



STATE OF INDIANA

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June 2, 2009

David Michael Jones
DOC #850168
Box 473
Westville, Indiana 46391

Re: Formal Complaint 09-FC-129; Alleged Violation of the Access to Public Records Act by the Madison County Detention Center

Dear Mr. Jones:

This advisory opinion is in response to your formal complaint alleging the Madison County Detention Center ("Center") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by failing to respond to your request for access to records. A copy of the Center's response to the complaint is enclosed for your reference. It is my opinion the Center did not violate the APRA.

BACKGROUND

You allege that between November 1, 2008 and May 10, 2009 you have sent a number of requests for access to records to the Center. You allege the Center did not respond to your requests. Your complaint was postmarked on May 15, and my office received it on May 21. You requested priority status but did not allege any of the reasons for priority status listed in 62 IAC 1-1-3, so priority status was not granted.

The Center responded to the complaint by letter dated May 22 from Jail Commander Andrew Williams. The Center contends the office has not received a request from you. The Center further indicates that to request the information you seek, you should provide a date of birth or social security number for the individuals whose information you seek. Further, you must provide a self-addressed stamped envelope. While the usual fee for such a request is \$3.00, the Center is willing to waive that fee for you.

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

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 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).

A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency. A public agency is required to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. § 5-14-3-7(a). However, section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. I.C. § 5-14-3-7(c). Former public access counselors and I have stated that records must be produced within a reasonable period of time, based on the facts and circumstances.

Here, the Center did not receive your request. If the Center had received the request, the office would have been required to issue a response to you within seven days of receipt. I.C. § 5-14-3-9(b). An agency cannot, though, respond to a request it has not received. As such, the Center has not violated the APRA by not responding to a request the office did not receive.

CONCLUSION

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

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Andrew Williams, Madison County Detention Center