



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

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July 18, 2012

Keith Ware  
DOC 5265  
One Park Row  
Michigan City, Indiana 46360

*Re: Formal Complaint 12-FC-179; Alleged Violation of the Access to Public Records Act by the Indiana Parole Board*

Dear Mr. Ware:

This advisory opinion is in response to your formal complaint alleging the Indiana Parole Board ("Board") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Randall P. Gentry responded on behalf of the Board. His response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you allege that you submitted a written request for records to the Board on June 13, 2012. As of July 3, 2012, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege that the Board has failed to respond to your request.

In response to your formal complaint, Mr. Gentry advised that the Board received your request on June 28, 2012, to which it responded in writing on July 5, 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 Board 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 Board'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 24 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 (7) days *of receipt*, the request is deemed denied (emphasis added). *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. Here, the Board received your request for records on June 28, 2012; the Board responded to your request, in writing, on July 5, 2012. The seven-day time period for the Board to respond to your request pursuant to I.C. § 5-14-3-9(b) did not commence until the date the Board received your request; not the date you placed the request in the mail. As such, it is my opinion that the Board did not violate the section 9 of the APRA. Regardless, as the Board has now responded to your request, I trust that this is in satisfaction of your complaint.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Board did not violate the APRA.

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: Randall P. Gentry