

December 21, 2006

Chester Wilms
#943594
Wabash Valley Correctional Facility
P.O. Box 2222
Carlisle, IN 47838

Re: Formal Complaint 06-FC-207; Alleged Violation of the Access to Public Records Act by the Wabash Valley Correctional Facility

Dear Mr. Wilms:

This is in response to your formal complaint alleging that the Wabash Valley Correctional Facility ("Facility") violated the Access to Public Records Act by refusing to give you a record of the policy of the Facility concerning the DNA database, and other records concerning your charges. I find that the Facility did not violate the Access to Public Records Act.

BACKGROUND

You complain that the Facility has not responded to your request for a policy or policies concerning a database of the DNA of offenders at the Facility. In addition, you requested documents concerning your charges and history of the charges and disposition.

I sent a copy of your complaint to the Facility. Mr. Richard Larsen, Public Information Officer for the Facility, responded. I have enclosed his response for your reference. Mr. Larsen stated that the Facility did not receive a request for the records you describe. You did not include a copy of your request with your complaint. If you had requested the documents, Mr. Larsen would have told you that there are no policies of the Facility or the Department of Correction concerning the DNA database. Therefore, the Facility cannot disclose a document that does not exist. In addition, any information about your charges would be contained solely in your offender packet, which you may request in accordance with Facility policies.

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).

Here, the Facility denies receiving any request for a record. Had it received your request, it would have informed you it did not have responsive records concerning a policy for the DNA database. The Facility did not violate the APRA by not responding to a request that it did not receive.

You may request copies of your offender packet upon the payment of the authorized charge of \$.10 per page.

CONCLUSION

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

Sincerely,

Karen Davis
Public Access Counselor

cc: Rich Larsen