

October 29, 2003

Mr. Richard K. Corbin  
Wabash Valley Correctional Facility  
P.O. Box 2222  
Carlisle, IN 47838

Re: Formal Complaint 03-FC-90: *Concerning the Alleged Denial of Access by the  
Indiana Department of Correction*

Dear Mr. Corbin,

This is in response to your formal complaint, received on September 30, 2003. In it, you allege that the Indiana Department of Correction (the "Department") violated the Access to Public Records Act (the "APRA"). Specifically, you allege that the Department denied you access to public records containing the full names of public officials and job titles or job descriptions of law enforcement officers. Pam Pattison responded to your complaint by supplying a copy of a letter addressed to you by Barry Nothstine, dated October 20, 2003. A copy of the letter is attached for your reference.

It is my opinion that because you have been provided the full names of the Department employees, the Department did not deny you access to public records in violation of the APRA. Additionally, it is my opinion that you were not denied access to the job title or job description of the named employees because it does not appear as though you requested that information from the Department.

#### BACKGROUND

By letter dated September 8, 2003, you requested from the Department "the full names of Public Officials who are employed at the Indiana State Prison of the following: Captain B. Webb, Officer S. Thomas, Lt. Yancy, food supervisor, Mr. Renner and Mr. Vickery."

In his response, Mr. Nothstine asserts that "[t]he law provides that a document does not have to be created in order to respond to a request for a public record." He concludes by providing you with the information you requested.

#### ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of

public officials and employees, whose duty it is to provide the information.” Ind. Code § 5-14-3-1. The Department is clearly a public agency for the purpose of the APRA. Ind. Code § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Department during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana code section 5-14-3-4. Ind. Code § 5-14-3-3(a). According to the documents you provided you requested the full names of certain employees of the Department. The Department responded in writing to your request and included the full names of the employees as you requested.

Additionally, you asserted in your complaint to this office that you were denied access to the job title or job description of law enforcement officers. However, it does not appear based on the documents you provided that you requested the information from the Department. Therefore, it is my position that you were not denied access to public records in violation of the APRA because you did not request the documents in question.

#### CONCLUSION

It is my opinion that the Department did not violate the APRA by failing to produce nonexistent public records because it provided the information you requested, and because you failed to request the job title or description from the Department.

Sincerely,

Sandra K. Bowman  
Acting Public Access Counselor

Cc: Pam Pattison