

October 24, 2007

Lewis Johnson
c/o John Emry
62 West Jefferson Street
Franklin, Indiana 46131

Re: Formal Complaint 07-FC-298; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Johnson:

This is in response to your formal complaint alleging the Indiana Department of Correction ("Department") violated the Access to Public Records Act ("APRA") (Ind. Code §5-14-3) by not responding to your request for records. It is my opinion the Department violated the APRA when it did not respond to your request for records.

BACKGROUND

In your complaint you allege that on August 24, 2007 you mailed a request to the Department for a copy of your medical records. You included with the request a signed authorization for the release of protected health information. You provided evidence the Department received your request on August 27. You filed your complaint with my office on September 26.

The Department did not respond to your complaint at my office's invitation to do so.

ANALYSIS

The public policy of the APRA states, "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." Ind. Code §5-14-3-1. The Department is clearly a public agency for the purposes of the APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Department during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).


A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered by mail or facsimile, the agency must respond to the request within seven days of receipt. I.C. §5-14-3-9(b).

Here the Department did not respond to your complaint. You provided evidence the Department received your request for records on August 27. As such, it had a duty to respond to your request within seven days of receipt of the request. I.C. §5-14-3-9(b). If the Department did not do so, it violated the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion the Department violated the APRA when it did not respond to your request for records.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: David Donahue, Commissioner, Indiana Department of Correction
Robert Bugher, Indiana Department of Correction