



STATE OF INDIANA

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February 2, 2015

Mr. William M. Hedrick
Putnamville Correctional Facility
1946 West U.S. Highway 40
Greencastle, IN 46135

Re: Formal Complaint 14-FC-326; Alleged Violation of the Access to Public Records Act by the Johnson County Circuit Court

Dear Mr. Hedrick,

This advisory opinion is in response to your formal complaint alleging the Johnson County Circuit Court ("Court"), violated the Access to Public Records Act ("APRA") Ind. Code § 5-14-3-1 *et. seq.* The Court has responded to your complaint via the presiding Judge, the Honorable K. Mark Loyd. His response is attached for your review. I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on December 29, 2014.

BACKGROUND

Your complaint filed on December 29, 2014 alleges the Johnson County Circuit Court violated the Indiana APRA by failing to produce requested documents.

On or about December 1, 2014, you requested a transcript of a criminal proceeding of which you were found not guilty. The court denied your request as the transcript does not exist. The Court responded to your formal complaint by arguing that a transcript was not prepared and only the audio recording exists.

DISCUSSION

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." See Ind. Code § 5-14-3-1. The Johnson County Circuit Court is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Court'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).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

It appears as if the record you seek does not exist. Absent an appeal, there is no obligation of which I am aware which compels a criminal court to prepare a transcript of a proceeding. Therefore, you are seeking a public record which is not yet in existence. If a court was to prepare a transcript and maintain it in the Court record, it would be available upon request (and remittance of the appropriate copy fee). As it stands, only inspection of the audio recording is available to you. If you request a copy of the recording, the Court must make reasonable efforts to provide it to you. You may also potentially engage the services of the court reporter to prepare a transcript at your expense.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Johnson County Circuit Court has not violated 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: Hon. K. Mark Loyd