

March 31, 2008

Ronald Partridge  
Assistant Chief of Police  
Fort Wayne Police Department  
1320 East Creighton Avenue  
Fort Wayne, Indiana 46803

*Re: Your informal inquiry*

Dear Mr. Partridge:

This is in response to your informal inquiry received March 26, 2008. Pursuant to Ind. Code § 5-14-4-10(5), I issue the following opinion in response to your inquiry.

You write on behalf of the Fort Wayne Police Department (“Department”). Pursuant to the Access to Public Records Act (“APRA”)(Ind. Code 5-14-3), the Department is a public agency. I.C. § 5-14-3-2. Your inquiry relates to accident reports (“crash reports”) created by the Department and sent electronically to the information maintenance and reporting system contracted by the Indiana State Police. I am quite familiar with the issue you present. Both former Counselor Karen Davis and I have issued advisory opinions related to the matter. You will find those at [www.in.gov/pac](http://www.in.gov/pac) under “Advisory Opinions.” Both *Opinion of the Public Access Counselor 07-FC-27* and *Opinion of the Public Access Counselor 07-FC-224* relate to this issue.

Further, Counselor Davis in March 2007 issued a memorandum to law enforcement agencies regarding crash reports since she had received so many inquiries relating to the reports. I am enclosing a copy of that memorandum, and it is available online at [www.in.gov/pac](http://www.in.gov/pac) under “Informal Opinions.” I agree with the information Counselor Davis provided in the March 2007 memorandum.

Ind. Code § 5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of the APRA.

‘Public record’ means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained,

maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

I.C. § 5-14-3-2(m).

As I understand, crash reports are created at the Department and sent electronically to the state's system. As you will note from the definition of public record, a record is still a public record even when it is not generated on paper. *See* I.C. § 5-14-3-2(m). As such, access to inspect and copy the crash reports must be provided, absent a statute to the contrary. I.C. § 5-14-3-3. At this time, no statute has been enacted exempting crash reports from disclosure.

The Department must, upon request, provide access for a requester to inspect crash reports created by the Department. How the Department provides access for inspection is an administrative matter for you to determine, so long as the procedure does not contravene the inspection requirements of the APRA. I have suggested that police departments might provide a public computer terminal to allow inspection. I understand this is not the best solution for all departments, though, since questions of the availability of an extra computer, access to all electronic records, and others, might arise. In the alternative, a department may print copies of the requested crash reports (or all crash reports, if requested), allow the requester to inspect and transcribe the reports in the office, and then collect the copies back from the requester. Certainly if the requester decided he wished to obtain a copy, the Department could then charge the statutory fee for a copy of a crash report. I cannot say how many departments utilize either suggestion or employ a different procedure, but I do understand the Indianapolis Metropolitan Police Department uses the latter method, providing public access copies of crash reports for inspection upon request.

While I understand the Department's concerns about the personnel and financial resources required to provide access to the crash reports, those concerns do not negate the rights of the public to inspect public records at no charge, as provided in the APRA.

Please do not hesitate to contact us if we can provide further assistance.

Best regards,



Heather Willis Neal  
Public Access Counselor