



STATE OF INDIANA

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April 2, 2010

Mr. Glenn A. Pharris
DOC # 117710
4490 W. Reformatory Road
Pendleton, IN 46064

Re: Formal Complaint 10-FC-58; Alleged Violation of the Access to Public Records Act by the Clerk of the Vigo County Superior Court

Dear Mr. Pharris:

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

BACKGROUND

According to your complaint, you sent two letters to the Clerk in which you requested access to appearances from two court cases. In response to those requests, Judge Michael Lewis denied your request and advised you that because you are represented by an attorney, any documents you submit to the court should be signed by your attorney and the court cannot consider any other requests.

In response to your complaint, the Clerk states that your requests were delivered to court staff rather than the Clerk's office. Accordingly, the Clerk never received your request.

ANALYSIS

Under the APRA, a request for access to public 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 Clerk never received your request because it was directed to court staff. If the Clerk did not receive your request, it was not obligated to respond under section 9 of the APRA.

Moreover, in my opinion it was not a violation of the APRA for Judge Lewis to require your request to be submitted by your attorney. Under the APRA, an agency may require that public access requests be submitted in a particular form: “A request for inspection or copying must: (1) identify with reasonable particularity the record being requested; and (2) **be, at the discretion of the agency, in writing on or in a form provided by the agency.**” I.C. § 5-14-3-3(a) (emphasis added).

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: Patricia R. Mansard