



STATE OF INDIANA

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August 25, 2026

Re: Complaint 25-FC-439
Nathan A. Ross (Complainant) v.
Fort Wayne Police Department (Respondent)

This advisory opinion is issued in response to the above-referenced complaint completed December 31, 2025, after several defects in filing initial filing.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on February 19, 2026, requesting a formal response by March 18, 2026. When no response was received, this office found that although the email was still valid, the notice had not been received. This office investigated and located the proper recipient. A Notice of Complaint, along with copy of the complaint, was sent again to Respondent on July 20, 2026, requesting a formal response by August 7, 2026. A formal response, submitted by Karen T. Moses of Associate City Counsel, on behalf of Respondent, was received in this office on July 29, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by declining to produce records in excess of what is permitted by the investigatory exception found in IC 5-14-3-4(b)(1).

ANALYSIS

On December 10, 2025, the Complainant requested information pursuant to APRA including information related to warrant execution at his home, information to pre-warrant surveillance, body camera footage, and information related to property related taken from his residence. It is important to note that it appears all parties are in agreement that the Complainant and his home were not the intended target of the Respondent. That same day, less than 10 minutes after filing, the records request was denied with the Respondent stating that “[p]ursuant to Indiana's Access to Public Records Act ("APRA"), IC 5-14-3-4(b)(1) and IC 5-14-3-5.2(a)(2), et al., the records you requested are investigatory records and exempt from disclosure. Your request is denied.”

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(s). 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).

Respondent is also a law enforcement agency for purposes of the investigatory records exception. IC 5-14-3-2(s)(6). APRA defines “investigatory record” as “information compiled in the course of the investigation of a crime.” IC 5-14-3-2(i). In other words, APRA speaks to information gathered, accumulated or prepared in or during the investigation of a crime. The burden is on the public agency to base a denial of public disclosure with specificity and not by relying on a conclusory statement. IC 5-14-3-9(g)(1)(B).

The complaint does not raise issues with whether or not the Respondent properly responded to the request in a timely manner, and neither the Complainant nor Respondent suggest that the records requested were anything but public records. Respondent in its response stated that Complainant was denied a copy of the case file because Respondent deemed it an investigatory record pursuant to IC 5-14-3-4(b)(1), which provides that

Except as otherwise provided by subsection (a) the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies...

Respondent has discretion to release or not release the records by statute. The investigatory exception does not apply to only current investigations. The Indiana Court of Appeals has ruled that “...APRA does not limit the definition of investigatory records to those that will interfere with active law enforcement proceedings.” *Lane-El v. Spears*, 13 N.E. 3d 859, 872. (Ind. Ct. App. 2014). The Court went on to say that “We will not contravene the Legislature’s intent in creating an explicit exception to the APRA by limiting investigatory records to records of active investigations.” *Id.*

Therefore, the exception as claimed by Respondent is clearly within its discretion and applies even after the investigation into the matter has been closed.

In its response, Respondent has also claimed withholding records based on IC 5-14-3-3(i), which provides:

A request to inspect or copy a law enforcement recording must be in writing. A request identifies a law enforcement recording with reasonable particularity as required by this section only if the request provides the following information regarding the law enforcement activity depicted in the recording:

(1) The date and approximate time of the law enforcement activity.

(2) The specific location where the law enforcement activity occurred.

(3) The name of at least one (1) individual, other than a law enforcement officer, who was directly involved in the law enforcement activity.

The Respondent argues that because certain requests lacked reasonable particularity, it was entitled to reject the APRA request as investigatory records without additional specificity.

APRA provides that:

If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

- (1) the denial is in writing or by facsimile; and*
- (2) the denial includes:*

- (A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and*
- (B) the name and the title or position of the person responsible for the denial.*

IC 5-14-3-9(d). If reasonable particularity was an issue along with investigatory records, Respondent should have articulated this in its APRA denial.

Complainant should work with Respondent to narrow its request, which may allow for the release of additional records. Without reasonable particularity the records cannot be identified to determine whether certain records may be disclosable for separation from non-disclosable or if redaction would be necessary.

CONCLUSION

This office finds that the Respondent did not violate the APRA by failing to provide the records that were subject to the investigatory records exception. However, Respondent should also have articulated that the request lacked reasonable particularity.



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