



STATE OF INDIANA

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July 22, 2014

Frank Price #108694
Wabash Valley Correctional Facility
6908 S. Old U.S. Hwy 41
Carlisle, IN 47838

Re: Formal Complaint 14-FC-134; Alleged Violation of the Access to Public Records Act by the Wabash Valley Correctional Facility

Dear Mr. Price,

This advisory opinion is in response to your formal complaint alleging the Wabash Valley Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Facility has responded via Public Information Officer, Mr. Rich Larsen. His response is attached 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 June 26, 2014.

BACKGROUND

Your complaint dated June 28, 2014, alleges the Wabash Valley Correctional Facility violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

You have not provided a date on which you submitted your public access request; however, you sought documents pertaining to a certain named officer. You addressed your request to a correctional officer and a grievance specialist. On June 4, 2014, the grievance officer acknowledged your request and indicated he forwarded it to the Facility's Public Information Officer ("PIO").

The PIO responded to your complaint citing Ind. Code § 5-14-3-2(i) (presumably meaning Ind. Code § 5-14-3-4(b)(23)(A)(i)) as justification for denying the records. He also states you have insufficient funds in your offender account to pay for copy fees.

DISCUSSION

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 Wabash Valley Correctional Facility 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 Facility’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.

You referenced a “7 day timeline”; however, this only applies to acknowledgement of your request. The facility would have a reasonable time after the acknowledgement of your request to actually produce the records pursuant to Ind. Code § 5-14-3-3. Given you submitted your complaint less than two weeks after the acknowledgement, I cannot find the delay was unreasonable.

Ind. Code § 5-14-3-4(b)(23)(A)(i) states the release of records relating to the personal information of a correctional officer by an inmate is discretionary. The Facility may choose whether to release the information you request to the extent it relates to personal information of a correctional officer. While some of this information may be available to the public, the legislature has classified inmates as a separate category of requesters for the purposes of maintaining jail safety and security and the safety of prison personnel. Furthermore, the PIO is correct that had they allowed the release of the records, they may charge up to \$.10 a page for copying fees.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Wabash Valley Correctional Facility has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be the initials 'JTB' with a stylized flourish underneath.

Luke H. Britt
Public Access Counselor

Cc: Mr. Rich Larsen