



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)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

July 12, 2016

Mr. Terrance Swann #956680
Westville Correctional Facility
5501 South 1100 West
Westville, Indiana 46391

Re: Formal Complaint 16-FC-148; Alleged Violation of the Access to Public Records Act by the Elkhart County Sheriff's Office

Dear Mr. Swann:

This advisory opinion is in response to your formal complaint alleging the Elkhart County Sheriff's Office ("Office") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Office has responded via Captain James Bradberry. His response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on June 27, 2016.

BACKGROUND

Your complaint dated June 21, 2016, alleges the Elkhart County Sheriff's Office violated the Access to Public Records Act by failing to respond to your records request. On June 10, 2016, you requested copies of county jail general orders. As of the filing of your complaint, you had not received a response. On June 9, 2016 the Office responded. The Office notes it received your request on June 27, 2016 and responded on June 28, 2016. The letter also informed you the Office would need additional time to search for the policy requested.

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 Indiana Code § 5-14-3-1*. The Elkhart County Sheriff's Office is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Office's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

A request for records may be oral or written. See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c). 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 Indiana 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.

The Office notes it responded to your request on June 28, 2016. However, it does not appear you received the letter. While this is unfortunate, the letter was likely a casualty of the prison mail system. The Office responded within seven (7) days, therefore, it has met its obligations under the APRA.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the Elkhart County Sheriff's Office did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Captain James Bradberry