

May 29, 2008

John Felder
DOC #906416
Indiana State Prison
PO Box 41
Michigan City, Indiana 46361-0041

Re: Your informal inquiry regarding the Indiana Bureau of Motor Vehicles

Dear Mr. Felder:

This informal opinion is in response to your informal inquiry dated March 11, 2008, which we received on May 15, 2008. You initially sent the complaint to this office as a formal complaint, and we converted it into an informal inquiry because it was untimely under Ind. Code § 5-14-5-7. I issue the following opinion pursuant to I.C. § 5-14-4-10(5).

BACKGROUND

You originally filed a formal complaint on December 10, 2007. Because it was considered untimely, your complaint was converted into an informal inquiry. You allege the Indiana Bureaus of Motor Vehicles ("BMV") violated the Access to Public Records Act ("APRA") (Ind.Code 5-14-3) by denying you access to records. You allege that you sent a request for your driving record and did not receive a complete copy of the record from the BMV.

The BMV responded to your inquiry by letter dated May 28, 2008 from Elizabeth McGrath. The BMV contends that a search of the records found no record that indicates you requested or paid for a driving record from the BMV. The BMV found a letter dated November 5, 2007, in which you inquired about points against a driver's license. The BMV responded to that inquiry.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The BMV is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly,

any person has the right to inspect and copy the public records of the BMV during regular business hours unless the public records are exempted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 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 days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

Here, the BMV contends it has no record of having received your request. While an agency is required to respond to a request for access to records, it cannot respond to a request it did not receive. Because the BMV finds no record of the request, I cannot find the BMV violated the APRA. I suggest you re-send your request to the BMV.

CONCLUSION

For the foregoing reasons, it is my opinion the BMV has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Elizabeth McGrath, Indiana Bureau of Motor Vehicles