



State of Rhode Island and Providence Plantations

**OFFICE OF THE ATTORNEY GENERAL**

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**VIA EMAIL ONLY**

April 17, 2020  
PR 20-30

Mr. Christopher Kennedy

Marc DeSisto, Esquire  
Legal Counsel, Cranston Police Department

**Re: Kennedy v. Cranston Police Department**

Dear Mr. Kennedy and Attorney DeSisto:

The investigation into the Access to Public Records Act (“APRA”) Complaint filed by Mr. Christopher Kennedy (“Complainant”) against the Cranston Police Department (“Department”) is complete. For the reasons set forth herein, we find that the Department did not violate the APRA.

**Background**

The Complainant submitted four (4) APRA requests to the Department between May 17, 2019 and September 12, 2019 seeking the same police report involving an incident where a minor child was arrested, as well as witness statements and similar documents associated with the report. The Department responded by providing certain redacted pages and withholding the remainder of the requested documents pursuant to R.I. Gen. Laws § 38-2-2(4)(D)(c) and because it constituted “juvenile records.” The Complainant does not take issue with the redactions but alleges that the Department violated the APRA by failing to provide him with the entire police report and associated documents.

Attorney Marc DeSisto provided a substantive response on behalf of the Department and supplied this Office with copies of each of the Complainant’s APRA requests, the Department’s responses thereto, and unredacted versions of the documents responsive to Complainant’s APRA requests for our *in camera* review. The Department maintains that the requested police report is exempt from public disclosure pursuant to R.I. Gen. Laws § 14-1-64, which exempts certain police records relating to juveniles from public inspection. The Department also asserts that its invocation of R.I. Gen. Laws § 38-2-2(4)(D)(c) was appropriate because “the disclosure of the full report could

reasonably be expected to constitute an unwarranted invasion of personal privacy to the juveniles involved” and “their privacy interests outweigh any purported public interest in disclosure.”

We acknowledge Complainant’s rebuttal.<sup>1</sup>

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). Among the categories of public records exempt from disclosure under the APRA are “[a]ll records maintained by law enforcement agencies for criminal law enforcement and all records relating to the detection and investigation of crime,” where, among other reasons, disclosure “could reasonably be expected to constitute an unwarranted invasion of personal privacy.” R.I. Gen. Laws § 38-2-2(4)(D)(c). Additionally, R.I. Gen. Laws § 14-1-64, explicitly exempts certain juvenile records from public disclosure:

“All police records relating to the arrest, detention, apprehension, and disposition of any juveniles shall be kept in files separate and apart from the arrest records of adults and shall be *withheld from public inspection*, but the police report relating to the arrest or detention of a juvenile shall be open to inspection and copying upon request and upon payment of copying costs in accordance with § 38-2-4 by the parent, guardian, or attorney of the juvenile involved.” (Emphasis added)

Here, the Complainant sought police records related to a specific juvenile based on an alleged incident that occurred at school. It is undisputed that the requested police records relate to an incident where a juvenile was arrested and charged with a crime. The General Assembly has taken measures to safeguard the identity of juvenile offenders from the public. *See Matter of Falstaff Brewing Corp Re: Narragansett Brewery Fire*, 637 A.2d 1047, 1051-52 (R.I. 1994) (recognizing the General Assembly’s “intent to afford juveniles the opportunity to enter adulthood free of the

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<sup>1</sup> To the extent Complainant’s rebuttal raises allegations concerning potential violations of R.I. Gen. Laws § 14-1-64, those allegations are outside this Office’s authority under the APRA and will not be investigated. *See* R.I. Gen. Laws § 38-2-8(b). Additionally, Complainant’s rebuttal raises additional allegations concerning the format of the Department’s denials, which do not seem to implicate any APRA provisions, and which in any event are outside the scope of this APRA complaint and will not be investigated. *Id.* This Office conveyed in its initial letter to Complainant that any “rebuttal should be limited to the matters addressed in the Department’s response and should not raise new issues that were not presented in your complaint or addressed in the Department’s response.” As such, we decline to review issues raised for the first time on rebuttal since the public body has no opportunity to respond to the new allegations and this Office cannot fully investigate them. *See Mulanaphy v. South Kingstown School Committee*, OM 19-24.

stigmatization that follows criminal offenders”); *see also* R.I. Gen. Laws § 14-1-64. Our *in camera* review of the requested police records confirms that they relate to the arrest of a juvenile and fall within the purview of R.I. Gen. Laws § 14-1-64. Accordingly, the Department did not violate the APRA by withholding the records.<sup>2</sup> As we have determined that R.I. Gen. Laws § 14-1-64 clearly applies to the requested records, we need not analyze whether R.I. Gen. Laws § 38-2-2(4)(D)(c) also applies.

Finally, we note that the Complainant has expressed a heightened personal interest in the records he requested. However, under the APRA our sole function is to determine whether the requested document should be made available to the public at-large, not specific persons who assert a heightened personal interest in a document. We note that in *Bernard v. Vose*, 730 A.2d 30 (R.I. 1999), the Rhode Island Supreme Court held that the petitioner did not have a right, under the APRA, to review his own parole board files, which contained personal and sensitive information about him. For this reason, Complainant’s personal interest in obtaining the records cannot factor into our analysis. *See, e.g., Harper v. Portsmouth Police Department*, PR 19-15. Additionally, our review is limited to applying the APRA and we make no determinations regarding any entitlement to records under the exception set forth in R.I. Gen. Laws § 14-1-64. We also make no determination whether the Complainant may be able to obtain the requested report through other non-APRA means.

Conclusion

Although this Office has found no violations, nothing within the APRA prohibits an individual from obtaining legal counsel for the purpose of instituting an action for injunctive or declaratory relief in Superior Court as provided in the APRA. *See* R.I. Gen. Laws § 38-2-8(b). Please be advised that we are closing this file as of the date of this letter.

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

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<sup>2</sup> The Complainant indicates he would accept the records in redacted form, but it is uncontested that he requested records pertaining to a specific juvenile who was arrested and that R.I. Gen. Laws § 14-1-64 provides that such records are not public. *See also Pawtucket Teachers Alliance v. Brady*, 556 A.2d 556, 559 (R.I. 1989) (“the report at issue in the present case specifically relates to the job performance of a single readily identifiable individual. Even if all references to proper names were deleted, the principal’s identity would still be abundantly clear from the entire context of the report.”).