

May 27, 2003

Larriante J. Sumbry  
#965137 A-257  
Indiana State Prison  
P.O. Box 41  
Michigan City, IN 46361-0041

Re: *Advisory Opinion 03-FC-31*; Alleged Denial of Access to Public Records by the Indiana House of Representatives.

Dear Mr. Sumbry:

This is in response to your formal complaint, which was received on May 2, 2003. You have alleged that the Indiana House of Representatives, and in particular Dr. Vernon Smith, ("House of Representatives") has violated the Indiana Access to Public Records Act ("APRA"), Indiana Code chapter 5-14-3. Specifically, you allege that the House of Representatives denied your public records request dated April 14, 2003 for access to a number of public records. Dr. Smith responded in writing to your complaint. A copy of his response is enclosed for your reference. For the reasons set forth below, it is my opinion that the House of Representatives did not violate the APRA by failing to provide you with the documents you requested because they never received your request.

### BACKGROUND

According to your complaint, in a letter dated April 14, 2003, you requested from the House of Representatives access to public records concerning not only the House of Representatives and particular public laws, but also information as to how to represent oneself pro-se and other self-representation handbooks.

When you had not received a response seven (7) days after you apparently mailed your request, you filed your formal complaint with this Office alleging that you had been denied access to these public records.

In his response, Dr. Smith stated that he has always responded in a timely manner to your requests, contacted you personally and contacted the Indiana Department of Correction on your behalf. While he

does not often have access to some of the items you request from him, he advised you to contact the courts and other agencies that do maintain those records. Dr. Smith further stated that he never received your April 14th request, therefore he did not violate the APRA by failing to respond to it.

### ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." Ind. Code § 5-14-3-1. The House of Representatives is clearly a public agency for the purpose of the APRA. Ind. Code § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the House of Representatives during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana code section 5-14-3-4. Ind. Code § 5-14-3-3(a).

According to your complaint, you allegedly mailed your request to Dr. Smith on or about April 14, 2003. Dr. Smith, however, never received your request. For this reason, it is my opinion that the House of Representatives did not deny you access to public records in violation of the APRA with respect to your request.

### CONCLUSION

It is my opinion that the Indiana House of Representatives, and in particular Dr. Vernon Smith did not violate the Access to Public Records Act with respect to your April 14, 2003 request because your request was never received.

Sincerely,

Anne Mullin O'Connor

Enclosure

cc: The Honorable Vernon G. Smith w/o enclosure

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