



STATE OF INDIANA

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January 2, 2015

Mr. Levie Jackson
One Park Row
Michigan City, IN 46360

Re: Formal Complaint 14-FC-283; Alleged Violation(s) of the Indiana Access to Public Records Act by the Tippecanoe County Clerk of Courts

Dear Mr. Jackson,

This advisory opinion is in response to your formal complaint alleging the Tippecanoe County Clerk of Courts ("Clerk"), violated the Indiana Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The Clerk has responded via attorney Mr. Douglass J. Masson, Esq. His 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 November 21, 2014.

BACKGROUND

Your formal complaint dated November 19, 2014, alleges the Tippecanoe County Clerk of Courts violated the public records act by not releasing records to you in a timely manner.

On or about October 1, 2014, you submitted a public records request for a copy of all court costs, fees, and restitution which was charged under your criminal cause number. As of the filing of your formal complaint you had not received the documents. The Tippecanoe County Superior Court No. 2 Judge, the Hon. Thomas H. Busch entered an order on October 15, 2014 to the Clerk directing her to prepare the records you requested.

The Clerk responded by suggesting your request did not meet the specificity requirements of the Access to Public Records Act.

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 Tippecanoe County Clerk of Courts 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.

Ind. Code § 5-14-3-3(a)(1) holds that a requester must identify a record sought with reasonable particularity. Your request as written does not specify a particular document, but rather asks for a summary of costs associated with your criminal case. It is likely, however, your request gives the Clerk an idea of which set of documentation would satisfy your inquiry. While there is no violation because you did not identify a record with reasonable particularity, I encourage the Clerk to make an inference into the type of records you seek and, if possible, disclose them to you. Alternatively, I invite you to submit a second request which may narrow your request to specific documents.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Tippecanoe County Clerk of Courts 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: Mr. Douglas J. Masson, Esq.