



STATE OF INDIANA

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November 4, 2015

Ms. Andrea Huntington, Esq.
Via email
South Bend, IN

Re: Informal Inquiry 15-INF-27; Confidentiality of Identification Cards

Dear Ms. Huntington:

This is in response to your informal inquiry regarding confidentiality of information obtained for the purpose of municipal identification cards.

The City of South Bend has received a recommendation to issue voluntary municipal identification cards to residents. Various institutions throughout the City would recognize these cards. The City's concern is regarding the privacy of cardholders. You seek to know whether there are any protections in the Access to Public Records Act ("APRA") which would maintain the privacy of citizens who voluntarily participate in the ID card program.

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 Ind. Code § 5-14-3-1. The City of South Bend is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2. Accordingly, any person has the right to inspect and copy the City's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise non-disclosable under the APRA. See Ind. Code § 5-14-3-3(a).

Presumably, the City would maintain a database of cardholder information in a data repository after that information is submitted via the ID card application process. Certain types of information are specifically mentioned in the APRA as being confidential or its release discretionary upon request. For example, social security numbers – if part of the

application process – would need to be withheld from public disclosure. See Ind. Code § 5-14-3-4(a)(12).

Names and addresses and other kinds of contact information are not considered to be confidential, nor their release discretionary. However, a public agency is not required to generate a list of names and addresses upon request if one does not already exist. See Ind. Code § 3-14-3-23(f). Furthermore, if a list does exist, a public agency must allow a requestor to inspect the list and make an abstract, yet does not have to provide a copy. In the same vein, however, a request for the applications of “all” participants would not meet the specificity requirements of Ind. Code § 5-14-3-3. A reasonably particular request would need to name specific individuals.

The State Bureau of Motor Vehicles is subject to the State and Federal Driver’s Privacy Act which prohibits the release of “sensitive information” upon request unless certain requirements are met. Although they apply to State-issued identification cards, these statutes are BMV specific and would not apply to municipalities. See generally, Ind. Code §§ 9-14-3 et. al. and 3.5 et. al.

Similarly, Indiana State Agencies are subject to the Fair Information Privacy Act (“FIPA”), Ind. Code § 4-1-6 et. al. . While not applicable to municipalities, it should be used as model guide for personal information recordkeeping systems such as the City’s database.

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 large, sweeping flourish at the end.

Luke H. Britt
Public Access Counselor