

September 17, 2007

William Holly  
DOC #946422  
Pendleton Correctional Facility  
PO Box 30  
Pendleton, Indiana 46064

*Re: Formal Complaint 07-FC-251; Alleged Violation of the Access to Public Records Act by the Pendleton Correctional Facility*

Dear Mr. Holly:

This is in response to your formal complaint alleging the Pendleton Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA") (Ind. Code §5-14-3) by failing to respond to your request for records. I find that the Facility violated the APRA by not responding to your request.

#### BACKGROUND

In your complaint you allege that you requested access to records from the Facility prior to August 17, 2007. Specifically, you requested records related to you. You filed your complaint on August 17, alleging the Facility had not responded to your request after seven days had passed.

The Facility did not respond to your complaint upon my invitation to do so.

#### ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." Ind. Code §5-14-3-1. The Facility is clearly a public agency for the purposes of the APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Facility during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

A “public record” means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. §5-14-3-2.

A request for records may be made orally or in writing. I.C. §5-14-3-3(a); §5-14-3-9. If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. §5-14-3-9(b).

Here you allege you requested the records prior to August 17. While I do not know when the Facility received your request, the Facility should have responded to your request within seven days of receipt of your request, even if the Facility does not have any records responsive to your request. I.C. §5-14-3-9(b). It is my opinion the Facility violated the APRA when it did not respond to your request.

### CONCLUSION

For the foregoing reasons, I find that the Facility violated the Access to Public Records Act by not responding to your request for access to records.

Best regards,



Heather Willis Neal  
Public Access Counselor

cc: Carrie Johnson, Pendleton Correctional Facility