

## STATE OF INDIANA

**ERIC J. HOLCOMB, Governor** 

#### PUBLIC ACCESS COUNSELOR LUKE H. BRITT

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## OPINION OF THE PUBLIC ACCESS COUNSELOR

| MARK F. JOHNSON,                    | )             |
|-------------------------------------|---------------|
| Complainant                         | )             |
| v.                                  | )<br>17-FC-21 |
| LISA BORGMANN, CIRCUIT &            | )             |
| SUPERIOR COURTS CLERK<br>Respondent | )<br>)        |

## ADVISORY OPINION March 9, 2017

This advisory opinion is in response to the formal complaint alleging the Clerk of the Allen County Circuit and Superior Courts ("Clerk") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-1.5-1 et. seq. The Clerk has responded on February 21, 2017. Her response is included for review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on February 21, 2017.

#### **BACKGROUND**

The formal complaint dated February 21, 2017 alleges the Clerk violated the APRA by not fulfilling a records request. On December 29, 2016, the Complainant sent a records request asking for certain correspondence from a named Defendant. The Complainant received no response acknowledging the document request within the required seven (7) statutory days.

The Respondents claim per their log of public records requests and the Chronological Case Summary (CCS) associated with this case, they did not received a request from the Complainant. The CCS was attached for review as well as the records requested.



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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 Indiana Code § 5-14-3-1*. The Clerk of Circuit and Superior Courts is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. 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 Indiana Code § 5-14-3-3(a)*.

The Clerk's denial of access appears to be a mailing error or clerical error which is often the case with inmate mail. This particular request did not reach the office according to the Chronological Case Summary and the Complainant has now been provided with documents brought to the Clerk's attention via the formal complaint.

#### **CONCLUSION**

Based on the foregoing, it is the Opinion of the Public Access Counselor the Clerk Lisa Borgmann Circuit & Superior Courts Clerk has not violated the Access to Public Records Act.

Luke H. Britt

**Public Access Counselor** 

Cc: Ms. Lisa Borgmann, Clerk