



STATE OF INDIANA

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**PUBLIC ACCESS COUNSELOR
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April 29, 2015

Mr. Martin L. Hensley
P.O. Box 846
Greenfield, IN 46140

Re: Formal Complaint 15-FC-95; Alleged Violation of the Access to Public Records Act by the City of Greenfield and the Greenfield Police Department

Dear Mr. Hensley,

This advisory opinion is in response to your formal complaint alleging the City of Greenfield ("City") and the Greenfield Police Department ("Department") violated the Access to Public Records Act, Ind. Code § 5-14-3-1 *et. seq.* The Department has responded via Chief John Jester for both the City and the Department. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on March 13, 2015.

BACKGROUND

Your complaint dated March 13, 2015 alleges the City of Greenfield and the Greenfield Police Department violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On February 23, 2015, you requested from the City a large number of documents related to a criminal investigation. A number of additional requests seeking the same kind of documentation have followed between the time of the filing of your request and the present.

According to the information presented, the Department delivered to you a portion of the documents you sought. The Department claimed the remainder of the documents either do not exist or are a part of an investigatory file. A current letter from this Office was recently sent to you addressing the investigatory elements of your request.

DISCUSSION

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

It appears as if your formal complaint was filed before any denial of records occurred. A public agency has a reasonable time to produce records pursuant to a request under Ind. Code § 5-14-3-3. From the information provided, it appears as if the Department produced records responsive to your request in less than a month’s time. Based upon the breadth of your request, this is reasonable under the APRA. As for records which were not provided, an agency does not have an obligation to produce records which do not exist. Furthermore, the investigatory records you seek have been addressed under another complaint number and issued to you earlier this week.

Also be advised this Office does not address criminal allegations. Another venue would be the appropriate forum for the remainder of your grievances.

CONCLUSION

Based upon the foregoing, it is the Opinion of the Public Access Counselor the City of Greenfield and the Greenfield Police Department did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor

Cc: Chief John Jester