



STATE OF INDIANA

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July 11, 2016

Mr. William R. Bowman - #156713
Wabash Valley Correctional Facility
Post Office Box 1111
Carlisle, Indiana 47838

*Re: Formal Complaint 16-FC-124; Alleged Violation of the Access to Public Records Act by the
Connersville Police Department*

Dear Mr. Bowman:

This advisory opinion is in response to your formal complaint alleging the Connersville Police Department ("Department") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Board has responded via Ms. Jackie Pennington, Administrative Assistant. Her response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on June 2, 2016.

BACKGROUND

Your complaint dated June 1, 2016 alleges the Department violated the Access to Public Records Act by improperly denying your records request.

On May 13, 2016 you mailed a request to the Department seeking criminal histories of two (2) individuals. You received a response informing you the "history is not public access." You contend this denial is improper.

On June 17, 2016 the Department responded. The Department notes criminal history is maintained on the Indiana State Police system and is only disseminated to authorized personnel.

ANALYSIS

The public policy of the APRA states that "(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." *See Indiana Code § 5-14-3-1*. The Connersville Police Department is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Department's disclosable public records

during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14- 3-3(a).*

A public agency may deny the request if the denial is in writing or by facsimile; however, the denial must include **a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record**; and the name and the title or position of the person responsible for the denial. *See Indiana Code § 5-14-3-9(d) (Emphasis Added).*

The Department's response did not provide a specific statutory exemption authorizing withholding. A mere statement that something "is not public access" is too cursory a response and fails to inform the requestor of the specific state or federal laws affect his or her request. The Department's response to this office is similarly deficient, failing to state *why or by what authority* the records are confidential. Both an agency's original response and subsequent response to this office must have some degree of specificity. Without this specificity, I cannot determine if the Department properly applied the law pursuant to Indiana Code § 5-14-3-9(g). Accordingly, I expect a higher degree of statutory justification under Indiana Code § 5-14-5-5. A weightier response to your complaint may have satisfied that requirement.

This is a technical violation of the APRA – it is likely the records you seek are deemed confidential under state or federal law. However, based upon the limited information provided, this Office cannot conclusively determine if the Department's actions were proper.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the Connorsville Police Department has violated the Access to Public Records Act by failing to properly deny your records request.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Ms. Jackie Pennington