



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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June 24, 2016

Mr. Keith Ware - #5265
Indiana State Prison
1 Park Row
Michigan City, Indiana 46360

Re: Formal Complaint 16-FC-120; Alleged Violation of the Access to Public Records Act by the State of Indiana, Indiana Parole Board

Dear Mr. Ware:

This advisory opinion is in response to your formal complaint alleging the State of Indiana, Indiana Parole Board ("Board") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Office has responded via Mr. Charles Miller, Esq. His response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on June 2, 2016.

BACKGROUND

Your complaint dated May 24, 2016 alleges the State of Indiana, Indiana Parole Board violated the Access to Public Records Act by failing to respond to your records request. You also include another complaint alleging a violation dated March 7, 2016; however, that particular complaint is untimely and will not be addressed.

On May 3, 2016, you requested copies of correspondence maintained by the Board about your parole. As of the filing of your complaint you had not received a response.

On June 2, 2016 the Board responded. The Board notes it did not receive your request. The Board also notes evidence of correspondence exists in your CCS. You previously requested this file and were told the Board did not send anything to the court.

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 Indiana Code § 5-14-3-1*. The State of

Indiana, Indiana Parole Board is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Board's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

The APRA does not hold an agency liable for a request for public records it did not receive. The Board has stated it did not receive your latest correspondence. While unfortunate, this loss is likely the casualty of the prison mail system. In any case, your request appears to be redundant to the prior request. The Parole Board has clearly stated the statutory justification for denial in its response to this Office and should serve as a proper denial to your most request. The communication you seek does indeed appear to be deliberative and its release discretionary pursuant to Indiana Code 5-14-3-4(b)(6).

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the State of Indiana, Indiana Parole Board did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Mr. Charles Miller, Esq.