



STATE OF INDIANA

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May 6, 2009

Joshua E. Williams
DOC #128570
PO Box 1111
Carlisle, Indiana 47838

Re: Formal Complaint 09-FC-100; Alleged Violation of the Access to Public Records Act by Elkhart Superior Court 6

Dear Mr. Williams:

This advisory opinion is in response to your formal complaint alleging Elkhart Superior Court 6 ("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 complaint is enclosed. In my opinion the Court did not violate the APRA.

BACKGROUND

You allege that you have requested from the Court transcripts maintained by the Court. You allege the Court has repeatedly denied you access to the records, most recently on or about March 26, 2009. Your complaint was postmarked on April 13, and my office received it on April 15.

The Court responded to the complaint by letter dated April 20 from Judge David Bonfiglio. Judge Bonfiglio contends the Court has sent you the requested transcripts in the past. Judge Bonfiglio indicates the Court will again send you a copying bill for the records and will again send the records.

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 the requested records, and the Court contends you have been provided you with a copy of the requested records. Judge Bonfiglio contends this is at least the third time you have requested the records. 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 would not be in violation of the APRA if the Court had refused to disclose a record you have already received. Instead, the Court has indicated it will send you the records again. I strongly urge you to pay the associated copying costs, as you are obligated under the APRA to do so.

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: Judge David C. Bonfiglio, Elkhart Superior Court 6