

ORDINANCE NO. 2020- 003

AN ORDINANCE CONCERNING PUBLIC RECORDS REQUESTS AND A FORM TO SUBMIT  
PUBLIC RECORDS REQUESTS

WHEREAS the Board of Commissioners agrees with the public policy that government is a servant of the people and that the public is compelled to full and complete information regarding the affairs of government and the official acts of the county; and

WHEREAS providing persons with information is an essential function of representative government and an integral part of routine duties of public officials and employees; and

WHEREASs the Board of Commissioners for Delaware County desire to provide access to the full extent of the access to public records law as set forth in I.C. 5-13-1 et. Seq.; and

WHEREAS the Board of Commissioners desire to create a process, form and procedure so that the request for access to information are streamlined and uniform throughout the county.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS THAT:**

1. Any person may inspect a copy of the public records of any public agency during regular business hours of the agency provided that they have placed their request in writing and on a form that is adopted by the Board of Commissioners pursuant to I.C. 5-14-3-3(a)(2).
2. An agency of the county will not deny or interfere with the ability to inspect or copy records as requested by any member of the public within a reasonable time after the request is received by the County.
3. Any person requesting documents in electronic format must provide the media in which to place the electronic documents upon to the county agency.
4. Any person requesting records from the county may not use the information for commercial purposes including to sell, advertise, or solicit the purchase of merchandise, goods or services or sell, loan, give away, otherwise deliver the information obtained by the request to any other person or commercial purposes.
5. The county is not required to create or provide copies of lists of names and addresses unless the agency is required to publish, solicit, and disseminate them to the public under a statute. However,

if an agency has created a list of names and addresses, those may be inspected by the requesting individual.

6. The prohibition against the disposal of lists for commercial purposes includes political purposes which includes lists of employees of any public agency; lists of persons attending conferences or meetings or programs supervised by the state educational system.

7. The following records shall be excepted from disclosure pursuant to I.C. 5-14-3-4(b)(b) as follows:

(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. Law enforcement agencies or private university police departments may share investigatory records with a person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service provider (as defined in IC 35-37-6-5), for the purposes of providing services to a victim or describing services that may be available to a victim, without the law enforcement agency or private university police department losing its discretion to keep those records confidential from other records requesters. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency: (A) a public agency; (B) the state; or (C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between:

(i) the Indiana economic development corporation;

(ii) the ports of Indiana;

(iii) the Indiana state department of agriculture;

(iv) the Indiana finance authority;

(v) an economic development commission;

(vi) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or

(vii) a governing body of a political subdivision with industrial, research, or commercial prospects; if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development

commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated. (C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer. (D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for: (A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency; (B) information relating to the status of any formal charges against the employee; and (C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged. However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Administrative or technical information that would jeopardize a record keeping or security system.

(10) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(11) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(12) The identity of a donor of a gift made to a public agency if: (A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or (B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(13) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes the following: (A) A record assembled, prepared, or

maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2. (B) Vulnerability assessments. (C) Risk planning documents. (D) Needs assessments. (E) Threat assessments. (F) Intelligence assessments. (G) Domestic preparedness strategies. (H) The location of community drinking water wells and surface water intakes. (I) The emergency contact information of emergency responders and volunteers. (J) Infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems. (K) Detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency, or any part of a law enforcement recording that captures information about airport security procedures, areas, or systems. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. Both of the following apply to the public agency that owns, occupies, leases, or maintains the airport: (i) The public agency is responsible for determining whether the public disclosure of a record or a part of a record, including a law enforcement recording, has a reasonable likelihood of threatening public safety by exposing a security procedure, area, system, or vulnerability to terrorist attack. (ii) The public agency must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)". However, in the case of a law enforcement recording, the public agency must clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(K) without approval of (insert name of the public agency that owns, occupies, leases, or maintains the airport)". (L) The home address, home telephone number, and emergency contact information for any: (i) emergency management worker (as defined in IC 10-14-3-3); (ii) public safety officer (as defined in IC 35-47-4.5-3); (iii) emergency medical responder (as defined in IC 16-18-2-109.8); or (iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5). This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(14) The following personal information about a complainant contained in records of a law enforcement agency: (A) Telephone number. (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(15) The name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(16) Records requested by an offender that: (A) contain personal information relating to: (i) a correctional officer (as defined in IC 5-10-10-1.5); (ii) a law enforcement officer (as defined in IC 35-31.5-2-185); (iii) a judge (as defined in IC 33-38-12-3); (iv) the victim of a crime; or (v) a family member of a correctional officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime; or (B) concern or could affect the security of a jail or correctional facility.

(17) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian: (A) Name. (B) Address. (C) Telephone number. (D) Electronic mail account address.

(18) Criminal intelligence information.

(19) The following information contained in a report of unclaimed property under IC 32-34-1-26 or in a claim for unclaimed property under IC 32-34-1-36: (A) Date of birth. (B) Driver's license number. (C) Taxpayer identification number. (D) Employer identification number. (E) Account number.

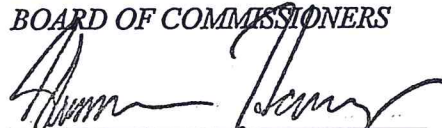
(20) Except as provided in subdivision (19) and sections 5.1 and 5.2 of i. c. 5-14-3-1 et. seq. a law enforcement recording. However, before disclosing the recording, the public agency must comply with the obscuring requirements of sections 5.1 and 5.2 of this chapter, if applicable.

8. All requests for public documents shall be made with the attached form either in person or electronically.


9. All of the fees for producing the documents are set forth in the fee schedule that is on the third page of this request.

*DULY ADOPTED* by the Board of Commissioners of Delaware County at a regularly scheduled public meeting held on this, the 18 day of May, 2020.

DELAWARE COUNTY  
BOARD OF COMMISSIONERS

  
Shannon Henry, President

  
Sherry Riggin, Commissioner

  
James King, Commissioner

ATTEST:

  
Steven Craycraft, Auditor  
Delaware County, Indiana

**Access to Public Records Act (APRA)  
Request for Public Documents Form**

Date (month, day, year):		<i>(Internal use only Date Received)</i>	
Requester Name:			
Requester Firm/Organization (if applicable):			
Requester Address (number and street):	City:	State:	ZIP Code:
Requester Telephone Number (e.g. business, home, cell):	Requester E-mail Address:		
<i>Please indicate the name and e-mail address <u>or</u> mailing address where the record(s) should be sent, if different from the requester above:</i>			
Identify in <b>detail</b> each record(s)/document(s) that you are requesting: <i>(Use additional pages if necessary.)</i>			
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

## **Requests for Disclosure of Public Records Guidelines:**

Requests for public records are governed by Indiana's Access to Public Records Act (APRA) which has been codified at Indiana Code § 5-14-3 *et seq.*

**General Rule:** Delaware County recognizes that the fundamental philosophy of government is to make access to public records and documents to the public upon request. The records of a public agency are public records and must be disclosed upon request, unless the request falls under an exception provided the law. Records may be viewed during normal business hours in the various offices of the County by the public. A request for copies of public records must be made to the County before inspection. Not all records are available for inspection or copying. The County may not produce a document(s) if the record falls under an identified APRA exception in order to withhold a specific record. The County must also identify the exception for its failure to produce the document in its response to the person requesting the records. The list of exceptions to disclosure below is not complete, but some exceptions include:

- Records deemed confidential by law.
- Investigatory records of a law enforcement agency.
- Grand jury documents.
- Attorney and client communications.
- The work product of an attorney.
- Materials relating to the deliberative process.
- Personnel files.
- Criminal intelligence information
- Business proprietary information.

**All Requests:** A request for inspection or copying must identify with reasonable particularity the record being requested. See IC § 5-14-3-3(a)(1). This means a request must include a description of the record or document with enough detail to allow agency staff to locate and produce the requested record or document. A request for inspection or copying must be in writing on a form provided by the agency. See IC § 5-14-3-3(a)(2). Delaware County requires that all requests for public records be made on the "Request Form" provided by the Prosecutor's Office. The Request Form must be completed in its entirety and returned by mail or in person to the Delaware County c/o Public Records Request 100 W. Main Street Suite 309, Muncie, IN 47305 or an email to [publicrecordsrequest@co.delaware.in.us](mailto:publicrecordsrequest@co.delaware.in.us).

**Response by Agency:** The APRA requires a public agency to respond to requests within a specified time.

**Important Note:** This response does not mean that the requested record must be produced at that time. First, the agency must, at a minimum, acknowledge receipt of a request. Second, the record(s), if disclosable, must be produced within a "reasonable time" after the request is received.

**Records That Do Not Exist:** Under the APRA, an agency is not required to create any record(s) in response to a public record request. An agency is only required to disclose existing records.

**Fees:** Public agencies may charge fees for copies.

Fee Schedule for copying or printing records is as follows:

- There is no charge for documents that the requester asks be provided by email. This can be done *if* the documents are not voluminous and the file size permits it to be attached to one email. If not, then the requestor must pay for paper copies or for copies to be placed on to a compact disc (CD), digital video disc (DVD)
- \$.10 per one-sided page for black and white standard sized 8.5" x 11" paper records.
- \$.25 per one-sided page for color standard sized 8.5" x 11" paper records.

**Important Note:** The fees set forth above are pursuant to Indiana Code § 5-14-3-8. The County requires payment for fees in advance. Acceptable forms of payment are: certified check, money order, or Visa and MasterCard. **The fee is to be paid to the Delaware County Treasurer's Office.** You will be notified in advance if there is a fee to fulfill your public record request.

**Office Hours:** The County Building Office hours are from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.