

October 11, 2001

Mr. Timothy G. Myers  
#883820  
P.O. Box 601  
Pendleton, IN 46064

Re: Advisory Opinion 01-FC-59; Alleged Violation of the Access to Public Records Act by the DeKalb Circuit Court Clerk's Office.

Dear Mr. Myers:

This is in response to your formal complaint, which was received on September 17, 2001. You have alleged that the Clerk of the DeKalb Circuit Court ("Clerk's Office") has violated the Indiana Access to Public Records Act ("APRA,") Indiana Code chapter 5-14-3. Specifically, you allege that the Clerk's Office denied you access to public records by failing to provide a public record in response to a public records request. The Honorable Jacqueline Rowan, Clerk, responded in writing to your complaint. A copy of her response is enclosed for your reference. For the reasons set forth below, it is my opinion that the Clerk's Office did not violate the APRA with respect to your public records request.

#### BACKGROUND

According to your complaint, you mailed a public records request to the Clerk's Office requesting a copy of a sheriff's return on a warrant served in Cause Number 17D01-9902-CF-00002. You claim that you were instead provided only a copy of the abstract of judgment for this Cause. You also alleged that your mother contacted the Clerk's Office to obtain a copy of the return on the sheriff's warrant and was denied access to it. You then filed your formal complaint with this Office for denial of access to a public record under the APRA.

In her response, Clerk Rowan enclosed a copy of your public records request to her Office, which was received on August 29, 2001. In that request, you asked for "the 5-21-99 entry of the Sheriff's return of Warrant" and the "abstract of judgment from 5-9-00." The abstract of judgment and the entry of the sheriff's return of warrant were produced in response to your request and mailed on September 12, 2001.

Clerk Rowan also addressed the allegation that your mother called the Clerk's Office attempting to obtain public records and was denied. While no one has identified herself as your mother, a woman did contact the Clerk's Office and referenced the Pendleton correctional facility. The Deputy Clerk advised the woman that information is not provided over the telephone, but that she could visit the Clerk's Office and the information would be provided at a charge of one dollar (\$1.00) per page. In the alternative, the Deputy Clerk also advised the woman that if a written request was received from the person incarcerated at Pendleton, public records would be forwarded at no charge to that person.

## 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." Ind. Code § 5-14-3-1. The Clerk's Office is clearly a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Clerk's Office during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana Code section 5-14-3-4. Ind. Code § 5-14-3-3(a).

Under the facts presented, the Clerk's Office appears to have provided you with the public records that you requested. Your request clearly stated that you wanted the "5-21-99 entry of the sheriff's return of warrant." The Clerk's Office did provide the entry of this return of warrant in direct response to your request. For this reason, it is my opinion that the Clerk's Office did not violate the APRA with respect to the public records it provided in response to your request. You may wish to contact the Clerk's Office again with your specific request for a copy of the return of service, rather than the entry for that return of service.

As to the allegation that your mother was also denied access to public records by the Clerk's Office, it is my position that your mother should contact this Office separately about any perceived denial. Since you were not a party to the telephone conversation that was restated in Clerk Rowan's letter, we cannot render an opinion on this matter.

## CONCLUSION

It is my opinion that the Clerk of the DeKalb Circuit Court did not violate the Access to Public Records Act with respect to your public records request.

Sincerely,

Anne Mullin O'Connor

Enclosure

cc: The Honorable Jacqueline Rowan, Clerk html>