

November 1, 2007

Wyndan Skye  
PO Box 1023  
Richmond, Indiana 47375

Dear Mr. Skye:

This is in response to your informal inquiry dated August 14, 2006. I apologize for the delay in the response. I took office July 1 of this year and am currently endeavoring to address the backlog of informal inquiries. Your inquiry concerns records you have requested from the Indiana Bureau of Motor Vehicles ("BMV") and your allegation the BMV violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) in its response to your request.

#### BACKGROUND

You filed a formal complaint with this office which the office received on July 26, 2006. Because your complaint was untimely filed under Indiana Code §5-14-5-7(a), the previous counselor converted it to an informal inquiry to be answered pursuant to I.C. §5-14-4-10(5). In your complaint, you alleged you submitted a request for copies of records to the BMV by letter dated May 30, 2006. Specifically, you requested copies of laws related to the BMV's change in procedures regarding Social Security numbers as well as two forms. This request was included in a lengthy letter by which you requested an administrative hearing. The BMV responded to you by letter dated June 12, 2006, providing the legal authority requiring the provision of a Social Security number and explaining its discontinuation of use of the forms.

You submitted your complaint to this office by letter dated July 20, 2006. You indicated in your letter that while the BMV provided you with the requested materials, your complaint is that the form could not be verified because it did not contain a state form number. You also allege information required by statute to be included on the form was missing.

#### 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.

Indiana Code §5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of APRA. A “public record” means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. §5-14-3-2.

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 days of receipt, the request is deemed denied. I.C. §5-14-3-9(b).

Here I do not believe you have alleged the BMV failed to respond to your request or failed to respond to your request in the time allowed by the APRA. As I understand it, your allegation is that the form sent to you by the BMV did not contain a state form number and did not contain all the information that the Indiana Code requires the BMV to collect.

The duties of the public access counselor, listed in I.C. §5-14-4-10, include training public officials, issuing advisory opinions and responding to informal inquiries, all concerning public access laws. It is my opinion your complaint falls outside the purview of the Access to Public Records Act. The APRA requires public agencies to provide access for inspection and copying of public records. I.C. §5-14-3-3. It does not, however, contain any provisions regarding what may or may not be required in or on state forms. As such, I am unable to issue a further opinion in this matter.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Scott Devries, Chief Legal Counsel, Indiana Bureau of Motor Vehicles