

December 29, 2003

Mr. Larriante J. Sumbry  
DOC No. 965137, C-433  
Indiana State Prison  
P.O. Box 41  
Michigan City, Indiana 46361-0041

*Re: Formal Complaint 03-FC-133  
Alleged Denial of Access to Public Records by the Lake County Superior Court*

Dear Mr. Sumbry:

This is in response to your formal complaint alleging that the Lake County Superior Court (Court) violated the Access to Public Records Act (APRA) (Ind. Code 5-14-3-1 *et seq.*), by denying you access to public records. Your complaint attaches a copy of the Court's timely response to your request indicating that it will provide you with the documents requested upon receipt of the copy fee. In addition, the Court has responded to your complaint indicating that it responded in that fashion and that it stands ready to produce the documents you requested upon receipt of the copy fee. Copies of the Court's response to you and also in answer to your complaint are enclosed for your reference. I find that the Court did not violate the APRA.

#### BACKGROUND

On November 21, 2003, you signed a letter addressed to the Court requesting a copy of the Chronological Case Summary in two separate actions. The Court responded on November 24, 2003, stating the copy fee for each record requested and indicating that the records would be mailed to you upon receipt of the fee. The Court's response is typed at the bottom of a copy of your original records request. On December 1, 2003, you signed your complaint alleging that the Court's response denied you access to records in violation of the APRA. The Court responds indicating that Indiana Code 33-19-6-1 provides for the Court to collect a fee of one dollar (\$1.00) per page for documents from the court file, and that upon receipt of this copy fee the Court stands ready to provide you with the records you requested.

#### ANALYSIS

A public agency that receives a request for records under the APRA has a specified period of time to respond to the request. IC 5-14-3-9. A timely response to the request does not

mean that the public agency must expressly decline to produce or produce the documents that are responsive to the request within the statutorily prescribed time period. Of course, a public agency is free to take either of those actions, but may also comply with its response obligation under the statute by acknowledging receipt of the request and indicating the specific actions the agency is taking toward production. Indiana Code 5-14-3-8 governs fees generally, and permits state agencies and other public agencies to charge a copy fee for production of documents. A public agency may collect a copy fee in advance of production (IC 5-14-3-8(e)), and is permitted to collect any fee specified by statute or ordered by a court (IC 5-14-3-8(f)). For court records, Indiana Code 33-19-6-1 provides that the clerk of the courts shall charge a copy fee of one dollar (\$1.00) per page.

In this matter, the public agency responded to your request in writing and within seven days of both submission and receipt of your request. The response was timely, and indicates the Court's intentions toward production. Specifically, the Court requests that you tender the copy fee in advance of production, and that upon receipt of the copy fee the Court will produce the records you requested. The copy fee and the Court's request for that fee in advance of production are appropriate and authorized by state law. Accordingly, I find that the Court did not deny you access to records in violation of the APRA.

#### CONCLUSION

For the reasons set forth above, I find that the Court did not violate the APRA and that your complaint is without merit.

Sincerely,

Michael A. Hurst  
Public Access Counselor

cc: Mr. Edward H. Feldman