



STATE OF INDIANA

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August 31, 2016

Mr. Joseph R. May, Esq.
233 South Wacker Drive, Suite 4450
Chicago, Illinois 60606

Re: Formal Complaint 16-FC-178; Alleged Violation of the Access to Public Records Act by the City of Gary, Gary Police Civil Service Commission

Dear Mr. May:

This advisory opinion is in response to your formal complaint alleging the City of Gary, Gary Police Civil Service Commission ("Commission") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Commission has not responded to your complaint, despite an invitation by this office to do so. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on July 25, 2016.

BACKGROUND

Your complaint dated July 22, 2016, alleges the City of Gary, Gary Police Civil Service Commission violated the Access to Public Records Act by failing to respond to your records request within seven (7) days.

On June 20, 2016 you sent a public records request to the Commission via certified mail. The request was received on June 22, 2016. You also attempted to email the Commission. As of the filing of your formal complaint, you had not received a response.

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 Indiana Code § 5-14-3-1*. The City of Gary, Gary Police Civil Service Commission is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Commission's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

A request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. 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 Indiana 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.

The Commission has not responded to your complaint. Without a response from the Commission, I cannot determine whether its actions were proper or if a statutory justification exists for its failure to respond.

CONCLUSION

Based on the forgoing, it is the opinion of the Public Access Counselor the City of Gary, Gary Police Civil Service Commission violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', written in a cursive style.

Luke H. Britt
Public Access Counselor