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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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JAKE RAY MOORE,  
*Complainant,*

v.

JAY COUNTY SHERIFF'S OFFICE,  
*Respondent.*

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Formal Complaint No.  
19-FC-87

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Jay County Sheriff's Office violated the Access to Public Records Act.<sup>1</sup> The Sheriff's Office did not respond to the complaint despite an invitation to do so. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on September 17, 2019.

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<sup>1</sup> Ind. Code § 5-14-3-1 to 10.

## **BACKGROUND**

This case involves a dispute over access to copies of several different kinds of law enforcement records.

On August 16, 2019, Jake Ray Moore (“Complainant”) faxed a request for records addressed to the Jay County Sheriff’s Office (“Sheriff”) for the following records:

Broken dash cameras/Equipment Reports from  
01/1/2016 till present date

Policy for dash cam use 01/1/2016 till present  
date

Arrest report for a Jake Moore on 7/19/2016

Dispatch records from my arrest 7/19/2016

The fax communication report indicated the request had reached its destination, however, Mr. Moore had not received a reply at the time of the filing of the complaint.

This office forwarded the complaint to the Sheriff and solicited a response. The Sheriff did not file an answer to the complaint.

## **ANALYSIS**

### **1. The Access to Public Records Act (“APRA”)**

It is the public policy of the State of Indiana that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Ind. Code § 5-14-3-1. 5

The Access to Public Records Act (“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.” *Id.* The Jay County Sheriff’s Office is a public agency for the purposes of APRA; and thus, subject to the act’s requirements. Ind. Code § 5-14-3-2(n). Unless otherwise provided by statute, any person may inspect and copy the Sheriff’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Under APRA, a request for records is considered denied after seven days elapse from the date the public agency receives the request. *See* Ind. Code § 5-14-3-9(b)(2). In this instance, there is evidence the Sheriff received the request because the communication report indicated a successful fax transmission.

When a request is overlooked for a certain unreasonable period of time, it is considered denied. This does not, however, give an agency license to simply disregard a request. A denial of a written records request must be accompanied by a written denial and statutory justification for said denial. *See* Ind. Code § 5-14-3-9(d)(2). The Sheriff’s lack of this response constitutes a violation of the Access to Public Records Act.

Furthermore, in accordance with Indiana Code section 5-14-5-5, a public agency shall cooperate with the public access counselor in any investigation or proceeding when a complaint is filed. In the absence of such cooperation, this office has no choice but to find the Sheriff in noncompliance.

## CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that the Jay County Sheriff's Office violated the Access to Public Records Act.

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

Luke H. Britt  
Public Access Counselor