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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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CALVIN SANDERS,  
*Complainant,*

v.

MARION COUNTY PROSECUTOR'S OFFICE,  
*Respondent.*

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Formal Complaint No.  
17-FC-171

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Marion County Prosecutor's Office ("MCPO") violated the Access to Public Records Act ("APRA"). Ind. Code §§ 5-14-3-1-10. The MCPO has responded via Ms. Jennifer Morris. Her response is enclosed for review. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on July 13, 2017.

## **BACKGROUND**

The Complainant, Mr. Sanders, contends the Marion County Prosecutor's Office violated the Access to Public Records Act by not responding to a public records request.

On or about May 5, 2017, Complainant submitted a public records request to the Prosecutor seeking certain materials referenced in interview depositions ostensibly from the Complainant's criminal proceeding.

The Prosecutor's Office argues the request was not recognized by the Office as a public records request (the request was labeled "REQUEST FOR OMITED [sic] DOCUMENTS").

## **ANALYSIS**

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." Ind. Code § 5-14-3-1. The Marion County Prosecutor's Office is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy the MCPO's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a). A public agency is required to make a response to a written request that has been mailed within seven (7) days after it is received. Ind. Code § 5-14-3-9(c).

The request was not conspicuously marked as a request for public records and lacked any mention of APRA or FOIA or any other nomenclature putting the Prosecutor's Office on notice of its obligations under the access laws. Nevertheless, upon receipt of the formal complaint from my office, the Prosecutor undertook a search for the documents and released everything in their possession on August 2, 2017. It is my sincere hope the Complainant has received within reason the records he has sought.

### **CONCLUSION**

Based on the foregoing, it is the Opinion of the Public Access Counselor the Marion County Prosecutor's Office has not violated the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LHB', is positioned above the name of the Public Access Counselor.

Luke H. Britt  
Public Access Counselor