

April 19, 2004

Mr. Dorsey Mathews
DOC No. 955231
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, Indiana 47838

*Re: Formal Complaint 04-FC-49;
Alleged Denial of Access to Public Records by the Marion County Clerk*

Dear Mr. Mathews:

This is in response to your formal complaint alleging that the Marion County Clerk (Clerk) violated the Access to Public Records Act (APRA) (Ind. Code 5-14-3-1 *et seq.*), by denying you access to public records. I find that the Clerk did not violate the APRA.

BACKGROUND

On March 2, 2004, you prepared and served a motion in the Marion Superior Court in a matter captioned *Dorsey Mathews v. State of Indiana, No. 49G01-949-CF-119589*. Your motion sought a copy of your sentencing transcript, without charge. You appear to allege pauper status in support of that request. The court received the motion on March 5, 2004, and on that same date entered an order (on the face of the motion) denying the motion. You then brought this complaint against the Clerk based on that motion and order. In your complaint, you alleged that you are entitled to purchase your sentencing transcript for \$0.10 per page.

ANALYSIS

Your complaint fails to establish a violation of the APRA. It is a nonstarter inasmuch as it does not allege a violation of your right to access to public records. Indeed, the request upon which your complaint is founded was not a proper request for public records of a public agency under the APRA, but rather it was a motion before a court in a judicial proceeding. This office does not stand in review of court orders.

Moreover, even if you made your request to the Clerk or, for that matter, to the court outside the context of a judicial proceeding (such as in a letter addressed to the Clerk), you would not be entitled to a free or reduced fee copy of your sentencing transcript (or any other

court record) under the provisions of the APRA. Indiana Code 5-14-3-8 governs copy fees generally, and permits state agencies and other public agencies to charge a copy fee for production of documents. A public agency may collect a copy fee in advance of production (IC 5-14-3-8(e)), and is permitted to collect any fee specified by statute or ordered by a court (IC 5-14-3-8(f)). For court records, Indiana Code 33-19-6-1 provides that the clerk of the courts shall charge a copy fee of one dollar (\$1.00) per page.

CONCLUSION

For the reasons set forth above, I find that your complaint fails to set forth a violation of the APRA.

Sincerely,

Michael A. Hurst
Public Access Counselor

cc: Ms. Doris Ann Sadler