

June 7, 2005

Herbert Foust
Reg. No. 124101
Putnamville Correctional Facility
1946 W. U.S. Hwy. 40
Greencastle, IN 46135

Re: Formal Complaint 05-FC-91; Alleged Violation of the Access to Public Records Act by the Elkhart County Sheriff's Department.

Dear Mr. Foust:

This is in response to your formal complaint alleging that The Elkhart County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA") by requiring you to provide a date of birth or social security number to access records.

On May 9, 2005 you filed a complaint against the Department for denial of access to public records. Your complaint was assigned formal complaint number 05-FC-91. I forwarded a copy of your complaint to the Department. Undersheriff Julie Dijkstra responded on behalf of the Department on May 12, 2005.

This complaint was filed while complaint # 05-FC-73 was pending. In that complaint, against the same entity and concerning the same records request¹, you complained that the Department had not responded to your request for records. In response to formal complaint 05-FC-73 Undersheriff Julie Dijkstra provided a copy of the Department's April 18, 2005 response to your request for public records. You had not received that response at the time of the filing of your complaint, and it was ultimately determined by this office that the Department timely responded.

Although you had not received the April 18, 2005 response, and had therefore, not yet filed a complaint based upon that response, this office addressed the issue of denial of access in

¹ As noted in 05-FC-73 there are some discrepancies in the dates upon which you claim your request was sent and the dates provided by the agency, including those on the copy of your request provided by the Department. However, the facts of the situation and timing are such that I am quite certain this is the same request and response that were addressed in 05-FC-73.

formal opinion #05-FC-73.² In that opinion I determined that the Department's response violated the Access to Public Records Act, by requiring you to submit a social security number and date of birth in order to obtain records. *See Opinion of the Public Access Counselor 05-FC-73, (May 23, 2005) pp. 2, 4-5.*

Since this very issue has previously been decided, I need not address it again. Please refer to formal opinion #05-FC-73.

Sincerely,

Karen Davis
Public Access Counselor

cc: Julie Dijkstra

² Opinion of the Public Access Counselor #05-FC-73 was consolidated with Formal Opinions 05-FC-72, 05-FC-74, 05-FC-76, and 05-FC-78.