Library Board**

**Summary: The Corbin Public Library Board violated the Open Meetings Act in conducting unscheduled committee meetings and meetings of a quorum without complying with the notice requirements for a special meeting, in not keeping minutes of such meetings, in not timely approving accurate copies of the minutes, in holding meetings after hours behind locked doors, and in not complying with the notice requirements for going into executive session.**

**17-OMD-124**

**June 30, 2017**

**In re: Kentucky Leader-News/Muhlenberg County Board of Education**

**Summary: Decision adopting 12-OMD-143; Muhlenberg County Board of Education did not violate Open Meetings Act by reaching a consensus or conducting a straw vote in closed session regarding the hiring of a superintendent, provided final action was taken in open session and each member's vote was recorded in the minutes. Special meeting agenda indicating that board would conduct closed interviews of candidates for superintendent pursuant to KRS 61.810(1)(f) gave fair notice to public that some discussion of relative merits of the candidates would occur.**

**Open Records**

**17-ORD-001**

**January 5, 2017**

**In re: Gerald Kemper/City of Owenton**

**Summary: Pursuant to KRS 61.872(3), the City of Owenton may require a requester from the same county to inspect public records at City Hall.**

**17-ORD-002**

**January 5, 2017**

**In re: Andy McDonald/Frankfort Plant Board**

**Summary: Frankfort Plant Board established that contract price, relative risks assumed, and unique negotiated terms were confidentially disclosed information properly redacted from power purchase agreement under KRS 61.878(1)(c)1.**

**17-ORD-004**

**January 13, 2017**

**In re: Charles Wheatley/City of Covington**

**Summary: City of Covington did not excessively delay the inspection of 895 e-mails where terms of request were changed midway through the process, redaction was necessary for several reasons, and final disposition was made within 24 days of amended request. City met its burden of justifying various withheld and redacted e-mails on basis of KRS 61.878(1)(a), (i), (j), and (l), and attorney-client privilege. Ambulance run reports are confidential under KRS 311A.190(5). Any withheld information on fire department runs which do not qualify as "medical first response runs," except for information pertaining to private individuals, should be disclosed.**

**17-ORD-005**

**January 17, 2017**

**In re: Uriah Pasha/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory did not violate Open Records Act by not permitting an inmate to inspect sign-in sheets that did not contain a specific reference to him, as provided in KRS 197.025(2); facility's initial response was deficient under KRS 197.025(7) in that it did not clearly state records were unavailable.**

**17-ORD-006**

**January 17, 2017**

**In re: Uriah Pasha/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory complied with the Open Records Act by questioning Internal Affairs Officers about the existence of alleged records; determining that the requested records did not exist; determining that there was no requirement for the records to exist; and promptly responding in writing to the requester with that information.**

**17-ORD-007**

**January 17, 2017**

**In re: Robin Vessels/Cabinet for Health and Family Services**

**Summary: Cabinet for Health and Family Services did not subvert the intent of the Open Records Act by issuing workplace restrictions on the conduct of an employee when it provided copies of requested records, but did violate KRS 61.876(2) in failing to display the agency's rules and regulations pertaining to access to public records in a prominent location accessible to the public.**

**17-ORD-008**

**January 17, 2017**

**In re: Michael Cooper/Kentucky State Penitentiary**

**Summary: A selection of medical records provided to an attorney as a confidential communication by a representative of a client for the purposes of rendering legal services is protected under the attorney-client privilege and exempt from disclosure pursuant to KRS 61.878(1)(I).**

**17-ORD-009**

**January 18, 2017**

**In re: Kathy Harris/Kentucky State Police**

**Summary: Kentucky State Police violated the Open Records Act in denying the request for a copy of the bodycam video of an officer-involved shooting that resulted in the death of the perpetrator, on the basis of KRS 61.878(1)(a), based on the specific facts presented.**

**17-ORD-010**

**January 24, 2017**

**In re: Betty A. Pendergrass/City of Bardstown**

**Summary: Because the requester's "residence or principal place of business" is located within the county where the responsive documents are located, the City of Bardstown acted in accordance with KRS 61.872(3) by agreeing to provide requester with an opportunity to inspect responsive documents during regular business hours and provide copies upon requester's advance payment of the copying fee.**

**17-ORD-011**

**January 24, 2017**

**In re: Matthew Smith/Kentucky State University**

**Summary: Records relating to university's investigation(s) into allegations of sexual misconduct were not shown to be protected by exceptions relied upon by the university where Attorney General was not given records to review under authority of KRS 61.880(2)(c).**

**17-ORD-012**

**January 24, 2017**

**In re: Ralph Dunlop/Office of Attorney General**

**Summary: The Office of Attorney General (OAG) properly relied upon KRS 61.878(1)(h) in denying requested records that were compiled and maintained by the OAG pertaining to criminal litigation where the OAG was acting as Special Prosecutor.**

**17-ORD-013**

**January 24, 2017**

**In re: Ralph Dunlop/Office of Attorney General**

**Summary: The Office of Attorney General (OAG) properly relied upon KRS 61.878(1)(h) in denying requested records that were compiled and maintained by the OAG pertaining to criminal litigation where the OAG was acting as Special Prosecutor.**

**17-ORD-014**

**January 26, 2017**

**In re: Matthew Smith and Nicole Ares/Western Kentucky University**

**Summary: Records relating to university's investigations into allegations of sexual misconduct were not shown to be protected by exceptions relied upon by the university where Attorney General was not given records to review under authority of KRS 61.880(2)(c).**

**17-ORD-015**

**February 2, 2017**

**In re: Christopher Hopper/Kentucky State Reformatory**

**Summary: Insofar as the request is properly characterized as a request for information, which Kentucky State Reformatory is not statutorily required to honor, as opposed to a request for public records, the agency's denial is affirmed. KSR also properly relied upon KRS 197.025(2), incorporated into the Open Records Act by operation of KRS 61.878(1)(l), as the basis for denying the inmate's request as records containing the information sought do not contain a specific reference to him.**

**17-ORD-016**

**February 2, 2017**

**In re: Steve Fitzgerald/Commonwealth's Attorney, 50<sup>th</sup> Judicial Circuit**

**Summary: Decision adopting 00-ORD-116 and holding that Commonwealth's Attorney did not violate Open Records Act in denying request for records pertaining to criminal litigation on the basis of KRS 61.878(1)(h).**

**17-ORD-017**

**February 7, 2017**

**In re: Leonel Martinez/Kentucky State Penitentiary**

**Summary: Kentucky State Penitentiary did not violate the Open Records Act by denying an inmate's request for the names of nurses and a doctor because the Open Records Act addresses the inspection of records and does not require public agencies to provide or compile information to conform to the parameters of a given request.**

**17-ORD-018**

**February 7, 2017**

**In re: Uriah Pasha/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory did not violate the Open Records Act where the record requested did not exist.**

**17-ORD-019**

**February 7, 2017**

**In re: Carlton Tucker Freeman, Jr./Department of Corrections, Division of Probation and Parole**

**Summary: Department of Corrections, Division of Probation and Parole properly referred the requester to the custodial agency for those records it does not maintain per KRS 61.872(4) and was authorized to withhold the remaining documents responsive to his request under KRS 439.510, incorporated into the Open Records Act by operation of KRS 61.878(1)(l). Any issues relating to records that the Division ultimately agreed to release are moot per 40 KAR 1:030, Section 6.**

**17-ORD-020**

**February 7, 2017**

**In re: Carlton Freeman/Dismas Charities, Inc.**

**Summary: Because Dismas Charities, Inc. is a private, not-for-profit company that derived only 13.5% of the funds it expended in the Commonwealth of Kentucky from state or local authority funds, it cannot properly be characterized as a public agency within the meaning of KRS 61.870(1)(h) and so did not violate the Open Records Act in its disposition of requests for public records.**

**17-ORD-022**

**February 9, 2017**

**In re: Carlton Freeman/ Division of Probation and Parole, District 18**

**Summary: Decision adopting 01-ORD-120 and 05-ORD-265; Division of Probation and Parole, District 18, properly denied inmate's request for records containing information obtained by parole officer in discharging his official duties, on the basis of KRS 439.510, incorporated into the Open Records Act by operation of KRS 61.878(1)(l). Records not containing a specific reference to the inmate were properly denied under KRS 197.025(2). Agency did not violate the Act regarding requests for information and for telephone records that did not exist.**

**17-ORD-023**

**February 10, 2017**

**In re: Leonel Martinez/Kentucky State Penitentiary**

**Summary: A public agency such as Kentucky State Penitentiary is not required to honor a request seeking information rather than existing public records. Nor is KSP required to provide inmate requester with an opportunity to inspect responsive public records, if any, unless those records contain a specific reference to him under KRS 197.025(2), incorporated into the Open Records Act by operation of KRS 61.878(1)(l). The denial is affirmed.**

**17-ORD-024**

**February 14, 2017**

**In re: Donald Moore/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory's initial response was deficient in failing to notify the requester of the nonexistence of the requested record, but Kentucky State Reformatory remedied that error on appeal. Having affirmatively indicated to requester that no such record exists and explained why in a written response, Kentucky State Reformatory has discharged its duty under the Open Records Act.**

**17-ORD-025**

**February 14, 2017**

**In re: Lawrence Trageser/City of Audubon Park**

**Summary: City of Audubon Park's improper attempt to charge for an outside contractor's fees to retrieve stored records and to charge excessive copying fees, in violation of KRS 61.874(3), subverted the intent of the Open Records Act short of a denial of inspection within the meaning of KRS 61.880(4). Timely access to records was not given, nor was a complete response, due to significant records management issues.**

**17-ORD-026**

**February 14, 2017**

**In re: Lawrence Trageser/Louisville Metro Government**

**Summary: Louisville Metro Government cannot produce nonexistent investigative records for inspection or copying nor is the agency required to "prove a negative" in order to refute appellant's claim that such records were created or must exist. Having conducted a reasonable search for such records and notified the requester that any such records would have been properly destroyed in accordance with applicable records retention requirements, even assuming that any investigation was ever conducted, LMG discharged its duty under the Open Records Act.**

**17-ORD-027**

**February 14, 2017**

**In re: Damon McCall/Administrative Office of the Courts**

**Summary: Administrative Office of the Courts is not subject to provisions of the Open Records Act and, therefore, cannot be said to have violated the Open Records Act in denying the request.**

**17-ORD-028**

**February 14, 2017**

**In re: Christian Walker/Northpoint Training Center**

**Summary: Northpoint Training Center properly relied on KRS 197.025(1) in denying inmate request for prison video footage.**

**17-ORD-029**

**February 20, 2017**

**In re: Laura Glasscock/Fayette County Public Schools**

**Summary: Fayette County Public Schools failed to timely provide records and to notify requester when remainder of records would be provided.**

**17-ORD-030**

**February 24, 2017**

**In re: Steve Givan/Kentucky State University**

**Summary: Kentucky State University violated the Open Records Act by failing to respond to a request for records relating to an agreement concerning a digital textbook program.**

**17-ORD-031**

**February 27, 2017**

**In re: Steve Givan/Kentucky State University**

**Summary: Kentucky State University violated the Open Records Act by failing to respond to a request for records relating to an agreement concerning a digital textbook program.**

**17-ORD-032**

**February 27, 2017**

**In re: Chris Hawkins/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory does not possess the Property Inventory Form sought by inmate. Kentucky State Reformatory redacted information it deemed the disclosure of which would constitute a security threat within its discretion afforded under KRS 197.025(1). This appeal is moot as to the inmate's request for case notes because Kentucky State Reformatory has made those records available to the inmate.**

**17-ORD-033**

**February 27, 2017**

**In re: Matthew Smith /Northern Kentucky University**

**Summary: Northern Kentucky University (NKU) refused to provide records of sexual misconduct investigations to requester, but upon appeal, determined that some records would be provided with appropriate redactions. NKU violated the Open Records Act by withholding nonwork-related emails between employees using NKU email addresses, and committed a procedural violation of KRS 61.872(5) by extending the time period it had initially committed to for providing responsive records.**

**17-ORD-034**

**February 28, 2017**

**In re: James Caldwell/City of Burgin**

**Summary: City of Burgin violated the Open Records Act by failing to respond fully to portions of a request for public records and to respond in writing within three days after receiving the records request.**

**17-ORD-035**

**March 2, 2017**

**In re: Scotty Hedgespeth/Taylor County Judge/Executive**

**Summary: Decision adopting 16-ORD-176; records relating to bridge construction were not exempt merely because they were related to pending litigation between requester and fiscal court.**

**17-ORD-036**

**March 2, 2017**

**In re: Robert McKinney/Northpoint Training Center**

**Summary: Because inmate requester failed to provide this office with copies of Northpoint Training Center's timely written responses to first two of his three January 2017 requests in accordance with KRS 61.880(2)(a) and 197.025(3), the Attorney General declines to render a decision addressing the merits of those responses per 40 KAR 1:030, Section 1. The denial by NTC of the third request is affirmed; NTC cannot provide nonexistent records for inspection or copying.**

**17-ORD-037**

**March 2, 2017**

**In re: Uriah Pasha/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory did not violate Open Records Act by not permitting an inmate to inspect inmate pay sheets that did not contain a specific reference to him, as provided in KRS 197.025(2).**

**17-ORD-038**

**March 2, 2017**

**In re: Donna Hale/Powell County Clerk**

**Summary: Powell County Clerk violated the Open Records Act by failing to respond to request for records within three business days. Clerk also failed to timely notify the applicant that it does not possess some of the requested records, and failed to timely direct the requesters to the appropriate agency for records it does not possess.**

**17-ORD-039**

**March 6, 2017**

**In re: Clarence Hixson/Louisville Metro Police Department**

**Summary: Louisville Metro Police Department did not timely fulfill request for records relating to an incident, but eventually provided all existing responsive records.**

**17-ORD-040**

**March 6, 2017**

**In re: Freddie Hayes/Kentucky State Reformatory**

**Summary: Inmate requester failed to provide a copy of the complete January 23, 2017, denial by Kentucky State Reformatory of his January 20, 2017, request; requester also failed to include a copy of his January 9, 2017, request and the agency's January 20, 2017, response thereto. Accordingly, requester failed to perfect his appeal under KRS 61.880(2)(a) relative to either of his requests and the Attorney General therefore declines to review the merits of his appeal per KRS 197.025(3) and 40 KAR 1:030, Section 1.**

**17-ORD-041**

**March 6, 2017**

**In re: David Caldwell/City of Burgin**

**Summary: City of Burgin was not required to create a record that did not yet exist, but was required to make a written response to an open records request.**

**17-ORD-042**

**March 6, 2017**

**In re: Jeremy Henley/Kentucky State Penitentiary**

**Summary: Kentucky State Penitentiary's denial of inmate's open records request did not violate the Open Records Act where request was not directed to the Open Records Coordinator, and where open records request did not have inmate's signature.**

**17-ORD-043**

**March 14, 2017**

**In re: Brandon Bruin/Kentucky State Penitentiary**

**Summary: Kentucky State Penitentiary provided timely responses to inmate's open records request. Kentucky State Penitentiary did not violate the Open Records Act by providing an inmate with all responsive records to original open records request rather than a smaller sample of those records that the inmate sought in a subsequent letter.**

**17-ORD-045**

**March 16, 2017**

**In re: Thomas Fox/City of West Buechel**

**Summary: City of West Buechel violated the Open Records Act by requiring requester to use a preprinted request form. The form was not in compliance with the Act as it required requesters to certify that they are not involved in litigation with the City.**

**17-ORD-046**

**March 16, 2017**

**In re: Charlie Dorris/Kentucky State Police**

**Summary: Decision adopting 16-ORD-084; Kentucky State Police failed to state the harm caused to the agency in releasing laboratory test results that are part of an ongoing prosecution, pursuant to KRS 61.878(1)(h), and failed to justify withholding the records with specificity, pursuant to KRS 17.150(3).**

**17-ORD-047**

**March 17, 2017**

**In re: Shannon Leary/Jefferson Circuit Court Clerk**

**Summary: Decision adopting 98-ORD-6 and holding that because he is not bound by the provisions of the Open Records Act, Jefferson Circuit Court Clerk did not violate the Act in the disposition of request for records.**

**17-ORD-048**

**March 22, 2017**

**In re: James Harrison/Eastern Kentucky Correctional Complex**

**Summary: Eastern Kentucky Correctional Complex did not violate Open Records Act when it did not produce letters allegedly written by inmate to Deputy Warden and physician where such letters could be fairly characterized as “general correspondence” for which EKCC had discretion to maintain for less than two years.**

**17-ORD-049**

**March 22, 2017**

**In re: Missy Staples/Glasgow Electric Plant Board**

**Summary: Requester admittedly failed to provide the Office of the Attorney General with a copy of her original February 3, 2017, request directed to Superintendent of Glasgow Electric Plant Board and therefore failed to perfect her appeal in accordance with KRS 61.880(2)(a); OAG makes no finding relative to alleged motivation or credibility of either party as those issues are not justiciable in this forum, but reaffirms that a public agency is not required to compile information or create a record to satisfy a request.**

**17-ORD-050**

**March 22, 2017**

**In re: James Caldwell/City of Burgin**

**Summary: City of Burgin failed to issue a timely response to a request for records, under KRS 61.880(1), or to explain the cause for delay and give a date by which records would be available, under KRS 61.872(5). Written statements and recordings may constitute “public records” under KRS 61.870(2) even if not in a public agency's possession, and city's response was therefore inadequate.**

**17-ORD-051**

**March 24, 2017**

**In re: Brandon Moman/Little Sandy Correctional Complex**

**Summary: Little Sandy Correctional Complex did not violate the Open Records Act where the records requested did not exist.**

**17-ORD-052**

**March 24, 2017**

**In re: Kurt Lowe/Green River Correctional Complex**

**Summary: Appeal was not perfected where requester failed to submit a copy of original request for records; however, Green River Correctional Complex responded to original request in accordance with the Open Records Act by conducting search for records, providing the record found, and advising requester of the results of the search.**

**17-ORD-053**

**March 24, 2017**

**In re: William Aucott/Little Sandy Correctional Complex**

**Summary: Little Sandy Correctional Complex cannot produce a nonexistent record for inspection or copying nor is LSCC required to “prove a negative” in order to refute appellant's unsupported claim that such a record exists. LSCC has offered a credible explanation for the nonexistence of the records in dispute, thereby satisfying its burden of proof, and there is no basis upon which to find that a violation occurred in the absence of any facts or law from which its existence can be presumed.**

**17-ORD-054**

**March 29, 2017**

**In re: Glenn Odom/Little Sandy Correctional Complex**

**Summary: Little Sandy Correctional Complex properly denied inmate request for a copy of a specified policy on the basis of KRS 197.025(2), incorporated into the Open Records Act by operation of KRS 61.878(1)(l), as the record being sought does not contain a “specific reference” to him.**

**17-ORD-055**

**March 29, 2017**

**In re: Glenn Odom/Little Sandy Correctional Complex**

**Summary: Little Sandy Correctional Complex did not violate Open Records Act by not permitting an inmate to inspect catalogs and order forms from private vendors when the documents did not contain a specific reference to him, as provided in KRS 197.025(2).**

**17-ORD-056**

**March 29, 2017**

**In re: Alphonse Gerhardstein/Kentucky State Police**

**Summary: Kentucky State Police committed procedural violations of KRS 61.872(5) by not providing a detailed explanation for delaying production of the requested records and by not stating the earliest date the records would be provided.**

**17-ORD-057**

**March 29, 2017**

**In re: James Harrison/Eastern Kentucky Correctional Complex**

**Summary: Eastern Kentucky Correctional Complex failed to make a timely response to inmate's open records request, but did not substantively violate Open Records Act where inmate's note of disagreement with an unexecuted draft settlement agreement was not retained by the agency and therefore no longer existed. Such a writing was properly considered "general correspondence" for records retention purposes.**

**17-ORD-058**

**March 29, 2017**

**In re: Chris Hawkins/Little Sandy Correctional Complex**

**Summary: Any issues relating to records that Little Sandy Correctional Complex ultimately provided to requester, including specified case notes and property form, are moot per 40 KAR 1:030, Section 6; LSCC properly denied request for specified listing on the basis of KRS 197.025(2), incorporated into the Open Records Act by operation of KRS 61.878(1)(l), as it does not contain a specific reference to inmate requester.**

**17-ORD-059**

**March 30, 2017**

**In re: Chris Hawkins/Little Sandy Correctional Complex**

**Summary: Little Sandy Correctional Complex properly denied request from inmate for a disciplinary record that did not contain a specific reference to him, and denial of request for property form became moot on appeal when requester provided additional details as to location of the requested property form and a copy of record was provided.**

**17-ORD-060**

**March 30, 2017**

**In re: Chris Hawkins/Little Sandy Correctional Complex**

**Summary: Little Sandy Correctional Complex properly relied on KRS 197.025(1) in redacting memo requested by inmate to omit information that might endanger the inmate, other inmates, or staff. Pre-parole progress report could be withheld under KRS 61.878(1)(j) as a preliminary document not adopted as the basis of the Parole Board's final decision.**

**17-ORD-061**

**April 3, 2017**

**In re: Barrett Dennison/Commonwealth's Attorney for the 43<sup>rd</sup> Judicial Circuit**

**Summary: Records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or litigation are permanently exempt from disclosure under KRS 61.878(1)(h). The Commonwealth's Attorney for the 43<sup>rd</sup> Judicial Circuit properly invoked KRS 61.878(1)(h) to justify his denial of a request for such records.**

**17-ORD-062**

**April 3, 2017**

**In re: Robert Stonum/City of Worthington Hills**

**Summary: City of Worthington Hills committed procedural and substantive violations of the Open Records Act where it did not respond to request for certain tax records, but complied with the Act in regards to other tax records where it provided existing records and advised requester that records for prior years had never been created.**

**17-ORD-063**

**April 7, 2017**

**In re: Thomas Fox/City of West Buechel**

**Summary: In light of the conflicting evidence presented regarding the actual delivery and receipt of the City's response to a request for public records, the Office of the Attorney General is unable to conclusively resolve the related factual issue and has no basis upon which to conclude that the City violated the Open Records Act.**

**17-ORD-064**

**April 7, 2017**

**In re: Leslie Haun/Eastern Kentucky Correctional Complex**

**Summary: Eastern Kentucky Correctional Complex properly relied on KRS 197.025(1) in denying inmate request for prison video footage.**

**17-ORD-065**

**April 7, 2017**

**In re: Charlie Dorris/Kentucky State Reformatory**

**Summary: A claim that information contained in public records is inaccurate is beyond the scope of an open records appeal.**

**17-ORD-066**

**April 12, 2017**

**In re: Randy L. Bayers/Louisville Metro Police Department**

**Summary: Louisville Metro Police Department did not violate the Open Records Act in redacting the names and telephone numbers of private individuals who called 911 to report a motor vehicle accident from the responsive audio recording and Computer Aided Dispatch report on the basis of KRS 61.878(1)(a).**

**17-ORD-067**

**April 13, 2017**

**In re: Peter Cagnina/Powell's Valley Water District**

**Summary: The Open Records Act does not create jurisdiction over a claim of retaliation.**

**17-ORD-068**

**April 13, 2017**

**In re: Noel Mark Botts/Mercer County Property Valuation Administrator**

**Summary: Mercer County PVA issued a timely written response to request per KRS 61.880(1) and his response facially complied with KRS 61.872(3) in agreeing to make all existing responsive documents available for on-site inspection. However, the PVA subverted the intent of the Open Records Act, short of denial and within the meaning of KRS 61.880(4), by imposing a fee based on the PVA Commercial Fee Guidelines to provide documents responsive to a request made for a purpose that is excluded from the definition of "commercial purpose" by KRS 61.870(4)(b)(3) and "shall not be subject to fees for personnel time" under KRS 133.047(4).**

**17-ORD-070**

**April 18, 2017**

**In re: Dan Edington/Kentucky Community and Technical College System**

**Summary: Decision adopting 10-ORD-065; Kentucky Community and Technical College System lawfully denied access to records pertaining to ongoing investigation as "preliminary" under KRS 61.878(1)(i) and (j) where final action had not yet been taken.**

**17-ORD-071**

**April 18, 2017**

**In re: Iran Neal/Cabinet for Health and Family Services**

**Summary: Cabinet for Health and Family Services violated KRS 61.880(1) in failing to issue a written response within three business days of receiving the request; however, CHFS otherwise discharged its duty under the Open Records Act in providing requester with name and mailing address for the custodian of the records being sought in accordance with KRS 61.872(4).**

**17-ORD-072**

**April 19, 2017**

**In re: Richard Alvarez/Kentucky State Penitentiary**

**Summary: Inmate is currently prohibited from inspecting requested personal emails using the kiosks available in the general population by virtue of his confinement in the restricted housing unit of the Kentucky State Penitentiary. The Open Records Act does not require a correctional facility to bring public record(s) to an inmate's cell for his inspection. KSP did not violate the Act in denying inmate's request; decision adopts analysis in 15-ORD-062 based on nearly identical facts.**

**17-ORD-073**

**April 19, 2017**

**In re: Charles McNichols/Kentucky State Reformatory**

**Summary: The Kentucky State Reformatory did not violate the Open Records Act by refusing to disclose a copy of the contract between the Kentucky Department of Corrections and Correct Care Solutions to an inmate because the document did not contain a specific reference to the inmate.**

**17-ORD-074**

**April 19, 2017**

**In re: Artis Anderson/Cabinet for Health and Family Services**

**Summary: Cabinet for Health and Family Services did not timely respond to request for records related to several questions concerning a guardianship proceeding, but committed no substantive violation of the Open Records Act where no responsive records existed.**

**17-ORD-075**

**April 19, 2017**

**In re: The Courier-Journal/ Louisville Metro Police Department**

**Summary: Louisville Metro Police Department did not violate the Open Records Act in withholding the names of witnesses in response to a request for a specified criminal investigative file on the basis of KRS 61.878(1)(a) under the circumstances presented; Open Records Decision follows existing case law in addition to 12-ORD-227 and 17-ORD-066.**

**17-ORD-076**

**April 26, 2017**

**In re: Kurt Lowe/Green River Correctional Complex**

**Summary: Green River Correctional Complex did not violate the Open Records Act where it initially denied request for email that could not be located, but redacted copy was located and provided after appeal was filed. Redactions to email were authorized pursuant to KRS 197.025(1) as incorporated into Open Records Act by KRS 61.878(1)(1).**

**17-ORD-077**

**April 26, 2017**

**In re: William C. Van Cleve/City of Ravenna**

**Summary: City of Ravenna did not violate the Open Records Act where petty cash account records requested never existed.**

**17-ORD-078**

**April 26, 2017**

**In re: Charlie Dorris/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory cannot produce that which it does not have nor is KSR required to prove a negative in order to refute unsupported claim that a responsive chain of custody form exists in the possession of the agency. KSR ultimately discharged its duty under the Open Records Act in providing a written explanation for its lack of possession.**

**17-ORD-079**

**April 28, 2017**

**In re: Brenda Huff/Corbin Public Library Board**

**Summary: The Corbin Public Library Board did not violate the Open Records Act in not keeping official copies of records, but did violate the Open Records Act in failing to properly and consistently maintain meeting minutes, and in failing to explain the delay in producing records and indicate the earliest date on which records would be available.**

**17-ORD-080**

**May 2, 2017**

**In re: Stacey Spencer/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory did not violate the Open Records Act by denying requests where the requested records did not exist.**

**17-ORD-081**

**May 8, 2017**

**In re: Bridget Frailley/Cabinet for Health and Family Services**

**Summary: Cabinet for Health and Family Services improperly withheld internal investigation and related records from public agency employee insofar as they related to her and the investigation was no longer ongoing, as provided in KRS 61.878(3).**

**17-ORD-082**

**May 8, 2017**

**In re: Gregory Ward Butrum/Louisville Metro Government**

**Summary: Louisville Metro Government failed to provide a sufficiently detailed explanation per KRS 61.872(5) for delaying access in responding to each of seven requests but a reasonable delay was justified in each instance, given how broadly the requests were framed, except as to requests for nonexistent records; however, LMG did not violate the Act in denying requests for that which it does not have. LMG violated KRS 61.880(1) by a small margin insofar as it failed to respond within three business days to a single request. If the requester is unwilling to narrow the scope of the remaining two requests, additional delays are warranted.**

**17-ORD-083**

**May 10, 2017**

**In re: Adam Shoults/Kentucky State Penitentiary**

**Summary: KSP did not violate the Open Records Act by declining to provide an inmate with copies of records where the requesting inmate did not have sufficient funds to pay the required copying charges. Under KRS 61.874(1) and Friend v. Rees, 696 S.W.2d 325 (Ky. App. 1985), the Attorney General has consistently upheld a policy authorizing correctional institutions to require payment before providing inmate requesters with copies of records being sought.**

**17-ORD-084**

**May 10, 2017**

**In re: Mark Crossland/Luther Lockett Correctional Complex**

**Summary: Decision adopting 08-ORD-044; Luther Lockett Correctional Complex did not violate the Open Records Act in declining to provide copies to inmate without prepayment of reproduction charges. In accordance with KRS 61.874(1), Friend v. Rees, Ky. App., 696 S.W.2d 325 (1985), and prior decisions of this office, the denial is affirmed.**

**17-ORD-085**

**May 11, 2017**

**In re: Shawn Ernst/Boone County Commonwealth's Attorney**

**Summary: Commonwealth's Attorney for the 54th Judicial Circuit committed procedural error in not responding to request for public records within three business days but, on appeal, justified the nondisclosure of its records.**

**17-ORD-086**

**May 11, 2017**

**In re: Leonel Martinez/Kentucky State Penitentiary**

**Summary: Kentucky State Penitentiary cannot produce a copy of a letter that it does not have, nor provide a copy of a postal tracking number that was never created. Kentucky State Penitentiary discharged its duty under the Open Records Act by providing a written explanation as to why it did not have the requested records.**

**17-ORD-087**

**May 11, 2017**

**In re: Leonel Martinez/Kentucky State Penitentiary**

**Summary: Kentucky State Penitentiary did not violate the Open Records Act in denying a request for copies of certain “recommendations” containing specified information because KSP does not possess any such records and cannot produce that which it does not have. KSP ultimately discharged its duty under the Open Records Act in explaining that a memorandum containing the requested information was properly destroyed in the normal course of business per the applicable records retention schedule.**

**17-ORD-088**

**May 16, 2017**

**In re: Stephen Knight/Boyle County Sheriff's Office**

**Summary: Boyle County Sheriff's Office cannot produce records of phone calls that it does not create, maintain or possess. Boyle County Sheriff's Office discharged its duty under the Open Records Act by providing a written explanation as to why it did not have the requested records. We decline to address a factual dispute regarding whether the open records request was received by the Boyle County Sheriff's Office on March 14, 2017.**

**17-ORD-089**

**May 16, 2017**

**In re: Matthew Snyder/Kentucky Department of the Treasury**

**Summary: Department of the Treasury was not obligated to provide information from unclaimed property database in a specific format that does not already exist, and, in accordance with earlier open records decision regarding that database, Treasury was not required to allow requester unrestricted access to the database for the purpose of extracting desired information.**

**17-ORD-090**

**May 16, 2017**

**In re: Uriah Pasha/Eastern Kentucky Correctional Complex**

**Summary: Eastern Kentucky Correctional Complex complied with the Open Records Act by conducting reasonable search for the requested disciplinary record; determining that the requested record did not exist; and promptly responding in writing to the requester with that information.**

**17-ORD-091**

**May 16, 2017**

**In re: Uriah Pasha/Eastern Kentucky Correctional Complex**

**Summary: Eastern Kentucky Correctional Complex complied with the Open Records Act by conducting a reasonable search for the requested record from the Kentucky State Reformatory Chaplain; determining that the requested record did not exist; and promptly responding in writing to the requester with that information and directing him to contact Kentucky State Reformatory for the record.**

**17-ORD-092**

**May 16, 2017**

**In re: Lawrence Trageser/City of Taylorsville**

**Summary: The City of Taylorsville violated the Open Records Act in withholding responses to ethics complaints as preliminary, and in failing to redact personal information, and failing to release nonexempt portions of the responses.**

**17-ORD-093**

**May 16, 2017**

**In re: Vanessa Ashley/Cabinet for Health and Family Services**

**Summary: Cabinet for Health and Family Services violated the Open Records Act in its partial denial of records relating to the candidates and interview process for a job vacancy when it did not provide the application, résumé, and names of references for the successful candidate. Withholding of application records and information of unsuccessful candidates is affirmed.**

**17-ORD-094**

**May 16, 2017**

**In re: Lawrence Trageser/Kentucky State Police**

**Summary: Kentucky State Police did not violate the Open Records Act in its response denying release of 911 dispatch recordings and a CAD report regarding a pending investigation. Kentucky State Police provided sufficient specificity and the risk of harm in disclosure, under KRS 17.150(2)(d) and KRS 61.878(1)(h), to justify its decision not to disclose the records.**

**17-ORD-095**

**May 16, 2017**

**In re: Casey County News/Casey County Board of Education**

**Summary: Settlement agreement to which the Casey County Board of Education was a party was a public record; notwithstanding confidentiality provision, agreement was not exempt from public disclosure in the absence of a court order imposing confidentiality; no clearly unwarranted invasion of personal privacy existed where case had already been publicly tried and a verdict rendered.**

**17-ORD-096**

**May 16, 2017**

**In re: Jason P. Floyd/Bardstown City Council**

**Summary: Because the Open Records issue presented in this appeal has now also been presented to the Nelson Circuit Court, this office respectfully declines jurisdiction of the matter.**

**17-ORD-097**

**May 16, 2017**

**In re: Victor Strong/Eastern Kentucky Correctional Complex**

**Summary: Eastern Kentucky Correctional Complex properly relied upon KRS 197.025(1), incorporated into the Open Records Act by operation of KRS 61.878(1)(l), in denying inmate's request for a copy of a specified Extraordinary Occurrence Report ("EOR") as disclosure would pose a legitimate security threat.**

**17-ORD-098**

**May 16, 2017**

**In re: Kurt J. Lowe/Luther Lockett Correctional Complex**

**Summary: Luther Lockett Correctional Complex did not violate the Open Records Act in declining to provide copies to inmate without prepayment of reproduction charges. In accordance with KRS 61.874(1), Friend v. Rees, Ky. App., 696 S.W.2d 325 (1985), and prior decisions of this office, the denial is affirmed.**

**17-ORD-099**

**May 16, 2017**

**In re: William Edward Evitts/University of Kentucky**

**Summary: University of Kentucky cannot produce nonexistent records for inspection or copying nor is the agency required to refute an unsubstantiated claim that certain records exist. Having affirmatively indicated to requester in a timely written response that no responsive documents exist and explained why, following a reasonable search, UK discharged its duty under the Open Records Act.**

**17-ORD-100**

**May 22, 2017**

**In re: Frank Ross/Eastern Kentucky Correctional Complex**

**Summary: In the absence of any facts or evidence to suggest that Eastern Kentucky Correctional Complex possesses the requested school records, the agency's denial of inmate's request for such records must be affirmed; EKCC cannot provide the requester with nonexistent records or those which it does not possess.**

**17-ORD-101**

**May 22, 2017**

**In re: Jerrod Alley/Department of Fish and Wildlife Resources**

**Summary: Department of Fish and Wildlife Resources violated Open Records Act where disposition of request for hiring records was untimely under KRS 61.880(1), no written response explaining withheld material was issued, and no exceptions under KRS 61.878(1) were raised; burden of proof was not met under KRS 61.880(2)(c).**

**17-ORD-102**

**May 23, 2017**

**In re: Uriah Pasha/Department of Corrections**

**Summary: Office of the Attorney General cannot resolve the factual dispute relating to receipt of records request, but finds no error in the response of the Kentucky Department of Corrections after it was notified of the request upon appeal to the Office of the Attorney General.**

**17-ORD-103**

**May 24, 2017**

**In re: Mark Dolzadelli/Kentucky Office for the Blind**

**Summary: Office for the Blind properly withheld identifiable personal information for licensed vendors pursuant to state and federal regulations, but did not justify withholding non-personal vending facility names or non-personal telephone numbers.**

**17-ORD-104**

**May 24, 2017**

**In re: Janet Creech/Eastern Kentucky University**

**Summary: Eastern Kentucky University did not violate the Open Records Act where it conducted a reasonable search for the requested records and provided all responsive nonprivileged records in response to a broad request for records. University sustained burden of proof by clear and convincing evidence to show that request, for any public record in which requester is mentioned by name, is unreasonably burdensome.**

**17-ORD-105**

**June 1, 2017**

**In re: Donnie Witt and Bob Terrell/Whitley County Public Library Board**

**Summary: Whitley County Public Library Board violated KRS 61.880(1) in failing to issue a written response within three business days of receiving the request; the Board also subverted the intent of the Open Records Act within the meaning of KRS 61.880(4) in failing to provide timely access to all existing documents responsive to request, after the requesters gave clarifications where necessary, as it did not satisfy the requirements of KRS 61.872(5).**

**17-ORD-106**

**June 1, 2017**

**In re: Gerald Settles/Community Transitional Services, LLC**

**Summary: Since Community Transitional Services, LLC, received public funds only through a contract obtained through a competitive procurement process, it was not a public agency and thus was not required to comply with the Open Records Act.**

**17-ORD-107**

**June 5, 2017**

**In re: Kurt Lowe/Luther Lockett Correctional Complex**

**Summary: Office of the Attorney General is unable to resolve factual issue of whether Luther Lockett Correctional Complex (LLCC) received inmate's open records requests before initiation of appeal. LLCC did not violate the Open Records Act by declining to provide copies to inmate without prepayment of reproduction charges and use of required forms. In accordance with KRS 61.874(1), *Friend v. Rees*, 696 S.W.2d 325 (Ky. Ct. App. 1985), and prior decisions of this office, the denial is affirmed.**

**17-ORD-108**

**June 6, 2017**

**In re: Kentucky New Era/Christian County Board of Education**

**Summary: Decision adopting 99-ORD-164; Christian County Board of Education lawfully denied access to records pertaining to ongoing investigation as “preliminary” under KRS 61.878(1)(i) and (j) where final action had not yet been taken, although the applicability of the exceptions was not explained as required by KRS 61.880(1).**

**17-ORD-109**

**June 6, 2017**

**In re: Donald Hall/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory discharged its duty under the Open Records Act by conducting a reasonable search for responsive records and responding in writing that the requested records do not exist. KSR committed procedural violation by responding to inmate's open records requests one day past statutory deadline.**

**17-ORD-110**

**June 7, 2017**

**In re: Gregory Ward Butrum/Louisville Metro Government**

**Summary: Louisville Metro Government initially violated the Open Records Act in failing to provide a sufficiently detailed explanation of the cause for delaying access to existing responsive documents per KRS 61.872(5) and, therefore, did not provide requester with timely access to records provided, though LMG ultimately cured this procedural deficiency.**

**17-ORD-111**

**June 7, 2017**

**In re: Carlos Thurman/Kentucky State Penitentiary**

**Summary: Kentucky State Penitentiary properly relied on KRS 197.025(1) in withholding inmate telephone records and investigative report based on information from a confidential informant, and lawfully declined to honor mere requests for information.**

**17-ORD-112**

**June 7, 2017**

**In re: Johnny Phillips/Kentucky State Reformatory**

**Summary: Kentucky State Reformatory did not violate the Open Records Act in response to two requests by inmate for numerous records.**

**17-ORD-113**

**June 16, 2017**

**In re: Robert Cecil/Kentucky State Reformatory**

**Summary: Decision adopting 08-ORD-044; Kentucky State Reformatory need not provide copies to inmate without proper form or prepayment of reproduction charges; under KRS 61.872(4), Department of Corrections must inform inmate of proper records custodian upon receipt of misdirected request.**

**17-ORD-114**

**June 19, 2017**

**In re: Patrick T. Malone/Kentucky State Police**

**Summary: Kentucky State Police did not violate the Open Records Act in denying a request by a private individual for information directly related to information and records contained in the National Crime Identification Center (“NCIC”) database on the basis of KRS 17.150(4) and the corresponding regulation.**

**17-ORD-115**

**June 21, 2017**

**In re: Seth Combs/Kentucky Association of Counties**

**Summary: With one exception, described herein, Kentucky Association of Counties properly withheld records pertaining to investigation of an insurance claim by its agent, and representation by attorneys relating to that claim.**

**17-ORD-116**

**June 21, 2017**

**In re: Douglas Rank/Eastern Kentucky Correctional Complex**

**Summary: Eastern Kentucky Correctional Complex properly denied a request for a copy of a recording of inmate requester's telephone calls during a certain period of time on the basis of KRS 197.025(1), incorporated into the Open Records Act by operation of KRS 61.878(1)(I), as construed in 15-ORD-118, and the authorities upon which that Open Records Decision is premised.**

**17-ORD-117**

**June 21, 2017**

**In re: Anthony Brumfield/Correct Care Solutions, LLC**

**Summary: Correct Care Solutions, LLC derives all of the funds it expends in the Commonwealth of Kentucky from a contract obtained through the competitive procurement process, and those funds are specifically excluded from the 25% determination, per KRS 61.870(1)(h), of whether an entity is a public agency. Accordingly, CCS is not a “public agency” for purposes of the Open Records Act and cannot be said to have violated the Act in denying inmate's open records request.**

**17-ORD-118**

**June 22, 2017**

**In re: Leonel Martinez/Kentucky State Penitentiary**

**Summary: Because inmate failed to provide Office of Attorney General with copies of Kentucky State Penitentiary's timely written responses to his open records requests in accordance with KRS 61.880(2), the Attorney General is precluded from reviewing his appeal pursuant to 40 KAR 1:030, Section 1.**

**17-ORD-119**

**June 22, 2017**

**In re: Douglas Rank/Eastern Kentucky Correctional Complex**

**Summary: Eastern Kentucky Correctional Complex initially provided an incorrect explanation to deny inmate's request for the formulary used by the facility's medical department, but corrected that error in a subsequent response by citing KRS 197.025(2).**

**17-ORD-120**

**June 22, 2017**

**In re: Kate Howard/University of Louisville**

**Summary: University of Louisville violated Open Records Act where disposition of request for athletic association board members' conflict-of-interest forms was untimely under KRS 61.880(1) and University failed to explain what material was redacted, what privacy interest was invoked under KRS 61.878(1)(a), or what items were considered "education records" under FERPA; burden of proof was not met under KRS 61.880(2)(c).**

**17-ORD-121**

**June 28, 2017**

**In re: Mary Sheibani/Kentucky State Police**

**Summary: Kentucky State Police on appeal justified refusal to release investigative records with adequate specificity under KRS 17.150(3), but denial of incident report was improper without specific showing of harm under KRS 61.878(1)(h).**

**17-ORD-122**

**June 28, 2017**

**In re: Phillip Lanham/Eastern Kentucky Correctional Complex**

**Summary: Eastern Kentucky Correctional Complex properly, though untimely, denied a portion of an inmate's request for records relating to an ongoing investigation as release of those records was deemed to be a threat to the security of the correctional facility.**

**17-ORD-123**

**June 28, 2017**

**In re: Katricia Rogers/Letcher County Fiscal Court**

**Summary: Letcher County Fiscal Court violated the Open Records Act in failing to conduct a reasonable search for a record that a magistrate referred to during a public meeting; lack of possession by the Judge-Executive is not dispositive nor is the fact that said record was not officially "presented." Because a recording of the meeting confirms that such a record existed, the Fiscal Court should identify the nature of the record in dispute and either provide the requester with access or cite a statutory basis for denial rather than relying solely on the Judge-Executive's lack of possession.**