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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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JOSHUA S. TURNER,  
*Complainant,*

v.

CITY OF NEW ALBANY,  
*Respondent.*

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Formal Complaint No.  
22-FC-129

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the counselor:

This advisory opinion is in response to a formal complaint alleging that the City of New Albany violated the Access to Public Records Act.<sup>1</sup> The city controller, Linda Moeller filed an answer on behalf of the City. 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 September 6, 2022.

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<sup>1</sup> Ind. Code § 5-14-3-1-10.

## **BACKGROUND**

This case involves a dispute about whether the City of New Albany violated the Access to Public Records Act (APRA) by failing to respond to a request for public records from a city councilperson.

On August 8, 2022, Joshua Turner (Complainant), a member of the New Albany City Council, sent an email to the city controller and the city attorney requesting the following:

An itemized list of all expenditures for all departments from Jan 1, 2021, to present.

Two days later, after not receiving a reply, Turner sent another email seeking a status update. On August 19, 2022, after not hearing anything from the controller or the attorney, the Complainant resubmitted his public records request, via email, which sought the same.

On September 6, 2022, Turner filed a formal complaint with this office arguing the City violated the APRA because it failed to acknowledge and respond to his records request.

On September 26, 2022, the city controller submitted a letter defending the actions of her office by explaining that the document requested is a detailed expense report that is nearly 2,000 pages in length. Therefore, it will require a significant amount of time for her to examine the document in its entirety to vet the information for potential redactions.

The controller argues that Turner has received and continues to receive a multitude of records in his capacity as a council member. This includes, monthly financial reports,

financial data used when developing the budget, as well as “over 24,500 pages of documents ... [and] approximately 55 gigabytes worth of digital data.”

According to the controller, she continues to address Turners records requests as time allows given her other obligations pertaining to the 2023 Budget process and a pending audit by the State Board of Accounts.

## 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. Further, 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.*

The City of New Albany (City) is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the City’s public records during regular business hours. Ind. Code § 5-14-3-3(a). Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

## 2. Reasonable time

APRA requires a public agency to provide public records to a requester within a reasonable time after receiving a request. Ind. Code § 5-14-3-3(b). Notably, APRA does not define the term “reasonable time.”

The determination of what is a reasonable time for production depends on the public records requested and circumstances surrounding the request. Undoubtedly, certain types of records are easier than others to produce, review, and disclose. As a result, this office evaluates these issues case by case.

Here, the request is large, but that does not necessarily disqualify it from legitimacy. The City—at least initially—decides whether a public records request (or portions of it) lack the specificity required by APRA. Still, the City did not argue that Turner’s request failed to meet APRA’s “reasonable particularity” standard.<sup>2</sup>

Therefore, accepting a request, even of significant magnitude, shifts the burden to the public agency for an efficient, reasonable response under APRA. This office has stated in the past that piecemeal disclosures of larger requests are preferable compared to waiting for the entirety of the responsive records to become available.<sup>3</sup> This approach generally serves to stave off complaints such as this.

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<sup>2</sup> Ind. Code § 5-14-3-3(a)(1).

<sup>3</sup> *Opinion of the Public Access Counselor*, 15-FC-88 (2015).

Judging by the relative size of the request, it may have taken several months to ultimately retrieve and disclose all the requested records. Unless it is in a single file or database, two years' worth of expenditures is an unreasonably unspecific request. It is also highly unusual, in the experience of this office, for a councilperson to submit public records requests of this nature to the executive branch of local government.

That stated, a request - no matter where it originates, or whether it is deficient on its face - should be accompanied by a receipt provided to the requester. Pursuant to Indiana Code section 5-14-3-9(b)(2), a requester is entitled to an acknowledgement of a remotely-submitted request within seven days. That can be a denial or a call for more specificity, but the burden does shift to the agency for some kind of reply in order to satisfy the requirements of the law.

## CONCLUSION

Based on the foregoing, it is the opinion of this office that the City of New Albany failed to provide an acknowledgment of the Complainants request in violation of the Access to Public Records Act.



Luke H. Britt  
Public Access Counselor

Issued: October 20, 2022