



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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August 11, 2016

Joseph-Aaron: Cigler
Post Office Box 463
Scherverville, Indiana 46375

Re: Formal Complaint 16-FC-183 (Priority); Alleged Violation of the Access to Public Records Act by the Lake County Clerk's Office

Dear Mr. Cigler:

This advisory opinion is in response to your formal complaint alleging Lake County Clerk's Office ("Office") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Office has responded to your complaint via Ms. Shannon Seitzinger. Her response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on July 25, 2016.

BACKGROUND

Your complaint dated July 22, 2016, alleges the Lake County Clerk's Office violated the Access to Public Records Act by failing to respond to any of your records requests. You made multiple requests for a verified sworn complaint or probable cause affidavit in reference to your case number. Your requests were sent on February 12, March 7, and June 21, 2016. You state that you received no reply from the Office for any of your requests. In its response, the Office states it received your request on June 21, 2016 and sent you a copy of the probable cause affidavit on June 23, 2016.

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 Indiana Code § 5-14-3-1*. The Lake County Clerk's Office is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Office's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

A request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. 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 Indiana 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 APRA does not specify a time for production or inspection of responsive records. Instead, a request for public records must be fulfilled by a public agency within a reasonable time. *See Indiana Code § 5-14-3-3(b)*. Reasonableness depends on the circumstances, including: size of the public agency, number of pending requests, complexity of the request, and any other operational consideration which may reasonably affect the public records process.

You state that you received no correspondence for any of the four (4) requests you submitted. The Office contends, however, it sent you the record you requested on June 2, 2016 within 48 hours of receiving your request. There is no mention by the Office of any previous requests received from you, although Ms. Seitzinger notes she did not take the position of Lake County Traffic Clerk Division Manager until March of 2016.

In the event you did not receive the document you requested on this occasion, there does not appear to have been any bad faith on the part of the Office to prevent you from obtaining these records. The Office even notes in its response it waived the usual copying fee of \$1.00 per page as a courtesy to you. While I appreciate the prompt cooperation by Lake County, nevertheless, I encourage them to be mindful in the future of the importance of efficient public access.

CONCLUSION

Based on the forgoing, it is the opinion of the Lake County Clerk's Office violated the Access to Public Records Act when it failed to acknowledge and process your initial requests. Ms. Seitzinger, as the new Lake County Traffic Clerk Division Manager righted the issue when she processed your latest request and mailed you the document within 48 hours of receiving your correspondence.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Ms. Shannon Seitzinger