



STATE OF INDIANA

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March 12, 2025

Re: Complaint 25-FC-155
Elizabeth Martinez (Complainant) v.
Wells County Sheriff's Office (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed July 22, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 15, 2025, requesting a formal response by November 13, 2025. A formal response, submitted by Sheriff Scott Holiday and Craig M. McKee of Wilkinson, Goeller, Modesitt, Wilkinson & Drummy, LLP on behalf of the Respondent, was received in this office on November 13, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide a copy of metadata and audit logs applicable to a specific officer's body camera or reasons why the body cam was not activated.

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).

Complainant states that on June 2, 2025, she requested copies of all body worn camera footage and related recordings from an incident on November 9, 2024, involving a specific deputy sheriff. Respondent informed Complainant that no recordings existed because the body worn camera was not activated.

Complainant states that on June 5, 2025, she submitted a second request for:
1) body worn camera metadata, audit logs, and activation/deactivation history;

2) any documentation that explained why the camera was not activated during the incident; and 3) confirmation that the camera was functioning, deployed and in the officer's possession at the time.

Respondent submitted a response on June 9, 2025, stating that the metadata, audit logs and activation/deactivation history are produced and maintained by a third-party vendor. Respondent's Detective Greer went on to state that the information requested is not separated as record or log and is embedded within the vendor's proprietary system. Complainant is not requesting existing records, but information which would need to be extracted and reformatted to create a record.

APRA does not require the public agency to create a record that does not exist and is not required to produce a record it does not have, as this office has previously opined. *Opinion of the Public Access Counselor 25-FC-136*. Additionally, timely responses to the records requests have informed Complainant that neither the body worn camera footage exists nor do other camera recordings for the incident in question.

Many of the other issues raised by Complainant are requests for information or explanations and not for public records, thereby failing to fall within the jurisdiction of APRA. *Opinion of the Public Access Counselor 25-FC-152* summarizes that APRA does not require the public agency to answer questions or provide additional information beyond requested records.

Respondent acknowledged that certain policy and procedure documents had been delivered to Complainant. Respondent further acknowledged that the failure to activate the body worn camera was a violation of those procedures. Internal procedures are not within the jurisdiction of APRA or Open Door Law (ODL).

CONCLUSION

This office finds that the Respondent has not violated APRA by failing to provide copies of video recordings and other records that do not exist. Further, this office finds that Respondent has not violated APRA by failing to answer questions or provide additional information, which are not records.



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