



STATE OF INDIANA

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June 27, 2011

Mr. Greg Sobin
DOC # 113650
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 11-FC-128; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department

Dear Mr. Sobin:

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. City of Indianapolis Chief Deputy Corporation Counsel Andrea L. Brandes responded on behalf of IMPD. Her response is enclosed for your reference.

BACKGROUND

In your complaint, you allege that you have written IMPD for "3 months to no avail," and that your requests are "being ignored" and you have not "been afforded a response of any kind what so ever [sic]."

In response to your complaint, Ms. Brandes acknowledges that IMPD received a request from you on October 15, 2010. IMPD sent a response to you acknowledging receipt of that request on October 18, 2010. You also sent a second request that IMPD received on December 16, 2010. Ms. Brandes notes that it was dated October 18th, but IMPD did not receive it until December 16th and it was not postmarked until December 14th. On December 16th, IMPD responded to that request with an acknowledgment letter.

On January 4, 2011, IMPD sent you a letter informing you that 46 pages related to your request were available at a cost of \$1.84. On January 21st, IMPD received your payment and a copy of its January 4th letter. On that copy, you had written the names of seven other individuals for whom you sought copies of incident reports. On February 4th, you sent a list of 39 names, 12 of whom were repeats from previous requests. Soon

after on February 13th, you sent another list of 10 names, seven of whom were repeated requests.

On February 25th, the City sent you copies of all records response to your request dated October 18th. You sent two more requests to the City on March 28th (40 names with 19 repeat requests) and May 24th (10 names with nine repeat requests). On June 1st, the City acknowledged receipt of your May 24th request. On June 3rd, the City sent you a letter advising you that all records responsive to your request were available. The City identified 227 pages of records and advised you of the associated cost: \$9.08 for one full set of copies that IMPD would mail directly to you. As of June 17, 2011, the date Ms. Brandes responded to your request, the City had not yet received payment for those records. However, Ms. Brandes adds that, “[u]nder the circumstances, however, IMPD will waive the applicable copying charge and will mail all two hundred and twenty-seven (227) pages to [you].”

ANALYSIS

In my opinion, the facts in this matter do not indicate that IMPD denied you access in violation of the APRA. The APRA is clear that a public agency may charge a fee for providing a copy of a record. *See generally* I.C. § 5-14-3-8. Moreover, a public agency may require that the payment for copying costs be made in advance. I.C. § 5-14-3-8(e). IMPD responded to each of your requests with a timely acknowledgment letter. With regard to the request you made in May of this year that formed the basis of this complaint, IMPD informed you on June 3rd that it had 227 pages of responsive records available for you. If you failed to remit payment for those copies, such failure did not put IMPD in violation of the APRA. Moreover, I trust that IMPD’s voluntary waiver of such fees resolves this matter to your satisfaction.

CONCLUSION

For the foregoing reasons, it is my opinion that IMPD did not violate the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Andrea L. Brandes