



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

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September 27, 2016

Mr. Clyde N. Kelley - #204308  
New Castle Correctional Facility  
P.O. Box A  
New Castle, Indiana 47362

*Re: Formal Complaint 16-FC-219; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction*

Dear Mr. Kelley:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Correction ("DOC") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. 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 29, 2016.

## BACKGROUND

Your undated complaint alleges the Indiana Department of Correction violated the Access to Public Records Act by not fulfilling your records request. On or about August 1, 2016, you submitted a public records request to DOC for your parole file. You have not received a response from DOC. On September 7, 2016, an invitation to respond was sent to the DOC Director of Parole Services (against whom the complaint was made) and DOC General Counsel. To date, the only response from DOC was from the Director of Parole Services with the following message:

*Be advised I have never seen this 8/1/16 noted request. I have no idea who may have received it.*

*Sent from my iPhone*

## 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 Indiana Department of Correction 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 DOC'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)*. This Office is very familiar with the postal casualties of inmate mail. The mail process at DOC appears to be inconsistent at best. And due to security reasons, perhaps this is rightfully so.

While I would have expected a more thoughtful response to your complaint pursuant to Indiana Code § 5-14-5-5, it is my expectation DOC will consider your complaint to be a re-submission of your original request and act accordingly. Whether your request warrants a denial due to confidentiality or the records are produced, every public records request is entitled to a substantive response.

Please do not hesitate to contact me with any questions.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a large, sweeping flourish underneath.

Luke H. Britt  
Public Access Counselor

Cc: Mr. Bob Bugher, Esq.; Mr. Douglas Huyvaert