



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

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February 10, 2010

Mr. Tracey L. Wheeler
4490 W. Reformatory Rd.
Pendleton, IN 46064

Re: Formal Complaint 10-FC-16; Alleged Violation of the Access to Public Records Act by the Vigo County Jail

Dear Mr. Wheeler:

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

BACKGROUND

According to your complaint, you submitted a request for access to public records to the Jail on December 14, 2009. As of January 3, 2010, you had not received a response from the Jail.

Attorney Robert L. Wright responded to your complaint on behalf of the Jail. Mr. Wright acknowledges that the Jail did not respond to your request in a timely manner and notes that the Jail has now provided you with all responsive records.

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." Ind. Code § 5-14-3-1. The Jail is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Jail's public records during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Under the APRA, if a request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). A public agency may deny a request if: (1) the denial is in writing or by facsimile; and (2) the denial includes: (A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and (B) the name and the title or position of the person responsible for the denial. I.C. § 5-14-3-9(c). If the Jail received your request and did not respond to it within these timeframes, the Jail violated the APRA by failing to provide you with a response within seven (7) days.

CONCLUSION

For the foregoing reasons, it is my opinion that the Jail violated the APRA by failing to respond to your written request within seven (7) days. I trust the Jail's subsequent response resolves this matter.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack
Public Access Counselor

cc: Robert L. Wright, Wright Shagley & Lowery, P.C.