



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
ANDREW J. KOSSACK

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

June 15, 2011

Mr. Toby L. Hicks, DOC # 985649
Westville Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 11-FC-117; Alleged Violation of the Access to Public Records Act by the Tippecanoe County Jail and Sheriff's Office

Dear Mr. Hicks:

This advisory opinion is in response to your formal complaint alleging the Tippecanoe County Jail and Sheriff's Office (collectively, the "Agency") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Sheriff Tracy Brown's response on behalf of the Agency is enclosed for your reference.

BACKGROUND

You allege in your complaint that the Agency violated the APRA by releasing book-in reports to you with the personal addresses of the subjects redacted. You argue that the Agency has no legal basis to withhold the personal addresses of subjects who are booked into the jail.

In response to your complaint, Sheriff Brown acknowledges that you requested booking records for twenty women who were booked into the jail between 2004 and 2011. When he initially received your request, he instructed his staff to "prepare the records and send them . . . without the addresses for these young ladies [identified in your request]." Upon receiving this formal complaint, however, Sheriff Brown determined that you were entitled to the addresses and immediately forwarded them to you.

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 Agency 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 Agency's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Here, it is apparent that the Agency initially withheld the personal addresses of young women who were booked into the jail out of concern for their personal safety. While I understand such concern -- and share it -- I do not see an obvious exception to the APRA that would permit the Agency to withhold that information. The APRA provides a number of categories of records which may be withheld by an agency at the agency's discretion. *See generally* I.C. § 5-14-3-4(b). One group of records which may be disclosed at the discretion of the agency includes "[r]ecords requested by an offender that: . . . concern or could affect the security of a jail or correctional facility." I.C. § 5-14-3-4(b)(23)(B). 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). Thus, if the Agency -- or any other -- can show that releasing the personal information of booked individuals to offenders would somehow concern or could affect the jail's security, the Agency would be justified in withholding the records under subsection 4(b)(23). However, that has not been shown to be the case here.

In any event, I trust the Agency's production to you of the unredacted versions of the booking records resolves your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the Agency has not shown it has a legal basis to redact the personal addresses at issue here. The Agency has now released unredacted versions of the records to you.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Sheriff Tracy Brown