
OPINION OF THE PUBLIC ACCESS COUNSELOR

LOUIS P. FROMER,
Complainant,

v.

PURDUE UNIVERSITY POLICE DEPT.,
Respondent.

Formal Complaint No.
17-FC-203

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to the formal complaint alleging the Purdue University Police Department (“PUPD”) violated the Access to Public Records Act¹ (“APRA”). PUPD responded via Assistant Legal Counsel Trenten D. Klingerman. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on August 17, 2017.

¹ Ind. Code §§ 5-14-3-1 to -10

BACKGROUND

Louis P. Fromer (“Complainant”) filed a formal complaint alleging that the PUPD violated the Access to Public Records Act by wrongfully denying him a copy of requested public records.

On July 20, 2017, Fromer submitted a public records request to the Purdue University Police Department seeking the following:

Police reports, narratives, accounts, statements, officer accounts, logs, notes, e-mails, dispatch notes, officer trip history, supplementals, appendices, and any and all related documents and entries including all contents thereof, for the following, Officer Myles and Lt. Wiete concerning an accidental shooting on 12-23-2012, at 733 N. Grant St. West Lafayette, IN 47906. Police report case #: 2012-001972.

As of the date of the filing of his complaint, Fromer had not received a response. PUPD argues the request was never received and denied the request in accordance with the APRA exception for the investigatory records of law enforcement.

ANALYSIS

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.” Ind. Code § 5-14-3-1. The Purdue University Police Department is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect

and copy the PUPD's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a). A public agency is required to make a response to a written request that has been mailed within seven (7) days after it is received. Ind. Code § 5-14-3-9(c).

As for the lack of response, it is not unusual for prison mail to get intercepted or lost in the mail. It is a common occurrence for incarcerated individuals; and therefore, I will consider the request received upon receipt of the formal complaint sent to PUPD.

The records request accompanying the formal complaint was summarily denied as investigatory records. Indeed, investigatory records of law enforcement agencies may be released or withheld at the discretion of the agency. *See* Ind. Code § 5-14-3-4(b)(1).

So long as that discretion is not abused as arbitrary (i.e. it would not jeopardize public safety, an underlying investigation or an individual privacy expectation), the agency is justified in withholding the information. Even so, the immediate request itself is so unspecific and unparticular that it is unclear what actual document the Complainant is seeking.

Law enforcement agencies—at minimum—must publish a daily log of activity. If a request for assistance or a dispatch run involves a suspected or alleged crime, the agency must document certain information and disclose it upon request. *See* Ind. Code § 5-14-3-5(c). This is the only law enforcement

investigatory material that must be disclosed during pending activity. Other records may be withheld under APRA at the discretion of the agency.

My recommendation is for PUPD to send the Complainant the daily log from the event referenced in his request. If Mr. Fromer cannot narrow the scope of his request, the PUPD may withhold or release information so long as the decision is not made arbitrarily simply because the statute declares release to be discretionary.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor