

February 17, 2006

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

Re: Formal Complaint 06-FC-20; Alleged Violation of the Access to Public Records Act by the Pendleton Correctional Facility

Dear Mr. Peters:

This is in response to your formal complaint alleging that the Pendleton Correctional Facility ("Facility") violated the Access to Public Records Act by failing to disclose records to you. I find that the Facility violated the APRA.

BACKGROUND

You sent a request for records on December 12, 2005 to the Facility. As of the date you filed your complaint, January 18, 2006, you had not received a response. You requested a record containing the names of the individuals who assaulted you, and the final disposition of the case. I sent a copy of your complaint to the Facility. I received a fax from the Facility's Internal Affairs Office. A copy of the Report of Investigation was enclosed. I enclose a copy of the Report of Investigation with this advisory opinion.

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 Facility is a public agency under IC 5-14-3-2(1). Therefore, the Facility 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 Facility 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 Facility violated the APRA, the Facility has now complied.

CONCLUSION

For the foregoing reasons, I find that the Pendleton Correctional Facility violated the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Mike Rains