



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

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November 21, 2013

Mr. David Taylor #911995  
Putnamville Correctional Facility  
1946 W. U.S. Highway 40  
Greencastle, IN 46135

*Re: Formal Complaint 13-FC-311; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Mr. Taylor,

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Correction ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Mr. R. Brown, Internal Affairs, responded to your formal complaint. His response is enclosed for your review. 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 October 22, 2013.

## BACKGROUND

Your complaint dated October 22, 2013 alleges the Lake County Probation Department violated the Access to Public Records Act by denying your request for records in violation of Ind. Code § 5-14-3-3(b) on or about September 19, 2013.

The information you have provided is limited in terms of evidence submitted; however, I will draw a conclusion on what has been provided. From your complaint and attached documentation, it appears you were denied access to a number of policies and procedures of the Indiana Department of Correction.

Mr. R. Brown of Internal Affairs subsequently denied your request by indicating the requested polices were restricted and therefore were withheld from disclosure. Later upon review, Mr. Brown released two policies that were deemed discretionary under Ind. Code § 5-14-3-4(b)(10).

## 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 Department of Correction 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 Department’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 the request has been received and information regarding how or when the agency intends to comply.

See Ind. Code § 5-14-3-4(b)(10) states the release of records containing administrative or technical information would jeopardize a record keeping or security system. The eight (8) policies and procedures that were withheld from you have been deemed by the Department to fall into the cited connection. Please note subsection (b)(23)(B) which also addresses jail or prison security information concerns.

As I am not a finder of fact, I cannot determine conclusively that records withheld would compromise security of the prison, but based on the titles of the policies in the Department’s response; it seems likely they potentially could have a negative impact on the integrity of the prison.

## CONCLUSION

For the foregoing reasons, it is my opinion the Indiana Department of Correction has not violated the Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt

Cc: Mr. R. Brown

Public Access Counselor