

July 22, 2003

Mr. Michael Hunt, 961894  
Location Q 103  
Wabash Valley Correctional Facility  
P.O. Box 222  
Carlisle, IN 47838

Re: *Advisory Opinion 03-FC-51*; Alleged Denial of the Access to Public Records Act by the Indiana Department of Correction, Wabash Valley Correctional Facility.

Dear Mr. Hunt:

This is in response to your formal complaint, which was received on June 25, 2003. You have alleged that the Indiana Department of Correction, Wabash Valley Correctional Facility ("Department") has violated the Indiana Access to Public Records Act ("APRA"), Indiana Code chapter 5-14-3. Specifically, you allege that the Department denied you access to offender segregation records, control custody unit handbook, and Mr. Larsen's decision to engage in neglect of duty from policy number 04-01-103<sup>1</sup>. Ms. Pam Pattison of the Department responded in writing to your complaint. A copy of her response is enclosed for your reference. For the reasons set forth below, it is my opinion that the Department did not deny you access to public records in violation of the APRA.

## BACKGROUND

According to your complaint, you requested copies of offender segregation records, control custody unit handbook, and Mr. Larsen's decision to engage in neglect of duty from policy number 04-01-103 from the Department. You alleged that the Department denied you access to the records. You then filed your complaint with this Office. As part of your complaint you attached a copy of the letter sent to you by Department on June 18, 2003 in which you were told that your request was difficult to read, and that you did not have enough money in your account to fund your request for information.

Additionally, Ms. Pattison responded in writing to this Office that you are not entitled to inspect records in the administrative offices. Wabash Valley Correctional Facility is a Level 4- maximum secured facility, and because you are maximum secured offender you are not be allowed access to the facility's administrative offices.

## ANALYSIS

The public policy of the APRA states that "(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." Ind. Code § 5-14-3-1. The Department is clearly a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Department during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana code section 5-14-3-4. Ind. Code § 5-14-3-3(a).

The Department is clearly a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Department during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana Code section 5-14-3-4. Ind. Code § 5-14-3-3(a). A public agency is generally not required to create new records in order to respond to a public records request. See generally, Ind. Code chapter 5-14-3. A person who has been denied access to public records under the APRA may file an action in circuit or superior court to compel the public agency to allow inspection and copying of the public records. Ind. Code §5-14-3-9(d).

According to your complaint, you sent Mr. Richard Larsen, Administrative Assistant for Wabash Valley Correctional Facility, a request for offender segregation records, control custody unit handbook, and Mr. Larsen's decision to engage in neglect of duty from policy number 04-01-103. Mr. Larsen responded that your handwriting was difficult to comprehend your request because of your handwriting and you attempt to use legalese. Mr. Larsen then advised you to rewrite your request and "be simple, concise and to the point." The APRA provides that you must "identify with reasonable particularity the record being requested." Ind. Code § 5-14-3-3. In my opinion this requires legible handwriting and a clear statement as to the records being sought. It is my opinion that when a request is not reasonably particular the public agency has an obligation to advise the requestor as such and identify the reasons or the additional information necessary for the request to be fulfilled. Here it is my opinion that the Department met its obligation by advising you that it was unclear as to what you were seeking because of your handwriting and use of legalese. Therefore, it is my opinion that the Department advising you that you needed to make a clearer request for the records you were seeking was not a denial of access to records in violation of the APRA.

Additionally, Mr. Larsen advised you that you did not have enough money in your account to fund your request. The APRA allows public agencies to charge a fee for providing copies of public records. See generally, Ind. Code § 5-14-3-8. Additionally, "[a] public agency may require that the payment for copying costs be made in advance." Therefore, it is my opinion that it is not a violation of the APRA for the Department to advise you that you do not have enough money in your account to fund your request.

## CONCLUSION

It is my opinion that the Indiana Department of Correction, Wabash Valley Correctional Facility did not violate the Indiana Access to Public Records Act by advising you that your request was not reasonably particular because your writing and language made your request impossible to comprehend. Additionally, it was not a violation of the Access to Public Records Act for the Department to advise you that you did not have sufficient funds to pay for the records requested.

Sincerely,

Sandra K. Barger  
Acting Public Access Counselor

cc: Ms. Pam Pattison, Indiana Department of Correction

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<sup>1</sup> It is unclear from your formal complaint form whether this is a document that exists or whether you are asking a question.