

March 19, 2008

Robert Colone
412 East Main Street
New Albany, Indiana 47150

Re: Formal Complaint 08-FC-74; Alleged Violation of the Access to Public Records Act by the Dubois County Sheriff's Office

Dear Mr. Colone:

This advisory opinion is in response to your formal complaint alleging the Dubois County Sheriff's Office ("Sheriff") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. I have enclosed a copy of the Sheriff's response to the complaint for your reference. It is my opinion Sheriff should immediately provide to you copies of the requested records or a response to your request.

BACKGROUND

You submitted a request for access to records maintained by Sheriff by letter dated December 18, 2007. The Sheriff responded by letter dated December 24, indicating he would forward the request to his attorney for review before providing the records. Receiving no further correspondence, you mailed this complaint on February 27, 2008, and I received it on March 3.

The Sheriff responded to your complaint by letter dated March 4. The Sheriff contends he sent a response to you in February but it was returned by the postal service as undeliverable. He indicated he would attempt to deliver it again.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Sheriff is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Sheriff during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Unless the requested records are excepted from disclosure pursuant to section 4 of the APRA, the Sheriff must provide you access to the requested records. I.C. § 5-14-3-3(a). If the Sheriff used the mailing address listed on the letterhead used for the request, I would assume that address is correct and the records should have reached you. Because I do not have a copy of the returned mail envelope, I do not know to what address the records were sent. I would urge the Sheriff to contact you by telephone to ascertain the correct mailing address or make arrangements for you to retrieve the records from the office if you prefer.

CONCLUSION

For the foregoing reasons, it is my opinion the Sheriff has not violated the APRA if he attempted to send you the records at your office mailing address. Further, it is my opinion the Sheriff should endeavor to get the response and/or requested records to you as soon as possible.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Terry Tanner, Dubois County Sheriff