



# STATE OF INDIANA

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June 2, 2009

Anthony Wayne Taylor  
DOC #910720  
Putnamville Correctional Facility  
1946 US Hwy 40  
Greencastle, Indiana 46135

*Re: Formal Complaint 09-FC-127; Alleged Violation of the Access to Public Records Act by the Indiana Parole Board*

Dear Mr. Taylor:

This advisory opinion is in response to your formal complaint alleging the Indiana Parole Board ("Board") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by failing to provide you access to records. A copy of the Board's response to the complaint is enclosed for your reference. It is my opinion the Board's initial response to your request was untimely and the Board took an unreasonable amount of time to inform you how you may obtain copies of the requested records.

## BACKGROUND

You allege that you requested from the Board copies of a number of records. You submitted your request in March 2009 and received a response from the Board. The response, dated March 18, contained an indication the request was received on March 9. The Board further indicated a response to your request was being prepared. You filed the present complaint, postmarked on May 15 and received by my office on May 18, alleging the Board has not yet sent you copies of the requested records.

The Board responded to the complaint by sending to this office a copy of a May 14 letter sent to you. In the May 14 letter from Thor Miller of the Board, Mr. Miller provided information regarding how you may obtain copies of the tape recordings you requested. Mr. Miller provided no further indication as to why it took more than two months to send you the response.

## ANALYSIS

The public policy of the APRA states, "[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 Board is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the Board during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 5-14-3-3(a), 5-14-3-9(c). If the request is delivered by mail and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency. A public agency is required to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. § 5-14-3-7(a). However, section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. I.C. § 5-14-3-7(c). Former public access counselors and I have stated that records must be produced within a reasonable period of time, based on the facts and circumstances. Consideration of the nature of the requests (whether they are broad or narrow), how old the records are, and whether the records must be reviewed and edited to delete nondisclosable material are necessary to determine whether the agency has produced records within a reasonable timeframe.

Here, the Board received your request on March 9 and responded by letter dated March 18. Because the response was sent later than seven days after receipt of the request, the Board's response was untimely. I.C. § 5-14-3-9(b). The Board has now provided more information to you, in the May 14 letter. In that letter the Board has indicated how you may obtain the records you are seeking. The Board provides no further information or justification as to why it took nearly two months to send you the follow-up letter. And it is apparent the Board did not spend the intervening two months retrieving or preparing the records, as there were no records accompanying the May 14 letter.

While there are no prescribed timeframes for producing records, this office has maintained that records must be produced in a reasonable period of time, based on facts and circumstances. In the absence of an explanation of facts and circumstances causing the delay, it is my opinion that the Board's subsequent response to you was unreasonably delayed.

It is my understanding the Board is now prepared to provide you copies of the requested records upon receipt of your payment. The APRA does allow an agency to collect costs associated with reproduction of records in advance of sending the records. *See* I.C. § 5-14-3-8.

## CONCLUSION

For the foregoing reasons, it is my opinion the Board's initial response to your request was untimely and the Board took an unreasonable amount of time to inform you how you may obtain copies of the requested records.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Thor Miller, Indiana Parole Board