



STATE OF INDIANA

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April 7, 2010

Mr. Bradley J. Harris
DOC # 163953
3038 W. 850 S.
Bunker Hill, IN 46914

Re: Formal Complaint 10-FC-67; Alleged Violation of the Access to Public Records Act by the Wayne County Sheriff

Dear Mr. Harris:

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

BACKGROUND

According to your complaint, you have written several letters to the Sheriff in which you requested police reports. As of March 4, 2010, you received no response to your requests.

My office forwarded a copy of your complaint to the Sheriff. The response of Edna Abbitt, administrative assistant for the Sheriff, is enclosed. Ms. Abbitt states that she searched the Sheriff's files but could not locate a request from you. She also notes that the letters you included with your complaint incorrectly listed the Sheriff's address.

ANALYSIS

The public policy of the APRA states, "[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." I.C. § 5-14-3-1. The Sheriff does not contest that it is a "public agency" under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Sheriff's public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). 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. I.C. §5-14-3-9(b). If the request is delivered in person and the agency does not respond within twenty-four (24) hours, the request is deemed denied. I.C. §5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, it appears that the Sheriff did not receive your request. If the Sheriff did not receive your request, it was under no obligation to respond.

CONCLUSION

For the foregoing reasons, it is my opinion that the Sheriff did not violate the APRA.

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: Edna Abbitt