

August 24, 2006

Michael A. Christianson  
#135489  
Wabash Valley Correctional Facility  
Box 2222  
Carlisle, IN 47838

*Re: Formal Complaint 06-FC-128; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Mr. Christianson:

This is in response to your formal complaint alleging that the Indiana Department of Correction (“Department”) denied you a record under the Access to Public Records Act. I find that the Department was required to respond to the request for records within seven days of receiving the request.

#### BACKGROUND

You filed your formal complaint with the Office of the Public Access Counselor on July 25, 2006. You alleged that you requested a copy of the food service contract between Aramark and the Department on June 29, 2006. You contend that the Department failed to respond to your request.

I sent a copy of your complaint to the Department. Mr. Robert D. Bugher, Legal Services Director for the Department, sent me a letter, a copy of which is attached for your reference. He acknowledged receiving your request on July 5. Mr. Bugher stated that he sent you a letter, which he enclosed, dated July 20. The Department is prepared to make the contract available to you for the \$.10 per page copying fee, if you remit the payment in advance.

## ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). If a public agency receives a request for a record via U.S. Mail or facsimile, the public agency is required to respond within seven calendar days, or the request is deemed denied. IC 5-14-3-9(b).

The Department is making the contract available to you, but the first correspondence that the Department sent in response to your request was sent on July 20. The Department was required to mail you a response by July 12, seven days after the Department received your request. Therefore, the tardy response was in violation of section 9(b) of the Access to Public Records Act.

A public agency may charge a copying fee for copies of a public record. IC 5-14-3-8. For a state agency such as the Department of Correction, the uniform copying fee is \$.10 per page. IC 5-14-3-8(c). The agency may require that the payment for copying fees be made in advance. IC 5-14-3-8(e). Therefore, the Department’s substantive response, although late, is consistent with the Access to Public Records Act.

## CONCLUSION

For the foregoing reasons, I find that the Indiana Department of Correction failed to timely respond to your request for records, but may charge a copying fee for the record prior to making it available.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Robert D. Bugher