

July 30, 2007

Tyrone Frazier  
DOC # 910476  
Indiana State Prison  
PO Box 41  
Michigan City, Indiana 47361

*Re: Formal Complaint 07-FC-188; Alleged Violation of the Access to Public Records Act by the Office of the Marion County Prosecuting Attorney*

Dear Mr. Frazier:

This is in response to your formal complaint alleging the Office of the Marion County Prosecuting Attorney (“Prosecutor”) violated the Access to Public Records Act (“APRA”) (Ind. Code 5-14-3) by failing to respond to your request for records. A copy of the Prosecutor’s response to your complaint is enclosed for your reference. I find that the Office of the Marion County Prosecuting Attorney did not violate the APRA.

#### BACKGROUND

Your complaint alleges you submitted a request for records to the Prosecutor on June 16, 2007 to which the Prosecutor failed to respond. Specifically, you requested copies of records pertaining to cause number 49G05-8908-CF-096817.

In response to your complaint, the Prosecutor indicated your requested was dated June 6 and received by the Prosecutor on June 14. The Prosecutor responded to your request in a letter dated June 18.

#### ANALYSIS

Indiana Code 5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of APRA. A “public record” means any writing, paper, report, study, map,

photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. IC 5-14-3-2.

A request for records may be oral or written. IC 5-14-3-3(a); 5-14-3-9(c). If the request is delivered by mail or facsimile, the agency must respond to the request within seven days of receipt. IC 5-14-3-9(b).

The Prosecutor is clearly a public agency for the purposes of the APRA. IC 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Prosecutor during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. IC 5-14-3-3(a).

Your complaint alleges the Prosecutor did not respond to your request. The Prosecutor responded to your request by letter dated four days after receipt of your request, well within the seven days allowed by IC 5-14-3-9(b).

#### CONCLUSION

For the foregoing reasons, I find that the Office of the Marion County Prosecuting Attorney did not violate the Access to Public Records Act.

Best regards,

Heather Willis Neal  
Public Access Counselor

cc: Helen Marchal, Chief of Staff, Office of the Marion County Prosecuting Attorney