



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

June 24, 2014

Mr. Mark N. Stults
New Castle Correctional Facility
100 Van Nuys Road
New Castle, IN 47362

Re: Formal Complaint 14-FC-113; Alleged Violation of the Access to Public Records Act by the Clay County Sheriff's Department

Dear Mr. Stults,

This advisory opinion is in response to your formal complaint alleging the Clay County Sheriff's Department ("CCSD") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The CCSD has provided a response to your complaint via Ms. Melissa Gambill. Her response is attached 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 May 22, 2014.

BACKGROUND

Your complaint dated May 19, 2014, alleges the Clay County Sheriff's Department ("CCSD") violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

By the letter dated April 8, 2014, you made a public records request to Melissa Gambill, Clay County 911 Coordinator, for "[t]he tape recordings of the telephone call from the Sheriff's Department on or about December 7, 2011 on or about 18:24 p.m. from the telephone number [...] to number [...]" You also asked for a log of all calls from a certain telephone number to the CCSD. Your request was acknowledged by letter dated April 17, 2014. You received nothing further from CCSD.

CCSD responded to your complaint on May 27, 2014. Initially, CCSD responded that the requested record was "put on a disk attached with a letter to go out to [you] by the end of the day." Later that same day, CCSD followed up on their initial response, stating no record existed specifically responsive to your request, but that a call was located that may

satisfy your request. Additionally, a call was located between you and Deputy Boes, which CCSD stated will also be sent to you.

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 Clay 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 CCSD’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).

It does not appear you were denied the records; only that the CCSD took an exceptionally long time to provide them and only provided them after the filing of your formal complaint. Ind. Code § 5-14- 3-3(b) states a public agency must provide records responsive to a request within a reasonable time. I am not familiar with the recordkeeping system of the CCSD and how long it generally takes to retrieve a record. Five weeks is bordering on the threshold, but I cannot definitively say it is unreasonable under the circumstances. In any case, I trust the records provided to you satisfy your search for public records.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Indiana Public Access Counselor the Clay County Sheriff’s Department has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Ms. Melissa Gambill