

# ANNUAL REPORT OF THE INDIANA PUBLIC ACCESS COUNSELOR

## To the Indiana General Assembly

July 1, 2023 through June 30, 2024

Pursuant to Ind. Code § 5-14-4-12, the Indiana Public Access Counselor (“PAC”) hereby submits this annual report of activities for the time period covering July 1, 2023 through June 30, 2024.<sup>1</sup>

(1) Total number of formal complaints received (includes pending complaints): 505

(2) Number of formal complaints received each from the public, media and government agencies (includes pending and withdrawn complaints):

(A) Public: 446

(B) Media: 50

(C) Government: 9

(3) Total number of formal complaints that have been withdrawn, rejected or lawsuit/postconviction filed:

Withdrawn: 90

Rejected<sup>2</sup>: 315

Lawsuit Filed: 1 (opinion affirmed by trial court)

(4) Number of formal complaints received about each of the following (includes pending and withdrawn complaints but not rejections):

(A) State agencies<sup>3</sup>: 207

(B) County agencies: 99

(C) City agencies: 83

(D) Town agencies: 14

(E) Township agencies: 14

(F) School corporations: 84

(G) Other local agencies<sup>4</sup>: 4

(5) Number of formal complaints received concerning each of the following (includes pending and withdrawn complaints):

(A) Public records: 301

(B) Public meetings: 201

(C) Both: 3

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<sup>1</sup> All data were compiled as of 5:00 p.m. on DAY, June 28, 2024

<sup>2</sup> Rejected complaints are those which lack grounds for a complaint or are otherwise unmeritorious.

<sup>3</sup> The bulk of state agency filings are against the Indiana Department of Correction. A significant majority are dismissed for reasons stated in the narrative.

<sup>4</sup> Conservation districts; regional boards, etc.

(6) Total number of written formal advisory opinions issued (does not include written informal opinions):

(A) Opinions Issued: 87

(B) Opinions Pending: 13

### Advisory Opinions

The PAC has received 505 formal complaints in FY23, a slight increase FY 2023. From July 1, 2023, to June 30, 2024, the PAC anticipates issuing 140 written advisory opinions in response to formal complaints (several are pending at the time of the submission of the report). See Ind. Code 5-14-5 regarding the complaint process. Pursuant to Ind. Code § 5-14-5-9, an advisory opinion must be issued within thirty business days of receipt of a formal complaint. The majority of opinions issued meet that benchmark although several are stayed due to circumstances, including continuances requested by the parties. Some matters of significant complexity also factor into the timeline.

Similar to prior years, the Office took a much more proactive position in resolving complaints during the adversarial complaint process. This cut down on the number of opinions issued. This allowed the PAC to focus on crafting higher quality opinions and shift focus to newer or complex issues which have not been addressed in the past. The size of the opinions has doubled, providing the reader with a better understanding of the issue at hand.

Additionally, efforts have been made to “weed out” unmeritorious complaints that do not meet statutory requirements for grounds for a complaint. A large majority of these opinions are DOC inmates who are seeking post-conviction relief (with its own discovery mechanism) or have a misunderstanding of this office’s jurisdiction. This discretion has helped drastically reduced the number of opinions published thereby increasing the quality of those which are written and released. Reasons for declining a complaint are predicated upon issues relating to timeliness, unclear narrative, defective public records requests and duplicative factual matters.

### Informal Opinions

In addition to advisory opinions in response to formal complaints, the PAC issues written informal opinions pursuant to Ind. Code § 5-14-4-10(5). The PAC issued nine (9) informal opinions for the period July 1, 2023 to June 30, 2024.

### Telephone and Electronic Mail Inquiries

Our most important metric is interaction with the public. The PAC Office has experienced steady activity compared to prior years. From July 1, 2023 to June 30, 2024, the three PAC staff members received and responded to approximately 10,000 inquiries via

telephone and electronic mail. 100% of all general inquiries were responded to within 48 business hours. All inquiries prior to June 30, 2024 are currently resolved. Of the inquiries and requests for assistance received, around a third were from the public at large, fifty percent from government agencies and the remainder from media.

### Education and Presentations

The Public Access Counselor gave 33 educational presentations in FY 2023; compared to 44 in FY 2022. The focus of this Public Access Counselor has been expanding educational awareness on the Access to Public Records Act and the Open Door Law to the public and government officials. These educational presentations have given the Public Access Counselor the opportunity to travel across the state, speaking to audiences ranging from small town halls to the Indiana General Assembly.

### Handbook and Other Educational Materials

The printed Handbook on Indiana's Public Access Laws was revised in FY 2022 as the access laws have not changed dramatically since that time. The Handbook is issued by the PAC and the Office of the Attorney General pursuant to Ind. Code § 5-14-4-10(3). The Hoosier State Press Association assisted significantly with the production of the Handbook. The Handbook is a resource utilized by many public officials and the public at large, and the PAC receives many requests for the print version of the Handbook. The Handbook is posted on the PAC's website, [www.IN.gov/pac](http://www.IN.gov/pac), and the PAC encourages individuals and agencies to download it from the website at no charge. This online version was updated in 2022. We do anticipate a significant revision in the next year to reflect the statutory changes.

In addition to the Handbook, the Counselor also prepares slides and handouts for participants at the educational seminars to which the Counselor was invited. Because the PAC budget will not allow the PAC to provide copies of slides and handouts to attendees at all events (some of which number in the hundreds), the PAC generally asks the sponsoring organization to provide copies for attendees. The PAC makes copies of all slide presentations available via the PAC website.

### Public Access Counselor Website

The Office of the Public Access Counselor maintains a website at [www.in.gov/pac](http://www.in.gov/pac). The website contains formal advisory and informal opinions that have been issued since 1999. In addition to the resources listed in previous paragraphs, the website contains upcoming and past presentations of the PAC, sample letters and meeting notices, frequently asked questions, previous year's Annual Reports, and other resources, including guidance for updated legislation.

### Oversight Committee on Public Records

Pursuant to Ind. Code § 5-15-5.1-18, the Public Access Counselor is a member of the Oversight Committee on Public Records, the governing body for the Indiana Commission on Public Records (“OCPR”). The OCPR is a governor-appointed committee which sets public records retention schedules for Indiana state and local governments. Luke Britt served four consecutive terms as elected chairman of the Commission but stepped down in 2019 to a regular member due to statutory term limitations.