



STATE OF INDIANA

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OPINION OF THE PUBLIC ACCESS COUNSELOR

David Williams)	
)	
Complainant)	
)	
v.)	16-FC-301
)	
Clark County)	
)	
Respondent)	

ADVISORY OPINION January 23, 2017

This advisory opinion is in response to the formal complaint alleging Clark County Government (“County”) violated the Access to Public Records Act (“APRA”), Indiana Code Indiana Code § 5-14-1.5-1 et. seq. The County has not responded despite an invitation to do so via the County Attorney on December 20, 2016. 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 December 7, 2016.

BACKGROUND

On or about October 4, 2016, Complainant submitted an Access to Public Records Act request to the General Counsel of Clark County. The records requested involved a number of documents and information related to the Salem-Noble Bridge project. The General Counsel of the County acknowledged your request on October 4, 2016 and a status update was provided on December 1, 2016 indicating that some, but not all, of the records had been compiled and would be released after attorney review.



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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 Clark County Government 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 County’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)*.

Without the benefit of a response from the County, I cannot determine whether any information has been released to the Complainant subsequent to the filing of your complaint. Approximately 60 days had elapsed between the filing of the records request and a prompted status update. At the very least, a requestor can anticipate a status update and/or the production of at least some of the records during that time period. It is my sincere hope the records have been released by the time of the writing of this opinion, however, the lack of communication during the 60 day period is indeed worrisome.

The APRA states records should be released a “reasonable time” after the submission of a request. Although reasonable time is not defined by code, and there are many factors on a case-by-case basis which influence the “reasonableness” of delay, I simply lack the information as to why 60 days would be justified under these circumstances.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Clark County Government has violated the Access to Public Records Act.

A handwritten signature in black ink, appearing to read "L. H. Britt", written in a cursive style.

Luke H. Britt



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