



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

21-ORD-247

December 13, 2021

In re: James Harrison/Lexington-Fayette Urban County Government
Division of Community Corrections

Summary: The Lexington-Fayette Urban County Government Division of Community Corrections (“the Division”) did not violate the Open Records Act (“the Act”) when it denied a request for records that do not contain a specific reference to the requesting inmate.

Open Records Decision

On October 6, 2021, and October 25, 2021, inmate James Harrison (“Appellant”) requested that the Division provide copies of records filed with the Division by a specific employee relating to the interception of inmate telephone calls, as well as policies in effect between February and May 2020 that authorized the monitoring of inmate telephone calls. The Division denied the request under KRS 197.025(2) because none of the requested records contained a specific reference to the Appellant. This appeal followed.

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 On appeal, the Appellant does not allege that the requested records contain a specific reference to him. Rather, he argues that KRS 197.025(2) does not apply to records of the Division because it is not the Department of Corrections (“the Department”).

¹ As used in KRS Chapter 197, “department” refers to the Department of Corrections. KRS 197.010(3).

This Office has consistently recognized that KRS 197.025(2) applies to records of local jails and detention centers as well as to records in the possession of the Department of Corrections. *See, e.g.*, 15-ORD-088; 10-ORD-198; 03-ORD-074; 00-ORD-153; *see generally* 95-ORD-121 (recognizing that a county jailer acts as the designee of the Commissioner of the Department under KRS 197.025). This interpretation has been adopted in view of “the broad oversight role statutorily assigned to the Department relative to jails” under KRS Chapters 196 and 441 and of the “common interest” of the Department and local correctional facilities “in avoiding disclosure of records that implicate security concerns and in stemming the tide of frivolous inmate requests.” *See* 03-ORD-074. Courts “also presume that the General Assembly did not intend an absurd statute[.]” *Shawnee Telecom Res., Inc. v. Brown*, 354 S.W. 542, 551 (Ky. 2011). Accordingly, “in light of the underlying purpose of KRS 197.025 taken as a whole,” this Office has rejected a narrow construction of KRS 197.025(2) that would yield “the absurd result that an inmate can obtain from a jail those records which he cannot obtain from the Department.” *See* 03-ORD-074.

Because the Appellant is an inmate and the requested records do not contain a specific reference to him, he is not entitled to obtain them under KRS 197.025(2). Therefore, the Division did not violate the Act when it denied the Appellant’s request.

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 accepts notice of the complaint through e-mail to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

/s/ James M. Herrick

James M. Herrick
Assistant Attorney General

21-ORD-247

Page 3

Distributed to:

James Harrison, #095435

Ms. Carol Wagner

Larry S. Roberts, Esq.