



STATE OF INDIANA

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December 10, 2008

George Walker
DOC #157599
PO Box 1111
Carlisle, Indiana 47838

Re: Formal Complaint 08-FC-237; Alleged Violation of the Access to Public Records Act by the Marion Superior Court Criminal Division Twenty

Dear Mr. Walker:

This advisory opinion is in response to your formal complaints alleging the Marion Superior Court Criminal Division Twenty ("Court") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. A copy of the Court's response to the complaints is enclosed. In my opinion the Court did not violate the APRA.

BACKGROUND

You filed the present complaint on November 10, 2008. You allege the Court has repeatedly denied you access to a copy of a motion and a transcript. You allege the most recent denial occurred on October 29.

The Court responded to the complaint by letter dated November 12 from Judge William Young. Judge Young contends you have been provided a copy of the motion document in the past. Judge Young further contends that intake interviews are not recorded, so there is no transcript.

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 Court 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 Court 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).

If:

- (1) a person is entitled to a copy of a public record under this chapter; and
- (2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the record; the agency must provide *at least one copy* of the public record to the person . . .

I.C. § 5-14-3-8(e), *emphasis added*.

You allege that you have been denied access to a copy of a motion. The Court indicates you were previously provided a copy of the document. The APRA requires a public agency to provide one copy of a disclosable public record but does not require an agency to provide additional copies or to repeatedly provide copies of a particular record. See I.C. § 5-14-3-8(e). The Court has provided you one copy of the motion and as such has not violated the APRA.

Further, the Court contends the intake interview was not recorded, so no transcript was or can be made. Nothing in the APRA requires a public agency to *develop* records or information pursuant to a request. The APRA requires the public agency to *provide access* to records already created. If no record exists responsive to the request, the agency has nothing to provide you.

CONCLUSION

For the foregoing reasons, it is my opinion the Court has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: William E. Young, Judge, Marion Superior Court Criminal Division Twenty