# **STATE OF INDIANA**



ERIC J. HOLCOMB, Governor

PUBLIC ACCESS COUNSELOR LUKE H. BRITT

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### **OPINION OF THE PUBLIC ACCESS COUNSELOR**

ALAN J. KREILEIN,	)
Complainant	)
<b>V.</b>	) ) 17-FC-82
INDIANA PAROLE BOARD	)
Respondent	)

#### ADVISORY OPINION May 26, 2017

This advisory opinion is in response to the formal complaint alleging the Indiana Parole Board ("Board") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-1.5-1 et. seq. This office notified the Parole Board of the complaint on April 19, 2017. The Board responded on April 24, 2017. Pursuant to 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 April 11, 2017.

#### BACKGROUND

The formal complaint dated April 3, 2017, alleges the Board violated the APRA by denying access to the records requested. On March 20, 2017, the Complainant mailed a request for transcripts for his parole hearing on March 14, 2017, as well as copies of all paperwork (including letters and reports) related to this hearing (the complaint received says he mailed his request on April 20, but we believe this was a typo and the Complainant meant March 20). The Complainant did not receive a response and filed his complaint on April 3, 2017, which we received on April 11, 2017. A response from the Board on April 24, 2017, states they did not have record of receiving the Complainant's request.

The Board stated in the response that the Board does not use a court reporter or stenographer and therefore has no transcripts of the hearing. The Parole Board also stated in the response that a copy of the individual votes of the Board and the decision of the Board had been provided to Complainant, but



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included a copy in their response. The Parole Board included the remaining records requested by the Complainant in the Response. The full list of records provided in the Parole Board's response include the Report of Investigation and Decision of the Parole Board for March 14, 2017; Board Member Review File; Action Sheet; Parole Report; Medical Report and Release of Information; Hearing Results from March 9, 2016; Information from Offender Information System; and Information from Offender Case Management System. These records will be enclosed for Complainant's review.

#### 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 Parole Board is a public agency for the purposes of the APRA. *See Indiana Code* § 5-14-3-2(*n*). 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*). If the Board had received your request, it would have a duty under the APRA to respond within seven days of receipt. *See Indiana Code* § 5-14-3-3(*c*).

While a public agency has a duty to respond to a written request for access to records within seven days of receipt of the request, an agency cannot respond to a request it did not receive. Therefore, if the Board did not receive your request, it did not violate the APRA by not responding. Furthermore, the Board responded to our notice of the complaint within five calendar days with copies of the requested records, with the exception of transcripts which the Board does not have.

#### CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Indiana Parole Board has not violated the Access to Public Records Act.

Regards,

Luke H. Britt



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Public Access Counselor

Cc: Mr. Charles F. Miller