
OPINION OF THE PUBLIC ACCESS COUNSELOR

LEAH F. CARTER,
Complainant,

v.

INDIANA DEPARTMENT OF CORRECTION.,
Respondent.

Formal Complaint No.
17-FC-207

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to the formal complaint alleging 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

Leah Carter (“Complainant”) filed a formal complaint alleging that the IDOC violated the Access to Public Records Act by failing to respond to a records request.

On July 1, 2017, Carter submitted a public records request to IDOC seeking the following:

- “Any and all reports or summaries that include information on the use of inmate labor from January 1st, 2007 to December 31st, 2016.”
- “Any and all reports or summaries that include information on PEN Industries from January 1st, 2007 to December 21st, 2016.”

Carter alleges that she never received a response from IDOC. As a result, she filed a formal complaint with this Office dated August 22, 2017 and received on August 28.

This office sent notice of the complaint to IDOC 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 IDOC 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).

Any request for inspection or copying must identify the records requested with reasonable particularity. Ind. Code § 5-14-3-3(a)(1).

A reasonably particular request provides the public agency with information that enables the agency to search for, locate, and retrieve the records. *Anderson v. Huntington County Bd. of Com'rs.*, 983 N.E.2d 613 (Ind. Ct. App. 2013). In *Opinion of the Public Access Counselor 16-FC-01 (2016)*, I opined that "if a public agency cannot ascertain what records a requestor is seeking, the request likely has not been made with reasonable particularity," and that "public records request should not contain language such as 'any and all.'"

Here, the Complainant's request does not meet the standard for reasonable particularity. The IDOC would have been justified in denying the Complainant's request and asking her to describe in more detail the records she was seeking.

Still, the IDOC was required to respond and acknowledge the Complainant's records request within seven (7) business days after receiving the request. It is possible that the IDOC never received her request. It is also possible that the IDOC

responded to her request and she did not receive it. However, without the benefit of a response from the IDOC, I can only presume that the IDOC did not respond to her request just as the IDOC did not respond to the notice of the formal complaint issued by this Office.

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 responding to the Complainant's request within seven (7) days.

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

Luke H. Britt
Public Access Counselor