



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
ANDREW J. KOSSACK

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

October 21, 2010

Mr. Marquis D. Shipp
4490 W. Reformatory Rd.
Pendleton, IN 46064

Re: Formal Complaint 10-FC-218; Alleged Violation of the Access to Public Records Act by the Indianapolis-Marion County Forensic Services Agency

Dear Mr. Shipp:

This advisory opinion is in response to your formal complaint alleging the Indianapolis-Marion County Forensic Services Agency (the "Agency") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* I have enclosed the Agency's response for your reference.

BACKGROUND

According to your complaint, on August 31, 2010, you requested the employment history for two laboratory analysts. Previously, you requested access to the status of a laboratory technician's certification. You did not receive a response from the Agency regarding these requests.

Agency Director Michael Medler responded to your complaint. Mr. Medler states that the Agency received a request from you dated September 18, 2008, for the certification. Mr. Medler claims that the Agency responded to that request by providing you with responsive records. The Agency did not receive your August 31st request for the employment histories of the analysts. However, the Agency has now provided you with that information as well.

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 Agency does not contest that it is a "public agency" under the APRA. I.C. §

5-14-3-2. Accordingly, any person has the right to inspect and copy the Agency's public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Under the APRA, 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 (7) days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply.

Here, the Agency claims that it never received your August 31st request. If the Agency did not receive a request from you, it was not obligated to respond. *See Opinion of the Public Access Counselor 10-FC-99*. That said, it is my understanding that the Agency has now fulfilled your request. I trust this resolves your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the Agency did not violate the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Michael M. Medler