



# STATE OF INDIANA

ERIC J. HOLCOMB, Governor

**PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT**

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)234-0906  
Fax: (317)233-3091  
Toll Free: 1-800-228-6013  
Email: pac@in.gov/opac  
Website: www.IN.gov/pac

## OPINION OF THE PUBLIC ACCESS COUNSELOR

DIANA L. ELLIOTT, JASMINE L. ELLIOTT<sup>1</sup>, )  
SHERRY LEE ROSE )

Complainant )

v. )

CITY OF RICHMOND )

Respondent )

**17-FC-06, 16-FC-07 & 16-FC-08  
(Consolidated)**

### ADVISORY OPINION February 16, 2017

This advisory opinion is in response to the formal complaint alleging the City of Richmond Department of Law (“City”) violated the Access to Public Records Act (“APRA”), Indiana Code § 5-14-1.5-1 et. seq. The City has responded via Ms. Kimberly A. Vessels, Esq., Assistant City Attorney. Her response is enclosed for review. Pursuant to 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 January 13, 2017.

### BACKGROUND

The formal complaint dated January 13, 2017, alleges the City violated the APRA by not complying with a records request.

On or about December 20, 2016, the Complainant sent a records request seeking various documentation in relation to a named party. It appears as if the records request was made pursuant to a death investigation. The Respondents acknowledged your request on December 22, 2016, stating it will take

<sup>1</sup> This complaint has been consolidated with two others involving the exact same subject matter. It appears as if three individuals submitted identical requests for information.



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the City a period of time to locate records based on the volume of requests. As of the date of the filing of the complaint on January 10, 2017, the Complainant had not received any additional information.

## 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 Richmond Department of Law is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. 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)*.

Indiana Code § 5-14-3-3 states that production of documents responsive to a request should occur within a reasonable time of the request. While a reasonable time has not been defined by the legislature or the judiciary, this Office and prior Public Access Counselors have opined on what that term means in practicality. Among the factors incorporated in the interpretation of ‘reasonableness’ include size of staff, complexity of a request and any extenuating circumstances.

As mentioned above, the purpose of requiring a reasonable time is to allow an agency to search efficiently and quickly for the records sought in order to meet the timeliness standard. Since the formal complaint was filed sixteen (16) business days after acknowledgement from the City, Complainants have not given the City a reasonable amount of time to comply with requests. A similar matter was addressed to the Complainant in *Opinion of the Public Access Counselor 16-FC-177*.

Furthermore, your request was eventually denied by the City due to the request for investigatory records. These types of records may be withheld from release upon request pursuant to Indiana Code § 5-14-3-4(b)(1). The exception to disclosure may be exercised to prevent compromising an ongoing investigation.

## CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the City of Richmond has not violated the Access to Public Records Act.

Luke H. Britt



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A handwritten signature in black ink, appearing to read "L. Britt", is positioned above the title of the Public Access Counselor.

Public Access Counselor

Cc: Ms. Kimberly Vessels, Esq.