
OPINION OF THE PUBLIC ACCESS COUNSELOR

FARRAH ANDERSON,
Complainant,

v.

INDIANA DEPARTMENT OF CORRECTION,
Respondent.

Formal Complaint No.
24-FC-68

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to the formal complaint alleging The Indiana Department of Correction violated the Access to Public Records Act.¹ Megan Lavender filed an answer on behalf of the agency. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on September 30, 2024.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

This case involves a dispute over access to records related to offender information.

On August 19, 2024, Complainant Farrah Anderson submitted several public records requests to the Indiana Department of Correction (IDOC) for approximately a months' worth of offender "medical grievances" filed with IDOC facilities.

IDOC provided aggregate data of the number of grievances filed, but not supplemental information about their substance. IDOC cited the Administrative Code regarding offender records as justification for their denial.

Anderson contends that the code provisions do not cover medical grievances and she filed her complaint on September 30, 2024.

For its part, IDOC argues the grievances contain medical information of offenders. While reports are run, the individual grievances are considered to be part of the offender file contemplated by the Administrative Code. While the offender's or an authorized agent can receive copies of the file, it considers them off-limits to the public at-large.

ANALYSIS

1. The Access to Public Records Act

The Access to Public Records Act (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 Indiana Department of Correction is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the IDOC’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b). This opinion explores one of those exclusionary rules and its applicability.

2. Medical grievances

IDOC cites 210 IAC 1-6-3(a) as authority to withhold the records in question. It potentially applies by virtue of Indiana Code section ~~5-14-3-4(a)~~(2)².

Pursuant to the Indiana Administrative Code, the following information is categorized as restricted or confidential:

(2) Restricted information shall include, but is not limited, to the following:

(A) Education, medical, sex offender, substance abuse, disciplinary, criminal, and employment records.

(B) Finger and voice prints.

(C) Photographs.

(D) Institutional summaries.

(E) Psychiatric and psychological reports.

(F) Social history reports.

(G) Progress reports.

(H) Educational and vocational reports.

² “Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute”. Ind. Code § ~~5-14-3-4(a)~~(2). IDOC has been granted this authority by Indiana code section 11-8-2-5(b)(1).

(3) Confidential information shall include, but is not limited to, the following:

(A) Offender diagnostic/classification reports.

(B) Criminal intelligence information.

(C) Information that, if disclosed, might result in physical harm to that person or other persons.

(D) Information obtained upon promise of confidentiality.

(E) Internal investigation information.

(F) All juvenile records.

(G) Any other information required by law or promulgated rule to be maintained as confidential.

210 IAC 1-6-2. IDOC considers the medical grievances as incarcerated individuals' medical records; institutional summaries; and social history.

Medical records are exempted from disclosure, however, only those records and charts created by a provider. See Ind. Code § 5-14-3-4(a)(9). The grievances in question are created by the inmate and speak more toward the lack or insufficiency of medical treatment.

Similarly, without more, it would be difficult to categorize these records as institutional summaries or social history.

The administrative code in question does not explicitly list medical grievances as confidential or restricted material.

The General Assembly instructs readers to interpret the access laws liberally in favor of transparency³, and courts thereby mandate exceptions conservatively applied.⁴ Even still, the legislature also limits the public access counselor (but no one else) to a rote recitation of the law “as plainly written”⁵. Therefore, the PAC cannot read something into the law that is not explicitly stated. Without an ombudsman interpreting these terms in a formal advisory capacity, it falls to the courts to make these determinations, or alternatively, the General Assembly to legislate and define each iteration of every possible document in existence.

³ Ind. Code § 5-14-3-1

⁴ *Robinson v. Indiana University*, 659 N.E.2d 153, 156 (Ind. Ct. App. 1995).

⁵ Ind. Code § 5-14-5-10.5

CONCLUSION

Based on the foregoing, it is the opinion of this office that inmate medical grievances cannot be withheld from disclosure under the current law or administrative code.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor

Issued: February 18, 2024