



STATE OF INDIANA

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July 28, 2008

Joe Cooper
PO Box 22327
Indianapolis, Indiana 46222

Re: Formal Complaint 08-FC-175; Alleged Violation of the Access to Public Records Act by the Indiana Judicial Center

Dear Mr. Cooper:

This advisory opinion is in response to your formal complaint alleging the Indiana Judicial Center ("Center") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records, namely electronic mail messages sent from an employee of the Center. A copy of the Center's response to your complaint is enclosed for your reference. In my opinion, the Center did not violate the APRA by denying you access to the requested records.

BACKGROUND

In your complaint you allege you requested by letter dated July 11, 2008 a copy of every electronic mail message ("email") sent by an employee of the Center. The Center denied your request by letter dated July 15, citing Ind. Administrative Rule 9(G)(1)(h) and 9(G)(2)(a). You filed this complaint on July 15, alleging the denial was inappropriate under the APRA.

The Center responded to your complaint by letter dated July 25, 2008 from Executive Director Jane Seigel. The Center contends that the emails are excepted from disclosure pursuant to I.C. § 5-14-3-4(a)(8), which prohibits an agency from disclosing records declared confidential by or under rules adopted by the supreme court of Indiana. Ms. Seigel indicates the Center is an administrative judicial agency of the Indiana Supreme Court. The employees are appointed by the chief justice, and salaries are fixed by the Indiana Supreme Court, pursuant to I.C. § 33-38-9-4(b). The Center contends that Admin. R. 9(G)(1)(h) and (G)(2)(a) specifically declare the records at issue confidential.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Indiana Judicial Center is a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m)(1). Accordingly, any person has the right to inspect and copy the public records of the Center during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

The APRA excepts from disclosure records "declared confidential by or under rules adopted by the supreme court of Indiana." I.C. § 5-14-3-4(a)(8). Admin. R. 9(G)(1)(h) excludes from public access "[a]ll personal notes and e-mail, and deliberative material, of judges, jurors, court staff and judicial agencies, and information recorded in personal data assistants (PDA's) or organizers and personal calendars. " Further, Admin. R. 9 (G)(2)(a) declares "all information excluded in sub-sections (a) through (h) of section (G)(1)" as confidential records.

Because I.C. § 5-14-3-4(a)(8) grants the Indiana Supreme Court the authority to declare records confidential and prohibits an agency from disclosing any records the Indiana Supreme Court declares confidential, it is my opinion the Center may not disclose any personal emails of judges, jurors, court staff and judicial agencies. Since the employee whose records are at issue is a staff member of a judicial agency, it is my opinion the Center may not disclose the requested emails.

CONCLUSION

For the foregoing reasons, it is my opinion the Center did not violate the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Jane Seigel, Indiana Judicial Center