

March 1, 2006

Stuart Showalter
P.O. Box 374
Lebanon, IN 46052

Re: Formal Complaint 06-FC-31; Alleged Violation of the Access to Public Records Act by the Boone County Sheriff

Dear Mr. Showalter:

This is in response to your formal complaint alleging that the Boone County Sheriff ("Sheriff") violated the Access to Public Records Act by failing to respond to your request for disclosable records. I find that the Sheriff violated the Access to Public Records Act.

BACKGROUND

You mailed a request to the Sheriff on January 2, 2006, for "any communications between #403 and the Boone County Communications Center on 26 September 2005 from 21:00 – 23:00." You allege that the Sheriff has not responded to your request. I sent a copy of your complaint to the Sheriff. He has not responded to your complaint.

ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, unless the record is excepted from disclosure under section 4 of the Access to Public Records Act ("APRA"). Ind. Code 5-14-3-3(a). A public agency that receives a request for records via U.S. Mail is required to respond within seven (7) days of receipt of the request, or the request is deemed denied. IC 5-14-3-9(b). A public agency may deny a written request for records if the denial is in writing and if the denial includes a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record, and the name and the title or position of the person responsible for the denial. IC 5-14-3-9(c). If a public agency does not maintain a record that is responsive to a particular request, the public agency should indicate that no such record exists.

The Sheriff is a public agency under the Access to Public Records Act. IC 5-14-3-2(1)(6). The records maintained by the Sheriff are public records that must be disclosed unless exempt under the APRA. The Sheriff has violated the Access to Public Records Act by failing to respond to your request for records. This continuing violation is actionable under IC 5-14-3-9(e).

CONCLUSION

The Boone County Sheriff has denied you a record in violation of the Access to Public Records Act. This denial is actionable under IC 5-14-3-9(e).

Sincerely,

Karen Davis
Public Access Counselor

cc: Sheriff Dennis Brannon