



STATE OF INDIANA

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December 10, 2008

Jeffory House
DOC #159896
One Park Row
Michigan City, Indiana 46360

Re: Formal Complaint 08-FC-235; Alleged Violation of the Access to Public Records Act by the Office of the Henry County Sheriff

Dear Mr. House:

This advisory opinion is in response to your formal complaint alleging the Office of the Henry County Sheriff ("Sheriff") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. A copy of the Sheriff's response to the complaint is enclosed for your reference. It is my opinion the Sheriff has not violated the APRA.

BACKGROUND

You allege that the Sheriff violated the APRA by denying you access to records you requested on or before October 29, 2008. Specifically, you allege you requested a record which would indicate which ambulance service was called when you were arrested in 2005. You mailed this complaint on November 3, and my office received it on November 10.

The Sheriff responded to the complaint by letter dated November 15 from Sheriff Butch Baker. The Sheriff also telephoned my office to provide the information. The Sheriff contends you have requested information from his office on three separate occasions and provides copies of the responses to each. Specifically, on May 23, 2008, you requested information about the ambulance service, and the Sheriff responded that the office maintains no record containing the information. The Sheriff has provided you with copies of related records.

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 is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). As such, any person has the right to inspect and copy the public records of the Sheriff during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable. I.C. § 5-14-3-3(a).

Here, the Sheriff contends the records you have requested to not exist. Nothing in the APRA requires a public agency to *develop* records or information pursuant to a request. The APRA requires the public agency to *provide access* to records already created. The Sheriff has provided you with records related to your requests but is not required to create an additional record to answer your inquiry.

CONCLUSION

For the foregoing reasons, it is my opinion the Sheriff has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Butch Baker, Henry County Sheriff