



STATE OF INDIANA

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March 18, 2009

Jeffory House
DOC #159896
One Park Row
Michigan City, Indiana 46360

Re: Formal Complaint 09-FC-57; Alleged Violation of the Access to Public Records Act by the Middletown Fallcreek Township E.M.S.

Dear Mr. House:

This advisory opinion is in response to your formal complaint alleging the Middletown Fallcreek Township E.M.S. ("E.M.S.") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. A copy of the E.M.S.'s response to the complaint is enclosed for your reference. It is my opinion the E.M.S. has not violated the APRA.

BACKGROUND

You allege that on January 29, 2009 you submitted a request for access to the records maintained by the E.M.S. Specifically, you requested "all records concerning blood." The E.M.S. did not provide you access to any records. My office received your complaint on February 17.

The E.M.S. responded to the complaint by electronic mail message dated March 5. The E.M.S. contends it does not maintain any records responsive to your request, as the E.M.S. is not allowed to use needles, draw blood, or administer any solution or drugs. The E.M.S. indicates it did respond to a run on September 16, 2005 and found you had an injury to your hand. The E.M.S. indicates it will provide a copy of the run report at your request.

ANALYSIS

The public policy of the APRA states, "[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 E.M.S. is a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the

E.M.S. during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

You have requested “all records concerning blood” maintained by the E.M.S. The E.M.S. indicates it does not maintain any such records, as it does not use needles, draw blood, or administer any blood or solutions. Nothing in the APRA requires a public agency to *develop* records or information pursuant to a request. The APRA requires the public agency to *provide access* to records already created. If the E.M.S. does not maintain any records responsive to your request, it cannot provide you access to any such records.

CONCLUSION

For the foregoing reasons, it is my opinion the E.M.S. has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Phil Chandler, Middletown Fallcreek Township E.M.S.