

May 30, 2007

Orza Salone
#944875 LOC CE-221
Indiana State Prison
P.O. Box 41
Michigan City, IN 46361-0041

Re: Formal Complaint 07-FC-115; Alleged Violation of the Access to Public Records Act by the Howard County Prosecutor

Dear Mr. Salone:

This is in response to your formal complaint alleging that the Howard County Prosecutor ("Prosecutor") violated the Access to Public Records Act by failing to respond to your request. I find that the Prosecutor did not timely respond to your request, in violation of the Access to Public Records Act.

BACKGROUND

You allege that the Prosecutor did not respond to your April 8 request for "all records that you presented to the court on the motion for sentence modification," and all records of the consideration up to the denial. The response of the Prosecutor to your complaint is enclosed. Prosecutor James Fleming acknowledged that the deputy did not respond to your April 8 request, although the Prosecutor did respond in a timely manner to your March request for records.

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 ("APRA"). Ind. Code 5-14-3-3(a). If a public agency receives a request for a record via U.S. Mail or facsimile, the public agency is required to respond within seven calendar days, or the request is deemed denied. IC 5-14-3-9(b).

The Prosecutor acknowledges that he did not respond to your request for the records. The Prosecutor has now responded to your request; his response that his office does not maintain

the records but they may be requested of the court is proper under the Access to Public Records Act.

CONCLUSION

For the foregoing reasons, I find that the Howard County Prosecutor violated the Access to Public Records Act when he failed to timely respond to your April 8 request for records.

Sincerely,

Karen Davis
Public Access Counselor

cc: James R. Fleming