



STATE OF INDIANA
MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
JOSEPH B. HOAGE

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317) 234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

July 15, 2013

Mr. Carl Sean Hall
DOC 985346
3038 W 850 S
Bunker Hill, Indiana 46914

Re: Formal Complaint 13-FC-194; Alleged Violation of the Access to Public Records Act by the St. Joseph County Jail

Dear Mr. Hall:

This advisory opinion is in response to your formal complaint alleging the St. Joseph County Jail ("Jail") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* I have granted your request priority status pursuant to 62 Ind. Admin. Code 1-1-3(3). Our office forwarded a copy of your formal complaint to the Jail on July 8, 2013. As of today's date, we have yet to receive a response.

BACKGROUND

In your formal complaint, you provide that you submitted a written request for records to the Jail on June 11, 2013. As of July 8, 2013, the date your filed your formal complaint with the Public Access Counselor's Office, you allege that you have yet to receive any response to your request.

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. Accordingly, any person has the right to inspect and copy a public agency'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 in person and the agency does not respond within 24 hours, the request is deemed denied. *See* I.C. § 5-14-3-9(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. *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. Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and 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. *See* I.C. § 5-14-3-9(c). As applicable here, if the Jail failed to respond to your written request within seven (7) days of receipt, it is my opinion that the Jail acted contrary to the requirements of section 9 of the APRA

CONCLUSION

For the foregoing reasons, it is my opinion that if the Jail failed to respond to your written request within seven (7) days of receipt, it acted contrary to the requirements of section 9 of the APRA

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive style with a large initial "J" and "H".

Joseph B. Hoage
Public Access Counselor

cc: Sheriff Michael D. Grzegorek