



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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February 24, 2015

Mr. Michael B. Smith
Pendleton Correctional Facility
4490 W. Reformatory Road
Pendleton, IN 46064

Re: Formal Complaint 15-FC-31; *Alleged Violation of the Access to Public Records Act by the Marion County Coroner*

Dear Mr. Smith,

This advisory opinion is in response to your formal complaint alleging the Marion County Coroner ("Coroner"), violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Coroner has not responded to your complaint despite an invitation to do so on February 6, 2015. 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 January 30, 2015.

BACKGROUND

Your complaint dated January 23, 2015 against the Marion County Coroner, alleges the Coroner violated the Access to Public Records Act (Ind. Code § 5-14-3) by failing to produce records responsive to your request.

On or about August 18, 2014, you sent a public records request to the Coroner seeking a copy of an autopsy file for a named individual. The Coroner stated the file had been sent back to Brown County. The Brown County Coroner, on December 8, 2014, informed you this was not the case; however, the Marion County Coroner assured him the file was on its way. As of the date of the filing of your complaint, the Marion County Coroner had not sent a copy of the file to Brown County or to you.

On January 7, 2015, this Office published *Opinion of the Public Access Counselor 14-FC-293* absolving the Brown County Coroner of responsibility, as he did not maintain custody of the file. That particular Opinion is hereby incorporated by reference.



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ANALYSIS

The public policy of the APRA states that “a (p)roviding person 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 Marion County Coroner is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy the Coroner’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).

As an initial matter, it is my opinion the Marion County Coroner should have issued the file to you when you made the request back on August 18, 2014. They were the custodians of the public record at the time and effectively denied you access by passing the responsibility along to Brown County.

Now six (6) months later, the file is still presumably in Marion County. Although this Office sent the Coroner a letter soliciting a response to your complaint, it has not been acknowledged. Pursuant to Ind. Code § 5-14-5-5, a public agency shall cooperate with the Public Access Counselor in his investigation. This has not happened. Furthermore, Marion County’s unwillingness to expeditiously transfer the file is a barrier to your access.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Indianapolis Marion County Coroner has violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor