

May 26, 2005

Terrance Elko
14512 Lee Stewart Lane
Noblesville, IN 46060

Re: Formal Complaint 05-FC-80; Alleged Violation of the Access to Public Records Act by the Indianapolis Police Department, Training Academy.

Dear Mr. Elko:

This is in response to your formal complaint alleging that the Indianapolis Police Department, Training Academy (“Department”) violated the Access to Public Records Act (“APRA”) by failing to respond to your request for public records. I find that the Indianapolis Police Department, Training Academy did violate the Access to Public Records Act.

BACKGROUND

On April 27, 2005 you filed a formal complaint with this office. The complaint was assigned # 05-FC-80. In your complaint you stated that on April 13, 2005 you sent a written request to the Department requesting a copy of your file. As of April 27, 2005 you had not received a response from the Department.

I forwarded a copy of your complaint to the Department. Ms. Jill Clouse responded on behalf of the Department by letter dated May 3, 2005. A copy of that letter is enclosed for your reference. Ms. Clouse stated that the “short delay” in responding to your request was due to some confusion over part of your request and whether it was information that was exempt from disclosure. She stated that the information was sent to you via certified mail on May 3, 2005.

ANALYSIS

Any person may inspect and copy the public records of a public agency, except as provided in section 4 of the APRA. IC 5-14-3-3(a). If a public agency receives a request for records via U.S. mail, facsimile, or e-mail, it has seven days in which to respond. IC 5-14-3-9(b). A response may be an acknowledgment that the request for records was received, and a

statement of how and when the public agency intends to comply. If the public agency fails to respond within seven days of its receipt of the request, the request is deemed denied.

The agency is not necessarily required to send the records within the time that its response is due. There are no specific deadlines in the APRA for a public agency to produce records. So long as the public agency produces records within a reasonable time, the agency has not violated the APRA.

It is understandable that an agency may have difficulty in producing records within seven (7) days of receipt of the request where it may not know whether it has the requested documents and whether they are exempt from disclosure under APRA. For that reason the agency must at least preliminarily respond within the initial time frame. If it could not produce the records within seven (7) days, which it is not required to do, the agency must notify the requestor that the request was received. Additionally, the initial response should also provide a time frame when the requestor can expect to receive either the documents or a reason for denial and, if necessary, request clarification of the request. In this instance the Department admitted its mistake and provided the documents to you. Nevertheless, the failure to respond within seven (7) days was a violation of APRA.

CONCLUSION

For the foregoing reasons, I find that the Indianapolis Police Department, Training Academy violated the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Jill Clouse