
OPINION OF THE PUBLIC ACCESS COUNSELOR

MARY H. KNOTTS,
Complainant,

v.

BOONE COUNTY SHERIFF'S OFFICE,
Respondent.

Formal Complaint No.
23-FC-122

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to two formal complaints alleging the Boone County Sheriff's Office violated the Access to Public Records Act.¹ The agency did not respond despite invitations to do so. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to both formal complaints received by the Office of the Public Access Counselor on November 20, 2023.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

This opinion addresses a public records request for and the lack of production response from the agency.

On August 17, 2023, Mary H. Knotts (Complainant) emailed a records request to four individuals from the Boone County Sheriff's Department. Despite multiple attempts, she was unable to receive a response from the agency. She sought copies of contracts with third-party vendors for the jail facility.

While the request was telephonically confirmed, after hearing no subsequent response, Knotts filed her complaint on November 14, 2023.

This office advised the Sheriff's Office of the complaint on November 20. Despite a subsequent attempt to solicit a response, we were unsuccessful in obtaining an answer².

ANALYSIS

1. The Access to Public Records Act

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." Ind. Code § 5-14-3-1. The Boone County Sheriff's Office is a public agency for

² Notices were sent to Sheriff Deputy Mike Beard on November 20 and December 13, 2023 at the email address listed on the agency's website.

purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the Sheriff's public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

1.1 Cooperation from public agencies

Indiana Code section 5-14-5-5 expressly states that a “public agency shall cooperate with the [Public Access] Counselor in any investigation or proceeding under this chapter.”

Indeed, the chapter referenced in that statute is the one that governs the formal complaint procedure administered by this Office. In other words, public agencies must work with this Office in any formal complaint investigation or proceeding.

Here, the Sheriff's Office did not file an answer to the formal complaint or resolve the dispute despite several invitations to do so.

The Sheriff's Office should be mindful going forward that cooperating with this Office necessarily requires—at minimum—a response to the allegations raised in a formal complaint.

Otherwise, this Office will presume that the agency does not dispute a complainant's allegations. This Office will not form and present arguments on behalf of an agency that does not file an answer to a complaint.

CONCLUSION

Based on the foregoing, it is the opinion of this office the Boone County Sheriff's Office violated the Access to Public Records Act.



Luke H. Britt
Public Access Counselor

Issued: January 18, 2023