



STATE OF INDIANA

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July 1, 2013

Mr. Andrew P. Wirick
54 Monument Circle, 4th Floor
Indianapolis, Indiana 46204-2996

Re: Formal Complaint 13-FC-164; Alleged Violation of the Access to Public Records Act by the Huntington County Sheriff's Department

Dear Mr. Wirick:

This advisory opinion is in response to your formal complaint alleging the Huntington County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Robert S. Garrett, Attorney, responded in writing on behalf of the Department. His response is enclosed for your reference.

BACKGROUND

In your formal complaint, you provide that on March 11, 2013, you submitted a written request for records to the Department. As of June 3, 2013, the date you filed your formal complaint with the Public Access Counselor's Office, you have yet to receive any response from the Department to your request.

In response to your formal complaint, Mr. Garrett advised that your request was referred to him by the Jail Commander on March 15, 2013. Due to a miscommunication between the Commander and Mr. Garrett, no further action was taken. All records responsive to your request for John Griffith have now been forwarded to you and the Department apologizes for the delay in its response and production.

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. The Department is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Department's public 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). A response from the public agency could be an acknowledgement that the request has been received and include information regarding how or when the agency intends to comply. Here your written request for records was received by the Department on or about March 11, 2013. Due to a miscommunication between the Department and Mr. Garret, the Department failed to acknowledge in writing the receipt of your written request within seven (7) days of receipt. Accordingly, it is my opinion that the Department acted contrary to the requirements of section 9(b) of the APRA by not acknowledging your request in writing within seven (7) days of its receipt. As the Department has now provided all records responsive to your request for John Griffith, I trust that this is in satisfaction of your formal complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the Department acted contrary to section 9(b) of the APRA in not responding in writing to your written request within seven (7) days of its receipt.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive, somewhat stylized font.

Joseph B. Hoage
Public Access Counselor

cc: Robert S. Garrett