



STATE OF INDIANA

MIKE BRAUN, Governor

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August 5, 2026

Re: Complaint 25-FC-307
Paul A. Starkey (Complainant) v.
Sullivan County Commissioners (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed September 1, 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 20, 2025. A formal response, submitted by Terry Modesitt of the Modesitt Law Firm, PC on behalf of Respondent, was received by this office on October 28, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of the requested records.

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 it 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 filed an Access to Public Records (APRA) request on August 17, 2025, seeking a copy of records seeking:

- 1) Copies of records of the Justice Reinvestment Advisory Council (JRAC) opioid grant funding afforded to the city of Shelburn, Indiana, as well as other municipalities by name, in the county of Sullivan, Indiana, from January 1, 2020, to August 17, 2025.

- 2) The names of the individuals personally responsible for the proceeds and detailed receipts of the expenditures of the above referenced funds.
- 3) Copies of the financial records and names of the individuals personally responsible for the proceeds, and detailed receipts of the expenditures regarding Shelburn, Indiana sponsored Bingo from January 1, 2020, through August 17, 2025.
- 4) Copies of financial records for the Shelburn Police Reserve Association Corporation from January 1, 2020, through August 17, 2025.

Respondent failed to acknowledge the APRA request. When a requestor does not receive an acknowledgement within the appropriate time period, here 7 days, a constructive denial has occurred. IC 5 14-3-4.4(c)(1) and *Opinion of the Public Access Counselor 25-FC-096*.

Complainant then must file a complaint to this office within 30 days of the alleged violation or denial, or the complaint is barred. IC 5-14-5-7. Complainant filed a complaint with this office on September 1, 2025.

Respondent filed a formal response with this office in which it stated:

It is my understanding that the FOIA request came to the Sullivan County Commissioners, and the Commissioners do not maintain or have possession of any of the records that have been requested.

Further, after this came to my attention I have checked with the Auditor's office and have been advised that they also do not maintain or possess the records requested.

I am looking into this matter further to see if in fact it can be determined who may possess the records that have been requested. I can advise you accordingly once I am able to obtain more information.

Respondent does not hold the requested records. Respondent may refer Complainant to other potential resources for obtaining requested documents, but such a referral is not required under APRA. *Opinion of the Public Access Counselor 25 FC-002A*. Additionally, Respondent is not required to respond on their behalf.

This office contacted the Indiana Office of the Attorney General and discussed the distribution process for the "opioid settlement funds". We were directed to the public website which detailed what the projected distributions would be for Sullivan County and the Town of Shelburn. This office also confirmed that "opioid settlement funds" were distributed to Sullivan County for distribution

by the County. The County required municipalities to request the funds and allocations were made and distributions paid.

Respondent stated that it has no responsive records. The response may have been predicated by the terminology of the records request seeking records of the Justice Reinvestment Advisory Council (JRAC) funding. The records request was made of the County Commissioners. The funds are identified in the County records as “opioid settlement funds” with no correlation to JRAC.

CONCLUSION

This office finds that the Respondent did not violate APRA by failing to provide records based upon the records request.

This office recommends that Complainant contact the County Auditor’s office in order to receive the records that he was seeking regarding the distribution of “opioid settlement funds”.

A handwritten signature in black ink, appearing to read "Jennifer G. Ruby". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer G. Ruby
Public Access Counselor