



STATE OF INDIANA

ERIC J. HOLCOMB, 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
Toll Free: 1-800-228-6013
Email: pac@in.gov/opac
Website: www.IN.gov/pac

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*. The Orange County Sheriff's Department is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy the Sheriff'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 public agency has a reasonable time under Indiana Code S 5-14-3-3 to produce records pursuant to a request. In the present case, nearly five (5) months had elapsed between the acknowledgement of the request and the denial. It can be reasonably inferred the Sheriff could have made the decision to deny the document request well before the complaint was filed. According to Indiana Code § 5-14-3-9, a written request for a public record warrants a denial (if one is justified) in writing, with the statutory justification for withholding the record, as well as the name of the public official denying the record.

While the Sheriff eventually denied the records request in writing, this did not occur until after a formal complaint was filed with this Office. A reasonable amount of time had long since expired. This Opinion will not address the justification for the denials or their legality, but based on the information provided, the request warranted a written denial well before the complaint was filed.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Orange County Sheriff's Department has acted contrary to the APRA for failing to respond to a written request within a reasonable time.

Luke H. Britt

A handwritten signature in black ink, appearing to read "LH Britt", written over a white background.

Public Access Counselor

Cc: Ms. Marilyn Tucker Fullen, Esq.