



STATE OF INDIANA

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March 18, 2010

Mr. Tracey L. Wheeler
4490 W. Reformatory Road
Pendleton, IN 46064

Re: Formal Complaint 10-FC-43; Alleged Violation of the Access to Public Records Act by the Vigo County Circuit Court Clerk

Dear Mr. Wheeler:

This advisory opinion is in response to your formal complaint alleging the Vigo County Circuit Court Clerk ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*, by denying you access to public records. I have enclosed the Clerk's response for your review.

BACKGROUND

According to your complaint, you allege that you submitted to the Clerk a request for access to search and arrest records and warrants for cause No. 84D06-0709-2987. The Clerk responded by sending several records, but you maintain that those records were not what you requested.

My office forwarded a copy of your complaint to the Clerk for a response. The Clerk claims that you it provided you with all records regarding the cause number you listed. When the Clerk received your complaint, the Clerk searched under other cause numbers and discovered that the Search and Seizure Warrant you sought was issued from Vigo Superior Court Division 1 and the Initial Probable Cause Hearing was conducted in Vigo Superior Court Division 3. Because the Probable Cause Hearing was conducted under a different cause number than the one you listed in your request, the Clerk did not know to search for the warrant in a separate file.

ANALYSIS

The public policy of the APRA states, "[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 Clerk meets the definition of a “public agency” under the APRA. IC 5-14-3-2. Accordingly, any person has the right to inspect and copy the Clerk’s public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Here, it appears that the Clerk provided you with all records that you specifically requested. The Clerk did not search for responsive records under other cause numbers because you only provided one cause number in your request. A request for inspection and copying must identify with reasonable particularity the record being requested. I.C. § 5-14-3-3(a)(1). In my opinion, the Clerk did not deny you access under the meaning of the APRA because you received everything you requested. *Id.*

In the future, if you receive a response from a public agency that you feel is incomplete, I would encourage you to communicate directly with the public agency to determine if the agency will supplement its response. It was probably unnecessary to file a complaint with this office when the Clerk was apparently willing to provide you with the records you sought.

CONCLUSION

For the foregoing reasons, it is my opinion that the Clerk did not violate the APRA because it never denied your request.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Patricia R. Mansard, Vigo County Circuit Court Clerk