

---

**OPINION OF THE PUBLIC ACCESS COUNSELOR**

---

CHARLES J. DAVIS SR.,  
*Complainant,*

v.

THE SULLIVAN COUNTY CLERK'S OFFICE,  
*Respondent.*

---

Formal Complaint No.  
17-FC-228

---

Luke H. Britt  
Public Access Counselor

---

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Sullivan County Clerk's Office ("Clerk") violated the Access to Public Records Act ("APRA"). Ind. Code §§ 5-14-3-1 to -10. The Clerk has responded via Ann Smith Mischler, legal counsel. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on September 7, 2017.

## **BACKGROUND**

Charles J. Davis Sr. (“Complainant”) contends the Sullivan County Clerk’s Office violated the Access to Public Records by not responding to a public records request.

On or about August 6, 2017, the Complainant submitted a public records request to the Sullivan County Clerk’s Office for various records which must be created pursuant to Ind. Code 33-32-2 et. al. The request was not acknowledged nor were the documents produced.

The Clerk responded via counsel arguing the Clerk’s Office never received the request, perhaps because the request did not have the correct room number on it and was received by a different agency.

## **ANALYSIS**

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.” Ind. Code § 5-14-3-1. The Sullivan County Clerk’s Office is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy Clerk’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a). A public agency is required to make a response to a written request that has been mailed within seven (7) days after it is received. Ind. Code § 5-14-3-9(c).

The records requested are typically disclosable public records and the request identified said records with reasonable particularity. This Office is certainly familiar with the challenges of inmate mail so it is entirely possible the request was lost in the mail. That said, the Clerk is now in receipt of the request and my recommendation is to fulfill the request as soon as possible.

### **CONCLUSION**

Based on the foregoing, it is the opinion of the Public Access Counselor that the Sullivan County Clerk's Office has not violated the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LHB', is positioned above the name of the Public Access Counselor.

Luke H. Britt  
Public Access Counselor