



STATE OF INDIANA

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July 26, 2010

Mr. Stanley V. Watson
DOC # 117107
Wabash Valley Correctional Facility
6908 S. Old U.S. Hwy. 41
Carlisle, IN 47838

*Re: Formal Complaint 10-FC-153; Alleged Violation of the Access to
Public Records Act by the Ripley County Clerk of Courts*

Dear Mr. Watson:

This advisory opinion is in response to your formal complaint alleging the Ripley County Clerk of Courts (the "Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-3 *et seq.*, by denying you access to public records.

BACKGROUND

In your complaint, you allege that you wrote to the Clerk on two separate occasions seeking access to a trial transcript. You claim the Clerk never responded to your requests.

My office forwarded a copy of your complaint to the Clerk. In her July 9th response, the Clerk claims that the record you requested and that her records "are always open to the public unless they are confidential." The Clerk's response is enclosed for your reference.

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 Clerk is a "public agency" under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Clerk's public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Under the APRA, 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 (7) days of receipt, the request is deemed denied. I.C. §5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, if the Clerk failed to respond to your written request within the required seven (7) days, the Clerk violated the APRA. I trust the Clerk's production of your requested record satisfies your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that if the Clerk failed to respond to your written request within seven (7) days, the Clerk violated the APRA. The Clerk did not otherwise violate the APRA if she has already produced the record you requested.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Mary Ann McCoy