



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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**20-ORD-124**

August 14, 2020

In re: Joshua Powell/Lexington Police Department

**Summary:** The Lexington Police Department (“Department”) did not violate the Open Records Act (“the Act”) in denying a request to inspect records in-person during the current state of emergency.

***Open Records Decision***

On July 8, 2020, Joshua Powell (“Appellant”) submitted a request to the Department to inspect records in-person at the Department. Appellant sought to inspect all closed robbery and assault investigations where the incidents occurred at the Lexington Detention Center. On July 9, 2020, the Department denied the request for in-person inspection based upon the Governor’s Executive Order 2020-257. Appellant then initiated this appeal and specifically sought review of the Department’s July 9, 2020, denial.<sup>1</sup>

In response to the state of emergency related to the coronavirus, the General Assembly passed Senate Bill 150 (“SB 150”), which extended the time for a public

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<sup>1</sup> Appellant had also sent three prior requests to the Department to obtain copies of the same records. In those requests, Appellant specified that he sought copies of closed robbery and assault investigations occurring at the Lexington Detention Center from January 1, 2018 to the present. The Department denied each of those requests as unreasonably burdensome. Each of those requests, and the Department’s accompanying denials, were attached to Appellant’s appeal. However, Appellant did not request that this Office review those denials in his petition for review. Therefore, this Office declines to address whether the Department carried its burden in denying those earlier requests as unreasonably burdensome. This Office will note, however, that Appellant only sought to inspect records in-person after his multiple attempts to obtain copies were denied.

agency to respond to an open records request to ten days. Additionally, SB 150 § 1(8)(a) provides that “[a] public agency may delay on-site inspection during the pendency of the state of emergency.” SB 150 contained an emergency clause and became effective on March 30, 2020, upon the Governor’s signature. The General Assembly has specifically authorized public agencies to delay in-person inspection of records until the state of emergency ceases. Therefore, the Department did not violate the Act in denying Appellant’s request to conduct his inspection in-person.

Either party may appeal this decision may appeal by initiating action in the appropriate circuit court per 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 proceeding.

Daniel Cameron  
Attorney General

/s/Marc Manley  
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Assistant Attorney General

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Distributed to:

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