



STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

October 25, 2016

Mr. Howard Steele - #875796
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, Indiana 47838

Re: Formal Complaint 16-FC-246; Alleged Violation of the Access to Public Records Act by the Marion County Forensic Services Agency

Dear Mr. Steele:

This advisory opinion is in response to your formal complaint alleging the Marion County Forensic Services Agency ("Forensic Services") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. Forensic Services has not responded despite an invitation to do so on October 5, 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 September 23, 2016.

BACKGROUND

Your complaint dated September 8, 2016, alleges the Marion County Forensic Services Agency in regards to your public records request has not supplied you with the documents requested within a reasonable period of time.

On or about August 21, 2016, you submitted a public records request to Forensic Services requesting copies of specific forensic records. Correspondence from your attorney indicates the records associated with your request are housed with Forensic Services. As of the date of your complaint, you had not received a reply.

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 Marion County Forensic Services Agency 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 Forensic Service'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 is 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 Agency, I cannot determine whether there is a justification for withholding the records you seek. In any case, you are entitled to an initial response or acknowledgement of your records request. It appears as if this was not done.

CONCLUSION

Based on the foregoing, it is the Opinion of the Indiana Public Access Counselor the Marion County Forensic Services Agency has violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'L. Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor