



STATE OF INDIANA

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March 2, 2016

Mr. Delmas Sexton II
New Castle Correctional Facility
1000 Van Nuys Road
New Castle, Indiana 47362

Re: Formal Complaint 16-FC-16; Alleged Violation of the Access to Public Records Act by the State of Indiana, Indiana Department of Correction

Dear Mr. Sexton:

This advisory opinion is in response to your formal complaints alleging the State of Indiana, Indiana Department of Correction (“DOC”) violated the Access to Public Records Act, Ind. Code § 5-14-3-1 et. seq. As of the writing of this opinion, the DOC has not responded to your complaint, despite an invitation by this office to do so on February 2, 2016. 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 January 29, 2016.

BACKGROUND

Your complaint dated January 15, 2016 alleges the Indiana Department of Correction violated the Access to Public Records Act by failing to acknowledge your request for records.

Your requests from the DOC are copies of records showing why you were denied access to the facility law library and your mail logs. You also requested certain applications and expense reports filed by The Geo Group.

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 State of Indiana, 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 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 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 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.

Without a benefit of a response from the DOC, I cannot determine why the DOC did not acknowledge your request. Pursuant to Indiana Code § 5-14-5-5, a public agency shall cooperate with the counselor in any investigation or proceeding. This has not occurred. It is my sincere hope this Opinion facilitates the production of documents, if any exist.

CONCLUSION

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

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor