



STATE OF INDIANA

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July 8, 2008

Joe Cooper
PO Box 22327
Indianapolis, Indiana 46222-0327

Re: Formal Complaint 08-FC-155; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction Reception Diagnostic Center

Dear Mr. Cooper:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Correction Reception Diagnostic Center ("Department") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. It is my opinion the Department violated the APRA if it received your request and did not respond within seven days or if it denied your request because you refused to state the purpose of the request.

BACKGROUND

You allege that on June 5, 2008 you sent by facsimile transmission to the Department a request for access to records. You allege that on June 10 you received a call from ANI, and the caller identified herself as someone from the auditor's office. You do not indicate to what ANI refers nor to which auditor's office the caller referred. You allege that the caller engaged you in a lengthy conversation as she tried to ascertain the reason for your request. You refused to state the reason for your request. You allege that you have received no further response to your request. You filed this complaint on June 17.

My office sent a copy of your complaint to the Department by facsimile transmission on June 17 and invited the Department to respond to the complaint. To date my office has not received a response.

ANALYSIS

The public policy of the APRA states, "(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 Department is clearly 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 public records of the Department during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 5-14-3-3(a), 5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). If the Department received your request on June 5, and you provide fax confirmation the request was received, the response was deemed denied when the Department did not respond to the request within seven days. The Department did not provide a reason for the denial and as such violated the APRA.

Further, if the Department contended that the call you received on June 10 was a response to the complaint, the Department violated the APRA if it denied the request because you refused to state the purpose of the request, unless such condition is required by another applicable statute. See I.C. § 5-14-3-3(a).

CONCLUSION

For the foregoing reasons, it is my opinion the Department violated the APRA if it received your request and did not respond within seven days or if it denied your request because you refused to state the purpose of the request.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: J. David Donahue, Commissioner, Indiana Department of Correction