



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

July 28, 2016

Mr. Robert Bogue
7846 North 1200th Street
Paris, Illinois 61944

Re: Formal Complaint 16-FC-141, 142, 143 & 144; Alleged Violation of the Access to Public Records Act by the Vigo County Auditor, Vigo County Human Resources Department, Vigo County Treasurer's Office, and the Vigo County Emergency Management Agency (Consolidated)

Dear Mr. Bogue:

This advisory opinion is in response to your formal complaints alleging the Vigo County Auditor, Vigo County Human Resources Department, Vigo County Treasurer's Office, and the Vigo County Emergency Management Agency (collectively "Vigo County") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. As of the writing of this opinion, Vigo County has not responded to your complaint, despite an invitation by this office to do so. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaints received by the Office of the Public Access Counselor on June 20, 2016.

BACKGROUND

Your complaint dated June 20, 2016 alleges Vigo County violated the Access to Public Records Act by failing to respond to your records request. On May 18, 2016, you requested past and current job descriptions of a named individual. As of the filing of this complaint, you had not received a response from the County.

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

A request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. 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 Indiana 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. In your complaint, you note that as of June 20, 2016 there had been no response by the County to your requests sent on June 3, 2016. The County's failure to respond within the statutory seven (7) day time frame resulted in the constructive denial of your request.

Based on previous communications with this office, Vigo County appears to have provided a copy of the records sought on July 7, 2016. In that email, the County attorney provided the most recent job description Vigo County possesses for J.D. Kesler. While I am pleased these records were received, Vigo County still has the affirmative duty to respond to your requests within the statutorily set time frame and, in the event the request will not be fulfilled, inform you why. I remind the County that even denials of access must include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record and the name and the title or position of the person responsible for the denial. *See Indiana Code § 5-14-5-9(d)*. In any event, it appears as if you have been given access to the information sought.

Regards,

A handwritten signature in black ink, appearing to read 'L. Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Mr. Michael J. Wright, Esq.