



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR  
JOSEPH B. HOAGE

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

August 23, 2011

Ronnie W. Harness  
D.O.C. # 211363  
3038 W 850 South  
Bunker Hill, Indiana 46914

*Re: Formal Complaint 11-FC-206; Alleged Violation of the Access to Public Records Act by the Vanderburgh County Confinement Center*

Dear Mr. Harness:

This advisory opinion is in response to your formal complaint alleging the Vanderburgh County Confinement Center ("Center") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Eric Williams, Vanderburgh County Sheriff, responded on behalf of the Center. His response is enclosed for your reference.

## BACKGROUND

In your complaint, you provide that you submitted a written request on July 21, 2011 to the Center for the names and position for all staff employed by the Center, as well as any medical records or paperwork (e.g. grievance and request for treatment) pertaining to your medical condition. As of the date you filed your formal complaint with this Office, you allege that the Center has failed to respond to your request.

In response to your formal complaint, Mr. Williams advised that the Center had no record of a records request from Ronnie Harness. Should the Center receive a request from Mr. Harness, it would respond in accordance with the requirements of the APRA.

## 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* I.C. § 5-14-3-1. The Center is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Center's public records during regular business hours unless the records are excepted from

disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

The Center maintains that it did not receive a request from you. If the Center did not receive your request, it was not obligated to respond to it. As previous Public Access Counselor's have provided, the Public Access Counselor is not a finder of fact. *See Op. of the Public Access Counselor 10-FC-15*. Consequently, I express no opinion as to whether or not the Center received your request. 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. *See* 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. *See* I.C. §5-14-3-9(c). If the Center did receive your request and did not respond to it within these timeframes, the Center violated the APRA by failing to provide you with a response within seven (7) days that satisfied the requirements of section 9(c) of the APRA.

I trust that the Center will respond to your request in accordance with the APRA. If you want to ensure that your future requests reach the Center, I would advise you to send it via certified mail or make arrangements for your request to be hand-delivered to the Center's office.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Center did not violate the APRA if it never received your request.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is stylized with a large initial "J" and a cursive "Hoage".

Joseph B. Hoage  
Public Access Counselor

cc: Eric Williams, Vanderburgh County Sheriff