

May 30, 2007

Darrell Williams
#26008-044
United States Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

Re: Formal Complaint 07-FC-114; Alleged Violation of the Access to Public Records Act by the Indiana Attorney General

Dear Mr. Williams:

This is in response to your formal complaint alleging that the Indiana Attorney General (“Attorney General”) violated the Access to Public Records Act by failing to respond to your request. I find that the Attorney General had not received your request.

BACKGROUND

You state that your request for records from the Attorney General was denied. You enclosed a copy of your request. You requested “Any and all documents, reports, settlements, and denial of settlement offers in regard to tort claim 06-05449.” No documentation was supplied showing a written denial of the records; therefore, I take your complaint to be that the Attorney General failed to respond.

I sent a copy of your complaint to the Attorney General. Deputy Attorney General DeAnna L. Brunner responded, a copy of which is attached. After diligent search, the Office of the Attorney General reports that it never received your request. Having received your request with your complaint, the Office responds that it has located a responsive record and will make it available for the authorized copy fee of \$.10 per page.

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 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).

A public agency would not have to respond if the public agency did not receive the request for records, and that appears to be the case here. The request is not deemed denied, because the Attorney General did not receive the request, as set forth in the complaint response of the Attorney General.

I enclose the letter of the Attorney General advising you that the records are available and inviting you to send the copy fee in advance. The Attorney General may charge a copy fee of \$.10 per page for copies of records. IC 5-14-3-8(c). In addition, the Attorney General may also require payment of the copy fee in advance of supplying the records. IC 5-14-3-8(e).

I would note that in the response letter of the Attorney General, Ms. Brunner states that the Office “has located one document that our office is obligated to disclose to you pursuant to” Indiana Code 5-14-3-9. To the extent that other responsive documents exist but are exempt under section 4 of the Access to Public Records Act, the Attorney General must identify the responsive records and cite the exemption or exemptions authorizing the Attorney General to withhold the record. IC 5-14-3-9(c).

CONCLUSION

For the foregoing reasons, I find that the Indiana Attorney General did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: DeAnna L. Brunner