



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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November 2, 2015

Mr. Tyrone Frazier #910476
Indiana State Prison
One Park Row
Michigan City, Indiana 46360

Re: Formal Complaint 15-FC-253; Alleged Violation of the Access to Public Records Act by the City of Indianapolis, Office of Corporation Counsel

Dear Mr. Frazier,

This advisory opinion is in response to your formal complaint alleging the City of Indianapolis, Office of Corporation Counsel ("Office") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Office has responded to your complaint via Ms. April Schultheis, Esq., Public Access Counselor. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on September 21, 2015.

BACKGROUND

Your complaint dated September 6, 2015 alleges the Office of Corporation Counsel violated the APRA by denying you access to public records.

On August 20, 2015, you requested a certified copy of an officer's event history detail report. Your request was denied as confidential. However, you contend that since you requested a redacted form, confidentiality does not apply. Further, you do not believe the documents can be considered investigatory because there is no ongoing investigation.

On September 30, 2015 the Office of Corporation Counsel responded. The Office states the records are "wholly investigatory in nature," and therefore withheld at discretion. The Office also notes the records are confidential under Ind. Code § 5-14-3-4(a)(3).



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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.” See Ind. Code § 5-14-3-1. The Office of Corporation Counsel is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(m)(1). Accordingly, any person has the right to inspect and copy the Office’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

The City holds the records are non-disclosable under the APRA. Ind. Code § 5-14-4(a)(1) declares any records deemed confidential under state law are non-discloseable. The records requested are obtained via an agreement with the Indiana Data and Communication System. IDACS information created via agreements with the Criminal Justice Information System. As I noted in *Advisory Opinion 15-FC-42*, “CJIS is regulated by the Code of Federal Regulations pursuant to Sections 501 and 524 (b) of the Omnibus Crime Control Act and Safe Street Act of 1968 and therefore non-discloseable under Ind. Code § 5-14-4(a)(1).”

The City also maintains the records are investigatory. A law enforcement officer’s Event History Detail Report would qualify as investigatory whether the investigation of a crime is ongoing and regardless of if the investigation led to a criminal charge. The City is justified is claiming the exception to disclosure under Ind. Code § 5-14-3-4(b)(1).

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Office of Corporation Counsel has not violated the Access to Public Records Act.

Regards,



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A handwritten signature in black ink, appearing to read "LH Britt", is positioned above the printed name and title.

Luke H. Britt
Public Access Counselor

Cc: Ms. April Schultheis, Esq.