



STATE OF INDIANA

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January 14, 2009

Bradley Anderson
1809 Chapel Drive
Valparaiso, Indiana 46383

Re: Formal Complaint 09-FC-9; Alleged Violation of the Access to Public Records Act by the Valparaiso University Police Department

Dear Mr. Anderson:

This advisory opinion is in response to your formal complaint alleging the Valparaiso University Police Department ("Department") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. A copy of the Department's response to the complaint is enclosed. In my opinion the Department is not a public agency for the purposes of the APRA.

BACKGROUND

You filed the present complaint on December 15, 2008. You allege that you have requested from the Department copies of records pertaining to alleged incidents involving University students and that the Department has denied you access to those records. You requested priority status for the complaint but did not allege any of the circumstances for priority status provided in 62 IAC 1-1-3, so priority status was not granted.

The Department responded to the complaint by letter dated December 18 from attorney James Jorgensen. The Department contends the University is a private institution and not a "level of government." As such, the University is not required to disclose records pursuant to the APRA. The Department further argues that even if the University were a public agency, the Department's records you have requested would fall under the investigatory records exception to disclosure. The Department cites *Opinion of the Public Access Counselor 03-FC-108*, regarding the Taylor University Office of Campus Safety.

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 question here is whether Valparaiso University and the Valparaiso University Police Department are public agencies for the purposes of the APRA. As the Department points out, a very similar issue has been addressed by my predecessor in *Opinion of the Public Access Counselor 03-FC-108*. In that opinion, Counselor Hurst provided a thorough analysis of the complainant's claim that the Office of Campus Safety is a public agency for the purposes of the APRA. Rather than reiterate Counselor Hurst's analysis, I am instead attaching the opinion for your reference. I agree with Counselor Hurst's opinion and find it directly on point here. For the reasons outlined by Counselor Hurst, it is my opinion neither the University nor the Department are public agencies for the purposes of the APRA.

Because the Department is not a public agency, it is not required to respond to requests for access to records nor to provide access to the records you have requested.

CONCLUSION

For the foregoing reasons, it is my opinion the Department has not violated the APRA because it is not a public agency subject to the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: James Jorgensen, Hoepfner Wagner & Evans LLP