



# STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR  
JOSEPH B. HOAGE

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)234-0906  
Fax: (317)233-3091  
1-800-228-6013  
www.IN.gov/pac

February 26, 2013

Mr. Terrence Lee Swindle  
P.O. Box 266  
Magalia, California 95954

*Re: Formal Complaint 13-FC-58; Alleged Violation of the Access to Public Records Act by the Hamilton County Court*

Dear Mr. Swindle:

This advisory opinion is in response to your formal complaint alleging the Hamilton County Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* I have granted your request priority status pursuant to 62 I.A.C. 1-1-3(3).

## BACKGROUND

In your formal complaint you allege that you submitted a written request to the Court on January 22, 2013 for an audio copy of a hearing that occurred on November 15, 2012. Since submitting your written request, you further allege that you have contacted the Court on numerous occasions regarding the status of your request. As of February 19, 2013, the date you filed your formal complaint, you further allege that you have yet to receive any response or records from the Court to your request.

On February 19, 2013 you informed our office that Ms. Kathy Wyatt from the Court contacted you via telephone and provided that a copy of the audio recording was sent to you on February 19, 2013. On February 22, 2013 you received a copy of the audio recording that was sent by the Court.

## 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* I.C. § 5-14-3-1. The Court is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Court's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within twenty-four hours, the request is deemed denied. *See* I.C. § 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 days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, the Court acted contrary to the requirements of section 9(b) of the APRA by failing to acknowledge in writing the receipt of your request within seven days of its receipt. As the Court has now provided all records responsive to your request, I trust that this is in satisfaction of your formal complaint.

### CONCLUSION

Based on the foregoing, it is my opinion that the Court acted contrary to the requirements of section 9(b) of the APRA by failing to acknowledge in writing the receipt of your request within seven days of its receipt. As the Court has now provided all records responsive to your request, I trust that this is in satisfaction of your formal complaint.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is fluid and cursive, with a large initial "J" and "H".

Joseph B. Hoage  
Public Access Counselor

cc: Hamilton County Court