VIA EMAIL ONLY

January 13, 2020
PR 20-05

Mr. Rahim Caldwell

Nicholas P. Poulos, Esquire
Assistant City Solicitor, City of Providence

RE: Caldwell v. Providence Police Department

Dear Mr. Caldwell and Attorney Poulos:

We have completed our investigation into the Access to Public Records Act ("APRA") complaint filed by Mr. Rahim Caldwell ("Complainant") against the Providence Police Department ("Department"). For the reasons set forth herein, we find that the Department did not violate the APRA.

Background

The Complainant made an anonymous request to the Department seeking the following (reproduced below with formatting slightly altered):

"Audio recording in electronic form of call for service on 5/4/18 approx 7:45 Am, approx 8:00am, approx 8:20 Am, approx. 8:30Am at 600 Mt. Pleasant Ave."

The Department responded to Complainant’s request by providing a CD with audio responsive to the request and informing him that all responsive records had been released. Unsatisfied with the response, the Complainant subsequently appealed to the Commissioner of Public Safety, who

---

1 The Department questions the Complainant’s standing to bring his APRA complaint due to the request (Department Request #18-791) being made anonymously. Based on the record, including the Department’s indication that the appeal of #18-791 “was made via an email address labelled Rahim Caldwell,” we are satisfied that there is enough information supporting Complainant’s standing.
reaffirmed the initial response. Following the appeals process, the Complainant filed his complaint with this Office, alleging that the Department violated the APRA when it withheld “the initial call that causes the officers to arrive at 600 Mount Pleasant Ave.”

The Department submitted a substantive response to the complaint providing affidavits from Police Officer Stephen P. Shea and Assistant City Solicitor Nicholas P. Poulos, as well as copies of Complainant’s APRA request and the subsequent responses made by the Department. The essence of the Department’s response is that “the City has no such recording” responsive to Complainant’s request for “the initial call that causes the officers to arrive at 600 Mount Pleasant Ave.” during the time period requested.

We acknowledge the Complainant’s rebuttal.

Relevant Law and Findings

When we examine an APRA complaint, our authority is to determine whether a violation of the APRA has occurred. See R.I. Gen. Laws § 38-2-8. In doing so, we must begin with the plain language of the APRA and relevant caselaw interpreting this statute.

The APRA states that, unless exempt, all records maintained by any public body shall be public records and every person shall have the right to inspect and/or copy such records. See R.I. Gen. Laws § 38-2-3(a). Nothing within the APRA requires a public body to “reorganize, consolidate or compile data not maintained by the public body[.]” R.I. Gen. Laws § 38-2-3(h).

Here, the undisputed evidence demonstrates that the Department’s Sgt. James Mellor sent Complainant’s APRA request to Officer Stephen P. Shea, seeking any records responsive to Complainant’s request. It is also undisputed that Officer Shea “personally listened to all recorded call and dispatch audio for the relevant time period” and found one responsive transmission, which he “burned to a CD” that was provided to Complainant. Officer Shea conducted this review a second time after the Department received notice of the instant Complaint and again found only the single responsive transmission previously provided to Complainant.

The Complainant asserts allegations but does not provide any evidence to support his contention that the Department is in possession of any additional responsive audio recordings. As the Department notes in its response, “[c]omplaints may make their way to the police in a variety of ways, not all of which have audio recordings associated with them.”

Additionally, Complainant does not contest the reasonableness of the search performed by the Department for potentially responsive audio recordings. “The APRA requires a public body to conduct a reasonable search aimed at locating documents that are responsive to the particular request.” J.H. Lynch & Sons v. Rhode Island Department of Transportation, PR 19-06; see also Gagnon v. East Prov. School District, PR 15-52 (“When determining the adequacy of an agency’s search, one must measure the reasonableness of the search in light of the scope of the request.”). Based upon the foregoing, there is simply no evidence to demonstrate that the Department’s search
for the requested records was unreasonable or that the Department maintains the requested audio recording. Accordingly, based on the totality of the undisputed evidence, we find no violation.

Conclusion

Although the Attorney General has found no violation and has determined that it will not file suit in this matter, nothing within the APRA prohibits the Complainant from filing an action in Superior Court seeking injunctive or declaratory relief. See R.I. Gen. Laws § 38-2-8(b).

We thank you for your interest in keeping government open and accountable to the public.

Sincerely,

PETER F. NERONHA
ATTORNEY GENERAL

By: /s/ Kayla E. O’Rourke
Kayla E. O’Rourke
Special Assistant Attorney General