



STATE OF INDIANA

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January 25, 2016

Mr. Dexter Berry
Pendleton Correctional Facility
4490 West Reformatory Road
Pendleton, Indiana 46064

Re: Formal Complaint 15-FC-335; Alleged Violation of the Access to Public Records Act by the City of Indianapolis, Indianapolis Metropolitan Police Department

Dear Mr. Berry:

This advisory opinion is in response to your formal complaint alleging City of Indianapolis, Indianapolis Metropolitan Police Department; ("IMPD") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 et. seq. IMPD has responded to your complaint via Ms. April Schultheis, Esq., Public Access Counselor. Her response is 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 December 30, 2015.

BACKGROUND

Your complaint dated December 18, 2015 alleges the Indianapolis Metropolitan Police Department violated the Access to Public Records Act by failing to acknowledge your request.

You requested copies of IMPD records related to named individuals involved in your arrest. As of the filing of your complaint, you had not received a response other than an empty envelope.

On January 14, 2016, IMPD responded via the Office of Corporation Counsel ("OCC") who responds on the behalf of City of Indianapolis agencies. With regard to your request itself, the OCC contends your request is unaccounted for by IMPD and no employee can recall receiving your request. Exacerbating the confusion is the empty envelope you received is handwritten. Protocol for the City is to type addresses on envelopes.

However, she does note your request is a duplicate of other requests you have made. She also notes IMPD does not possess all the records you have requested and IMPD has already provided the records in which it does possess.

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 Ind. Code § 5-14-3-1. The Indianapolis Metropolitan Police Department 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 IMPD’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).

Your request is unaccounted for per IMPD. I cannot say definitively whether the request was received or not. If it was, and 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.

IMPD has also stated your request is a duplicate of previous requests made and has indicated it does not have the documents you are requesting. The APRA does not require a public agency to provide records it does not hold. IMPD has provided the records it possesses and therefore has fulfilled its obligation under the law. Please note you are entitled to a single copy of a public record.

Please do not hesitate to contact me with any further questions.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Ms. April Schultheis, Esq.