

September 14, 2006

George W. Wilson
#918837
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 06-FC-140; Alleged Violation of the Access to Public Records Act by the Clarksville Police Department

Dear Mr. Wilson:

This is in response to your formal complaint alleging that the Clarksville Police Department (“Department”) violated the Access to Public Records Act by failing to respond within seven days to your request for a record. I find that the Department was required to respond to your request within seven days.

BACKGROUND

You requested a mug shot of an individual that you believed was maintained by the Clarksville Police Department. You claim that you mailed your request for the record on July 25, but had not received any response as of August 14, the date you sent me your complaint.

I sent a copy of your complaint to the Department. Mr. Jim Henderson, a Major in the Department, responded by letter, a copy of which is attached for your reference. Major Henderson stated that he thought that you had been informed that no mug shot of the individual is maintained by the Department, and had suggested that your request be directed to the Clark County Sheriff’s Department. Major Henderson acknowledged that it was possible that no one had forward this information to you.

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 of receiving the request, or the request is deemed denied. IC 5-14-3-9(b). A public agency may respond by stating that it does not maintain the record, if no record exists. The public agency is not required to secure a record from another public agency to satisfy a request.

The Department was required to send you a letter in response to your request within seven days after receiving your request. While the Department admits that it received your request for the mug shot, it is not certain that it issued the response. If the Department failed to send a response within seven days, it violated the Access to Public Records Act.

CONCLUSION

For the foregoing reasons, I find that if the Clarksville Police Department did not send a response to your request, the Department violated the Access to Public Records Act. I recommend that you direct your request to the Clark County Sheriff’s Department.

Sincerely,

Karen Davis
Public Access Counselor

cc: Major Jim Henderson