

February 4, 2008

Michael Christianson  
DOC #135489  
727 Moon Road  
Plainfield, Indiana 46168

*Re: Formal Complaint 08-FC-27; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Mr. Christianson:

This opinion is written 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 denying you access to records. I have enclosed a copy of Department’s response to your complaint for your reference. It is my opinion Department has not violated the Access to Public Records Act.

#### BACKGROUND

You allege that you submitted to the Department a letter dated November 24, 2007, whereby you requested information related to health care services provided by the Department. The Department responded to your request by letter dated December 6, wherein the Department indicated that due to the breadth of the request it would take some time to analyze to determine what records are responsive and whether they may be disclosed. You mailed this complaint on December 31, and I received in on January 4, 2008.

The Department responded to your complaint by letter dated January 22 from Robert Bugher. Mr. Bugher indicates that the Department had compiled the records responsive to your request and sent you a letter dated January 21 indicating the cost for the copies. Once you remit payment, the Department will send you the records.

#### 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. 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 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 made by mail, electronic mail, or facsimile transmission and the agency does not respond within seven days, the request is deemed denied. I.C. §5-14-3-9.

A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency. A public agency is required to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. §5-14-3-7(a). However, section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. I.C. §5-14-3-7(c). The public access counselor has stated that records must be produced within a reasonable period of time, based on the facts and circumstances. Consideration of the nature of the requests (whether they are broad or narrow), how old the records are, and whether the records must be reviewed and edited to delete nondisclosable material are necessary to determine whether the agency has produced records within a reasonable timeframe.

Here, the Department responded to your request by letter dated December 6, which appears to be within the seven days required by statute, considering the length of time it takes mail to travel through the prison mail system. The Department indicated it would analyze your request, and then sent you correspondence approximately six weeks later indicating the records had been collected. I do not believe this was an unreasonable amount of time to process this request. Further, I understand that as soon as you remit payment, the Department will mail the copies to you.

#### CONCLUSION

For the foregoing reasons, it is my opinion Department has not violated the APRA.

Best regards,



Heather Willis Neal  
Public Access Counselor

cc: Robert Bugher, Indiana Department of Correction