

October 13, 2005

Master-SirLando D. Logan
#973822
Wabash Valley Correctional Facility
Carlisle, IN 47838-1111

Re: Formal Complaint 05-FC-187; Alleged Violation of the Access to Public Records Act by the St. Joseph Superior Court

Dear Mr. Logan:

This is in response to your formal complaint alleging that the St. Joseph Superior Court ("Court") violated the Access to Public Records Act ("APRA") by failing to provide you a record. I find that the Court violated the Access to Public Records Act by failing to timely respond to your request.

BACKGROUND

On August 16, 2005 you sent the Court a request for public records regarding State of Indiana v. Kelly Lee A. Sexton, Cause No. 71D01-0105-CF-196. You state that when you did not receive any response, you filed a formal complaint with this office on September 14, 2005. The staff attorney in this office spoke with a representative of the Court Clerk's office, who maintains the court records. After receiving a copy of your complaint, the Court retrieved your request from the court file for the above-mentioned cause number. There was no indication that the Court had responded to your request.

ANALYSIS

A public agency that receives a request for records by U.S. Mail is required to respond to the request within seven (7) days. Ind. Code 5-14-3-9(b). Failure to respond is deemed a denial of the record. Here, the Court admits that it had not responded to your request for records as of the date of the complaint, although it did receive the request. This failure to timely respond was

a violation of the Access to Public Records Act. Upon discovering this oversight, the Court told me that it has made a copy of the flat file of the case and sent it to you.

CONCLUSION

The St. Joseph Superior Court did not timely respond to your request for records, which was a violation of the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Clerk of the St. Joseph Superior Court