



# STATE OF INDIANA

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March 13, 2015

Mr. Gary R. Welsh, Esq.  
320 N. Meridian, Suite #615  
Indianapolis, IN 46204

*Re: Formal Complaint 15-FC-42; 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.* IMPD responded to your complaint on March 5, 2015 via Samantha DeWester, Esq., City Prosecutor. 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 February 6, 2015.

## BACKGROUND

Your complaint dated February 6, 2015 alleges the Indianapolis Metropolitan Police Department violated the Access to Public Records Act by failing to provide the requested information.

On or about January 27, 2015, you submitted a public records request to the IMPD. You requested a print out of the computer automated dispatch ("CAD") report for an event on December 20, 2014. On February 3, 2015, IMPD rejected to your request, informing you it related to investigative materials under Ind. Code § 5-14-3-4(b)(1).

You believe the CAD report pertains to a member of the IMPD driving while intoxicated. It is your understanding the incident in question was closed and not the subject of investigation. You contend the information requested is a matter of public record under Ind. Code § 5-14-3-5(c), the statute which requires a daily log be made of suspected crimes.

On March 5, 2015, Samantha DeWester, City Prosecutor, responded to the Indiana Public Access Counselor. Counsel affirmed the IMPD's contention the report in question is

investigatory in nature and can be withheld at IMPD's discretion. Counsel cites *Advisory Opinion 14-FC-103* in support of her position indicating the CAD entry is obtained through the Indiana Data and Communications System ("IDACS") which is confidential.

### 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. Indianapolis Metropolitan Police Department (IMPD) 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 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).

At the outset, it should be noted the only records in question which were actually requested were the CAD records. Counsel for the IMPD is correct that information obtained through the IDACS system is confidential pursuant to agreements which local law enforcement agencies have with the Criminal Justice Information System ("CJIS"). CJIS is regulated by the Code of Federal Regulations pursuant to Sections 501 and 524 (b) of the Omnibus Crime Control Act and Safe Street Act of 1968, as amended by the Crime and Control Act of 1973, Public Law 93-83, 87 Stat. 197, 42 U.S.C. 3701, et. seq. (Act), 28 U.S.C. 534, and Public Law 92-544, 86 Stat. 1115. Because IDACS information is confidential under Federal Law, so also is it confidential under Ind. Code § 5-14-3-4(a)(1).

You also contend the information should be contained in a "daily log" under Ind. Code § 5-14-3-5(c). If the incident involved a suspected crime, accident or complaint, the log or record of the investigation under that particular statute should be made available to you. To my knowledge, you have not made a request for that information; only the CAD was requested.

### CONCLUSION

For the foregoing reasons, it the Opinion of the Public Access Counselor the IMPD did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be the initials 'JTB' with a long, sweeping underline.

Luke H. Britt  
Public Access Counselor

Cc: Ms. Samantha E. DeWester, Esq.