



# STATE OF INDIANA

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Re: Complaint 25-FC-086  
Kara Kenney (Complainant) v.  
City of Richmond (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed April 18, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 23, 2025, requesting a formal response by November 12, 2025. A formal response, submitted by City Attorney Andrew Sickmann on behalf of Respondent, was received in this office on November 11, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of documents disclosing the amount of legal fees paid to outside counsel for a particular litigation.

## 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).

APRA contains exceptions-both mandatory and discretionary to the general rule of disclosure. APRA prohibits a public agency from disclosing certain records unless access is specifically required by state or federal statute or is ordered by a court under the rules of discovery. IC 5-14-3-4(a). In addition, APRA lists other types of records that may be excepted from disclosure at the discretion of the public agency. IC 5-14-3-4(b).

Complainant submitted multiple public records requests, dating back to September 27, 2024, for documents disclosing how much the Respondent had spent on legal fees for outside legal counsel for the Richmond fire. Respondent acknowledged the request but requested that Complainant respond with “reasonable particularity” in the records being sought and that Respondent was not required to create a record that did not exist where the request was for dollar amount information.

Complainant subsequently revised the request in early November to include “all documents showing and evidencing the total attorney fees paid to outside law firms arising out of and as a direct and proximate result of a fire that occurred ..on or about April 11...” Respondent, after many emails and correspondence with Complainant, denied the records request based upon attorney-client privilege and work product exceptions. Respondent claims that Complainant did not request attorney invoices specifically, and therefore, those records were not produced.

Respondent is correct that it was not required to tally up the amount of fees or create a record or summary totaling the amount of fees. However, “documents evidencing the total attorney fees” are records, including invoices, that can be copied and submitted to the Complainant. Each invoice would include a payment amount, allowing Complainant the ability to aggregate the invoice totals for a total amount of legal fees paid. Complainant could have determined the “total attorney fees paid to outside law firms” had it received the individual invoices.

Respondent also invokes the exceptions for attorney-client privilege and work product during litigation to withhold the invoices from disclosure. However, APRA provides if a public record contains disclosable and non-disclosable information, the public agency shall, upon receipt of a request under APRA, separate the material that may be disclosed and make it available for inspection and copying. IC 5-14-3-6(a).

This office has addressed the issue of attorney invoices many times and as recently as November 10, 2025, in *Opinion of the Public Access Counselor 25-FC-39, Kingshill v. Town of Whitestown*. The issue in *Kingshill* dealt with legal invoices that had been provided to Kingshill but had been redacted. The redaction was deemed proper at the discretion of the Respondent under IC 5-14-3-4(b)(2) as the work product of an attorney representing, pursuant to an appointment by a public agency.

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 (7<sup>th</sup> 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.

Respondent is correct that attorney-client privilege and work product exceptions apply to legal invoices. However, it failed to recognize the APRA requirement that such invoices be redacted and produced.

Complainant identified records with reasonable particularity to include legal invoices, and those invoices, once redacted, should have been produced as responsive records under the revised records request.

## **CONCLUSION**

This office finds that the Respondent violated APRA by failing to provide copies of the requested records.



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