



STATE OF INDIANA

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September 10, 2014

Mr. Robert C. Sheridan #162482
Miami Correctional Facility
3038 West 850 South
Bunker Hill, IN 46914

Re: Formal Complaint 14-FC-172; Alleged Violation of the Access to Public Records Act by the Miami Correctional Facility

Dear Mr. Sheridan,

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.* The Facility has responded via Administrative Assistant Angie Heishman. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion in response to your formal complaint received by the Office of the Public Access Counselor on August 7, 2014.¹

BACKGROUND

Your complaint dated July 15, 2014, alleges Miami Correctional Facility violated the Access to Public Records Act by not allowing access to records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On or about February 19, 2014, you sent a records request to the Health Profession Bureau seeking records related to named contracted personal of the facility. Upon receiving the response, the facility mailroom confiscated the response and did not allow you access to it. The facility claims the information would jeopardize the record keeping or security of the prison and is therefore exempt from disclosure.

¹ Please note your complaint is beyond the statutory timeframe afforded to you by Ind. Code 5-14-5-7 and therefore this opinion is for educational purposes only. It should not be used as persuasive authority in any further action on this factual matter. This issue is unique and therefore will be addressed as an academic exercise.

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 Ind. Code § 5-14-3-1. The Miami Correctional Facility is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Facility’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14-3-3(a).

A request for records may be oral or written. See Ind. Code § 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 Ind. Code § 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 Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

It should first be noted the Facility did not actually deny you the records you requested, they denied you access to another entity’s records. The Public Access Counselor therefore does not scrutinize Department of Correction procedure as it relates to the protocol for its offenders. That being said, no public agency should be an impediment to access unless it truly falls under an APRA exception.

The exception claimed by the Facility states the Facility may withhold records which contain administrative or technical information which would jeopardize a record keeping or security system. See Ind. Code § 5-14-3-4(b)(10). On the face of your request, I have a difficult time making a connection between the type of information contemplated in subsection (b)(10) and the information you request. Without more of an explanation from the Facility, I cannot determine if they have cited an appropriate exception. If it intended to cite Ind. Code § 5-14-3-4(b)(23) (Records requested by an offender that concern or could affect the security of a jail or correctional facility), it may have a better argument.

Without a more robust analysis from Miami Correctional Facility, it is my Opinion they have not met their burden to cite an appropriate exception to justify denying you access.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Ms. Angie Heishman