November 19, 2012

Mr. Kofi M. Ajabu
DOC 955750
4490 W. Reformatory Road
Pendleton, Indiana 46064

>   Re: *Formal Complaint 12-FC-330; Alleged Violation of the Access to Public*
>   *Records Act by the Indiana Department of Corrections*

Dear Mr. Ajabu:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Corrections ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* David W. Barr, Administrative Assistant, responded in writing to your formal complaint. His response is enclosed for your reference.

BACKGROUND

In your formal complaint, you provide that on September 11, 2012, Mr. Michael Barnes advised that you had to "purchase documentation from ISR." You thereafter began to contact the appropriate officials and requested a copy of your Level 2 disciplinary appeal (3 pages). You allege that you have submitted this request on four separate occasions, but have yet to have received a response from the Department.

In response to your formal complaint, Mr. Barr advised that he is the person responsible to receive and respond to requests for public records at the Pendleton Correctional Facility. Mr. Barr advised that he never received your request. Upon inquiry with Mr. Alsip, Mr. Barr was informed that Mr. Alsip had received your Interview Request Form, but did not receive a public records request form from you. In your Interview Request Form, you asked to receive a copy of your disciplinary appeal response. Upon receipt of your formal complaint, Mr. Barr was advised by Sgt. J. Rinehart that you had been sent a copy of the requested record and you were also informed that in the future, you would need to submit your request through your counselor and pay the appropriate fees. To ensure its receipt, Mr. Barr thereafter also sent you a copy of the record that had been requested.

ANALYSIS

The public policy of the APRA states that "(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." *See* I.C. § 5-14-3-1. The Department is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Department's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). 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. *See* I.C. § 5-14-3-9(b). At the agency's discretion, a request to inspect and copy may be in writing or on a form provided by the agency. *See* I.C. § 5-14-3-3(a)(2). Here, although you submitted an "Interview Request Form", Mr. Barr advised that at no time did you submit a "Public Records Request Form", which the Department requires to be filled out for all records requests. As such, it is my opinion that the Department would not have violated the APRA by requiring you to fill its "Public Request Form" in order to make a request of records from the agency. Regardless, as Mr. Barr has advised that he and Sgt. J. Rinehart have sent you a copy of the record that was sought, I trust that this is in satisfaction of your formal complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the Department did not violate the APRA.

Best regards,

Joseph B. Hoage
Public Access Counselor

cc: David W. Barr