



STATE OF INDIANA

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October 19, 2014

Mr. Marvin F. Taylor, Sr. #995801
Indiana State Prison
One Park Row
Michigan City, IN 46260

Re: Formal Complaint 14-FC-210; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department

Dear Mr. Taylor,

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.* IMPD has responded to your complaint via Ms. Samantha E. DeWester, Esq., City Prosecutor. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor September 17, 2014.

BACKGROUND

Your complaint dated September 17, 2014, alleges the Indianapolis Metropolitan Police Department violated the Access to Public Records Act (IC 5-14-3) by improperly denying you access to public records.

On or about August 15, 2014, you submitted a public records request to IMPD seeking investigatory records including pathology and laboratory reports, Department of Child Services' files, on site investigation reports and others. IMPD acknowledged your request on August 21, 2014 and denied your request in writing on August 27, 2014 citing the investigatory records exception found at Ind. Code § 5-14-3-4(b)(1). In its formal response, IMPD has reiterated its discretion to use the exception.

ANALYSIS

The public policy of the APRA states that "a (p) roviding person 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." See Ind.

Code § 5-14-3-1. The Indianapolis Metropolitan Police Department is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy the IMPD's public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

Ind. Code § 5-14-3-4(b)(1) states the release of the investigatory records of law enforcement agencies are discretionary. The investigatory record exception is one of the broader exceptions found in the APRA and the statute does not set limits on when a law enforcement agency must release the records without a court order. Even if an investigation is closed, the discretion still exists. While I generally discourage agencies from having a policy of summarily rejecting all requests for investigatory records, the agency may do so. I only ask that they use the exception judiciously and use the exception on a case-by-case basis.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Indianapolis Metropolitan Police Department has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Ms. Samantha DeWester, Esq.