



# STATE OF INDIANA

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September 11, 2014

Mr. Robert Cardwell  
2050 E. Hanna Ave.  
Indianapolis, IN 46227

*Re: Formal Complaint 14-FC-176; Alleged Violation of the Access to Public Records Act by the Bureau of Motor Vehicles/Contact Center*

Dear Mr. Cardwell,

This advisory opinion is in response to your formal complaint alleging the Bureau of Motor Vehicles ("BMV") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The BMV has responded via staff attorney, Ms. Rachael C. Ehlich. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion in response to your formal complaint received by the Office of the Public Access Counselor on August 11, 2014.

## BACKGROUND

Your undated complaint alleges the Bureau of Motor Vehicles violated the Access to Public Records Act by not providing timely acknowledgement of your request in violation of Ind. Code § 5-14-3-3(b).

On July 29, 2014, you sent a records request (post-marked July 31, 2014) to the BMV seeking various information related to the Department's administration. In a letter dated August 8, 2014, the BMV acknowledged your request and asked for clarification as to the reasonable particularity of some of the requests. It is unclear when you received the August 8, 2014 letter; however, you indicated your complaint was filed before the acknowledgement. You take exception to the timeliness of the acknowledgement as it was more than seven days after your request.

## 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 Bureau of Motor Vehicles 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 BMV'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.

Because your request was post-marked July 31, 2014 and not hand-delivered, the request would have not been served to the BMV before August 1 or 2, 2014. By acknowledging your request on August 8, the BMV has satisfied its timeliness requirements. As for the production of records, the BMV has a reasonable time after receipt of a document request to actually gather, retrieve and produce the records. See Ind. Code § 5-14-3-3(b). You have not alleged a lack of production with a reasonable time as your complaint was filed on August 11, 2014.

### CONCLUSION

For the foregoing reasons it is the Opinion of the Public Access Counselor that the Bureau of Motor Vehicles has not violated the Access to Public Records Act.

Regards,



Luke H. Britt  
Public Access Counselor

Cc: Ms. Rachael C. Ehlich, Esq.