From: Daniel Lemley <dlemley@ashevillenc.gov>
Sent: 9/12/2019 10:37:24 AM
To: Diana
Cc:
Subject: Re: Report request

Diana Star,

I will counsel my people on these matters. In the meantime, I will at the close of business today try to provide a list of calls for service narrowed to these types of incidents. If something comes up that takes me away from this, I will let you know. I will then try to get these by the close of business Monday.

Dan Lemley • Administrative Services Manager

Asheville Police Department ● PO Box 7148 ● Asheville, NC 28802 ● 828-259-5427

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On Thu, Sep 12, 2019 at 10:28 AM Diana <trappreports2@gmail.com> wrote:

> Daniel Lemley,
>
> And I have repeatedly (over many years) been hassled by your front office staff and watched them hassle others making legitimate public records and other requests.
>
> I am looking for breaking and entering into an vehicles and any assaults or violent crimes in any of our parking garages. Any way you are able to provide that information will be most appreciated.
>
> Thank you.
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>
> On Sep 12, 2019, at 10:08 AM, Daniel Lemley <dlemley@ashevillenc.gov> wrote:
>
> Diana Starr,
>
> Whether you are a journalist or a citizen, you may make a Freedom of Information **request,** without an explanation. All my North Carolina—Asheville journalists know that we often don't charge for the research and copies for simple requests, even though North Carolina General Statutes allows, which Asheville City's policy aligns with. All my North Carolina—Asheville journalists know that we are inundated with work; thus, they are patient after sending and waiting to receive their requests. In fact, North Carolina General Statues says we "shall promptly as possible furnish copies thereof upon payment of any fees...." Promptly as possible is interpreted as a *reasonable time* that my agency is

able to accomplish the task. All my North Carolina—Asheville journalists know that if their story has a compelling community interest, they may ask for a waiver of fees. More often than not, the fees will be waived. In the end, we empathize and are of understanding when our journalists are pressed for time—we attempt, if possible, to get the information to them before their deadline.

Now with that being said, your request (literal interpretation) is not that simple as you have inaccurately presumed. If I can clarify your request it might be simple and without cost. If we interpret your request literally, it may come with fees. A cursory search of your request indicates we have over 2000 calls for service at the locations you are looking at and during the time frame you provided. If you are limiting those calls to just incident reports that were generated, your request narrows to an estimated 700 Incident reports.

If you just need a list of the calls for service that includes the date/time, location, nature of call, and Incident Report number (if applicable), I can have that to you in a short time. Is this what you desire? In fact, if you want copies of the public reports, which it seems you do, you can save the copy fees by going to the Asheville's Police Department's Police to Citizen (P2C) tool, where many public copies of the police report are available. You may reach that website at: https://apdp2c.buncombecounty.org/

Moreover, you can also plug your addresses into our Lexis Nexis Community Crime Map to get some of the data and even a map of the incidents. You can reach the web-site at https://communitycrimemap.com/

Here is a helpful FOIA letter template. It is not necessary to use it, but might be useful for you: https://www.nfoic.org/sample-foia-request-letters#foireq

In conclusion, let me know if you are requesting 1) a **list** of calls for service at these locations; or 2) a **list** of case numbers generated from these calls for service where an incident report might have been written; or 3) you actually need copies of the reports. The former two could be done by the close of business Friday, if not sooner. The later request will take considerable time and will possibly incur a copy fee unless you pull them off the P2C web-site yourself. The North Carolina General Statutes says that APD may satisfy a records request by posting the same on-line. If this is helpful, I have pasted the North Carolina General Statute below,

§ 132-6. Inspection, examination and copies of public records.

(a) Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law. As used herein, "custodian" does not mean an agency that holds the public records of other agencies solely for purposes of storage or safekeeping or solely to provide data processing.

(a1) A public agency or custodian may satisfy the requirements in subsection (a) of this section by making public records available online in a format that allows a person to view the public record and print or save the public record to obtain a copy. If the public agency or custodian maintains public records online in a format that allows a person to view and print or save the public records to obtain a copy, the public agency or custodian is not required to provide copies to these public records in any other way.

(b) No person requesting to inspect and examine public records, or to obtain copies thereof, shall be required to disclose the purpose or motive for the request.

(c) No request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information. If it is necessary to separate confidential from nonconfidential information in order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, public records relating to the proposed expansion or location of specific business or industrial projects may be withheld so long as their inspection, examination or copying would frustrate the purpose for which such public records were created; provided, however, that nothing herein shall be construed to permit the withholding of public records relating to general economic development policies or activities. Once the State, a local government, or the specific business has announced a commitment by the business to expand or locate a specific project in this State or the business has made a final decision not to do so, of which the State or local government agency involved with the project knows or should know, the provisions of this subsection allowing public records to be withheld by the agency no longer apply. Once the provisions of this subsection no longer apply, the agency shall disclose as soon as practicable, and within 25 business days, public records requested for the announced project that are not otherwise made confidential by law. An announcement that a business or industrial project has committed to expand or locate in the State shall not require disclosure of local government records relating to the project if the business has not selected a specific location within the State for the project. Once a specific location for the project has been determined, local government records must be disclosed, upon request, in accordance with the provisions of this section. For purposes of this section, "local government records" include records maintained by the State that relate to a local government's efforts to attract the project.

Records relating to the proposed expansion or location of specific business or industrial projects that are in the custody of the Department of Commerce or an

entity with which the Department contracts pursuant to G.S. 143B-431.01 shall be treated as follows:

(1) Unless controlled by another subdivision of this subsection, the records may be withheld if their inspection, examination, or copying would frustrate the purpose for which the records were created.

(2) If no discretionary incentives pursuant to Chapter 143B of the General Statutes are requested for a project and if the specific business decides to expand or locate the project in the State, then the records relating to the project shall not be disclosed.

(3) If the specific business has requested discretionary incentives for a project pursuant to Chapter 143B of the General Statutes and if either the business decides not to expand or locate the project in the State or the project does not receive the discretionary incentives, then the only records relating to the project that may be disclosed are the requests for discretionary incentives pursuant to Chapter 143B of the General Statutes and any information submitted to the Department by the contracted entity.

(4) If the specific business receives a discretionary incentive for a project pursuant to Chapter 143B of the General Statutes and the State or the specific business announces a commitment to expand or locate the project in this State, all records requested for the announced project, not otherwise made confidential by law, shall be disclosed as soon as practicable and within 25 days from the date of announcement.

(e) The application of this Chapter is subject to the provisions of Article 1 of Chapter 121 of the General Statutes, the North Carolina Archives and History Act.

(f) Notwithstanding the provisions of subsections (a) and (a1) of this section, the inspection or copying of any public record which, because of its age or condition could be damaged during inspection or copying, may be made subject to reasonable restrictions intended to preserve the particular record. (1935, c. 265, s. 6; 1987, c. 835, s. 1; 1995, c. 388, s. 2; 2005-429, s. 1.1; 2014-18, s. 1.1(c); 2014-115, s. 56.1; 2017-10, s. 2.9(b).)

Dan Lemley • Administrative Services Manager

Asheville Police Department • PO Box 7148 • Asheville, NC 28802 • 828-259-5427

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On Wed, Sep 11, 2019 at 10:45 PM Diana <trappreports2@gmail.com> wrote:

> Hello,
>
> Unless there are dozens of robberies in our parking garages, I don't see why my records request is so time consuming and potentially costly.
>
> I am also unfamiliar with journalists being charged for public records.
>
> Please advise.
>
>
>

Jeanette Sams

On Wed, Sep 11, 2019 at 1:37 PM Diana <trappreports2@gmail.com> wrote:
Please have your supervisor get in touch with me.

On Sep 11, 2019, at 12:54 PM, Jeanette Sams <jsams@ashevillenc.gov> wrote:

This would be considered a research project since it is so many locations and such a long time frame. If we provide the information that is requested above there is a charge under the City of Asheville Copying Policy. This fee consist of time and pieces of documentation produced.

I will need your okay to proceed for such a large project and that you agree with the fee structure that is outlined. I have attached a copy of the City of Asheville Copy policy for your review.