

October 1, 2007

Raymond Ingram
Wabash Valley Correctional Facility
PO Box 1111 Unit G-418-U
Carlisle, Indiana 47838

Re: Formal Complaint 07-FC-261; Alleged Violation of the Access to Public Records Act by the Indiana Court of Appeals

Dear Mr. Ingram:

This is in response to your formal complaint alleging the Indiana Court of Appeals ("Court") violated the Access to Public Records Act ("APRA") (Ind. Code §5-14-3) by not responding to your request for records. A copy of the Court's response is enclosed for your reference. I find that the Court did not violate the APRA by not responding to a request it did not receive.

BACKGROUND

You allege that you submitted a request to the Court dated August 15, 2007 for records related to a particular cause number. You submitted your complaint on August 29, and I received it on August 31, indicating you had not been able to review the entire file.

The Court responded to your complaint by letter dated September 17 from Heather Smith, Deputy Clerk of the Indiana Supreme Court, Court of Appeals and Tax Court. Ms. Smith indicated the Court did not receive your August 15 request and as such could not respond to such request.

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 Court is clearly a public agency for the purposes of the APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Court during

regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

A request for records may be oral or written. I.C. §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 days of receipt, the request is deemed denied. I.C. §5-14-3-9(b).

Here the Court indicates it did not receive your request for records. If the Court did receive your request, it would have a duty under the APRA to respond within seven days of receipt even if the records requested are not maintained by the Court. While a public agency has a duty to respond to a written request for access to records within seven days of receipt of the request, an agency cannot respond to a request it did not receive. Therefore, if the Court did not receive your request, it did not violate the APRA by not responding.

CONCLUSION

For the foregoing reasons, I find that the Court did not violate the APRA by not responding to a request it did not receive.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Heather Smith, Deputy Clerk of the Indiana Supreme Court, Court of Appeals and Tax Court