
OPINION OF THE PUBLIC ACCESS COUNSELOR

DONTAY D. MARTIN,
Complainant,

v.

ALLEN COUNTY JAIL,
Respondent.

Formal Complaint No.
17-FC-178

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Allen County Jail (“Jail”) violated the Access to Public Records Act (“APRA”). Ind. Code §§ 5-14-3-1 to -10. The Jail has responded via Ms. Sandra Shady. Her response is enclosed for review. In accordance with 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 July 24, 2017.

BACKGROUND

Dontay D. Martin (“Complainant”) contends the Allen County Jail violated the APRA by not responding to his public records request.

On May 30, 2017, the Complainant submitted a request seeking the recordings and/or transcripts of any inmate jail phone call he made on December 7, 2012, to another specific individual. Martin provided a jail-issued number, pin, and the outgoing number with his request. At the time he filed this formal complaint, Martin had not received a response from the Jail.

The Jail argues that it neither received the Complainant’s request nor does it have records responsive to the request.

ANALYSIS

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.” Ind. Code § 5-14-3-1. The Allen County Jail is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy the Jail’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a).

In addition, a public agency is required to respond to a written request that has been mailed within seven days after it is

received, otherwise the request is considered denied. *See* Ind. Code § 5-14-3-9(c).

It is unclear why the Jail did not receive Martin's original request, however, this is not an unprecedented situation as it relates to inmate mail. In any case, there exists no retention schedule for public safety agencies as it pertains to inmate phone calls. In the event the calls are recorded, they should be retained if they become part of an evidentiary proceeding, however, it is not practical for any agency to keep a record of *all* calls for a five year period, as contemplated by the request.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Allen County Jail has not violated the Access to Public Records Act.



Luke H. Britt
Public Access Counselor