

July 20, 2007

Tyrone Frazier
#910476
Indiana State Prison
PO Box 41
Michigan City, Indiana 46361

Re: Formal Complaint 07-FC-175 and 184; Alleged Violation of the Access to Public Records Act by the Clerk of Marion Circuit Court

Dear Mr. Frazier:

This is in response to several formal complaints filed by you alleging the Clerk of Marion Circuit Court ("Clerk") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying your request for records. Copies of the Clerk's responses to your complaints are enclosed for your reference. I find the Clerk of Marion Circuit Court did not violate the APRA.

BACKGROUND

Your complaints allege you submitted several requests to the Clerk for copies of numerous records related to cause numbers 49G040212-PC-294197, 49F189411-CF-153135, 49F090008-DF-151284, 49F099607-DF-104096, 49F189512-DF-189713, and 49G048908-PC-096817. It is difficult to list the dates you have requested the records and the dates the Clerk has responded to your request, because it appears you have sent again and again the same request by have changed the date on the requests several times.

The Clerk has responded to your complaints by letters from Ms. Teresa Hall, Chief of Staff. Ms. Hall indicated the office has responded to each of your requests for access to records. The Clerk further provides evidence of each response.

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." Ind. Code 5-14-3-1. The Clerk's Office is clearly a public agency for the purposes of the APRA. IC 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Clerk's Office during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. IC 5-14-3-3(a).

A request for records may be oral or written. IC 5-14-3-3(a); 5-14-3-9(c). If the request is delivered by mail or facsimile, the agency must respond to the request within seven days of receipt. IC 5-14-3-9(b).

Here, you have requested copies of numerous court records. The Clerk has provided copies of the same documents to you on several occasions. Because of the voluminous requests with differing dates on different pages in the attachments, I do not list here the date of each request and of each response. The APRA requires a response to a request for access to records within seven days of *receipt* of the request when the request is made by mail. Because your requests are coming through the Department of Correction mail system, the Clerk does not receive your requests as quickly as you might expect. All evidence provided by the Clerk in response to your complaints indicates the Clerk has responded to each of your several requests well within the seven days required by the APRA.

Regarding the records you request that are not maintained by the Clerk, the Clerk has indicated the Office does not have any responsive records to your requests and has directed you to the appropriate place to find those records.

The Clerk has diligently responded to your requests for records. If you still believe you have not received a record maintained by the Clerk, your only remedy, now that you have this Opinion, is to file a complaint in circuit or superior court.

CONCLUSION

For the foregoing reasons, I find the Clerk of the Marion Circuit Court did not violate the Access to Public Records Act.

Best regards,

Heather Willis Neal
Public Access Counselor

cc: Elizabeth White, Clerk of the Marion Circuit Court