

From: James Kreidler
To: kellymkelly@comcast.net; "Kellie "Sullivan (SEC)""; clerk@townsend.ma.us; "Steve" "Sheldon"
Cc: "Carolyn Smart"; "Kathy Spofford"; "Kelly Merrill"; gnclark613@gmail.com; selectmancindyking@gmail.com
Subject: RE: Public Records Request
Date: Friday, April 14, 2017 10:49:42 AM

Ms. Kelly,

In an additional effort at being responsive I offer the following.

Of the documents withheld per the attorney client exemption there are no documents that even remotely speak to the issue of "someone withdrawing from the investigation."

Other than the communications between Mr. Donovan and Chief Eaton in which Donovan declines the assignment and all of the produced communications between Chief Parker and Chief Eaton (and others), there are no documents withheld between counsel and any other agent of the town with any other individuals that you refer to as the "three investigators".

Unless there are files that I am not privy to in the police department, other than the emails produced between Chief Eaton and Mr. Donovan in which he declines the assignment, there are no other documents in which "investigators" decline the assignment.

I will try once more to ascertain whether or not such, as of yet undisclosed, files exist. Please note that such an effort is necessarily hampered by the absence of the Chief and the inability of the Lt. to be involved as the subject of the investigation.

Regards,

Jim

From: kellymkelly@comcast.net [mailto:kellymkelly@comcast.net]
Sent: Friday, April 14, 2017 9:55 AM
To: 'Kellie "Sullivan (SEC)"; James Kreidler; clerk@townsend.ma.us; 'Steve' 'Sheldon'
Cc: 'Carolyn Smart'; 'Kathy Spofford'; 'Kelly Merrill'; gnclark613@gmail.com; selectmancindyking@gmail.com
Subject: Re: Public Records Request

Thank you. I understand legal advice may be covered under the Attorney-client privilege. I do not understand how discussing someone withdrawing from the investigation can be construed as legal advice when it would appear to be more administrative in nature.

Also, may I also ask how the investigator who withdrew from the investigation informed the town he was withdrawing from the investigation into the Lt.? My request asked for any communication (not just emails) from the three investigators, and I'm wondering how the person who originally accepted the investigation and then withdrew from (what I assume was) a contracted service notified the town of his intent to withdraw. I imagine such a withdrawal was not done verbally. If such a document

exists, I expect it should be provided to me.

Thank you,

Kelly

Sent from XFINITY Connect Mobile App

----- Original Message -----

From: James Kreidler

To: Kelly Kelly, 'Kellie 'Sullivan (SEC)', clerk@townsend.ma.us, 'Steve' 'Sheldon'

Cc: 'Carolyn Smart', 'Kathy Spofford', 'Kelly Merrill', selectmancindyking@gmail.com, gnclark613@gmail.com

Sent: April 14, 2017 at 9:43 AM

Subject: RE: Public Records Request

Ms. Kelly,

At the risk of engaging in a needless debate here, the Secretary of State's "Guide to the Massachusetts Public Records Law" (

<http://www.sec.state.ma.us/pre/prepdf/guide.pdf>)

provides, on page one, that:

Specific statutory exemptions have been created by the legislature. There are non-statutory exemptions as well called common law exemptions. Non-statutory exemptions include the common law attorney client privilege and the work product privilege. These exemptions permit the agency or municipality to withhold a record from the public.

I trust that this clarifies the issue for you.

In an extended effort at trying to satisfy your concern I will review the documents withheld one more time.

Regards,

Jim

James M. Kreidler
Town Administrator
Town of Townsend
272 Main Street
Townsend, MA 01469
(978) 597-1700

jkreidler@townsend.ma.us

If this email is received by a multi-member public board, commission or committee please take care to never "respond to all" as you may inadvertently create a violation of the open meeting law.

This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message. In Massachusetts, the term "public record" is broadly defined to include all documentary materials or data created or received by any officer or employee of any governmental unit, regardless of physical form or characteristics unless it falls under one of the statutory exemptions to the Public Records Law MGL Chapter 4, Section 7(26). Consequently, email is subject to the disclosure, retention and maintenance provisions as required by law. MGL Chapter 66

From: kellymkelly@comcast.net [<mailto:kellymkelly@comcast.net>]

Sent: Friday, April 14, 2017 8:11 AM

To: 'Kellie 'Sullivan (SEC)'; James Kreidler; clerk@townsend.ma.us; Steve 'Sheldon

Cc: 'Carolyn Smart'; 'Kathy Spofford'; 'Kelly Merrill'; selectmancindyking@gmail.com;

gnclark613@gmail.com

Subject: Re: Public Records Request

Mr. Kreidler,

To be clear, you are denying me any communion between the Chief and town counsel for none of the exemptions listed and allowed under public records law?

In the past, you have provided me and others communication from town counsel, including his legal opinions. However, now you are withholding these documents for an exemption not specifically allowed under public records law, documents and emails that were paid for by town resources?

Please clarify your position,

Kelly

Sent from XFINITY Connect Mobile App

----- Original Message -----

From: James Kreidler

To: Kelly Kelly, clerk@townsend.ma.us, Steve 'Sheldon', 'Kellie 'Sullivan (SEC)'

Cc: 'Carolyn Smart', 'Kelly Merrill', gnclark613@gmail.com,

selectmancindyking@gmail.com, James M. Kreidler, 'Kathy Spofford'

Sent: April 13, 2017 at 9:40 PM

Subject: RE: Public Records Request

Ms. Kelly,

Attached please find a PDF of all responsive documents to your request below.

There were other email documents between Chief Eaton and Town Counsel that have been withheld pursuant to the non-statutory common law attorney client privilege exemption.

In accordance with 950 CMR 32.08(1), you may make an administrative appeal of this response to the Supervisor of Public Records. You further have the right to seek judicial review of this response by commencing a civil action in Superior Court.

Regards,

Jim

James M. Kreidler

Town Administrator

Town of Townsend

272 Main Street

Townsend, MA 01469

(978) 597-1700

jkreidler@townsend.ma.us

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From: kellymkelly@comcast.net [<mailto:kellymkelly@comcast.net>]

Sent: Sunday, March 26, 2017 2:28 PM

To: clerk@townsend.ma.us; Kreidler, James; Sheldon, Steve

Cc: Carolyn Smart; Kelly Merrill; gnclark613@gmail.com; selectmancindyking@gmail.com

Subject: Public Records Request

Today's Date: March 26, 2017

Town Administrator

Town of Townsend, Massachusetts, 01469

RE: Massachusetts Public Records Request

This is a request under the Massachusetts Public Records Law (M. G. L. Chapter 66, Section 10). I request that I be provided with the following:

1. Any and all communication between any of the three investigators originally contacted to investigate Lt. Giancotti, as referenced in the "Parker Report," so called with any town employee or official, including but not limited to any member of the Board of Selectmen, the Town Administrator, the Police Chief, or Town Counsel .

2. Any communication between the Town Administrator, Board of Selectmen, Town Counsel and Police Chief, or any combination thereof, regarding the three investigator's decisions to not begin or continue the investigation into Lt. Giancotti.

I recognize that you may charge reasonable costs for copies, as well as for personnel time needed to comply with this request. Electronic copies instead of paper would be acceptable. If you need me to supply a thumb-drive, let me know.

If you expect costs to exceed \$10.00 each, please provide a detailed fee estimate for EACH request before proceeding.

The Public Records Law requires you to provide me with a written response within 10 business days. If you cannot comply with my request, you are statutorily required to provide an

explanation in writing.

Please respond to this email when you receive it in your office so I may have a record of your receipt for my records.

Sincerely,
Kelly Kelly
5 Taurus Lane
Townsend, MA 01469



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