



STATE OF INDIANA

ERIC J. HOLCOMB, Governor

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The Respondent identified Peru Utilities as its water provider and stated the utility publishes an annual Consumer Confidence Report online once the information is compiled. In addition to the two memos, the Complainant submitted a letter contending that the Respondent's maintenance staff told him that the MCF has the water quality reports and denied his request in bad faith. We received the Complainant's letter and copies of the memos on May 25, 2017.

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." Ind. Code § 5-14-3-1. The Miami Correctional Facility is a public agency for the purposes of the APRA. *See* Ind. Code § 5-14-3-2(n). Accordingly, any person has the right to inspect and copy the Miami Correctional Facility's disclosable 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 public records may be oral or written. *See* Ind. Code § 5-14-3-3(a) and § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within twenty-four 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 days of receipt, the request is deemed denied. *See* Ind. Code § 5-14-3-9(b).

The Complainant initially submitted his formal complaint based upon timeliness, however, it is likely the MCF responded within the statutory seven day period of receiving the request (request was dated April 24; MCF responded May 3). Therefore, the issue of timeliness will not be addressed.

The Complainant's request was ultimately denied on May 15 with a statement that MCF does not have the reports the Complainant requested. This Office does not make a determination as to the factual veracity of an agency's statement. As those statements are not under oath and cannot be authenticated, it would be inappropriate for this Office to do so. If the Complainant seeks to challenge such statements, he may do so in a court of law.



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CONCLUSION

Based on the foregoing and the information provided, it is the Opinion of the Indiana Public Access Counselor that the Miami Correctional Facility did not violate the Access to Public Records Act.

As a reminder to the Miami Correctional Facility, Indiana Code section 5-14-5-5 requires public agencies to cooperate with the Public Access Counselor "in any investigation or proceeding under this chapter." Providing my Office with copies of the two memos sent to the Complainant would have been a sufficient response to demonstrate that the MCF had complied with the records request.

Regards,

Luke H. Britt

A handwritten signature in black ink, appearing to read "LH Britt", written over a light gray rectangular background.

Public Access Counselor