

May 15, 2008

Dora Brown and Sonjia Graf
6429 North Kivett Road
Monrovia, Indiana 46157

Re: Formal Complaint 08-FC-103; Alleged Violation of the Access to Public Records Act by the Gregg Township Volunteer Fire Department

Dear Ms. Brown and Ms. Graf:

This advisory opinion is in response to your formal complaint alleging the Gregg Township Volunteer Fire Department ("Department") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. It is my opinion the Department must provide you access to the requested records unless an exception to disclosure applies.

BACKGROUND

This complaint follows Formal Complaint 08-FC-75, which you also filed against the Gregg Township Volunteer Fire Department, in response to which I issued an opinion indicating the Department had violated the APRA by not responding to your request. You now allege that you appeared at the Department on April 3 to pick up copies of the records. You allege that not all of the records you had requested were available. Because the Chief was away from the office on vacation, you allowed extra time to receive the records. You mailed this complaint on April 22, and I received it on April 23, alleging you have been denied access to records.

My office sent a copy of the complaint to the Department and invited the Department to respond, but we have not received a response to the complaint.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Department is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Department during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 5-14-3-3(a), 5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency. A public agency is required to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. § 5-14-3-7(a). However, section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. I.C. § 5-14-3-7(c). Previous public access counselors have stated that records must be produced within a reasonable period of time, based on the facts and circumstances. Consideration of the nature of the requests (whether they are broad or narrow), how old the records are, and whether the records must be reviewed and edited to delete nondisclosable material are necessary to determine whether the agency has produced records within a reasonable timeframe.

As I indicated in *Opinion of the Public Access Counselor 08-FC-75*, the Department should provide you access to the requested records unless an exception to disclosure applies. While the APRA does not specify a time for production, the Department should provide access within a reasonable period of time.

CONCLUSION

For the foregoing reasons, it is my opinion the Department must provide you access to the requested records unless an exception to disclosure applies.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: David J. Reese, Fire Chief, Gregg Township Volunteer Fire Department