

From: [Filkosky, Andrew](mailto:Filkosky_Andrew)  
To: [81443-55877017@requests.muckrock.com](mailto:81443-55877017@requests.muckrock.com)  
Subject: RE: [External] Pennsylvania Right to Know Act Request: FamilySearch Indexing (Pennsylvania Department of Corrections)/RTKL 1133-19  
Date: Thursday, November 14, 2019 8:56:00 AM

Dear Mr. Hermann:

This email acknowledges receipt by the Department of Corrections of your written request for records under the Pennsylvania Right-to-Know Law (RTKL). Your request was received by this office on October 9, 2019. On October 10, 2019, an interim response was sent to you extending the final response date to November 15, 2019.

The information you are seeking in your email below is denied for the following reason:

- The record(s) that you requested do not currently exist. When responding to a request for access, an agency is not required to create a record which does not currently exist or to compile, format or organize a public record in a manner in which it does not currently compile, format or organize the public record. 65 P.S. § 67.705; See *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Cmwlth. 2010) (“The Department cannot grant access to a record that does not exist. Because under the current RTKL the Department cannot be made to create a record which does not exist, the OOR properly denied [the] ... appeal.”); See also *Barger v. Department of Labor and Industry*, 720 A.2d 500 (Pa.Cmwlth. 1998). See also *McGowan v. Pennsylvania Department of Environmental Protection*, 103 A.3d 374, 382-83 (Pa. Cmwlth. 2014) (“In the absence of any competent evidence that the agency acted in bad faith or that the agency records exist, ‘the averments in the [d]epartment’s affidavits should be accepted as true.’”).

You have a right to appeal this denial of information in writing to the Executive Director, Office of Open Records (OOR), 333 Market Street, 16<sup>th</sup> Floor, Harrisburg, Pennsylvania 17101. If you choose to file an appeal you must do so within 15 business days of the mailing date of this response and send to the OOR:

1) this response; 2) your request; and 3) the reason why you think the agency is wrong in its reasons for saying that the record is not public (a statement that addresses any ground stated by the agency for the denial). If the agency gave several reasons why the record is not public, state which ones you think were wrong.

Also, the OOR has an appeal form available on the OOR website at:

<http://www.openrecords.pa.gov/RTKL/Forms.cfm>.

Sincerely,

**Andrew Filkosky** | Agency Open Records Officer  
Department of Corrections | Office of Chief Counsel  
1920 Technology Parkway  
Mechanicsburg, PA 17050  
Phone: 717.728.7770 | Fax: 717.728.0312  
[www.dor.pa.gov](http://www.dor.pa.gov)

**PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION  
ATTORNEY WORK PRODUCT**

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

From: 81443-55877017@requests.muckrock.com <81443-55877017@requests.muckrock.com>

Sent: Wednesday, October 9, 2019 1:36 PM

To: CR, DOC Right to Know <RA-docrightrightknow@pa.gov>

Subject: [External] Pennsylvania Right to Know Act Request: FamilySearch Indexing (Pennsylvania Department of Corrections)

**ATTENTION:** This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to [CWOPA\\_SPAM@pa.gov](mailto:CWOPA_SPAM@pa.gov).

Department of Corrections  
RTK Office  
1920 Technology Parkway  
Mechanicsburg, PA 17050

October 9, 2019

To Whom It May Concern:

Pursuant to the Pennsylvania Right to Know Act, I hereby request the following records:

Policies, procedures and/or documents pertaining to indexing for FamilySearch, otherwise known as Intellectual Reserve, Inc. or FamilySearch International, a genealogical non-profit operated by The Church of Jesus Christ of Latter-day Saints (LDS) by inmates within facilities run by the Pennsylvania Department of Corrections. This includes any documents regarding Family History Centers operated within such facilities, and any documents referencing LDS Correctional Services, a division of LDS. Examples of such documents include contracts between the Pennsylvania Department of Corrections and FamilySearch, often called a "Memorandum of Understanding," with an attachment describing FamilySearch's assistance.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

Burkely Hermann

Filed via MuckRock.com

E-mail (Preferred): [81443-55877017@requests.muckrock.com](mailto:81443-55877017@requests.muckrock.com)

Upload documents directly: <https://accounts.muckrock.com/accounts/login/>

url\_auth\_token=AAAc5iNLMzkhXqT9hR083Juebs%3A1iFst%3Aa\_xuJLvzYpa5FVwZKC6d9X7GoU&next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency\_login%252Fdepartment-corrections-3546%252Ffamily-search-indexing-pennsylvania-department-of-corrections-81443%252F%253Femail%253DRA-docrightrightknow%252540pa.gov

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News  
DEPT MR 81443  
411A Highland Ave  
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

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