

May 19, 2006

B. Anthon Corley
#940811
Indiana State Prison
P.O. Box 41
Michigan City, IN 46361

Re: Formal Complaint 06-FC-73; Alleged Violation of the Access to Public Records Act by the LaPorte Superior Court

Dear Mr. Corley:

This is in response to your formal complaint alleging that the LaPorte Superior Court ("Court") violated the Access to Public Records Act by failing to respond to your request for records.

BACKGROUND

You filed your formal complaint with Office of the Public Access Counselor on April 19, 2006. You allege that on March 23, 2006, you sent a request to the Court for "all audiotapes in a trial that occurred in court, Appeal case #46 A03-9408-CR-303." As of April 7, you have not heard from the court. You designated Judge Donald Martin as the individual responsible for the denial.

I sent a copy of your complaint to the Court. Judge Kathleen B. Lang responded to your complaint by letter, a copy of which is enclosed for your reference. Judge Lang is the judge in LaPorte Superior Court No. 1. Judge Lang explained that she assumed her duties on September 1, 2005. She has no personal knowledge of your request. Judge Lang checked the Chronological Case Summary and found no indication that your March 23 request had ever been received by the Court. Further, from the description of the record in your complaint, it is unclear what audiotapes you are requesting--audiotapes submitted as evidence in court, or an audiotape of the proceeding itself. Also, the record is aged and may be stored either off-site or could have been relocated to the appellate court in connection with your appeal.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act. Ind. Code 5-14-3-3(a). The Court is clearly a public agency for purposes of the Access to Public Records Act. IC 5-14-3-2. A request for a record must identify the record with reasonable particularity. IC 5-14-3-3(a)(1). A public agency that receives a request via U.S. Mail is required to respond to the request within

seven days, or the request is deemed denied. IC 5-14-3-9(b). An agency must receive a request for a record before it is obligated to respond.

The response contemplated in IC 5-14-3-9(b) may be just an acknowledgment that the request was received, and some indication of how and when the agency intends to comply. The public agency is required to produce the records within a reasonable period of time under the circumstances. The agency should tell the requester whether or not it maintains the requested record. If the public agency no longer maintains the record, but the record is filed with another public agency, the requester is required to seek the record from the public agency that maintains the record.

The Court stated that it did not receive your original request for a record. I have no information regarding to which address you sent your request. I recommend that you send a request to the address indicated on the enclosed response letter from Judge Lang. I also recommend that you make your request more specific or descriptive, so the Court understands what audiotape you are requesting. The Court should ascertain, once it receives your request, whether it still maintains the record, and tell you if it does not. If the Court cannot determine within the seven-day time for response whether or not it maintains the record, it should still issue an acknowledgement letter within seven days, and follow-up with the additional information within a reasonable period of time.

CONCLUSION

For the foregoing reasons, I find that the LaPorte Superior Court did not violate the Access to Public Records Act when it failed to respond to your request, because the Court has stated that it did not receive it.

Sincerely,

Karen Davis
Public Access Counselor

cc: Honorable Kathleen B. Lang