

August 6, 2006

Jeffrey L. Bailey
#971621
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 06-FC-134; Alleged Violation of the Access to Public Records Act by the Wabash Valley Correctional Facility

Dear Mr. Bailey:

This is in response to your formal complaint alleging that Wabash Valley Correctional Facility ("Facility") violated the Access to Public Records Act by failing to give you records in a timely manner.

BACKGROUND

You filed your formal complaint to the Office of the Public Access Counselor on August 7, 2006. You alleged that the Facility, while acknowledging receipt of your request for records, had not sent you the records as of August 3, the date you penned your complaint. You allege that you sent Rich Larsen, the Facility's public information officer, a letter on July 31 asking when the Facility would be disclosing the records.

I sent a copy of the complaint to Mr. Larsen at the Facility. He enclosed the letter he sent to you dated August 11, 2006 in which he informed you that the materials had been compiled, and totaled 24 pages. The copy fee of \$2.40, or \$.10 per page, would be considered received when you forward the account transaction request to him. The Facility would then provide the records. Mr. Larsen denies receiving any correspondence from you asking for information on when the records would be provided to you. Mr. Larsen stated that with the Facility's initial response to you sent the day after he received your record request, and the follow-up letter of August 11, the Facility had complied with the Access to Public Records Act in every respect.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). If a public agency receives a request for a record via U.S. Mail or facsimile, the public agency is required to respond within seven calendar days, or the request is deemed denied. IC 5-14-3-9(b). An agency has responded to a request if the agency acknowledges receipt of the request and indicates when and how it intends to comply. The agency is not necessarily required to disclose the records within the time allowed for a response. The agency may need additional time following a response for the purpose of identifying whether there are responsive records and whether the records are disclosable.

There are no requirements in the APRA that prescribe the time within which the records are required to be disclosed. My office has stated that records should be available for inspection and copying within a reasonable period of time.

The Facility timely responded to your request for records, and therefore was not in violation of the Access to Public Records Act. In addition, the Facility identified 24 pages of records that were responsive to your request, and have copied them. I cannot find on the record before me that the time to fulfill your request was unreasonable. The Facility has compiled the records and is making them available to you.

CONCLUSION

For the foregoing reasons, I find that the Wabash Valley Correctional Facility has not violated the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Rich Larsen