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22-ORD-076

April 27, 2022

In re: Josh Wood/Louisville Metro Department of Corrections

Summary: The Louisville Metro Department of Corrections (the “Department”) violated the Open Records Act (“the Act”) when it failed to issue a response to a request within five business days of receipt. However, the Department did not violate the Act when it denied a request for records that are exempt from inspection under KRS 197.023(1) and KRS 61.878(1)(l).

Open Records Decision

On March 18, 2022, Josh Wood (“Appellant”) submitted a request to the Department for “[a]ll ‘inmate grievance forms’ submitted by LMDC inmates” for a specific period of time.¹ The Appellant indicated that the scope of his request included all documentation of responses, resolutions, and appeal decisions regarding inmate grievances for the same time period. On the same day, the Appellant received what appeared to be an automated response from the Department that indicated it had received his request. On March 30, 2022, having received no further response from the Department, the Appellant initiated this appeal.

¹ On March 14, 2022, the Appellant submitted an additional but separate request to the Department for all incident reports it created for a specific period of time. On appeal, the Department claims that “all existing records were provided to [the Appellant] on April 1, 2022” to that request. Accordingly, the part of the appeal related to the March 14th request is moot under 40 KAR 1:030 § 6 (“If the requested documents are made available to the complaining party after a complaint is made, the Attorney General shall decline to issue a decision in the matter.”)

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” Here, on appeal, the Department admits it received the request on March 18, 2022, but did not issue its response until April 1, 2022. Thus, it violated the Act.

On appeal the Department stated that it is denying the Appellant’s request “in full” under KRS 197.023, which states that “[a] grievance report shall be an open public record and made available to any person who requests to see the file at the site as long as the inmate has signed a waiver of confidentiality.”² And here, there is no evidence that any of the inmates who submitted grievances that would be responsive to the request have signed any waivers of confidentiality. Accordingly, the Department did not violate the Act when it denied the Appellant’s request under KRS 197.023(1).

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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
Assistant Attorney General

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² KRS 197.023(1) is incorporated into the Act under KRS 61.878(1)(l) which exempts from inspection “[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.”

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