



STATE OF INDIANA

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July 5, 2011

Mr. James A. Scott
4865 N. 500 E.
Rushville, IN 46173

Re: Formal Complaint 11-FC-135; Alleged Violation of the Access to Public Records Act by the Shelby County Sheriff

Dear Mr. Scott:

This advisory opinion is in response to your formal complaint alleging the Shelby County Sheriff (the “Sheriff”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 *et seq.*

BACKGROUND

In your complaint, you allege that you asked for “the names of merrit [sic] board members and addressis [sic] and they told me they could not give them to [you].”¹

In response to your complaint, A. Howard Williams, the Sheriff’s legal deputy, acknowledges that you verbally requested the names and addresses of the Shelby County Merit Board (“Board”) by way of a recorded telephone request directed to the Sheriff on October 28, 2010. He states that you were “advised that [you] could submit a complaint to the Sheriff’s Merit Board and send it to the business address of the Sheriff’s Office for delivery.” He further states that the Sheriff “transmitted all of the records relevant to this transaction to [Mr. Williams’] office and [his] office immediately transmitted them to [you] via certified mail on October 29, 2010. Mr. Williams alleges that because these events occurred in October of 2010, your complaint concerning them was not timely filed.

¹ Your complaint also contains allegations regarding a complaint that you filed against a deputy sheriff. It is unclear whether or not you sought an opinion from this office with regard to that complaint. Regardless, the public access counselor has no authority to opine on the substance of a complaint against a deputy sheriff. See I.C. § 5-14-4-10.

ANALYSIS

If the circumstances underlying your complaint occurred in October of 2010 as the Sheriff claims, those allegations are untimely. Formal complaints alleging violations of the APRA must be filed within 30 days of the denial. I.C. § 5-14-5-7. If a request for access to public records is delivered in person or via the telephone and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a). You filed your complaint on June 2, 2011, which is more than 30 days after that denial. Consequently, I cannot address those allegations specifically herein.

I note for your reference that the APRA provides that personnel files of public employees and files of applicants for public employment may be excepted from the APRA's disclosure requirements, except for:

- (A) The name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;
- (B) Information relating to the status of any formal charges against the employee; and
- (C) The factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

I.C. § 5-14-3-4(b)(8). Thus, while the name, business telephone number, and business address of public employees must be available to the public, nothing requires public agencies to release personal contact information for public employees.

CONCLUSION

For the foregoing reasons, it is my opinion that I cannot issue an advisory opinion regarding the substance of an alleged violation that occurred in October of 2010 because such allegation was not filed within the required 30-day timeframe for formal complaints.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: A. Howard Williams