



STATE OF INDIANA

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March 26, 2015

Mr. Robert A. Gaddie
Plainfield Correctional Facility
727 Moon Road
Plainfield, Indiana 46168

Re: Formal Complaint 15-FC-66; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department

Dear Mr. Gaddie,

This advisory opinion is in response to your formal complaint alleging the Indianapolis Metropolitan Police Department ("IMPD") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* IMPD has responded via counsel, Samantha DeWester, Esq. 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 February 20, 2015.

BACKGROUND

Your complaint dated February 18, 2015 alleges the Indianapolis Metropolitan Police Department violated the Access to Public Records Act by denying you access to requested information.

On January 30, 2015, you submitted a public records request to the IMPD requesting all records regarding complaints filed against three IMPD officers. You also requested certified copies of several officers' oaths of service and a certified copy of a dispatch call. At the time of filing of your complaint you had not received a response.

IMPD responded to your complaint on March 6, 2015. It contends while you made your request on January 30, 2015, it was redirected to the Office of Corporation Counsel ("OCC") for response. OCC did not receive your request until February 23, 2015, which they acknowledged. IMPD is uncertain as to why the request was delayed.

IMPD raises issues of particularity for justification of your denial. Here, IMPD and OCC are attempting to follow the spirit of APRA by requesting clarification rather than rejecting the request out of hand.

IMPD does reject the request for the oath of service, stating it is “not a required portion of the personnel file subject to the mandatory disclosure” under APRA and will be withheld.

Finally, IMPD notes OCC has obtained audio of the 911 call and will make it available.

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. Indianapolis Metropolitan Police Department (IMPD) 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 IMPD’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).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

Here counsel acknowledges the delay between IMPD sending the request and OCC receiving it. While unintentional, it is nevertheless a technical violation of the APRA.

A request for public records must be made with reasonable particularity. See Ind. Code § 5-14-3-3. Particularity is not defined within APRA. Previously, this Office and the Courts have held when a public agency cannot ascertain what records a requester is seeking, the request likely has not been made with reasonable particularity.

Here you ask for records associated with the complaints filed against officers. You do not specify which particular documents you seek, however, it can be reasonably inferred you are seeking the factual basis for any demotion, suspension or termination, if any, against the named officers. Factual basis for such discipline is disclosable under Ind. Code § 5-14-3-4(b)(8)(C). To the extent it exists, the IMPD should release this information to you.

CONCLUSION

For the foregoing reasons, it the Opinion of the Public Access Counselor the IMPD violated the Access to Public Records Act only in regard to failing to respond to your request with an acknowledgement within seven (7) days.

Regards,

A handwritten signature in black ink, appearing to be 'LH Britt', written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Ms. Samantha DeWester, Esq.