



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
HEATHER NEAL

Indiana Government Center South
402 West Washington Street, Room W460
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

July 8, 2008

Andre Nelson
DOC #934979
PO Box 30
Pendleton, Indiana 46064

Re: Formal Complaint 08-FC-157; Alleged Violation of the Access to Public Records Act by the Lake County Superior Court Juvenile Division

Dear Mr. Nelson:

This advisory opinion is in response to your formal complaint alleging the Lake County Superior Court Juvenile Division ("Court") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. The Court's response to the complaint is enclosed for your reference. It is my opinion the Court did not violate the APRA by not responding to a request it did not receive.

BACKGROUND

You allege that on May 30, 2008 you mailed a request to the Court for access to court records. You allege that the Court failed to respond to the request. You filed this complaint on June 18.

The Court responded to the complaint by letter dated June 25 from Senior Judge Mary Beth Bonaventura. The Court contends the office maintains no record of having received your request. Since receiving a copy of the complaint, the Court has located records responsive to your request and has sent those to you.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Court is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, 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 the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 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 days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

Here the Court asserts the office has no record of having received your request. If the Court did receive your request, it would have a duty under the APRA to respond within seven days of receipt. I.C. § 5-14-3-9(b). While a public agency has a duty to respond to a written request for access to records within seven days of receipt of the request, an agency cannot respond to a request it did not receive. Therefore, if the Court did not receive your request, it did not violate the APRA by not responding.

CONCLUSION

For the foregoing reasons, it is my opinion the Court did not violate the APRA by not responding to a request it did not receive.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Senior Judge Mary Beth Bonaventura, Lake County Superior Court Juvenile
Division