



# STATE OF INDIANA

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December 10, 2008

Roosevelt Williams  
DOC #974618  
One Park Row  
Michigan City, Indiana 46360

*Re: Formal Complaint 08-FC-236; Alleged Violation of the Access to Public Records Act by the Clerk of the Marion Circuit Court*

Dear Mr. Williams:

This advisory opinion is in response to your formal complaint alleging the Clerk of the Marion 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. The Clerk's response to the complaint is enclosed for your reference. It is my opinion the Clerk did not violate the APRA.

## BACKGROUND

You filed a complaint on November 10, 2008, alleging that on September 2 you submitted a request to the Clerk on October 8 for copies of a probable cause affidavit and warrant for a blood draw. You allege that the Clerk failed to respond to the request.

The Clerk responded to the complaint by electronic mail messages dated November 24 from Chief of Staff Scott Hohl. Mr. Hohl indicates that he has recently assumed the position of Chief of Staff and does not yet have access to the files of the former Chief of Staff, who would have been responsible for sending you a response to the request. Regarding the substance of the request, Mr. Hohl indicates the cause number for which you requested records is not a valid cause number. As such, the Clerk cannot locate records related to the request. Further, the Clerk's office does not maintain warrants; this is generally maintained by the Office of the Prosecuting Attorney.

## 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).

So long as the Clerk responded to the request within seven days of receipt, the Clerk did not violate the APRA. I.C. § 5-14-3-9(b). Since the cause number you provided was not valid, the Clerk does not maintain any records responsive to your request. My advice is to submit a new request with the correct information.

Further, your request to the Clerk's office for copies of a warrant was a request sent to the incorrect agency. Your request should be made directly the Prosecutor.

#### CONCLUSION

For the foregoing reasons, it is my opinion the Clerk did not violate the APRA.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Scott Hohl, Chief of Staff, Clerk of the Marion Circuit Court