



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT**

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

November 9, 2016

Mr. Oscar Iraheta-Rosales  
Wabash Valley Correctional Facility  
6908 South Old US Highway 41  
Carlisle, Indiana 47838

*Re: Formal Complaint 16-FC-257; Alleged Violation of the Access to Public Records Act by the Marion County Court*

Dear Mr. Iraheta-Rosales:

This advisory opinion is in response to your formal complaint alleging the Marion County Court ("Court") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 *et. seq.* The Court responded via Ms. Pauline Beeson, APC Director, Marion Superior Court. Her 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 October 4, 2016

## **BACKGROUND**

Your complaint dated September 27, 2016, alleges the Marion County Court violated the Access to Public Records Act by failing to provide the records you requested. On or about September 15, 2016 you requested a copy of a guilty plea transcript. It was addressed to the Marion County Superior Court Reporter "J. Hoffman". You have not received a response from the Court.

The Court responded to your formal complaint by claiming there is no such person at the Court by the name of "J. Hoffman" and it was not received. Additionally, a transcript was not prepared or ordered by the judge during the adjudication and does not exist.

## **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 Marion Superior Court is a public agency 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 Court's disclosable public records during



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT**

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

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)*.

Please be advised that a transcript is not a public record until it is actually prepared. Indiana Courts utilize court reporters to prepare transcripts upon request. It appears as if the Court Reporter you sent your request to did not receive it or does not exist. To the extent you would like an actual transcript prepared on your behalf, you would have to pay the requisite fee as the criminal litigation is over, regardless of any pending post-conviction relief.

If you choose to obtain an audio recording instead, the Indiana Court Administration has offered some guidance: "Recordings of court proceedings made by court reporters are public records... The public has the right to obtain the record within a reasonable period of time after making the request." See *Public Access to Court Records Handbook*, Indiana Supreme Court, Division of State Court Administration, Appendix E, August 2015.

Please do not hesitate to contact me with any questions.

Regards,

A handwritten signature in black ink, appearing to be "LH Britt", written in a cursive style.

Luke H. Britt  
Public Access Counselor

Cc: Ms. Pauline Beeson