



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

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May 14, 2010

Mr. Tracey L. Wheeler  
4490 W. Reformatory Rd.  
Pendleton, IN 46064

*Re: Formal Complaint 10-FC-96; Alleged Violation of the Access to Public Records Act by the Vigo County Circuit Court*

Dear Mr. Wheeler:

This advisory opinion is in response to your formal complaint alleging the Vigo County Circuit Court (the "Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The Court's response is enclosed for your review.

## BACKGROUND

In your complaint, you allege that you requested records from the Court on March 29, 2010. As of April 12, 2010, you had not received the records you requested.

In the Court's response to your complaint, Patricia Mansard, clerk, says that the Court's records clerk performed a search and found no information or records responsive to your request.

## ANALYSIS

Here, the Court has not violated the APRA by failing to produce your requested records if those records do not exist. If a public agency has no records responsive to a public records request, the agency does not violate the APRA by denying the request. "[T]he APRA governs access to the public records of a public agency that exist; the failure to produce public records that do not exist or are not maintained by the public agency is not a denial under the APRA." *Opinion of the Public Access Counselor 01-FC-61; see also Opinion of the Public Access Counselor 08-FC-113* ("If the records do not exist, certainly the [agency] could not be required to produce a copy....").

Ms. Mansard notes that her office has repeatedly informed you that it has no records responsive to your request. In spite of her written assurances that the Court does

not have the records that you seek, you continue to submit identical requests. In my opinion, the Court is not obligated to repeatedly respond to identical requests for information once it has certified to you that no responsive records exist. *See Opinion of the Public Access Counselor 10-FC-81.*

#### 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 that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack  
Public Access Counselor

Cc: Patricia R. Mansard