

January 19, 2005

Mr. Chester Wilms
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 04-FC-234; Alleged Violation of the Access to Public Records Act by the Fort Wayne Police Department

Dear Mr. Wilms:

This is in response to your formal complaint alleging that the Fort Wayne Police Department ("Department") violated the Access to Public Records Act.

BACKGROUND

You allege a denial of access to records under the Access to Public Records Act. Your complaint, filed on December 20, 2004, was sent to the Fort Wayne Police Department for response. The Department responded in writing, a copy of which I enclose for your reference. The response of the Department aided me in determining what record you are requesting and what your complaint alleges, since your complaint is difficult to understand. You are apparently seeking back-up statements or reports pertaining to sworn testimony in court.

The Department included a copy of its December 13, 2004 response to your request for records. In its response, the Department told you that it did not maintain court testimony, and suggested that you may contact the court clerk's office to request this information.

I also wish to note that you have requested similar information from various agencies, and filed numerous complaints with this office.

ANALYSIS

Any person may inspect and copy public records of a public agency at any time during the regular business hours of the agency, except where an exemption for disclosure applies. Ind. Code 5-14-3-3(a). The request must identify with reasonable particularity the record being requested. IC 5-14-3-3(a)(1). This simply means that you must be reasonably particular in identifying the record that you seek. An agency is not required to scour its records to determine what record a person is requesting. Also, an agency is not required to supply numerous copies of the same record. Finally, it is axiomatic that an agency is not required to produce a record that it does not maintain.

Because you have not alleged a particular violation of the Access to Public Records Act by succinctly stating in the complaint form your allegation, I cannot discern what specific complaint that you have. In the future, I intend to hold you to, at a minimum, stating what record you had requested and describing in what way the agency may have denied you the record. For example, you must state whether the agency did not respond at all, or denied you the record without stating its reasons. Your complaint appears to me to be in the nature of legal argumentation on your criminal case.

I am grateful to the Fort Wayne Police Department for assisting me in processing your complaint. The Department responded to your record request by letter dated December 13, 2004. It stated that it did not maintain the record you are seeking. Based on the information that I have received, the Department has met the requirements of the Access to Public Records Act. There is no requirement under APRA that an agency disclose records it does not maintain.

CONCLUSION

For the foregoing reasons, I find that the Fort Wayne Police Department did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Captain Tom Rhoades