



# STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

August 28, 2014

Mr. James E. Rowley #870631  
New Castle Correctional Facility  
100 Van Nuys Road  
New Castle, IN 47362

*Re: Formal Complaint 14-FC-162; Alleged Violation of the Access to Public Records Act by the Indiana Parole Board*

Dear Mr. Rowley,

This advisory opinion is in response to your formal complaint alleging the Indiana Parole Board ("Board") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Board has responded via Mr. Robert Bugher, Esq., Chief Counsel for the Indiana Department of Correction. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion in response to your formal complaint received by the Office of the Public Access Counselor on August 1, 2014.

## BACKGROUND

Your complaint dated July 28, 2014, alleges the Indiana Parole Board violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On July 9, 2014, you sent a public records request to the Board seeking community investigation documents. As of July 28, 2014, you had not received a response from the Board. Pursuant to your complaint, the documents were forwarded to you.

## 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 Indiana Parole Board 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 Board'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.

It appears as if the Board has provided you the documents through DOC counsel. It is unclear why there was a delay in production; however, this Office is familiar with the logistical challenges of DOC offender mail. I trust the documents are to your satisfaction. After review of the justification for redaction, it appears DOC is correct in its analysis to redact certain portions of the material.

### **CONCLUSION**

For the foregoing reasons it is the Opinion of the Public Access Counselor that the Indiana Parole Board has not violated the Access to Public Records Act.

Regards,

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

Luke H. Britt  
Public Access Counselor

Cc: Mr. Robert Bugher, Esq.  
Mr. Thor Miller, Esq.