



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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September 28, 2015

Tyreese Rowan #13235
New Castle Correctional Facility
PO Box A
New Castle, IN 47362

Re: Formal Complaint 15-FC-237; Alleged Violation of the Access to Public Records Act by the Harrison County Clerk's Office

Dear Mr. Rowan,

This advisory opinion is in response to your formal complaint alleging the Harrison County Clerk's Office ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* As of the writing of this opinion, the Clerk has not responded to your complaint, despite an invitation by this office to do so. 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 12, 2015 alleges the Harrison County Clerk's Office violated the Access to Public Records Act by failing to provide the records you requested.

On July 27, you requested all records related to a named, identified court case. On August 4, the Office responded to your request, providing you with records. However, you allege that the documents provided were incomplete, with certain findings missing.

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 Harrison County Clerk's 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 Clerk'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).

Your request was conspicuously marked as a request for public records and not a discovery request or a motion under the trial rules. 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 or post-conviction relief 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).

Public agencies are required by Ind. Code § 5-14-5-5 to cooperate with this Office during the formal complaint process. I have not received a response from the Clerk's Office regarding your complaint. Without the benefit of a response, I cannot determine if Clerk's Office's denial was appropriate. Therefore, without statutory justification for the denial pursuant to Ind. Code § 5-14-3-9, the Clerk has 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