



STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

July 27, 2016

Mr. Richard Dodd - #996292
Pendleton Correctional Facility
4490 West Reformatory Road
Pendleton, Indiana 46064

Re: Formal Complaint 16-FC-154; Alleged Violation of the Access to Public Records Act by the State of Indiana, Indiana Department of Correction

Dear Mr. Dodd:

This advisory opinion is in response to your formal complaint alleging the State of Indiana, Indiana Department of Correction ("DOC") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. DOC has responded to your complaint via Mr. Joel Lyttle, Esq., Assistant Director of Legal Services. His response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on June 27, 2016.

BACKGROUND

Your complaint dated June 20, 2016, alleges the State of Indiana, Indiana Department of Correction violated the Access to Public Records Act by improperly denying your records request.

On April 6, 2016, you requested a copy of the contract between the DOC and Corizon Health Inc. Your request was acknowledged by Mr. Joel Lyttle, Esq. He informed you records would be forthcoming in the next 30 calendar days. Therefore, the records should have been sent to you by May 19, 2016. As of the filing of this complaint, you had not received a response from DOC.

On July 22, 2016 DOC responded. Director Lyttle admits his oversight in failing to respond to you within a reasonable time. Director Lyttle states he believed records were provided by staff at your correctional facility.

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 Indiana Code § 5-14-3-1*. The State of Indiana, Indiana Department of Correction is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy 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 Indiana Code § 5-14- 3-3(a)*.

DOC admits its mistake in failing to provide the record or a substantive response within a reasonable time. This appears to have been an inadvertent mistake and not an attempt to deny you access to records. DOC has stated records will be released once payment has been provided.

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: Mr. Joel D. Lyttle, Esq.