



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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In re: Lonnie Harris/Luther Luckett Correctional Complex

Summary: Luther Luckett Correctional Complex (“Complex”) violated the Open Records Act (“the Act”) by initially failing to explain the security risk connected with disclosure of e-mails to an inmate, but justified its denial on appeal under KRS 197.025(1).

Open Records Decision

On April 2, 2020, inmate Lonnie Harris (“Appellant”) requested copies of all e-mails of four named employees concerning a February 19, 2020, that resulted in his discipline. The Complex denied the request under KRS 61.878(1)(l) and KRS 197.025(1), with the following explanation: “After contacting Capt. Forgy about the emails, this request has been determine[d] to be a threat to institutional safety and security.”

KRS 61.878(1)(l) creates an exception to the Act for “[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.” KRS 197.025(1) provides:

KRS 61.870 to 61.884 to the contrary notwithstanding, no person shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person.

KRS 197.025(1) grants the commissioner of the Department of Corrections broad discretion to determine which records constitute a security threat to correctional institutions.

Nevertheless, the Act requires any agency response denying inspection of public records to include “a brief explanation of how the exception applies to the record withheld.” KRS 61.880(1); *see Edmondson v. Alig*, 926 S.W.2d 856, 858 (Ky. App. 1996) (explaining that a “limited and perfunctory response” does not comply with the Act’s requirement of a brief explanation).

The Complex’s initial response violated the Act because it failed to explain how the requested e-mails would threaten institutional security. On appeal, however, the Complex explained that the e-mails refer to inmates other than Appellant and pertain to an ongoing investigation. With additional explanation, it is clear that the Complex properly relied upon KRS 197.025(1) to deny the request for the e-mails in question. This Office declines to substitute its judgment for that of the Department of Corrections regarding security matters.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. 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.

Daniel Cameron
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/s/ James M. Herrick

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Distributed to:

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