

November 29, 2004

Ms. Helen Coleman  
4109 North Central Avenue  
Indianapolis, IN 46205

*Re: Formal Complaint 04-FC-205 and 04-FC-206 (consolidated); Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Ms. Coleman:

This is in response to your formal complaints alleging that the Indiana Department of Correction violated the Access to Public Records Act ("APRA") by failing to respond to your two requests for records. I find that the Indiana Department of Correction did not violate the Access to Public Records Act with respect to either of your requests.

#### BACKGROUND

With respect to complaint #04-FC-205, you had requested access to three items relating to monies in the Indiana State Prison Recreation Fund. You had sent this request to Evelyn Ridley-Turner, Commissioner of the Indiana Department of Correction. You claim to have mailed your request on October 8, 2004. With respect to complaint #04-FC-206, you requested various documents, including e-mails and memoranda relating to lock down on certain housing units in the Indiana State Prison. You state that you mailed this request to Ms. Ridley-Turner on October 3, 2004. For both complaints, you state that you did not receive any response.

Your complaints were received by this office on October 28, and were forwarded to Ms. Ridley-Turner for response. Pam Pattison, Director of Media and Public Relations for the Indiana Department of Correction, responded on behalf of the agency in a letter dated November 15, 2004. I have enclosed a copy of her response for your reference. In her response, Ms. Pattison states that with respect to your October 8 request, the Department of Correction did not receive the request; it received it for the first time when I sent it with the complaint. With respect to your October 3 request, Ms. Pattison states that she sent an October 18 letter to Michael Hunt, a person incarcerated at the Indiana State Prison. In past complaints filed with this office, you or Mr. Hunt have jointly requested records and filed complaints. I received the

complaints filed October 28 in an envelope sent from Michael Hunt at the Indiana State Prison, although neither your complaints nor the requests appeared to have been by or on behalf of Michael Hunt. Because of past correspondence in which you appear to be acting on his behalf, and because what purports to be your correspondence has been mailed from Michael Hunt at the Indiana State Prison, I have treated your complaint and request for documents as directed by and for Michael Hunt. In the event that you ever seek records on your own behalf, I strongly recommend that you make it clear that you are requesting the records, and where the response for records should be directed to.

## ANALYSIS

Any person may inspect and copy public records of a public agency during the regular business hours of the agency. Ind.Code 5-14-3-3(a). An agency is required to respond to a request for records that is mailed to the agency within seven (7) calendar days of the agency's receipt of the request.

You claim that you have not received a response to either request for records from the Indiana Department of Correction. With respect to the October 8 request for information relating to the Recreation Fund, the Department of Correction claims to have not received this request. If the agency did not receive your request for records, it did not deny you a record in contravention of the Access to Public Records Act by not responding. Ms. Pattison advises me that she has responded to your request for records, which she received at the time I sent her your complaint.

With respect to the October 3 request for records relating to lock down, the Department of Correction responded to Michael Hunt on October 18, having received the request on October 12. This was a timely response because it was sent within seven days of the agency's receipt of the request, albeit perhaps you expected the response to be directed to you rather than Mr. Hunt. However, under the circumstances I decline to find any violation of the Access to Public Records Act where past correspondence has left the Department of Correction (and this office) unclear as to who was sending the correspondence. Please be aware that mail sent from Michael Hunt from the Indiana State Prison will be presumed to be his correspondence.

In the Department of Correction's October 18 response, it stated that it would need additional time to determine whether there were any records that met your request. An agency need not produce records within seven (7) days of receiving a request; the agency is required only to respond within that timeframe. The agency's October 18 response informing you that it was determining whether there were responsive records was adequate and timely. In investigating this complaint, I have learned that the Department of Correction will be sending you a letter shortly with information regarding whether the Department of Correction maintains any responsive records.

## CONCLUSION

For the foregoing reasons, I find that the Indiana Department of Correction did not violate the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Ms. Pam Pattison  
Michael Hunt