
OPINION OF THE PUBLIC ACCESS COUNSELOR

DAVID L. MYERS,
Complainant,

v.

VIGO COUNTY,
Respondent.

Formal Complaint No.
19-FC-121

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging that Vigo County violated the Access to Public Records Act.¹ County Attorney Michael J. Wright filed an answer on behalf of the County. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on November 1, 2019.

¹ Ind. Code § 5-14-3-1, to -10.

BACKGROUND

David Myers (“Complainant”) contends that Vigo County violated the Access to Public Records act by failing to produce requested records.

On July 15, 2019 the Complaint, after some initial confusion, met with Mr. Wright and verbally requested the following records:

Highway Department records associated with the clean-up of a tree that a client had hit with his car, as well as any reports made to the Department about the tree. This includes notifications from police, citizens, and the 911 dispatch center or by any other source.

Following the July 15 meeting there were multiple email conversations between the two parties, all initiated by the Complainant requesting updates on the fulfillment of his records request. Despite following-up with Mr. Wright multiple times over four month period, Mr. Myers’ request was not fulfilled until December 19, 2019.

On behalf of the County, Mr. Wright acknowledged that the time taken to produce the responsive material was unreasonable and apologized.

ANALYSIS

1. The Access to Public Records Act (“APRA”)

It is the public policy of the State of Indiana that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Ind. Code § 5-14-3-1.

The Access to Public Records Act (“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.” *Id.* Vigo County is a public agency for the purposes of APRA; and thus, is subject to the act’s requirements. Ind. Code § 5-14-3-2(q). Unless otherwise provided by statute, any person may inspect and copy the County’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

2. Reasonable Time

A requester should expect to receive production of documents within a reasonable time after an agency accepts a request. *See* Ind. Code § 5-14-3-3(b). This could entail a partial or complete fulfillment of the request, depending on the circumstances.

“Reasonable time” is not defined explicitly in statute or case law but is simply defined by this office as practical efficiency. Some realities which factor in to the equation are the size of the public agency and resources available to devote to responding to requests; the size of the request itself in terms of both complexity and magnitude; the number of other pending requests; and other outlying situations affecting the response on a case-by-case basis.

In this case, those factors do not appear to be elements here. If they had, the County has not indicated that to be the case. Some public records requests indeed do take a considerable amount of time to produce if certain circumstances apply. As

noted above, the County did eventually provide the documentation on December 19 totaling five months between the request and the production of two documents from 2019.

The turnaround time for a records request such as this should only be a matter of days at the most, barring any unforeseen issues.

Vigo County has not typically run afoul of the Access to Public Records Act with this office in the past therefore they will receive the benefit of the doubt that this was merely an oversight and the request, despite multiple appeals for status updates, is an outlier. Nonetheless, this office will take this opportunity to impress on the County the importance of efficient and vigilant attention given to public records requests and a quick response time. I am confident the County will do so in the future.

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

Luke H. Britt
Public Access Counselor