



STATE OF INDIANA

MIKE BRAUN, Governor

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July 23, 2026

Re: Complaint 25-FC-283
Clifford W. Shepard (Complainant) v.
Johnson Superior Court 2 (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed October 6, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 28, 2025, requesting a formal response by November 26, 2025. A formal response, submitted by Attorney Shena Johnson, Johnson County Court Administrator, on behalf of Respondent, was received in this office on November 19, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of the requested records.

ANALYSIS

The public policy of 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.” Indiana Code (IC) 5-14-3-1. Respondent is a public agency for purposes of APRA; and therefore, subject to the requirements. IC 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy Respondent’s public records during regular business hours. IC 5-14-3-3(a).

Complainant filed an APRA request on August 22, 2025, to both Judge R. Kent Apley by postal mail to Shelby Superior Court 1 and Judge Peter D. Nugent by hand delivery to Respondent, seeking a copy of “each rule, directive, order, local rule, policy statement, procedural guidance or other record or matter” which related to a Notice Regarding Plaintiff’s Motion for Summary Judgment as issued by the Shelby Superior Court No 1 by a sitting special judge.

Complainant states that he has not received any response or production of records at the time of filing the complaint from Respondent. Shelby Superior Court 1 is not a party to this complaint.

When a requestor does not receive an acknowledgement within the appropriate time period, here 24 hours, a constructive denial has occurred. IC 5-14-3-4.4(c)(1) and *Opinion of the Public Access Counselor 25-FC-096*.

Complainant then must file a complaint with this office within 30 days of the alleged violation or denial or the complaint is barred. IC 5-14-5-7.

However, Complainant seemed to believe the response from Respondent was merely untimely and filed his complaint on October 6, 2025. When the Notice of Complaint was forwarded to Respondent on October 28, 2025, Respondent reviewed the complaint. Respondent forwarded its response to our office and the Complainant.

A public agency may not deny or interfere with the exercise of the right stated above. If the public agency does not deny the request, within a reasonable time after the request is received by agency the public agency shall either:

(1) Provide the requested copies to the person making the request; or

(2) Allow the person to make copies:

(A) on the agency's equipment; or

(B) on the person's own equipment.

IC 5-14-3-3(b).

Complainant states that hand delivery was made to Respondent. Respondent states it is unclear whether delivery was made to the Clerk of the Courts or the Courtroom clerk for Superior Court 2 but stated that the request for records could not be found and therefore no response was made.

Respondent did not raise the issue of constructive denial. Instead, Respondent acknowledges it did not respond in a reasonable time and apologized for any failure to timely respond to the request.

The Respondent also stated in its formal response, which Complainant received, that it does not possess records responsive to the Complainant's request, or alternatively, if the records exist, they would be excluded in accordance with Indiana Supreme Court Access to Court Records Rule 5(D)(5):

The following Court Administrative Records are confidential and must be excluded from Public Access:

[...]

(5) All personal notes, organizers, or calendars; electronic communications, including without limitation e-mail, text messages, photographs, and all related electronic data; and deliberative material of judges, jurors, court staff, and judicial agencies, whether recorded electronically or on paper.

Similar information to this was conveyed to Complainant in a letter dated September 4, 2025, from Judge Apsley.

CONCLUSION

This office finds that the Respondent violated APRA as alleged in the complaint. However, when Respondent was made aware of the issue by this complaint, Respondent responded to Complainant with its response to this complaint.

A handwritten signature in black ink, appearing to read "Jennifer G. Ruby". The signature is fluid and cursive, with the first name "Jennifer" being more prominent.

Jennifer G. Ruby
Public Access Counselor