



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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October 29, 2014

Mr. Calvin Lyons #121276
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 14-FC-234; Alleged Violation of the Access to Public Records Act ("APRA") by the Lake County Clerk

Dear Mr. Lyons,

This advisory opinion is in response to your formal complaint alleging the Lake County Clerk ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Clerk has responded via Mr. Marilyn Hrnjak, Executive Chief Deputy Clerk. Her response is attached for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 3, 2014.

BACKGROUND

On or about September 18, 2014, you submitted a public records request to the Lake County Clerk's Office seeking a copy of the pre-sentencing report from the case in which you are currently incarcerated. Although a copy of the denial was not included with your complaint, you state the Clerk denied your request without explanation.

The Clerk responded to your complaint by citing an error by Clerk staff in misidentifying the pre-sentence report as confidential. After the filing of your complaint, you were sent a copy by the Clerk's Office.

DISCUSSION

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 Lake County Clerk 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).

It appears the withholding of the record was a clerical error on the part of the Clerk's staff and an unintentional violation of the Access to Public Records Act. It is my sincere hope your records request has been satisfied in whole.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor that by sending you the information sought; the Lake County Clerk has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Ms. Marilyn Hrnjak