



STATE OF INDIANA

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October 4, 2010

Mr. Michael J. Shepard
P.O. Box 488
Boonville, IN 47601

Re: Formal Complaint 10-FC-200; Alleged Violation of the Access to Public Records Act by the Evansville Police Department

Dear Mr. Shepard:

This advisory opinion is in response to your formal complaint alleging the Evansville Police Department ("EPD") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*

BACKGROUND

In your complaint, you allege that on July 24, 2010, and August 1, 2010, you sent records requests to the EPD via U.S. Mail. You sent follow-up letters to the EPD on August 12th and 19th. As of August 27th, you had not received a response from the EPD. You also note that the EPD records department charges five dollars (\$5.00) for copies of arrest or case reports, which you believe is an excessive fee under the APRA.

In response to your complaint, Asst. City Attorney Joshua Mastison states that you originally sent your request to the EPD on or about May 20, 2010. On June 13th, you sent several more letters concerning that request to the EPD records clerk. Specifically, you requested certified copies of 18 case reports and the corresponding documents. On June 25th, Sgt. Darren Sroufe of the EPD sent you a letter advising you of the current cost for certified copies of the case reports, the need for payment in advance, and that your request for the investigator's supplements to the case reports were exempt from disclosure under the investigatory records exception to the APRA. On or about June 28th, you replied to Mr. Sroufe and claimed that the EPD was acting in violation of the APRA. Mr. Mastison claims that the EPD is allowed to charge the five dollar (\$5.00) fee for certified copies of documents, which is what you requested in your June 13th letter. He says that the EPD has not violated the APRA but is simply trying to enforce the applicable copy fees uniformly to all records requesters.

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.” I.C. § 5-14-3-1. The EPD is a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the EPD’s public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Here, although you allege that the EPD did not respond to your July and August requests, it appears that EPD did respond to the substance of those requests when you first made them in May. An agency is not obligated to repeatedly respond to the same request if it has already done so. In its initial response to you on June 25th¹, EPD advised you of the applicable copy and certification fees for the disclosable records and cited to the investigatory records exception for those records the EPD opted to withhold. I.C. § 5-14-3-4(b)(1). The APRA does permit a public agency that is not a state agency to collect no more than five dollars (\$5.00) for the certification of a document. I.C. § 5-14-3-8(d). The EPD may require that copy and certification fees be paid in advance. I.C. § 5-14-3-8(f). Consequently, it is my opinion that the EPD did not violate the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion that the EPD did not violate the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Joshua Mastison

¹ I express no opinion as to whether or not the EPD’s initial response was timely as such an allegation is beyond of the 30-day time limit for filing formal complaints. I.C. § 5-14-5-7.