

March 28, 2005

Herbert Scott Foust
D.O.C. #124101
Putnamville Correctional Facility
1946 W. U.S. Highway 40
Greencastle, IN 46135

Re: Formal Complaint 05-FC-42; Alleged Violation of the Access to Public Records Act by the Indiana Bureau of Motor Vehicles

Dear Mr. Foust:

This is in response to your formal complaint alleging that the Indiana Bureau of Motor Vehicles (“Bureau”) violated the Access to Public Records Act by failing to respond to your request for your driver record. I find that the Bureau did not violate the Access to Public Records Act.

BACKGROUND

You had requested of the Bureau, on January 19, 2005, a record of traffic offenses committed by you. You claim that you have not received a response to your request from the Bureau. You filed your formal complaint with my office against the Bureau on February 24, 2005. You marked “denial of access” and “copy fee” on the complaint form.

I sent a copy of your complaint to the Bureau. The Bureau maintains that it did not receive your request, but has assured me that it will provide access to your driver license record upon payment of the \$4 fee provided by statute and submission of the enclosed form.

ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency’s regular hours of business, except as provided under section 4 of the Access to Public Records Act. Ind. Code 5-14-3-3(a). An agency that receives a request for a record via U.S. Mail is required to respond within seven (7) days of receipt of the request, or the request is

deemed denied. IC 5-14-3-9(b). If a public agency has not received a request for records, it cannot be found to have violated the Access to Public Records Act for its failure to respond. A public agency may require that a person submit a request for a record on a form provided by the public agency. IC 5-14-3-3(a).

The Bureau avers that it does not have any record of having received your request for your driver record. Had it received your request, it would have sent you the enclosed Form 48430, "Request for Personal Information Driver Services." A fee for a driver license record, which contains a list of tickets and violations, is four dollars (\$4), which is set by IC 9-29-2-2. An agency shall collect a copy fee specified by statute. IC 5-14-3-8(f). Therefore, the \$4 copy fee required by the Bureau is not in violation of the Access to Public Records Act.

CONCLUSION

For the foregoing reasons, I find that the Bureau of Motor Vehicles did not violate the Access to Public Records Act. I recommend that you complete the enclosed form and submit the form and \$4 to the Bureau of Motor Vehicles, at the address specified on the form, to obtain a copy of your driver license record.

Sincerely,

Karen Davis
Public Access Counselor

cc: Adam Garrett