

December 13, 2004

Mr. Herbert Scott Foust  
1946 West U.S. Highway 40  
Greencastle, IN 46135

*Re: Formal Complaint 04-FC-213; Alleged Violation of the Access to Public Records Act by the Goshen City Police Department*

Dear Mr. Foust:

This is in response to your formal complaint alleging that the Goshen City Police Department ("Department") violated the Access to Public Records Act ("APRA") by failing to respond to your request for records. I find that the Goshen City Police Department did not violate the Access to Public Records Act.

#### BACKGROUND

You allege that on October 29, 2004, you sent a request for records to the Department. You requested all papers, reports, interrogatories, investigational reports, incident reports and evidence log in specific case, incident and call numbers. You provided a copy of your request, which was addressed to the Goshen Police Department, Goshen City Attorney, and Goshen City Court, all at 111 E. Jefferson Street. Having received no response from the Goshen City Police, you filed your complaint against only the Department, which I received on November 12, 2004.

I sent a copy of your complaint to the Department. Ms. Shannon Marks of the Goshen City Legal Department responded to your complaint on behalf of the Department. I have provided you with a copy of her response. She replied that the Department had not received a copy of your request. She also took the liberty of inquiring of the City Attorney (for which her office would have received the request) and the City Court. Neither had received a copy of your request for records.

## ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency's regular business hours, unless an exception to disclosure applies. IC 5-14-3-3(a). As you noted in your records request, an agency is required to respond in writing within seven (7) calendar days of receipt of a request for public records that the agency receives by U.S. Mail. However, the Department has not received your request, and therefore cannot be in violation of APRA for failing to respond. With its receipt of your request for records at the time I sent the complaint, the Department is willing to comply, with your remittance of the copying fee, which is stated in the enclosed letter.

An agency may require advance payment for copies. IC 5-14-3-8(e). The Department has not charged you for the cost of researching or overhead charges, but only for the actual cost of copying the records. *See* IC 5-14-3-8(d).

## CONCLUSION

For the foregoing reasons, I find that the Goshen City Police Department did not violate the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Shannon Marks