



COMMONWEALTH OF KENTUCKY
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21-ORD-162

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In re: Mark Williams/Luther Lockett Correctional Complex

Summary: The Luther Lockett Correctional Complex (“Luther Lockett”) violated the Open Records Act (the “Act”) when it did not search for records responsive to a request. However, the requested surveillance video is not subject to inspection under KRS 197.025(1).

Open Records Decision

Inmate Mark Williams (the “Appellant”) submitted a request to the Roederer Correctional Complex (“Roederer”), at PO Box 69, La Grange, Kentucky, in which he sought a copy of surveillance footage depicting a violent incident at that facility. Although his request was directed to the “RCC,” and the address he placed on the form was that of Roederer, the records custodian at that correctional facility did not respond to his request. Instead, the request was sent to Luther Lockett. On June 29, 2021, Luther Lockett denied the request under KRS 197.025(1), claiming that the video posed a security risk and was not subject to inspection. The Appellant then initiated this appeal.

On appeal, Luther Lockett now admits that it does not possess the video, and it argues that the Appellant should have submitted his request to Roederer. This is despite the fact that the Appellant’s request was clearly directed to the “RCC” and the address of that correctional facility. Regarding the records the Appellant sought, Luther Lockett argues that no correctional facility would have permitted inspection of surveillance video depicting a

violent altercation, because such videos pose a security risk to the correctional facility and are exempt under KRS 197.025(1).

This Office agrees that surveillance videos depicting violent inmate altercations may be properly withheld under KRS 197.025(1). *See, e.g.*, 19-ORD-040. The issue here, though, is that Luther Luckett clearly did not search for responsive records upon receiving the request. Had it searched for responsive records, instead of assuming that an exception applied based on the substance of the request, then Luther Luckett would have either directed the Appellant's request to the proper facility under KRS 61.872(4), or affirmatively stated that no responsive records exist.

Upon receiving a request to inspect records, it is incumbent on the public agency to actually search for responsive records in good faith, even if it will ultimately claim that an exception applies to such records. Had Luther Luckett searched for responsive records, as the Act required it to do, it could have discovered that no responsive record existed, which may have informed it that the Appellant had not sent his request to it. Because Luther Luckett has admitted that it did not search for responsive records upon receiving the request, it violated the Act.

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.

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/s/Marc Manley
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Distributed to:

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