



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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April 22, 2016

Mr. Anthony Taylor El
New Castle Correctional Facility
New Castle, Indiana 47362

*Re: Formal Complaint 16-FC-50; Alleged Violation of the Access to Public Records Act by the
New Castle Correctional Facility*

Dear Mr. Taylor El:

This advisory opinion is in response to your formal complaint alleging the New Castle Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 et. seq. The Facility has not responded despite an invitation to do so on March 11, 2016. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on March 10, 2016.

BACKGROUND

Your complaint dated March 8, 2016, alleges the New Castle Correctional Facility denied you access to your health records.

On or about February 28, 2016, you submitted an access for health records request to the medical services department of the Facility. As of the date of the filing of your complaint, you had not received 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 Ind. Code § 5-14-3-1. The New Castle Correctional Facility is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Facility's disclosable 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).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. 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.

Nothing should prohibit an individual's access to one's own health records, so it is unclear as to the reason why the Facility has not granted you access. Despite an invitation to respond, the Facility has not cooperated with this Office's investigation pursuant to Ind. Code § 5-14-5-5.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the New Castle Correctional Facility has violated the Access to Public Records Act and should release your health records to you as soon as possible.

Regards,

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

Luke H. Britt
Public Access Counselor