



# STATE OF INDIANA

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June 13, 2011

Mr. Michael R. Craig  
3038 West 850 South  
Bunker Hill, IN 46914

*Re: Formal Complaint 11-FC-116; Alleged Violation of the Access to Public Records Act by the White County Sheriff's Office*

Dear Mr. Craig:

This advisory opinion is in response to your formal complaint alleging the White County Sheriff's Office ("Office") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*. The Office's response to your complaint is enclosed for your reference.

## BACKGROUND

According to your complaint, the Office failed to respond to your May 3, 2011, request for access to records that you need for a legal matter in another county.

In response to your complaint, White County Sheriff Patrick Shafer states that his secretary responded to your request by mailing you responsive records, but the Office does not have a record of the date the secretary responded. Sheriff Shafer also enclosed the responsive records in his response to ensure that you receive them.

## 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 for the purposes of 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 records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Under the APRA, 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 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). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. § 5-14-3-9(a). 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.

Here, it is unclear when the Office responded to your request, which you sent via U.S. Mail. Moreover, it is unclear when the Office received your request, which is important to know because the APRA requires that public agencies respond to mailed requests within seven days of receipt. It appears that you sent your request on May 3rd and filed your complaint on May 9th. Even if the Office received the request on May 3rd (which is unlikely considering that it was sent via the mail), the Office had until May 10th to respond, which means that you might not have received the Office's response until May 13th (the next business day after May 10th). In any event, I trust Sheriff Shafer's enclosed response satisfies your complaint and resolves this issue.

#### CONCLUSION

For the foregoing reasons, it is my opinion that if the Office responded to your request within seven days of receipt, the Office did not violate the APRA.

Best regards,



Andrew J. Kossack  
Public Access Counselor

cc: Sheriff Patrick Shafer