



# STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

January 14, 2015

Mr. Robert G. Daily, III  
New Castle Correctional Facility  
100 Van Nuys Road  
P.O. Box A  
New Castle, IN 47362

*Re: Formal Complaint 14-FC-312; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Mr. Daily,

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Correction ("DOC") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Mr. Robert D. Bugher, Esq., General Counsel, responded on behalf of DOC. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on December 15, 2014.

## BACKGROUND

Your complaint dated November 16, 2014, alleges the Indiana Department of Correction violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

At some point prior to October 30, 2014, you requested pictures of a stab wound you suffered during your incarceration at the New Castle Correctional Facility. You were denied the pictures as their release was considered to be a safety or security risk.

Similarly, the DOC responded to your complaint by stating if the records do exist, they would be protected from disclosure as an internal investigation document pursuant to 210 IAC 1-6-2(3)(E).

## 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 Indiana Department of Correction 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 DOC’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).

210 IAC 1-6-2(3)(E) states that internal investigation information is considered confidential. Moreover, although not cited by the department, photographs are restricted information pursuant to 210 IAC 1-6-2 (2)(c) and may be withheld from disclosure unless a compelling public interest exists. You have not demonstrated a compelling public interest. If you do pursue a lawsuit against DOC, the photographs may be available through the discovery process pursuant to a court order.

## CONCLUSION

It is the Opinion of the Public Access Counselor the Indiana Department of Correction has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', is positioned above the printed name of the Public Access Counselor.

Luke H. Britt  
Public Access Counselor

Cc: Mr. Robert D. Bugher, Esq.