



# STATE OF INDIANA

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December 29, 2010

Mr. Delmas Sexton II  
417 S. Calhoun St.  
Ft. Wayne, IN 46802

*Re: Formal Complaint 10-FC-325; Alleged Violation of the Access to Public Records Act by the Allen County Sheriff*

Dear Mr. Sexton:

This is in response to your formal complaint alleging the Allen County Sheriff ("Sheriff") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* A copy of the Sheriff's response to the complaint is enclosed for your reference. I granted your request for priority status under 62 Ind. Admin. Code 1-1-3(3).

In his response to your complaint, the Sheriff's attorney, John O. Feighner states that you currently have a pending lawsuit against the Sheriff regarding access to records in Allen County. Mr. Feighner states that it is "unclear . . . from the pleadings if the current litigation, as well as threatened litigation, relates to these specific letters [that are the subject of your complaint with the Office of the Public Access Counselor]." Under Ind. Code § 5-14-4-10(6), "the [public access] counselor may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under IC 5-14-1.5 or 5-14-3."

If you can show that the allegations in your complaint are separate and distinct from those implicated in your pending lawsuit, I will be happy to address them in an advisory opinion. At this time, however, I cannot issue an advisory opinion regarding your complaint because doing so could put this office in violation of Ind. Code § 5-14-4-10(6).

Best regards,

Andrew J. Kossack  
Public Access Counselor

cc: John O. Feighner