



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

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January 9, 2015

Mr. Anthony Riddick-Bey  
Plainfield Correctional Facility  
727 Moon Rd.  
Plainfield, IN 46168

*Re: Formal Complaint 14-FC-295; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department*

Dear Mr. Riddick-Bey,

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.* The IMPD has not responded to your complaint despite an invitation to do so on December 3, 2014. 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 December 1, 2014.

## **BACKGROUND**

Your complaint dated November 25, 2014 against the Indianapolis Metropolitan Police Department alleges the IMPD violated the Access to Public Records Act (Ind. Code § 5-14-3) by failing to produce records responsive to your request.

On or about October 27, 2014, you submitted a public records request to IMPD seeking:

"Investigatory Records" pursuant to I.C. to [sic] 5-14-3-5; of the traffic stop/ N.C.I.C. check of Anthony D. Riddick D.O.B. 9-24-1974 .... April 23, 2010

- a. Incident report and log pertaining to detective Ryan Graber involvement [sic] during this alleged traffic stop...
- b. Information that identifies Anthony D. Riddick in reference to [the traffic stop]
- c. Make and Model of said vehicle driven by [the detective's vehicle]
- d. Copies of any and all infraction, citations, notes and still pictures, but limited to in dash camera picture of said traffic stop...



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The IMPD responded to your request denying the entirety of the records to you under the investigatory records exception to disclosure found at Ind. Code § 5-14-3-4(b)(1).

## 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).

The investigatory records exception to the APRA provides that a law enforcement agency has the discretion to disclose or not disclose its investigatory records. See Ind. Code § 5-14-3-4(b)(1). An investigatory record is “information compiled in the course of the investigation of a crime.” Ind. Code § 5-14-3-2(h).

While law enforcement agencies are afforded this broad discretion, I have often cautioned that the exceptions to the APRA should be used judiciously. Just because an exception is available does not mean it must be exercised. Law enforcement must weigh whether use of the exception serves to protect the integrity of an investigation or preserve an element of public safety.

Ind. Code § 5-14-3-5, however, states certain information shall be made available for inspection and copying when an arrest occurs. More often than not, law enforcement agencies provide this information in the form of a “daily log” or “media blotter”. It is a separate document generated from the incident report itself and disseminated to the public in compliance of the law. It is very likely IMPD maintains this log from the date in question.

Your request, however, asks for information which could be considered to be beyond the scope of the daily log. To the extent that notes, pictures, in dash camera footage, etc. would be considered “investigatory”, the IMPD could rely upon the exception to disclosure. You do ask for a log in subsection (a.) of your request and this information should have been provided to you upon request. Asking for a log and identifying a certain date should have been reasonably particular enough to put IMPD on notice of what you were seeking.



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## CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Indianapolis Metropolitan Police Department has violated the Access to Public Records Act for not providing the daily log with the information you seek. Any other documentation outside the scope of the log may be withheld at its discretion.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt  
Public Access Counselor