



STATE OF INDIANA

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March 9, 2011

Mr. Bobby Odneal, c/o John Emry, Esq.
62 W. Jefferson St.
Franklin, IN 46131

Re: Formal Complaint 11-FC-47; Alleged Violation of the Access to Public Records Act by the Jennings County Sheriff

Dear Mr. Emry:

This advisory opinion is in response to the formal complaint you filed on behalf of your client, Bobby Odneal, alleging the Jennings County Sheriff ("Sheriff") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* My office forwarded a copy of your complaint to the Sheriff. The Sheriff's response by Legal Deputy A. Howard Williams is enclosed for your reference.

BACKGROUND

According to your complaint, on December 23, 2010, you submitted a request to the Sheriff for medical records, inmate records and a video of an "attack." Mr. Williams acknowledged your request and the Sheriff sent you 90 pages of responsive records on January 27, 2011, but you did not receive any inmate files or the video. You then filed this complaint on February 7th.

In response to your complaint, Mr. Williams states that he spoke with the Sheriff, who believed that your request "had already been taken care of." Mr. Williams assured my office that he would obtain the responsive records and deliver them to your office.

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 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 Sheriff's public records

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).

Here, you allege that the Sheriff violated the APRA by failing to provide all records responsive to your request. Under the APRA, when a request is made in writing and an agency denies the request, the agency must issue its denial in writing and must include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. I.C. § 5-14-3-9(c). If the Sheriff intended to deny you access to the inmate files and video, the Sheriff should have denied your request in accordance with these provisions.

I note, however, that your original request included both a cover letter that requested medical records and an inmate file along with photographs and a videotape of the attack and a medical release that enumerated more specifically the information sought. The release stated that you sought copies of all charts, records, correspondence, physicians' orders, progress notes, nurses' notes, medication records, therapy notes, laboratory notes, x-ray reports, consents, operative notes, pathology reports, anesthesia reports, admission and discharge summaries and any other medical information; copies of all itemized statements, bills, payment receipts or other financial records; a report to Mr. Odneal's attorneys concerning his medical treatment, condition or prognosis; and inmate records for any stay in the jail within the past 10 years. In response to this request, the Sheriff produced 90 pages of relevant records, which does not indicate an intent to deny access. I always encourage requesters who believe an agency's response is incomplete to contact agencies informally and request supplementation. On the other hand, I cannot excuse a failure to provide all non-confidential and responsive records. In any event, I trust the Sheriff's willingness to supplement its original response with remaining responsive records resolves your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the Sheriff should have either produced all relevant records or denied your request in accordance with the APRA. The Sheriff has now released all responsive records and did not otherwise violate the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: A. Howard Williams