

September 28, 2005

Mr. Richard K. Corbin
#975153
Wabash Valley Correctional Facility
P.O. Box 2222
Carlisle, IN 47838

Re: Formal Complaint 05-FC-178; Alleged Violation of the Access to Public Records Act by the Office of the Governor

Dear Mr. Corbin:

This is in response to your formal complaint alleging that the Office of the Governor violated the Access to Public Records Act by failing to give you a record.

BACKGROUND

You allege in your formal complaint, filed with the Office of the Public Access Counselor on August 30, 2005, that you sent a request for a record to the Office of the Governor on July 26. You requested the name of the Inspector General, his job title or job description, his business address, business telephone number, education and training background, and previous work experience. At the time that you filed your complaint, you had not received any response.

I sent a copy of your complaint to the Office of the Governor. Phil Wickizer, Law Clerk in the Governor's Office, sent me documentation showing that the information you requested was mailed to you on August 23. He explained that at the time your request was received, there was a backlog in the mail system that resulted in a delay in mailing a timely response. Further, when the Office sent you a response, it was returned because you had given the Office an incorrect address. The staff in the Office investigated and found your proper address, to which the information you sought was sent. You should have received this information just as you were sending your complaint.

ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, except as provided in section 4 of the Access to Public Records Act ("APRA"). Ind. Code 5-14-3-3(a). The Office of the Governor is a public agency. IC 5-14-3-2(1)(1).

Although personnel files of public employees may not be disclosed in an agency's discretion under IC 5-14-3-4(b)(8), certain information about an employee must be disclosed upon request. The information that you requested about the Inspector General is part of the information that must be disclosed under IC 5-14-3-4(b)(8)(A).

When a public agency receives a request for a public record via U.S. Mail, the public agency is required to issue a response within seven (7) days of its receipt of the request, or the request is deemed denied. IC 5-14-3-9(b). The Office of the Governor admits that its first responsive letter was issued untimely, although returned because you provided a faulty address. Nevertheless, because the Office did not issue a response within the seven days after it received your request, your request was denied by operation of law. However, Mr. Wickizer assured me that the situation of the backlog has been remedied. Also, the Office of the Governor has sent you the information about Inspector General David Thomas. I enclose a copy of it with this advisory opinion.

CONCLUSION

The Office of the Governor did not provide a timely response in accordance with the requirements of the Access to Public Records Act. However, the Office of the Governor did not intend to deny your request, as evidenced by the fact that it provided the information to you on August 23, 2005, before you filed your formal complaint with my office.

Sincerely,

Karen Davis
Public Access Counselor

cc: Phil Wickizer