



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR  
ANDREW J. KOSSACK

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

November 16, 2009

Mr. Eric D. Smith  
DOC # 112675  
New Castle Correctional Facility  
P.O. Box A  
New Castle, IN 47362

*Re: Formal Complaint 09-FC-240; Alleged Violation of the Access to Public Records Act by the Clerk of the Allen County Superior Court*

Dear Mr. Smith:

This advisory opinion is in response to your formal complaint alleging the Clerk of the Allen County Superior Court ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*, by charging you an excessive copy fee. For the following reasons, it is my opinion that the Clerk did not charge you an excessive fee.

## BACKGROUND

You filed this formal complaint after the Clerk charged you \$17 for the set of records you requested. In response to your request for court records, the Clerk sent you a letter informing you that the number of copies you requested numbered seventeen. The Clerk informed you that at the \$1 per page charge for the records, you needed to prepay for the copies in the amount of \$17. The Clerk cited Indiana Code section 33-37-5-1(b) for its authority to charge the \$1 per page copy fee. You complain that this fee exceeds the amount set in the APRA.

## ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the APRA. Ind. Code 5-14-3-3(a). The APRA provides that a public agency may charge a fee for copying a record, but sets certain limits on the amount of the copying fee, depending upon the type of public agency. I.C. § 5-14-3-8. Normally, a charge of \$1 per page would be excessive for a public agency to charge an individual when the cost of copying cannot exceed the "actual cost of copying."

However, the APRA states that notwithstanding other provisions within section 8 of the APRA, a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court. I.C. § 5-14-3-8(f)(my emphasis). Under I.C. § 33-37-5-1, a court clerk shall collect a fee of one dollar (\$1) per page for legal size or letter size pages, including a page only partially covered with writing. I.C. § 33-37-5-3 provides that the clerk collect a document fee of \$1 for each certificate under seal attached in authentication of a copy of any record, paper, or transcript. Thus, it is my opinion that the Clerk has not violated the APRA by charging you the fee of \$17 for copies of the records that you requested.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Clerk did not violate the APRA with respect to the \$1 per page copy fee.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive style with a large, sweeping "A" and "K".

Andrew J. Kossack  
Public Access Counselor

cc: Therese M. Brown