

June 26, 2000

Mr. Richard Jay Corey
7973 Eaker Court
Brownsburg, IN 46112

Re: Advisory Opinion 00-FC-15 *Denial of Access to Public Records by the Brownsburg Town Court.*

Dear Mr. Corey:

This is in response to your formal complaint, which was received on June 12, 2000. You have alleged that the Brownsburg Town Court ("Court") has violated the Indiana Access to Public Records Act ("APRA,") Indiana Code chapter 5-14-3, by denying you access to public records maintained by the Court on June 9, 2000. Judge Charles E. Hostetter responded in writing to your complaint in a letter dated June 16, 2000. A copy of his response is enclosed for your reference. It is my opinion that your request for access to public records was reasonably particular as required under the APRA and that the Court should have provided you with the opportunity to inspect the public records in question.

BACKGROUND

According to your complaint, you mailed a public records request to the Court on June 7, 2000, requesting an opportunity to inspect the full record of every case in which a person has been charged with a traffic offense other than a non-moving violation for the last calendar year. In an unsigned response dated June 9, 2000, you were informed that without a specific case number, there was "no way for us to determine which cases are moving offenses compared to non-moving offenses." On June 9, 2000 you filed a formal complaint with this Office, claiming that the Court improperly denied you access to these public records in violation of the APRA.

In his response, Judge Hostetter states that he was not aware of your request until the formal complaint was received. He believes that the Court Administrator did not intend to deny you access, but was only attempting to narrow the scope of review for you in her letter to you of June 9th. Judge Hostetter explained that to satisfy your request to inspect public records, it would involve going through numerous boxes in various locations because the records you requested are not segregated from other court files. The Court will, however, make the requested public records available to you immediately.

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." Ind. Code § 5-14-3-1. The Court is clearly a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2. Any person has the right to inspect and copy the public records of the Court during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana Code section 5-14-3-4. Ind. Code § 5-14-3-3(a).

Under Indiana Code 9-30-3-11(c), a court with jurisdiction over traffic offenses shall keep "a full record of every case in which a person is charged with a traffic offense other than a nonmoving traffic offense." Court copies of the information and summons or complaint and summons and related pleadings are to be maintained in the court offices for one year after an abstract has been sent to the Bureau of Motor Vehicles (BMV), under Indiana Code section 9-25-6-8. Id.

According to your complaint, you requested an opportunity to the full record of every case in the Court for the last calendar year in which a person was charged with a traffic offense other than a non-moving traffic offense. You mailed your request on June 7, 2000 and received a response on June 9, 2000. It is clear that the Court did comply with Indiana Code section 5-14-3-9, which requires public agencies to respond within seven (7) days of the receipt of a request for access to public records that has been mailed. In the Court's response to your complaint, however, they claim that the response of June 9, 2000 was an attempt to narrow the scope of your request because these files are not well organized and are not segregated from court records reflecting a non-moving traffic offense.

Under the APRA, a requestor is obligated to state his or her request for access to public records "with reasonable particularity" so that the public agency understands what public records are being requested. Ind. Code §5-14-3-3(a)(1).

While the phrase "reasonable particularity" appears to be clear, were it necessary to interpret the (APRA) to determine what the General Assembly intended this phrase to mean, courts would rely upon the common and ordinary meaning. "Particularity" is defined as "the state of being particular rather than general" . . . Statutory interpretation also requires that one construe the phrase "reasonable particularity" in light of the entire Public Records Act. Since the (APRA) favors disclosure and the burden of proof for nondisclosure is on the public agency, the agency should contact the requestor for more information if it is necessary to respond to a request.

Opinion of the PAC, 99-FC-21, (Jan, 19, 2000) page 3-4 [Citations omitted.]. In response to your June 7th request, the Court responded that they have many files and that they would not be able to easily determine which cases were moving versus non-moving offenses. The Court provided only one option to you-to provide a case number in order to access specific files. As noted above, however, the burden is on the agency to produce any public records that are not excepted from disclosure and there was no claim by the Court that the public records you requested were not disclosable.

After reviewing your request for access to the public records of the Court, it is my opinion that your request was reasonably particular so that the Court should have known which public records you wanted to inspect. The fact that your request would lead to the production of a voluminous number of

public records does not make it nonspecific. Further, the Court is under no obligation under the APRA to search their records and segregate the moving and nonmoving offense files, only to provide you with an opportunity to review those files. A more direct and appropriate response from the Court would have been to explain the organization of these public records and provide you with an opportunity to search these records yourself.

CONCLUSION

It is my opinion that your request for access to the public records of the Brownsburg Town Court was reasonably particular as required under the APRA. The Court should have provided you with an opportunity to inspect the public records you requested access to in your request of June 7, 2000.

Sincerely,

Anne Mullin O'Connor

cc: The Honorable Charles E. Hostetter, Judge
Brownsburg Town Court
