

March 21, 2007

Tyrone Frazier
#910476
Indiana State Prison
P.O. Box 41
Michigan City, IN 46361

Re: Formal Complaint 07-FC-44; Alleged Violation of the Access to Public Records Act by the Indianapolis Metropolitan Police Department

Dear Mr. Frazier:

This is in response to your formal complaint alleging that the Indianapolis Metropolitan Police Department (“IMPD”) violated the Access to Public Records Act by failing to respond to your request for a copy of the investigative file concerning two police reports. I find that the IMPD failed to respond, and therefore violated the Access to Public Records Act. However, the IMPD could withhold the investigative file.

BACKGROUND

You complain that the IMPD did not respond to your request. You enclosed a facsimile of the request dated February 1, 2007. You asked the detective who investigated two incidents for a complete copy of the investigation. You enclosed copies of the case reports. The reports involved allegations of domestic battery.

I sent a copy of your complaint to the IMPD. Ms. Anne Brant submitted a written response, a copy of which is attached for your reference. Ms. Brant wrote that the material is exempt as an investigatory record of law enforcement. Ms. Brant confirmed that she believed the IMPD received your request but did not issue a response.

In addition, Ms. Brant stated that the IMPD was implementing procedures and training to ensure that records requests were coordinated in a central department that would be primarily responsible for responding in a timely fashion to records requests.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). A public agency that receives a request for a record by U.S. Mail, by facsimile, or by e-mail is required to respond within seven (7) days of receipt, or the request is deemed denied. IC 5-14-3-9(b). A public agency may deny a written request for a record if the denial is in writing and contains a statement of the exemption or exemptions that authorize the agency to withhold the record, and the name and title or position of the person responsible for the denial. IC 5-14-3-9(c).

The IMPD acknowledges that it may not have issued a response to your request. This was through an oversight because the IMPD understands its obligation to issue a written denial within seven days, or to at least respond in a preliminary fashion within that timeframe. However, I find that the IMPD’s failure to respond within seven days of receiving your request was a violation of the Access to Public Records Act. The IMPD did intend to deny your request but should have issued a written denial that included the statement of the exemption that authorizes the IMPD to withhold the record and the name and title or position of the person responsible for the denial. The enclosed complaint response letter is the IMPD’s belated denial of your request. The IMPD stated that it is working to centralize the function of responding to requests for public records, with the intent of observing response times in the future.

Information that is compiled in the course of a criminal investigation is an “investigatory record.” IC 5-14-3-2(h). A public agency may withhold from disclosure “investigatory records of law enforcement.” IC 5-14-3-4(b)(1). It is this exemption that permits the IMPD to withhold the records from the investigation conducted by the IMPD in the domestic battery case.

A public agency is required to make available certain basic information from its investigations in spite of the exception at IC 5-14-3-4(b)(1). This is the “daily log” that must be created whenever a suspected crime or complaint is reported to the law enforcement agency. *See* IC 5-14-3-5(c). The case reports that you have obtained contain the information that IMPD is required to disclose from its “daily log.” Accordingly, I find that the IMPD did not violate the Access to Public Records Act when it failed to disclose its investigatory file.

CONCLUSION

For the foregoing reasons, I find that the Indianapolis Metropolitan Police Department violated the Access to Public Records Act when it failed to issue a timely response and when it failed to cite the exemption permitting nondisclosure, but the IMPD could withhold the records you sought on February 1, 2007.

Sincerely,

Karen Davis
Public Access Counselor

cc: Anne E. Brant