



# STATE OF INDIANA

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June 26, 2008

Oshune Grace  
DOC #933793  
One Park Row  
Michigan City, Indiana 46360

*Re: Formal Complaint 08-FC-150; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department*

Dear Mr. Grace:

This advisory opinion is in response to your formal complaint alleging the Indianapolis Metropolitan Police Department ("Department") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. It is my opinion Department violated the APRA.

## BACKGROUND

You allege that you requested from the Department booking information regarding two individuals. The Department denied your request by letter dated May 27, 2008. In the letter, the Department indicated it had received your request but the records are not public records. My office received your complaint on June 9.

My office sent a copy of the complaint to the Department and invited the Department to respond to the complaint. On June 25 I received a call from Andrea Murphy of the Office of Corporation Counsel for the City of Indianapolis. Ms. Murphy indicated the Department would not be responding to the complaint.

## ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Department is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Department during regular business hours unless the public records are excepted from

disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

You requested booking information for two individuals. The Department indicated the records are not public records. Even if that is true, the Department has a duty to provide you with the statutory authority excepting the records from disclosure.

(c) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

I.C. § 5-14-3-9.

Here, the Department provided you with neither a statement of the specific exemptions authorizing the withholding of the record nor the name and title of the person responsible for the denial. As such, it is my opinion the Department violated the APRA.

Further, to the extent you have requested information relating to arrest or summons, certain information must be available for inspection or copying:

(a) If a person is arrested or summoned for an offense, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning any charges on which the arrest or summons is based.

(3) Information relating to the circumstances of the arrest or the issuance of the summons, such as the:

(A) time and location of the arrest or the issuance of the summons;

(B) investigating or arresting officer (other than an undercover officer or agent); and

(C) investigating or arresting law enforcement agency.

(b) If a person is received in a jail or lock-up, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning the reason for the person being placed in the jail or lock-up, including the name of the person on whose

order the person is being held.

(3) The time and date that the person was received and the time and date of the person's discharge or transfer.

(4) The amount of the person's bail or bond, if it has been fixed.

I.C. § 5-14-3-5(a) and (b).

If the records you have requested are records of the nature described in I.C. § 5-14-3-5(a) or (b), the Department must make those records available for inspection and copying.

Finally, Indiana law provides the following regarding copies of public records:

(e) If:

(1) a person is entitled to a copy of a public record under this chapter;  
and

(2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;  
the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced access under section 3.5 [IC 5-14-3-3.5] of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for copying costs be made in advance.

I.C. § 5-14-3-8(e).

It is my opinion the Department may not require you to appear in person at the records division of the Department if the Department has reasonable access to a copy machine.

#### CONCLUSION

For the foregoing reasons, it is my opinion Department has violated the APRA.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Michael Spears, Chief of Police