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25-ORD-392

December 9, 2025

In re: Ruben Salinas/Eastern Kentucky Correctional Complex

**Summary:** The Eastern Kentucky Correctional Complex (“the Complex”) did not violate the Open Records Act (“the Act”) when it redacted certain material from an inmate risk and needs assessment under KRS 439.510 and copyrighted portions of the assessment under 17 U.S.C. § 106. The Complex did not violate the Act when it withheld allegedly copyrighted material that was not responsive to the pertinent request.

***Open Records Decision***

Inmate Ruben Salinas (“the Appellant”) submitted requests to the Complex for two copies of his most current “Risk and Needs Assessment Report” and two copies of his Case Management Plan. In timely responses, the Complex provided the requested records with redactions. Specifically, the Complex explained the “redacted information is prepared through the Kentucky Risk Assessment System (KyRAS) or Reentry Scoring Tool (RST) and contains information collected by probation and parole officers in the course of their duties,” which is “exempt pursuant to KRS 439.510 and KRS 61.878(1)(l).” Additionally, the Complex stated that some portions of the KyRAS records and Case Management forms “are copyrighted material and are exempt pursuant to KRS 61.878(1)(k) and 17 U.S.C. §106.” This appeal followed.

On appeal, the Complex states it “redacted from the KyRAS Report assessment tools, questions, responses, and scoring, as well as information derived from the Appellant’s presentence investigation or otherwise obtained by probation and parole officers in the course of their duties.” The Office has consistently found that the assessment tools, questions, responses, and scoring used in the KyRAS system are copyrighted, and therefore exempt from disclosure under 17 U.S.C. § 106, which is incorporated into the Act by KRS 61.878(1)(k). *See, e.g.*, 22-ORD-095; 20-ORD-198; 19-ORD-144. The Office reached that conclusion based, in part, on the terms of an agreement between the Department of Corrections and the University of Cincinnati

Correctional Institute. *Id.* That agreement provides that the Department of Corrections “shall not disclose or transfer in any form either the delivered [assessment tool] or any modifications of or derivative works based on the [assessment tool] to third parties.” *See* 20-ORD-198. Therefore, the Complex did not violate the Act by redacting copyrighted material that is exempt from inspection. KRS 61.878(1)(k).

Additionally, the Complex relies upon KRS 439.510 to redact information obtained during the presentence investigation that was used to complete the Appellant’s risk and needs assessment. KRS 439.510 provides:

All information obtained in the discharge of official duty by any probation or parole officer shall be privileged and shall not be received as evidence in any court. Such information shall not be disclosed directly or indirectly to any person other than the court, board, cabinet, or others entitled under KRS 439.250 to 439.560 to receive such information, unless otherwise ordered by such court, board or cabinet.

This Office has previously found that an inmate’s responses recorded in the context of a risk and needs assessment are not subject to inspection under KRS 439.510. *See, e.g.*, 20-ORD-198; 19-ORD-144; 17-ORD-022; 05-ORD-265; 01-ORD-120. This request is no different. The Complex has redacted portions of Appellant’s risk and needs assessment that contain information obtained by probation and parole officers during the presentence investigation. Although the Appellant claims the KyRAS report contains updated information collected by a case worker, the Complex properly notes “[t]he fact that a case worker subsequently added or updated information that was obtained by a [probation and parole] officer does not change the fact that the KyRAS Report was completed using confidential [probation and parole] information,” and KRS 439.510 prohibits disclosure of that information “directly or indirectly.” Therefore, the Complex did not violate the Act by redacting those portions of the Appellant’s risk and needs assessment.

As for the Appellant’s Case Management Plan, the Complex redacted certain material copyrighted under 17 U.S.C. § 106 and 61.878(1)(k). In 14-ORD-244, the Office quoted a statement by the Kentucky State Penitentiary to the effect that a Case Management Plan is “created to share with the inmate and is not copyright protected.” Here, the Complex clarifies on appeal that it provided the Appellant a copy of the Case Management Plan itself, “but withheld materials and software used to create the [Case Management Plan] because they were copyright protected.” Because the Appellant requested the Case Management Plan, not the materials used

to create it, the withheld material was not responsive to his request.<sup>1</sup> Accordingly, the Complex did not violate the Act.

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

**Russell Coleman**  
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/s/ James M. Herrick  
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Distributed to:

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<sup>1</sup> The Appellant claims he has been provided that material on previous occasions and therefore it is “absurd” for the Complex to claim copyright protection now. However, “an agency’s inadvertent actions or mistakes in releasing records [do] not estop the agency’s denial of subsequent requests for similar records.” 15-ORD-092. This is particularly true when the agency withholds records for the purpose of “bringing itself into compliance with federal law.” 18-ORD-206.