



STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

May 18, 2015

Mr. John D. May - #962364
1946 West US Highway 40
Greencastle, IN 46135

Re: Formal Complaint 15-FC-126; Alleged Violation of the Access to Public Records Act by the Greene County Clerk of Courts

Dear Mr. May,

This advisory opinion is in response to your formal complaint alleging the Greene County Clerk of Courts ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Clerk has responded to your complaint via counsel, Mr. Ryan McDonald, Esq. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on April 6, 2015.

BACKGROUND

Your complaint dated March 30, 2015 alleges the Greene County Clerk of Courts violated the Access to Public Records Act by improperly charging copy fees.

On March 18, 2015, you made a request for records from the Clerk, seeking records related to specific cause numbers. You supplemented the request with an additional request on March 27, 2015.

On March 24, 2015, you received a response regarding your first request. Your request totaled 50 pages. You were informed the clerk charges \$1.00 per page for copies and \$1.00 per certification. You contend this fee is improper.

Counsel responded on April 16, 2015. Counsel notes the fee schedule for clerks is set by statute at \$1.00 per page. *See Ind. Code § 33-37-5-1(b).*

You followed up with an additional inquiry on April 27, 2015 requesting this Office opine on the issue of jury questionnaires you sought from the Clerk on April 27, 2015. These inquiries have been consolidated for convenience.



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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.” See Ind. Code § 5-14-3-1. The Greene County Clerk of Courts is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Clerk’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

While you are correct that ordinarily the fee schedule is set at \$0.10 per page under the Access to Public Records Act, Indiana court clerks are subject to a different fee schedule at a maximum of \$1.00 per page. You allege the Clerk is charging you excessive fees for copies of records the office maintains. The APRA provides a public agency shall collect fees specified by statute or ordered by a court (Ind. Code § 5-14-3-8(f)). The legislative body of a county is to adopt a fee schedule of document fees to be collected by the Clerk, and the per page fee may not exceed \$1.00. (Ind. Code § 33-37-5-1). As long as the county legislative body has adopted a fee schedule setting the per page copy fee at \$1.00, the Clerk has not violated the APRA by charging this fee. Additionally, your plea of indigence does not apply, because there is no indigence exception to the APRA or Ind. Code § 33-37-5-1.

As for the question of jury questionnaires, Greene County has already informed you the jury questionnaires you are requesting cannot be released under the APRA and Indiana Jury Rule 10. This Office has previously opined on this issue in *Opinion of the Public Access Counselor 13-FC-251* and has held the withholding of jury questionnaires after a trial is appropriate. I have attached that Opinion for your review.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Greene County Clerk of Courts has not violated the Access to Public Records Act.

Regards,



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A handwritten signature in black ink, appearing to read "LH Britt", is positioned above the printed name.

Luke H. Britt
Public Access Counselor

Cc: Mr. Ryan J. McDonald, Esq.