



STATE OF INDIANA

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June 2, 2016

Ms. Trina Spainhower
3950 Tamara Way
Franklin, Indiana 46131

Re: Informal Inquiry 16-INF-14; Complaint against Johnson County Superior Court

Dear Ms. Spainhower:

This is in response to your informal inquiry regarding whether the accommodation provided by the Johnson County Superior Court was proper. I issue the following informal opinion in response to your inquiry.

BACKGROUND

You seek a determination as to what accommodations must be provided under the APRA to requestors of public records. You previously attempted to obtain records from the Court, seeking to obtain recordings of proceedings and were informed the only way to obtain recordings is to pay \$4.50 per page for a transcript. You amended your request, seeking a digital copy of the proceedings.

On March 22, 2016 the Court responded to your request, stating it could not provide you with copies because Code of Judicial Conduct Rule 2.17 prevented the tape from being broadcast. Instead, Judge Cynthia Emkes informed you that you would be provided accommodations to listen to the record and make notes. However, you could not bring electronic devices because of Rule 2.17. You note because you could not bring your laptop and because of your disability; it has taken you over thirteen (13) hours to transcribe one (1) hour of proceedings. You also note the room is cramped and wheelchair-bound individuals would not be able to use the room.

ANALYSIS

I first note that nothing in the APRA requires a public agency to provide an accommodation to individuals who are unable to obtain copies of records. Therefore, any issue with the Court's accommodations is not an APRA violation. However, I will note that if the Court provides accommodations, they must comply with the ADA and other applicable laws. This point is moot, because it does not appear that you complained to the Court about your accommodations. Likewise, the

fact the accommodation provided is not readily accessible to individuals which require the use of a wheelchair is irrelevant, because you have not stated you utilize a wheelchair for mobility purposes.

This entire issue began with the Court's original denial under Code of Judicial Conduct Rule 2.17. A close reading of this rule indicate it prevents the simultaneous broadcasting of court proceedings to avoid the possibility of prejudice. Because the proceeding has concluded, Rule 2.17 should not be a bar to releasing an audio recording or allowing an individual to use their laptop to make a recording. Courts regularly release audio recordings throughout the state after the proceedings have concluded. Rule 2.17 is a bar on the real-time transmission of court proceedings.

The Court has since released the records to you, however, before the production of the recordings the Court invited you to listen to them on Court-provided playback devices in the reporter's station in the court room. Your contention has become whether the Court has violated the Access to Public Records Act by not offering you a reasonable accommodation based upon your disability. You have not stated whether you asked for an accommodation nor have you identified your disability and subsequent hardship from listening on-site. In any case, this Office is not the appropriate regulatory authority to make that judgment call and therefore will not opine on the matter.

Please do not hesitate to contact me with any questions.

Best regards,

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

Luke H. Britt
Public Access Counselor

Cc: Honorable Judge Cynthia Emkes