



STATE OF INDIANA

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December 13, 2016

Ms. Mary E. Miller
5928 Pine View Court
Jeffersonville, Indiana 47130

Re: Formal Complaint 16-FC-286; Alleged Violation of the Access to Public Records Act by the Clark County Coroner

Dear Ms. Miller:

This advisory opinion is in response to your formal complaint alleging the Clark County Coroner (“Coroner”) violated the Access to Public Records Act (“APRA”), Indiana Code § 5-14-3-1 et. seq. The Coroner has not responded despite an invitation to do so on November 3, 2016. 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 November 3, 2016.

BACKGROUND

Your complaint dated November 16, 2016, alleges the Clark County Coroner has not responded to your public records request.

On several occasions beginning on August 29, 2016, you filed a public records request with the Coroner seeking a copy of your late husband’s toxicology report. You needed this document for time-sensitive insurance purposes. The Coroner has not responded to your request nor your formal complaint.

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 Clark County Coroner 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 Coroner’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 submitted 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.

Ind. Code § 5-14-3-3(b), a request for public records must be fulfilled by a public agency within a reasonable time. A public agency has an affirmative duty to acknowledge your request and, at the very least, deny the request in writing if there is justification for doing so. Agencies are required to cooperate with this Office's investigation under Indiana Code § 5-14-5-7. Without the benefit of a response, I cannot speak to any defense the Coroner may have raised. Because they have not contacted you, they have violated the Access to Public Records Act.

Please do not hesitate to contact me with any questions.

Regards,

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

Luke H. Britt
Public Access Counselor