



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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May 6, 2016

Kerry Elder – DOC # 242121
New Castle Correctional Facility
Post Office Box A
New Castle, Indiana 47362

Re: Formal Complaint 16-FC-76; Alleged Violation of the Access to Public Records Act by the Madison County Prosecutor's Office

This advisory opinion is in response to your formal complaint alleging the Madison County Prosecutor's Office ("Office") and Mr. Rodney Cummings violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 et. seq. As of the writing of this opinion, the Office has not responded, despite an invitation by this office to do so on April 6, 2016. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on March 31, 2016.

BACKGROUND

Your complaint dated March 28, 2016, alleges the Madison County Prosecutor's Office violated the Access to Public Records Act by failing to respond to your records request.

You requested records related to an identified cause number on March 1, 2016 but did not receive a response.

DISCUSSION

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 Madison County Prosecutor's Office ("Office") 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 Office's disclosable 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)*.

The Office has not acknowledged your request, which was originally dated on March 1, 2016. Four (4) weeks is enough time for your complaint to be processed by the prison and for it to reach the

Prosecutor's Office. Despite allowing the Office several weeks, you have not received a response. Because the Office has not responded to the complaint filed, I cannot determine if a response was actually sent to you or if there is another statutory justification for the Council's actions. Pursuant to Ind. Code § 5-14-5-7, a public agency shall cooperate with this Office in its investigation. This has not happened. Therefore, I am left to presume the facts contained in the complaint are accurate.

CONCLUSION

Based on the forgoing, it is the opinion of the Public Access Counselor the Madison County Prosecutor's Office 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