
OPINION OF THE PUBLIC ACCESS COUNSELOR

JENNIFER L. FLETCHER,
Complainant,

v.

HARRISON COUNTY SHERIFF'S DEP'T.
Respondent.

Formal Complaint No.
17-FC-212

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to the formal complaint alleging the Harrison County Sheriff's Department ("Sheriff") violated the Access to Public Records Act¹ ("APRA"). Despite an invitation to respond sent on September 1, 2017, the Sheriff has not yet done so. 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 August 21, 2017.

¹ Ind. Code §§ 5-14-3-1 to -10

BACKGROUND

Jennifer L. Fletcher (“Complainant”) filed a formal complaint alleging that the Sheriff violated the APRA by failing to respond to her records request.

Fletcher asserts that she submitted a hand-delivered request on August 4, 2017, around 2:10 PM to “Christa” at the Sheriff’s department. Fletcher requested “all information related to Incident #17H1898 investigated by Officer Paul Ranke. . . to include all video, audio, pictures, documents, and dated/timed logs of the officer related to the incident was investigated.” At the time she filed a formal complaint with this Office, Fletcher claims she had not received a response from the Sheriff.

This Office receive Fletcher’s complaint on August 21, 2017. On September 1, 2017, the Office sent notice of the complaint to Harrison County Sheriff Rodney Seelye to the email address listed on the Sheriff’s website. As of October 3, 2017, this Office has not received a response.

ANALYSIS

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 Harrison County Sheriff’s Department is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy the Sheriff’s disclosable public records during regular business hours unless the records are protected from

disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a).

Furthermore, a public agency is required to make a response to a written request that has been delivered in person within twenty-four (24) hours after it is received. Ind. Code § 5-14-3-9(b). Unless otherwise excepted from disclosure, the public agency shall either (1) provide the requested copies to the person making the request or (2) allow the person to make copies within a reasonable time after the request is received by the agency. Ind. Code § 5-14-3-9(b)(1-2).

Here, the Complainant contends that the Sheriff violated APRA because ten business days elapsed with no response from the Sheriff to her written, hand-delivered records request.

The Complainant mentions handing the request to a person in the Sheriff's office. The APRA does not require an agency to produce records responsive to a request within twenty-four (24) hours of receiving the hand-delivered request. An acknowledgment of the response is the minimum required within twenty-four (24) hours, and this acknowledgment is generally achieved when handing a request to someone in an office. No paper receipt is necessarily required, although it is encouraged.

Fletcher's requests for video, audio, pictures, and documents related to a particular incident involving a minor victim are likely investigatory records under Indiana Code section 5-14-3-4(b)(1); and if so, the records may be properly withheld from disclosure under APRA at the discretion of the law enforcement agency. If, however, an agency chooses to deny the release of investigatory records, APRA requires the

agency to deny the request in writing and to name the person responsible for the denial. *See* Ind. Code § 5-14-3-9.

Without the benefit of a response from the agency, it is unclear why the production of these records was delayed or, alternatively, why a denial was not properly issued according to statute.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that the Harrison County Sheriff's Department violated the Access to Public Records Act.

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

Luke H. Britt
Public Access Counselor