



STATE OF INDIANA

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November 18, 2013

Mr. Orza Salone #944875
Indiana State Prison
One Park Row
Michigan City, IN 46360

Re: Formal Complaint 13-FC-308; Alleged Violation of the Access to Public Records Act by the Howard County Circuit Court

Dear Mr. Orzone,

This advisory opinion is in response to your formal complaint alleging the Howard County Circuit Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Ms. Kim Wilson, Clerk, responded to your formal complaint. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 21, 2013.

BACKGROUND

Your complaint dated October 21, 2013 alleges the Lake Howard County Circuit Court violated the Access to Public Records Act by denying your request for records in violation of Ind. Code § 5-14-3-3(b).

On or about October 3, 2013, you served upon the Court a request for production of records for information related to a hearing conducted on July 4, 1994. That same day, the Court issued an order reflected in a CCS entry stating the records request was denied due to previously providing you with transcripts of all proceedings in your case.

You sent a subsequent request again asking for the transcripts. You were advised by the Howard County Clerk's Office they had no records responsive to your request. In its response to your formal complaint, the Clerk reiterated it did not have records that would satisfy your 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.” See Ind. Code § 5-14-3-1. The Howard County Circuit Court (and the Howard County Clerk) is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Court’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). 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. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

It is difficult to determine from your complaint exactly what records you seek. My interpretation is that you want a transcribed audio recording of the July 6, 1994 hearing. If you asked the Court for a transcription of the recording, unless a transcription has been prepared and is maintained by the Court, the Court is not obliged to provide a transcribed record of the hearing to you. However, you are entitled to an actual copy of the audio recording for you to manually transcribe. See Ind. Code § 5-14-3-2(h)(2) defining “inspect” as the right to manually transcribe.

CONCLUSION

For the foregoing reasons, the Lake County Circuit Court has not violated the Public Records Act.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Ms. Kim Wilson