



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
ANDREW J. KOSSACK

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

April 28, 2011

Mr. Larry E. Kuhn
DOC # 894858
4490 W. Reformatory Rd.
Pendleton, IN 46064

*Re: Formal Complaint 11-FC-82; Alleged Violation of the Access to
Public Records Act by the Pendleton Correctional Facility*

Dear Mr. Kuhn:

This advisory opinion is in response to your formal complaint alleging the Pendleton Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* David Barr's response on behalf of the Facility is enclosed for your reference.

BACKGROUND

In your complaint, you claim that the Facility violated the APRA by denying you access to records regarding the training of Facility K-9 handlers. Mr. Barr denied your request on the grounds that the responsive records are contained within confidential Facility emergency plans.

In response to your complaint, Mr. Barr maintains that the records are confidential because they could jeopardize the safety and security of the Facility, its staff, the public, or offenders housed within it.

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 Facility is 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 Facility's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

In this case, the Facility denied your request because, according to Mr. Barr, releasing records regarding the Facility's training of K-9 handlers "could jeopardize the safety and security of the Facility" and individuals at the Facility. The APRA permits public agencies to withhold records requested by an offender that "concern or could affect the security of a jail or correctional facility." I.C. § 5-14-3-4(b)(23)(B). Consequently, the Facility did not violate the APRA by denying your request.

CONCLUSION

For the foregoing reasons, it is my opinion that the Facility did not violate the APRA.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive style with a large, sweeping initial 'A'.

Andrew J. Kossack
Public Access Counselor

cc: David W. Barr