



# STATE OF INDIANA

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December 30, 2009

Mr. Travis M. Scott  
DOC # 136189  
1000 Van Nuys Road  
New Castle, IN 47362

*Re: Formal Complaint 09-FC-283; Alleged Violation of the Access to Public Records Act by the Allen County Clerk of Courts*

Dear Mr. Scott:

This advisory opinion is in response to your formal complaint alleging the Allen County Clerk of Courts ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The Clerk's response to your complaint is enclosed for your review. For the following reasons, it is my opinion that the Clerk did not violate the APRA.

## BACKGROUND

In your complaint, you allege that the Clerk violated the APRA by charging you an excessive fee of one dollar (\$1) per page for copies of public records that totaled fifty-three (53) pages. You state that you believe ten cents (\$.10) per page is the reasonable fee for the copies.

The Clerk responded to your complaint by noting that it is charging you the fee for the records under I.C. § 33-37-5-1(b), which states, "Except as provided in subsection (c), the clerk shall collect a fee of one dollar (\$1) per legal size or letter page, including a page only partially covered with writing."

## ANALYSIS

The public policy of the APRA states that "(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 Facility 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 Facility's public records during regular business hours unless the records are excepted from disclosure as confidential or nondisclosable under the APRA. I.C. § 5-14-3-3(a).

The APRA permits a public agency to charge a fee for copying a record, but sets certain limits on the amount of the copying fee depending upon the type of public agency. *See* I.C. § 5-14-3-8. Normally, a charge of \$1 per page would be excessive for a public agency to charge an individual when the cost of copying cannot exceed the "actual cost of copying." *Id.* However, the APRA also provides that notwithstanding other provisions within section 8 of the APRA, a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court. I.C. § 5-14-3-8(f). Thus, where a specific statute other than the APRA provides a public agency with the authority to charge a fee that exceeds the "actual cost," the public agency may charge the statutory fee without violating the APRA. Under I.C. § 33-37-5-1, a court clerk shall collect a fee of one dollar (\$1) per page for legal size or letter size pages, including a page only partially covered with writing. Thus, it is my opinion that the Clerk did not violate the APRA by charging you one dollar (\$1) per page for copies of the requested records because the Clerk is required to collect that fee pursuant to state statute.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Clerk did not violate the APRA.

Best regards,



Andrew J. Kossack  
Public Access Counselor

cc: Therese M. Brown, Allen County Clerk of Courts