



STATE OF INDIANA

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October 6, 2011

Curtis L. Jackson
P.O. Box 1111
Carlisle, Indiana 47838

Re: Formal Complaint 11-FC-256; Alleged Violation of the Access to Public Records Act by the Wabash Valley Correctional Facility

Dear Mr. Jackson:

This advisory opinion is in response to your formal complaint alleging the Wabash Valley Correctional Facility ("WVCF") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Rich Larsen responded on behalf of the WVCF. His response is enclosed for your reference.

BACKGROUND

In your complaint, you allege that on August 29, 2011 you submitted a request to the WVCF to review your facility packet ("Packet"). After failing to receive a response, you submitted a public records request to Rich Larsen, the WVCF's Public Information Officer. As of September 29, 2011, the date you filed your complaint with the Public Access Counselor's Office, you have not be allowed to inspect your Packet.

In response to your formal complaint, Mr. Larsen advised that per Indiana Department of Correction Operational Procedure 01-04-104, offenders may request to review their offender records on an annual basis. Mr. Larsen received your public records request on September 12, 2011, upon his return to the WVCF. Mr. Larsen reported that you reviewed your facility packet on September 30, 2011, the day after you filed your complaint with this office.

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." I.C. § 5-14-3-1. The WVCF 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 WVCF'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).

Pursuant to I.C. § 11-8-5-2(a), WVCF has authority to promulgate administrative rules to "classify as confidential . . . personal information maintained on a person who has been committed to the department or who has received correctional services from the department." The Department may keep confidential information from the offender or other persons unless ordered to disclose by a court, for research purposes or if the Commissioner of the Department determines there is a compelling public interest to disclose them. *See* I.C. § 11-8-5-2(b). The Department has classified certain offender records as confidential pursuant to 210 IAC 1-6-2 and an offender, or his agent's, rights to access confidential or restricted information are set forth at 210 IAC 1-6-4. Department Policy 01-04-104, which further addresses access to offender records, is based upon the Department's administrative rules. *See Opinion of the Public Access Counselor 02-FC-46.*

Pursuant to 01-04-104, offenders may request to review their offender records or "Packet" on an annual basis and that the request may be denied if not submitted in accordance with WVCF's operational procedures. Here, Mr. Larsen provided that you initially made a request of the WVCF's Classification Department to review your Packet, who then forwarded the request to your counselor. Upon being informed by the Classification Department of your request and after receiving your verbal request, your counselor coordinated a time for you to inspect the Packet. As your initial request to review the Packet did not comply with the requirements of WVCF Policy 01-04-104 and you have now been given the opportunity to review your Packet, it is my opinion that the WVCF did not violate the APRA.

CONCLUSION

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

Best regards,



Joseph B. Hoage
Public Access Counselor

cc: Rich Larsen, Wabash Valley Correctional Facility