



STATE OF INDIANA

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October 20, 2010

Mr. Steven W. Pritt
DOC # 196024 - H328
3038 W. 850 S.
Bunker Hill, IN 46914

Re: Formal Complaint 10-FC-216; Alleged Violation of the Access to Public Records Act by the Marion County Jail II

Dear Mr. Pritt:

This advisory opinion is in response to your formal complaint alleging the Marion County Jail II (the "Jail") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*, by denying you access to public records. As of today, we have not received a response to your complaint from the Jail.

BACKGROUND

In your complaint, you allege that the Jail failed to respond to your request for access to certain records. It is unclear whether what is listed in your complaint is what you requested from the Jail, but your complaint shows that you are seeking access to multiple types and classifications of records pertaining to yourself because you list "[a]ny and all info pertaining to Steven Pritt."

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." I.C. § 5-14-3-1. The Jail is a "public agency" under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Jail's public records during regular business hours unless the public records are excepted from disclosure as 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 and the agency does not respond to the

request within seven (7) days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). If the request is delivered in person and the agency does not respond within twenty-four (24) hours, the request is deemed denied. I.C. § 5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. It is unclear why the Jail failed to respond to your request, but if the Jail failed to do so within seven days, it violated the APRA.

I note that the APRA states that a public agency “may not” disclose records “declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.” I.C. § 5-14-3-4(a)(2). Under I.C. § 11-8-5-2(a), the Indiana Department of Correction (“DOC”) may classify as confidential information maintained on a person who has been committed to the DOC or who has received correctional services from the DOC. Pursuant to this authority, the DOC has classified several categories of documents as “confidential information,” including information relating to offender diagnostic/classification reports; information that, if disclosed, might result in physical harm to that person or other persons; and internal investigation information. 210 I.A.C. 1-6-2(3)(A), (C), (E). If the records you seek constitute classified records under these rules, the Jail would not violate the APRA by denying your request. *See also Opinion of the Public Access Counselor 05-FC-40.*

CONCLUSION

For the foregoing reasons, it is my opinion that the Jail violated the APRA if it failed to respond to your request within seven days. However, if the records you sought were classified as confidential under DOC administrative rules, the Jail would not violate the APRA by withholding them.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Michelle Ryder