
OPINION OF THE PUBLIC ACCESS COUNSELOR

SHELLEY M. O'HARA,
Complainant,

v.

OFFICE OF THE INDIANA ATTORNEY GENERAL,
Respondent.

Formal Complaint No.
17-FC-223

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Office of the Indiana Attorney General (“OAG”) violated the Access to Public Records Act¹ (“APRA”). Deputy Attorney General Emily Crisler filed a response on behalf of the OAG. Pursuant to 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 September 11, 2017.

¹ Ind. Code §§ 5-14-3-1 to -10

BACKGROUND

Shelley M. O'Hara ("Complainant") contends the OAG wrongfully denied access to an investigative file.

On May 16, 2017, O'Hara submitted a request for an investigative file to the OAG. The office acknowledged the request as received and forwarded it to the individual within the OAG who would respond appropriately. As of the date of the filing of her complaint, O'Hara had not received a status update.

The OAG responded by conceding the delay and attributing it to an internal processing error – an administrative oversight that, while avoidable, would be remedied. Upon receiving the formal complaint, the Attorney General's office immediately sprang into action fulfilling the request, waiving all copy fees, and providing the requested documents.

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 Office of the Indiana Attorney General 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 AG'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).

Due to an administrative error, the records request was not processed in a timely manner. The OAG acknowledges this and immediately acted upon receiving the complaint. While unfortunate, these mistakes do happen. Based on the information provided, there is no indication the AG was attempting to hid or obfuscate any record or matter- nor is the AG a frequent subject of complaints. I am confident the office will use this situation to improve processes and efficiency in the future.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that the Attorney General's Office did not initially comply with the Access to Public Records Act but demonstrated good faith by immediately remedying the oversight.

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

Luke H. Britt
Public Access Counselor