



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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June 29, 2015

Mr. Marvin Taylor, Sr. - #995801
Indiana State Prison
One Park Row
Michigan City, IN 46360

Re: Formal Complaint 15-FC-167; Alleged Violation of the Access to Public Records Act by Marion County Superior Court, Criminal Division 2

Dear Mr. Taylor,

This advisory opinion is in response to your formal complaint, which alleges Marion County Superior Court ("Court") and Hon. Judge Amy Barber violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Court has responded via the Honorable Judge Amy J. Barber. 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 15, 2015.

BACKGROUND

Your complaint dated May 12, 2015, alleges the Marion County Superior Court violated the Access to Public Records Act by failing to provide the records you requested.

You submitted a records request to the Court, seeking records related to a specific cause number. On April 16, 2015, your request was denied because it was noted nothing was pending on that particular case.

On May 20, 2015, the court responded. Judge Barber reiterates that since you have no cases pending, you are not entitled to a free copy of any records. She also noted the court cannot comply with your request for medical records, because the court does not possess those specific records.

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



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of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Marion County Superior Court 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).

The Court raises an issue of your ability to pay for the records requested. Neither the APRA nor the Court Reporter statute you cited, (Ind. Code § 33-41-1-5) have indigency exceptions. Both require a requestor to pay records and allow public agencies to require remittance of a copy fee before production of records. Since you have no cases pending, you are not entitled to a free copy of any records.

Second, the court notes several of the records you requested are not part of the case file. You requested to view exhibits entered, such as police reports and medical records. You have previously been informed these records are not part of the court file and the court does not have the records.

The APRA does not require a public agency to provide records it does not have. The Court has explained to you previously it does not have the records you requested. It has now reiterated this fact. Therefore, the Court has met its duty under the APRA.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that the Marion County Superior Court has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor



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Cc: Hon. Judge Amy J. Barber