



# 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)234-0906  
Fax: (317)233-3091  
1-800-228-6013  
www.IN.gov/pac

September 9, 2016

Theotis Tolliver - #860995  
Wabash Valley Correctional Facility  
Post Office Box 1111  
Carlisle, Indiana 46402

*Re: Formal Complaint 16-FC-192; Alleged Violation of the Access to Public Records Act by the City of Gary Police Department*

Dear Mr. Tolliver:

This advisory opinion is in response to your formal complaint alleging the City of Gary Police Department ("Department") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Department responded via Mr. Rodney Pol, Jr., Assistant City Attorney. His response is enclosed for your review. Pursuant to Indiana 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 8, 2016.

## BACKGROUND

Your complaint dated August 4, 2016, alleges the City of Gary Police Department violated the Access to Public Records Act by providing records unrelated to your records request. You submitted a request for dispatch records. You were provided records by the Department, but they were unrelated to your request. On August 22, 2016 the Department responded. The Department states it does not possess the records you requested and those records it did possess, the Department invoked the investigatory records exemption.

## 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 Indiana Code § 5-14-3-1*. The City of Gary Police Department is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Department's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

You allege the Department did not provide you with the records you requested. As for the correct documentation, the Department informed you in its denial, it chooses to invoke the investigatory records exemption under Indiana Code § 5-14-3-4(b)(1). Investigatory records of law enforcement agencies may be withheld or released at the discretion of the agency. The Department informed you of the specific exemption, therefore its denial was proper.

### **CONCLUSION**

Based on the foregoing, in the opinion of the Public Access Counselor the City of Gary Police Department did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a large, sweeping flourish underneath.

Luke H. Britt  
Public Access Counselor

Cc: Mr. Rodney Pol, Jr., Esq.