



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

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January 24, 2012

Sammie Lee Booker
One Park Row
Michigan City, Indiana 46360

Re: Formal Complaint 12-FC-20; Alleged Violation of the Access to Public Records Act by the Madison County Superior Court

Dear Mr. Booker:

This advisory opinion is in response to your formal complaint alleging the Madison County Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Darlene Likens, Clerk, responded on behalf of the Court. Her response is enclosed for your reference.

BACKGROUND

In your formal complaint, you allege that you submitted a written request to the Clerk of Courts on December 12, 2011 for records filed in Cause No. 48-D01-0201-MC-012. As of January 18, 2012, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege you have yet to receive a response.

In response to your formal complaint, Ms. Likens provided a copy of the chronological case summary ("CCS") for Cause No. 48-D01-0201-MC-00012. The CCS noted that the Clerk received your request for public records on December 30, 2011 and on January 12, 2012, records responsive to your request were mailed to you.

ANALYSIS

The public policy of the APRA states that "(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." *See* I.C. § 5-14-3-1. The Court is a public agency for the purposes of the APRA. *See* 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 records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within twenty-four (24) hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). 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. *See* I.C. § 5-14-3-9(b). Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. *See* I.C. § 5-14-3-9(c). 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 received your request on December 30, 2011. Thus, it was required to respond to your written request within seven (7) days of receipt, or January 6, 2012. The CCS noted that records responsive to your request were mailed to you on January 12, 2012. As such, it is my opinion that the Court technically violated the APRA by failing to respond to your request within seven (7) days of its receipt. However, as the Court has now provided records that were responsive to your request, I trust this is in satisfaction of your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the Court acted contrary to the APRA by failing to respond to your written request within seven days of its receipt. As to all other issues, it is my opinion that the Court did not violate the APRA.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive style with a large initial "J" and a distinct "Hoage" following.

Joseph B. Hoage
Public Access Counselor

cc: Darlene Likens