



STATE OF INDIANA

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April 1, 2014

Mr. Aaron Ross - #196309
4490 W. Reformatory Road
Pendleton, Indiana 46064

Re: Formal Complaint 14-FC-38; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department

Dear Mr. Ross,

This advisory opinion is in response to your formal complaint alleging the Indianapolis Metropolitan Police Department ("IMPD") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The IMPD has responded via Ms. Samantha DeWester, Esq., City Prosecutor and 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 February 28, 2014.

BACKGROUND

Your complaint dated February 28, 2014, alleges the Indianapolis Metropolitan Police Department violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On or about January 28, 2014, you submitted a public records request to the IMPD seeking certified records relating to Case #090025584. To my knowledge you have previously submitted formal complaints relating to this case number against the IMPD on two separate occasions (*See Ops. of the Public Access Counselor 13-FC-181; 13-FC-113*). From those Opinions, it appears your public records requests were ultimately satisfied. Your current complaint involves the certification of those records. You seek certified copies of records already in your possession.

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 Indianapolis Metropolitan Police Department is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the IMPD’s 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).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

The question of certification has previously been contemplated in the *Opinion of the Public Access Counselor 08-FC-139*. Former Counselor O’Neal opined public agencies are not required to certify records under the APRA. I see no reason to deviate from that analysis. Pursuant to the APRA, the only required certification of public records are final offers of certain economic development entities under Ind. Code § 5-14-3-4; 4.7; 4.8; 4.9 et. seq.

The General Assembly has not passed legislation mandating any other public agency to certify documents under the APRA. Likewise, I cannot compel the IMPD to do so. It is clear from prior opinions the IMPD has satisfied their obligation to provide you the records you seek. As a courtesy to citizens, a public agency may extend the service of certification (and to charge a fee pursuant to Ind. Code § 5-14-3-8(d)), but they are not required to do so absent any other statutory provision.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Indianapolis Metropolitan Police Department has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Ms. Samantha DeWester, Esq.