



STATE OF INDIANA

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September 26, 2013

Mr. Howard Steel - #843796
Wabash Valley Correctional Facility
P.O. BOX 1111
Carlisle, IN 47838-1111

Re: Formal Complaint 13-FC-253; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Steele,

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 § 5-14-3-1 *et. seq.* Mr. Robert D. Bugher, Chief Counsel, responded on behalf of the Department. His response is enclosed for your reference. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on August 27, 2013.

BACKGROUND

Your complaint alleges the Indiana Department of Correction violated the Access to Public Records Act by denying your request in violation of Ind. Code § 5-14-3-3(b).

You allege that on August 7, 2013, you submitted a public records request to Sex Crime Services, 601 State Office Building, Indianapolis, IN 46204. You sought certain documentation from the Indianapolis Metropolitan Police Department. The request was sent certified and signed by the receiving agency. It is unclear if the Department of Correction signed the request. As of the date of your complaint on August 27, 2013, you had not received a response.

On August 28, 2013, Mr. Bugher responded to this Office asserting that none of the documentation you seek is in the custody of the Department. Furthermore, the address and unit where you sent your request is unknown.

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.” See Ind. Code § 5-14-3-1. The Department of Correction is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Department’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

Your letter was allegedly received by the Department on August 7, 2013. You did not received a response from the Department and pursuant to Ind. Code § 5-14-3-9(b), is deemed denied.

The Indiana Department of Correction is located at 302 W. Washington Street, Indianapolis, IN 46204. The address you provide is either erroneous or incomplete. This Office is unaware of any agency located at that address. I concur with Mr. Bugher, your request was likely intended for the City of Indianapolis, c/o the Indianapolis Metropolitan Police Department. The Department of Correction is not the public agency upon which the request should have been made. Due to the Department not being the custodian of the records, they are not required under the APRA to produce the records you seek.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Office of the Public Access Counselor the Indiana Department of Correction did not violate the APRA in denying your request.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', written in a cursive style.

Luke H. Britt
Public Access Counselor

cc: Robert D. Bugher, Esq.