



STATE OF INDIANA

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July 26, 2011

Mr. Robert L. Holleman
DOC # 10067
P.O. Box 1111
Carlisle, Indiana 47838

Re: Formal Complaint 11-FC-166; Alleged Violation of the Access to Public Records Act by the Wabash Valley Correctional Facility

Dear Mr. Holleman:

This advisory opinion is in response to your formal complaint alleging the Wabash Valley Correctional Facility ("WVCF") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Rich Larsen responded on behalf of the WVCF. His response is enclosed for your reference.

BACKGROUND

On July 10, 2011, you filed a formal complaint with the Office of the Public Access Counselor alleging that you submitted a written request to the WVCF for records indicating ". . .how many prisoners at the WVCF hold jobs/school on a "normal daily basis (Southside only)."

In response to your formal complaint, Rich Larsen advised that after conferring with the WVCF Classification staff, the WVCF had no such record that was responsive to your request. He further provided that the WVCF interpreted your inquiry not as a public records request, but more in line with asking the facility to undertake a research project on your behalf which WVCF does not believe is required of a public agency under the APRA.

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 WVCF 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 WVCF'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).

Generally, if a public agency has no records responsive to a public records request, the agency does not violate the APRA by denying the request. “[T]he APRA governs access to the public records of a public agency that exist; the failure to produce public records that do not exist or are not maintained by the public agency is not a denial under the APRA.” *Opinion of the Public Access Counselor 01-FC-61*; see also *Opinion of the Public Access Counselor 08-FC-113* (“If the records do not exist, certainly the [agency] could not be required to produce a copy....”). Thus the WVCF did not violate the APRA by failing to respond to your request for records indicating how many prisoners at the WVCF hold jobs on a normal daily basis.

The APRA further provides that a request for inspection or copying must identify with reasonable particularity the record being requested. I.C. § 5-14-3-3(a). The APRA does not require that a public agency search all of its records for any reference to the information being requested. See *Opinion of the Public Access Counselor 04-FC-38*. Unless required by law, public agencies are under no obligation to create a record that complies with the requesting party’s request. *Id.* As such, the WVCF is not required to create a new record in response to your request and thus did not violate the APRA.

CONCLUSION

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

Best regards,

A handwritten signature in black ink, appearing to read 'J. Hoage', written in a cursive style.

Joseph B. Hoage
Public Access Counselor

cc: Rich Larsen, Wabash Valley Correctional Facility