



# STATE OF INDIANA

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February 1, 2013

Mr. Darren E. Armstead  
DOC 863605  
1946 W. U.S. Highway 40  
Greencastle, Indiana 46135

*Re: Formal Complaint 13-FC-30; Alleged Violation of the Access to Public Records Act by the Marion County Prosecutor's Office*

Dear Mr. Armstead:

This advisory opinion is in response to your formal complaint alleging the Marion County Prosecutor's Office ("Prosecutor") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* John Owens, Deputy Prosecuting Attorney, responded in writing to your formal complaint. His response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you allege that you submitted a written request for records to the Prosecutor on January 7, 2013. As of January 30, 2013, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege that you have yet to receive a response from the Prosecutor.

In response to your formal complaint, Mr. Owens advised that the Prosecutor received your written request on January 24, 2013, to which it responded in writing on January 29, 2013. A copy of the envelope containing your request is enclosed, which provides the correspondence was postmarked on January 23, 2013.

## 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* I.C. § 5-14-3-1. The Prosecutor is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Prosecutor's public records during regular business hours unless the records are excepted from

disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 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* I.C. § 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 (emphasis added). *See* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, the Prosecutor received your request on January 24, 2013, to which it responded in writing on January 29, 2013. As such it is my opinion that the Prosecutor complied with section 9(b) of the APRA in responding to your request.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Prosecutor did not violate the APRA.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive, somewhat stylized font.

Joseph B. Hoage  
Public Access Counselor

cc: John Owens