



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-255

December 20, 2021

In re: Chris Hawkins/ Western Kentucky Correctional Complex

Summary: The Western Kentucky Correctional Complex (“the Complex”) did not violate the Open Records Act (“the Act”) when it did not provide records that are exempt from disclosure under federal law.

Open Records Decision

On November 4, 2021, inmate Chris Hawkins (“Appellant”) requested copies of all documents relating to Prison Rape Elimination Act (“PREA”) complaints he had filed against the Complex during 2017. The Complex denied the request on the grounds that records relating to PREA complaints and investigations are confidential and exempt from disclosure under 28 CFR 115.61(b), KRS 61.878(1)(k), and Corrections Policy and Procedure (“CPP”) 14.7(II)(J). This appeal followed.

The Appellant claims that as a “reporting victim” he has the right to obtain records relating to PREA complaints made by him. This is incorrect. Under 28 CFR 115.61(b), a federal regulation incorporated into the Act under KRS 61.878(1)(k), “[a]part from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.” Under 28 CFR 115.73, the complaining inmate has the right to be informed “as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.” But the inmate has no right to obtain copies of records relating to the allegation. *See* 18-ORD-206 (finding that records relating to PREA complaints and investigations are confidential except for the

purposes specified in 28 CFR 115.61(b)). Therefore, the Complex did not violate the Act when it denied the Appellant's request.¹

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 e-mailed to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

/s/ James M. Herrick

James M. Herrick
Assistant Attorney General

#380

Distributed to:

Chris Hawkins, #103061
Amy V. Barker, Esq.
Ms. Heather Newton

¹ Under KRS 61.872(6), "if the custodian has reason to believe that repeated requests are intended, to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies thereof." On appeal, the Complex asks this Office to make a finding that the Appellant's repeated requests for PREA materials are intended to disrupt other essential functions of the agency. Because the Complex properly denied the request under KRS 61.878(1)(k), it is unnecessary to decide whether the Complex could have denied it under KRS 61.872(6).