

STATE OF INDIANA

ERIC J. HOLCOMB, Governor

PUBLIC ACCESS COUNSELOR LUKE H. BRITT

Indiana Government Center South 402 West Washington Street, Room W470 Indianapolis, Indiana 46204-2745 Telephone: (317)234-0906 Fax: (317)233-3091

Toll Free:1-800-228-6013 Email: pac@opac.in.gov Website: www.IN.gov/pac

OPINION OF THE PUBLIC ACCESS COUNSELOR

JOSEPH D. SIMMONS)	
Complainant)	
v.) 17-FC-138	
CLERK OF THE MARION COUNTY)	
CIRCUIT COURT)	
)	
Respondent)	

ADVISORY OPINION JULY 27, 2017

This advisory opinion is in response to your formal complaint alleging the Clerk of the Marion County Circuit Court ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Clerk responded to the complaint via Mr. Russell Hollis, Deputy Director. His response is enclosed for review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on June 19, 2017.

BACKGROUND

The complaint dated June 14, 2017, alleges the Clerk has violated the APRA by not providing the Complainant with documents requested nor an acknowledgement.

On or about June 5, 2017, the Complainant submitted a public records request to the Clerk seeing a copy of a search warrant associated under two cause numbers. The Clerk received the request on June 8 and advised the Complainant the records do not exist. The Clerk indicates the Office has undertaken a search of historical archives to confirm.



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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 Marion County Clerk is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(m)(1). Accordingly, any person has the right to inspect and copy the Clerk'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).

It appears as if the formal complaint itself was sent prematurely. The Complainant only gave nine days before submitting the complaint after the request. Based upon the prison mail system, it is highly likely the acknowledgement and the complaint crossed in the mail.

The Clerk first indicates the records do not exist, however, they are willing to go back and search the historical archives to confirm. This shows a good faith effort is being made to fulfill the request.

CONLUSION

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

Regards,

Luke H. Britt Public Access Counselor

Distribution:



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Mr. Russell Hollis