
OPINION OF THE PUBLIC ACCESS COUNSELOR

PETER N. MYMA,
Complainant,

v.

BROWN CIRCUIT COURT,
Respondent.

Formal Complaint No.
17-FC-201

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to the formal complaint alleging the Brown Circuit Court (“Court”) violated the Access to Public Records Act¹ (“APRA”). The Court has responded via the Honorable Judith A. Stewart. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on August 18, 2017.

¹ Ind. Code §§ 5-14-3-1 to -10

BACKGROUND

Peter N. Myma (“Complainant”) filed a formal complaint alleging the Court violated the Access to Public Records Act by unnecessarily integrating his public records requests into a court proceeding.

On August 7, 2017, the Court received Myma’s request for an audio recording of a court hearing from August 3, 2017. Myma provided the Court a storage device and a prepaid mailer. The Court acknowledged the request via a court order and mailed the recording on the same day. Myma made a similar request on August 15, 2017, and the Court mailed the responsive recording on August 17, 2017, again preceded by a court order. Myma takes exception to the Court’s method of production and questions the necessity of an order, arguing it creates unnecessary delay.

The Court argues that the timeline of production speaks for itself and the manner in which the Court responds to records requests is not unduly burdensome.

ANALYSIS

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

Code § 5-14-3-3(a). A public agency is required to make a response to a written request that has been mailed within seven (7) days after it is received. Ind. Code § 5-14-3-9(c).

In my tenure as Public Access Counselor, I have rarely encountered a court to be as efficient with public records requests as Brown Circuit Court appears to be. While *public* access is mutually exclusive from *immediate* access, a two-day turnaround time for an audio recording of a court proceeding is remarkable. I regularly ask judges and court administrators to change practices to better allow for access, however, I will not do so in this case.

The process of issuing an order granting the production of a recording, is no barrier to access in any shape, manner or form. It is simply the manner in which the Court chooses to acknowledge and produce a request. The Complainant's allegations are not demonstrative of any perceptible delay, inconvenience, or inefficiency. In fact, in my experience, the Respondent Court has acted in a manner above and beyond reasonable expectations.

CONCLUSION

Based on the foregoing, it is the Opinion of the Indiana Public Access Counselor the Brown Circuit Court has not violated the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LHB', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor