

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

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July 21, 2017

Ms. Janelle Santillanes  
P.O. Box 10546  
Albuquerque, NM 87184

**Re: Inspection of Public Records Act- 4<sup>th</sup> Judicial District Court**

Dear Ms. Santillanes:

This letter addresses the complaint that you filed with the Office of the Attorney General alleging that the 4<sup>th</sup> Judicial District Court ("Court") violated the Inspection of Public Records Act ("IPRA"), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2013). With respect to your complaint, you allege that the Court did not provide any of the records requested and were otherwise not responsive to your request. We have received the Court's response, wherein the Court Executive Officer, Aurora Lopez, answered your allegations. I have enclosed the Commission's response with this letter.

I have reviewed your complaint, as well as the Court's response, and all the provided supporting documentation. I am unable to conclude that the Court has violated IPRA. The Court is not obligated to create a record in response to an IPRA request. The Court has stated that they do not maintain the type of record you are requesting and thus have nothing to provide.

According to your complaint, you submitted an IPRA request on September 4, 2016 to the Court requesting a list of complete case numbers on all civil filings from January 1, 2016 through September 2, 2016. On September 6, 2016, the Court responded with an attached letter stating that they did not have any records responsive to your request. This initial response was proper under IPRA. Under Section 14-2-8(D), "A custodian receiving a written request shall permit the inspection immediately or as soon as is practicable under the circumstances, but not later than fifteen days after receiving a written request. If the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the request." Your request was submitted September 4th. Under this Section, including both the weekend, in order to properly comply with IPRA, the Department was required to respond by September 7, 2016. Thus, the response by September 6<sup>th</sup> by the Court was proper.

As a further issue, I understand that the Court responded on September 4<sup>th</sup> to your IPRA request by stating that they had no responsive records. The Court then further states that they are not required to create a record not already in existence at the time of your request.

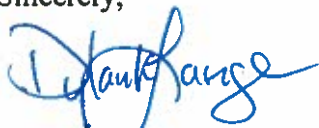
As it stands currently, IPRA requires a public body to provide responsive public records in its custody at the time the request is made. IPRA does not require a public body to create a public record in response to a request. § 14-2-8(B). The strict interpretation of this rule is that IPRA an agency to create any records not in existence, even records that might be within the agency's ability to be created. In the documents provided by your complaint, you state that several other courts have provided the information you have requested in the format you have requested. However, fulfillment of a request by one agency, does not mean that the requested records may be in existence at another agency. It is also possible that the agencies who provided the requested records in the format you request did create a record to fulfill your request. However, this does not obligate other agencies to do the same. *See*, Section 14-2-8(B).

Additionally, it appears that the Court has provided an option for accessing the records you seek by providing a public kiosk in which the desired information can be sought. In the Court's September 9, 2016 response, they advised you that a public kiosk was available in which you could seek the information that you had requested. The Court further advised that all of this information could be found online at New Mexico Courts case lookup. The Court further provided you the beginning numbers for all of the civil cases filed in the counties you requested to help aid your search for responsive records. We believe that the Court has complied with IPRA by allowing the inspection of the responsive records you seek. Speculation that the responsive records exist, should exist, or could be easily created, without more, is not sufficient evidence to question a public body's representation that it does not possess requested public records.

Based on the information available to us at this time, we believe that the Court has complied with its obligations under IPRA in response to your request made on September 4, 2016. The Court has stated that they have no responsive documents with regard to your request. Absent additional evidence showing that the Court is acting in bad faith or with the intent to evade its obligations under IPRA, we are unable to conclude that the Court improperly failed to provide you with responsive records in its custody at the time of your request.

Although we did not determine that the Department violated IPRA as alleged in the complaint, we appreciate your bringing this matter to our attention. If you have any questions about this determination or IPRA in general, please let me know.

Sincerely,



Dylan K. Lange  
Assistant Attorney General

Encl: Court Executive Officer's Response

cc: Court Executive Officer, Aurora Lopez

INSPECTION OF PUBLIC RECORDS ACT ("IPRA") COMPLAINT FORM

New Mexico Office of the Attorney General

Open Government Division

YOUR CONTACT INFORMATION:

First Name: JANEICE Last Name: SANTILLANES

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

Phone Number: [REDACTED]

Email: [REDACTED]

IPRA REQUEST TO THE PUBLIC BODY:

Name of the Public Body that is the subject of this complaint (including city/town, county or region, if applicable): 4TH JUDICIAL COURT AURORA LOPEZ (CEO)

Format of IPRA Request:  Written  Oral

Date IPRA Request was Submitted to the Public Body: 09/04/16

Date of all Responses Received from the Public Body: 09/06/16

ALLEGED VIOLATIONS OF IPRA BY THE PUBLIC BODY: Please select from the following list the violations you allege the public body committed. Check all that apply.

RECORDS:

- No records were provided.
- The agency provided some but not all of the records responsive to the request.
- Records were provided, but they were not responsive to the request.
- The public body does not have custody or responsibility for the records, and the records custodian did not forward the request to the proper custodian.
- The request was for records in electronic format and although the records are available in electronic format, the copies of the public records were not provided in an electronic format.

DENIED REQUESTS TO INSPECT PUBLIC RECORDS

- \_\_\_ Although some records were provided, the custodian did not include a written explanation for denying the production of exempt records or for redacting confidential information from records.
- \_\_\_ No records were provided and the records custodian did not deliver or mail a written explanation to the requester within fifteen (15) calendar days after receiving the request that included a description of the records sought, the names and titles of each person responsible for denying the request, and a description of the reasons for the denial.

NOTICE

- \_\_\_ Public body did not post in a conspicuous location at its administrative office or on the public body's website a notice setting forth: the rights of any person to inspect the public body's public records, the public body's responsibility to make public records available for inspection, the procedures for requesting inspection of public records, the procedures for requesting copies of public records, and/or reasonable fees for copying public records

DEADLINES (For purposes of deadlines imposed by the IPRA, the date the request is received is not counted)

- \_\_\_ Inspection was not allowed within three (3) business days and the public body did not timely send a written "three-day letter" to the requester explaining when the records would be available or when the public body would respond to the request.
- \_\_\_ The public body did not allow inspection or otherwise respond to the request within fifteen (15) calendar days from the date the custodian received the request.

FEES

- \_\_\_ The public body charged fees in excess of \$1.00 per printed page for documents 11"X17" or smaller, or charged fees that exceeded the actual costs to copy the records.
- \_\_\_ The public body did not provide a receipt upon request.

**DETAILED EXPLANATION OF ALLEGED IPRA VIOLATIONS** (Required): Please provide a description of the actions taken by the public body that violated the IPRA, including specific dates and why you believe the IPRA has been violated.

( SEE FORWARDED EMAILS MARKED: "PART 02 OF 02" )

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**ADDITIONAL INFORMATION:** Please provide a copy of your original inspection request (if written), and any documentation or evidence you have regarding the alleged IPRA violation.

## Laverne Roller

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**From:** Janelle Santillanes  
**Sent:** Wednesday, October 05, 2016 7:36 AM  
**To:** Laverne Roller  
**Subject:** IPRA Complaint - Part 02 of 02  
**Attachments:** Santillanes Letter.pdf; BarryIPRAletterSantillanes.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

## Forwarded conversation

Subject: **IPRA Request To New Mexico Judiciary 9-4-2016 3:20:35 PM**  
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From: <[mailservices@sks.com](mailto:mailservices@sks.com)>  
Date: Sun, Sep 4, 2016 at 3:20 PM  
To: [JanelleSant@gmail.com](mailto:JanelleSant@gmail.com), [lvedrecords@nmcourts.gov](mailto:lvedrecords@nmcourts.gov)

This is a request under the Inspection of Public Records Act. Within three business days, the records custodian will explain when the records will be available for inspection or when the custodian will respond to the request.

First Name: Janelle  
Last Name: Santillanes  
Email Address: [JanelleSant@gmail.com](mailto:JanelleSant@gmail.com)  
Phone Number: [505-358-0963](tel:505-358-0963)  
Court Locations: 4th Judicial District  
Physical Address: PO Box 10546  
City: Albuquerque  
State: New Mexico  
Zip: 87184

Records Requested: This is a formal request under the New Mexico Inspection of Public Records act for New Mexico Fourth Judicial District Court.

Public Records Request: Complete, case numbers on ALL CIVIL filings from January 01, 2016 thru end of September 02, 2016.

I wish to have the information emailed to me at the provided email address.

If full case numbers are not provided on these filings, for whatever reason, I then would like ALL such records pulled and ready for inspection at the individual court locations.

The requested information is on the following counties:

1. Guadalupe
2. Mora
3. San Miguel

Thank you for your prompt attention to this matter and please contact me via this email address to discuss any aspect of this request.

Janelle Santillanes  
- Independent Public Records Researcher  
- Auditor of Public Records  
- Licensed NM Private Investigator  
P.O. Box 10546  
Albuquerque, NM 87184  
[JanelleSant@gmail.com](mailto:JanelleSant@gmail.com)  
[\(505\) 358-0963](tel:5053580963)

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Albuquerque, NM 87184  
[JanelleSant@gmail.com](mailto:JanelleSant@gmail.com)  
[\(505\) 358-0963](tel:5053580963)

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From: **Lori P Lujan** <[lvedlpl@nmcourts.gov](mailto:lvedlpl@nmcourts.gov)>  
Date: Tue, Sep 6, 2016 at 3:53 PM  
To: "[lvedrecords@nmcourts.gov](mailto:lvedrecords@nmcourts.gov)" <[lvedrecords-grp@nmcourts.gov](mailto:lvedrecords-grp@nmcourts.gov)>  
Cc: [JanelleSant@gmail.com](mailto:JanelleSant@gmail.com), [lvedrecords@nmcourts.gov](mailto:lvedrecords@nmcourts.gov), [mailservices@sks.com](mailto:mailservices@sks.com)

Please see attached letter. Thank you.

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From: **Janelle Santillanes** <[janellesant@gmail.com](mailto:janellesant@gmail.com)>  
Date: Wed, Sep 7, 2016 at 7:06 AM  
To: [lvedarl@nmcourts.gov](mailto:lvedarl@nmcourts.gov)

Ms. Lopez -

On September 4th, 2016, I submitted the same IPRA request to various district courts throughout New Mexico to include the New Mexico Fourth Judicial District Court (JDC). Since then, my request has been fulfilled by CEO, Jason Jones of the 7th JDC and 1st JDC Court Clerk Manager III, Monica Chavez Crespin.

Please explain to me as to why your JDC is unable to fulfill the same IPRA request that was submitted to your JDC?

--  
Janelle Santillanes  
- Independent Public Records Researcher  
- Auditor of Public Records

- Licensed NM Private Investigator  
[JanelleSant@gmail.com](mailto:JanelleSant@gmail.com) / (505) 358-0963

-----  
From: **Aurora Lopez** <[lvedarl@nmcourts.gov](mailto:lvedarl@nmcourts.gov)>  
Date: Wed, Sep 7, 2016 at 3:40 PM  
To: Janelle Santillanes <[janellesant@gmail.com](mailto:janellesant@gmail.com)>

Good afternoon Ms. Santillanes, I spoke with Barry Massey this morning and he confirmed the response you had previously received by our records custodian, we are not required or obligated to prepare requested reports. We are only required to have records available. I have also attached the letter previously sent to you by Mr. Massey.

Respectfully,

*Aurora Lopez  
Court Executive Officer  
4th Judicial District Court  
Phone (505) 454-2942  
Fax (505) 454-8611*

-----  
From: **Janelle Santillanes** <[janellesant@gmail.com](mailto:janellesant@gmail.com)>  
Date: Fri, Sep 9, 2016 at 6:33 AM  
To: Aurora Lopez <[lvedarl@nmcourts.gov](mailto:lvedarl@nmcourts.gov)>, Barry Massey <[bmassey@nmcourts.gov](mailto:bmassey@nmcourts.gov)>, Greg Saunders <[gsaunders@nmcourts.gov](mailto:gsaunders@nmcourts.gov)>

Ms. Lopez -

This IPRA request did not ask for any such reports to be created. I asked for a list of civil case numbers over a specific period of time. As custodian of such records, I would think this is something readily available. The IPRA request also states that if case numbers would not be provided, then I would want all such hard copy, civil case files that were recorded within the specified period, to be pulled and ready for inspect at your court location.

If my request is not satisfied within the required time from under IPRA policies, I will file a formal complaint on the matter.

Janelle

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From: **Janelle Santillanes** <[janellesant@gmail.com](mailto:janellesant@gmail.com)>  
Date: Fri, Sep 9, 2016 at 7:06 AM  
To: Richard Wilson <[lludrtw@nmcourts.gov](mailto:lludrtw@nmcourts.gov)>

Rick -



FYI. If you there is anyway you can help convince other courts, the AOC, and JIFFY to fulfil such request, your input would be greatly appreciated.

Also, please don't let them convince you NOT to provide such info the the public. It is my intent to improve the process, not the reverse.

Janelle

-----  
From: **Aurora Lopez** <[lvedarl@nmcourts.gov](mailto:lvedarl@nmcourts.gov)>  
Date: Fri, Sep 9, 2016 at 8:01 AM  
To: Janelle Santillanes <[janellesant@gmail.com](mailto:janellesant@gmail.com)>, "Tafoya, Helen" <[helentafoya81@yahoo.com](mailto:helentafoya81@yahoo.com)>

Ms. Santillanes, there is a public kiosk available at our court. You are welcome to review the case files at your convenience.

Respectfully,

*Aurora Lopez  
Court Executive Officer  
4th Judicial District Court  
Phone (505) 454-2942  
Fax (505) 454-8611*

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From: **Janelle Santillanes** <[janellesant@gmail.com](mailto:janellesant@gmail.com)>  
Date: Fri, Sep 9, 2016 at 8:28 AM  
To: Aurora Lopez <[lvedarl@nmcourts.gov](mailto:lvedarl@nmcourts.gov)>  
Cc: "Tafoya, Helen" <[helentafoya81@yahoo.com](mailto:helentafoya81@yahoo.com)>, Greg Saunders <[gsaunders@nmcourts.gov](mailto:gsaunders@nmcourts.gov)>, Barry Massey <[bmassey@nmcourts.gov](mailto:bmassey@nmcourts.gov)>, Richard Wilson <[lludrtw@nmcourts.gov](mailto:lludrtw@nmcourts.gov)>

Without case numbers of plaintiffs/defendants name, such kiosks are useless. Which is why the IPRA request had to be generated.

Again, the request is to inspect ALL civil case filings for a specific time period. If you do not provide case numbers, or names, for me to utilize the kiosks then you need to provide the actual case files for inspection.

If you continue to refuse the request, I will file a formal complaint for the deniel of access to public records.

Janelle

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From: **Aurora Lopez** <[lvedarl@nmcourts.gov](mailto:lvedarl@nmcourts.gov)>  
Date: Fri, Sep 9, 2016 at 9:29 AM  
To: Janelle Santillanes <[janellesant@gmail.com](mailto:janellesant@gmail.com)>  
Cc: Greg Saunders <[gsaunders@nmcourts.gov](mailto:gsaunders@nmcourts.gov)>, Barry Massey <[bmassey@nmcourts.gov](mailto:bmassey@nmcourts.gov)>, Richard Wilson

<ludrtw@nmcourts.gov>, Helen Tafoya <lvedhjt@nmcourts.gov>

Janelle, you are requesting a list of case numbers which is creating a record. We do not maintain a list of case numbers and we are not obligated to create one. You will be able to view all the cases online through the New Mexico case lookup. Our case numbers are consecutive for each year starting in January. The case numbers start with D-412-CV-2016-00001 for San Miguel County, D-430-CV-2016-00001 for Mora County and D-424-CV-2016-00001 for Guadalupe. You will be able to view all cases from January to September.

Aurora

*Aurora Lopez  
Court Executive Officer  
4th Judicial District Court  
Phone (505) 454-2942  
Fax (505) 454-8611*

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From: **Janelle Santillanes** <janellesant@gmail.com>  
Date: Tue, Oct 4, 2016 at 2:24 PM  
To: [jdworak@nmag.gov](mailto:jdworak@nmag.gov)

Mr. Dwork -

As per our meeting today, I will be filling a complaint with your the Attorney General's Office in regarding this denied IPRA request.

Jnelle

## **Forwarded conversation**

**Subject: IPRA Request To New Mexico Judiciary 9-4-2016 3:20:35 PM**

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From: <[mailservices@sks.com](mailto:mailservices@sks.com)>  
Date: Sun, Sep 4, 2016 at 3:20 PM  
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Cc: [JanelleSant@gmail.com](mailto:JanelleSant@gmail.com), [lvedrecords@nmcourts.gov](mailto:lvedrecords@nmcourts.gov), [mailservices@sks.com](mailto:mailservices@sks.com)

Please see attached letter. Thank you.

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From: **Janelle Santillanes** <[janellesant@gmail.com](mailto:janellesant@gmail.com)>

Date: Wed, Sep 7, 2016 at 7:06 AM

To: [lvedarl@nmcourts.gov](mailto:lvedarl@nmcourts.gov)

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Please explain to me as to why your JDC is unable to fulfill the same IPRA request that was submitted to your JDC?

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- Independent Public Records Researcher

- Auditor of Public Records

- Licensed NM Private Investigator

[JanelleSant@gmail.com](mailto:JanelleSant@gmail.com) / (505) 358-0963

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From: **Aurora Lopez** <[lvedarl@nmcourts.gov](mailto:lvedarl@nmcourts.gov)>

Date: Wed, Sep 7, 2016 at 3:40 PM

To: Janelle Santillanes <[janellesant@gmail.com](mailto:janellesant@gmail.com)>

Good afternoon Ms. Santillanes, I spoke with Barry Massey this morning and he confirmed the response you had previously received by our records custodian, we are not required or obligated to prepare requested reports. We are only required to have records available. I have also attached the letter previously sent to you by Mr. Massey.

Respectfully,

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Court Executive Officer  
4th Judicial District Court  
Phone (505) 454-2942  
Fax (505) 454-8611*

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To: Aurora Lopez <[lvedarl@nmcourts.gov](mailto:lvedarl@nmcourts.gov)>  
Cc: "Tafoya, Helen" <[helentafoya81@yahoo.com](mailto:helentafoya81@yahoo.com)>, Greg Saunders <[gsaunders@nmcourts.gov](mailto:gsaunders@nmcourts.gov)>, Barry Massey <[bmassey@nmcourts.gov](mailto:bmassey@nmcourts.gov)>, Richard Wilson <[lludrtw@nmcourts.gov](mailto:lludrtw@nmcourts.gov)>

Without case numbers of plaintiffs/defendants name, such kiosks are useless. Which is why the IPRA request had to be generated.

Again, the request is to inspect ALL civil case filings for a specific time period. If you do not provide case numbers, or names, for me to utilize the kiosks then you need to provide the actual case files for inspection.

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To: Janelle Santillanes <janellesant@gmail.com>  
Cc: Greg Saunders <gsaunders@nmcourts.gov>, Barry Massey <bmassey@nmcourts.gov>, Richard Wilson <lludrtw@nmcourts.gov>, Helen Tafoya <lvedhjt@nmcourts.gov>

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Aurora

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- Independent Public Records Researcher  
- Auditor of Public Records  
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JanelleSant@gmail.com / (505) 358-0963

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**Janelle Santillanes**  
- Independent Public Records Researcher  
- Auditor of Public Records

- Licensed NM Private Investigator  
JanelleSant@gmail.com / (505) 358-0963

Las Vegas  
P.O. Box 1540  
Las Vegas, NM 87701  
P: (505) 425-7281  
F: (505) 454-8611



Santa Rosa  
420 Parker Avenue, Suite 5  
Santa Rosa, NM 88435  
P: (505) 472-3888  
F: (505) 472-4451

OFFICE OF THE  
FOURTH JUDICIAL DISTRICT  
COURT CLERK  
(SAN MIGUEL, GUADALUPE & MORA)

This letter will respond to your request for a search of our records for any case type that may have been filed in our court as a result of the charges listed below.

You have provided the following information:

Name: Janelle Santillanes	Date of Birth: _____	
Social Security Number: _____	Address: P.O. Box 10546 Albuquerque, NM 87184	
Date of Offense: _____		
Charges:		
<input checked="" type="checkbox"/> San Miguel County	<input checked="" type="checkbox"/> Mora County	<input checked="" type="checkbox"/> Guadalupe County
<input type="checkbox"/> Criminal Case (Adult)	<input checked="" type="checkbox"/> All Case Types	
Other Information:		

We cannot locate with specificity the records that are listed in your letter. The District Court file does not contain information requested. You may want to check with other agencies.

Fourth Judicial District Court

By: Lari Lujan

Date: 9-6-16





## Administrative Office of the Courts

Aug. 19, 2016

Via email: [janellesant@gmail.com](mailto:janellesant@gmail.com)

Janelle Santillanes  
P.O. Box 10546  
Albuquerque, NM 87184

Dear Ms. Santillanes,

On Aug. 17 you sent an email seeking assistance in having the district courts regularly create reports from the Judiciary's electronic case management system or by some other means create a listing of civil case filings that you seek to inspect in the course of your employment.

You also have been in contact with Greg Saunders, chief information officer for the Judicial Information Division, with a similar request. Mr. Saunders is best positioned to respond to you and I understand that he has done so.

Let me correct the record about a statement you made in the Aug. 17 email that I had "authorized the Sandoval and Santa Fe Magistrates to provide" certain reports of case listings from the Odyssey case management system.

This matter was explained in our July 26 letter providing you with a notice that records were available for inspection at the Santa Fe County Magistrate Court in response to a request under the Inspection of Public Records Act.

We wrote, "The Santa Fe County Magistrate Court does not maintain a list of case numbers associated with the requested legal actions and dispositions. Under the Inspection of Public Records Act, NMSA 1978, Section 14-2-8(B), a public body is not required to create a record. But to the extent that the court creates a list of case numbers in order to identify the records you have requested, the court will provide this listing."

A similar explanation was provided to you on July 27 in response to an IPRA request for records from the Sandoval County Magistrate court.



That is the provision being referenced in the Aug. 8 email by Helen Tafoya of the Fourth Judicial District Court, which you forwarded to me in seeking assistance with the creation of some case listing.

Respectfully,

A handwritten signature in cursive script that reads "Barry Massey". The signature is written in black ink and is positioned above the typed name.

Barry Massey  
Communications Officer  
Administrative Office of the Courts  
505-827-4805