



COMMONWEALTH OF KENTUCKY  
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**23-ORD-195**

August 1, 2023

In re: Carlos Harris/Eastern Kentucky Correctional Complex

**Summary:** The Office cannot find that the Eastern Kentucky Correctional Complex (the “Complex”) violated the Open Records Act (“the Act”) because the Office cannot resolve the factual dispute between the requester and the agency.

***Open Records Decision***

On May 19, 2023, inmate Carlos Harris (“Appellant”) submitted to the Complex a request for records containing two subparts. The first sought all records regarding his Parole Board hearing held March 19, 2019. The second sought all criminal risk assessments used by the Parole Board during the hearing. On June 11, 2023, having received no response from the Complex, the Appellant resubmitted the request.<sup>1</sup> On June 27, 2023, the Appellant initiated this appeal claiming he did not receive any response from the Complex.

When an agency receives a request under the Act, it “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.” KRS 61.880(1) (emphasis added).

Here, the Appellant claims he submitted a request for records to the Complex on May 19, 2023, and again on June 11, 2023, but it did not respond to either request. On appeal, the Complex states it did not respond to the Appellant’s requests because

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<sup>1</sup> As proof, the Appellant provided a mail log that shows the Appellant mailed something to the Complex on June 12, 2023.

it did not receive them.<sup>2</sup> The Office has previously found that it is unable to resolve factual disputes between a requester and agency, such as, whether an agency received a request for records. *See, e.g.*, 21-ORD-163. As a result, the Office cannot find that the Complex violated the Act when it did not respond to a request it claims to have not received.

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](mailto:OAGAppeals@ky.gov).

**Daniel Cameron**  
**Attorney General**

s/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

Carlos Harris #143261  
Amy V. Barker  
Lydia C. Kendrick  
Ann Smith

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<sup>2</sup> The Complex also provides what it describes as a “substantially different” request from the Appellant, which was dated May 19, 2023. That request sought only records related to the hearing and did not seek the criminal risk assessments. The Complex timely responded to that request, granted it, and notified the Appellant that the responsive records would be provided upon receipt of \$1.13 for the copying fee. *See* KRS 61.872(3)(b) (permitting an agency to require prepayment of copying and mailing fees before providing copies of records by mail).