

April 19, 2004

Mr. Michael Hunt  
No. 961894  
Wabash Valley Correctional Facility  
P.O. Box 1111  
Carlisle, Indiana 47838

*Re: 04-FC-47 and 04-FC-48, consolidated; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Mr. Hunt:

This is in response to your formal complaints alleging that the Indiana Department of Correction (Department) violated the Indiana Access to Public Records Act (APRA) (Ind. Code §5-14-3) when it failed produce records in response to your request for records. For the reasons set forth below, I find that the Department did not violate the APRA as alleged in your complaints.

#### BACKGROUND

According to your complaints, on January 31, 2004, and February 3, 2004, you submitted written requests for records to the public information officer for the Wabash Valley Correctional Facility, a facility of the Department. The requests sought multiple documents related to an incident alleged to have occurred at the facility on December 23, 2003. The prison submitted written responses to both requests on February 9, 2004. The responses acknowledged that some non-confidential documents responsive to your request were available, although it alleged that most of the documents you sought were either not in existence or were subject to nondisclosure under the APRA. Relevant to your complaints in this matter, those responses further stated that copies could be provided to you upon your notification that you have funds available to pay for them. According to the prison, you never notified it that you could pay for the available copies.<sup>1</sup> Your complaints appear to challenge the prison's statement that you should have to pay for your copies and that you do not have sufficient funds to do so.

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<sup>1</sup> This assertion was made in the prison's response to a public records complaint in another matter (04-FC-46) raising a different issue.

### ANALYSIS

Indiana Code 5-14-3-8 governs the fees for copies made in responding to public record requests. State agencies may charge \$0.10 per page for copies of responsive records. IC 5-14-3-8(c). Further, a public agency may charge that fee and collect it in advance *before* providing the requested copies. IC 5-14-3-8(e). Here, the prison responded to your public records requests and advised you that you did not have any money in your prison account to pay for copies that were responsive to your request and were not otherwise nondisclosable. The prison declined to make any production until payment could be tendered. In this manner, the prison's response did not violate the APRA.

### CONCLUSION

For the reasons set forth above, I find that the Department did not violate the APRA for the reasons alleged in your complaint.

Sincerely,

Michael A. Hurst  
Public Access Counselor

cc: Ms. Pam Pattison  
Mr. Richard Larsen