

August 8, 2002

Mr. James L. Lattimore
#955143 C4-203 DSU
P. O. Box 557
Westville, IN 46391-0557

Re: Advisory Opinion 02-FC-35; Alleged Denial of Access to Public Records by the Indiana Department of Correction, Maximum Control Complex.

Dear Mr. Lattimore:

This is in response to your formal complaint, which was received on July 26, 2002. You have alleged that the Indiana Department of Correction, Maximum Control Complex ("Department") has violated the Indiana Access to Public Records Act ("APRA"), Indiana Code chapter 5-14-3. Specifically, you allege that the Department denied you access to a copy of a particular case in the facility's law library. Ms. Pam Pattison of the Department responded in writing to your complaint. A copy of her response is enclosed for your reference. For the reasons set forth below, it is my opinion that the Department did not deny you access to public records because the Department does not maintain a copy of the case you requested.

BACKGROUND

According to your complaint, you made a request on July 15, 2002 for an opportunity to review a copy of a case, which is entitled "Kataza Taifa et. al" that you believe should have been in the facility's law library. You received a response from Paralegal Stephen Huckins but he only addressed the reasons why the case was now moot, not whether or not you would be provided with an opportunity to inspect a copy of that case. You made a second request on that same date informing Mr. Huckins that the status of the case was not relevant, the copy of the case is a public record and you were seeking an opportunity to inspect it. Again, Mr. Huckins responded addressing the status of the case in the courts, not your public records request. On July 21st, you again made a request to Mr. Huckins for access to this case and Mr. Huckins' response was that the court no longer had jurisdiction over the case. You then filed your formal complaint with this Office. In her response, Ms. Pattison stated that the law library at your facility no longer maintains a copy of the case in question, but if there had been a copy, you would have been provided access to it. She further stated that your requests were only for certain documents, an Agreed Entry and Modified Agreed Entry from that file and that Mr. Huckins' responses were directed at explaining to you why these documents were no longer available.

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." Ind. Code § 5-14-3-1. The Department is clearly a public agency for the purpose of the APRA. Ind. Code § 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 Indiana code section 5-14-3-4. Ind. Code § 5-14-3-3(a).

You made a request under the APRA to inspect the case entitled Kataza Taifa et al, Cause Number 3:92CV429 AS on July 15th and July 23, 2002. The written responses you received from Mr. Huckins, however, addressed the reasons why the case is no longer valid, not your request to inspect them. It is not clear to me whether or not you had any conversations with Mr. Huckins about this matter, but from your requests, it is clear that you knew that the law library's copy was no longer maintained there. Because the case was removed from the law library, the Department did not have a copy for you to review. Admittedly, Mr. Huckins could have communicated that more clearly to you in his written responses, but it appears that he was attempting to provide you with information to explain why the documents you requested were no longer in the law library. For these reasons, it is my opinion that you were not denied access to public records by the Department because the law library did not have the records you requested.

CONCLUSION

It is my opinion that the Indiana Department of Correction, Maximum Control Complex, did not violate the Access to Public Records Act with respect to your request for public records because the Department did not maintain the case file you requested.

Sincerely,

Anne Mullin O'Connor

Enclosure

cc: Ms. Pam Pattison, DOC w/o enclosure