



# STATE OF INDIANA

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June 18, 2010

Mr. Chuck W. Adams  
Correctional Industrial Facility  
P.O. Box 601, 36225 23B-4E  
Pendleton, IN 46064-0601

*Re: Formal Complaint 10-FC-136; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Mr. Adams:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Correction (the "DOC") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The DOC's response to your complaint is enclosed for your reference.

## BACKGROUND

In your complaint, you allege that you requested a copy of certain records from the DOC on April 24, 2010, but that the DOC had not responded to your complaint as of May 10, 2010. In response to your complaint, the DOC forwarded a copy of its May 24, 2010, letter to you. I understand that the DOC enclosed with that letter all records responsive to your request.

## 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." I.C. § 5-14-3-1. The DOC does not dispute that it is a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the DOC's public records during regular business hours unless the records are excepted from disclosure as confidential or nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Under the APRA, 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 (7) days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, if the DOC failed to respond to your written request within seven (7) days, the DOC violated the APRA.

I understand that the DOC has now sent you your requested records that the DOC maintains. I trust the DOC's disclosure of the records it maintains resolves your complaint.

#### CONCLUSION

For the foregoing reasons, it is my opinion that if the DOC failed to respond to your written request within seven (7) days of receipt, the DOC violated Section 9 of the APRA. If the DOC has now disclosed to you all records maintained by the DOC and on the DOC's behalf, the DOC did not otherwise violate the APRA.

Best regards,



Andrew J. Kossack  
Public Access Counselor

Cc: Robert D. Bugher