



# STATE OF INDIANA

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July 21, 2016

Mr. William Buckley  
207 West Huntington Street  
Post Office Box 66  
Montpelier, Indiana 47359

*Re: Formal Complaint 16-FC-140; Alleged Violation of the Access to Public Records Act by the City of Montpelier*

Dear Mr. Buckley:

This advisory opinion is in response to your formal complaint alleging the City of Montpelier ("City") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The City has responded via counsel, Mr. John H. Brooke, Esq. His response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on June 20, 2016.

## BACKGROUND

Your complaint dated June 20, 2016, alleges the City of Montpelier violated the APRA by failing to provide records requested within a reasonable amount of time.

On May 27, 2016, you submitted a request seeking records which "catalogue the complaints made in regard to the building at 117 South Main Street" and the "formal legal authority" under which the demand letter you received was made. You also sought the "minutes of any action by the City of Montpelier indicating Mr. Steve Minnick has been formally granted the authority by the City to act." That day, you received an email acknowledgement from the City. As of the filing of your complaint, you had not received any records.

On July 14, 2016 the City responded. The City contends your request is not a request for records and is instead a request for legal research. It notes the majority of the information sought is available online. The City states the minutes sought were not prepared at the time of your request, but states the minutes were provided to you, along with other material, on June 27, 2016.

## ANALYSIS

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

Under Indiana Code § 5-14-3-3(b), a request for public records must be fulfilled by a public agency within a reasonable time. The APRA does not specify a time for production or inspection of responsive records. Often, this Office is asked to make a determination as to the reasonableness of the time for production by a public agency. What is a "reasonable" time period under one circumstance may not be reasonable under other conditions. Production need not materially interfere with the regular discharge of the functions and duties of the public agency. See Indiana Code § 5-14-3-7(a).

The determination of what is a reasonable time for production, therefore, depends upon the public records requested and circumstances surrounding the request. Although reasonable time is not defined in the APRA or by the Courts, it is a standard which differs on a case-by-case basis.

The City contends the majority of your request is not a records request, but rather requests for legal research. However, The City’s position is incorrect. The majority of your request was for public records, but the request lacked reasonable particularity. I previously addressed a similar records request in *Advisory Opinion 16-FC-60*. I wrote,

You requested records sufficient to show sign in, sign out, and physical location during work times for an individual employee. However, this request lacked reasonable particularity, because you had not requested a specific document and instead left it to the discretion of MCAS to provide you with records which may or may not satisfy your curiosity. A records request does not state what is expected to be found in the records. Instead, it states the name or description of the records.

There, as is the case here, the request was not for a specific record, but instead stated what was expected to be found in the records. Further, your request did not specify a timeframe for the complaints. A request for records must state the timeframe the record was created in to be reasonably particular. Because you did not state the timeframe for when the complaints were filed, your request for copies of complaints lacked reasonable particularity and the City is under no obligation to provide the complaints under Indiana Code § 5-14- 3-3(b) if they do not exist. The second part of your request was a request for legal research. Public agencies do not have to fulfill requests for legal research.

Despite the deficiencies with your request, the City began to fulfill your request. The City provided records on June 2, 2016. A period of one month is not an unreasonable of time considering the fact your request lacked reasonable particularity. Further, because the City was not obligated to fulfill this request, the City’s decision to process the request shows a willingness to be transparent. From the information provided, it is my opinion that the City has done its due diligence pursuant to your request.

## CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the City of Montpelier did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', written in a cursive style.

Luke H. Britt  
Public Access Counselor

Cc: Mr. John H. Brooke, Esq.