



STATE OF INDIANA

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October 18, 2010

Mr. Michael J. Shepard
DOC # 181080
Putnamville Correctional Facility
1946 W. Hwy. 40
Greencastle, IN 46135

Re: Formal Complaint 10-FC-213; Alleged Violation of the Access to Public Records Act by the Vanderburgh County Clerk

Dear Mr. Shepard:

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

BACKGROUND

In your complaint, you allege that on September 1, 2010, the Clerk responded to your public records request and informed you that you would be charged one dollar per page for copies of the responsive documents. You believe that the rate is excessive and note that the Clerk has not provided a statutory basis for charging it.

In response to your complaint, the Clerk states that I.C. § 33-37-5-1 provides the Clerk with the authority to charge you one dollar per page for copies of the Clerk's records.

ANALYSIS

The APRA permits a public agency to 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. *See* 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." *Id.* However, the APRA also provides 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). Thus, where a specific statute other than the APRA provides a public agency with the authority to charge a fee that exceeds the “actual cost,” the public agency may charge the statutory fee without violating the APRA. Under I.C. § 33-37-5-1, a court clerk shall collect a fee of one dollar per page for legal size or letter size pages, including a page only partially covered with writing. Thus, it is my opinion that the Clerk has not violated the APRA by charging you the fee of one dollar per page for copies of the records you requested.

CONCLUSION

For the foregoing reasons, it is my opinion that the Clerk 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: Susan K. Kirk