



# STATE OF INDIANA

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December 29, 2011

Mr. Michael V. Szarek  
DOC # 173539  
4490 W. Reformatory Road  
Pendleton, Indiana 46064

*Re: Formal Complaint 11-FC-310; Alleged Violation of the Access to Public Records Act by the Clerk of the Lake County Superior Court*

Dear Mr. Szarek:

This advisory opinion is in response to your formal complaint alleging the Clerk of the Lake County Superior Court ("Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Sylvia Brown, Felony Division Manager, responded on behalf of the Clerk. Her response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you allege that after receiving an advisory opinion from the Public Access Counselor on July 25, 2011, you submitted a request in writing to certain court reporters for stenographic transcripts of hearings that occurred under Cause No. 45-G04-0701-MR-00002. *See Opinion of the Public Access Counselor 11-FC-155.* The Clerk responded to your request and provided that you failed to use the proper form when making your request.

In response to your formal complaint, Ms. Brown advised that you failed to utilize the proper form in making your request for transcripts; as such the Clerk followed the Court's order and denied 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).

Under the APRA, an agency may require that public access requests are submitted on a particular form. Specifically, the APRA provides that “[a] request for inspection or copying must: (1) identify with reasonable particularity the record being requested; and (2) be, at the discretion of the agency, in writing on or in a form provided by the agency.” *See* I.C. § 5-14-3-3(a). The Clerk promptly notified you upon receiving your request that you would need to fill out the proper form in making your request for transcripts. Accordingly, it is my opinion that the Clerk did not violate the APRA in response to your request. I would encourage you to submit your request for transcripts to the Clerk on the proper form provided.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Clerk 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 style with a large initial "J" and a long, sweeping underline.

Joseph B. Hoage  
Public Access Counselor

cc: Sylvia Brown