

February 29, 2008

Darrell Williams
DOC #26008-044
PO Box 1034
Coleman, Florida 33521

Re: Formal Complaint 08-FC-50; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Williams:

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) by not responding to your request for records. It is my opinion the Department did not violate the APRA.

BACKGROUND

You allege that by letter dated January 14, 2008 you requested from the Department copies of records related to your sentences. You submitted your complaint on January 30, and I received it on February 5, alleging the Department had not responded to your request.

I sent a copy of your complaint to the Department and invited the Department to respond, but I have not received a response to the complaint.

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." 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, the agency must respond to the request within seven days of receipt. I.C. § 5-14-3-9(b).

If the Department received your request, it would have a duty under the APRA to respond within seven days of receipt. While a public agency has a duty to respond to a written request for access to records within seven days of receipt of the request, an agency cannot respond to a request it did not receive. I notice on your request form the street address of the Department. You did not, however, include the room number. The state government building located at that addresses houses a large number of state offices. It is possible, and quite likely, the request did not reach the Department since the room number was not provided. If the Department did not receive your request, it did not violate the APRA by not responding.

CONCLUSION

For the foregoing reasons, it is my opinion the Department did not violate the APRA unless it received your request and failed to respond.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Robert Bugher, Indiana Department of Correction