



STATE OF INDIANA

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May 30, 2012

Philip Gregory Yeary
DOC#: 169399
1946 W. U.S. 40
Greencastle, Indiana 46135

Re: *Informal Inquiry 12-INF-28; "Jail or Lock-up Information" and
"Daily Log" of Law Enforcement Agencies*

Dear Mr. Yeary:

This is in response to your informal inquiries regarding access to jail or lock-up information and the daily log requirements under the Access to Public Records Act ("APRA"). Pursuant to Ind. Code § 5-14-3-9(e), I issue the following informal opinion in response to your inquiries. My opinion is based on applicable provisions of the APRA, I.C. § 5-14-3-1 *et seq.*

BACKGROUND

You have submitted the following inquiries regarding the requirements of a law enforcement agency pursuant to I.C. § 5-14-3-5:

"If the agency is not the primary agency, as an assisting agency, are they required to create various logs and records? In the below-mentioned statute [Indiana Code § 5-14-3-5(c)] please note the text, 'request for assistance.'

Does Indiana Code 5-14-3-5(c) make it mandatory for logs and records to be created for requests for assistance?"

Does that [Indiana Code § 5-14-3-5(b)] apply to every detainment of a person in a holding cell, lock-up, and jail? Does it matter that the person is later transferred to another jail at a later time?"

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. Accordingly, any person has the right to inspect and copy a public agency’s 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). 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). The APRA does not require public agencies to *produce* records within seven (7) days; rather, it requires a *response*. 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.

I.C. § 5-14-3-5 provides that certain specified information must be made public in three instances: if a person is arrested or summoned for an offense, if a person is received in a jail or lock-up, and where an agency has received a call regarding a suspected crime, accident, or complaint. Section 5(c) requires law enforcement agencies to maintain a daily log or record that lists suspected crimes, accidents, or complaints, and the following information shall be made available for inspection and copying:

- (1) The time, substance, and location of all complaints or requests for assistance received by the agency;
- (2) The time and nature of the agency’s response to all complaints or requests for assistance;
- (3) If the incident involves an alleged crime or infraction:
 - (A) the time, date, and location of the occurrence,
 - (B) the name and age of any victim, unless the victim is a victim of a crime under Indiana Code 35-42-4,
 - (C) the factual circumstances surrounding the incident; and
 - (D) a general description of any injuries, property, or weapons involved.

The information required in this subsection shall be made available for inspection and copying in compliance with this chapter. The record containing the information must be created not later than twenty-four (24) hours after the suspected crime, accident, or complaint has been reported to the agency. I.C. § 5-14-3-5(c).

A law enforcement agency is required to comply with the requirements of I.C. § 5-14-3-5(c)(1)-(2) in regards to requests for assistance. Section 5 does not distinguish between primary and secondary agencies as it relates to requests for assistance. As such, any agency responding to a request for assistance would be required to comply with I.C. § 5-14-3-5(c)(1)-(2). The denial of a request for information required to be maintained in the daily log violates the APRA. *See Opinion of the Public Access Counselor 06-FC-123.*

Once a person is arrested or summoned for an offense, or received in jail or lock-up, the information specified in I.C. §§ 5-14-3-5(a)-(b) would be required to be made available. The information required to be disclosed regarding a person received in a jail or lock-up, pertains to all individuals who are detained in lock-up or jail. I.C. 5-14-3-5(b) provides:

If a person is received in a jail or lock-up, the following information shall be made available for inspection and copying:

- (1) Information that identifies the person including the person's name, age, and address.
 - (2) Information concerning the reason for the person being placed in the jail or lock-up, including the name of the person on who order the person is being held.
 - (3) The time and date that the person was received and time and date of the person's discharge or transfer.
 - (4) The amount of the person's bail or bond, if it has been fixed.
- I.C. § 5-14-3-5(b).

Once a person is received in a jail or lock-up, regardless of a prior or subsequent transfer, the requirements of subsection (b) would apply.

If I can be of additional assistance, please do not hesitate to contact me.

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