



# STATE OF INDIANA

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November 4, 2016

Ms. Ricki Hawkins  
5411 Goodman Ridge Road  
Marengo, Indiana 47149

*Re: Formal Complaint 16-FC-244; Alleged Violation of the Access to Public Records Act and Open Door Law by Crawford County Auditor and Council*

Dear Ms. Hawkins:

This advisory opinion is in response to your formal complaint alleging the Crawford County Auditor (“Auditor”) and Crawford County Council (“Council”) (collectively known as “County”) violated the Access to Public Records Act (“APRA”), Indiana Code § 5-14-3-1 et. Seq. and Open Door Law (“ODL”), Indiana Code §5-14-1.5-1 et. Seq. The Auditor Christian Howell has responded to your complaint. His response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on November 1, 2016.

## BACKGROUND

Your complaint dated September 26, 2016, states you requested a copy of the minutes and tape of a meeting conducted on September 22, 2016. You did not receive the requested copies or a response to your request within 24 hours.

You also allege the County published a public hearing notice to discuss certain budgets on September 22, 2016. You asked the President if the meeting pertained to county budgets as well; the President informed you it was not and the meeting was adjourned. You stated the budget was incorrect, sometime in between and they reopened the meeting to include Crawford County. According to your complaint the meeting was called to order at 9:25 a.m.

Mr. Christian Howell, Crawford County Auditor stated the DLGF was contacted and they would not take exception since the meeting was reopened and you were able to give your informed advice. The Auditor claims the information you requested is available in his office.

## 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 Indiana Code § 5-14-3-1*. The Crawford Council and Crawford County Auditor are public agencies for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the County’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14- 3-3(a)*.

A request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. If the request is submitted and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See Indiana 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 County documents you requested did not give any specification on the method to which you would like those delivered. The Auditor states they have been retrieved and you have the opportunity to pick up the requested information. An acknowledgment was likely done simultaneously with the request, fulfilling the County’s 24 hour obligation.

### **Open Door Law**

It is the intent of the Open Door Law (ODL) the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. *See Indiana Code § 5-14-1.5-1*. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. *See Indiana Code § 5-14-1.5-3(a)*.

By way of your complaint, I am unable to decipher if there was an Open Door Law violation. The statute states the requirement is to post forty-eight (48) hours before the meeting “does not apply to reconvened meetings where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof”. *See Indiana Code § 5-14-1.5-5*. The meeting was originally posted for the public’s information at 9:00 a.m. The meeting then stopped and reconvened as an open meeting where you were able to make your comments. The reconvened meeting appears to be announced ahead of time in compliance with the law.

Please do not hesitate to contact me with any questions.

Regards,

A handwritten signature in black ink, appearing to read 'L. Britt', with a large, sweeping flourish underneath.

Luke H. Britt

Public Access Counselor

Cc: Mr. Christian Howell