

April 26, 2006

Darrell Williams
U.S.P. #26008-044
United States Penitentiary
P.O. Box 1000
Marion, IL 62959

Re: Formal Complaint 06-FC-66; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Williams:

This is in response to your formal complaint alleging that the Indiana Department of Correction (“Department”) violated the Access to Public Records Act by denying you a record. I find that the Department did not timely respond to your request for a record, but otherwise has complied with the Access to Public Records Act.

BACKGROUND

You filed a formal complaint with the Office of the Public Access Counselor on March 28, 2006. You allege that the Department denied your request for an itemized list of offender personal property, state form 45467, dated October 8, 2004, under your former D.O.C. #145925. I sent a copy of your complaint to the Department. The Department’s Robert Bugher, Legal Services Director, responded by letter, a copy of which is enclosed for your reference. Mr. Bugher stated that you had supplied an incorrect DOC number, so the Department was unable to determine the correct number in order to identify the records. From the documentation supplied by Mr. Bugher, the Department received your initial request on March 13. On March 27, the Department wrote you to seek clarification of your request, pointing out the discrepant DOC number.

On April 10, the Department received your correspondence clearing up the discrepancy. The Department sent you a letter indicating that it was locating responsive records, which are in storage. The Department will send the record to you as soon as possible.

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. Ind. Code 5-14-3-3(a). A request must identify the record with reasonable particularity. IC 5-14-3-3(a)(1). If a public agency receives a request for a record via U.S. Mail, the public agency is required to respond within seven (7) days or the request is deemed denied. IC 5-14-3-9(b). The public agency should produce records within a reasonable period of time.

Here, the Department admitted receiving your request for records on March 13. However, the agency's first response letter was dated March 27, two weeks after receipt. This late response was in violation of the Access to Public Records Act. The time for response holds irrespective of whether the agency must seek clarification of a request. The Department otherwise complied with the Access to Public Records Act by writing to you seeking clarification of the correct DOC number. Having now received the correct number, the Department has promised to locate the records and send them to you as soon as possible.

CONCLUSION

I find that the Indiana Department of Correction violated the Access to Public Records Act when it failed to timely respond to your request for a record. The Department is now locating records and has promised to produce them as soon as possible.

Sincerely,

Karen Davis
Public Access Counselor

cc: Robert D. Bugher