



STATE OF INDIANA

MICHAEL PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

December 22, 2015

Ms. Kris McKinney
Jackson County Health Department
801 West Second Street
Seymour, Indiana 47274

Re: Informal Inquiry 15-INF-28; Physical Records

Dear Ms. McKinney:

This is in response to your informal inquiry regarding the following questions you pose to the Indiana Public Access Counselor.

Your first question is whether individuals are entitled to handle the physical books and enter data on their own devices. This Office recently opined on a similar issue in previous *Opinion of the Public Access Counselor 15-FC-273*. In that Opinion, I held that,

...the references to inspection in the APRA do not necessarily entitle a requestor to access government computer terminals or IT systems to view electronic records. There are practical limitations to inspection access and while it is encouraged public agencies make best efforts to be transparent, this is balanced against practicalities.

Similarly, with regard to physical records, there are practical limits to inspection. These limits are not set by the Access to Public Records Act (APRA) and must be set by your agency. Your agency may restrict an individual's access to physical records if the restraint is reasonable in light of the agency's need to keep records confidential and the need to protect against loss or destruction of the records. The key is to balance these considerations with the scales favoring transparency. Otherwise, you may run your office area the way you see fit to ensure proper operations and maintenance of any other confidentiality considerations with regard to the records you maintain.

Additionally, you ask if the policy proposed by your agency meets the requirements of the Access to Public Records Act (APRA), agency policy requires that individuals making requests put those requests in writing. An agency has the discretion to create a policy for disclosure of records. If there is an established procedure as to the form and

function of a public records request made by an individual to an agency, it should be followed. See *Ind. Code § 5-14-3-3(a)(2)* and *Opinion of the Public Access Counselor 14-FC-51*. Again, the practicalities of how you provide customer service are largely up to your department.

As far as search fees are concerned, however, *Ind. Code § 16-20-1-27* states:

The board of each local health department may, with the approval of the county or city executive, establish and collect fees for specific services and records established by local ordinances and state law. However, fees may not exceed the cost of services provided.

As long as a fee is consistent with this provision, charges for research are appropriate. This statute defers to your local board of health to set a fee schedule for such services. Whom you charge and how should be set by local ordinance. The Access to Public Records Act would not necessarily be implicated by such a provision.

The second question you pose is whether individuals not named on the death certificate are entitled to certified copies of death certificates. Death certificates are public records; see *Evansville Courier & Press v. Vanderburgh County Health Dep't.*, 17 N.E.3d 922 (2014 Ind.). However, certified copies of death certificates include confidential information such as Social Security numbers. As such, you have taken to redacting social security numbers.

You question whether certified death certificates can be provided to individuals not listed on the death certificate, if said individual provides legal documentation or agency information proving the relationship. If your agency is satisfied other documentation adequately demonstrates a relationship between the decedent and the requestor, then you may provide the entire certified certificate. Determinations of which documents to accept to show a relationship is a matter of local policy, however, the State Department of Health has provided some guidance at http://www.in.gov/isdh/files/Id_requirements.pdf. Please note this policy would only apply to full and complete certified death certificates containing Social Security numbers. Non-certified copies are disclosable public record available to anyone under the *Evansville Courier* ruling and *Ind. Code § 16-37-1-10(b)*.

Please do not hesitate to contact me with any further questions.

Best regards,



Luke H. Britt
Public Access Counselor