

January 27, 2004

Mr. Marc N. Stults, No. 891999
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, Indiana 47838

*Re: Formal Complaint 03-FC-143
Alleged Denial of Access to Public Records by the Edgewood Town Court*

Dear Mr. Stults:

This is in response to your formal complaint alleging that the Edgewood Town Court (Court) violated the Access to Public Records Act (APRA) (Ind. Code 5-14-3-1 *et seq.*), when it failed to respond to your December 2, 2003, request for records within the time period allotted by statute. The Court's response to your complaint is enclosed for your reference. Although I find that the Court failed to respond to your written request for records in a timely manner in violation of the APRA, I note that the Court's response now tendered indicates that it does not have any records that are responsive to your request.

BACKGROUND

On December 2, 2003, you signed a letter addressed to the Edgewood Town Court requesting access to records you assert are maintained by the Court. Specifically, your request sought records relating to a battery charge alleged to have been filed against you in that court. The Court failed to provide you with a written response to your records request. You subsequently filed a complaint with this office challenging the Court's failure to respond. The Court states in response that it did not send you any documents in response to your request because it does not maintain any documents that are responsive, noting that the State never filed any charges against you in that court on the matter that was the subject of your request. The Court further states that it did not notify you that it did not have any responsive documents because you failed to include a self-addressed stamped envelope with your request.

ANALYSIS

The Court violated the APRA by failing to timely respond to your written request for records. 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 produce or expressly decline to produce any 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. If the agency does not maintain any documents that are responsive to the request, it should indicate that in a timely response to your request. At bottom, when a public records request is made in writing and delivered to the public agency by mail or facsimile, the public agency is required to respond to that request within seven (7) days of receipt of the request. IC 5-14-3-9(b). If that period of time elapses without any response, the request is presumed denied. IC 5-14-3-9(b). When a public records request is denied, the requesting party may bring an action under the APRA (IC 5-14-3-9(d)), or may file a formal complaint with this office (IC 5-14-5-6).

You signed your records request on December 2, 2003. The Court's response indicates that it received your request and that it intentionally failed to notify you within a timely manner, or at all, that it did not maintain any records that were responsive to your request. The Court's response indicates that it failed to notify you of this fact because you failed to include a self-addressed stamped envelope with your request. Of course, the Court's statutory obligation to respond under Indiana Code 5-14-3-9 is not conditioned upon you providing that courtesy.

CONCLUSION

For the reasons set forth above, I find that the Court failed to respond to your written request for records in a timely manner in violation of the APRA. Because the Court's response now tendered indicates that it does not have any records that are responsive to your request, I do not find that the Court otherwise denied you access to records in violation of the APRA.

Sincerely,

Michael A. Hurst
Public Access Counselor

cc: The Honorable Alan R. Miller