



# STATE OF INDIANA

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January 21, 2011

Mr. David M. Burks-Bey  
5501 S. 1100 W.  
Westville, IN 46391

*Re: Formal Complaint 10-FC-324; Alleged Violation of the Access to  
Public Records Act by the Office of the Governor*

Dear Mr. Burks-Bey:

This advisory opinion is in response to your formal complaint alleging the Office of the Governor (the "Office") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*

## BACKGROUND

In your complaint, you allege that the Office denied your "written Public Records Request for a 'Received Stamped Copy' of service of: 'Public Notice Declaration, Lawful Protest, Notice of Foreign Jurisdiction and Affidavit of Sovereignty & Truth of David Michael Burks-Bey [sic].'" In response to your complaint, the Office informed me that it has, in fact, responded to your request and provided you with a stamped copy of these documents.

## 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 Office is a "public agency" under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Office's public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Here, your request is unusual insofar as it appears to request copies of the same records attached to your request. The APRA was intended to provide requesters with the

right to “inspect and copy the public records *of any public agency.*” I.C. § 5-14-3-3(a). At the time you sent your request, the records you sought copies of were not maintained by the Office. Moreover, it is unclear to me whether or not a public agency is required to provide “stamped cop[ies]” of public records given that the APRA does not require a public agency to create a new record or modify an existing record to fulfill a request. *See, e.g., Op. of the Public Access Counselor 05-FC-239.* I also note that the APRA permits a public agency to charge a fee for copies of public records, and a public agency may require a requester to pay any applicable copying fees in advance. I.C. § 5-14-3-8(e). Nothing in the APRA requires that a public agency waive a copying fee. *See Opinion of the Public Access Counselor 07-FC-124.* That said, it is my understanding that the Office provided you with a stamped copy of the responsive records. I trust this satisfies your complaint.

#### CONCLUSION

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

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack  
Public Access Counselor

Cc: David Pippen