



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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June 2, 2015

Mr. Antonio Devon Jones #145609
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 15-FC-159; Alleged Violation of the Access to Public Records Act by the Superior Court of Lake County

Dear Mr. Jones,

This advisory opinion is in response to your formal complaint alleging the Superior Court of Lake County ("Court") and Magistrate Natalie Bokota violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Court has responded to your complaint via Magistrate Natalie Bokota. Her 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 May 6, 2015.

BACKGROUND

Your complaint dated May 14, 2015 alleges the Superior Court of Lake County has failed to comply with the Access to Public Records Act by failing to provide the records you requested.

On March 31, 2015 you submitted a public request to the Court seeking an audio recording of your trial. Your request was denied on the grounds you had received the written transcript of the trial. You contend the written transcript is deficient and seek to verify the veracity of the transcript with the audio recording.

On May 20, 2015, Magistrate Bokota responded to your complaint. She affirms the stance that providing you with a written copy fulfills the burden under the APRA. Further, she contends it is the requestor's duty to provide statutory authority for release of the public record.



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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 Superior Court of Lake County 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 Court’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).

Under the APRA, the burden falls on the public agency to provide a statutory justification for refusing to provide documents. See Ind. Code § 5-14-3-1. A requestor of a public record does not have an affirmative duty to cite legal authority for inspecting or copying a record. A written copy is not equivalent to an audio recording. If a recording exists in electronic form, you are entitled to one copy provided the recording can be reasonably transmitted electronically. See Ind. Code § 5-14-3-3(d).

Your request was conspicuously marked as a request for public records and not a discovery request under the trial rules or a motion to produce documentation. This Office has stated on several occasions the Public Access Counselor will not interfere on the judiciary’s sovereign jurisdiction to adjudicate discovery requests under the trial rules. However, because it was submitted as an APRA request, it falls outside the scope of trial procedure and the judiciary is subject to the APRA as if it were any other public agency. See Ind. Code § 5-14-3-2(n)(2)(c).

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Superior Court of Lake County has acted contrary to 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: Magistrate Natalie Bokota