

September 15, 2005

Herbert S. Foust  
#124101  
Putnamville Correctional Facility  
1946 W. U.S. Highway #40  
Greencastle, IN 46135

*Re: Formal Complaint 05-FC-166; Alleged Violation of the Access to Public Records Act by the Elkhart County Sheriff's Department*

Dear Mr. Foust:

This is in response to your formal complaint alleging that the Elkhart County Sheriff's Department ("Sheriff") violated the Access to Public Records Act ("APRA"). I find that the Sheriff did not violate the APRA.

#### BACKGROUND

By letter dated July 23, 2005, you requested of the Sheriff certain booking and arrest information on Gina Andrews from January 1997 to the present. You allege that you have received no response from the Sheriff, and filed your formal complaint with the Office of the Public Access Counselor on that basis.

The Sheriff, by Public Information Supervisor Trevor Wendzonka, responded to your complaint. A copy of his letter and enclosures is included with this advisory opinion. Mr. Wendzonka stated that the Sheriff received your request on July 25. He complied with the request the same day, sending 118 pages of records on Ms. Andrews with a cover letter to your Greencastle address. Moreover, the Sheriff did not charge you a copying fee for the records.

## ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, except as provided in section 4 of the APRA. Ind. Code 5-14-3-3(a). An agency that receives a request for records via U.S. Mail is required to issue a response within seven days of the agency's receipt of the request. IC 5-14-3-9(b). Although an agency is not required to produce the records in that timeframe, it certainly should do so if it can. Here, the Sheriff avers that he responded with the records and a cover letter the same date that the Sheriff received the request.

It appears that the Sheriff has not only responded within the required timeframes, it dispatched the records admirably. This is little consolation to you if the records have been lost in transit, either at the post office or at the facility in which you are housed. Nevertheless, the Sheriff has not violated the Access to Public Records Act. Perhaps the missing packet can be traced and found; in any case, I have enclosed copies of the partial information that the Sheriff provided me in response to your complaint.

## CONCLUSION

The Elkhart County Sheriff's Department has not violated the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Trevor Wendzonka