



STATE OF INDIANA

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October 24, 2014

Mr. Levie Jackson
Indiana State Prison
One Park Row
Michigan City, IN 46360

Re: Formal Complaint 14-FC-219; Alleged Violation of the Access to Public Records Act ("APRA") by the Tippecanoe County Clerk of the Courts, Ms. Christa Coffey, Clerk

Dear Mr. Jackson,

This advisory opinion is in response to your formal complaint alleging the Tippecanoe County Clerk of the Courts, Ms. Christa Coffey, Clerk, violated the Access to Public Records Act ("APRA") Ind. Code § 5-14-3-1 *et. seq.* The Clerk has responded to your complaint via Mr. Douglas J. Masson, Esq. Accordingly, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on September 22, 2014.

BACKGROUND

Your complaint filed on September 22, 2014, alleges the Tippecanoe County Clerk of the Courts, Ms. Christa Coffey ("Clerk") violated the Access to Public Records Act ("APRA") by failing to respond to your request and thus improperly denying you access to the records you requested.

On July 1, 2014 you mailed a letter to the Clerk requesting a copy of all judgments and orders in cause 79D02-0708-FC-56, a criminal matter in which you are a defendant. On July 11, 2014 the Clerk responded by letter to your request indicating there would be a charge of one hundred and forty six dollars (\$146.00) to produce the documents you requested. On July 16, 2014, you sent a letter to the Clerk requesting the total number of pages to be copied and the charge associated with each page along with a chronological case summary.

On August 8, 2014, the Clerk responded by letter indicating there would be 146 pages to copy at a cost of one dollar (\$1.00) per page pursuant to Ind. Code § 33-37-5-1(b). On August 21, 2014, you provided the Clerk with an affidavit of indigency indicating you are

not able to pay the fee for the documents. On September 22, 2014 you filed a formal complaint after receiving no response.

The Clerk responded to your complaint via counsel on September 24, 2014. The Clerk claims she mailed the records you requested on September 22, 2014, the same day the formal complaint was filed with this office. The Clerk claims that following your submission of an affidavit of indigency, a one month time frame to produce the one hundred and forty six pages of documents is reasonable under the APRA.

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 Ind. Code § 5-14-3-1. The Tippecanoe County Clerk of the Courts is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Clerk’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 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 Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

This Office is familiar with the Indiana Department of Correction mail system and the logistical challenges it often faces with inmate mail. Although you mailed your request on July 1, 2014 and did not receive an acknowledgment until July 16, 2014, it is reasonable to conclude your request was not delivered to the Clerk until later than July 1, 2014. Coupled with the July 4th holiday, this conclusion is even more probable.

As for the documents themselves, it appears the Clerk has forwarded you the copies you requested without charge based on your Affidavit of Indigency. I trust this fully satisfies your original public records request.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Tippecanoe County Clerk of the Courts did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, consisting of stylized, overlapping letters that appear to be 'LHB'.

Luke H. Britt
Public Access Counselor

Cc: Mr. Douglas J. Masson, Esq.