



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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September 28, 2015

Alvin Best 850121
Putnamville Correctional Facility
1946 W. US Hwy 40
Greencastle, IN 46135

Re: Formal Complaint 15-FC-235; Alleged Violation of the Access to Public Records Act by the Hendricks County Clerk's Office

Dear Mr. Best,

This advisory opinion is in response to your formal complaint alleging the Hendricks County Clerk Office ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Office responded via Ms. Debbie Hoskins. 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 August 17, 2015.

BACKGROUND

Your complaint dated August 14, 2015 alleges the Harrison County Clerk Office violated the Access to Public Records Act by failing to acknowledge your request within seven days

On July 22, you requested all records related to a court case. However, you did not receive a response. On August 25, the Clerk responded to your request, stating that it did not receive your request.

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 Hendricks County Clerk Office 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 Office's disclosable, public records during regular business hours



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unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14-3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

The Clerk has stated that it did not receive your request. This Office is familiar with the prison mail system and correspondence often gets lost in the mail and becomes a casualty of logistical issue with inmate communication. While unfortunate, it is likely that this is the case. It is my expectation that the Clerk is now on notice of your request and I kindly ask them to respond to you accordingly.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that the Hendricks County Clerk Office 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

Cc: Ms. Debbie Hoskins