



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

25-ORD-049

February 18, 2025

In re: Alena Noakes/Department of Corrections

Summary: The Department of Corrections (“the Department”) did not violate the Open Records Act (“the Act”) when it denied requests for records that, if released, could pose a security threat to the safety of a correctional facility.

Open Records Decision

Alena Noakes (“Appellant”) submitted a request to the Department seeking “staffing records” of the Kentucky State Reformatory (“the Reformatory”) from January 2020 to the date of the request. She specified the request sought “data of what would be considered a ‘full’ staff of corrections officers, the actual staffing numbers for corrections officers and the number of vacancies for corrections officers.” The Appellant also sought the Reformatory’s staffing levels on November 10, 2024. In response, the Department provided responsive records with personal information redacted under KRS 61.878(1)(a) but denied her request for “the staffing numbers, vacancies, and staffing levels pursuant to” KRS 197.025(1), which is incorporated into the Act by KRS 61.878(1)(l), because the “information could provide opportunities for inmates to engage in activities which threaten the safety of staff, inmates, and the public.”

The Appellant submitted a second request seeking “public records of the escape” of a specific inmate. She specified the request sought information regarding “when the [Reformatory] determined [the inmate] escaped[,] how he managed to do so,” and “when the prison captain became aware of” the escape. The Appellant also requested “surveillance video” depicting the inmate’s “escape from the prison.” In response, the Department provided the “Incident Report Summary” with personal information redacted under KRS 61.878(1)(a). However, the Department redacted “information regarding the escape of [the inmate] and security threat group

information” under KRS 197.025(1). Citing the same exemption, the Department withheld security photos and surveillance video because the “information would provide opportunities for inmates to engage in activities which threaten the safety of staff, inmates, and the public by revealing vulnerabilities in the current system.”

This appeal, challenging the Department’s invocation of KRS 197.025(1) in response to each request, followed.

Under KRS 197.025(1), “*no person shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person*” (emphasis added). This Office has historically deferred to the judgment of the correctional facility in determining whether the release of certain records would constitute a security threat.

To start, the Office has upheld the denial of security footage multiple times under KRS 197.025(1). *See, e.g.*, 23-ORD-089; 18-ORD-074; 13-ORD-022; 10-ORD-055. The release of security footage poses a security risk because it may disclose the “methods or practices used to obtain the video, the areas of observation and blind spots for the cameras.” *See, e.g.*, 22-ORD-038; 17-ORD-211; 15-ORD-121; 13-ORD-022. Here, the Department explained that the video footage can be used to “reveal the methods or practices used to record the videos.” Moreover, the Department explained that the video would reveal “the areas that are within the view of the cameras and where blind spots or areas beyond the range of the security cameras are located.” Accordingly, the Department did not violate the Act when it withheld the requested video because it has adequately explained how KRS 197.025(1) applied to the record withheld.

Similarly, the Office has upheld the denial of requests for records containing information about correctional facility staffing and security operations. *See, e.g.*, 22-ORD-088; 08-ORD-148; 06-ORD-160; 04-ORD-180. Here, the Department explains that “disclosure of staffing records would reveal patterns of staffing, including which posts are filled as opposed to which are periodically unmanned, and it would also show where the institution would be vulnerable to outside attack; escape attempts; or hostage taking.” The Appellant points to statements by executive officials describing staffing shortages within the Department as evidence that release of staffing records would not be a security risk. But describing general staffing shortages not tied to a single facility does not present the same security risk as disclosing staffing records of a particular facility.

Finally, regarding its redactions to the “Incident Report Summary,” the Department maintains that the redacted information “would provide opportunities for inmates to engage in activities which threaten the safety of staff, inmates, and

the public by revealing vulnerabilities in the current system.” Indeed, the Office need not imagine how redacted “records of the escape” would reveal vulnerabilities in the Penitentiary’s security system related to escape. Accordingly, the Department did not violate the Act when redacting “records of the escape” from the “Incident Report Summary.”

A party aggrieved by this decision may appeal it by initiating an 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.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

#038

Distributed to:

Alena Noakes

Michelle Harrison, Executive Advisor, Justice and Public Safety Cabinet

Renee Day, Paralegal, Justice and Public Safety Cabinet

Ann Smith, Executive Staff Advisor, Justice and Public Safety Cabinet