

May 31, 2007

Marlan C. Bonds
#953219
Indiana State Prison
P.O. Box 41
Michigan City, IN 46361-0041

Re: Formal Complaint 07-FC-120; Alleged Violation of the Access to Public Records Act by the Elkhart County Public Defender

Dear Mr. Bonds:

This is in response to your formal complaint alleging that the Elkhart County Public Defender's Office ("Office") violated the Access to Public Records Act by failing to respond to your request for records. I find that the Office failed to respond while it was compiling responsive records, and that the Office has now sent you responsive documents.

BACKGROUND

You requested all file material for Cause No. 20D03-0310-FB-00197. You allege that the Office has not responded to your request. Mr. Clifford Williams, Chief Public Defender, acknowledged that his office did not respond during the time that it was preparing responsive records. Mr. Williams provided you and me with copies of the material from the file in the cause you specified.

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 in person or by telephone, the public agency is required to respond within 24 hours or the record is deemed denied. IC 5-14-3-9(a). If the 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 Office admits that it did not send a response within seven days of receiving your request. The Office, having now received a complaint, has completed the task of compiling the records and has sent them to you. This action to provide you with records does not excuse non-response, and I must find that the Office violated the Access to Public Records Act when it failed to send a response within seven days of receiving your request.

CONCLUSION

For the foregoing reasons, I find that the Elkhart County Public Defender's Office failed to timely respond to your request for records and therefore violated the Access to Public Records Act. The Public Defender has now complied with your request.

Sincerely,

Karen Davis
Public Access Counselor

cc: Clifford R. Williams