

October 24, 2007

Wayne Sinn  
DOC #960547 F133  
Miami Correctional Facility  
Bunker Hill, Indiana 46914

*Re: Formal Complaint 07-FC-297; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Mr. Sinn:

This is in response to your formal complaint alleging the Indiana Department of Correction ("Department") violated the Access to Public Records Act ("APRA") (Ind. Code §5-14-3) by not responding to your request for records. It is my opinion the Department violated the APRA if it received your request and did not respond.

#### BACKGROUND

In your complaint you allege that on August 5, 2007 you mailed a request to the Department for a copy of the contract between the Department and the outside vendor Aramark Corporation for food service at the correctional facility. My office originally received your complaint on September 12, but we returned it for further information. We received it the second time on September 26. You requested priority status but did not allege any of the reasons for priority status listed in 62 IAC 1-1-3, so priority status was not granted.

The Department did not respond to your complaint at my office's invitation to do so.

#### ANALYSIS

The public policy of the APRA states, "(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 purposes of the APRA. I.C. §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 the APRA. I.C. §5-14-3-3(a).


A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered by mail or facsimile, the agency must respond to the request within seven days of receipt. I.C. §5-14-3-9(b).

Here the Department did not respond to your complaint. If the Department received your request for records, it had a duty to respond to your request within seven days of receipt of the request. I.C. §5-14-3-9(b). If the Department did not do so, it violated the APRA.

#### CONCLUSION

For the foregoing reasons, it is my opinion the Department violated the APRA if it received your request and did not respond.

Best regards,



Heather Willis Neal  
Public Access Counselor

cc: David Donahue, Commissioner, Indiana Department of Correction  
Robert Bugher, Indiana Department of Correction