



STATE OF INDIANA

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May 12, 2010

Ms. Lori L. Caldwell
The Post Tribune
1433 E. 83rd Ave.
Merrillville, IN 46410

Re: Formal Complaint 10-FC-90; Alleged Violation of the Access to Public Records Act by the Gary Police Department

Dear Ms. Caldwell:

This advisory opinion is in response to your formal complaint alleging the Gary Police Department (the "Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*

BACKGROUND

In your complaint, you allege that on April 3, 2010, a Gary police officer was involved in a pursuit and arrest of a suspect. You further allege that during the incident, the suspect was shot several times by the police officer. However, the Department's daily log does not include any information on the arrest or the shooting. You state that the Department informed you that the suspect could be charged with pointing a loaded firearm and resisting law enforcement, but the log shows no offense report for those crimes and the Department "cannot produce a report." Further, the Department told you that the suspect was charged with drunk driving and driving without a license, but such information was not on the daily log as of the date of your complaint.

My office forwarded a copy of your complaint to the Department. As of today, we have not received a response.

ANALYSIS

The public policy of the APRA states, "[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 Department is a “public agency” under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Department’s public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

The APRA requires law enforcement agencies to maintain a daily log that lists suspected crimes, accidents, or complaints. *See* I.C. § 5-14-3-5(c). The record containing the information must be created not later than twenty-four hours after the incident has been reported to the agency, and the information must be made available for inspection and copying. The following information must be maintained in the daily log:

- (1) The time, substance, and location of all complaints or requests for assistance received by the agency.
- (2) The time and nature of the agency's response to all complaints or requests for assistance.
- (3) If the incident involves an alleged crime or infraction:
 - (A) the time, date, and location of occurrence;
 - (B) the name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4;
 - (C) the factual circumstances surrounding the incident; and
 - (D) a general description of any injuries, property, or weapons involved.

I.C. § 5-14-3-5(c). Thus, to the extent that the Department failed to create a daily log in accordance with section 5 of the APRA, the Department violated the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion that if the Department failed to create a daily log in accordance with section 5 of the APRA, the Department violated the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Chief Gary Carter