



STATE OF INDIANA

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March 13, 2014

Mr. Robert L. Holleman #10067
Pendleton Correctional Facility
4490 West Reformatory Road
Pendleton, IN 46064

Re: Formal Complaint 14-FC-25; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Holleman,

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 responded despite being invited to do so on February 11, 2014. 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 February 11, 2014.¹

BACKGROUND

Your complaint dated February 11, 2014, alleges the Indiana Department of Correction violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On or about January 9, 2014 you submitted a request for access to public records form to the DOC requesting the following:

“...the United States Department of Labor Apprenticeship Program documents:

A.) Records relative to how many men at each facility in the Indiana Department of Correction are currently in the programs, breaking down each program and how many men are in each one, at each facility; and

¹ Your request for priority status has been denied as your formal complaint does not meet the requirements of 62 IAC 1-1-3.

- B.) Records showing how much money each facility received from the United States Department of Labor last year relative to all of the apprenticeship programs at all facilities in the Indiana Department of Correction.

As of the date of your formal complaint, you had not received a response from the DOC.

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 Department of Correction, I cannot determine if they have the records you seek. If they are the custodian of such a record, they have violated the Access to Public Records Act by not acknowledging your request within seven days thereby denying your request. As I do not have any information otherwise, I am to liberally construe the APRA and the facts in favor of access and transparency and find the DOC in violation of the APRA.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Indiana Department of Correction has violated the Access to Public Records Act.

Regards,

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

Luke H. Britt
Public Access Counselor