

February 17, 2006

Mr. Fred Peters
#26498
Pendleton Correctional Facility
P.O. Box 30
Pendleton, IN 46064

Re: Formal Complaint 06-FC-19; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Peters:

This is in response to your formal complaint alleging that the Indiana Department of Correction (“Department”) violated the Access to Public Records Act (“APRA”) by failing to comply with your request for records. I find that the Department failed to respond to your request, in violation of the Access to Public Records Act.

BACKGROUND

You allege that you sent a request to the Department on December 12, 2005 for a copy of three affidavits or witness statements in your appeal #WVE 05-07-0011. You filed your formal complaint on January 18, 2006, in which you alleged that you were refused a copy of the records.

I sent a copy of your complaint to the Department. In response, I received copies of the three witness statements, together with a letter from Mr. Penfold indicating that he had sent the statements to you. No other information about your complaint was proffered.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the APRA. Ind. Code 5-14-3-3(a). The Department is a public agency under IC 5-14-3-2(1). Therefore, the Department is required to disclose any non-exempt records

that it maintains. If a public agency receives a request for a record via U.S. Mail, it is required to respond to the request within seven (7) days of receipt. IC 5-14-3-9(b). The agency may deny a written request for a record if the denial is in writing, and if the denial states the exemption that allows the agency to withhold the record, and the name and title of the person responsible for the denial. IC 5-14-3-9(c).

Here, the Department did not timely respond to your written request for records. Therefore, it violated the Access to Public Records Act. Although this does not change my conclusion that the Department violated the APRA, the Department has now complied.

CONCLUSION

For the foregoing reasons, I find that the Department violated the Access to Public Records Act when it failed to timely respond to your request.

Sincerely,

Karen Davis
Public Access Counselor

cc: C.A. Penfold