



STATE OF INDIANA

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September 9, 2016

Mr. Christopher King
3501 South Walnut Street
Muncie, Indiana 47302

Re: Formal Complaint 16-FC-185; Alleged Violation of the Access to Public Records Act by the Joint Emergency Communication Center Executive Board, Muncie Police Department

Dear Mr. King:

This advisory opinion is in response to your formal complaint alleging the Joint Emergency Communication Center Executive Board, Muncie Police Department ("MPD") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The MPD has responded via Chief Steve Stewart. His 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 August 3, 2016.

BACKGROUND

Your complaint dated August 3, 2016, alleges the Joint Emergency Communication Center Executive Board, Muncie Police Department violated the Access to Public Records Act by failing to provide the records you requested.

Based on your complaint, you submitted a request for several documents to the MPD. Chief Stewart responded by acknowledging that your request fell by the wayside after several incidents involving police-action shootings and other demands of the Department. The records you sought were included with his response and enclosed herein.

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 Joint Emergency Communication Center Executive Board, Muncie 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 MPD'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 request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See Indiana Code § 5-14-3-9(b)*. A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

It appears as if the delay in producing your request was an unfortunate oversight and the MDP was not attempting to deny your request or withhold any information. Chief Stewart concedes the lapse. Although I certainly empathize with the daily and frequently unpredictable demands on law enforcement, I do encourage MPD to note the importance of public records requests and of transparency in general. It is still considered a violation of the APRA to fail to produce requested records within a reasonable time. *See Indiana Code § 5-14-3-3*. It is my sincere hope the delay in production of documents did not substantially inconvenience you.

Please do not hesitate to contact me with any questions.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: Chief Steve Stewart