



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
HEATHER NEAL

Indiana Government Center South
402 West Washington Street, Room W460
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

July 13, 2009

Howard Steele
DOC #875796
Wabash Valley Correctional Facility
PO Box 1111
Carlisle, Indiana 47838

Re: Formal Complaint 09-FC-145; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Steele:

This advisory opinion is in response to your formal complaint alleging Indiana Department of Correction ("Department") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by failing to respond to your request for access to records. It is my opinion the Department violated the APRA if it received your request and did not respond.

BACKGROUND

You allege that on June 2, 2009 you sent to the Department a request for access to records. You filed the present complaint on June 18 (postmarked June 16), alleging the Department did not respond to your request.

My office sent a copy of the complaint to the Department and invited the Department to respond. To date my office has not received a response to the complaint.

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 Department 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 Department 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 or facsimile 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).

If the Department received your June 2 request and did not respond to the request within seven days of receipt, the Department has denied you access to records. I.C. § 5-14-3-9(b). If the Department received your request, it has violated the APRA by not responding to the request and thereby denying you access to records without providing a statement of the specific exemption(s) allowing the Department to deny access. See I.C. § 5-14-3-9(c).

CONCLUSION

For the foregoing reasons, it is my opinion the Department violated the APRA if it received your request and did not respond.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Robert Bugher, Indiana Department of Correction