



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

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February 23, 2016

Ms. Kimberly Ballard  
9012 North Scrimshaw Drive #303  
Peoria, Illinois 61615

*Re: Formal Complaint 16-FC-12; Alleged Violation of the Access to Public Records Act by the Westfield Police Department*

Dear Ms. Ballard:

This advisory opinion is in response to your formal complaint alleging the Westfield Police Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 et. seq. The Department has responded via counsel, Mr. Brian Zaiger. His 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 January 15, 2016.

## **BACKGROUND**

Your complaint dated January 13, 2016 alleges the Westfield Police Department violated the Access to Public Records Act by failing to provide the documents requested within a reasonable time. You also contend the Department improperly released non-disclosable records. Finally, you contend the Department did not provide you with all records responsive to your request.

On November 13, 2016, you submitted a completed request for records to Ms. Amanda Staley, Records Manager for Westfield Police Department. You requested all police reports which involved you, as well as copies of any public records requests forms filed by Winne Law Firm or any other entity which may relate to you. You received documentation from Ms. Staley on December 3, 2015.

On February 5, 2016 the Department responded via counsel. Counsel contends the production of documents was timely. Counsel also contends the Department did not release information improperly, because the Department is not subject to HIPAA or any other privacy laws.

## **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 Westfield Police Department 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 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 Ind. Code § 5-14- 3-3(a).

You contend the requested records were not provided in a reasonable amount of time. What is considered a reasonable amount of time depends on the circumstances. Your completed records request, filed on the proper form, was received by the Department on November 13, 2015. Your request was fulfilled on December 3, 2015.

A timeframe of three (3) weeks is not unreasonable considering the rather broad nature of your request. You requested all police reports which involve you and all records request forms filed which may involve you. You did not provide a timeframe for these requests or any other information which may allow the Department to properly seek the records you requested. Without this information, your request would typically be considered to lack reasonable particularity.

Under Ind. Code 5-14-3-3(a)(1), “a request for inspection or copying must identify with reasonable particularity the record being requested.” Reasonable particularity is not defined under the APRA. If the public agency cannot determine what records to seek then your request is determined to lack reasonable particularity. A public agency is not required to fulfill a request which lacks reasonable particularity.

In this case, the Department acknowledged your request despite its deficiencies and provided you with documentation. You contend you were not provided all documents responsive to your request, but admit in a conversation with Ms. Staley you had not checked all of the documents. Therefore, this allegation is mere speculation on your part. Finally, even if the Department failed to provide you with all of the documents you requested, this is likely because your request lacked reasonable particularity and the Department could not determine the scope of your request.

Your final complaint is that Westfield improperly disclosed information by failing to redact confidential information. However, you have not stated in your narrative the basis for your assertion. In the event your allegation was supported, this office is not the proper forum for such a complaint. See Ind. Code § 5-14-3-10. However, I know of no state statute which would support any cause of action based upon the information provided.

## **CONCLUSION**

Based on the foregoing, it is the Opinion of the Public Access Counselor that Westfield Police Department has not violated the Access to Public Records Act.

Regards,

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

Luke H. Britt  
Public Access Counselor

Cc: Mr. Brian Zaiger, Esq.