



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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21-ORD-237

December 1, 2021

In re: Lonnie Schooley/Eastern Kentucky Correctional Complex

Summary: The Eastern Kentucky Correctional Complex (“the Complex”) did not violate the Open Records Act (“the Act”) when it denied an inmate’s request to inspect public records that did not specifically reference that inmate. This Office is unable to resolve factual disputes about whether a public agency received a request to inspect public records.

Open Records Decision

On October 7, 2021, inmate Lonnie Schooley (“Appellant”) claims he submitted a request to the Complex to inspect two categories of records. First, the Appellant sought to inspect documents “relating to federal or state open cases relating to [the Appellant and two other specific individuals.]” Second, he sought to inspect documents created “within the last sixty days discussing any complaints, calls, emails[,] etc. in which these individuals may have been mentioned in relations to visiting [the Appellant.]” On October 26, 2021, having received no response from the Complex, this appeal followed.

Under KRS 197.025(7), a correctional facility must respond to an inmate’s request to inspect public records within five business days of receipt of the request. Here, the Appellant claims he did not receive a response from the Complex within five business days. On appeal, however, the Complex claims to have searched its records, but “found no record of the request being received by [its] coordinator.” This Office has historically found that it is unable to resolve factual disputes between a public agency and a requester, such as whether a public agency received a request under the Act. *See, e.g.,* OAG 89-

81; 03-ORD-172; 04-ORD-223; 08-ORD-066; 12-ORD-122; 21-ORD-163. Accordingly, this Office cannot find that the Complex violated the Act for not responding to a request that it claims to have never received.

On appeal, the Complex provided the Appellant records that were responsive to the second subpart of his request but denied inspection of records responsive to the first subpart of his request. Under KRS 197.025(2), “the department shall not be required to comply with a request for any record from any inmate confined in a jail or any facility or any individual on active supervision under the jurisdiction of the department, unless the request is for a record which contains a specific reference to that individual.”¹ Here, the Complex denied the first subpart of the Appellant’s request because it claims that the records it found that are responsive to that request “did not contain a specific reference to [the Appellant] and he is not allowed to inspect those records.” Because the Appellant is an inmate, the Complex is not required to permit his inspection of public records that do not contain a specific reference to him. Thus, the Complex did not violate 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 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.

Daniel Cameron
Attorney General

/s/Matthew Ray
Matthew Ray
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¹ KRS 197.025(2) is incorporated into the Act under KRS 61.878(1)(l), which exempts from inspection records that have been made confidential by an enactment of the General Assembly.

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Distributed to:

Lonnie Schooley, #262490, EKCC

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