



STATE OF INDIANA

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September 12, 2016

Mr. Theodore F. Miller
831 Douglas Drive
Evansville, Indiana 47712

Re: Formal Complaint 16-FC-200; Alleged Violation of the Access to Public Records Act by the Metropolitan Evansville Transit System

Dear Mr. Miller:

This advisory opinion is in response to your formal complaint alleging the Metropolitan Evansville Transit System ("METS") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The METS has not responded despite an invitation to do so on August 16, 2016. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on August 15, 2016.

BACKGROUND

Your complaint dated August 15, 2016, alleges the Metropolitan Evansville Transit System did not fulfill a public records request submitted on or about August 5, 2016. You requested from the METS Executive Director a disparity study required by the Federal Transit Administration. Instead, you received a different document you contend is not responsive to your request.

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 Indiana Code § 5-14-3-1*. The Metropolitan Evansville Transit System is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the METS' disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

A request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. If the request submitted and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See Indiana 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.

Without the benefit of a response from the METS, I am not privy to any argument or justification, if any, as to whether the document in question is the same as the one you requested. Pursuant to Indiana Code § 5-14-5-5, a public agency shall cooperate with the investigation of this Office. The METS has failed to do so.

CONCLUSION

Based on the forging, it the opinion of the Public Access Counselor the Metropolitan Evansville Transit System has 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