



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

October 21, 2010

Mr. Earl L. Russelburg
DOC # 863824
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 10-FC-228; Alleged Violation of the Access to Public Records Act by the Vanderburgh County Circuit Court

Dear Mr. Russelburg:

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

BACKGROUND

According to your complaint, on September 6, 2010, you requested a copy of a judgment from the Court issued in 1985. You claim you never received a response from the Court regarding your request.

In response to your complaint, Vanderburgh County Clerk Susan K. Kirk states that the Court never received a request from you. She claims that the first her office heard of your request was when it received a copy of the complaint you filed with the Office of the Public Access Counselor. Nevertheless, Ms. Kirk says she will copy and send the requested records to you at no 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 does not contest that it is a "public agency" under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Court'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).

Under the APRA, 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, the Court claims that it never received your request. If the Court did not receive a request from you, it was not obligated to respond. *See Opinion of the Public Access Counselor 10-FC-99*. That said, it is my understanding that the Court is willing to fulfill your request at no cost to you. I trust this resolves your complaint.

CONCLUSION

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

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Susan K. Kirk