



# STATE OF INDIANA

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January 4, 2012

Michael J. Shepard  
3500 N. Harlan Avenue  
Evansville, Indiana 47711

*Re: Formal Complaint 11-FC-312; Alleged Violation of the Access to Public Records Act by the Vanderburgh County Superior Court*

Dear Mr. Shepard:

This advisory opinion is in response to your formal complaint alleging the Vanderburgh County Superior 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 Indiana Administrative Code 1-1-3(3).

## BACKGROUND

In your formal complaint, you allege that you submitted a written request to the Court on November 23, 2011 for public records pursuant to the APRA. As of December 29, 2011, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege that you have not received an acknowledgment of your request.

## 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).

The APRA provides the right to inspect and copy records of a public agency. However, it is separate and distinct from other court proceedings, both civil and criminal. You currently have a pending criminal matter before the Court under Cause No. 82-D02-1108-FB-00848. Your alleged APRA requests were filed in a motion with the Court under above referenced cause number. The Court, in the CCS that you have provided,

denied your request as moot as you were currently represented by the Public Defender's Office. After reviewing your request and the CCS entry, it is evident that the Court interpreted your request as one being made pursuant to your criminal proceedings. I believe that the Court's interpretation of your request being made pursuant to your criminal proceedings, not the APRA, was reasonable in light of the conflicting nature of your request and what was filed with the Court. As such, your request was made through means outside the scope of the APRA. *See Opinions of the Public Access Counselor 07-FC-314 and 08-FC-324.*

#### CONCLUSION

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

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive, somewhat stylized font.

Joseph B. Hoage  
Public Access Counselor

cc: Vanderburgh County Superior Court