
OPINION OF THE PUBLIC ACCESS COUNSELOR

RAPHAEL D. DRIVER,
Complainant,

v.

INDIANA DEPARTMENT OF CORRECTION,
Respondent.

Formal Complaint No.
17-FC-184

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Indiana Department of Correction (“DOC”) violated the Access to Public Records Act (“APRA”). Ind. Code §§ 5-14-3-1 to -10. The DOC has not responded to the complaint despite an invitation to do so on August 4, 2017. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on August 3, 2017.

BACKGROUND

Raphael D. Driver (“Complainant”) filed a formal complaint alleging the DOC violated the APRA by failing to provide records responsive to his public records request.

On June 13, 2017, Driver submitted public records requests to the DOC’s directors of Food Service and Religious Services seeking certain records concerning the Kosher diet at the Indiana State Prison. The records requests were not acknowledged nor were documents produced.

ANALYSIS

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 Indiana Department of Correction is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy the DOC’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 public agency is required to make a response to a written request that has been mailed within seven days after it is received. Ind. Code § 5-14-3-9(c).

As written, there does not appear to be a defect in the Complainant’s request. Without the benefit of a response from the agency, it cannot be determined whether the records actually exist or if there is some other justification for with-

holding them if they do. Public agencies are required to cooperate with the investigations of this Office pursuant to Ind. Code § 5-14-5-5. The DOC did not do so in this case.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that the Indiana Department of Correction has violated the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor