

June 4, 2007

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

Re: Formal Complaint 07-FC-122; Alleged Violation of the Access to Public Records Act by Boone Superior Court I

Dear Mr. Salone:

This is in response to your formal complaint alleging that the Boone Superior Court I (“Court”) violated the Access to Public Records Act by failing to respond to your request for a record. I find that the Court did not violate the Access to Public Records Act because your request was directed to the Court Clerk, and because at the time you filed your complaint, the time for response had not yet transpired.

BACKGROUND

You filed a formal complaint against Boone Superior Court I alleging that the Court had not responded to your request for records. The Court provided documentation in response to your complaint. This documentation, which is enclosed, shows that your request for records was directed to and addressed to the Clerk of the Boone Superior Court. The request was received on April 23. The request was postmarked April 20, 2007, although you dated it April 16, 2007. You filed your complaint on April 26, alleging non-response.

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 Clerk received your request on April 23, 2007. Therefore, the Clerk was required to respond by April 30, four days after you sent your complaint to the public access counselor. The Clerk is a separate agency from the Court. Therefore, the obligation to respond would have belonged to the Clerk, not the Court. I find that your complaint was not ripe, and that you have not set forth a meritorious claim that the Court violated the Access to Public Records Act.

In any event, the Court had not rested on your request. Because of your affidavit of indigency, the Court determined whether you were entitled to receive copies of the records without charge. On May 1, the Court directed the Clerk to make the copies and mail them to you without charge. The records were compiled and mailed to you on May 14. By now, you should have received the entire court file that you had requested.

CONCLUSION

For the foregoing reasons, I find that the Boone Superior Court I did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Honorable Matthew C. Kincaid