



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

November 20, 2015

Mr. Gary R. Welsh, Esq.
320 North Meridian, Suite 615
Indianapolis, Indiana 46204

Re: Formal Complaint 15-FC-284; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department

Dear Mr. Welsh,

This advisory opinion is in response to your formal complaint alleging the Indianapolis Metropolitan Police Department ("IMPD") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Office responded via Ms. April Schultheis, City Public Access Counselor on behalf of the City of Indianapolis ("City"). Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 21, 2015.

BACKGROUND

Your complaint dated October 16, 2015 alleges the Indianapolis Metropolitan Police Department violated the Access to Public Records Act by not providing access to the requested documents.

On October 2, 2015, you hand-delivered a public records request to the City of Indianapolis requesting to copy or inspect the disciplinary records of IMPD officers which resulted in termination, demotion or suspension between January 1, 2013 and October 1, 2015. The City denied your request based upon a lack of reasonable particularity. You contend your request was sufficiently specific and identifying named individual officers should not be required to meet the standard of particularity. You also contend such a request has been fulfilled in the past to the Indianapolis Star and you believe the administration at IMPD also receives such reports. You indicate you feel you are being treated differently than other individuals requesting documents.

The City responded to your formal complaint by reiterating its stance, in which a reasonably specific request would need to name individuals and identify officers.



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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 Indianapolis Metropolitan Police Department is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy IMPD’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

IMPD concedes the substantive information you request is public record pursuant to the first clause in Ind. Code § 5-14-3-4(b)(8)(C). The factual basis of public employees subject to termination, demotion or suspension is disclosable public record. However, IMPD contends your request is insufficient because it seeks “disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name”. This would be information a public agency does not have to compile according to the latter part of subsection (b)(8)(C).

However, it is unclear if this information is already compiled in the form of a collective staffing report or whether it exists in individual files yet to be amalgamated. A public agency does not have to create a list or a report synthesizing information on human resource disciplinary data, but to the extent it does exist, it is my opinion you have the right to inspect it. It is no longer an individual personnel file record, but an administrative human resources document. Despite your speculation, however, I cannot make a conclusive determination such a compilation exists. I do agree it stands to reason a large law enforcement agency such as IMPD would indeed have such a report.

You also cite to an Indianapolis Star article referencing a study conducted of information pertaining to a similar grouping of employees from 1992-1997. I do not know when or why this information was collected and disseminated, but you are correct in your assertion if IMPD allows inspection or copying of data to one requestor, it must extend the same courtesy to another. Public agencies cannot pick and choose to whom to release information upon request.



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CONCLUSION

Based on the foregoing, it is the determination of the Office of the Public Access Counselor the City would not have to comb through individual personnel files to compile the factual bases for individual officers pursuant to your request. You would need to name individuals for a request to satisfy the disclosure requirements of Ind. Code § 5-14-3-4(b)(8)(C). But, if IMPD uses staffing reports or any other type of memorandum (by whatever name) to communicate this information to upper management by human resources (HR) or the Professional Standards Bureau, as you believe, those summary reports would be disclosable public record. I recommend the City explore whether IMPD creates these kinds of reports or documents and if it does, to release them to you for the requested time period.

Regards,

A handwritten signature in black ink, appearing to read "LHB", written over a white background.

Luke H. Britt
Public Access Counselor

Cc: Ms. April Schultheis, Esq.