

PUBLIC ACCESS TO JUVENILE RECORDS

General Rules

Generally, the Access to Public Records Act (“APRA”) (I.C. § 5-14-3) provides that all records maintained by a public agency are public records, but some records may be confidential or disclosable at the discretion of the public agency. All records which do not fall into the statutory exceptions must be made available for public inspection and copying. (See I.C. § 5-14-3-3)

The APRA is a general statute; any specific statutes regarding access to specific records supersede the APRA. Several Indiana Code sections, described in the foregoing sections, contain provisions related to access to juvenile records.

An agency cannot declare records confidential absent statutory authority or rulemaking authority specifically allowing the agency to classify records confidential. (See I.C. § 5-14-3-4(a)(2))

The agency may not deny access because the person refuses to state the purpose of the request, unless the agency can deny access on the basis of a statutory limitation on to whom or for what purpose the record may be disclosed. (See I.C. § 5-14-3-3(a))

If a public record is partially disclosable, the public agency must separate or redact the nondisclosable material and disclose the rest of the record. (See I.C. § 5-14-3-6(a))

An agency may not disclose a social security number contained in the records of a public agency. (See I.C. § 5-14-3-4(a)(12))

For the purposes of juvenile records, a child is someone who is younger than eighteen years of age. (See I.C. § 31-9-2-13)

Juvenile Delinquency Records

When a juvenile is alleged to have committed an act that would have been a crime if committed by an adult, the following information contained in the records is accessible to the public:

- The nature of the offense allegedly committed and the circumstances immediately surrounding the alleged offense, including the time, location, and property involved
- The identity of any victim
- A description of the method of apprehension
- Any instrument of physical force used
- The identity of any officers assigned to the investigation, except for the undercover units
- The age and sex of any child apprehended or sought for the alleged commission of the offense
- The identity of a child, if the child is apprehended or sought for the alleged commission of an offense over which a juvenile court does not have jurisdiction (See I.C. § 31-39-3-2)

Records relating to the detention of a child in a secure facility shall be open to public inspection. (See I.C. § 31-39-3-3)

If the secure facility falls under the jurisdiction of a court, the records relating to the detention are not law enforcement records. (See I.C. § 31-39-3-3) would not apply in that case. Instead, (I.C. 31-39-1 and I.C. 31-39-2), which govern access to juvenile court records, would apply. (See *Opinion of the Public Access Counselor 07-FC-231*).

All law enforcement records related to juvenile delinquencies which are not listed above are confidential. (See I.C. § 31-39-3-4)

Under (I.C. 31-39-4), the records can be released to certain people involved with juvenile court, including judges and the parties to a proceeding.

Juvenile Court Records

Generally, juvenile court records are confidential. (See I.C. § 31-39-1-2); see also *Ind. Admin. Rule 9(G)(1)(b)(vi)*.

The following types of juvenile court records are confidential: chronological case summaries; index entries; summonses; warrants; petitions; orders; motions; and, decrees. However, this rule does not apply to records “involving an adult charged with a crime or criminal contempt of court” or a “pregnant minor or her physician seeking . . . written consent of the minor’s parent or guardian.” (See I.C. §§ 31-39-1-1 and 2)

Pursuant to (I.C. 31-39-2), confidential records can be released to certain people involved with juvenile court, including judges and the parties to a proceeding. (See I.C. § 31-39-1-2)

Child Abuse and Neglect Investigations

A report of child abuse or neglect made pursuant to I.C. 31-33 (or I.C. 31-6-11 before its repeal) is confidential. Records related to those reports are also confidential if they are maintained by the Indiana Family and Social Services Administration, its division of family resources, or a county office.

Child abuse and neglect records must be available to people or agencies listed in (I.C. § 31-33-18-2). The list includes people “about whom a report has been made.” In such an instance, the identities of people who reported actual or suspected abuse or neglect must be protected. (I.C. § 31-33-18-2(14); see *Opinion of the Public Access Counselor 06-FC-194*)

School Records

Under the APRA, public records declared confidential by federal law may not be disclosed unless access to the records is specifically required by a state or federal statute or order of a court under the rules of discovery. (See I.C. § 5-14-3-4(a)(3))

The Indiana Court of Appeals has held that the Federal Education Rights and Privacy Act of 1974 (“FERPA”) (20 U.S.C. § 1232g; 34 C.F.R. § 99) requires education records to be kept confidential under the APRA. *An Unincorporated Operating Div. of Indiana Newspapers, Inc. v. The Trs. of Indiana Univ.*, 787 N.E.2d 893, 904 (Ind. Ct. App. 2003).

The public access counselor’s office has prepared a fact sheet regarding public access to school records. It can be found at www.in.gov/pac under the “Resources” section.