

June 14, 2007

Cleverly Lockhart  
#895563  
Wabash Valley Correctional Facility  
P.O. Box 1111  
Carlisle, IN 47838

*Re: Formal Complaint 07-FC-133; Alleged Violation of the Access to Public Records Act by the Howard Circuit Court Clerk*

Dear Mr. Lockhart:

This is in response to your formal complaint alleging that the Clerk of the Howard Circuit Court ("Clerk") violated the Access to Public Records Act by failing to give you records.

#### BACKGROUND

You complained that the Clerk has ignored your request for specific records although you have already forwarded the payment for the copies. You listed five specific items from the case file involving your matter, cause no. 34C01-9406-CF-00040. I sent a copy of your complaint to the Clerk. She responded on May 22 by letter listing the items that she has sent to you. It is not clear from her letter whether she claims to have supplied you with the records before your complaint, or is now sending you the records, or both. In any event, I received additional correspondence from you on June 1. You reported receiving in the mail from Clerk Mona Myers everything you requested except the amended post-conviction relief filed July 13, 2004.

#### 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). There is no dispute concerning whether the case records in your cause are disclosable public records. The Clerk may have provided some of the records in the past. You are entitled to one copy of a record, but not more than one copy. IC 5-14-3-8(e). Therefore, if the Clerk has previously provided records, she is not required to provide duplicate copies of records.

The list of records that Ms. Myers states she has provided does not include the July 13, 2004 amended petition for post-conviction relief. I recommend that Ms. Myers determine whether the case records include the amended petition, and if so, I recommend that she send you a copy of the petition as soon as possible.

#### CONCLUSION

For the foregoing reasons, I find that the Clerk of the Howard Circuit Court is required to provide one copy of all disclosable records in your cause, but is not required to provide duplicate copies of records under the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Mona L. Myers