



STATE OF INDIANA

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June 1, 2010

Mr. Fred Ingram
Indiana State Prison
One Park Row
Michigan City, IN 46360

Re: Formal Complaint 10-FC-105; Madison County Superior Court

Dear Mr. Ingram:

This advisory opinion is in response to your formal complaint alleging the Madison County Superior Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* A copy of the Court's response is enclosed for your reference.

BACKGROUND

According to your complaint, the Court denied your request for access to records related to two court cases. You state that you are indigent and are entitled to one free copy of each file, which you have not received.

My office forwarded a copy of your complaints to the Court. In response, the Madison County Clerk states that the Court has not denied your request, but has in fact informed you about how you can obtain the requested records. The Clerk notes that one of the cause numbers you provided is non-existent. She further states that she is unaware of any statute that requires the Court to provide you with copies free of charge.

ANALYSIS

The public policy of the APRA states, "[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." I.C. § 5-14-3-1. The Court is a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy Court's public records during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Here, the Court has informed you of the charges associated with producing the records you requested. The APRA permits a public agency to charge a fee for copies of public records. I.C. § 5-14-3-8. Additionally, a public agency may require a person to pay the copying fee in advance. IC 5-14-3-8(e). Nothing in the APRA requires that a public agency waive a copying fee. *See Opinion of the Public Access Counselor 07-FC-124*. As to your declaration of indigency, a court *may* grant a waiver of fees but is not required by the APRA to do so. *See Opinion of the Public Access Counselor 10-FC-01*. I trust that the Court will produce your requested records upon receipt of the appropriate copy fees (and, if you wish to receive the materials via the mail, postage costs).

CONCLUSION

For the foregoing reasons, it is my opinion that the Court did not violate the APRA.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack
Public Access Counselor

cc: Ludy Watkins