



STATE OF INDIANA

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January 21, 2025

Re: Complaint 25-FC-114
Logan Foster (Complainant) v.
City of South Bend (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed June 3, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 17, 2025, requesting a formal response by November 17, 2025. A formal response, submitted by Danielle Weiss, Senior Assistant City Attorney on behalf of Respondent, was received in this office on November 17, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide a copy of recordings and records in a reasonable time from the date of request.

ANALYSIS

The public policy of 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 is to provide the information.” Indiana Code (IC) 5-14-3-1. Respondent is a public agency for purposes of APRA; and therefore, subject to the requirements. IC 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy Respondent’s public records during regular business hours. IC 5-14-3-3(a).

Complainant states that on January 31, 2025, he requested a copy of any bodycam, dash cam recording, police reports, notes by and text messages of the attending officers, other recordings of communications and dispatch logs regarding an incident at the St. Joseph County City Building on January 13, 2025. Additionally, Complainant requested all documents surrounding certain attorneys and law firms that had represented the Respondent over a multi-year period.

Under APRA a public agency may not deny or interfere with the exercise of the right for any person to inspect or copy a public agency's disclosable public records. IC 5-14-3-3(a). Toward that end, the law requires an agency within a reasonable time after the request for copies of records is received to provide the requested copies to the person making the request. IC 5-14-3-3(b).

The term "reasonable time" is not defined by APRA; and thus, it falls to this office to make a determination on a case-by-case basis when a complaint is filed challenging timeliness. In making that determination, this office considers the following factors:

- (1) the size of the public agency;
- (2) the size of the request;
- (3) the number of pending requests;
- (4) the complexity of the request;
- (5) any other operational considerations or factor that may reasonably affect the public records process.

Opinion of the Public Access Counselor 25-FC-034.

Respondent stated that substantial time and effort from several departments were required to identify and record, for purposes of disclosure, the various records requested. The records requested included bodycam recordings, dash cam recordings, police reports, notes taken by officers, texts, 911 recordings and dispatch logs, cell phone logs and text messages to Respondent's police officers. Respondent also stated, "[d]uring the review, the City also encountered internal technical issues that intermittently interrupted progress. Mr. Foster was advised of the review progress, including these technical delays...."

The second part of Complainant's request covered hundreds of documents regarding attorney invoices and the redaction of those invoices according to statute. Claimant received some 245 records in response to the request for attorney invoice related documents.

This office has in past opinions suggested that the standard for reasonable time for responding to a records request should be within thirty (30) days. *Opinion of the Public Access Counselor 20-FC-19.* That standard may be mitigated by the factors set forth above.

Both Complainant and Respondent agree that the requested records were provided to Complainant on May 27, 2025, and followed up by the final delivery on June 17, 2025. The only issue remaining is whether the approximately four (4) to five (5) months it took to deliver the requested records was unreasonable. Acknowledging the complexity of locating the varied types of records and recordings and the necessary review and redactions required for the

recordings, it was some 116 days until delivery of the documents were made. Respondent communicated on May 19, 2025, that some technical difficulties had been experienced and the release would be delayed a few days. This does not appear to be an unreasonable time to prepare the disclosure.

However, the legal documents were reviewed and redacted to prevent disclosure of the undisclosable portions of the records, taking nearly an additional month to provide the documents on June 17, 2025. Respondent acknowledged that only two (2) law firms met the records requested. Monthly billings and accompanying documents should have been a smaller request to identify and prepare for release to Complainant. This office agrees that four and a half (4.5) months to provide copies of the redacted legal invoices exceeded a reasonable time as contemplated by the statute.

Complainant also listed several concerns related to Respondent's form. However, IC 5-14-3-3(a)(2) states:

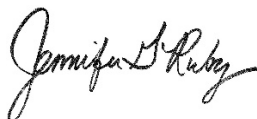
Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

...
(2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

Our review of the statute and prior opinions from this office provides that public agencies are allowed to create and use forms for APRA requests. This office gives deference to the public agencies in creating the forms for its APRA request process.

CONCLUSION

This office finds that the Respondent did not violate APRA with the May 27, 2025, response, but finds that the June 17, 2025, response violated APRA by failing to provide those public records requested within a reasonable time.



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