



STATE OF INDIANA

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August 11, 2026

Re: Complaint 25-FC-482
Melissa Ricke (Complainant) v.
Elkhart County Sheriff's Office (Respondent)

This advisory opinion is issued in response to the above-referenced complaint originally filed on August 27, 2025, with defects. All defects were cured and the complaint was completed March 1, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on March 3, 2026, requesting a formal response by March 30, 2026. A formal response, submitted by Nathaniel Jordan of Yoder Ainlay Ulmer & Buckingham LLP, on behalf of Respondent, was received in this office on March April 7, 2026.

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

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(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(j). 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 statutory discretion to determine whether or not to release the records. The investigatory records 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 "[w]e 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.*

This Office has previously held that 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*.

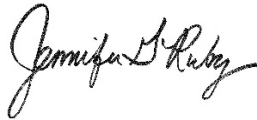
APRA requires the release of disclosable records through the redaction of non-disclosable content. IC 5-14-3-6(a). Here, the exception as claimed by Respondent is clearly within its discretion and applies even after the investigation into the matter has been closed.

Despite the wide latitude offered by the exception in statute, the Respondent has disclosed some records, though heavily redacted, to Complainant. The Respondent has fulfilled its statutory obligations with respect to IC 5-14-3-6(a).

Complainant also requested the jail surveillance video. Respondent disagrees that jail surveillance video is a law enforcement recording by definition. From *Opinion of the Public Access Counselor 13-FC-287*, if the jail surveillance video depicted illegal or criminal activity, the law enforcement agency may withhold the record under IC 5-14-3-4(b)(1), the investigatory records exception.

CONCLUSION

This office finds that the Respondent did not violate the APRA by failing to provide the records as requested. Respondent properly stated that per IC 5-14-3-4(b)(1), it is exercising its discretion to not release investigatory records from this criminal investigation.

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

Jennifer G. Ruby
Public Access Counselor