

January 2, 2008

Christine Brown  
215 North 2<sup>nd</sup> Street  
Boonville, Indiana 47601

*Re: Formal Complaint 08-FC-2; Alleged Violation of the Access to Public Records Act by the Warrick County Office of the Indiana Department of Child Services*

Dear Ms. Brown:

This advisory opinion is in response to your formal complaint alleging the Warrick County Office of the Indiana Department of Child Services ("Office") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. I have enclosed a copy of the Office's response to your complaint for your reference. It is my opinion the Office's response to your request was untimely but the Office did not otherwise violate the APRA.

#### BACKGROUND

In your complaint you allege that on November 27, 2007 you delivered to the Office a request for access to records maintained by the office. You allege you received no response from the Office. You submitted your complaint on December 5.

The Office did not respond to your complaint at my invitation to do so. You did, however, include with your complaint a letter from the Office dated December 4. In the letter, Jonathan Young, Staff Attorney for the Office, indicated your request for records was denied because the Office had previously provided at least two complete copies of the records to which you requested access.

#### 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. Any person has the right to inspect and copy the public records of a public agency 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).

The Office is clearly 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 public records of the Office 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 “public record” means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. §5-14-3-2(m).

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

Mr. Young indicated in his December 4 letter that you had personally delivered to the Office your request for records on November 27. Because you personally delivered the request, the Office was required to respond to your request within 24 hours of receipt. If the December 4 letter was the first response from the Office, the response was untimely under the APRA.

Regarding the denial of access based on the Office’s assertion that it has previously provided two copies of the records to you, former Counselor Karen Davis addressed this issue in 2007. “A public agency must provide at least one (1) copy of the public record. IC 5-14-3-8(e). I do not read this provision to require that the public agency provide duplicative copies of the same record.” *Opinion of the Public Access Counselor 07-FC-19*. I subscribe to Counselor Davis’s opinion in this matter. As such, it is my opinion the Office did not violate the APRA by denying you access to another copy of the records.

#### CONCLUSION

For the foregoing reasons, it is my opinion the Office’s response to your request may have been untimely under the APRA if the December 4 letter was its the first response. It is my opinion the Office has not otherwise violated the Access to Public Records Act.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Judith Harper, Warrick County Office of the Indiana Department of Child Services