



# STATE OF INDIANA

MICHAEL R. PENCE, Governor

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September 28, 2016

Mr. Dexter Berry - #114153  
Pendleton Correctional Facility  
4490 West Reformatory Road  
Pendleton, Indiana 46064

*Re: Formal Complaint 16-FC-215; Alleged Violation of the Access to Public Records Act by the Marion County Clerk*

Dear Mr. Berry:

This advisory opinion is in response to your formal complaint alleging the Marion County Clerk ("Clerk") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. Mr. Russell Hollis, Deputy Director, responded on behalf of the Clerk. His response is enclosed for your review. 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 August 25, 2016.

## BACKGROUND

Your complaint dated August 18, 2016, alleges the Marion County Clerk violated the Access to Public Records Act by not fulfilling your records request. On or about August 1, 2016, you submitted a request for public records to the Clerk seeking a certified copy of charging information, probable cause and arrest warrant for your criminal case. As of the date of your complaint, you had not received an acknowledgement of your request. The Clerk responded to your complaint by identifying several records it does maintain, but states it does not have all of them. The Clerk refers you to the Indianapolis Metropolitan Police Department (IMPD) who may be the custodian of the remainder of your records.

## 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 Clerk is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Clerk'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)*.

The Clerk has identified and sent certain information it had available and referred you to IMPD for the remainder of the records. The Clerk has not offered justification as to why it did not acknowledge your request originally. I encourage the clerk to be mindful of the seven (7) day deadline for acknowledging a request. It is my sincere hope IMPD has the remainder of your records.

Please do not hesitate to contact me with any questions.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', written in a cursive style.

Luke H. Britt  
Public Access Counselor

Cc: Mr. Russell Hollis