



STATE OF INDIANA

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February 9, 2011

Mr. Tyrone Frazier
DOC # 910476
One Park Row
Michigan City, IN 46360-0041

Re: Formal Complaint 11-FC-20; Alleged Violation of the Access to Public Records Act by the Marion County Clerk

Dear Mr. Frazier:

This advisory opinion is in response to your formal complaint alleging the Marion County 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. The response from the Clerk's chief of staff, Scott Hohl, is enclosed for your reference.

BACKGROUND

According to your complaint, you sent a request to the Clerk on December 13, 2010, requesting documentation regarding document retention, search warrants, and an address for a deputy clerk. You claim that as of December 29th, the Clerk had not yet responded to your request.

In response to your complaint, Mr. Hohl states that the Clerk's office received your request on December 16th and responded on December 23rd. The response provided the deputy clerk's address, but deemed the remainder of your request as a request for legal research and not the responsibility of the Clerk's office. Mr. Hohl referred you to the Indiana Rules of Court to obtain the remaining information you requested.

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 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 Clerk's public records during regular business hours unless the public records are exempt 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 (7) days of receipt, the request is deemed denied. I.C. §5-14-3-9(b). 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. If the Clerk received your request on December 16th and responded on December 23rd, the Clerk responded in accordance with these timeframes.

With regard to the substance of your request, the Clerk provided you with the address you requested. I agree with the Clerk that the office need not conduct legal research on your behalf. The Indiana Rules of Court are publicly available through the State's website at <http://www.in.gov/judiciary/rules/>. Rules regarding retention of court records are addressed in the Administrative Rules, which are available at <http://www.in.gov/judiciary/rules/admin/admin.pdf>.

CONCLUSION

For the foregoing reasons, it is my opinion that the Clerk did not violate the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Scott Hohl