

August 31, 2005

Tyrone Frazier
#910476
Indiana State Prison
P.O. Box 41
Michigan City, IN 46361

Re: Formal Complaint 05-FC-160; Alleged Violation of the Access to Public Records Act by the Clerk of the Marion Circuit Court

Dear Mr. Frazier:

This is in response to your formal complaint alleging that the Clerk of the Marion Circuit Court ("Clerk") violated the Access to Public Records Act by failing to respond to your request for records. I find that the Clerk did not violate the Access to Public Records Act.

BACKGROUND

You requested a flat file of all legal documents under Cause No. 49F18-9512-DF-189713. You did not indicate when you sent your request, or to what address you mailed your request. I sent a copy of your complaint to the Clerk. Chari Burke, Deputy Clerk of Court Administration wrote that after a search of the court's records, including any pending or current requests for public records, your request for the flat file was not located.

ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, except as provided in section 4 of the Access to Public Records Act. Ind. Code 5-14-3-3(a). If a public agency receives a request via U.S. Mail, it is required to issue a response within seven (7) days of its receipt of the request. Ind. Code 5-14-3-9(b). The public agency is not obligated to respond at all where it has never received a request for records.

The Clerk had indicated that it has not received your request for the record. You have not demonstrated that the request was mailed to the correct address with sufficient postage; therefore, I must conclude that the Clerk did not violate the APRA where it never received your request for a record.

CONCLUSION

The Clerk of the Marion Circuit Court has not violated the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Chari Burke