



# STATE OF INDIANA

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September 12, 2014

Mr. Bennett H. Haeberle  
1950 N. Meridian St.  
Indianapolis, IN 46202

*Re: Formal Complaint 14-FC-170; Alleged Violation of the Access to Public Records Act by the Indiana State Police*

Dear Mr. Haeberle,

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 responded to your complaint via Sgt. Brad Hoffeditz. His 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 August 15, 2014.

## BACKGROUND

Your complaint, dated August 7, 2014, alleges the Indiana State Police violated the Access to Public Records Act by delaying the production records responsive to your request.

As part of an initiative to view ISP purchases for 2013-2014, you made a records request seeking documentation of those purchases. After working with ISP, who determined the initial request was not reasonably particular, you narrowed your request to electronic purchases in the range of \$800-\$1,300. ISP again argued the information was not maintained on cost ranges, but on specific items purchased. According to the documentation submitted, your standing request, which is the subject of this complaint, reads as follows:

Copies of invoices, receipts or documents indicating any electronic equipment purchased within...2014 within the price range of \$800 to \$5000 that might include but not limited to (UASs, UAVs, cameras, communication devices, software, tablets, hard drives, servers, GPS devices, remote uplinks, laptops.

ISP argues the request remains vague and does not meet reasonable particularity, in part due to the system of file-keeping employed by ISP controllers.

## ANALYSIS

The public policy of the APRA states that “a (p) roviding person 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).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

First, it should be noted ISP has made efforts to communicate with you regarding a request which they have determined to be not reasonably particular. I routinely encourage agencies to avoid denying requests based on a lack of specificity, but rather work with requesters to come to a mutually beneficial solution. ISP regularly seeks my counsel and it is my opinion they go to necessary lengths to project a spirit of transparency and good faith. I do not always agree with their ultimate conclusions, but they are generally proactive in facilitating access.

Without having a familiarity of ISP’s record-keeping system, I cannot conclude the search parameters you have set forth are incompatible with their method of storing information. Notwithstanding, I agree your standing request is reasonably particular and does not lack specificity. It is not a “fishing expedition” as is alluded to in the documentation provided. Reasonable particularity is one of the more elusive nuances to public access as there is an element of subjectivity to what is specific and what is not. But with the elements you have identified you are seeking, I think you have made a sufficient effort to narrow down your original request.

It may be inconvenient for ISP to gather and produce the information you seek. It may take time and public resources. But responding to access requests is part of every governmental agency’s integral duties. Since the request is ongoing and ISP has not actually denied any information, I believe finding a violation on their part would be counter-intuitive. So while I decline to make a conclusive determination, I strongly encourage ISP to begin to gather information responsive to your request. The entirety of the documentation does not need to be produced immediately. I anticipate it will take time; however, they should make good faith efforts to do so expediently. As it becomes available, the ISP should release the records in a piecemeal manner.

As always, I am available for teleconferences and meetings to help facilitate a resolution to this issue, however, it is my sincere hope this opinion will be a catalyst to cooperation in this case.

Regards,

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

Luke H. Britt  
Public Access Counselor

Cc: Sgt. Brad Hoffeditz, Esq.