



STATE OF INDIANA

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July 30, 2026

Re: Complaint 25-FC-322
Jazmyn A. Martin (Complainant) v.
Fort Wayne Police Department (Respondent)

This advisory opinion is issued in response to a complaint dated October 22, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on November 21, 2025, requesting a formal response by December 23, 2025. A formal response, submitted by Karen Moses, Associate City Attorney, was received in office on December 16, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of records based upon exclusions for investigatory records.

ANALYSIS

The public policy of APRA states that “[p]roviding persons with the 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).

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).

The complaint states that Complainant requested, on or about September 10, 2025, a record from Respondent for a specific criminal case. The record requested was the 911 call made by a specific individual.

Complainant states that the request was specific in identifying the date, the individual, the type of record and case number involved. Lack of reasonable particularity was not raised by Respondent to deny release of the record.

Respondent denied disclosure of the record on the basis that the record fell within the investigatory records exclusion under IC 5-14-3-4(b)(1), fell within the exception of IC 5-14-3-5.2(a)(2)(B) in likely to interfere with the ability of an individual to gain a fair trial and IC 5-14-3-5.2(a)(2)(C) which disclosure may interfere with an ongoing investigation or IC 5-14-3-5.2(a)(2)(D) would not serve the public interest. Since the investigatory records exception was the only grounds for denial that was challenged by Complainant in the complaint, we do not address the other exceptions raised by Respondent in its formal response.

A law enforcement agency has discretion under the investigatory records exception to decide on whether to disclose the records or not. The caveat is that where public records contain disclosable and non-disclosable information, the public agency shall, upon receipt of a request for public records separate the material that may be disclosed and make it available for inspection and copying. IC 5-14-3-6(a). The investigatory record exception should not be invoked on a blanket basis for all records in a request. Where a records request seeks copies of publicly released exhibits or other publicly released documents, those records are disclosable. *Opinion of the Public Access Counselor 25-FC-124.*

APRA defines an “investigatory record” as one that is compiled in the course of the investigation of a crime. IC 5-14-3-2(i). APRA provides that the following public records shall be excluded at the discretion of the public agency:

(1) Investigatory records of law enforcement agencies or private university police departments. For purposes of this chapter, a law enforcement recording is not an investigatory record. However, information described in subsection (a)(15) contained in a law enforcement recording is exempt from disclosure, unless and to the extent that a parent, guardian, or custodian of the victim consents in writing to public disclosure of the records. However, a parent, guardian, or custodian charged with or convicted of a crime against the victim may not consent to public disclosure of the records.

IC 5-14-3-4(b)(1).

It bears mentioning that 911 calls are not inherently law enforcement records. They are created as part of a call for assistance to a non-law enforcement agency and not compiled (initially at least) as part of a criminal investigation. *Opinion of the Public Access Counselor 21-FC-42.*

The Court of Appeals has held in *Carroll County E911 v. Hasnie* 148 N.E.3d 996 (Ind. Ct. App. 2020) that while a dispatch center is not a law enforcement agency under APRA, when requested from a law enforcement agency 911 calls can be excepted from disclosure under APRA, citing *Lane -El v. Spears*, 13 N.E.3d 859 (Ind. Ct. App. 2014).

Therefore, the assertion of the investigatory records exclusion can be applied by Respondent to the 911 recording in this case.

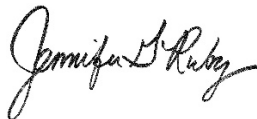
Complainant disputes that the investigatory records exception should extend after the case investigation has concluded and trial was held in August, 2025.

APRA does not limit the applicability of the investigatory records exception based upon the age of the records or status of the investigation. Our courts have observed and recognized that the exception extends beyond the current status of the investigation or other legal proceedings. See *Lane-El*. It is also worth noting that the court in *Lane-El* also cites the statute cautioning against applying discretion arbitrarily. *Opinion of the Public Access Counselor 25-FC-124*.

The Indiana Court of Appeals in *Lane-El* further stated that a denial should clearly provide the exemption being claimed in the public agency's denial. Respondent has done that and cites the investigatory record exception. The court further finds that investigatory records are not limited to records, the disclosure of which would interfere with ongoing law enforcement proceedings. The Court goes on to say that it "will not contravene the Legislature's intent in creating an explicit exception to the APRA by limiting investigatory records to records of active investigations". *Opinion of the Access Counselor 25-FC-152*.

CONCLUSION

This office finds Respondent did not violate APRA by failing to provide records which were determined to be investigatory records, a discretionary exception.



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