

July 24, 2006

Jeffrey L. Bailey  
Wabash Valley Correctional Facility  
P.O. Box 1111  
Carlisle, IN 47838

*Re: Formal Complaint 06-FC-105; Alleged Violation of the Access to Public Records Act by the Wabash Valley Correctional Facility*

Dear Mr. Bailey:

This is in response to your formal complaint alleging that the Wabash Valley Correctional Facility ("Facility") violated the Access to Public Records Act by failing to respond to your request. I find that the Facility has not violated the Access to Public Records Act.

#### BACKGROUND

You alleged in your formal complaint that your request to the Facility for records regarding Arthur Davis, a facility casework manager, was ignored. The Facility responded to your formal complaint by averring that it sent a response to your request to you the day after it received your request, June 12. In the Facility's June 12 response, the Facility promised to provide the information as soon as possible, if it was disclosable. The Facility indicated it intended to charge you the statutory copying fee.

On June 21, the Facility wrote you to let you know that six pages of responsive records would be provided upon the payment of the \$.60 copying fee. This notification was dated one day after you dated your formal complaint to my office. I have enclosed the entire response of the Facility for your reference.

#### 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 in person, the public agency is required to respond within 24 hours or the record is deemed denied. IC 5-14-3-9(a). If the 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).

The Facility responded to your request, received on June 12, in a timely manner, since the Facility responded on the same day as it received your request. The fact that you had not received the records within seven days is not a circumstance indicating noncompliance by the Facility, since the response of a public agency does not mandate that records be identified, reviewed, and disclosed within the timeframes in section 9 of the Access to Public Records Act.

When the Facility responded further on June 21, in accordance with its stated intention, it told you that six pages of records could be supplied to you once it received payment for the copying costs in advance. The Facility did not violate the Access to Public Records Act in this regard. A public agency that is a state agency may charge the fee that is set by the Indiana Department of Administration of at least \$.10 per copy. IC 5-14-3-8(c). In addition, a public agency may require that the payment for copying costs be made in advance. IC 5-14-3-8(e).

#### CONCLUSION

For the foregoing reasons, the Wabash Valley Correctional Facility has not violated the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Richard Larsen