



# 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)

July 16, 2010

Mr. Reginald Doss  
DOC #881180  
Wabash Valley Correctional Facility  
P.O. Box 1111  
Carlisle, IN 47838

*Re: Formal Complaint 10-FC-148; Alleged Violation of the Access to  
Public Records Act by the Lake County Clerk*

Dear Mr. Doss:

This advisory opinion is in response to your formal complaint alleging the Lake County Clerk (the "Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-3 *et seq.*, by denying you access to public records.

## BACKGROUND

In your complaint, you allege that you requested a record from the Clerk on May 28, 2010. As of the date you filed your complaint on June 16, 2010, you had received no response from the Clerk. My office forwarded a copy of your complaint to the Clerk, but we have not yet received a response.

## 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 Clerk is a "public agency" under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Clerk's public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. I.C. §5-14-3-9(b).

If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, if the Clerk failed to respond to your written request within the required seven (7) days, the Clerk violated the APRA. I encourage the Clerk to either produce the records or cite a basis in the APRA for failing to do so.

#### CONCLUSION

For the foregoing reasons, it is my opinion that if the Clerk failed to respond to your request within seven (7) days, the Clerk violated 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: Michael Brown