



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)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

July 25, 2016

Mr. Daniel Lashbrook - #996292
Miami Correctional Facility
3038 West 850 South
Bunker Hill, Indiana 46914

Re: Formal Complaint 16-FC-149; Alleged Violation of the Access to Public Records Act by the Miami Correctional Facility

Dear Mr. Lashbrook:

This advisory opinion is in response to your formal complaint alleging the Miami Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Office has responded via Ms. Angie Heishman. Her response is enclosed for your review. Pursuant to Indiana 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 27, 2016.

BACKGROUND

Your complaint dated June 22, 2016, alleges the Miami Correctional Facility violated the Access to Public Records Act by improperly denying your records request. On June 20, 2016, you requested demographic information for Miami Correctional Facility. Your request was denied under Indiana Code § 5-14-3-4(b)(23)(b). You contend this denial is improper. On June 9, 2016 the Facility responded. The facility admits its original denial is improper, but states that record with current demographic information exists.

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 Indiana Code § 5-14-3-1*. The Miami Correctional Facility is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Facility's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

As stated in Indiana Code § 5-14-3-3(a), the APRA only applies to requests for records. Your request was for information. I noted the difference between a records request and an information request in *Informal Opinion 15-FC-23*. I wrote

When a request is for a public record, there should be a tangible document to give to the requester, i.e. an individual's driving record or any other type of actual document with information. In contrast, a request for information is not asking for a specific document; instead the request requires the BMV to extrapolate information - such as an address - from an existing document.

Your request would require the Facility to pull information from its records to get specific demographics. Information requests are not subject to the APRA, but instead should be provided as a matter of customer service.

Despite your request being one for information, the Facility treated it as a records request. The request was denied Indiana Code § 5-14-3-4(b)(23)(b). However, the denial did not state how the release of demographic information would impact facility safety. As I stated on several occasions, the exercise of discretion under Indiana Code § 5-14-3-4(b) must be explained with a measure of particularity. The denial from the facility was improper because Facility merely provided a cursory response. I fail to see how aggregate demographic data could ostensibly jeopardize prison security or inmate safety.

However, because the request was for information and not public records, the request is not entitled to the protections under the APRA. Therefore, no violation has occurred.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Ms. Angie Heishman