



STATE OF INDIANA

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November 18, 2013

Mr. Terry J. Duckwork, Offender #196874
New Castle Correctional Facility
P.O. Box A
New Castle, IN 47362

Re: Formal Complaint 13-FC-305; Alleged Violation of the Access to Public Records Act by the Madison County Sheriff's Department

Dear Mr. Duckworth,

This advisory opinion is in response to your formal complaint alleging Madison County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Mr. Andrew Williams, Jail Commander, responded to your formal complaint. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 20, 2013.

BACKGROUND

Your complaint dated October 20, 2013 alleges the Madison County Sheriff's Department violated the Access to Public Records Act by denying your request for records in violation of Ind. Code § 5-14-3-3(b).

On or about September 24, 2013, you served upon the Department a request for the following records:

All records pertaining to my incarceration during the period (September 19, 2012 thru July of 2013) including any and all medical records.

Upon receipt of your request on September 24, 2013, the Department indicated they did not have records responsive to your request. The reason for this is the September 19, 2012 date you indicated in your request as being your arrest date was apparently erroneous. The search yielded no result due to your arrest date being September 18, 2012.

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

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). 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 Ind. 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.

Because you cited the incorrect date for your arrest, the Department could not find any records responsive to your request. After realizing the error, the Department found records that would satisfy your request. The Department indicates in their response they can release the records pursuant to a new request. I strongly encourage the Department to release those records to you without an additional request, as they have located the records to be produced.

CONCLUSION

For the foregoing reasons, the Madison County Sheriff’s Department has not violated the Public Records Act by denying your records request; however, they should release the records as soon as they are able.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Mr. Andrew Williams