



# STATE OF INDIANA

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May 13, 2009

Randolph Watts  
DOC #45620  
18102 Cumberland Road  
Noblesville, Indiana 46060

*Re: Formal Complaint 09-FC-99; Alleged Violation of the Access to Public Records Act by the Hamilton County Sheriff's Department*

Dear Mr. Watts:

This advisory opinion is in response to your formal complaint alleging the Hamilton County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by failing to respond to your request for access to records. It is my opinion the Department violated the APRA if the Department received your request and did not respond to it within seven days.

## BACKGROUND

You allege that on March 16, 2009 you sent to the Department a request for access to records. As of the date of your complaint, you allege you have not received a response to your request. You allege this constitutes a denial of access in violation of the APRA. Your complaint was postmarked on April 13, and my office received it on April 15. You requested priority status but did not allege any of the reasons for priority status listed in 62 IAC 1-1-3, so priority status was not granted.

My office sent a copy of the complaint to the Department and invited the Department to respond. To date my office has not received a response to the complaint.

## 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 Department is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the Department during regular business hours unless the public records are

excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

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 transmission and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency.

Here, you sent the request to the Department on March 16. If the Department received the request, the Department should have responded to it within seven days. *See* I.C. § 5-14-3-9(b). If the Department received the request and did not respond, the Department violated the APRA.

#### CONCLUSION

For the foregoing reasons, it is my opinion the Department violated the APRA if the Department received your request and did not respond to it within seven days.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Captain Edward Moore, Hamilton County Sheriff's Department