



# STATE OF INDIANA

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February 13, 2014

Ms. Janet S. Miller  
2006 Whitney Avenue  
Valparaiso, IN 46383

*Re: Formal Complaint 14-FC-08; Alleged Violation of the Access to Public Records Act by the Porter County Clerk*

Dear Ms. Miller,

This advisory opinion is in response to your formal complaint alleging the Porter County Clerk ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Clerk, Karen M. Martin has responded to your 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 January 16, 2014.

## BACKGROUND

Your complaint dated January 16, 2014, alleges the Marion 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 January 8, 2013, you sought from the Clerk a copy of a Motion for Continuance or a Court Order reflecting a continuance of a pre-trial conference on May 17, 2006. It appears as if you were attempting to reconcile a bill from your attorney with the actual court proceedings. On or about January 13, 2013, the Clerk sent you the Chronological Case Summary reflecting an Emergency Petition for Modification of Provisional Orders filed by your attorney on May 17, 2006.

## 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 Porter 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 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.

The Clerk sent you a timely response on January 13, 2014 with documentation she presumed would be responsive to your request. From the information provided and conversation I have had with you in the past, you seem to take exception to the Court's handling of the Continuance and the perceived deviation from established Trial and Court Rules. Please note the Public Access Counselor's Office does not determine violations of local or trial rules.

The document you received reflects a request on the date of the pre-trial hearing for a re-setting of the matter to May 24, 2006. Although not a traditional Motion for Continuance, this document demonstrates what occurred on that date. From the information provided, it does not appear a Motion for Continuance exists, only the Chronological Case Summary (CCS) entry from Porter Superior Court rescheduling the pre-trial conference.

Although you seek specific records which you would be entitled to if they exist, the Clerk has indicated they do not exist. The documentation sent to you was the closest responsive production in their custody. Any dissatisfaction with the Court's handling of the matter is outside the purview of the Public Access Counselor.

### **CONCLUSION**

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

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt  
Public Access Counselor

Cc: Ms. Karen M. Martin