

October 22, 2003

Larriante J. Sumbry  
DOC # 965137, C-433  
Indiana Department of Correction  
Indiana State Prison  
P.O. Box 41  
Michigan City, Indiana 46361-0041

Re: 03-FC-88; *Alleged Denial of Access to Public Records by the LaPorte County Public Library*

Dear Mr. Sumbry,

This is in response to your formal complaint, which was received on September 29, 2003. You have alleged that the LaPorte County Public Library (the "Library") violated the Indiana Public Records Act ("APRA"), Indiana Code chapter 5-14-3. Specifically, you allege that the Library failed to respond to the request for public records that you sent by mail on September 15, 2003. Ms. Judy R. Hamilton, Director of the Library, responded by facsimile to your complaint. A copy of her response is enclosed for your reference. It is my opinion that the Library did not violate the APRA because the Library did respond to your request within seven (7) days of receipt of your letter.

#### BACKGROUND

Your complaint states that you requested public records from the Library and that you did not receive a response within seven (7) days. Your complaint is dated September 24, 2003; your letter to the Library is dated September 15, 2003. A total of nine (9) days elapsed between the time you sent your request and the time you sent your complaint. In your letter, you requested the following:

- "Address to U.S. Congressional Committee";
- "Address to NAACP, ACLU in Gary, East Chicago, Chicago, LaPorte, Hammond";
- "Address to Human Rights Commission in Gary, Hammond, East Chicago";
- "Indiana Advocates";
- "Define the duties / responsibilities of the Public Library"; and

- “LaPorte Public Library Handbook and Practice and Internal Procedures, LaPorte Public Library Annual Report”.

In her response to this office, Ms. Hamilton states that she received your letter on or about September 18, 2003. She also states that a response to your letter was mailed to you on or about September 19, 2003.

#### ANALYSIS

The public policy of the APRA states that “[p]roviding persons with information is an essential function of a representative government and integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” Ind. Code § 5-14-3-1. Furthermore, “[t]his chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record.” Ind. Code § 5-14-3-1.

It is the responsibility of the public agency to respond to requests for access to public records within a specified time period. The APRA does not set any time periods for producing public records, merely for responding to the request. For requests that are delivered by mail or facsimile, a denial is deemed to have occurred if seven (7) days elapse after the agency receives the request and there has been no response. Ind. Code §5-14-3-9(b).

Here, the Library is clearly a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2. The Library received your letter on or about September 18, 2003, and responded to you by letter on or about September 19, 2003. That response was only one (1) day after the seven (7) day mandatory response period began, because the seven (7) day mandatory response period begins not when you send your request, but when the public agency receives it. Therefore, the Commission responded within seven (7) days after receiving your request.

#### CONCLUSION

It is my opinion that the Library did not violate the APRA because it responded to your mailed request within seven (7) days of receiving it.

Sincerely,

Sandra K. Bowman  
Acting Public Access Counselor

Cc: Judy R. Hamilton  
Director, LaPorte County Public Library