



STATE OF INDIANA

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January 10, 2011

Mr. John E. Seely
3330 Irvington Dr.
Fort Wayne, IN 46805

Re: Formal Complaint 10-FC-312; Alleged Violation of the Access to Public Records Act by Indiana University - Purdue University Fort Wayne

Dear Mr. Seely:

This advisory opinion is in response to your formal complaint alleging Indiana University - Purdue University Fort Wayne ("IPFW") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-3 *et seq.* A copy of IPFW's response to your complaint is enclosed.

BACKGROUND

In your complaint, you allege that you requested "all I.P.F.W. records described by I.C. 5-14-3-5, referring in whole, or in part, to John Seely on November 1, 2010." IPFW granted your request and produced a copy of its daily log for November 1, 2010, but you claim that the response is insufficient because it does not contain all of the information required by subsections 5(c)(1) and 5(c)(2). Specifically, you argue that IPFW should provide you with the person(s) lodging the complaint or a request for assistance; facts describing a complaint or request for assistance; the time and location of the complaint or request for assistance; the names of police officers or others responding to the complaint or request for assistance; the "complete account of the facts of an electronic report or record"; (7) a record containing "John Seely"; and the time and nature of IPFW's response.

Attorney Lia M. Hanson responded to your complaint on behalf of IPFW. She states that IPFW provided you with the IPFW Police Department Daily Activity Log for November 1, 2010. She argues that IPFW satisfied the APRA by providing you with the log and is not obligated by section 5 of the APRA to provide you with all of the information you complain about not receiving. She also refutes your allegation that IPFW denied you electronic access because the log you requested is available online at <http://www.ipfw.edu/police/reports/dailyactivitylogs/dal2010/dal11-06-2010.pdf>.

ANALYSIS

The public policy of the APRA states, “[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.” IC § 5-14-3-1. IPFW is a “public agency” under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy IPFW’s public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

The APRA requires that certain law enforcement records be made available for inspection and copying. I.C. § 5-14-3-5. Specifically, the APRA obligates law enforcement agencies to maintain a daily log that lists suspected crimes, accidents, or complaints. *See* I.C. § 5-14-3-5(c). The record containing the information must be created not later than twenty-four hours after the incident has been reported to the agency, and the information must be made available for inspection and copying. The following information must be maintained in the daily log:

- (1) The time, substance, and location of all complaints or requests for assistance received by the agency.
- (2) The time and nature of the agency's response to all complaints or requests for assistance.
- (3) If the incident involves an alleged crime or infraction:
 - (A) the time, date, and location of occurrence;
 - (B) the name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4;
 - (C) the factual circumstances surrounding the incident; and
 - (D) a general description of any injuries, property, or weapons involved.

I.C. § 5-14-3-5(c). You claim that the log released by IPFW does not satisfy the Department’s obligations under Subsection 5(c) of the APRA. However, after reviewing the log provided, it appears that it satisfies the elements required by subsections 5(b)(1) and 5(b)(2). As Ms. Hanson notes in her response, the log shows the date and time of the request for assistance (“November 1, 2010, at 11:01:06 PM”), the substance of the complaint (“Nature: Suspicious”), the location of the complaint (“100 Lawshe Dr.”), and the nature of the response (“Disposition: Electronic Report”). It does not appear that any crime was alleged to have occurred, so the requirements of subsection 5(b)(3) are not applicable. Nothing in the APRA requires IPFW to release *all* records that contain the type of information described in Section 5. Rather, IPFW is only required to release its daily log. Because IPFW did so in this case and its log appears to satisfy section 5, in my opinion IPFW did not violate the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion that IPFW did not violate the APRA.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive style with a large, sweeping initial 'A'.

Andrew J. Kossack
Public Access Counselor

Cc: Lia M. Hanson