



# STATE OF INDIANA

MICHAEL R. PENCE, Governor

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September 12, 2016

Stephen D. Booker #255011  
New Castle Correctional Facility  
1000 Van Nuys Rd.  
New Castle, IN 47632

*Re: Formal Complaint 16-FC-199; Alleged Violation of the Access to Public Records Act by the New Castle Correctional Facility*

Dear Mr. Booker:

This advisory opinion is in response to your formal complaint alleging the New Castle Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Facility has not responded despite an invitation to do so on August 15, 2016. 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 August 15, 2016.

## BACKGROUND

Your complaint dated August 12, 2016, alleges the New Castle Correctional Facility did not acknowledge nor fulfill a public records request submitted on or about July 15, 2016.

## 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 New Castle Correctional Facility 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 Facility'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)*.

A request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. If the request submitted and the agency does not respond to the request within seven (7) days of receipt, the

request is deemed denied. *See Indiana 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.

Without the benefit of a response from the Facility, I am not privy to any argument or justification, if any, as to why the Facility has not acknowledged nor fulfilled your request. Pursuant to Indiana Code § 5-14-5-5, a public agency shall cooperate with the investigation of this Office. The Facility has failed to do so.

### **CONCLUSION**

Based on the foregoing, in the opinion of the Public Access Counselor the New Castle Correctional Facility has violated 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