



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
JOSEPH B. HOAGE**

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](http://www.IN.gov/pac)

June 21, 2013

Mr. Keith Palmer  
4910 Willow Road  
Zionsville, IN 46077

*Re: Formal Complaint 13-FC-171; Alleged Violation of the Access to Public Records Act by the Boone County Sheriff's Department*

Dear Mr. Palmer,

Please accept this letter as a response to your formal complaint alleging the Boone County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Mr. A. Howard Williams, Esq., Legal Deputy for the Department, responded on behalf of the Boone County Sheriff's Department. His response is enclosed for your reference. 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 June 14, 2013. As such, your complaint is being treated with priority status.

## BACKGROUND

Your complaint alleges that the Department violated the Access to Public Records Act by failing to produce records within a reasonable time frame and is thereby in violation of Ind. Code § 5-14-3-3(b). Furthermore, you request that the Office of the Public Access Counselor take efforts to expedite the Department's disclosure of the requested records.

Formal Complaint 13-FC-96, dated April 18, 2013, is incorporated by reference and hereby taken into consideration for the purpose of this Advisory Opinion.

Access to the records you seek have been made available to the public through an online portal which allows users to search for the information you have requested of the Boone County Sheriff's Department. To enhance the access of the information to the public at large, the Department has gone to considerable expense to implement new computer software that will make the database more user-friendly. The process of the implementation is ongoing, but Mr. Williams has made assurances that the project is in progress and will be completed in the near future.



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
JOSEPH B. HOAGE**

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](http://www.IN.gov/pac)

In the interim, the Department has provided you with several updates and responses pursuant to your request. The voluminous nature of your request (over 6000 hand-redacted records) has caused a delay in the timeliness of their response.

## 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 Boone County Sheriff's Department is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2. 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 that the request has been received and information regarding how or when the agency intends to comply.

In reference to the present complaint, the Department notified you of records available for your review on June 12, 2013 at 3:02 p.m.. Your complaint, dated 3:50 p.m. on June 12, 2013 alleges that you were denied reasonable access. At 4:04 p.m. on June 12, 2013, Sheriff Ken Campbell responded to your email stating:

We will provide additional requested information for you after the aforementioned ones are paid for and picked up at this Office (sic) and will continue per the guidelines of the Public Access Counselor".

Based upon the timeliness of that communication, the Department has satisfied the acknowledgement requirements of APRA and has not failed to respond to your request thereby constituting a denial.



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
JOSEPH B. HOAGE**

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](http://www.IN.gov/pac)

Moreover, the information provided to the Public Access Counselor indicates that the Department is undergoing a massive software development project to make public records more efficient to produce and more accessible. The existing online portal allows those individuals seeking access to law enforcement records under Ind. Code § 5-14-3-5. The Sheriff's Department has been incrementally releasing records to you as their time allows.

The APRA mandates that the Department shall provide records that are responsive to the request within a reasonable time. See Ind.Code § 5-14-3-3(b). The burden is upon the Department to demonstrate that the time period for producing documents is reasonable. The time period of your request is quite broad and the review and redaction of those records may cause a material interference with the regular discharge of the functions or duties of the Department. See Ind. Code § 5-14-3-7. As a small office with two clerks, it is a reasonable assertion that the review and redaction of these records takes a considerable amount of time. You are entitled to the records requested under APRA, however, the Department has made a good faith effort to respond to your request and has maintained due diligence in keeping in contact with you throughout this process. It should be noted, however, that the assertion of the Department suggesting that your public records request is an attempt to frustrate the operations of the Department holds no bearing on this decision. The request of these public records is a right conferred upon any citizen seeking information from a public agency.

## CONCLUSION

It is the Opinion of the Office of the Public Access Counselor that the Boone County Sheriff's Department has complied with APRA in releasing the voluminous records request in a piecemeal fashion and appears to have undergone substantial ongoing efforts to improve the accessibility of their records.

Best Regards,

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

Luke. H. Britt  
Acting Public Access Counselor



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
JOSEPH B. HOAGE**

---

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](http://www.IN.gov/pac)

cc: Sheriff Ken Campbell  
A. Howard Williams