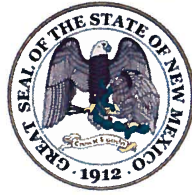


STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

February 5, 2020

Linda Henning #58040
P.O. Box 250
Grants, NM 87020

RE: Inspection of Public Records Complaint— New Mexico Corrections Department

Dear Ms. Henning,

The Office of the Attorney General, Open Government Division (“OGD”) has received and completed its review of a complaint filed by you, alleging violations of the Inspection of Public Records Act (“IPRA”), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2013) by the State of New Mexico Department of Corrections (“the Department”). According to the IPRA Complaint Form you filled out, you selected one (1) preprinted violation option indicating that the Department “did not post in a conspicuous location at its administrative office or on the public body’s website a notice setting forth: the rights of any person to inspect the public body’s public records, the public body’s responsibility to make public records available for inspection, the procedures for requesting inspection of public records, the procedures for requesting copies of public records, and/or reasonable fees for copying public records. In the Detailed Explanation of Alleged IPRA Violations, you alleged that the Department, through its General Counsel, Mr. Jim Brewster, instructed staff at the Western New Mexico Correctional Facility (“WNMCF”) to take your “legal books and IPRA guidelines.” As a result, you allege that you do not have access to the IPRA statute, guidelines or other information.

Unfortunately, the Department’s decision to take your legal books and IPRA guidelines is not covered by IPRA. IPRA sets forth the remedies available to the public when a public body, such as the Department, violates its provisions. See NMSA 1978, § 14-2-12. IPRA does not address or provide a remedy for Department’s to provide library privileges or access to legal materials that may be of interest to persons detained at its facilities.

In addition, Section 14-2-7(E) of the IPRA requires the custodian of public records for the Department to:

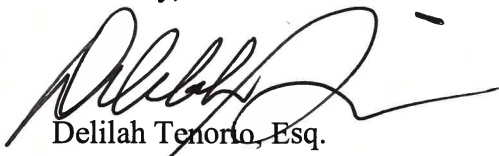
Linda Henning
February 5, 2020
Page 2

“post in a conspicuous location at the administrative office, and on the public available website, if any, of each public body a notice describing: 1) the right of a person to inspect a public body’s records; 2) procedures for requesting inspection of public records, including the contact information for the custodian of public records; 3) procedures for requesting copies of public records; 4) reasonable fees for copying public records; and 4) the responsibility of a public body to make available public records for inspection.”

On May 10, 2018, Mr. Brewster, the Department’s General Counsel, responded to your complaint and allegations, and stated that IPRA notices are posted in the facility’s Administrative area, break room, Human Resources area, Education area and as of the date of his response, in the Inmate Housing Unit. Additionally, we have also reviewed the facility’s website to determine whether an IPRA notice is posted there. A “Notice of Right to Inspect Public Records” appears at <https://cd.nm.gov/pio/docs/ipranotice.pdf>. This Notice contains the information that is required under § 14-2-7(E). Thus, based on our review of your complaint, the Department’s response and the WNMCF website, we conclude that the Department did not violate IPRA as alleged in your complaint.

Although we did not find a violation of IPRA as alleged in your complaint, we appreciate you bringing the issues discussed above to our attention and allowing us the opportunity to address them. A copy of the Attorney General’s Inspection of Public Records Act Compliance Guide is enclosed for your review.

Sincerely,



Delilah Tenorio, Esq.
Assistant Attorney General
Open Government Division

Cc: Jim Brewster, General Counsel,
New Mexico Department of Corrections Department

INSPECTION OF PUBLIC RECORDS ACT ("IPRA") COMPLAINT FORM

New Mexico Office of the Attorney General
Open Government Division

NMDOC
is NON-COMPLIANT
TO IPRA
§14-2-1

YOUR CONTACT INFORMATION:

First Name: Linda Henning Last Name: _____

Address: Po Drawer 250

City: Grants State: NM Zip Code: 87020

Phone Number: _____

Email: _____

IPRA REQUEST TO THE PUBLIC BODY:

Name of the Public Body that is the subject of this complaint (including city/town, county or

region, if applicable): New Mexico Dept. of Corrections, PBX 27116, Santa Fe Nm
87502

Format of IPRA Request: Written Oral James Brewster, Esquire

Date IPRA Request was Submitted to the Public Body: _____

Date of all Responses Received from the Public Body: _____

ALLEGED VIOLATIONS OF IPRA BY THE PUBLIC BODY: Please select from the following list the violations you allege the public body committed. Check all that apply.

RECORDS

No records were provided.

The agency provided some but not all of the records responsive to the request.

Records were provided, but they were not responsive to the request.

The public body does not have custody or responsibility for the records, and the records custodian did not forward the request to the proper custodian.

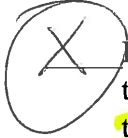
The request was for records in electronic format and although the records are available in electronic format, the copies of the public records were not provided in an electronic format.

DENIED REQUESTS TO INSPECT PUBLIC RECORDS

_____ Although some records were provided, the custodian did not include a written explanation for denying the production of exempt records or for redacting confidential information from records.

_____ No records were provided and the records custodian did not deliver or mail a written explanation to the requester within fifteen (15) calendar days after receiving the request that included a description of the records sought, the names and titles of each person responsible for denying the request, and a description of the reasons for the denial.

NOTICE



Public body did not post in a conspicuous location at its administrative office or on the public body's website a notice setting forth: the rights of any person to inspect the public body's public records, the public body's responsibility to make public records available for inspection, the procedures for requesting inspection of public records, the procedures for requesting copies of public records, and/or reasonable fees for copying public records

DEADLINES (For purposes of deadlines imposed by the IPRA, the date the request is received is not counted)

_____ Inspection was not allowed within three (3) business days and the public body did not timely send a written "three-day letter" to the requester explaining when the records would be available or when the public body would respond to the request.

_____ The public body did not allow inspection or otherwise respond to the request within fifteen (15) calendar days from the date the custodian received the request.

FEES

_____ The public body charged fees in excess of \$1.00 per printed page for documents 11"X17" or smaller, or charged fees that exceeded the actual costs to copy the records.

_____ The public body did not provide a receipt upon request.

DETAILED EXPLANATION OF ALLEGED IPRA VIOLATIONS (Required): Please provide a description of the actions taken by the public body that violated the IPRA, including specific dates and why you believe the IPRA has been violated.

I wrote & received The IPRA Guidelines and rules. I use it for compiling court documents.

Mr. Brewster has instructed Warden Roberta Lucero Ortega to take our legal books (destroyed) and my IPRA Guidelines. We have ~~no~~ whatsoever posted anywhere on IPRA and Mr. Brewster does not respond to IPRA requests. After my 3rd request (all denied) he returned unopened my 4th request.

I asked Ted Flores to send a letter with the request to Brewster, which he did and Brewster did not respond to this Rio Rancho man's request.

The Prison officials do not want us made aware of IPRA. We have No IPRA statutes, guidelines, or info.

He is violating the law § 14-2-1, et seq.

ADDITIONAL INFORMATION: Please provide a copy of your original inspection request (if written), and any documentation or evidence you have regarding the alleged IPRA violation.

November 28, 2017

Linda Henning #58040
PO Box 250
Grants, NM 87020

Dear Ms. Henning:

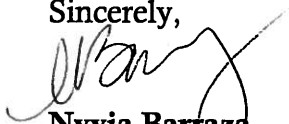
Thank you for the two letters dated November 20, 2017 in which you requested the following documents:

~~Forensic reports~~ *received*
Catherine Dickey's case notes
Chain of custody tags for forensic evidence

We received these requests on November 28, 2017 and although it may be sooner, it may take up to fifteen (15) calendar days to respond to your request. Unless you specify otherwise, the City will produce the above-referenced documents relevant to *State v. Henning*.

Please let me know if you have any questions.

Sincerely,



Nyvia Barraza
APD Records Custodian/Records Supervisor
400 Roma Avenue NW, Alb., NM 87102
Office (505) 768-2137
Cell (505)-980-4944
apdipra@cabq.gov