

IN THE
INDIANA COURT OF APPEALS

Cause No. 19A-MI-2682

Carroll County E911,)	Appeal from the
<i>Appellant-Defendant,</i>)	Marion Superior Court
)	
v.)	Trial Court Cause No.
)	49D02-1802-MI-007041
Aishah Hasnie,)	
<i>Appellee-Plaintiff</i>)	Hon. Timothy Oakes,
)	Trial Court Judge

**BRIEF OF AMICI CURIAE REPORTERS COMMITTEE FOR FREEDOM OF THE
PRESS AND 16 MEDIA ORGANIZATIONS IN SUPPORT OF APPELLEE-PLAINTIFF**

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STATEMENT OF INTEREST OF AMICI CURIAE

The Reporters Committee for Freedom of the Press and those 16 media organizations named below, through undersigned counsel, respectfully submit this brief as amici curiae in support of Appellee-Plaintiff. Amici are members and representatives of the press with a strong interest in the accessibility of public records and in ensuring that journalists are able to report on matters of public interest. Members of the news media, including amici, often require access to 911 audio recordings to fully and accurately report on emergencies involving incidents of concern to citizens of this State.

Amici write to emphasize that if a public records request to a county 911 dispatch for 911 audio recordings can be denied under the Indiana Access to Public Records Act (“APRA” or the “Act”) any time law enforcement officials indicate that they have requested the audio recordings for an investigation, the news media’s ability to timely and effectively inform the public will be impaired, and Indiana citizens will be deprived of important information about the functioning of vital government agencies. For the reasons stated herein and in Appellee-Plaintiff’s brief, amici urge this Court to affirm the Order of the trial court granting Appellee-Plaintiff’s motion for summary judgment.

Amici are:¹ Reporters Committee for Freedom of the Press, ALM Media, LLC, The Associated Press, The E.W. Scripps Company, Gannett Co., Inc., Hoosier State Press Association Foundation, Indiana Associated Press Media Editors, Indiana Broadcasters Association, Indiana Coalition for Open Government, The Indiana Pro Chapter of the Society of Professional Journalists, International Documentary Association, The Media Institute,

¹ Descriptions of each amici are listed in the motion that this brief accompanies.

*Brief of amici curiae Reporters Committee for Freedom of the Press
and 16 media organizations*

MPA - The Association of Magazine Media, National Press Photographers Association, Society of Environmental Journalists, Society of Professional Journalists, and Tully Center for Free Speech.

SUMMARY OF ARGUMENT

The Indiana Access to Public Records Act, Ind. Code § 5-14-3-1 *et seq* (hereinafter, “APRA” or the “Act”) was born of the Indiana legislature’s desire to ensure that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” Ind. Code § 5-14-3-1. Under the plain language of APRA, “[a]ny person may inspect and copy the public records of any public agency,” subject to limited enumerated exceptions. Ind. Code § 5-14-3-3(a).

On November 21, 2016, a house fire in Flora, Indiana claimed the lives of four children, aged 11, 9, 7, and 5. Appellant’s App. vol. II (hereinafter “App.”), 9, ¶ 6. Aishah Hasnie, then an investigative reporter for the Indianapolis FOX Network affiliate, WXIN-TV, submitted a request under APRA to Carroll County E911 (“E911”) for “any 911 recordings related to the November 2016 fatal house fire in Flora, Indiana” (hereinafter, the “Request”). App. 14. E911 denied the Request. App. 15. E911 did not dispute that the requested 911 recordings are public records of a public agency pursuant to § 5-14-3-3(a) of the Act. However, it contended that the requested 911 recordings were excepted from public disclosure pursuant to Ind. Code § 5-14-3-4(b)(1), which states in relevant part that “investigatory records of law enforcement agencies or private university police departments” shall be excepted from disclosure under APRA. *Id.* Ms. Hasnie then filed a complaint with the Office of the Public Access Counselor who issued an advisory opinion holding that the requested recordings did not constitute investigatory records of a law enforcement agency and therefore were not excepted from disclosure. App. 16–23.

Despite the Public Access Counselor’s decision, E911 maintained its position that the 911 recordings fell within the investigatory records exception and continued to deny the Request for access to the recordings. App. 24–25. In response, Ms. Hasnie initiated the action in the trial

court below, seeking disclosure of the requested 911 recordings. App. 8–12. The trial court granted plaintiff’s motion for summary judgment. App. 7. E911 appealed.

E911’s contention that the recordings are excepted from disclosure in their entirety as “investigatory records of a law enforcement agency” is inconsistent with APRA’s statutory language and the Indiana legislature’s express directive that the Act be interpreted liberally to advance the policy of open government. In addition, E911’s argument, if accepted by this Court, would undermine public safety and poses a significant risk of abuse. Access to audio recordings of 911 calls aids the public in assessing the performance of emergency service providers tasked with responding to situations where speed and accuracy are of the utmost importance and where any deficiency may have life or death consequences. But E911’s interpretation of the investigatory records exception would permit a government agency, in its sole discretion, to restrict access to these records for potentially up to 75 years merely by identifying some portion of a recording as being of possible use in a future investigation. Such a result is squarely at odds with the principles of openness embodied in APRA and deprives the press and the public of potentially life-saving information on matters of central concern to the public.

For these reasons, amici urge this Court to affirm the Order of the trial court granting Appellee-Plaintiff’s motion for summary judgment.

ARGUMENT

I. E911’s interpretation of the investigatory records exception is contrary to the Act’s mandate of broad disclosure of public records.

The Indiana legislature enacted APRA in recognition of the “fundamental philosophy of the American constitutional form of representative government” that government “is the servant of the people and not their master.” Ind. Code § 5-14-3-1. To uphold this philosophy, the

legislature codified, through APRA, “the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” *Id.* Facilitating access to this 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.” *Id.*

In keeping with this mandate, APRA provides that “[a]ny person may inspect and copy the public records of any public agency,” subject to limited exceptions. Ind. Code § 5-14-3-3(a). Because APRA is to be “liberally construed to implement this policy [of open access to public records]” any exceptions or restrictions on the disclosure of public records must be narrowly construed. *See* Ind. Code § 5-14-3-1; *Robinson v. Indiana Univ.*, 659 N.E.2d 153, 156 (Ind. Ct. App. 1995) (“Liberal construction of a statute requires narrow construction of its exceptions.”). Moreover, “the burden of proof for the nondisclosure of a public record [is] on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record.” Ind. Code § 5-14-3-1.

The principles embodied in APRA are not mere platitudes. Indeed, this Court has specifically recognized that the Act must be construed “with its purpose and scope in mind.” *Knightstown Banner, LLC v. Town of Knightstown*, 838 N.E.2d 1127, 1131 (Ind. Ct. App. 2005). The presumption of openness, with respect to both courts and government, is a bedrock of American democracy and forms the basis of self-government. *See, e.g., Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 569 (1980) (recognizing openness as “an indispensable attribute” of our judicial system); *ESPN, Inc. v. Univ. of Notre Dame Police Dep’t*, 62 N.E.3d 1192, 1200 (Ind. 2016) (“We acknowledge the importance of an open government, as well as the broad access granted to government records by APRA.”). Open access to public records serves as an

important and necessary check on government power and is essential to the public’s ability to evaluate the effectiveness of its government and the “official acts of those who represent them as public officials and employees.” Ind. Code § 5-14-3-1.

E911’s attempt to except from public disclosure any and all 911 recordings that may be placed in an investigatory file—regardless of when or for what purpose such recordings were created—is contrary to APRA’s admonition that the statute be broadly construed to facilitate public disclosure. Moreover, E911’s interpretation of the investigatory records exception would presumably apply equally to the public records of any non-law enforcement agency that may later become of interest to a criminal investigation, regardless of when and why such records were initially created. It is difficult to imagine that the Indiana legislature intended to permit a law enforcement agency, in its sole discretion, to instruct a non-law enforcement agency to deny access (and, by extension, the benefits associated with such access) to an otherwise public record of that non-law enforcement agency by merely labeling the record investigatory. The secrecy and lack of transparency inherent in such a proposition is squarely at odds with the “fundamental philosophy” the Indiana legislature sought to protect in APRA. Ind. Code § 5-14-3-1.

II. Recordings of 911 calls provide the public with valuable information about the workings of government.

Public access to 911 recordings enables the news media—and by extension, the public at large—to scrutinize how first responders perform in crisis situations where delays, mistakes, or negligence can lead to fatal results.² The need for public oversight is particularly vital with

² As the U.S. Supreme Court has long recognized, the press often acts as a “surrogate[] for the public” in disseminating information necessary for public oversight of government activities and reporting to the public at large. *See Richmond Newspapers*, 448 U.S. at 573; *see also Saxbe v. Washington Post Co.*, 417 U.S. 843, 863 (1974) (Powell, J., dissenting) (“[The press] is the means by which the people receive that free flow of information and ideas essential to intelligent

respect to 911 recordings, which routinely capture public servants' responses to matters of life and death. Members of the public have a strong interest in access to complete information about 911 calls, including audio of the calls, so that they can fully evaluate how first responders react in emergency situations. Although 911 dispatchers and other emergency personnel often provide admirable service in chaotic, dangerous situations, the potential for errors, coupled with the high stakes involved, underscore the need for public oversight.

Information gleaned from actual conversations between callers and emergency response personnel can provide a vital oversight tool by which the press can assist the public in identifying costly delays, misconduct, failures of emergency response systems, and restrictive policies and procedures that may jeopardize the safety of citizens throughout the State. The public's ability to access 911 recordings is essential to ensuring that emergency responders act appropriately and that governments maintain an emergency system that can effectively respond when citizens are in need of urgent assistance. Indeed, numerous examples from Indiana and around the country demonstrate that if the trial court's order is reversed and this Court adopts E911's broad interpretation of the investigatory records exception, the ability of the news media to report on information of vital public concern will be significantly impaired and Indiana citizens will be deprived of essential, potentially life-saving information about the functioning of their government.

self-government."); *N.Y. Times Co. v. United States*, 403 U.S. 713, 717 (1971) (Black, J., concurring) ("The press was protected so that it could bare the secrets of government and inform the people."); *Mills v. Alabama*, 384 U.S. 214, 219 (1966) ("The Constitution specifically selected the press . . . to play an important role in the discussion of public affairs.").

A. Public access to audio recordings of 911 calls have helped identify systemic failures in dispatcher training, communication, and protocol in Indiana.

Recordings of 911 calls have been instrumental in revealing systemic flaws in dispatcher training and communication in Indiana, such as those that plagued the Lake County, Indiana 911 Dispatch after more than a dozen separate dispatch services were consolidated into one service in 2015. See Editorial, *Don't Let Lake County 911 Dispatch Slip Back into Darkness*, Northwest Indiana Times (June 30, 2019), <https://perma.cc/T2H5-KZZW> (hereinafter, "*Don't Let Lake County 911 Dispatch Slip Back into Darkness*").

One such example involves two 911 calls made to the Lake County 911 Dispatch by 81-year-old Kenneth Booker. Audio recordings of the calls revealed multiple failures by the dispatcher to accurately capture Mr. Booker's address, resulting in an over 40-minute delay in the arrival of emergency services. See Marc Chase, *Dispatcher Fired, Others to Be "Retested" in Wake of Botched 911 Call*, Northwest Indiana Times (Oct. 25, 2015), <https://perma.cc/8MJY-YAF2>. Mr. Booker is heard repeating his address multiple times, while each time the dispatcher repeats back either an incorrect street name or number. *Id.* During the course of the call, Mr. Booker repeatedly states that he can't breathe and that he needs help. *Id.* But because the dispatcher entered an incorrect address into the system, an ambulance did not reach Mr. Booker until 47 minutes after his initial call to 911. *Id.* He was later pronounced dead of a heart attack at Munster Community Hospital. *Id.* As a result of the errors heard in the audio recording, Lake County required all 911 dispatchers to be re-tested to verify their ability to meet department standards and to ensure accuracy in obtaining and confirming information provided by callers. *Id.*

This incident came on the heels of another fatal communication error by Lake County 911—also revealed through released audio recordings. Forty-four-year-old Burt Sanders phoned 911 after experiencing chest pains while working late at a church in Gary, Indiana. *See* Marc Chase, *E-911 Dispatcher Fails to Relay Urgency in NICTD Death*, Northwest Indiana Times (June 12, 2015), <https://perma.cc/A4AL-VKUV>. Recordings reflected the rushed and alarmed tone of Mr. Sanders’ voice and his repeated cries of, “Help Lord Jesus, help Lord.” *Id.* The dispatcher asked Mr. Sanders if he would be able to let emergency responders into the church when they arrived, and he replied yes. *Id.* Later, when the line went mostly silent, the dispatcher can be heard telling others in the office that Mr. Sanders must have dropped his phone. *Id.* When an ambulance arrived at the church, the doors were locked and no one responded to the first responders’ attempts at entry. *See* Bill Dolan, *Transit Policeman’s Family Sues E-911*, Northwest Indiana Times (June 26, 2017), <https://perma.cc/M7CH-VLW9>. The ambulance staff relayed this information to Lake County 911. *Id.* Despite indications from the call that Mr. Sanders may be unresponsive due to a medical emergency, the first responders were not instructed to attempt to force entry into the building, nor were the Gary police called. *Id.* Instead, the ambulance departed. *Id.* Mr. Sanders was found dead of a heart attack the next morning. *Id.* Brian Hitchcock, then-Lake County 911 Director acknowledged the failure of the Dispatch to appropriately respond and the need for corrective action: “In any emergency call, just because the door is locked and no lights are on doesn't mean there is no emergency present. In this case, Gary police should have been called in, and they weren’t.” *See* Chase, *E-911 Dispatcher Fails to Relay Urgency in NICTD Death*, *supra*. One dispatcher was fired and another suspended as a result of the incident. *Id.*

Increased public and internal scrutiny resulting from news reports featuring the 911 recordings may have contributed to improved performance by the Lake County 911 Dispatch, but employees have recently informed local news media of renewed concerns regarding staffing, overworked employees, and dispatcher fatigue. *See Don't Let Lake County 911 Dispatch Slip Back into Darkness*. Although Indiana's 911 dispatchers regularly provide excellent service under intense and trying circumstances, reports such as these highlight the need for ongoing public oversight, both on behalf of the citizens of Indiana and in the interest of those dispatchers who work to serve them. For these reasons, it is imperative that access to audio recordings of 911 calls—such as those of Mr. Booker and Mr. Sanders—remain open to the press and the public to ensure that the citizens of Indiana are able to evaluate the effectiveness and response of state emergency service agencies and to advocate for necessary reforms.

B. Public access to audio recordings of 911 calls have revealed a myriad of issues with 911 dispatchers and emergency response systems around the country.

Disclosure of 911 audio recordings in states around the country have also served to identify shortcomings of emergency personnel and to highlight problems within government emergency response systems that may jeopardize public safety.

For example, in a highly publicized case in Washington state, released audio recordings of 911 calls related to an incident in which a father murdered his two children and committed suicide resulted in the discipline of a dispatcher and increased scrutiny of emergency response protocol. *See Alan Duke, 911 Operator Reprimanded in Josh Powell Case*, CNN (April 19, 2012), <https://perma.cc/7MAK-4SDC>. Recordings revealed an eight-minute delay before the dispatch of sheriff's deputies following a social worker's initial call to 911. *Id.* The social worker informed the dispatcher that the father had locked her out of the house during a

supervised visit with the children and that she could smell gas coming from the home. *See 911 Call Made by Social Worker: Josh Powell “Exploded the House!”*, CBS News (Feb. 8, 2012), <https://perma.cc/NBV7-F8LJ>. She can be heard telling the dispatcher, “I’m really shocked, nothing like this has ever happened before at these visitations . . . I could hear one of the kids crying and he still wouldn’t let me in.” *Id.* The dispatcher questioned the social worker for several minutes before saying that he did not know when deputies could respond, telling her that “they have to respond to emergencies – life threatening situations first.” *Id.* During the time the dispatcher was questioning the social worker, the father was attacking his two sons and preparing to set the house on fire. *Id.* Deputies arrived to find the house engulfed in flames and the boys and their father dead inside. *Id.* The dispatcher later stated that he delayed in dispatching emergency services, in part, because he was confused as to how the social worker “fit into the equation.” *See Duke, supra.*

In Los Angeles, released audio recordings of a 911 call identified a flaw in the area’s emergency response system that may have contributed to a 16-year-old boy’s death. *See Dramatic 911 Tapes Released of Soccer Teen Dying as Family Waits for Ambulance*, CBS Los Angeles (Feb. 9, 2013), <https://perma.cc/GY6Q-3NSK>. After the boy collapsed at school during soccer practice, his coach can be heard pleading with a 911 dispatcher to send services immediately to Wilmington Middle School. *Id.* The dispatcher responded that he could not send an ambulance unless the coach could provide the exact street address of the school. *Id.* The recording captures unsuccessful attempts by the coach and parents to locate the street address. *Id.* After eight minutes, the coach asked the dispatcher when the ambulance would arrive. *Id.* He was again informed that no ambulance would be dispatched until the coach could provide the street address of the school. *Id.* An ambulance was ultimately dispatched to the wrong location,

and a second ambulance arrived at the school thirteen minutes later. *Id.* At that point, the boy could not be revived. *Id.* In response to the incident, officials updated emergency system databases to auto-program street addresses for all area schools. *Id.*

C. Public access to audio recordings of 911 calls has spurred policy changes by 911 dispatches and legislative reform.

Audio recordings of 911 calls have also influenced life-saving reforms by 911 dispatches and state legislatures, including in Indiana.

For example, in April 2006, 24-year-old Tonya Goble fled her home and placed a 911 call to the LaPorte County, Indiana Dispatch from a nearby school. *See 911 Tape Reveals Plea for Police Escort Went Unheeded*, Northwest Indiana Times (May 8, 2006), <https://perma.cc/ZYX7-R2FW>. According to transcripts and a released tape of the call, she reported that her husband had threatened to kill her, that he had guns in the house, and that she was scared. *Id.* However, a September 2005 memo issued by then-LaPorte County 911 Director Brent Soller prohibited dispatchers from sending police officers as escorts for domestic abuse victims seeking to retrieve belongings from their homes. *Id.* The dispatcher told Ms. Goble that she could not send a police officer unless there was an “immediate threat” and that an officer “cannot stand there and just wait in case your husband comes back.” *Id.* An hour later, Ms. Goble and her mother were shot to death in her mother’s home. *Id.* Ms. Goble’s husband was seen leaving the house covered in blood. *Id.* The news media reported the details of the 911 call in its coverage of the tragedy. *Id.*; Jeff Romig, “*He Told Me...He Would Kill Me:*” *An Hour Before Her Fatal Shooting, LaPorte Woman’s Call to 911 Went Unheeded*, South Bend Tribune, May 6, 2006, at A1. In response, the County Dispatch rescinded its policy and no longer

requires that a potential abuser be in the immediate vicinity of a potential victim before emergency assistance can be dispatched. *Id.*

In Rhode Island, released audio from a 911 call is influencing proposed legislation to amend the state’s emergency response laws. A 6-month-old child’s family called 911 after they found the infant limp and unresponsive in his crib. *See* Lynn Arditi, *How Rhode Island’s Emergency 911 System Failed Baby Alijah*, ProPublica (Mar. 20, 2019), <https://perma.cc/NP5K-4DG3>. The family is heard exclaiming, “He’s turning purple” and asking “Do we give him mouth-to-mouth? What do we do?” *Id.* Despite this, the dispatcher did not provide the family with instructions on how to perform CPR on the infant. *Id.* By the time the baby arrived at the hospital, he was pronounced dead. *Id.* Audio of the call illuminated not only errors made by the dispatcher but also highlighted a potential deficiency in Rhode Island’s training of emergency dispatchers. *Id.* In many other states, dispatchers are trained to offer step-by-step instructions to callers on how to perform CPR. *Id.* Rhode Island responders are not provided with this training and—unless they have obtained such knowledge on their own—are unable to offer potentially life-saving instruction to callers reporting a medical emergency. *Id.* State legislators have since introduced a bill in the Rhode Island General Assembly which would mandate that 911 dispatchers provide pre-arrival instructions to callers reporting medical emergencies. *Id.*

In Indiana, lawmakers also recently considered introducing legislation to standardize CPR training for dispatchers after news media reports featured audio of a 911 call in which an Indianapolis dispatcher is heard instructing a 10-year-old girl on how to perform CPR on her mother, potentially saving the woman’s life. *See* Shakkira Harris, *Indianapolis Dispatcher Coaches 10-Year-Old Through CPR in Order to Save Her Mom*, RTV6 Indianapolis (last updated Feb. 23, 2019), <https://perma.cc/DU5Z-ELTM>.

III. E911’s interpretation of the investigatory records exception poses the potential for abuse.

Not only does E911’s interpretation of APRA’s investigatory records exception contravene the purpose of the Act and undermine public safety, it also poses significant potential for abuse. E911 argues that if a 911 recording has been placed in an investigative file, it is confidential and excepted from public disclosure. Appellant Br. 15. By its plain language, the investigatory records exception is not limited solely to those records pertaining to active, open investigations, nor does it afford a mechanism by which records from closed investigations become once again available for public access. Ind. Code § 5-14-3-4(b)(1). In the absence of any specific direction to the contrary, records deemed confidential under the investigatory records exception may be subject to the general mandates of Section 5-14-3-4(d), which require that records classified as confidential remain unavailable to the public for inspection or copying for a period of “seventy-five (75) years after the creation of that record.”

Therefore, under E911’s interpretation of the investigatory records exception, a law enforcement agency could—in its sole discretion and at any point after a recording is created by E911—deny the public access to a recording for up to 75 years, merely by instructing E911 to move the recording to a law enforcement investigatory file. As the examples in Section II illustrate, audio recordings of 911 calls are incredibly powerful tools in ensuring public safety and improving the quality of emergency services to citizens in need. E911’s interpretation of the investigatory records exception, therefore, not only flies in the face of APRA’s presumption of open government, it may also deprive the public of potentially life-saving information necessary to improve the functioning of Indiana’s emergency services.

For these reasons, courts in other jurisdictions have rejected similar attempts by law enforcement agencies to deny public access to 911 recordings on the basis that they are investigatory records. For example, in *Courier News v. Hunterdon Cty. Prosecutor's Office*, 817 A.2d 1017, 1022 (N.J. Super. Ct. App. Div. 2003), prosecutors argued that 911 recordings requested by plaintiff were records “pertain[ing] to an investigation in progress by [a] public agency” and should therefore be excepted from disclosure under New Jersey’s public records act. In finding that the 911 recordings did not fall within the exception, the court reasoned that “[a]cceptance of defendant’s argument would seal every government record associated with a criminal investigation until the trial has been completed and all potential appeals have been exhausted” and that such a result “would directly contravene the citizen’s right of access to government records embodied in” the public records act. *Id.*

Similarly, in *State ex rel. Cincinnati Enquirer v. Hamilton Cty.*, 662 N.E.2d 334 (Ohio 1996), the Ohio Supreme Court rejected Hamilton County’s arguments that the 911 recordings requested by plaintiff should be classified as “confidential law enforcement investigatory records” excepted from disclosure under Ohio’s public records act. The court held that “[o]nce clothed with the public records cloak, the records cannot be defrocked of their status” and “the fact that the tapes in question subsequently came into the possession and/or control of a prosecutor, other law enforcement officials, or even the grand jury has no significance.” *Id.* at 338; *see also Nat’l Collegiate Athletic Ass’n v. Associated Press*, 18 So. 3d 1201, 1208–09 (Fla. Dist. Ct. App. 2009) (“A public record cannot be transformed into a private record merely because an agent of the government has promised that it will be kept private . . . The right to examine these records is a right belonging to the public; it cannot be bargained away by a representative of the government.”) (internal citations omitted).

Likewise, the 911 recordings at issue here cannot be “defrocked” of their status as disclosable public records merely because a prosecutor may in the future refer to all or some portion of them in connection with a possible criminal investigation. The house fire reported in the requested recordings occurred on November 21, 2016—over three years ago. There is nothing in the record to reflect that any arrests have been made to date in connection with the fire or that any individuals have been charged with a crime in connection with the fire. Yet, E911’s refusal to disclose the recordings has deprived, and continues to deprive, the public of its right of access to information regarding the agency’s response to a fire that took the lives of four children. If there is any chance that the recordings may reveal miscommunications, delays, or other errors that could have impacted the response to the fire, the public has been denied the ability to respond to or remedy these deficiencies for three years.

Under E911’s interpretation of the investigatory records exception, the requested recordings would continue to remain confidential and thus unavailable to the public for nearly an additional 72 years, until November 21, 2091. A house fire which resulted in the deaths of four children under the age of 12 is a matter of significant interest to the community. It is untenable that the public should be denied access to 911 recordings which may reveal important information regarding the quality of the emergency response until 2091, at which time the majority of Indiana’s current citizens may no longer be alive to benefit from this information.

CONCLUSION

For the foregoing reasons, amici respectfully urge this Court to affirm the Order of the trial court granting Appellee-Plaintiff’s motion for summary judgment and finding that the 911 recordings requested by Appellee-Plaintiff are public records subject to disclosure pursuant to Ind. Code § 5-14-3-3(a).

*Brief of amici curiae Reporters Committee for Freedom of the Press
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WORD COUNT CERTIFICATE

I verify that this Brief of Amici Curiae contains no more than 7,000 words, not including those portions excluded by Indiana Appellate Rule 44(C).

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CERTIFICATE OF SERVICE

I certify that on February 5, 2020, I electronically filed the forgoing document using the Indiana E-Filing System. I also certify that on February 5, 2020, the following persons were served electronically with the forgoing document through the IEFS:

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