



# 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](http://www.IN.gov/pac)

August 12, 2014

Mr. Eric D. Smith #112675  
Pendleton Correctional Facility  
4490 W. Reformatory Road  
Pendleton, IN 46064

*Re: Formal Complaint 14-FC-156; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department*

Dear Mr. Smith,

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 IMPD has not responded to your complaint despite an invitation to do so on July 23, 2014. 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 July 23, 2014.

## BACKGROUND

Your complaint dated July 14, 2014, alleges Indianapolis Metropolitan Police Department violated the Access to Public Records Act by not providing records responsive to your request.

You have not provided a copy of your original request; however, it appears as if you submitted a public records request to IMPD at some point in the spring of 2014. After a postal mix-up, you received a denial from the IMPD dated July 14, 2014, wherein the Department denied your request as it sought police reports deemed to be investigatory records. You take exception with this determination.

## 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 the 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).

As I recently stated in *Advisory Opinion 14-FC-135*:

Ind. Code § 5-14-3-4(b)(1) gives law enforcement agencies the discretion to withhold or disclose investigatory records. An investigatory record is "information compiled in the course of the investigation of a crime." See I.C. § 5-14-3-2(h). This is not to say all records maintained by the Department are considered investigatory – it must be in the course of an investigation of a crime.

The investigatory records exception is indeed one of the broader, and most liberally applied, exceptions in the APRA. I have continuously cautioned law enforcement agencies to use the exception in a light most favorable to transparency and access – all the more so when release of information would not compromise the integrity of an investigation. Indeed, there will be many instances where the disclosure of a record may jeopardize an investigation or public safety.

Police reports and the narrative therein can be categorized as investigatory records at the discretion of IMPD. The APRA obligates law enforcement agencies to maintain a daily log which lists suspected crimes, accidents, or complaints. The record containing the information must be created not later than twenty-four hours after the incident has been reported to the agency, and the information must be made available for inspection and copying. Pursuant to Ind. Code § 5-14-3-5(c), the following information must be maintained in the daily log:

- (1) The time, substance, and location of all complaints or requests for assistance received by the agency.
- (2) The time and nature of the agency's response to all complaints or requests for assistance.
  - (3) If the incident involves an alleged crime or infraction:
    - (A) the time, date, and location of occurrence;
    - (B) the name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4;
    - (C) the factual circumstances surrounding the incident; and
    - (D) a general description of any injuries, property, or weapons involved.

IMPD must produce this log or a similar document with this information, but not necessarily in the form of a "police report".

## CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Indianapolis Police Department has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long, sweeping underline.

Luke H. Britt  
Public Access Counselor