

August 23, 2004

Ms. Dorothy H. Virden
LexisNexis - OKC
1900 NW Expressway, Suite 100
Oklahoma City, OK 73118

Re: Advisory Opinion 04-FC-121; Alleged Violation of the Access to Public Records Act by the Gary City Court

Dear Ms. Virden:

This is in response to your formal complaint alleging that the Gary City Court ("Court") violated the Access to Public Records Act ("APRA"), I.C. §5-14-3, by failing to respond to your request for access to records. Specifically, you allege that the Court failed to respond to your request for access to records within 7 days of its receipt of your request. For the reasons set forth below, I find that the Court violated the Access to Public Records Act as alleged in your complaint.

BACKGROUND

On June 21, 2004, you submitted a written request to the Gary City Court asking for access to that Court's records. Specifically, you requested access to the Court's civil judgments dated September 2004 to the current date.¹ You sent your request to the Court via U.S. Mail, certified return receipt requested, and the request was received by the Court on June 25, 2004. After receiving no response to your request, you submitted a formal complaint to our office on July 22, 2004.

I forwarded a copy of your formal complaint to the Court to the attention of Suzette Raggs, but have received no response.

ANALYSIS

The public policy of the Access to Public Records Act states that "(p)roviding persons with information is an essential function of a representative government and an

¹ Your June 21, 2004 written request asks for civil judgments dating from "9/2004 to current;" however, in a telephone conversation with you on August 23, 2004, this Office verified that this was a typographical error in the year. You actually seek access to the civil judgments of the Gary City Court dated September 2002 to the current date.

integral part of the routine duties of public officials and employees, whose duty it is to provide the information." I. C. §5-14-3-1. The Court is a public agency for the purposes of the APRA. I. C. §5-14-3-2. Accordingly, the public has the right to inspect and copy the public records of the Court during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana Code section 5-14-3-4. I. C. §5-14-3-3(a).

It is the responsibility of the public agency to respond to requests for public records within a specified time period. A public agency is required to make a response to a mailed request within seven (7) days after it is received. Failure to do so constitutes a denial under the Access to Public Records Act. I. C. §5-14-3-9(b). Pursuant to the APRA, if such a denial has occurred, a person may file suit in the circuit or superior court in which the denial took place to compel the public agency to disclose the public records requested. I. C. §5-14-3-9(e).

The APRA does not set any specific deadlines for producing requested public records. What is contemplated in terms of that response is a communication to the requestor. For example, a public agency may advise whether there are any records that will be produced, that the records requested are confidential or otherwise nondisclosable, or that the public agency needs more time to compile the records requested. A response might also provide the records requested, or notify the requestor that the public records requested are available for his or her inspection.

The Court has failed to respond to your June 21, 2004 request for access to records. If the Court has the records requested, or if there are no such records, the Court should have communicated that to you within the time periods contemplated under the APRA. If the information is confidential or otherwise nondisclosable, the Court should advise you of such, and should reference the exception from disclosure under I. C. §5-14-3-4.

CONCLUSION

For the reasons set forth above, I find that the Gary City Court violated the Access to Public Records Act by failing to respond to your written request for access to records within seven days of its receipt of your request.

Sincerely,

Karen Davis
Public Access Counselor

cc: Suzette Raggs; w/out enclosures