



STATE OF INDIANA
MITCHELL E. DANIELS, JR., Governor

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August 23, 2012

David Paul Allen
5930 Hohman Avenue, Suite 204
Hammond, Indiana 46320

Re: Formal Complaint 12-FC-221; Alleged Violation of the Access to Public Records Act by the East Chicago Police Department

Dear Mr. Allen:

This advisory opinion is in response to your formal complaint alleging the East Chicago Police Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Chief Mark J. Becker responded on behalf of the Department. His response is enclosed for your reference.

BACKGROUND

In your formal complaint, you allege that on July 17, 2012, you submitted a written request to the Department for records pursuant to the APRA. As of August 13, 2012, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege that you have yet to receive a response from the Department.

In response to your formal complaint, Chief Becker advised that on August 14, 2012, all records responsive to your request maintained by the Department were provided to you.

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 Department 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 Department's public records during regular business hours unless the records are exempted 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). 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, you submitted a written request to the Department on July 17, 2012. Thus, the Department was required to respond in writing by July 24, 2012 and it is in my opinion that it violated section 9 of the APRA in failing to timely respond to your request. As the Department has now provided all records that are responsive to your request, I trust that this is in satisfaction of your formal complaint.

CONCLUSION

For the foregoing reasons, it is my opinion the Department violated section 9 of the APRA by failing to respond in writing to your written request within seven days of receipt.

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: Chief Mark J. Becker