



# STATE OF INDIANA

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April 23, 2013

Mr. Chad M. Farrell  
DOC 128294  
1946 West U.S. Highway 40  
Greencastle, Indiana 46135

*Re: Formal Complaint 13-FC-104; Alleged Violation of the Access to Public Records Act by the Miami Correctional Facility*

Dear Mr. Farrell:

This advisory opinion is in response to your formal complaint alleging the Miami Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Joel D. Lyttle, Legal Services Assistant Director, respond on behalf of the Facility. His response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you provide that the Facility improperly denied your request for records pursuant to I.C. § 5-14-3-4(b)(23). Your request sought copies of any and all documents and/or complaints filed against a specific correctional officer, including any incident reports, investigation reports, disciplinary reports, etc. . . .

In response to your formal complaint, Mr. Lyttle advised that the Facility exercised its discretion and denied your request pursuant to I.C. § 5-14-3-4(b)(23)(A)(i) as you were seeking personnel information relating to a correctional officer. Further, pursuant to 210 IAC 1-6-2(3)(E), all internal investigative information is considered confidential and not subject to disclosure.

## 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 Facility 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 Facility'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 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). 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. Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. *See* I.C. § 5-14-3-9(c).

The Facility denied your request in writing pursuant to I.C. § 5-14-3-4(b)(23)(A)(i). There is no dispute that you are currently confined in a penal institution. As such, you are an “offender” for the purposes of the APRA. *See* I.C. § 5-14-3-2(i). The APRA contains an exception to disclosure to an “offender” for a record that contains personal information relating to a correctional officer, a law enforcement officer, a judge, the victim of a crime, or the family members of said parties or contains information that would concern or affect the security of a jail or correctional facility:

Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) a law enforcement officer (as defined in IC 35-31.5-2-185).

(iii) a judge (as defined in IC 33-38-12-3);

(iv) the victim of a crime; or

(iii) a family member of a correctional officer, law enforcement officer, judge, or the victim of a crime;  
or

(B) concern or could affect the security of a jail or correctional facility. I.C. § 5-14-3-4(b)(23).

Based on your status as an “offender” and the class of records that were requested, it is my opinion that the Department did not violate the APRA by denying your request pursuant to I.C. § 5-14-3-4(b)(23)(A)(i).

## CONCLUSION

Based on the foregoing reasons, it is my opinion that the Facility did not violate the APRA.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Joseph B. Hoage  
Public Access Counselor

cc: Joel D. Lytle