



# STATE OF INDIANA

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*Via email transmission*

October 27, 2016

The Honorable Robert W. Freese  
Judge/ Magistrate  
Hendricks Superior Court 1  
C/o Ms. Catherine Haines, Hendricks County Court Administrator  
Via email

*Re: Informal Inquiry 16-INF-31; Transcript fees*

Dear Judge Freese:

This is in response to your informal inquiry regarding whether the court can charge a defendant for the cost associated with preparing a transcript and how that reconciles with Access to Public Records ("APRA") and any other applicable law.

## **BACKGROUND**

You seek a determination as to whether a requested transcript should be produced at taxpayers' expense or if the indigent Defendant is required to pay for the preparation of a transcript.

You issued an order on October 24, 2016 in response to defendant's request of public records. The Court has noted the transcript was not prepared during the course of litigation and would first need to be transcribed from the recording of the proceeding by a court reporter.

## **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 Hendricks County Superior Court is a public agency for the purposes of the APRA. *See Indiana 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 Indiana Code § 5-14-3-3(a)*.

According to Indiana Code § 33-41-1-5, a court reporter must prepare a transcript for either party, but

also may require payment before preparation.

Indiana Code § 5-14-3-8 sets fees for most public records—the majority of which would be limited to \$.10 per page. Notwithstanding this provision, however, subsection (h) states that a public agency shall collect any certification, copying, facsimile machine transmission, or search fee which is specified by statute or is ordered by a court.

For the judiciary, for example, the Indiana Supreme Court has the authority to adopt rules under Indiana Code § 33-24-3-1 to govern court proceedings and operations. The administrative rules also allow counties to adopt local rules for the administration of jurisprudence. These rules are subject to Supreme Court approval. Indiana Administrative Trial Rules 15(c)(1)(e) states each county must designate a maximum per page fee which the court reporter may charge an indigent defendant for a transcript. This schedule is also published by the Indiana Division of State Court Administration found here: <http://www.in.gov/judiciary/admin/files/court-reporter-county-crfees.pdf>. As the indigent rate for Hendricks County for preparation of a transcript is \$4.75 per page, this is what may be charged to a defendant. Please note there is a difference between the *copy* fee allowable for an existing transcript which has already been prepared, and the preparation cost.

It is my understanding a transcript of the proceeding would necessitate actual preparation and not mere copying of an existing document; therefore, the Court may charge a maximum of \$4.75 per page.

Please do not hesitate to contact me with any questions.

Best regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt  
Public Access Counselor