

December 29, 2004

Mr. Robert Perry  
Indiana State Prison  
P.O. Box 41  
Michigan City, IN 46361

*Re: Formal Complaint 04-FC-221; Alleged Violation of the Access to Public Records Act by the St. Joseph County Sheriff's Department*

Dear Mr. Perry:

This is in response to your formal complaint alleging that the St. Joseph County Sheriff's Department ("Sheriff") violated the Access to Public Records Act by failing to respond to your request for records. I find that St. Joseph County Sheriff's Department violated the Access to Public Records Act.

#### BACKGROUND

On October 18, 2004, you sent to the St. Joseph County Sheriff's Records Department a request for "a copy of any and all records dealing with or related to my attorney visits while detained at the county jail from May 2003 to June 2004." Because you did not receive any response, you filed a complaint with this office, which was postmarked on November 22, 2004 and received on November 29, 2004. Your complaint was timely filed under IC 5-14-5-7(b)(2).

I sent a copy of your complaint to the Sheriff. I received a written response, which I enclose for your reference. In its response, Warden Julie Lawson sent a two-page "Visitor History Detail" showing the date, time and name of your visitors from May 2003 through September 2004.

#### ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency's regular business hours, unless the record is excepted from disclosure under IC 5-14-3-4. IC 5-14-3-3(a). An agency is required to respond in writing to a written request for records.

If the agency receives a request via U.S. Mail, the agency is required to issue a written response within seven (7) calendar days from the date of its receipt of the request. IC 5-14-3-9(b). A response need only acknowledge receipt of the request and provide the requester with information about the agency's efforts to identify and produce the records. A failure to respond within the timeframes is deemed a denial under APRA.

In your case, the Sheriff did not respond to your request for records by the time you filed your complaint, well after the time in which it was required to respond. In its response, the Sheriff only includes the records you sought, without offering any information with respect to its apparent failure to have issued a timely written response. Because the Sheriff did not timely respond to your request for records, I must find that the Sheriff violated the Access to Public Records Act. However, I note that the enclosed two-page report appears to contain the information that you are seeking.

#### CONCLUSION

For the foregoing reasons, I find that the St. Joseph County Sheriff's Department violated the Access to Public Records Act because it failed to timely respond to your records request.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Warden Julie Lawson