



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

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

September 26, 2013

Mr. Steven L. Robbins - #145839
New Castle Correctional Facility
P.O. Box A
New Castle, IN 47362-1111

Re: Formal Complaint 13-FC-252; Alleged Violation of the Access to Public Records Act by the Indiana State Prison

Dear Mr. Robbins,

This advisory opinion is in response to your formal complaint alleging the Indiana State Prison, ("ISP") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Mr. Daniel Bodlovich, Supervisor of Classification, responded on behalf of the ISP. His response is enclosed for your reference. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on August 27, 2013.

BACKGROUND

Your complaint alleges the Indiana State Prison violated the Access to Public Records Act by denying your request in violation of Ind. Code § 5-14-3-3(b). You allege on or about August 9, 2013, you submitted a public records request to the Indiana State Prison asking that a Request for Remittance be certified. The Indiana State Prison responded to your request on August 19, 2013 indicating there was no need for them to certify the records. The ISP again responded to you on September 12, 2013, stating they were not in possession of the documents you were seeking and consequently cannot be certified pursuant 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." See Ind. Code § 5-14-3-1. The Indiana State Prison is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect

and copy the Prison's public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). 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. See Ind. Code § 5-14-3-9(b). 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.

Please be advised that the certification of records is beyond the scope of this Office. Furthermore, because the Indiana State Prison is not the custodian of the records you seek, they cannot be reasonably expected to certify the records. Indeed, it appears the certification request should be directed to the Indianapolis Metropolitan Police Department, which is a different entity than Indiana State Prison. As to your claim of the status of indigence, a public agency may charge any person requesting a record a copy fee under Ind. Code § 5-14-3-8 *et. al.*.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Office of the Public Access Counselor the Indiana State Prison did not violate the APRA in denying your request.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a large, sweeping flourish underneath.

Luke H. Britt
Public Access Counselor

cc: Daniel Bodlovich