



# STATE OF INDIANA

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October 20, 2010

Mr. Jeffery E. House  
DOC # 159896  
One Park Row  
Michigan City, IN 46360

*Re: Formal Complaint 10-FC-215; Alleged Violation of the Access to Public Records Act by the Henry County Court*

Dear Mr. House:

This advisory opinion is in response to your formal complaint alleging the Henry County Court (the "Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-3 *et seq.*

## BACKGROUND

In your complaint, you allege that on August 31, 2010, you sent a request to the Court seeking access to chronological case summaries for civil and criminal cases regarding a certain physician. As of September 15th, you had not received a response from the Court.

Attorney Joseph J. Bergacs responded to your complaint on behalf of the Court. Mr. Bergacs states that the Court never received your request. He claims that the formal complaint from our office was the first notice that the Court received of your request. He adds that neither Henry County Clerk Patricia French (the "Clerk") nor anyone else in the Clerk's office received any request from you. That said, he acknowledges that there are several records responsive to your request. Upon receipt of the appropriate fees from you, the Clerk will be happy to provide you with the copies.

## 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."

I.C. § 5-14-3-1. The Court does not dispute that it is 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 Court's public records during regular business hours unless the records are excepted from disclosure as confidential or nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Under the APRA, 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 (7) days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. § 5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply.

Here, the Court claims that it never received your request. If the Court did not receive a request from you, it was not obligated to respond. *See Opinion of the Public Access Counselor 10-FC-99*. That said, the Clerk is willing to provide you with all responsive records upon receipt of the applicable fees. Subsection 8(e) permits public agencies to require that payment for copies be made in advance. I.C. § 5-14-3-8(e). I also note that under I.C. § 33-37-5-1, a court clerk shall collect a fee of one dollar (\$1.00) per page for legal size or letter size pages, including a page only partially covered with writing.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Court did not violate the APRA if it did not receive your request. I trust the Court's willingness to provide responsive records to you resolves your complaint.

Best regards,



Andrew J. Kossack  
Public Access Counselor

Cc: Joseph J. Bergacs