



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

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January 5, 2010

Mr. Curtis L. Jackson  
DOC # 973802  
P.O. Box 1111  
Carlisle, IN 47838

*Re: Formal Complaint 10-FC-3; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction Tort Claims Administrator*

Dear Mr. Jackson:

This is in response to your formal complaint alleging the Indiana Department of Correction Tort Claims Administrator ("Administrator") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*

## BACKGROUND

In your complaint, you allege that you mailed a request to the Administrator on November 16, 2009. You requested records relating to tort claims that you have previously filed with the Administrator. As of December 3, 2009, you received no response from the Administrator.

## 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." I.C. § 5-14-3-1. The Administrator is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Administrator's public records during regular business hours unless the records are excepted from disclosure as confidential or 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). An agency may require a request to be made in writing or on a form provided by the agency.

I.C. §5-14-3-3(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. 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. When the request is made in writing and the agency denies the request, the agency must deny the request in writing and must 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. I.C. § 5-14-3-9(c). If the Administrator received your request and failed to respond in accordance with these provisions, the Administrator violated the APRA.

### CONCLUSION

For the foregoing reasons, it is my opinion that if the Administrator received your request and did not respond within seven (7) days, the Administrator violated the APRA.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive style with a large, sweeping initial "A".

Andrew J. Kossack  
Public Access Counselor

cc: Henry Nunnery, Indiana Department of Correction