



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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November 13, 2013

Mr. William Carrell, Offender K-95513
P.O. Box 129
East St. Louis, Illinois 62202

Re: Formal Complaint 13-FC-299; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Carrell,

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Correction ("DOC") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The DOC has not provided a response to your complaint after being invited to do so on October 16, 2013 and again on the date of this writing.¹ 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 on October 15, 2013.²

BACKGROUND

Your complaint dated October 17, 2013 alleges the Indiana Department of Correction violated the Access to Public Records Act by denying your request for records in violation of Ind. Code § 5-14-3-3(b).

You allege that on or about September 9, 2013, you requested from the DOC a number of records regarding your incarceration in Indiana and the DOC failed to respond. No further supplemental documentation was attached to your complaint.

¹ It should be noted the Indiana Department of Correction did respond, but it was received after the writing of this Advisory Opinion and upon review of the DOC response; it would not change the outcome of this opinion.

² Despite your request, your complaint has not been granted priority status as it does not meet the requirements of 62 IAC 1-1-3.

ANALYSIS

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 Indiana Department of Correction 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 the DOC’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.

Without the benefit of a response from the DOC or any evidence submitted by you to support your allegation, it cannot be accurately stated the DOC violated the APRA. If DOC is the custodian of records responsive to your request and they have denied your request by not responding within seven days, then they have violated the APRA.

CONCLUSION

For the foregoing reasons, it cannot be conclusively determined if the Department of Correction violated the Access to Public Records Act.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: Bob Bugher