



STATE OF INDIANA

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October 6, 2026

Re: Complaint 26-FC-179
Brian Sell (Complainant) v.
Town of Lapel (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed on April 5, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on April 15, 2026, requesting a formal response by May 14, 2026. A formal response, submitted by Attorney William Cain of Graham, Farrer & Wilson, P.C. on behalf of Respondent, was received in this office on April 16, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide a copy 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 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).

Complainant filed his APRA request on March 27, 2026. The request sought all work logs and GPS data for Town equipment operating at 5th Street & Pendleton Avenue between January 25, 2026 and February 14, 2026. Complainant alleges that Respondent violated APRA when it failed to provide all the records requested in its APRA request. Complainant also alleges that a constructive denial took place since the Respondent failed to respond within seven (7) days, as required by statute.

Respondent states that no responsive records exist, after a broad search of email accounts and operational departments. Respondent went on to state that

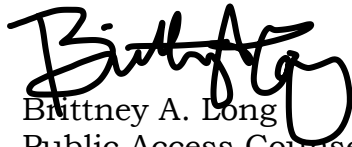
the work was not performed by the Town nor were records available to confirm that outside contractors were engaged.

This office has repeatedly held that Respondent is not required to produce records that do not exist or create records to fulfill an APRA request. *Opinions of the Public Access Counselor 03-FC-146, 05-FC-25, 10-FC-086, and 12-FC-328* to support. If Respondent provided all the records responsive to Complainant's request, then the records request has been fulfilled.

Complainant also alleges a constructive denial took place because no acknowledgement by the Town was given within seven (7) days of the receipt of the complaint pursuant to IC 5-14-3-9(b). However, Respondent produced an email documenting that acknowledgement was provided on March 31, 2026, within the statutorily required time frame. This office does not find a constructive denial.

CONCLUSION

This office finds that Respondent did not violate APRA as asserted in the complaint.


Brittney A. Long
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