



STATE OF INDIANA

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January 14, 2015

Mr. Robert A. Gaddie
Plainfield Correctional Facility
727 Moon Road
Plainfield, IN 46168

Re: Formal Complaint 14-FC-309; Alleged Violation of the Access to Public Records Act by the Marion County Circuit Court

Dear Mr. Gaddie,

This advisory opinion is in response to your formal complaint alleging the Marion County Circuit Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Mr. Scott Hohl, Chief of Staff of the Marion County Clerk's Office, responded on behalf of the Court. His response is enclosed 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 December 11, 2014.

BACKGROUND

Your complaint dated December 8, 2014 alleges the Marion County Circuit Court violated the Access to Public Records Act by not providing records responsive to your request in a timely fashion violation of Ind. Code § 5-14-3-3(b).

On or about October 28, 2014, you sent a public records request to the Court seeking the oath(s) of office or performance bonds for six named individuals.

The Court responded by stating it does not maintain the records you seek. It does not specify any reason as to why your request was not acknowledged.

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 Marion County Circuit Court 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 Court'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.

The Court does not have copies of oaths or bonds of the named individuals you seek. The oath(s) may or may not be with the law enforcement agencies of the police officers you name and with the Indiana Court Administration or the Indiana Secretary of State for the judicial officers.

As for the lack of acknowledgement, even if a records request is denied, a public agency must state in writing the reason for the denial and the name of the individual denying the record pursuant to Ind. Code 5-14-3-9(d). Because this was not provided to you in a timely fashion, a violation has occurred.

CONCLUSION

It is the Opinion of the Public Access Counselor the Marion County Circuit Court violated the Access to Public Records Act by not denying your request in writing, but did not violate the APRA for denying you the records, as the Court indicated it does not maintain the records you seek.

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: Mr. Scott Hohl