



STATE OF INDIANA

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January 9, 2015

Mr. Thomas L. Anderson
Indiana State Prison
One Park Row
Michigan City, IN 46360

Re: Formal Complaint 14-FC-304; Alleged Violation of the Access to Public Records Act by the Tippecanoe County Clerk of Courts

Dear Mr. Anderson,

This advisory opinion is in response to your formal complaint alleging the Tippecanoe County Clerk of Courts ("Clerk"), violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Clerk has responded to your complaint via Counsel Douglas J. Masson, Esq. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor ("PAC") December 9, 2014.

BACKGROUND

Your complaint dated December 1, 2014, alleges the Tippecanoe County Clerk of Courts violated the Access to Public Records Act (Ind. Code § 5-14-3) by failing to produce records within a reasonable time after your request.

On or about October 6, 2014, you submitted a public records request to the Clerk seeking a number of documents from 1997. The Clerk acknowledged your request on October 17, 2014. As of the date of the filing of your request, you had not yet received the records.

The Clerk responded via Counsel by arguing there were several factors for any delay in the production of the records you seek. There are several holidays in November and the election takes up a considerable amount of local government officials' time. Furthermore, the documents were historic and had to be retrieved after being archived off-site.

ANALYSIS

The public policy of the APRA states that “a (p)roviding person 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.” See Ind. Code § 5-14-3-1. The Tippecanoe County Clerk of Courts is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy the Clerk’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

Although you did not request a voluminous amount of records, the ones you did seek were historical. A public agency has a reasonable time to produce records after a request under Ind. Code § 5-14-3-3. Several factors will be considered when determining what is “reasonable”. The accessibility of the records is certainly one of them. If they are archived or off-site, it stands to reason the reasonable time will be longer for those kinds of records. Availability of an agency’s staff is also a factor. November is generally one of the busiest times for public agencies – especially during election years. I do not think the amount of time the Clerk took to produce the records was unreasonable.

The Clerk has indicated the records have been sent to you. It is my sincere hope this production satisfies your request.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Tippecanoe County Clerk of Courts did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Mr. Douglas J. Masson, Esq.