



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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March 30, 2015

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

Re: Formal Complaint 15-FC-63; Alleged Violation of the Access to Public Records Act by the Marion County Court

Dear Mr. Best,

This advisory opinion is in response to your formal complaint alleging the Marion County Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* On March 17, 2015, the Honorable Judge Marcel Pratt responded to your complaint. 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 February 17, 2015.

BACKGROUND

Your complaint dated February 13, 2015 alleges the Marion County Court violated the Access to Public Records Act by failing to acknowledge your public records request.

On January 15, 2015, you submitted a public records request to the Court. You requested records relating to a specific cause number. At the time of filing your complaint, you have received no reply.

On March 17, 2015, Judge Pratt responded to your complaint. Judge Pratt contends your request was not made to him as judge of traffic court and he was not previously privy to the request. However, he did have court staff conduct a search for the case number given and staff could not find records associated with that particular case number.

Judge Pratt also notes the court clerk is the keeper of records and your request should have been sent to the County Clerk's Office. Judge Pratt invites you to submit your request to the Clerk's Office in the future.

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 Marion County 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 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).

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.

In this instance, while the Court may not have responded within the appropriate timeframe, the submission of the request to the Court was improper as it is not the keeper of the records – the Court Clerk would be the appropriate keeper of the records you are requesting. Judge Pratt noted the submission to the Court was improper and directs you to submit your request to the proper agency.

CONCLUSION

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

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Hon. Marcel Pratt