



# STATE OF INDIANA

MICHAEL R. PENCE, Governor

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July 14, 2015

Mr. Tyrese L. Rowan - #13235  
New Castle Correctional Facility  
P.O. Box A  
New Castle, Indiana 47362

*Re: Formal Complaint 15-FC-179; Alleged Violation of the Access to Public Records Act by the Spencer County Prosecutor's Office*

Dear Mr. Rowan,

This advisory opinion is in response to your formal complaint, which alleges the Spencer County Prosecutor's Office ("Prosecutor") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Mr. Daniel R. Wilkinson, Esq., Prosecutor has responded to your complaint. It is attached for your review. I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on June 4, 2015.

## BACKGROUND

Your complaint dated June 4, 2015, alleges the Spencer County Prosecutor's Office violated the Access to Public Records Act by failing to provide you with the records you requested.

On or about May 26, 2015, you asked the Prosecutor for several documents related to a 1979 homicide case. On June 3, 2015, the Prosecutor acknowledged your request and offered to give you every document he had on the matter, except for duplicate pages and some attorney notes. In total, the documents were 97 pages at a cost of \$9.70. The Prosecutor indicated this is the entirety of the documents his office possesses.

## 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 Ind. Code § 5-14-3-1. Spencer County Prosecutor's Office is a public agency for the purposes



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of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Prosecutor's 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).

You seem to indicate you believe the Prosecutor has additional documents which were not provided to you. However, the Prosecutor has stated it has provided all the records it possesses. The APRA does not require a public agency to provide records it does not possess. Whether the records are in the possession of another agency is unclear. It is my recommendation you send a request to the law enforcement agency which investigated the case or the court where the matter was adjudicated.

## CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Spencer County Prosecutor's Office did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt  
Public Access Counselor

Cc: Mr. Daniel R. Wilkinson, Esq.