



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

August 21, 2009

Clyde Piggie
DOC #933044
Wabash Valley Correctional Facility
PO Box 1111
Carlisle, Indiana 47838

Re: Formal Complaint 09-FC-183; Alleged Violation of the Access to Public Records Act by the Wabash Valley Correctional Facility

Dear Mr. Piggie:

This advisory opinion is in response to your formal complaint alleging the Wabash Valley Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. The Facility's response to the complaint is enclosed for your reference. It is my opinion the Facility did not violate the APRA.

BACKGROUND

You allege that the Facility has denied you access to records related to two Facility staff members. You filed the present complaint on August 12 (postmarked August 10).

The Facility responded to the complaint by letter dated August 12 from Rich Larsen. Mr. Larsen contends the records you have requested are excepted from disclosure pursuant to I.C. § 5-14-3-4(b)(23). Further, the Facility contends that you submitted a payment voucher for \$.20, when the total cost for the records would be considerably greater.

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 Facility 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 Facility 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).

The APRA provides a number of categories of records which may be disclosed by an agency at the agency's discretion. A listing of such records may be found in I.C. § 5-14-3-4(b). One group of records which may be disclosed at the discretion of the agency is the following:

Records requested by an offender that:

- (A) contain personal information relating to:
 - (i) a correctional officer (as defined in IC 5-10-10-1.5);
 - (ii) the victim of a crime; or
 - (iii) a family member of a correctional officer of the victim of a crime; or . . .

I.C. § 5-14-3-4(b)(23).

The APRA defines "offender" as "a person confined in a penal institution as the result of the conviction for a crime." I.C. § 5-14-3-2(i). Because you are an offender, the Facility may withhold from disclosure records that "concern or could affect the security" of the Facility. *See* I.C. § 5-14-3-4(b)(23).

The Facility contends that I.C. § 5-14-3-4(b)(23) excepts the records from disclosure. Based on the information provided, it appears the records you have requested would be excepted from disclosure based on this provision.

Regarding copy fees, the Facility may charge copy fees in compliance with I.C. § 5-14-3-8. Even if the records you requested were disclosable, you have not submitted sufficient payment for copy costs.

CONCLUSION

For the foregoing reasons, it is my opinion the Facility did not violate the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Rich Larsen, Wabash Valley Correctional Facility