



STATE OF INDIANA

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December 17, 2013

Mr. Fred A. Peters #26498
4490 W. Reformatory Rd.
Indianapolis, IN 46064

Re: Formal Complaint 13-FC-326; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Peters,

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 responded to your complaint via Lt. D. Mason and your Case Worker. Their responses are enclosed for your review. 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 November 18, 2013.

BACKGROUND

Your complaint alleges the Indiana Department of Correction violated the Access to Public Records Act by denying producing records responsive to your request.

On or about October 17, 2013, you allegedly submitted a public records request (one of many) to your Unit Team seeking a series of documents relating to your incarceration. As of the filing of your formal complaint on November 18, 2013, you had not received a response to your multiple requests.

In its response, the Unit Lieutenant for your unit states he never received your request. Additionally, your caseworker has also stated your request was never received.

ANALYSIS

The public policy of the APRA states that "a (p) roviding person 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.

You submitted with your complaint supplemental documentation purporting to be the original request sent to the non-responsive parties. You state that copies of those originals were indeed sent. You are certainly entitled to the records you seek.

As I am not a finder of fact, I cannot verify nor authenticate the veracity of your statements. Likewise, I cannot determine conclusively the statements of the DOC. Without any additional evidence or documentation, I cannot make a determination as to the merits of your complaint. Now that the DOC has seen your request via your formal complaint, I encourage them to produce the records as soon as possible.

CONCLUSION

For the foregoing reasons, I decline to make a conclusive statement as to your complaint, but trust that DOC will work to resolve this matter to your satisfaction.

Regards,

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

Luke H. Britt
Public Access Counselor