

November 15, 2004

Aaron Israel  
P.O. Box 557  
Westville, IN 46391-0557

*Re: Formal Complaint 04-FC-191; Alleged Violation of the Access to Public Records Act by the Maximum Control Facility*

Dear Mr. Israel:

This is in response to your formal complaint alleging that the Maximum Control Facility ("Facility") violated the Access to Public Records Act ("APRA") by denying you public records. I find that the Facility violated the Access to Public Records Act.

#### BACKGROUND

You submitted a written request for records to Carla Castro, an employee of the Business Office. You requested 1) reports of monthly food costs, state form 16857 at the Maximum Control Facility and Westville Correctional Facility; and 2) any annual reports created the past two years at those facilities. You allege that Ms. Castro returned your request and failed to state a reason why she was denying you the record, requiring that you "see your counselor." You also requested the report of monthly food costs from Dale Trotter, the Chief Food Supervisor. You claim that there was no response from Mr. Trotter. You filed your complaint with this office, which I received on October 15, 2004. I sent a copy of your complaint to Ms. Castro at the Facility. I have not received a written response, but my staff attorney spoke with Ms. Castro by telephone. She alleges that she responded in writing to your request although she did not retain a copy of her response. She explained that she referred you to your counselor because the counselor could obtain the records more quickly and the counselor is responsible for providing records.

#### ANALYSIS

Any person may inspect and copy the public records of a public agency during the regular business hours of the agency, unless the records are exempted from disclosure under IC

5-14-3-4. IC 5-14-3-3(a). The Maximum Control Facility, a facility within the Indiana Department of Correction, is a public agency. IC 5-14-3-2. The agency is required to respond in writing to any written request for records within seven (7) days of a mailed request for records. IC 5-14-3-9(b). If the agency denies the record, it must do so in a writing that states the specific exemption or exemptions authorizing the withholding of the record, and the name and the title or position of the person responsible for the denial. It appears that Ms. Castro has responded to you in writing and within the timeframe required under APRA. However, it appears that Ms. Castro denied you the record and instructed you to direct your request to your counselor because your counselor is responsible for providing you the record. Although it is acceptable under APRA to make records available through a particular person within an agency, it is not consistent with APRA to deny a record and require the individual to resubmit his request to a different person within the agency. If Ms. Castro could not supply the record, she should have made arrangements for your counselor to supply the record to you without requiring you to resubmit your request. Also, the Facility did not offer any explanation for the failure of Mr. Trotter to respond to your request. Again, I find that the Facility has denied you a record in violation of the APRA.

#### CONCLUSION

For the foregoing reasons, I conclude that the Maximum Control Facility violated the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Ms. Carla Castro