



STATE OF INDIANA

MIKE BRAUN, Governor

**PUBLIC ACCESS COUNSELOR
JENNIFER RUBY**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317) 234-0906
Email: pac@opac.in.gov
Website: www.IN.gov/pac

August 13, 2026

Re: Complaint 25-FC-280
Brooke McAfee (Complainant) v.
City of New Albany (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed September 5, 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 Shane Gibson, with the City of New Albany, 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 records in a reasonable amount of time.

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 it 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(s). 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 filed an APRA request on June 13, 2024, seeking documentation of legal fees and costs paid in a certain matter from Respondent. Complainant filed a complaint with this office on August 30, 2024. By December 30, 2024, this office determined that Respondent planned to turn over the requested documents once the complex litigation was settled which would be “resolved somewhat soon”. However, Complainant never received the requested information.

Complainant submitted a new complaint on September 5, 2025, on the same or related APRA requests on legal fees and costs which still have not been answered. Almost a year later, Respondent's response on November 17, 2025, again says, "resolution is expected soon".

APRA does not define the term "reasonable time". This office has in the past provided guidance on what would be considered a reasonable time for purposes of compliance with the APRA provisions. An informal benchmark this office observes for a typical response time would be thirty (30) days from the receipt of the request. *Opinion of the Public Access Counselor 20-FC-87*.

However, this office has further observed that many requests cannot be fulfilled within thirty (30) days for a variety of reasons. In those circumstances, 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; and
- (5) any other operational considerations or factors that may reasonably affect the public records process.

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

Respondent's response argues essentially that it cannot violate APRA because of ongoing litigation related to the requested public records. The Indiana Court of Appeals found in *The Board of Trustees of the Public Employees' Retirement Fund of Indiana v. Morley*, 580 N.E.2d 371 (Ind. Ct. App. 1991) that federal courts had recognized the existence of an attorney-client privilege between government attorneys and the agencies they advise. *Green v. I.R.S.* (N.D.Ind.1982), 556 F.Supp.79 aff'd (7th cir.1984), 734 F.2d 18.

The Court in *Board of Trustees* further concludes that discussions between client (PERF) and attorney (Attorney General) are protected by attorney-client privilege and fall within the exception to disclosure under the public records statute. More recently, the case of *Groth v. Pence*, 67 N.E.3d 1104 (Ind. Ct. App. 2017) dealt directly with redaction of attorney's invoices at the State level. In this case, Groth requested and received copies of legal invoices that were submitted and paid by the state. The Governor, or his staff on behalf of the Governor, elected to redact the invoices prior to delivery to Groth. The redaction was done to except from disclosure, under I.C.5-14-3-4(b)(2), the attorney work product of attorneys representing the state. The court found, after in camera review, that the redactions were proper in that the redactions were for the attorneys' research and legal opinions, theories, communications

or conclusions with respect to the various aspects of litigation in the Groth case.

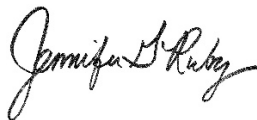
Taken together, these cases demonstrate that the legal invoices of public agencies are public documents which must be disclosed but that the Respondent is entitled to redact them. The Respondent is not entitled to delay until the termination of the litigation, which from the filing of the original request on June 13, 2024, to the filing of the response to this complaint on November 17, 2025, was approximately seventeen (17) months. This was unreasonable delay especially given that November 17, 2025, was not going to be the actual endpoint to allow for the release of the records.

Further, this office has repeatedly found that legal invoices of public agencies can be released after redaction in *Opinions of the Public Access Counselor* 25-FC-039, 25-FC-086, and 25-FC-114.

CONCLUSION

This office finds that Respondent violated APRA as alleged in the complaint.

Further, this office recommends that whether or not all litigation has ended that Respondent release the redacted invoices or legal cost totals to Complainant as soon as practical, per her APRA requests, if it has not already done so.



Jennifer G. Ruby
Public Access Counselor