



STATE OF INDIANA

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November 24, 2014

Mr. Robert D. Smith #133483
Plainfield Correctional Facility
727 Moon Rd.
Plainfield, IN 46168

Re: Formal Complaint 14-FC-263; Alleged Violation of the Access to Public Records Act by the LaPorte County Clerk

Dear Mr. Smith,

This advisory opinion is in response to your formal complaint alleging the LaPorte County Clerk ("Clerk"), violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Clerk has not responded despite an invitation to do so on October 31, 2014. 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 October 29, 2014.

BACKGROUND

Your complaint dated October 17, 2014, alleges the LaPorte County Clerk violated the Access to Public Records Act (Ind. Code § 5-14-3) by failing to acknowledge your request in a timely manner.

On or about September 10, 2014 and again on October 1, 2014, you submitted a public records request to the LaPorte County Clerk. The Clerk did not respond to your request as of the date of the filing of your complaint on October 29, 2014. You have not provided a copy of your complaint; therefore, I cannot comment on any disclosure elements. This Opinion is directed at the acknowledgement obligation of the APRA.

ANALYSIS

The public policy of the APRA states that "a (p)roviding person 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 LaPorte County Clerk is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy

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.

This Office is familiar with the logistical challenges of inmate mail within the Department of Correction. However, if the Clerk received your request, it had seven (7) days to respond. By failing to do so, the APRA has been violated.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that if your request was received the LaPorte County Clerk violated the Access to Public Records Act by failing to acknowledge your request.

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