



# STATE OF INDIANA

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January 30, 2014

Mr. Scottie R. Adams  
Indiana State Prison  
One Park Row  
Michigan City, IN 46064

*Re: Formal Complaint 13-FC-358; Alleged Violation of the Access to Public Records Act by the St. Joseph County Clerk*

Dear Mr. Adams,

This advisory opinion is in response to your formal complaint alleging the St. Joseph County Clerk ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Clerk has responded to your request. 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 December 30, 2013.

## BACKGROUND

Your complaint dated December 30, 2013, alleges the St. Joseph County Clerk violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On or about November 1, 2013, you allegedly submitted a public records request to the Clerk. It is unclear as to what was requested, as you have not provided a copy of your request nor have you described the records in your complaint narrative.

The Clerk responded that the appropriate County Officials, including the Clerk herself, have no recollection or record of receiving your request. She has invited you to submit a subsequent request at your convenience.

## 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 St. Joseph County Clerk’s Office 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 Clerk’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.

If your request for information was not received by the County, then the Clerk is under no obligation to provide any records. It is well known by this Office the State Prison mail system naturally faces logistical challenges and it is not beyond contemplation that the correspondence was lost.

The Clerk has indicated she will be willing to respond to a request if she was to receive one. *I will note that she also indicates that the charge per page is \$1.00. The Clerk should be advised Indiana Code allows public agencies to only charge a maximum of \$.10 per black and white page copies for public records requests. Please see Ind. Code § 5-14-3-8(d)(1).*

### CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the St. Joseph County Clerk did not violate the Access to Public Records Act.

Regards,



Luke H. Britt  
Public Access Counselor

Cc: Ms. Terri J. Rethlake