



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

22-ORD-052

March 29, 2022

In re: Carlos Beauchamp/Southeast State Correctional Complex

Summary: The Southeast State Correctional Complex (the “Complex”) violated the Open Records Act (“the Act”) when it failed to issue a response within five business days and when it denied a part of the request without citing an exception explaining how it applied to the withheld records. However, the Complex did not violate the Act when it did not provide copies of records that if released would constitute a security threat under KRS 61.878(1)(l) and KRS 197.025(1).

Open Records Decision

On February 13, 2022, inmate Carlos Beauchamp (“Appellant”) submitted a request to the Complex for camera footage and logbooks related to an incident that he described, and the names and badge numbers of the officers involved in that incident. On February 25, 2022, the Complex responded and denied the request, stating that “disclosure of these records would constitute a threat to the security of inmates, the institution, institutional staff, or others and cannot be provided pursuant to [KRS 61.878(1)(1)] is [sic] a security threat because of the amount and nature of the information included in a security video and logbooks.” The Complex then quoted the language of KRS 61.878(1)(l) and KRS 197.025, but did not appropriately cite to either statute.¹

¹ The Complex mistakenly referred to KRS 61.878(1)(l) as “KRS 61.787.” The Complex also cited KRS 61.878 and KRS 197.025 at the top of a page, and followed that citation with quotations from both statutes. However, the Complex did not attribute which quotation went with which statute.

The Complex also did not explain why it had denied the Appellant's request for the officers' names and badge numbers. This appeal followed.

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." The Complex asserts that 2020 SB 150, which passed during the 2020 Regular Session of the General Assembly, extended this deadline to 10 days. However, as explained in 22-ORD-009, the General Assembly amended KRS 61.880(1) during the 2021 Regular Session with the passage of 2021 HB 312. Consequently, a public agency has five business days to respond to a request under the Act. KRS 61.880(1). Here, the Complex violated the Act when it did not respond to the request within five business days.

The Complex's response also violated the Act in another way. Under KRS 61.880(1), "[a]n agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld." Here, however, the Complex did not cite any exception, or give any explanation why it denied the Appellant's request for the officers' names and badge numbers. Thus, the Complex also violated the Act when it failed to explain why it had denied the Appellant's request for the officers' names and badge numbers.

On appeal, the Complex now explains that it denied the Appellant's request for the officers' names and badge numbers because that is a request for information. The Act grants residents of the Commonwealth a statutory right to inspect ascertainable public records. KRS 61.872(2)(a). A requester must describe actual records he or she seeks to inspect. However, this Office has previously found that a request for an officer's name and badge number is a request for information, because such a request does not describe a public record to be inspected. *See, e.g.,* 20-ORD-075. Accordingly, the Complex did not violate the Act when it denied the Appellant's request for the names and badge numbers of the officers as a request for information.

The Complex, on appeal, continues to withhold the security camera footage and logbooks based on its claim that the release of the records would constitute a security threat under KRS 197.025(1). Under KRS 197.025(1), “no person shall have access to any records if the disclosure is deemed by the commissioner of the Complex or his designee to constitute a threat to the security of the . . . correctional staff [or] the institution.” KRS 197.025(1) grants the commissioner of the Complex of Corrections broad discretion to determine which records constitute a security threat to correctional institutions. KRS 197.025(1) is incorporated into the Act under KRS 61.878(1)(l), which exempts from inspection any public records of which the disclosure is prohibited by enactment of the General Assembly.

Here, the Complex explains that the logbooks “contain information that may directly affect the security of the institution . . . because releasing the records would threaten staff’s safety due to retaliation by [the Appellant] or other inmates.” The Complex also explains that it routinely withholds security camera footage from inmates because inspection of the video could reveal the cameras’ blind spots. This Office typically differs judgement to individual correctional facilities as to what constitutes a security threat. This Office also has routinely upheld the denial of requests for logbooks and security footage under the security exemption. *See, e.g.*, 22-ORD-038; 19-ORD-040; 15-ORD-153 (all related to surveillance video); 20-ORD-029; 09-ORD-047; 04-ORD-180 (all related to various officer logbooks). Thus, the Complex did not violate the Act when it denied a request for records when the release of which would constitute a security threat.

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.

22-ORD-052

Page 4

Daniel Cameron
Attorney General

/s/Matthew Ray
Matthew Ray
Assistant Attorney General

#067

Distributed to:

Carlos Beauchamp, #167410

Peter J. Klear