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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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GRAYLON D. BELL,  
*Complainant,*

v.

WESTVILLE CORRECTIONAL FACILITY,  
*Respondent.*

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Formal Complaint No.  
17-FC-235

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Westville Correctional Facility (“Facility”) violated the Access to Public Records Act<sup>1</sup> (“APRA”). The Facility has responded to the Complaint via Mr. John Hicks. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on October 2, 2017.

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<sup>1</sup> Ind. Code §§ 5-14-3-1 to -10

## **BACKGROUND**

Graylon D. Bell (“Complainant”) filed a formal complaint alleging the Westville Correctional Facility violated the Access to Public Records Act by failing to provide responsive records within a reasonable time.

On June 17 and August 12, 2017, Complainant requested an incident report and a conduct report by specifying the date and time of the incident. As of the date of the filing of his complaint, Complainant had not received any documentation.

In response to the Complaint, the Facility wrote the following:

...in reference to the complaint, if there was a conduct report written on Mr. Bell then, he would have had a copy of that conduct report. Then when he went to DHB (Disciplinary Hearing Board) they would have read all the incident reports pertaining to his case. Then he would have been able to appeal it, if he did not agree with their decision.

## **ANALYSIS**

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.” Ind. Code § 5-14-3-1. The Westville Correctional Facility is a public agency for the purposes of the APRA, and subject to its requirements. Ind. Code § 5-14-3-2(n). Therefore, any

person has the right to inspect and copy the Facility disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a). Any request for inspection or copying must identify with *reasonable particularity* the record being requested, and be, at the discretion of the agency, in writing on or in a form provided by the agency. Ind. Code §§ 5-14-3-3(a)(1), -(2).

Incarcerated individuals have the same standing to file a public records request as any other citizen. Indeed there are more exceptions to disclosure for inmates due to security considerations, however, they are still entitled to a proper response and denial. Although Mr. Hicks did reach out to this Office to provide clarification, this Office is not immediately familiar with the process for conduct reports and incident reports in prisons.

Although the Complainant may have seen or been read the records he is seeking, the easiest and most efficient way to resolve this matter may be to simply give him the documents. A requester is entitled to one copy of a record sought pursuant to Ind. Code § 5-14-3-8(e)(2). Since the information has been disclosed to him previously, it is unlikely the documents contain non-disclosable information. And if they do, a proper denial under Ind. Code § 5-14-3-9 is required on the part of the agency.

I invite the Facility and any other DOC institution to contact this Office for any question – large or small – in order to avoid the complaint process in the future. Inmate complaints against state correctional facilities now make up a substantial portion of this Office’s complaint log and I would

welcome any opportunity to reduce the amount of complaints we receive.

**RECOMMENDATION**

Based on the foregoing, it is the Opinion of the Public Access Counselor that the Westville Correctional Facility provide the documents in question at the earliest opportunity, or provide an appropriate denial.

A handwritten signature in black ink, appearing to read 'LH Britt', written in a cursive style.

Luke H. Britt  
Public Access Counselor