



# STATE OF INDIANA

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June 27, 2011

Mr. Rocky M. Shroyer  
DOC#: 956193  
4490 W. Reformatory Road  
Pendleton, IN 46064

*Re: Formal Complaint 11-FC-130; Alleged Violation of the Access to Public Records Act by the Marion County Superior Court-Criminal Division #22*

Dear Mr. Shroyer:

This advisory opinion is in response to your formal complaint alleging the Marion County Superior Court-Criminal Division #4 ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The Court's response to your complaint is enclosed for your review.

## BACKGROUND

In your complaint, you allege that you requested a copy of the affidavit of probable cause, filed in a particular case adjudicated in Marion County Superior Court-Criminal Division #22. You state that you requested the records on April 25, 2011. You claim that on May 17, 2011 you "received a letter from Amy Barbar, Magistrate, stating... "the Court; [sic] finds you are not party to this case there for [sic] you are not eligible for a copy of the probable cause affidavit."

Judge Amy J. Barbar responded to your complaint for the Court. She states that she received your request for records on April 27, 2011. Judge Barbar advised that she instructed court staff via note to notify you of the cost for a copy of the probable cause affidavit. The note was attached to your records request. Judge Barbar indicated that court staff misunderstood her note regarding copying costs, and as such, sent you a denial letter instead. Judge Barbar stated that it was not the Court's intention to deny public access. As I understand it from Judge Barbar's response, the Court has since then sent you a copy of the probable cause affidavit free of charge.

## 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 Court is 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 Court’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).

Here, Judge Barbar claims that a simple misunderstanding resulted in the Court’s failure to produce records in response to your April 27<sup>th</sup> request. Upon receiving your complaint, the Court quickly rectified the problem by sending you a copy of the affidavit at no cost. I appreciate the Court’s cooperation and trust that this issue is now resolved.

## CONCLUSION

For the foregoing reasons, it is my opinion that the Court’s initial (apparently inadvertent) denial of your request was not justified under the APRA. The Court has now provided you with the requested record in satisfaction of its obligations under the APRA.

Best regards,



Andrew J. Kossack  
Public Access Counselor

cc: Hon. Amy J. Barbar