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26-ORD-224

May 19, 2026

In re: Daniel Woodie/The 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. The Department also did not violate the Act when it denied a request for records it does not possess.

Open Records Decision

On February 27, 2026, Daniel Woodie ("Appellant") submitted a four-part request to the Department seeking records related to the Probation and Parole Office and a particular parolee.[1] The Department's initial response invoked KRS 61.872(5) to delay its final response.[2] The Department issued its final response on April 6, 2026. That response granted the first part of the request; denied the second part of the request under KRS 439.510, explaining that it seeks records obtained by probation and prole officers in the discharge of their official duties; and stated that it possesses no records responsive to the third and fourth parts of the request. This appeal followed.[3]

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[1] Specifically, the Appellant sought: (1) "records from 2025 to the present related to any contact between [the Appellant] and the Kentucky Probation and Parole Region 7 Office or otherwise related to [the Appellant]"; (2) video/audio recording from the Region 7 office involving or depicting" the Appellant a named parolee in the parking lot at three particular dates and times; (3) "records related to the justification for trespassing" the Appellant on February 26, 2026; and (4) "records related to the reasoning for" a particular parolee's probation officers "not responding to voice messages left regarding possibly [*sic*] probation violations."

[2] That delay has not been challenged on appeal.

[3] The Appellant also complains that the Department was given an extension of time in which to submit its response to his appeals. He asserts that 40 KAR 1:030 § 2 does not allow for such an extension. However, that regulation contains no such restriction.

On appeal, the Department also relies on KRS 197.025(1) to justify its withholding of security footage. 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." The Office has historically deferred to the judgment of the Department in determining whether the release of certain records would constitute a security threat. "'Institution' means any institution under the control of the Department of Corrections." KRS 197.010(5). This includes the Probation and Parole office. *See* KRS 196.030(1)(b) ("The [D]epartment shall, unless otherwise provided by law, exercise all functions of the state in relation to . . . Supervision of probation and parole.")

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 explains that release of the requested videos would "reveal the location and angles of the security cameras in question" and that that information "would allow for the hiding of contraband, reveal [Probation and Parole] officers' schedules and individual probationers' and report dates, and reveal where [Probation and Parole] Officers and probationers are most vulnerable outside of the view of the security cameras."

Further, the Department has explained a particular security concern related to the conduct of the Appellant. Specifically, the Department alleges that the Appellant has followed a parolee to a Probation and Parole office on two occasions, necessitating multiple calls to the local police department.[4]

Accordingly, the Department has adequately identified why disclosure of the security footage poses both a general and a specific security threat. Thus, 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.[5]

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[4] The notice of trespass the Appellant received after these incidents was provided by him as part of his appeal.

[5] Because the withheld security footage is exempt under KRS 197.025(1), the Office need not address the applicability of KRS 439.510 to the footage.

The Appellant also challenges the Department's assertion that it possesses no records responsive to the third and fourth parts of the request. For its part, the Department maintains that it does not possess records responsive to those parts of the request.

Once a public agency states affirmatively that a record does not exist, the burden shifts to the requester to make a *prima facie* case that the requested record does or should exist. *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 public 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).

A requester's bare assertion that a public agency must possess the requested record is insufficient to make a *prima facie* case that the agency in fact does possess that record. *See, e.g.*, 22-ORD-040. To make a *prima facie* case that a public agency possesses or should possess the requested record, the requester must provide some statute, regulation, or factual support for that contention. *See, e.g.*, 21-ORD 177; 11-ORD-074. Here, the Appellant merely makes the assertion that a record documenting the decision to "trespass" him from the Probation and Parole Office must exist. But this is no more than a bare assertion that the record must exist. The Appellant has not cited any statute, regulation, or any other factual evidence to support his contention. As a result, the Department did not violate the Act when it denied a request for records that it does not possess.

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
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Assistant Attorney General

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Distributed to:

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