

February 10, 2005

Justin N. Brooks
1946 W. U.S. Highway 40
Greencastle, IN 46135

Re: Formal Complaint 05-FC-29; Alleged Violation of the Access to Public Records Act by the Putnamville Correctional Facility

Dear Mr. Brooks:

This is in response to your formal complaint alleging that the Putnamville Correctional Facility (“Facility”) violated the Access to Public Records Act (“APRA”) by failing to give you a record. I find that the Facility violated the Access to Public Records Act.

BACKGROUND

On January 13, 2005, you requested a copy of a public record “pertaining to any work orders or grievance filed towards 16 south, a dorm in the prison facility.” You allege in your formal complaint, filed on February 3, 2005, that you have not received a response. You also allege that you need this information for a court proceeding, requesting that I give your complaint priority status under Ind.Code 5-14-5-10. I have granted your request for priority status, issuing this advisory opinion within seven (7) days of receipt of your complaint.

I sent a copy of your complaint to the Facility, and I received a written response from a Mr. John Brush on behalf of the Facility. I enclose his response for your reference. In his response, Mr. Brush states that your request is “over burdensome and would personally cost Mr. Brooks a large sum of money.” He also stated that you needed to be more specific as to what dorm, what time period and what problems with the plumbing you are referring to. I note that I do not have a copy of your precise request to the Facility.

ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency’s regular business hours, except as provided in section 4 of the APRA. Ind.Code 5-14-3-

3(a). A public agency that receives a request by mail for records must respond to that request within seven (7) calendar days of receiving the request, or it is deemed denied. The Facility does not state that it ever responded to your request, which would be a violation of the Access to Public Records Act.

The Facility states that it requires more specificity because your request would otherwise be burdensome and the copying charge would be expensive at \$.10 per page. A request for inspection or copying must identify with reasonable particularity the record being requested. IC 5-14-3-3(a)(1). The Facility may not deny you the record for failure to state your request with reasonable particularity merely because responsive records would be burdensome to gather or copy. Similarly, the Facility may not deny you a record because it perceives that the cost will exceed your resources or willingness to pay. It was incumbent on the Facility to seek greater clarification of your request from you rather than assume that you would not pay the cost of copies. In fact, the Facility's response does not estimate how many copies would be required to fill your request as stated.

If, however, the Facility believes that your request is ambiguous and believes that you may be requesting records for just certain periods of time or on particular subjects such as plumbing, it should have contacted you to seek this clarification. I advise the Facility to seek this information from you upon its receipt of this advisory opinion.

With respect to the cost of copies, the Facility is permitted to charge \$.10 per page. IC 5-14-3-8(c). The Facility may also require that you pay for copying costs in advance of receiving the copies. IC 5-14-3-8(e).

CONCLUSION

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

Sincerely,

Karen Davis
Public Access Counselor

cc: Mr. John Brush