



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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May 28, 2015

Mr. Thomas Callahan
9028 West Cr 225 South
Medora, IN 47260

Re: Formal Complaint 15-FC-147; Alleged Violation of the Access to Public Records Act by the Indiana Local Technical Assistance Program

Dear Mr. Callahan,

This advisory opinion is in response to your formal complaint alleging the Indiana Local Technical Assistance Program ("LTAP"), violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* LTAP has responded to your complaint via Ms. Abby Daniels, 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 29, 2015.

BACKGROUND

Your complaint dated April 24, 2015 alleges the LTAP violated the Access to Public Records Act by failing to provide the records you requested.

On March 23, 2015, you requested crash reports from the LTAP. You were informed crash reports are not available to the public. LTAP informed you it was not allowed to distribute crash reports to the public as per her data access agreement. You were then directed to the Indiana State Police.

On May 6, LTAP responded via Ms. Abby Daniels, Esq., Legal Services Coordinator. Ms. Daniels contends your request was properly denied because LTAP was prohibited from providing such records to the public. In response, you appeared to have altered your request, seeking information to lead to the public record rather than the public record itself. LTAP also notes that since the filing of your request, you have been provided access to the information you requested.



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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 Indiana Local Technical Assistance Program 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 LTAP’s disclosable 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).

Crash reports are somewhat unique in Indiana based upon Ind. Code § 9-29-11 et. al. They are not housed in a public repository, but rather the records retention and access is outsourced to a third-party vendor, Appriss. The reports are maintained in a database named ARIES and available to the public via the www.buycrash.com portal. Ind. Code § 9-26-2-3 mandates disclosure upon request, however, public agencies with access to ARIES are not necessarily the custodians of the records housed therein. This vendor, Appriss, is the repository for this data and all requests go through Appriss. Public agencies do not maintain the crash reports electronically or in paper form. They are regularly transmitted to Appriss for storage. Upon request, Appriss releases the information through an online portal for a fee.

While the reports are public records subject to disclosure, the infrastructure for maintaining the records is unique to the state’s third-party vendor. It is irrelevant the records are not housed within LTAP’s files, as long as they are available to the public in some manner. As for your interaction with LTAP personnel and the veracity of her statements regarding the report and/or her engineering expertise, this Office does not opine on such matters. It is my sincere hope you have obtained the information you require.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Indiana LTAP has not violated the Access to Public Records Act.

Regards,



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A handwritten signature in black ink, appearing to read "LH Britt", is positioned above the printed name.

Luke H. Britt
Public Access Counselor

Cc: Ms. Abby Daniels, Esq.