

April 21, 2004

Mr. Moses Giger  
No. 129717  
Indiana State Prison  
P.O. Box 41  
Michigan City, Indiana 46361

*Re: 04-FC-52; Alleged Violation of the Access to Public Records Act by the  
St. Joseph County Jail, Medical Department*

Dear Mr. Giger:

This is in response to your formal complaint alleging that the St. Joseph County Jail, Medical Department (Jail) violated the Indiana Access to Public Records Act (APRA) (Ind. Code §5-14-3) when it failed to timely respond to your request for records. Memorial Home Care, the contractor for the Jail's medical services and keeper of its medical records, responded on behalf of the Jail.<sup>1</sup> A copy of the Jail's response to your complaint is enclosed for your reference. For the reasons set forth below, I find that the Jail did not violate the APRA as alleged in your complaint.

#### BACKGROUND

According to your complaint, you made a request for copies of your medical records held by the jail in September 2003. You allege that on October 14, 2003, you received a blank medical release form with a request that you complete and return the form for the release of your medical records. You allege that you completed and returned the form, but have not received the records. On behalf of the Jail, Memorial Home Care acknowledges that it sent you the medical release form, but avers that it never received the completed form. The response asserts that your medical records cannot be released to you without the completed release, and to facilitate your request you are being provided with another blank copy of the medical release form. That form is included with this opinion and a copy of the response to your complaint.

#### ANALYSIS

A public agency that receives a request for records under the APRA has a specified period of time to respond to the request. IC 5-14-3-9. A timely response to the request does not

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<sup>1</sup> So that there is no confusion, nothing in this opinion should be construed to suggest that Memorial Home Care is itself a public agency subject to the APRA. The public agency here is the Jail, and Memorial Home Care is responding only pursuant to its contractual relationship with the Jail.

mean that the public agency must expressly decline to produce or produce the documents that are responsive to the request within the statutorily prescribed time period. Of course, a public agency is free to take either of those actions, but may also comply with its response obligation under the statute by acknowledging receipt of the request and indicating the specific actions the agency is taking toward production.

Here, there is no allegation that the Jail did not timely respond to your request, but rather your complaint is that the Jail did not produce the responsive documents within a reasonable time of receipt of that request. Because you are seeking medical records, state and federal law require that you submit the medical release form. While everyone agrees that you were provided with that form, Memorial Home Care on behalf of the Jail expressly states that it did not receive the completed form. Accordingly, I decline to find that the Jail violated the APRA for failing to produce responsive records within a reasonable time. Indeed, the Jail's response appears to indicate its timely responses and good faith toward production and compliance with the APRA subject to the requirements of state and federal law governing the release of medical records.

A new copy of a blank medical release form is enclosed with this opinion. Please complete the form and return it to Memorial Home Care, addressed to Ms. Elizabeth Walker of that entity. I recommend that you keep a copy for your own records. Upon receipt of the properly completed form, Memorial Home Care avers that it will produce your medical records on behalf of the Jail.

#### CONCLUSION

For the reasons set forth above, I find that the Jail did not violate the APRA for the reasons alleged in your complaint.

Sincerely,

Michael A. Hurst  
Public Access Counselor

cc: Ms. Jeanne James  
Ms. Elizabeth Walker