



# 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)

January 25, 2012

Mr. Mark A. Jenkins  
DOC 963737  
5124 W. Reformatory Road  
Pendleton, Indiana 46064

*Re: Formal Complaint 12-FC-02; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Mr. Jenkins:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Correction ("DOC") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Robert Bugher, Chief Counsel, responded on behalf of the DOC. His response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you allege that you submitted a written request for records on December 19, 2011 to Robert Bugher, DOC Legal Services Director, for a copy of the DOC's contract with Lexis/Nexis for prisoners at the Correctional Industrial Facility. As of January 3, 2012, the date you filed your formal complaint with the Public Access Counselor's Office, you have yet to receive a response from the DOC.

In response to your formal complaint, Mr. Bugher advised a copy of the contract was sent to you on January 19, 2012.

## 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 DOC 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 DOC'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).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within twenty-four hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). If the 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). Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. *See* I.C. § 5-14-3-9(c). 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. You allege that you submitted your request to the DOC on December 19, 2011, to which the DOC advised that it produced the contract that was sought on January 19, 2011. Accordingly, the DOC acted contrary to section 9 of the APRA by failing to respond to your written request within seven (7) days of its receipt. As the DOC has now provided all records that were responsive to your request, I trust that this is in satisfaction of your complaint.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the DOC acted contrary to APRA by failing to respond to your written request within seven (7) days.

Best regards,

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

Joseph B. Hoage  
Public Access Counselor

cc: Robert Bugher