



STATE OF INDIANA

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February 2, 2015

Mr. John D. May
Putnamville Correctional Facility
1946 West U.S. Highway 40
Greencastle, IN 46135

Re: Formal Complaint 14-FC-333; Alleged Violation of the Access to Public Records Act by the Indiana Department of Child Services

Dear Mr. May,

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Child Services (“DCS”), violated the Access to Public Records Act (“APRA”) Ind. Code § 5-14-3-1 *et. seq.* DCS has responded to your complaint via Mr. John Wood, Esq., Deputy General Counsel. His response is attached for your review. I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on December 31, 2014.

BACKGROUND

Your complaint filed on December 31, 2014 alleges the Indiana Department of Child Services violated the Indiana APRA by failing to acknowledge receipt of your request within seven days.

On or about November 24, 2014, you submitted a public records request to DCS seeking several sets of documents. You did not receive a response from the agency. DCS responded to your request on the same day it responded to your formal complaint on January 16, 2015 with a detailed summary of when and how to expect production of documents.

DISCUSSION

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 Child Services 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 DCS'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.

DCS has acknowledged that internal routing issues led to the delay in acknowledging your request. Their eventual response and partial production of documents was released on January 16, 2015. While the delay in acknowledgement was a violation of the APRA, the time taken to produce the records was reasonable. It is my sincere hope the lack of an acknowledgement did not substantively affect your quest for access.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Indiana Department of Child Services acted contrary to the Access to Public Records Act by failing to acknowledge receipt of a request within seven days.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: Mr. John Wood, Esq.