



# STATE OF INDIANA

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January 15, 2014

Mr. Matthew A. Koesters  
221 Spring St.  
Jeffersonville, IN 47130

*Re: Formal Complaint 13-FC-349; Alleged Violation of the Access to Public Records Act by the Clark County Sheriff's Office*

Dear Mr. Koesters,

This advisory opinion is in response to your formal complaint alleging the Clark County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Department has not responded despite an invitation to do so on December 18, 2013. 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 December 17, 2013

## BACKGROUND

Your complaint dated December 17, 2013, alleges the Clark County Sheriff's Department violated the Access to Public Records Act by not provided records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On or about October 15, 2013, you submitted public records request to the Department seeking a large amount of information relating to the Department's operations. The Department acknowledged your request on the same day stating that they were in the process of complying with the APRA. As of the date of your request on December 17, 2013, you had yet to be updated as to the status of your request.

## 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 Clark County Sheriff's Department is a public agency for the

purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). 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 the request has been received and information regarding how or when the agency intends to comply.

After the acknowledgement of the request, the Department would have a "reasonable time" to produce the records you seek. See Ind. Code § 5-14-3-3(b). Your request appears voluminous, but not so much so that the Department could not have updated you as to the status of their progress. Moreover, I have held several times in the past the best way to produce records from a voluminous request is in a piecemeal manner and not to wait until all records are compiled to produce them. Furthermore, I have encouraged agencies to periodically update a requestor with a status report on the progress of their request. Although not required by the APRA, it is good practice to do so.

You are certainly entitled to the records you seek unless the Department can demonstrate that the information falls into one of the enumerated exceptions under the APRA. Without the benefit of the Department's response, it appears that the agency has violated the APRA in not responding to your request in a timely manner.

### CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Clark County Sheriff's Office violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'LH Britt', written in a cursive style.

Luke H. Britt  
Public Access Counselor