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25-ORD-301

October 3, 2025

In re: Darian Matthews/Lee Adjustment Center

**Summary:** The Lee Adjustment Center (“the Center”) violated the Open Records Act (“the Act”), when it failed to provide certain requested public records without explanation. The Center did not violate the Act when it did not provide records that, if released, pose a security threat under KRS 197.025(1).

***Open Records Decision***

Inmate Darian Matthews (“Appellant”) submitted two separate requests to the Center for six types of records related to a specific incident involving him that occurred on August 14, 2025. Specifically, the Appellant sought: (1) particular “camera footage”; (2) a “correctional officer’s camcorder footage”; (3) “evidence relating to” the incident; (4) the “[e]xtra ordinary [sic] occurrences report”; (5) the “[c]ritical incident report”; and (6) “[e]mails and notes dealing with this critical incident.” In response, the Center denied parts 1 and 2 of the request under KRS 197.025(1) because they seek “security camera footage for an adult correctional institution,” the release of which “is a security threat.” The Center granted part 3 of the request and provided a “disciplinary report form.” The Center denied the remaining parts of the request, stating no such records were created following the incident. This appeal followed.<sup>1</sup>

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<sup>1</sup> The Appellant also requested that “all evidences and camera footage be preserved for later litigation,” and he also asked the Office to make the Center “abide[ ] by the Open Records Act.” Under KRS 61.880(2)(a), the Office “shall review the request and denial and issue . . . a written decision stating whether the agency violated” the Act. The Act grants no additional authority to the Office to order any other type of relief, including an order to preserve evidence for future litigation. Thus, the Office cannot grant the Appellant’s request.

First, the Center denied the Appellant's requests for the “[e]xtra ordinary occurrences report”; “[c]ritical incident report”; and (6) “[e]mails and notes dealing with this critical incident” because “there are no ordinary occurrence reports[,] . . . critical incident reports[,] . . . emails[,] or notes dealing with the incident involving [the Appellant] on 8/14/2025.” Once a public agency states affirmatively that it does not possess any responsive records, the burden shifts to the requester to make a *prima facie* case that the records do exist and that they are within the agency's possession, custody, or control. *See Bowling v. Lexington-Fayette Urb. Cnty. Gov't*, 172 S.W.3d 333, 341 (Ky. 2005). If the requester makes a *prima facie* case that the records do or should exist, “then the agency may also be called upon to prove that its search was adequate.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341). To make a *prima facie* case that the agency possesses or should possess the requested records, the requester must provide some statute, regulation, or factual support for that contention. *See, e.g.*, 23-ORD-207; 21-ORD-177; 11-ORD-074.

Here, to make a *prima facie* case, the Appellant directs the office to CPP 8.6, which states that “[a]t the time an incident occurs, reporting staff shall complete a draft incident report” and “[a]ll staff incident reports shall be turned in by the end of shift or close of business unless otherwise approved by the Director, Warden or designee.”<sup>2</sup> As such, it appears the Appellant has made a *prima facie* case that the Center created a report related to the incident. However, the Appellant, as part of his appeal, provided the “disciplinary report form” that was created following the incident. Although the Appellant has made a *prima facie* case that a report was required to be created, he has not made a *prima facie* case that a report other than the “disciplinary report” he already possesses was created. Accordingly, the Center did not violate the Act when it did not provide records it does not possess.

Next, the Center denied the Appellant's requests for “camera footage from west dorm” and a “correctional officer's camcorder footage” because “[s]ecurity camera video for an adult correctional institution is a security threat because of the amount and nature of the information included . . . cannot be redacted.” 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

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<sup>2</sup> See Corrections Policy and Procedure (“CPP”) 8.6, available at <https://corrections.ky.gov/About/cpp/Documents/08 CPP%208.6%20-%20Incident%20Rep%20-Dirty%203-31-21-Sup%20Eff%208-23-18-Iss%206-22-21-Eff%206-29-2021%20-%20Clean.pdf> (last accessed September 30, 2025).

any other person.” The Office has historically deferred to the judgment of the correctional facility in determining whether the release of certain records would constitute a security threat.

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. Consequently, the Center did not violate the Act when it withheld the requested security video and “camcorder footage” because it adequately explained how KRS 197.025(1) applied to the record withheld.

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  
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/s/ Matthew Ray  
Matthew Ray  
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