



STATE OF INDIANA

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Via email transmission

March 16, 2017

Mr. Gerry Lanosga
Via email

Re: Informal Inquiry 17-INF-02; Private University Police Information

Dear Mr. Lanosga:

This is in response to your informal inquiry regarding the recent amendment to the Indiana Access to Public Records Act (“APRA”) concerning private university police forces. Pursuant to Indiana Code 5-14-4-10(5), I issue the following informal inquiry response.

DISCUSSION

During the 2017 session of the Indiana General Assembly, the legislature overrode a veto to a 2016 bill (HEA 1022) declaring private university police forces to be public agencies subject to the APRA. You inquire whether these departments are now obligated to release administrative records such as budgets and disclosable personnel records covered by APRA.

House Enrolled Act 1022 amended Indiana Code § 5-14-5-2(o) to include in its definition of public agency “a private university police department. The term does not include the governing board of a private university or any other department, division, board, entity, or office of a private university”. Under section 2.2 of the APRA, the following records of a private university police department are public records and subject to disclosure:

- (1) A record created or received after July 1, 2016, by a private university police department, to the extent the record:
 - (A) is created solely for a law enforcement purpose; and
 - (B) relates to arrests or incarcerations for criminal offenses.

- (2) A record that is created in compliance with 20 U.S.C. 1092 and 34 CFR 668, to the extent that public access is required under federal law.

This information has always been available in some form or another from the local prosecutor's office, the Clerk of Courts and, in the case of subsection 2, the private university police department under the Federal Clery Act. It should be noted it does not include the same categories of request for assistance information that is required to be documented by public university police or other municipal and state law enforcement agencies.

Similarly, while those public agencies traditionally considered to be government entities would have to release the information about which you inquire, Section 2.2 is clear that only law enforcement records, not administrative, are subject to disclosure. It stands to reason this is the case because those entities are not funded by taxpayers, but rather by the private university which is not subject to APRA. Likewise, police officers at private universities are not public employees for the purposes of APRA.

It is my interpretation the new law is intended to include only those records created for a law enforcement purpose and not administrative documents.

Please do not hesitate to contact me with any questions.

Best regards,

A handwritten signature in black ink, appearing to read 'L. Britt', with a stylized flourish extending from the bottom.

Luke H. Britt
Public Access Counselor