

July 2, 2007

Marlan Bonds
#953219
Indiana State Prison
PO Box 41
Michigan City, Indiana 46361

Re: Formal Complaint 07-FC-147; Alleged Violation of the Access to Public Records Act by the City of Elkhart Police Department

Dear Mr. Bonds:

This is in response to your formal complaint alleging the Elkhart City Police Department (“Department”) violated the Access to Public Records Act (APRA) (Ind. Code 5-14-3) by failing to respond to your request for records. A copy of the Department’s response to your complaint is enclosed for your reference. The Department provides evidence it did respond to your request. While the response was untimely, I find that the Department did not otherwise violate APRA.

BACKGROUND

Your complaint alleges that on April 9, 2007 you requested documents from the time period October 11, 2003 to September 16, 2004 related to accusations, allegations, or charges against you, Marlan Bonds, specifically related to child neglect. You filed the formal complaint with this office on June 1, 2007, indicating you had not received the requested documents.

In response to your complaint, the Department provided a copy of your original request for public records as well as its response to your request, a copy of an Incident Report dated October 28, 2003. The Department indicates it prepared and submitted this response to you on May 2, 2007.

ANALYSIS

Indiana Code 5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided

in section 4 of APRA. A “public record” means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. IC 5-14-3-2. A request for records may be oral or written. IC 5-14-3-3(a); 5-14-3-9(c). If the request is delivered by mail or facsimile, the agency must respond to the request within seven days of receipt. IC 5-14-3-9(b).

Your complaint alleges the Department did not respond to your request. The Department provided evidence it did on May 2, 2007 respond to your request and did produce a copy of the record you requested. While untimely under the statute, the Department did substantively respond to your request.

CONCLUSION

For the foregoing reasons, I find that the Elkhart City Police Department’s response was not timely under APRA. I further find that the response does not otherwise violate the statute.

Best regards,

Heather Willis Neal
Public Access Counselor

cc: Captain Timothy Balyeat, Elkhart City Police Department