

July 23, 2003

Mr. Mark R. Fish, 964381
Location E-201
Wabash Valley Correctional Facility
P.O. Box 111
Carlisle, IN 47838

Re: *Advisory Opinion 03-FC-52: Alleged Denial of Access to Public Records by the Indiana Department of Correction, Wabash Valley Correctional Facility.*

Dear Mr. Fish:

This is in response to your formal complaint, which was received on June 25, 2003. You have alleged that the Indiana Department of Correction, Wabash Valley Correctional Facility ("Department") has violated the Indiana Access to Public Records Act ("APRA"), Indiana Code chapter 5-14-3. Specifically, you allege that the Department denied you access to records of inmate trust fund accounts. Ms. Pam Pattison of the Department responded in writing to your complaint. A copy of her response is enclosed for your reference. For the reasons set forth below, it is my opinion that the Department did not deny you access to public records in violation of the APRA.

BACKGROUND

According to your complaint, on various occasions you requested an opportunity to inspect and copy records of inmate trust funds. Initially you were advised that the cost of copying the records would be twenty-four (24) dollars. You then advised the facility you wanted an opportunity to inspect the records prior to purchasing the copies. On June 16, 2003 you were advised that you could not inspect the records in question because they were in the business office and that as a maximum security offender you could not have access to the business office. You then offered to view the records in a secure area, have the records brought to you, or have the records placed on a computer that is accessible to you. On June 20, 2003 your were told in a letter that the business office would not accommodate you by providing you with the opportunity to inspect the record at any of the areas you suggested. You then filed your complaint with this Office.

In her response to this Office Ms. Pattison advised that Wabash Valley Correctional Facility is a maximum-security prison. She further advised that you are maximum-security offender. She advised that based on safety and security issues, the facility could not honor your request to inspect the records

in question. She further advised that you have not been denied access to the documents. Rather, on several occasions you were advised that you would be provided the documents after you notified documentation that the funds to cover the cost of the copies had been withdrawn from your trust account.

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." Ind. Code § 5-14-3-1. The Department is clearly a public agency for the purposes of the APRA. Ind. Code § 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 Indiana Code section 5-14-3-4. Ind. Code § 5-14-3-3(a).

However, the APRA is a statute of general applicability, which means the APRA governs unless some other more specific statute addresses the issue. Therefore, the question here is whether there is some other statute that governs your right to inspect the records in the business office of the facility. It is my opinion that another statute does governs your ability access the business office of the facility and therefore its records. Indiana Code section 11-11-6-1 provides in relevant part that "[t]he department shall adopt policies and procedures for the protection of committed persons, including [] the monitoring of committed person whose presence in the general population of a facility or program constitutes a threat of physical danger to other persons." It is my opinion that Indiana Code section 11-11-6-1 allows the facility to restrict an offender's access to areas of the facility, even those areas where public records are maintained. Therefore, it is my opinion that the Department did not violate the APRA by prohibiting you from entering the business office for the purpose of inspecting public records.

Additionally, you stated that the Department would not allow you to inspect the public records in a secure area, would not bring the records to you so that you could inspect the records, and would not provide the records to you on a computer that is accessible to you. It is my opinion that the APRA does not require the Department to transfer records to a more convenient or accessible location in order to provide an opportunity for you to inspect the records. Therefore, it was not a violation of the APRA for the Department to refuse to provide an opportunity for you to inspect the records at your location, in a secure location, or on a computer accessible to you.

CONCLUSION

It is my opinion that the Indiana Department of Correction, Wabash Valley Correctional Facility did not violate the Access to Public Records Act by prohibiting you from inspecting the public records you requested at the business office. Additionally, it is my opinion that the Department has no obligation under the Access to Public Records Act to provide you with an opportunity to inspect the records at your location, in a secure location, on a computer accessible to you.

Sincerely,

Sandra K. Barger
Acting Public Access Counselor

Enclosure

cc: Ms. Pam Pattison, Department of Correction