

September 14, 2006

George W. Wilson
#918837
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 06-FC-141; Alleged Violation of the Access to Public Records Act by the Evansville Police Department

Dear Mr. Wilson:

This is in response to your formal complaint alleging that the Evansville Police Department (“Department”) violated the Access to Public Records Act by failing to respond to your request for a record. I find that the Department did not receive your request.

BACKGROUND

You complained that the Department failed to respond to your mailed request for records of the Department. You sought copies of Department policies and copies of mug shots of two individuals.

Robert Hahn, Assistant Chief, responded to your complaint on behalf of the Department by averring that the Department did not receive any such request from you. However, now that the Department has received your request via your complaint, the records would be sent to you at the Department of Correction.

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 of receiving the request, or the request is deemed denied. IC 5-14-3-9(b). A public agency may respond by acknowledging that the request was received, and stating how and when the agency intends to comply. It is axiomatic that a public agency cannot respond to a request that it has not received.

The Department averred that it did not receive a request for records from you. However, the Department indicated it would fulfill your request. On these facts, I cannot find that the Department violated the Access to Public Records Act when it failed to respond to your request.

CONCLUSION

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

Sincerely,

Karen Davis
Public Access Counselor

cc: Robert Hahn