



STATE OF INDIANA

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**PUBLIC ACCESS COUNSELOR
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June 19, 2014

Mr. Samuel Davis
Westville Correctional Facility
5501 South 1100 West
Westville, IN 46391

Re: Formal Complaint 14-FC-110; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Davis,

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Correction ("IDOC") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Your complaint, along with a request for a response to your complaint, was forwarded to IDOC, care of Mr. Bob Bugher, Chief Counsel, on May 22, 2014. No response was received from IDOC. 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 May 22, 2014.

BACKGROUND

Your complaint dated May 8, 2014 received by the Office of the Public Access Counselor on May 22, 2014, alleges the Indiana Department of Correction ("IDOC") violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

You submitted a request dated April 27, 2014, to Indiana Department of Correction for "a copy of [your] notice of loss of property tort claim against Westville Correctional Facility". Two requests were submitted in addition to the April 27, 2014 request (no dates of submission were provided for the two additional requests). IDOC did not respond to any of these three requests.

IDOC has not responded to your complaint despite an invitation to do so on May 22, 2014.

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 Indiana 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 IDOC’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.

Without the benefit of a response from IDOC, I cannot determine if there is justification for a lack of response or if the records you seek exist. If they do, then you are entitled to one copy of the documentation. The IDOC will receive a copy of this Opinion and it is my sincere hope they forward your records to you expeditiously.

CONCLUSION

Based on the foregoing reasons, it is the opinion of the Public Access Counselor the Indiana Department of Correction has violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

cc: Mr. Bob Bugher, Esq.