

October 29, 2004

Mr. Jeffery L. Bailey, #971621
Putnamville Correctional Facility
1946 West US Highway 40
Greencastle, IN 46135

Re: Formal Complaint 04-FC-180; Alleged Violation of the Access to Public Records Act by the Putnamville Correctional Facility

Dear Mr. Bailey:

This is in response to your formal complaint alleging that the Putnamville Correctional Facility (“Correctional Facility”) violated the Access to Public Records Act (“APRA”) by denying you access to public records. For the following reasons, I find that the Putnamville Correctional Facility violated the Access to Public Records Act.

BACKGROUND

On September 16, 2004, you mailed a written request for public records to the Putnamville Correctional Facility. Specifically, you asked for everything in the personnel file of Candy Fielden, except her “personal information,” (which I take to mean information such as Ms. Fielden’s social security number and home address). The Correctional Facility received your request on September 20, 2004 and sent a response to you on September 22, 2004. You had not yet received this response from the Correctional Facility when you filed your complaint on September 26, 2004. I received your formal complaint on September 29th, and I forwarded a copy of your formal complaint to the Correctional Facility. I have received no written response to your complaint from the Correctional Facility.

On October 5, 2004, you forwarded to this office the copy of the letter you received from the Correctional Facility in response to your records request. In that letter, the Correctional Facility provided you the name, business address, business telephone number, position, and hire date of Ms. Fielden. You wrote a note to this office on that letter indicating that the information provided to you by the Correctional Facility was incomplete. I have considered in this advisory opinion your allegation that the response you received was improper under the APRA. Although

I have attempted to reach someone at the Correctional Facility, I have been unable to do so prior to issuing this advisory opinion.

ANALYSIS

The Correctional Facility is a public agency for purposes of the Access to Public Records Act. Ind. Code §5-14-3-2. Accordingly, any person may inspect and copy the Correctional Facility's public records during its regular business hours, unless the records are excepted from disclosure as confidential or otherwise nondisclosable under IC 5-14-3-4. IC 5-14-3-3(a). 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. 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.

On September 20, 2004, the Correctional Facility received the records request that you mailed to them, and it responded on September 22nd. Therefore, the Correctional Facility responded within the seven (7) days allowed pursuant to the APRA. Accordingly, your complaint with respect to the timeliness of the Correctional Facility's response is without merit.

You also complain that the records that the Correctional Facility sent to you were incomplete. I contacted the Correctional Facility to determine why more information had not been provided, and was advised by Mr. John Brush that he was in the process of contacting the Correctional Facility's attorney to determine what information could be disclosed. Pursuant to IC 5-14-3-4(b)(8), a personnel file of a public employee may be withheld from disclosure at the discretion of the agency. However, the following personnel file information must be disclosed:

- (a) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;
- (b) information relating to the status of any formal charges against the employee; and
- (c) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

IC 5-14-3-4(b)(8).

The response of the Correctional Facility contained only limited personnel file information. The person who was responsible for the denial of the records was Mr. Al Parke, Superintendent of the Putnamville Correctional Facility. Mr. Parke's response to your request gives you only a portion of the records you requested, and in that respect, it is a denial of the rest of the record. Inasmuch as it implicitly denies a portion of the personnel file, it does not state the basis for denial, as required by IC 5-14-3-9(c)(2)(A). Such a basis could be that no other personnel file information exists in that person's file (an unlikely fact), or that the remainder of the file is subject to IC 5-14-3-4(b)(8) and the agency is exercising its discretion to not disclose

it. In any event, the law mandates that several types of information in personnel files must be disclosed. Yet, Mr. Parke's response fails to either disclose that information or address the basis for nondisclosure. As such, the Correctional Facility has violated IC 5-14-3-9(c)(2) by failing to state the basis for the denial.

CONCLUSION

For the foregoing reasons, I find that the Putnamville Correctional Facility violated the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Mr. Al Parke, Superintendent