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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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DESMOND STEVENS,  
*Complainant,*

v.

RUSH COUNTY SHERIFF'S OFFICE,  
*Respondent.*

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Formal Complaint No.  
19-FC-89

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Rush County Sheriff's Office violated the Access to Public Records Act.<sup>1</sup> Attorney Leigh S. Morning filed a response on behalf of the agency. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on September 19, 2019.

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<sup>1</sup> Ind. Code § 5-14-3-1 to 10.

## **BACKGROUND**

This case involves a dispute over access to records relating to an incident involving Rush County police and Desmond Stevens (“Complainant”) on August 6, 2019.

On August 16, 2019, Stevens filed a public records request with the Rush County Sheriff’s Office seeking the following:

Trespassing and obstructions (dirt) in side ditch complaints at or near 5554 W 300 N, Rushville, IN 46173 or 5379 W 300 N, Rushville, IN 46173. On August 6, 2019, including time stamped call logs to 911 or the administrative line of the sheriff’s office, and a log of all calls made from to or from any sheriff’s personnel outside the emergency and administrative lines including cell phones and other sheriff’s office numbers, audio recordings of any such calls, any notes or reports from responding deputies, and any notes from supervisors. Dispatchers, or any other personnel who responded, dispatched or in any other way was involved, as well as any county ordinances that pertain to obstructions in or near county road right- of- ways, or any other ordinances that the responding deputies were investigating, and nay body camera or vehicle camera recording pertaining to these responses.

Stevens filed a formal complaint on September 19, 2019, on the grounds that RCSO never responded to the records request.

On September 26, 2019, the RCSO contacted Stevens to inform him that the documents were ready for pick-up. Stevens paid \$25.00 and received the following:

Stamped call log for August 6, 2019- calls to all lines of rush County Sheriff’s Department- this includes the audio of these calls

Report made by Deputy Doug Keith

Call log to Deputy Doug Keith's call phone for August 6, 2019

Call log for Sheriff Allan Rice's cell phone for August 6, 2019

The RCSO also informed Stevens that "Rush County does not have any Ordinances regarding obstructions in county road rights of way, the Rush County deputies were not investigating nor were they responding to any other county ordinances, and the Rush County Sheriff's Department deputies do not wear body camera."

Stevens shared copies of all the documents provided to him, but expressed dissatisfaction with the attorney's response. He believes his request has not been fully or properly addressed by the RCSO.

In response to the formal complaint, the RCSO explains that "the failure to provide the records to Mr. Stevens in a timely manner was simply an oversight." Additionally, the RCSO apologized for the mishandling of the Stevens' request, and assured this office that he received all the records that were responsive to his request. The agency provided an itemized list of the records released to Stevens, which is the same list shared by Stevens.

## **ANALYSIS**

### **1. The Access to Public Records Act ("APRA")**

It is the public policy of the State of Indiana that all persons are entitled to full and complete information regarding the

affairs of government and the official acts of those who represent them as public officials and employees. Ind. Code § 5-14-3-1.5-1.

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.” *Id.* The Rush County Sheriff’s Office (“RCSO”) is a public agency for the purposes of APRA; and thus, subject to the act’s requirements. Ind. Code § 5-14-3-2(n). Unless otherwise provided by statute, any person may inspect and copy the RCSO’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

The RSCO concedes that an oversight took place in regard to acknowledging the request, but notes the agency provided Stevens certain records he requested. Stevens followed-up after the production of documents and indicated he took exception with the actual records produced, however, this issue was not part of his original complaint.

While Stevens’ complaint regarding the acknowledgment is well taken, this office declines to comment on the actual production at this time because the RSCO has not been made privy to Stevens’ dissatisfaction. That would be an issue to address in a subsequent complaint should he decide to file one.

## CONCLUSION

Based on the foregoing, it is the opinion of this office that the Rush County Sheriff's Office initially overlooked an acknowledgment of a public records request, but remedied it by providing the requester with the responsive records, at least to a partial extent.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt  
Public Access Counselor