

May 26, 2005

Micah D. Perryman  
Wabash Valley Correctional Facility  
P.O. Box 2222  
Carlisle, IN 47838

*Re: Formal Complaint 05-FC-85; Alleged Violation of the Access to Public Records Act by the Elkhart Circuit Court Clerk*

Dear Mr. Perryman:

This is in response to your formal complaint alleging that the Elkhart Circuit Court Clerk (“Clerk”) violated the Access to Public Records Act by failing to provide you with records. I find that the Clerk has already provided you with the records.

#### BACKGROUND

You allege in your complaint filed May 2, 2005 that you have not received the records that you requested in your March 28, 2005 request. Specifically, you had requested a copy of the affidavit for search warrant presented to Judge Platt on May 5, 2003, and the search warrant issued by Judge Platt on the same date. You allege that you have never received these documents.

I sent a copy of your complaint to the Clerk. She responded by letter, stating that the Clerk received your request on March 28, and that the requested records were sent to you on April 12, 2005. The Clerk also noted that you enclosed a copy of the very affidavit you now claim you have not received with the March 31 letter that you wrote to the Judge. You apparently have been able to get the affidavit you requested following an earlier request. In any event, the Clerk has again sent you copies of all the records you had requested on March 28 and March 31, this time by certified mail, return receipt requested.

## ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, except as provided in section 4 of the APRA. Ind. Code 5-14-3-3(a). Your complaint alleges that you have not received the records you had requested in your March 28, 2005 request. However, it appears that the Clerk had sent those records to you on April 12, 2005. The Clerk has now sent you the records again. I cannot find from the information that you have presented that the Clerk denied you a record in violation of the APRA. To the contrary, it appears that you may be seeking multiple copies of the same records. The public agency is not required to continue to fulfill a request for records that it has already fulfilled. I find your complaint to be without merit.

## CONCLUSION

For the foregoing reasons, I find that the Elkhart Circuit Court Clerk did not violate the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Stephanie Burgess