

June 14, 2006

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

Re: Formal Complaint 06-FC-91; Alleged Violation of the Access to Public Records Act by the Marion County Sheriff's Department

Dear Mr. Williams:

This is in response to your formal complaint alleging that the Marion County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA") by failing to respond to your request for records. I find that the Department did not violate the Access to Public Records Act.

BACKGROUND

You alleged in your formal complaint that the Department denied you access to a record. You also checked "copy fee," on the formal complaint form, but otherwise do not specify your allegations. I sent a copy of your complaint to the Department. Mr. Kevin C. Murray, Counsel to Sheriff Frank Anderson, responded by letter, a copy of which is enclosed for your reference.

Mr. Murray stated that he received your request, postmarked May 8, on May 11. The Department mailed an acknowledgement letter to you on May 11, 2006, the same date that it received your request. On May 18, a follow-up response was mailed advising you that the record you requested would be produced upon receipt of \$4.23 for copies and postage.

ANALYSIS

Any person may inspect and copy the public records of any 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 via U.S. Mail is required to respond within seven days of receipt, or the request is deemed denied. IC 5-14-3-9(b). There is no specific time in the APRA within which records must be produced. Rather, I have advised that records should be produced within a reasonable time, under the facts and circumstances.

A public agency may charge a fee for providing a copy of a record. A local agency may charge a fee that is set by the fiscal unit of the public agency, in an amount not to exceed the actual cost of copying. "Actual cost" means the cost of the paper and the per-page cost for use of the copying equipment. IC 5-14-3-8(d). A public agency may require that the payment for copying costs be made in advance. IC 5-14-3-8(e).

The Department responded to your request well within the seven days required for issuing a response to a mailed request. Therefore, your allegations of denial are not meritorious. In addition, a week after the initial letter, the Department told you that it would make the record available to you upon payment of a copy fee. This was a reasonable period of time for the Department to locate the records and determine whether they are disclosable.

The Department provided me with a breakdown of the cost of copying and postage. The Department assessed \$.04 per page for 48 pages of material. In addition, the postage fee of \$2.31 would be required to reimburse the Department for mailing the records to you. The Department is not required to mail records to you, and the APRA does not foreclose the Department from asking you to provide reimbursement for mailing costs. The copying fee does not appear to exceed the actual cost of copying.

You do not state the basis for your complaint regarding the copying fee; in fact, your complaint purports to allege that you received no response from the Department. If the basis for your complaint about copying costs rests with your belief that you are indigent, you are advised that you must seek a court order establishing your indigency for purposes of the APRA. Otherwise, the Department is within its rights to charge a copying fee and to require you to pay it prior to sending the copies of records to you.

I find your complaint to be without merit.

CONCLUSION

For the foregoing reasons, I find that the Marion County Sheriff's Department has not denied you a record.

Sincerely,

Karen Davis
Public Access Counselor

Cc: Kevin C. Murray