

March 7, 2005

Helen Coleman
4109 North Central
Indianapolis, IN 46205

Re: Formal Complaint 05-FC-31; Alleged Violation of the Access to Public Records Act by the Indiana Office of Technology

Dear Ms. Coleman:

This is in response to your formal complaint, filed on behalf of Michael Hunt, alleging that the Office of Technology (“Office”), a state agency, violated the Access to Public Records Act (“APRA”) by failing to respond to your request for a record. I find that the Office of Technology did not violate the Access to Public Records Act.

BACKGROUND

You filed your formal complaint with my office on February 4, 2005, alleging that Mr. Karl Browning, of the Indiana Office of Technology, failed to respond to your request for records. You had requested nine records regarding memoranda or e-mails from the “facility head” at the “ISP” regarding various policies at the “ISP.” You addressed your request to Karl Browning, Indiana Chief Public Record Information Officer for Indiana Government State Agencies, at Room 206, 200 West Washington Street, Indianapolis.

I sent a copy of your complaint to Mr. Browning. I received a written response from Chris Cotterill, General Counsel for the Indiana Office of Technology. He states that Mr. Browning did not receive your request; the formal complaint is the first indication he had that you had sent him a request for records. He also states that the Office of Technology does not maintain the records of the Indiana State Police. I enclose a copy of the written response for your reference.

ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency's regular business hours, except as provided in section 4 of the APRA. Ind.Code 5-14-3-3(a). A public agency that receives a record request via U.S. Mail, facsimile, or e-mail must respond to it within seven (7) calendar days of receiving it. IC 5-14-3-9(b). This requirement contemplates a written response acknowledging the request and stating how the agency intends to comply.

The Office states that it has no record of receiving your request. Indeed, the Office of Technology is not located at the address to which you sent your request. The address to which you sent your request is the Governor's Office. The Office of Technology, while an agency of the executive and an administrative agency, is a separate public agency under the APRA. You sent your request to an incorrect address for the Office. The Office may be reached at Indiana Government Center North, 100 North Senate Avenue, Room 551, Indianapolis, Indiana, 46204.

Nevertheless, the Office states that it does not maintain the records that you seek, since it does not keep e-mail or other records of the Indiana State Police. Your request for records relating to "ISP" has created confusion, because I believed that you meant to request records relating to the Indiana State Prison. A request for records must be stated with reasonable particularity. IC 5-14-3-3(a). It is doubtful that the Office of Technology maintains any records of the Indiana State Prison, either, if that is the type of record you are requesting.

In any case, the Office is not required to respond to a request for records that it did not receive. Therefore, your complaint against the Office has no merit.

CONCLUSION

For the foregoing reasons, I find that the Office of Technology did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Mr. Chris Cotterill