

November 13, 2006

Allen C. Grisley  
3616 E. U.S. 40  
Indianapolis, IN 46217

*Re: Formal Complaint 06-FC-174; Alleged Violation of the Access to Public Records Act by the Johnson County Superior Court No. 3*

Dear Mr. Grisley:

This is in response to your formal complaint alleging that the Johnson County Superior Court No. 3 ("Court") violated the Access to Public Records Act by denying you a recording of two court proceedings. I find that the Court did not deny you a record or unreasonably delay production of the record.

#### BACKGROUND

You filed your formal complaint with the Office of the Public Access Counselor, stating that you had filed a request with the court for a copy of a recording of an August 3 hearing involving a specific matter. You alleged in your October 11 complaint that the Court had twenty four hours if the request is hand-delivered. You supplemented your complaint on October 20, stating that you had also been denied a copy of an October 10 hearing.

I sent a copy of your complaint to the Court. Judge Kim Van Valer Shilts, Judge of Johnson Superior Court No. 3 responded, a copy of which is attached for your reference. She stated that you retrieved the compact disc containing the recording of both matters on October 20, one week after the recordings were prepared. You requested a copy of the August 3 hearing on October 5. The following day at around 4:25 p.m., you came to the Court expecting to receive a copy. The Court had been unable to prepare the CD due to the press of other Court matters. The court reporter had told you that she would be able prepare the copy by Tuesday, October 10; however, when you arrived, Court had begun and the Court was unable to attend to your request that day. Also, the court reporter had inadvertently forgotten to log your name in your notes of August 3<sup>rd</sup>'s proceedings, making retrieval of your matter more time consuming.

With respect to your October 11 request for the October 10 hearing, the court reporter had told you that she would not be able to copy the matter until the following week, since your October 11 request fell on a Wednesday, which begins the typical two full-day court sessions. The CD for both proceedings had been prepared on October 13, and you picked up the CD on October 20<sup>th</sup>.

After speaking with my office, Judge Van Valer Shilts reconsidered the Court's usual policy of allowing only inspection of recordings of court matters. The Court will make every effort to copy a CD within a reasonable period of time. Producing a CD within 24 hours is not always possible given the other duties and functions of the Court.

### ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act ("APRA"). Ind. Code 5-14-3-3(a). If a public agency receives a request for a record in person, the public agency is required to respond within 24 hours or the record is deemed denied. IC 5-14-3-9(a). If the public agency receives a request for a record via U.S. Mail or facsimile, the public agency is required to respond within seven calendar days, or the request is deemed denied. IC 5-14-3-9(b). If a public agency intends to deny a written request for a record, it must deny the record in writing. IC 5-14-3-9(c). A public agency shall regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. IC 5-14-3-7(a). The foregoing provision does not operate to deny to any person the rights secured by the APRA. IC 5-14-3-7(c).

What is contemplated with a response within the above timeframes is an acknowledgement that the public agency has received the request, and some indication of how or when the agency intends to comply. There are no strict timeframes set out in the APRA within which an agency is required to provide the records. A reasonable time within which to produce a record depends on the number of requests, the time required to make the copy, and whether the record contains nondisclosable material that must be redacted, among other factors.

Here, the Court acknowledged your request and indicated that it would comply, but would need additional time to locate the record and make the copy. The APRA does not require that the copy be provided within 24 hours. It was not unreasonable for the Court to have prepared a copy of the two court proceedings by October 13, within just a week of your original request.

## CONCLUSION

For the foregoing reasons, I find that the Johnson County Superior Court No. 3 did not violate the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Judge Kim Van Valer Shilts