

September 17, 2007

Gary Blagburn
Fishers Police Department
4 Municipal Drive
Fishers, Indiana 46038

Re: Informal inquiry: Review of Fishers Police Department public access policies

Dear Mr. Blagburn:

This is in response to your informal inquiry in which you asked the previous public access counselor to review the Fishers Police Department's policies regarding public records. I have reviewed the materials you sent and have a few comments and suggestions regarding General Order 53.

On page 1 of General Order 53 is a paragraph regarding accident reports. Pursuant to Ind. Code §9-26-2-2, a law enforcement officer shall forward a report of an investigated accident to the state police department within 24 hours of completing the investigation. The report is not confidential and is subject to disclosure. I.C. §9-26-2-3. Your policy indicates the entire crash report will be disclosed but indicates the accident investigator's supplement or any witness written supplement will not be disclosed. I do not find a requirement that those supplements be included with the accident report. If they are part of the accident report, it is my opinion they are required to be disclosed under I.C. §9-26-2-3 unless other statutory authority indicates otherwise. If they are part of the investigative record but not necessarily part of the accident report, it is my opinion they may be withheld from disclosure under I.C. 5-14-3-4(b)(1), investigatory records of law enforcement agencies.

On page 2 of General Order 53 is a paragraph regarding arrest reports (adult), which indicates that certain information will be redacted. I believe there are some items in that list which are required to be disclosed. For instance, age and address of the arrestee are required to be disclosed under I.C. §5-14-3-5. This does not require those to be disclosed specifically in an arrest report, but disclosure of the information listed is required.

Finally, on page 2 of General Order 53 is a paragraph regarding personnel records. In addition to the information the Fisher Police Department has indicated it will disclosed, please see I.C. §5-14-3-4(b)(8)(A-C), which lists personnel records which must be disclosed.

Specifically missing from the Fishers PD list are job title, education and training background, previous work experience, dates of employment, and status of any formal charges.

I commend the Fishes Police Department on a very thorough policy regarding access to public records. Other than the three items I discussed here, I find the policy addresses the APRA well and provides for access to records when required while balancing the public interests in terms of confidentiality of some documents and discretion of the Department relating to investigatory records. Please do not hesitate to contact me if I can be of further assistance or if you would like to further discuss the items I listed above.

Best regards,

A handwritten signature in cursive script that reads "Heather Willis Neal".

Heather Willis Neal
Public Access Counselor