
OPINION OF THE PUBLIC ACCESS COUNSELOR

MICHAEL TROUTMAN,
Complainant,

v.

IND. DEP'T. OF CORR.—PEN PROD. DIV.,
Respondent.

Formal Complaint No.
17-FC-206

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to the formal complaint alleging the Pen Products Division of the Indiana Department of Correction (“IDOC”) violated the Access to Public Records Act¹ (“APRA”). The IDOC has not yet responded despite an invitation to do so on August 29, 2017. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on August 28, 2017.

¹ Ind. Code §§ 5-14-3-1 to -10

BACKGROUND

Michael Troutman (“Complainant”) filed a formal complaint alleging that the IDOC violated the Access to Public Records Act by failing to provide requested records.

Troutman submitted a records request, dated July 5, 2017, to PEN Products officials at the Miami Correctional Facility seeking the following:

- His personnel file from when he worked for PEN Products between May 2015 and April 2016;
- Report of Classification Forms completed by the Complainant while employed by PEN Products; and
- Completed time records for Complainant while employed by PEN Products.

An administrative assistant at the Miami Correctional Facility responded to Troutman in a memo dated July 12, 2017, stating that his request was received on July 12, and that a response would be forthcoming within thirty (30) days. Troutman sent his formal complaint to this Office on August 25, 2017. The Office received the complaint on August 28, 2017. Troutman requested priority status, but the complaint did not qualify for priority status under 62 IAC 1-1-3.

This Office sent notice of the Complaint to IDOC’s Chief Counsel, Mr. Robert Bugher, on August 29, 2017. As of October 6, 2017, our Office has not yet received a response from the IDOC.

ANALYSIS

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.” Ind. Code § 5-14-3-1. The PEN Products Division of the Indiana Department of Correction is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy the IDOC’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a). A public agency is required to make a response to a written request that has been mailed within seven (7) days after it is received. Ind. Code § 5-14-3-9(c).

The Miami Correctional Facility acknowledged the Complainant’s request within seven (7) days as required by the APRA. The APRA requires an agency to produce records responsive to a request within a reasonable amount of time. The statute does not define “reasonable,” but the APRA does provide that producing records responsive to a request need not materially interfere with the regular discharge of the functions and duties of the public agency. *See* Indiana Code § 5-14-3-7(a).

I have opined in the past that factors contributing to the determination of what constitutes a reasonable time may include size of the public agency, number of pending requests, complexity of the request, and any other operational consid-

eration which may reasonably affect the public records process. *See Opinion of the Public Access Counselor 16-FC-267 (2016)*.

Providing a response within thirty (30) days is a hard line not required by the APRA, but without the benefit of a response from the IDOC, it is reasonable to assume that thirty (30) days is what the agency considered to be a reasonable time to produce the records responsive to the request, or to deny the request, based on the foregoing factors. The Complainant notes that he waited an additional two weeks before filing the Complaint.

The records requested were largely personnel files of the Complainant. Indiana Code section 5-14-3-4(b)(8) provides that “all personnel file information shall be made available to the affected employee or the employee’s representative.” The first and third items requested by the Complainant appear to fall into this category, and the request appears to be reasonably particular. The Complainant mentioned in his complaint that he had filed a lawsuit in the U.S. District Court for Northern Indiana, and that the requested records were germane to his lawsuit. If the IDOC does not provide these documents to the Complainant, the Complainant should be able to use the discovery process to obtain these documents.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that the IDOC violated the Access to Public Records Act by not producing records or denying the Complainant's request within a reasonable amount of time.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor