



# STATE OF INDIANA

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October 21, 2008

Orza Salone  
DOC #944875  
One Park Row  
Michigan City, Indiana 46360

*Re: Formal Complaint 08-FC-212; Alleged Violation of the Access to Public Records Act by the Clerk of the Howard Circuit Court*

Dear Mr. Salone:

This advisory opinion is in response to your formal complaint alleging the Clerk of the Howard Circuit Court ("Clerk") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by failing to respond to your request for records. It is my opinion the Clerk violated the APRA if the Clerk received your request and did not respond to it within seven days.

## BACKGROUND

You filed a complaint on September 19, 2008, alleging that on August 27 you submitted a request to the Clerk for copies of a number of records related to the same cause number. You allege that the Clerk failed to respond to the request.

My office sent a copy of the complaint to the Clerk and invited the Clerk to respond to the complaint. To date my office has not received a response from the Clerk.

## ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Clerk is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the Clerk during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 5-14-3-3(a), 5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

If the Clerk did receive your request for access to records maintained by the agency, the agency would have a duty under the APRA to respond within seven days of receipt. I.C. § 5-14-3-9(b). I do not have the benefit of a response from the Clerk indicating whether the Clerk received your request. If the Clerk received the request and did not respond to the request within seven days of receipt, the Clerk violated the APRA.

#### CONCLUSION

For the foregoing reasons, it is my opinion the Clerk violated the APRA if the office received your request and did not respond to the request within seven days.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Mona Myers, Clerk of the Howard Circuit Court