



# STATE OF INDIANA

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November 14, 2012

Mr. Michael A. Christianson  
DOC 135489  
3038 W 850 South  
Bunker Hill, Indiana 46914

*Re: Formal Complaint 12-FC-315; Alleged Violation of the Access to Public Records Act by the LaPorte County Probation Department*

Dear Mr. Christianson:

This advisory opinion is in response to your formal complaint alleging the LaPorte County Probation Department (“Department”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 *et seq.* David K. Payne, Attorney, responded in writing on behalf of the Department. His response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you provide that on October 6, 2012, you submitted a written request to the Department asking for all records maintained by the Department as part of your probation file. You maintain that your request was submitted to Mr. Robert Schuster, Chief Probation Officer. As of October 22, 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, Mr. Payne advised that Mr. Schuster is not the Chief Probation Officer for the Department. Further, at no time did you contact the Department to inquire as to the procedure for requesting documents from your file. Despite your failure to provide the correct information with your request, the Department has now forwarded a complete copy of your file to the address provided in your formal complaint. The file consisted of 128 pages of records and all applicable fees were waived.

## 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 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 by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See I.C. § 5-14-3-9(b). Again, section 9(b) requires that the agency respond within seven (7) days of the receipt of the request; not seven (7) days from when the request was mailed. 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. 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). Here, you provide that you submitted your request to the Department on or about October 6, 2012, to which the Department failed to respond. In response, the Mr. Payne advised that your request failed to provide all the necessary information in order for the agency to respond to it. As the Department did not respond in writing to your written request within seven (7) days of receipt, it is my opinion that it acted contrary to the requirements of section 9 of the APRA. Regardless, as the Department has now provided to you a complete copy of your probation file and waived any applicable fees, I trust that this is in satisfaction of your formal complaint.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Department acted contrary to the requirements of section 9 of the APRA in response to your request. As the Department has now provided a complete copy of your file and waived all applicable fees, I trust that this is in satisfaction of your formal complaint.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is stylized and cursive.

Joseph B. Hoage  
Public Access Counselor

cc: David K. Payne