

July 19, 2004

Mr. William K. Zimmerman
Indiana State Prison
P.O. Box 41
Michigan City, IN 46361-0041

*Re: 04-FC 103; Alleged Violation of the Access to Public Records Act by
the Indiana Department of Correction*

Dear Mr. Zimmerman:

This is in response to your formal complaint alleging that the Indiana Department of Correction violated the Indiana Access to Public Records Act (APRA) (Ind. Code § 5-14-3) when it denied you access to public records by failing to respond. For the reasons set forth below, I find that the Department of Correction violated the APRA by failing to provide a response to your request.

BACKGROUND

On May 19, you sent a written request for the following record to the Grant Coordinator at the Department of Correction:

“Rules and Guidelines of the Federal Sponsoring Agency”
related to Federal Funds for the D.O.C.’s Random Urinalysis
Program/Procedures, as delineated in Policy #04-01-103
“Compliance With Federal Fund Titles,” Pp.2-3.

On May 27, you renewed your request for the same record. You filed this complaint with the Office of the Public Access Counselor, which was received on June 18, 2004. You stated that as of June 14, 2004 when the complaint was filed, you still had not received a response from the Department of Correction.

ANALYSIS

Indiana Code 5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours

of the agency, except as otherwise provided in the APRA. IC 5-14-3-3(a). A written record request is entitled to a written response. Indeed, some records maintained by a state agency may be excepted from disclosure. Particular types of records that are exempted from disclosure are stated in the statute. *See* IC 5-14-3-4. However, if a public agency denies a record request, the agency is required to set forth the specific statutory exemption authorizing its nondisclosure. IC 5-14-3-9(c)(2)(A).

It is not apparent that the requested record falls within any of the statutory exemptions, and the Department of Correction has not provided to this office a substantive response to the complaint. The Department of Correction could also have responded that the record was already provided, or that the agency does not maintain the record. However, persons seeking records should not have to guess at the reason for the agency's nondisclosure.

CONCLUSION

For the reasons set forth above, I find that the Department of Correction violated the APRA when it failed to respond to your record request. The Department of Correction should produce the record, or respond with the specific reasons for nondisclosure.

Sincerely,

Karen Davis
Public Access Counselor

Cc: Ms. Evelyn Ridley-Turner, Department of Correction