



STATE OF INDIANA

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May 23, 2011

Mr. Sheik Francis Smith-Bey
4490 W. Reformatory Road
Pendleton, IN 46064

Re: Formal Complaint 11-FC-106; Alleged Violation of the Access to Public Records Act by the Pendleton Correctional Facility

Dear Mr. Smith-Bey:

This advisory opinion is in response to your formal complaint alleging the Pendleton Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The Facility's response to your complaint is enclosed for your reference.

BACKGROUND

In your complaint, you allege that you submitted a request to the Facility on March 12, 2011. You submitted that request on a form titled, "Indiana Department of Correction: REQUEST FOR INTERVIEW" and sent it to "Public Access Officer." In response, the Facility stated that it "does not have an access counselor." On April 14, 2011, you submitted a second request that the Facility denied because you did not submit it on the Facility's prescribed form.

In response to your complaint, Facility Administrative Assistant David Barr acknowledges that the Facility required you to submit your request on its prescribed form. He adds, however, that upon receiving the required form from you on April 15th, that the Facility granted your request and informed you that it would provide you with the requested records within 14 days, which would have been April 29th. However, on April 23rd, before the expiration of that time period, you filed this complaint. Mr. Barr also responds that he produced your requested records on April 23rd and that you should have received them by April 25th.

ANALYSIS

The public policy of the APRA states, “[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.” I.C. § 5-14-3-1. The Facility does not contest that it is 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 Facility’s public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Here, you allege that the Facility violated the APRA by requiring that you submit your request on the Facility’s prescribed form. Under the APRA, however, a public agency may require that public access requests be submitted on a particular form: “A request for inspection or copying must: (1) identify with reasonable particularity the record being requested; and (2) *be, at the discretion of the agency, in writing on or in a form provided by the agency.*” I.C. § 5-14-3-3(a) (emphasis added). Thus, the Facility did not violate the APRA by rejecting your request and providing you with a copy of the appropriate form.

Moreover, it appears that the Facility granted your request upon receipt of the form and released your requested records to you in advance of the Facility’s estimated production date, which you did not object to. As such, it does not appear that the Facility ever “denied” your request after you submitted the appropriate form.

CONCLUSION

For the foregoing reasons, it is my opinion that the Facility did not violate the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: David Barr