



STATE OF INDIANA

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July 7, 2014

Mr. Bryan K. Bullock, Esq.
7863 Broadway, Ste. 222
Merrillville, IN 46410

Re: Formal Complaint 14-FC-120; Alleged Violation of the Access to Public Records Act by the Indiana State Police

Dear Mr. Bullock,

This advisory opinion is in response to your formal complaint alleging the Indiana State Police ("ISP") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The ISP has responded via Cynthia Forbes, Esq. ISP's 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 June 2, 2014.

BACKGROUND

Your complaint dated May 23, 2014, alleges the Indiana State Police violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On or about April 18, 2014, you made a public records request to ISP seeking a large amount of information related to the Indiana Intelligence Fusion Center ("IIFC"). On May 19, 2014, ISP informed you they believed your request did not meet the "reasonable particularity" standard set forth in Ind. Code § 5-14-3-3(a)(1) and invited you to clarify your request.

Specifically, you requested "names and other identifying information" of all databases and records the IIFC can access. You also sought "all records confirming or revealing whether the IIFC uses, has used, or has access to" a list of approximately 37 separate programs.

In its response, ISP argues it uses the standards of particularity applied both by the Courts and this Office. Furthermore, ISP claims it took affirmative steps to meet with personnel who might be able to identify records responsive to your request; however, those efforts

were unsuccessful. ISP emphasizes your request was not denied; it was merely tabled until you responded to their invitation for clarification.

DISCUSSION

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 Indiana State Police 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 the ISP’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).

Although I have not had the benefit of reading your original response, I have reviewed the list of documents and records you requested as listed in ISP’s original response to you. On its face, the request does seem to lack a degree of specificity; however, it is relatively clear what you are seeking. I interpret the request as asking to produce for you a list of databases the IIFC interacts with as a data hub or repository of information.

My oversimplification notwithstanding, such a list may not exist. ISP may need to mine the IIFC to extrapolate relevant information and compile a list to satisfy your request. The creation of lists is not necessarily an affirmative obligation placed on a public agency by the APRA. Therefore, ISP extended a request so that you could shed light on their interpretation of your request and perhaps refine your search. This approach is consistent with counsel I have given public agencies regarding the application of “reasonable particularity”. It is poor practice to simply deny a request outright before working with a requester to narrow down a search. ISP has acted in the spirit of the APRA by indicating a willingness to work with you.

I encourage you to reach out to Ms. Forbes to come to a mutually beneficial solution to this situation. If, after doing so, the parties are still at an impasse, my Office will be available as a resource to finding a solution.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Indiana State Police has not violated 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: Cynthia Forbes, Esq.