

August 12, 2003

Mr. Greg Sobin, 113650  
Location DW 418  
Indiana State Prison  
P.O. Box 41  
Michigan City, IN 46361-0041

Re: *Advisory Opinion 03-FC-57*: Alleged Denial of Access to Public Records by the Indianapolis Fire Department

Dear Mr. Sobin:

This is in response to your formal complaint, which was received on July 14, 2003. You have alleged that the Indianapolis Fire Department ("IFD") has violated the Indiana Access to Public Records Act ("APRA"), Indiana Code chapter 5-14-3. Specifically, you allege that the IFD wrongfully denied you access to public records with respect to a written request that you made to the IFD. Ms. Al Stovall of the IFD responded in writing to your complaint. A copy of his response is enclosed for your reference. After reviewing all the information provided to me it is unclear whether the IFD violated the APRA.

### BACKGROUND

According to your complaint, you requested copies of the disposition report of your accusations against Mr. Larry Carter of the IFD and a copy of the rules and regulations of the IFD. You contend that on July 10, 2003 you were denied access to these records. You then filed your complaint with this Office. In his response to this Office Mr. Stovall advised that the IFD forwards any public records request from you to Ms. Michelle Wall, Arson Prosecutor for the Marion County Prosecutor's Office. Mr. Stovall did provide copies of IFD rules and regulations as you requested.

### 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." Ind. Code § 5-14-3-1. Furthermore, "[t]his

chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record." Ind. Code § 5-14-3-1.

The IFD is clearly a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the IFD during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana Code section 5-14-3-4. Ind. Code § 5-14-3-3(a).

According to your complaint, you mailed a public records request to the IFD, and you were denied access to public records. However, you failed to provide enough facts to establish how you were denied access to public records. Therefore, I cannot make a determination as whether or not you were denied access to public records in violation of the APRA.

### CONCLUSION

In conclusion, because you failed to provide enough facts to establish how you were denied access to public records I cannot make a determination as to whether the Indianapolis Fire Department violated the Access to Public Records Act.

Sincerely,

Sandra K. Barger  
Acting Public Access Counselor

Enclosure

cc: Mr. Al Stovall, Director of Personnel  
Indianapolis Fire Department