



STATE OF INDIANA

MICHAEL PENCE, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

December 5, 2015

Mr. Jerry C. Shaw
Estero, FL
Via email

Re: Informal Inquiry 15-INF-31; Cemetery Records

Dear Mr. Shaw:

This is in response to your informal inquiry regarding disclosure of cemetery records. Pursuant to Ind. Code § 5-14-4-10(5), I issue the following informal opinion in response to your inquiry. My opinion is based on applicable provisions of the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*

BACKGROUND

Your inquiry stems from an inability to find the burial records of your relatives. Upon contacting the State Board of Funeral and Cemetery Service, you were directed to Ind. Code § 23-14-56 which mandates the retention of burial records for cemetery owners.

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 § 5-14-3-2. Accordingly, any individual has the right to inspect and copy a public agency's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise non-disclosable under the APRA. *See* Ind. Code § 5-14-3-3(a).

Cemeteries are licensed and regulated through the Indiana Professional Licensing Agency via the State Board of Funeral and Cemetery Services. Cemeteries themselves, however, are private business enterprises which are not subject to the Access to Public Records Act.

Ind. Code § 23-14-56 et.al states that one of the duties of cemetery owners is to keep burial records in perpetuity and makes it a Class B misdemeanor to knowingly fail to do so. Therefore, any remedy would be issued by either the State Board or law enforcement. The Access to Public Records Act is not implicated in this circumstance.

Please do not hesitate to contact me with any questions.

Best regards,

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

Luke H. Britt
Public Access Counselor