

July 26, 2006

Darrell Williams
#26008-044
United States Penitentiary
P.O. Box 1000
Marion, IL 62959

Re: Formal Complaint 06-FC-107; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Williams:

This is in response to your formal complaint alleging that the Indiana Department of Correction (“Department”) violated the Access to Public Records Act by failing to respond to your record request. I find that the Department violated the Access to Public Records Act because the Department did not timely respond to your request, but the Department is making the records available to you upon your payment of the copying fee.

BACKGROUND

You allege in your June 18 complaint, received by the Public Access Counselor on June 26, that the Department did not reply to a request for records sent on June 10. The Department sent me a copy of the July 10 letter that it sent to you. The Department acknowledged receiving your request on June 20. The Department has now compiled the documents and is seeking advance payment of the \$3.00 copying fee.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). If a public agency receives a request for a record in person, the public agency is required to respond within 24 hours or the record is deemed denied. IC 5-14-3-9(a). If the public agency receives a request for a record via U.S. Mail or facsimile, the public agency is required to respond within

seven calendar days, or the request is deemed denied. IC 5-14-3-9(b). The Department was required to issue a responsive letter to your request within seven days of receipt. The Department stated it received your request on June 20, 2006. Hence, its July 10 response was late, in violation of the Access to Public Records Act.

However, the Department is making the records available to you upon payment of a copying fee. The Department is a state agency. It is authorized by Indiana Code 5-14-3-8(c) to charge you a copying fee of \$.10 per page. In addition, a public agency may require that the payment for copying costs be made in advance. IC 5-14-3-8(e). Therefore, although the Department's response was untimely, it otherwise comports with the Access to Public Records Act.

CONCLUSION

For the foregoing reasons, I find that the Indiana Department of Correction violated the Access to Public Records Act by its untimely response to your request, but is providing the documents upon receipt of the copying fee.

Sincerely,

Karen Davis
Public Access Counselor

cc: Robert D. Bugher