



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

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June 26, 2013

Mr. William D. Simmons  
DOC 871199  
3038 West 850 South  
Bunker Hill, Indiana 46914

*Re: Formal Complaint 13-FC-175; Alleged Violation of the Access to Public Records Act by the Indiana Parole Board*

Dear Mr. Simmons:

This advisory opinion is in response to your formal complaint alleging the Indiana Parole Board ("Board") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Randy Gentry, Vice Chairman, responded in writing on behalf of the Board. His response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you provide that on May 20, 2013 you submitted a written request for records to the Board. As of June 18, 2013, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege that you have yet to receive any response from the Board to your request.

In response to your formal complaint, Mr. Gentry advised that the original envelope that you submitted to the Board contained an incorrect address. Further, your request did not seek copies of any records maintained by the Board; rather you sought a reconsideration of parole. A copy of all Board records related to its prior parole determination are enclosed for your review.

## 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 Board 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 Board'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 you allege that you submitted a written request for records to the Board on May 20, 2103. The envelope that was submitted to the Board contained an incorrect address and was postmarked by the U.S. Postal Service on June 13, 2013. The Board responded to your written request on June 19, 2013. Thus it is my opinion that the Board complied with the requirements of section 9 of the APRA as it did not receive your request until after June 13, 2013.

Further, the Board maintains you did not make a request for records of the Board; rather you requested a reconsideration of the Board's prior decision regarding your parole. Determinations made by the Board regarding your parole status are outside the purview of this office. Regardless, the Board has now provided all records responsive to your request which I trust is in satisfaction of your formal complaint.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Board did not violate the APRA in response to your request. As all records have now been provided, I trust that this is in satisfaction of your formal complaint.

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

cc: Randy Gentry