



STATE OF INDIANA

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March 1, 2016

Mr. Bruce Guess - #167164
Indiana State Prison
1 Park Row
Michigan City, Indiana 46360

Re: Formal Complaint 16-FC-17; Alleged Violation of the Access to Public Records Act by the Porter Superior Court #1

Dear Mr. Guess:

This advisory opinion is in response to your formal complaint alleging the Porter Superior Court #1 ("Court") and the Honorable Roger Bradford, Judge violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 et. seq. The Clerk of the Circuit Court responded on behalf of the Court on February 16, 2016. 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 on January 29, 2016.

BACKGROUND

Your complaint dated January 11, 2016 alleges the Porter Superior Court violated the Access to Public Records Act by failing to provide you with copies of the records you requested.

Sometime prior to December 16, 2015 you lost possession of your case file after your correctional facility handled your documents. You sent a request for your case file to the court along with an affidavit of indigence. On December 16, 2015 the Court entered an order denying your records request. You contend this denial was improper.

The Clerk responded by indicating she had complied with Judge Bradford's Order and provided you with a CCS entry in lieu of a case file.

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." See Ind. Code § 5-14-3-1. The Porter Superior Court #1 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 disclosable 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).

I first note that your request was conspicuously marked as a request for public records and not a discovery request under the trial rules or a motion to produce documentation. This Office has stated on several occasions the Public Access Counselor will not interfere with the judiciary's sovereign jurisdiction to adjudicate discovery requests under the trial rules. However, because it was submitted as an APRA request, it falls outside the scope of trial procedure and therefore the judiciary is subject to the APRA as if it were any other public agency. See Ind. Code § 5-14-3-2(n)(2)(c). It is my hope the Court takes this opinion into advisement and reconsiders its position.

I also note you filed an affidavit of indigence. However, the APRA does not include indigence exceptions. A requestor must pay for records and the APRA allows public agencies to require remittance of a copy fee before production of records.

Case files are a typical request from the Indiana Department of Correction inmates and are a grouping of public records which are usually housed within a singular file. Therefore, a request for a case file is reasonably specific. Based upon the accepted standard of "reasonable particularity" employed by this office pursuant to Ind. Code § 5-14-3-3, your request for your case file is appropriate. The Court may charge you a copying fee for the documents, however, once remitted, a copy of the records should be sent to you.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: The Honorable Roger V. Bradford, Judge; Mr. Karen M. Martin