



STATE OF INDIANA

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October 17, 2013

Ms. Laura Kammerer
508 E. Main St., Apt. B
Beech Grove, IN 46107

Re: Formal Complaint 13-FC-280; Alleged Violation of the Access to Public Records Act by the Beech Grove Police Department

Dear Ms. Kammerer,

This advisory opinion is in response to your formal complaint alleging Beech Grove Police Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Department has responded to your complaint through Chief Mark Schwartz. 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 September 17, 2013.

BACKGROUND

Your complaint alleges the Beech Grove Police Department violated the Access to Public Records Act by denying your request in violation of Ind. Code § 5-14-3-3(b).

You allege that on August 30, 2013 you submitted to the Department a request for records and were denied the following information:

All incident reports, tickets issued, police reports, accidents, and any other recorded incidents by the Beech Grove Police Department and the Beech Grove Fire Department that have occurred from the following area...Buffalo to Main on 5th and 4th to 6th on Albany and any other police reports in the general vicinity of 5th and Albany

It does not appear the Department responded to your initial request. The request was deemed denied seven (7) days after its submission. However, the Department provided you a response on October 14, 2013, stating all of the records responsive to your request that were in the possession of the Department had been gathered and were available to you.

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 Beech Grove 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 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.

The Department has been able to retrieve the records you seek; however, because you did not receive a response within seven days, it was deemed denied. The Department was able to gather those records despite the assertion the request was not reasonably particular Ind. Code § 5-14-3-3(a)(1). Therefore, it would not seem the denial was justified. I trust the information provided is to your satisfaction and the matter has been resolved.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Office of the Public Access Counselor the Beech Grove Police Department violated the APRA in denying your request; however, the Department has remedied the issue since the filing of your formal complaint.

Regards,



Luke H. Britt
Public Access Counselor

cc: Chief Mark Schwartz