

STATE OF INDIANA

ERIC J. HOLCOMB, Governor

PUBLIC ACCESS COUNSELOR LUKE H. BRITT

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OPINION OF THE PUBLIC ACCESS COUNSELOR

CLIFFORD W. SHEPARD,)
)
Complainant)
)
v.) 16-FC-319
)
GRANT COUNTY SHERIFF)
)
Respondent)

ADVISORY OPINION February 3, 2017

This advisory opinion is in response to the formal complaint alleging the Grant County Sheriff ("Sheriff") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-1.5-1 et. seq. The Sheriff responded to the complaint on January 19, 2017 via Capt. Todd Fleece. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on December 22, 2016.

BACKGROUND

The complaint dated December 19, 2016, alleges the Grant County Sheriff violated the APRA by claiming there were no records pursuant to the request.

The Complainant sent a letter to an inmate of the Grant County Jail in November 2016. Subsequent correspondence indicated the letter was being withheld by a jail officer. Mr. Shepard then requested from the Sheriff a copy of the jail policy allowing the jail officer to withhold inmate mail on December 4, 2016. The Sheriff acknowledged the request the next day and advised the matter would be investigated. On December 19, 2016, the Respondent sent the Complainant an email explaining the Indiana Jail Standards Mail Policy Matrix allowed the jail to open and inspect inmate mail. Due to a photograph allegedly considered contraband, the letter was withheld.



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After receiving the formal complaint the confinement captain of the jail, Capt. Todd Fleece, wrote the Complainant on December 19, 2017 and conceded the letter portion of the correspondence should have been forwarded to the inmate. The jail standards mail policy was attached.

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 Grant County Sheriff is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy the Sheriff'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.

This Office cannot speak to the mail security portion of the complaint. Each holding or correctional facility has security measures to protect the safety of its inmates and staff. As for the public records request, the Complainant did properly request the policy relating to those security standards as it pertains to inmate mail. While it should have been provided as an attachment to the December 19, 2016 email from the confinement captain, it was ultimately sent to Mr. Shepard within 30 business days of the original request. Although the document production was a result of a formal complaint being filed, the Complainant did receive the information requested. I believe the Sheriff was acting in good faith in answering your questions. However, in the future, my recommendation to the Sheriff is that a document be provided when asked instead of explaining it in an email.

Please do not hesitate to contact me with any questions.



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Cc: Capt. Todd Fleece