



STATE OF INDIANA

MICHAEL PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

January 19, 2016

Mr. Mark V. Hawkins, Esq.
Indiana Department of Transportation
100 North Senate Avenue, Room N730
Indianapolis, Indiana 46204

Re: Informal Inquiry 16-INF-01; Personal Information within INDOT Records

Dear Mr. Hawkins:

This is in response to your informal inquiry regarding the release of records which include personal information. I issue the following informal opinion in response to your inquiry. My opinion is based on applicable provisions of the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1, Ind. Code § 5-14-3-2, and Ind. Code § 5-14-3-4(b)(8)(A).

BACKGROUND

The State of Indiana, Indiana Department of Transportation ("INDOT") seeks to address whether certain personal information regarding members of the public can be released to a third party, as a matter of public record under the APRA, Ind. Code § 5-14-3-1. The request may contain contact information of an Indiana resident.

ANALYSIS

According to the APRA, Ind. Code § 5-14-3-1, Indiana public policy provides that, "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees."

Ind. Code § 5-14-3-4(b) lists several discretionary exemptions to disclosure which relate to contact and personal information. These exemptions include the addresses of: first responders, customers of municipal owned utility, and individuals under the age of 18. All of the exemptions listed under Ind. Code § 5-14-3-4(b) are at the discretion of the agency. However, there is no statutory provision which specifically allows INDOT to withhold or redact records containing personal information. Therefore, INDOT may not redact the personal information of individuals contained in its records unless the information is subject to the discretionary release under a provision of Ind. Code § 5-14-3-4(b). Please

note there are certain other exemptions to disclosure scattered throughout Indiana Code, however, to my knowledge, none are specific to INDOT.

INDOT previously requested that this Office address the personal information issue under former Public Access Counselor, Ms. Heather Neal, Esq. Quoting a prior PAC opinion, she opined:

[T]he APRA does not contain a privacy provision. Former Counselor O'Connor addressed this issue in *Opinion of the Public Access Counselor 01-FC-26*:

Under the APRA, the General Assembly has made determinations as to what information must not or may not be disclosed, and in some cases, those determinations were made in the interest of protecting individuals' personal privacy. While it is always a compelling argument that a public record may affect...personal privacy, there are no general statutory exceptions under the APRA that would permit [a public agency] to deny access to public records on this basis.

Absent an INDOT-specific statute or Administrative Code provision prohibiting its release, personal information should not be redacted pursuant to a public records request.

Please do not hesitate to contact me with any further questions.

Best regards,

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

Luke H. Britt
Public Access Counselor