



STATE OF INDIANA

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March 25, 2010

Ms. Margaret H. Riggs
P.O. Box 441258
Indianapolis, IN 46244-1258

Re: Formal Complaint 10-FC-45; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department

Dear Ms. Riggs:

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.* I have enclosed IMPD's response to your complaint for your review.

BACKGROUND

According to your complaint, you asked to submitted two written requests to IMPD seeking access to a police report. After your second request, IMPD Commander Robert H. Holt called you to say that you only needed to go to the records division in the City-County Building to obtain a copy of the record. However, you claim that when you went to the City-County Building, the records clerk told you that the department could only give out a certain number of records before you needed to complete a special form. Further, you were told that you could not obtain cases prior to 2000. You inquired as to how your insurance company obtained a copy of the records, and the clerk told you that it was probably via computer.

In response to your complaint, Cdr. Holt claims that he never denied you access to the requested records. He states that he informed you of the multiple options by which you may obtain the records you seek, including by computer or by requesting the records via mail, telephone, or facsimile to the Citizens Services Department of the City of Indianapolis.

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. IMPD does not contest that it is a “public agency” under the APRA. IC 5-14-3-2. Accordingly, any person has the right to inspect and copy IMPD’s public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

With regard to your allegation that the IMPD would only release a certain amount of records before requiring you to complete a form, that is not necessarily a violation of the APRA. Under the APRA, a request for inspection and copying must be, at the discretion of the agency, in writing on or in a form provided by the agency. I.C. § 5-14-3-3(a)(2). Thus, IMPD is within its discretion to ask you to complete a form before fulfilling your records request.

You also allege that IMPD refused to provide you with records created prior to 2000. Indiana Code § 5-14-3- 7(a) imposes a duty on public agencies to protect public records from loss, alteration, mutilation, or destruction. Public agencies are required to maintain their records for a period of time and destroy their records only in accordance with an established records retention schedule. *See* I.C. § 5-14-3-4(e)(1). Indiana law states that public records subject to Indiana Code § 5-15 may be destroyed only in accordance with record retention schedules under that article. Because I am unfamiliar with IMPD’s retention schedule, I cannot determine whether or not IMPD has violated section 7 of the APRA by failing to maintain reports created prior to 2000. Regardless, IMPD should be able to either produce the pre-2000 records or demonstrate that they were destroyed in accordance with IMPD’s applicable retention schedule.

Finally, Cdr. Holt has stated that you will be able to obtain the records that you seek by utilizing either the City of Indianapolis’ website or by working with the Citizens Services Department. I trust this resolves your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that IMPD has not violated the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Cdr. Robert H. Holt