



Attorney General Of New Mexico

HECTOR H. BALDERAS
Attorney General

ELIZABETH A. GLENN
Chief Deputy Attorney General

December 7, 2015

Ms. R. G. Wakeland
P.O. Box 6881
Glendale, AZ 85312

Re: Inspection of Public Records Act Complaint against the First Judicial District

Dear Ms. Wakeland:

This letter is in response to your Inspection of Public Records Act (IPRA) complaints against the First Judicial District Court submitted to this office on May 28 and June 21, 2015. Your complaints allege that the First Judicial District had not timely responded to two separate IPRA requests sent to it on or about May 4 and June 3, 2015, and that records were withheld without an adequate exception under IPRA. As is our standard practice, your complaint was brought to the attention of the appropriate personnel at the First Judicial District Court. Our office was provided with a response to the inquiry, including copies of letters sent to you by Ms. Kim Moore, Program Manager of the Problem Solving Courts of the First Judicial District Court. Copies of two of these letters, dated June 15, 2015 and July 2, 2015, are attached. I have also spoken with Ms. Moore.

Your June 3, 2015 IPRA request to the Court seeks "... all public records, in whatever format . . . concerning, referring or relating to: consent to release of drug and alcohol tests". Ms. Moore responded to this request in a letter dated June 15, 2015, which states:

In response to your third Inspection of Public Records Act Request faxed on June 3, 2015, no subject of a drug or alcohol test ordered by the First Judicial District Court during a court proceeding has given such consent to release information pertaining to drug and alcohol tests, and, therefore, such written consent forms, blank or otherwise, do not exist.

Ms. Moore's letter also correctly notes that public bodies are not required to create a public record that does not otherwise exist. See NMSA 1978, § 14-2-8(B).

You also alleged that there was not an adequate exception provided to withhold records responsive to your request. However, the First Judicial District Court, in its letter to you dated May 29, 2015, stated that records were being withheld as confidential under federal law 42 CFR 1, Part 2. This federal confidentiality law is recognized under IPRA Section 14-2-1(A)(8), and the exception applied in this case is adequate.

Robin Wakeland
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Accordingly, because the First Judicial District Court clearly states that it does not have records responsive to your June 3, 2015 request, and because this was timely reported to you in letters dated May 29 and June 15, 2015, our office does not find a violation of IPRA. Accordingly, the Office of the New Mexico Attorney General considers your complaints closed.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard B. Word". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Richard B. Word
Assistant Attorney General
Open Government Division

cc: Kim Moore
Assistant Attorney General Joseph Dworak
Enc.

<p>TO: Laverne Roller New Mexico Attorney General office Inspection of Public Records Act violations PO Box 1508 Santa Fe NM 87504 FAX: (505) 827-6478 PHONE: (505) 827-6921</p>	<p>FROM: R. G. Wakeland <i>R.G. Wakeland</i></p>
<p>RE: inspection of public records act (IPRA) to first judicial district court clerk's office</p>	<p>DATE: 5/28/15 TOTAL PAGES: <i>2</i></p>

I am reporting a violation of IPRA by the first judicial district court probation office. I sent an IPRA request 5/4/15, see enclosed copy. My request is for:

I am hereby requesting to inspect and copy any and all public records in whatever format, such as digital, stored on magnetic media, flash drive, email, computer hard drive, paper, microfilm, etc. concerning, referencing or regarding:

- "1. a breath analyzer alcohol drug test on Robin G. Wakeland taken by the first judicial district court officer of the court (and/or drug testing officer) on April 30, 2015.
2. records of any communications of first judicial district court employees, officers, contractors and staff, concerning Robin G. Wakeland, R.G. Wakeland, Robin Gay Wakeland, or Wakeland, on or after April 30, 2015.
3. This includes but is not limited to clinical results of the test, correspondence, email, discussion of the above, or reference to the above by any first judicial district court employees, staff, officers, or contractors, as well as those records about first judicial district court cause D-101-JR-1996-00039 DIV. 8 STATE OF NEW MEXICO V. JAMES MCCRAY."

To date I have received no response. The statutory time period of 14 days has passed. Therefore, IPRA has been violated.

If you have any questions or need any further info, you can call or send a fax.

TO: Attn: Laverne Roller New Mexico Attorney General office Inspection of Public Records Act violations PO Box 1508 Santa Fe NM 87504 FAX: (505) 827-6478 PHONE: (505) 827-6063	FROM: R. G. Wakeland <i>R. G. Wakeland</i> PO Box 6881 Glendale AZ 85312 Phone: 505-473-4036 FAX: 602-334-1726
RE: inspection of public records act (IPRA) NMSA 1978 §14-2-1 through 14-2-12 First judicial district problem solving courts	TOTAL PAGES: 2 DATE: 6/21/15

Enclosed is a copy of my 6/3/15 fax to the above-referenced government office. To date I have received no reply, and the statutory 14 day time limit has passed. Therefore, they have violated IPRA.

If you have any questions or need any further info, you can call or send a fax.