

November 1, 2004

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

*Re: Formal Complaint 04-FC-183; Alleged Violation of the Access to Public Record Act by the Delaware County Sheriff's Department*

Dear Mr. Corbin:

This is in response to your formal complaint alleging that the Delaware County Sheriff's Department ("Sheriff") violated the Access to Public Records Act ("APRA") by denying you access to public records. For the following reasons, I find that the Delaware County Sheriff's Department violated the Access to Public Records Act by not responding to your request in a timely manner. Furthermore, I find that your request was not reasonably particular. I find also that the Delaware County Sheriff's Department did not violate the Access to Public Records Act by denying you access to the Northpointe Classification System computer program.

#### BACKGROUND

On September 15, 2004, you submitted to the Delaware County Sheriff's Department a request for access to public records. In your request, you asked for a copy of the "Northpointe Classification System." Having received no response, you submitted a formal complaint, which was received by this office on October 1, 2004. I forwarded a copy of your complaint to the Delaware County Sheriff's Department. Captain Richard W. Pickett responded on behalf of the Sheriff.

On October 7th, Captain Pickett sent a written response to your records request. In that response he advised you that the Northpointe Classification System is a computer software program that is integrated into the Sheriff's jail booking system. He states that it is not a public record pursuant to Ind. Code §5-14-3-4(b)(11), which provides public

agencies the discretion to withhold from public access computer programs, computer codes, computer filing systems, and other software owned by or entrusted to it. On October 15th, Captain Pickett forwarded a written response to your complaint to this office. In that response, in addition to the previously stated basis for denial, Captain Pickett also states that the Sheriff feels that neither the operations manual for the Northpointe Classification System nor information regarding your own classification is public information. I have enclosed a copy of Captain Pickett's October 15th response for your reference.

## ANALYSIS

Pursuant to the APRA, any person may inspect and copy the public records of a public agency unless those records are confidential or otherwise nondisclosable. IC 5-14-3-3(a). The Delaware County Sheriff's Department is a public agency for purposes of the APRA. IC 5-14-3-2.

It is the responsibility of the public agency to respond to requests for access to public records within a specified time period. The Access to Public Records Act requires a response either within twenty-four (24) hours or seven (7) days, depending on how the request was made. IC 5-14-3-9(a), (b). If a person making the request is physically present in the office or makes the request by telephone, the public agency must respond within twenty-four (24) hours of receiving the request. If, however, a person makes a request by mail or facsimile, the public agency must respond within seven (7) days of receiving the request.

Your complaint does not state whether your request for records was submitted to the Sheriff in person or by mail. However, Captain Pickett's correspondence to this office indicates that he did not respond to you within seven (7) days of the Sheriff's receipt of your request. Seven days is the longest period in which an agency has to respond to a request for access to public records. Accordingly, I find that the Sheriff's response to your request was untimely, and therefore was a violation of the Access to Public Records Act.

A request for access to public records must be stated with "reasonable particularity" so that the public agency can locate the public records in question and can determine what record is being sought. IC 5-14-3-3(a)(1). You requested "a copy of the Northpointe Classification System a municipal policy that's officially adapted by the City of Muncie, at the Delaware County Jail in Muncie, Indiana." As can be seen by the Sheriff's response to your complaint, it is not clear what record you are seeking, and therefore, your request is not reasonably particular. While that deficiency would not allow a late response from the Sheriff, I do not believe that the Sheriff's failure to state the basis for denying you other responsive records was an improper denial under the APRA. However, I do want to offer guidance on the Sheriff's complaint response.

Captain Pickett's response to your request indicated that you may be seeking the Northpointe Classification System's computer software. Indiana Code §5-14-3-4(b)(11)

states that computer programs, computer codes, computer filing systems, and other software that are owned by a public agency or entrusted to it may be disclosed at the discretion of the public agency. Because the Northpointe Classification System's computer software is a computer program owned by the Sheriff's Department, it is subject to IC 5-14-3-4(b)(11), and may be disclosed or withheld at the discretion of the Sheriff's Department. Therefore, his denial is not a violation of the APRA.

Captain Pickett's response to your complaint to this office also indicates that you may be seeking a copy of the Northpointe Classification System's manual or records relating to your own classification. Captain Pickett's response to this office indicates that neither the manual nor your classification are public information. Pursuant to the APRA, a public record means any "writing, paper, report, study, map, photograph, book, card, tape recording, *or other material* that is created, received, retained, maintained, or filed by or with a public agency." IC 5-14-3-2. (*Emphasis added.*) Accordingly, both the Northpointe Classification System's manual and records relating to your classification are public records that must be disclosed unless they are confidential or subject to nondisclosure pursuant to IC 5-14-3-4.

Should you wish to request a copy of the Northpointe Classification System's manual or records relating to your classification, you must submit a request that is specific enough so that the agency can determine what record you seek. If you request these documents, the Sheriff's Department is required to respond to your request within the timeframe outlined above. If the Sheriff's Department denies you access to these records, the Sheriff must reference the specific statutory exception listed in IC 5-14-3-4 under which the Sheriff is denying you access to those records.

#### CONCLUSION

For the foregoing reasons, I find that the Delaware County Sheriff's Department violated the Access to Public Records Act by not responding to your request in a timely manner. Furthermore, I find that your request was not reasonably particular. I find also that the Delaware County Sheriff's Department did not violate the Access to Public Records Act by denying you access to the Northpointe Classification System computer program.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Captain Richard W. Pickett