



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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October 19, 2014

Mr. Jeffrey McCrory #197273
Correctional Industrial Facility
5124 West Reformatory Road
Pendleton, IN 46064

Re: Formal Complaint 14-FC-216; Alleged Violation of the Access to Public Records Act by the Anderson Police Department

Dear Mr. McCrory,

This advisory opinion is in response to your formal complaint alleging the Anderson Police Department ("Department"), violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Department has responded to your complaint via Lt. John Christian. 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 19, 2014.

BACKGROUND

Your complaint dated September 19, 2014, alleges the Anderson 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 19, 2014, you submitted a public records request to the Department seeking several investigatory records including case reports. The Department acknowledged your request on September 5, 2014 and denied your request in writing citing the investigatory records exception found at Ind. Code § 5-14-3-4(b)(1). In its formal response, the Department 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 Anderson 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 Department'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).

As I recently stated in *Opinion of the Public Access Counselor 14-FC-210* in a similar circumstance:

Ind. Code § 5-14-3-4(b)(1) states that 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.

Such is the case here. It appears as if the Department did indeed use the exception judiciously by releasing some, but not all of the records. This is consistent with the spirit of the law.

CONCLUSION

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

Regards,

A handwritten signature in black ink, appearing to be 'LHB', written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Lt. John Christian