

May 26, 2005

Mr. Luke Faron  
18315 Oakley Avenue  
Lansing, IL 60438

*Re: Formal Complaint 05-FC-82; Alleged Violation of the Access to Public Records Act by the Gary City Clerk's Office*

Dear Mr. Faron:

This is in response to your formal complaint alleging that the Gary City Clerk's Office ("Clerk") violated the Access to Public Records Act ("APRA") by failing to allow you to inspect records from case files. I find that the Clerk has violated the Access to Public Records Act.

#### BACKGROUND

On April 22, 2005 you hand-delivered a written request to inspect 10 case files that you identified by cause number. You state in your complaint, filed with the public access counselor on April 29, 2005, that you have not received a written response to your request. You allege that on a visit to the office on April 29, the employees of the Clerk had indicated that they had not taken any action regarding your request.

I sent a copy of your complaint to Suzette Raggs, the Gary City Clerk. Ms. Raggs responded by letter, stating that she was seeking clarification from the State Court Administrator Ron Miller. She stated that she had explained to you her need for clarification when you visited the office, and that you have been afforded the opportunity on previous occasions to view court records. When more recently an issue arose under the amended version of Administrative Rule 9, the state court administrator's office was contacted for guidance.

Subsequent to her first letter in response to your complaint, Ms. Raggs forwarded to me the letter from Mr. Miller. I enclose both correspondences for your reference. Mr. Miller confirmed that your request for numerous case files did not fall under the more specific requirements contained in Administrative Rule 9 when courts consider requests for bulk

distribution. Therefore, Ms. Raggs is free to allow you to inspect the listed case files, and Ms. Raggs suggested that you arrange with her a time to resume your inspection of the case files.

### ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided by section 4 of the APRA. Ind. Code 5-14-3-3(a). The Gary City Clerk is a public agency under the APRA, and its case files are public records. IC 5-14-3-2.

Under IC 5-14-3-4(a)(8), a public agency may not disclose a record declared confidential by or under rules adopted by the supreme court of Indiana. The supreme court has adopted Ind. Administrative Rule 9. The amended version of the rule, effective January 1, 2005, prescribes procedures for the distribution of bulk records. Admin. R. 9(F). According to the state court administrator, a request for numerous case files does not invoke the procedural requirements of Administrative Rule 9(F). Therefore, Ms. Raggs is permitted, even required, to allow you to inspect those case files, unless they are excepted under some other exception.

The Clerk is not faulted for seeking clarification on a matter concerning the disclosure of records from case files. However, IC 5-14-3-9(c) requires that the public agency issue a written response to a written request for records. IC 5-14-3-9(a) requires that hand-delivered requests be responded to within 24 hours, or the request is deemed denied. Ms. Raggs has not disputed that she did not issue a written response within the required timeframe, and it is for this failure that I find that the Clerk violated the Access to Public Records Act. Even if more time is needed to seek clarification on a matter, I would advise the Clerk to issue a timely written response indicating that she is seeking guidance, and a timeframe in which the requester may expect a final response or information on the progress the agency is making to fulfill the request.

### CONCLUSION

For the foregoing reasons, I find that the Gary City Clerk violated the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Ms. Suzette Raggs