



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

LAUREN CROSS,)

Complainant)

v.)

CITY OF EAST CHICAGO)

Respondent)

16-FC-323

ADVISORY OPINION

February 13, 2017

This advisory opinion is in response to a formal complaint alleging the City of East Chicago (“City”) violated the Access to Public Records Act (“APRA”), Indiana Code § 5-14-1.5-1 et. seq. The City has not responded despite an invitation to do so on January 5, 2017. 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 29, 2016.

BACKGROUND

The complaint dated December 29, 2016, alleges the City of East Chicago violated the APRA by not providing the Complainant with the records requested. On September 9, 2016, the Complainant sent a records request to the city attorney (also the designated public information officer) for the following information: reports by the City’s Health Department on blood lead level (BLL) tests, specific age group of children with any BLLs between 1985-2015, and additional information relating to lead levels in individuals and children. Additional email correspondence was sent to the respondent on September 9, 13, 15 and 16, with no response from the Respondents. A phone conversation took place on September 28, 2016 between the Respondent and the Complainant wherein emails were then sent acknowledging the records requests and confirmation they would be sent to the appropriate departments. As of November 25, 2016, the Respondents had not responded the Complainant’s emails or provided any additional updates on the records request.



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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 City of East Chicago 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)*.

A request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See Indiana Code § 5-14-3-9(b)*. A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply. It appears the City did not acknowledge your request within the seven (7) days pursuant to the statute, thus acknowledging your request after a phone call twenty-two (22) days after request was sent.

From the response on September 28, 2016, it appears the City was attempting to comply with the request, but without a reply from the City I am unable to make a determination if they are in the process of retrieving records. In any case, the request has been outstanding for several months -without even a status update. *At the very least, the expectation is either a denial based upon relevant statutes; partial or full production of documents; or a progress update informing the requester of a legitimate reason for delay.*

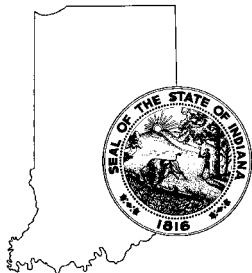
Emphasis added.

CONCLUSION

Based on the foregoing, The City of East Chicago 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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Public Access Counselor

Cc: Ms. Carla Morgan, Esq., City Attorney