



STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

November 25, 2013

Mr. Anthony Wayne Taylor #910720
New Castle Correctional Facility
1000 Van Nuys Rd.
New Castle, IN 47362

Re: Formal Complaint 13-FC-313; Alleged Violation of the Access to Public Records Act by the Marion County Sheriff's Department

Dear Mr. Taylor,

This advisory opinion is in response to your formal complaint alleging the Marion County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Ms. Sarah Steele Riordan, Counsel for the Department, responded to your formal complaint. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 28, 2013.

BACKGROUND

Your complaint dated October 28, 2013 alleges the Marion County Sheriff's Department violated the Access to Public Records Act by denying your request for records in violation of Ind. Code § 5-14-3-3(b) on or about August 19, 2013.¹

You allege that on or about August 19, 2013, you sent a request to the Marion County Sheriff's Department for records relating to your identification as a sexual predator.² You claim you never received a response from the Department.

¹ Please note your initial filing of a formal complaint was timely, however, it was rejected as having insufficient information to formulate an advisory opinion. Your formal complaint will be considered as timely by this office under the circumstances.

² The Department has indicated on your complaint you are no longer listed on the Indiana Sex and Violent Offender Registry.

In their response, the Department argues they never received a response and therefore were not able to produce records responsive 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 Ind. Code § 5-14-3-1. The Marion County Sheriff’s Department is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Department’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 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 Ind. Code § 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 Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

It is unclear as to why your records request was never received by the Department. The request was sent to the Indiana Sex and Violent Offender Registry Division; however, the Department maintains they never received the public records request.

You are entitled to the records you seek. The Department has extended an invitation to re-send your request and they will work to gather and produce those records. I have contacted Ms. Riordan and requested she advise the Department to produce the records immediately instead of waiting for a duplicate request. I trust this is a satisfactory resolution.

CONCLUSION

For the foregoing reasons, it is my opinion the Marion County Sheriff’s Department has not violated the Public Records Act, if they truly never received your public records request.

Regards,

A handwritten signature in black ink, appearing to be the initials 'JTB' with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Ms. Sarah Steele Riordan