



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
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December 29, 2009

Stuart Showalter
PO Box 374
Lebanon, Indiana 46052

Re: Formal Complaint 09-FC-282; Alleged Violation of the Access to Public Records Act by the Boone Superior Court

Dear Mr. Showalter:

This is in response to your formal complaint alleging the Boone County Superior Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code 5-14-3-1 *et seq.*, by denying you access to records. A copy of the Court's response to your complaint is enclosed for your reference. It is my opinion the Court has not violated the APRA.

In your complaint, you allege that the Court violated the APRA by denying your request for copies of audio recordings of a Court hearing. In lieu of a copy, the Court provided you with an opportunity to listen to the recordings. The Court claims that you failed to appear to listen to the recordings at the scheduled time and that you have not contacted the Court to make alternate arrangements for listening to the recordings.

The facts of this situation are analogous to those in your previous complaint against the Boone County Circuit Court, which was addressed by Counselor Neal in *Opinion of the Public Access Counselor 08-FC-229*. Because I agree with Counselor Neal's conclusion that the court in that case did not violate the APRA by providing you with an opportunity to listen to the recordings in lieu of providing you with copies of the audio recording, I reaffirm her opinion and enclose a copy of it for your reference.

I note that this opinion does not operate to deny you access to the records if you should seek to access them in the future. Although the Court interpreted your failure to appear to listen to the recordings as a withdrawal of your request for access, I trust that the Court will make the records available for you to listen to upon the Court's receipt of a subsequent request. In that case, if you cannot attend the session that the Court schedules for you to listen to the recordings, I suggest you contact the Court to make alternate arrangements.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive style with a large, prominent 'K'.

Andrew J. Kossack
Public Access Counselor

cc: Darren C. Chadd, Kirtley, Taylor, Sims, Chadd & Minnette, P.C.