



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

May 7, 2014

Mr. Marvin F. Taylor, Sr. #995801
Indiana State Prison
One Park Row
Michigan City, IN 46360

Re: Formal Complaint 14-FC-71; Alleged Violation of the Access to Public Records Act by the Indiana State Police

Dear Mr. Taylor,

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 Lt. Susan Dean, Esq. 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 April 1, 2014.

BACKGROUND

Your complaint dated March 26, 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 March 7, 2014, you submitted an access to public records request to the Indiana State Police for copies of lab files with your name associated with them. On March 12, 2014, the ISP responded stating they had no records responsive to your request and directed you to address your inquiry to the Indianapolis Metropolitan Police Department ("IMPD"). On March 15, 2014, however, the Laboratory Manager of the Indianapolis Regional Laboratory (the ISP laboratory handling various law enforcement agency evidence), suggested they "may" have records responsive to your request but are withholding them due to their status as investigatory records. Any records which would be released would necessitate a narrowing of your search providing additional information as a query under "Marvin Taylor" may capture the records of other individuals as it is a common name.

The ISP has responded to your complaint reiterating they have no records responsive to your request, as they are not the arresting agency. Again, Lt. Susan Dean, Esq., directs you to the IMPD.

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).

Lt. Dean and ISP have made it clear your request should be served upon the IMPD for production. Because ISP is not the agency maintaining custody of the documents you seek, they are not in violation of the APRA for not producing them. The ISP State Laboratory is unique in that they serve multiple law enforcement agencies. Because they operate under the ISP name, it may naturally cause some confusion as to their dominion over the records they generate and maintain. Presumably, the majority of evidence which flows through the ISP labs is investigatory in nature. As such, they may independently cite Ind. Code § 5-14-3-4(b). The investigatory records exception is discretionary, however, and IMPD may conclude the records you seek would not compromise the integrity of a past, current or future criminal investigation and therefore make a different determination. Nonetheless, the IMPD, as the arresting and investigating enforcement agency, is the correct entity upon which to make your request.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Indiana State Police did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Lt. Susan Dean, Esq.