

November 29, 2004

Mr. Larriante Sumbry  
Indiana Department of Correction  
Indiana State Prison  
P.O. Box 41  
Michigan City, IN 46361-0041

*Re: Formal Complaint 04-FC-204; Alleged Violation of the Access to Public Records Act by the Indiana Family and Social Services Administration, Lake County Division of Family and Children*

Dear Mr. Sumbry:

This is in response to your formal complaint alleging that the Family and Social Services Administration, Lake County Division of Family and Children (“DFC”) violated the Access to Public Records Act by failing to respond within seven days of the receipt of your request for a record. I find that DFC violated the Access to Public Records Act.

#### BACKGROUND

You mailed a letter dated September 20 to the Regional Director of the Lake County Division of Family and Children requesting a copy of the birth certificate contained in your file, and “copy of mental health file.” You claim that you were denied access to the record on October 5, 2004, because you received a written response from the agency on October 5. Your complaint to the public access counselor’s office states that the agency failed to respond within seven (7) days as required by statute.

I sent a copy of your complaint to Mr. Bruce D. Hillman, Director of the Lake County Division of Family and Children. He sent me a copy of the October 5 letter in which he states that your birth certificate from your case file is no longer available because it and the remainder of the case file were destroyed in accordance with the agency’s record retention schedule. Other documentation that I received from Mr. Hillman shows that the agency received your request on either September 23 in the Regional Manager’s office, or on September 24.

## ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency's regular business hours, unless there is an exception to disclosure. IC 5-14-3-3(a). An agency that has not responded within seven (7) days of receipt of a request that it receives by mail has denied the record. IC 5-14-3-9(b). Any denial of a written request for records must be in writing and include a statement of the specific exemption authorizing the withholding of the public record and the name of the person responsible for the denial. IC 5-14-3-9(c). Here, the DFC received your request on September 24 at the latest. It should have sent a written response to you by October 1, 2004. Its response to you was on October 5, 2004, and therefore is untimely. However, I note that the DFC no longer maintains the record that you seek. It was destroyed in accordance with the record retention schedule for that type of record.

## CONCLUSION

For the foregoing reasons, I find that the Lake County Division of Family and Children did not timely respond to your request for records, and its untimely response was a violation of the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Mr. Bruce D. Hillman