



STATE OF INDIANA

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OPINION OF THE PUBLIC ACCESS COUNSELOR

CHRISTOPHER MCCALLEY

Complainant

v.

CITY OF CARMEL

Respondent

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17-FC-64

ADVISORY OPINION APRIL 27, 2017

This advisory opinion is in response to your formal complaint alleging the City of Carmel (“City”) violated the Access to Public Records Act (“APRA”), Indiana Code § 5-14-3-1 *et. seq.* The City responded to the complaint via Mr. Douglas Haney, Esq. His response is enclosed for review. Pursuant to 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 March 13, 2017.

BACKGROUND

The complaint dated March 14, 2017 alleges the City has violated the APRA by not providing the Complainant with documents requested.

On or around December 2016, the Complainant filed no less than two (2) public records requests with the City of Carmel seeking information relating to the untimely death of his son. The City acknowledged the request within the statutorily prescribed timeframe. A certain amount of documents were released to the Complainant, albeit allegedly heavily redacted. The Complainant takes exception with the manner of redaction, as well as the tone of the City’s responses.



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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.” *See Indiana Code § 5-14-3-1*. The City of Carmel is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(m)(1)*. Accordingly, any person has the right to inspect and copy the City’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

Investigatory records of law enforcement agencies may be withheld from disclosure under Indiana Code § 5-14-3-3(b)(1). There are a myriad of reasons the police may choose to exercise its discretion under this statute including protecting the integrity of an investigation, the expectation of privacy and the preservation of public safety considerations.

It is my experience law enforcement generally treats all tragedies of this nature as investigations of crimes. They do so in order to maintain consistency and efficacy in their investigations. It has been my usual practice to encourage law enforcement to release as much information as possible to families of the deceased in order to provide a modicum of closure – to the extent that may even be possible. That being said, there is little this Office -or any public agency can provide -to assuage the grief of a family mourning the loss of a loved one.

To that end, however, it appears as if the City of Carmel has done more than legally necessary to provide additional information to the Complainant. In my opinion, it has done so with the requisite professionalism and empathy appropriate to the situation. While withholding information from a grieving family may appear callous, there are often legitimate and sound policy reasons to do so. While this Office extends the utmost sympathy to the Complainant it appears as if the City has acted in compliance with the Access to Public Records Act.

Regards,



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A handwritten signature in black ink, appearing to read "LH Britt", is positioned above the printed name and title.

Luke H. Britt
Public Access Counselor

Distribution:

Mr. Douglas Haney, Esq.