



STATE OF INDIANA

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November 18, 2013

Mr. Keith Ware
Indiana State Prison
One Park Row
Michigan City, IN 46360

Re: Formal Complaint 13-FC-306; Alleged Violation of the Access to Public Records Act by the Indiana Inspector General

Dear Mr. Ware,

This advisory opinion is in response to your formal complaint alleging the Indiana Inspector General (“IG”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 *et. seq.* Ms. Cynthia Carrasco, Executive Director, responded to your formal complaint. Her response is enclosed for your review. 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 21, 2013.

BACKGROUND

Your complaint dated October 11, 2013 alleges the Indiana Attorney General violated the Access to Public Records Act by denying your request for records in violation of Ind. Code § 5-14-3-3(b).

On or about September 19, 2013, you served upon the IG a request for the following records: “All State Agencies your Office can investigate”.

Upon receipt of your request on September 25, 2013, Ms. Carrasco timely and properly acknowledged your request. You amended your request on September 26, 2013 to include information about the Indiana Parole Board and also request information as to the functions of the Office of the Indiana Inspector General.

The response of the IG indicates you were mailed the list of the agencies the IG regulates, as well as a description of the Office functions on October 2, 2013. A postal timestamp confirms such. Furthermore, the Postal Service returned the response as undeliverable. It is unclear why this occurred. The IG resent their response on October 9, 2013.

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 Inspector General 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 IG’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.

It is clear from the information provided that the IG made reasonable good faith efforts to comply with the APRA pursuant to your request. As I am not a finder of fact, I cannot conclusively state why the October 6, 2013 correspondence was returned as undeliverable; however, it appears the address on the envelope was correct.

It is recognized by this Office that communications to and from offenders often takes a significant amount of time to make its way to the recipient from the sender. It is my sincere hope you have received the October 9, 2013 response from the IG. I see no reason to find the IG in violation of the APRA, as they complied with the obligations of the statute in every way.

CONCLUSION

For the foregoing reasons, the Indiana Inspector General has not violated the Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Ms. Cynthia Carrasco