



STATE OF INDIANA

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November 3, 2010

Mr. Jonathan Farley Washington
DOC # 174831
5501 S. 1100 W.
Westville, IN 46391

*Re: Formal Complaint 10-FC-238; Alleged Violation of the Access to
Public Records Act by the East Chicago Police ECPD*

Dear Mr. Washington:

This advisory opinion is in response to your formal complaint alleging the East Chicago Police Department ("ECPD") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The ECPD's response to your complaint is enclosed for your reference.

BACKGROUND

In your complaint, you allege that on September 1, 2010, you sent a request to the ECPD seeking access to certain records. As of September 30th, the ECPD had not yet responded to your request.

In response to your complaint, Carmen A. Fernandez of the City of East Chicago ("City") Department of Law ("Department") states that your request did not reach the Department because it was sent to a police officer rather than the City's typical policy of making requests directly to the Department. Ms. Fernandez noted that she has now received your request and would fulfill it within seven days.

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." I.C. § 5-14-3-1. The ECPD is a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the ECPD's public records

during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). 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. I.C. §5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, if the ECPD failed to respond to your written request within the required seven (7) days without a basis for denying the records, the ECPD violated the APRA. That said, it is my understanding that ECPD promptly responded to your request once it reached the Department. I appreciate the Department's efforts to comply with the APRA and trust that this resolves your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the ECPD failed to respond to your request within seven days as required by the APRA, but the ECPD has not otherwise violated the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Carmen A. Fernandez