



CITY OF FORT WAYNE

THOMAS C. HENRY, MAYOR

October 13, 2022

VIA EMAIL – dfilchak@jg.net

Devan Filchak
The Journal Gazette
600 W. Main St.
Fort Wayne, IN 46802

RE: REQUEST FOR ACCESS TO PUBLIC RECORDS
DATE: 10/11/22

Dear Ms. Filchak:

The Law Department is in receipt of your Request for Access to Public Records dated 10/11/22 (copy attached).

In response to your public records request, the City of Fort Wayne ("City") denies your request pursuant to Indiana Code § 5-14-3-4(b)(1) and I.C. § 5-14-3-5.2(a)(2)(B) and (C).

The investigatory records exception to the Access to Public Records Act ("APRA") provides that a law enforcement agency has the discretion whether to disclose investigatory records. *See* Indiana Code § 5-14-3-4(b)(1). An investigatory record is defined as "information compiled in the course of the investigation of a crime." I.C. § 5-14-3-2(i). APRA does not limit the applicability of the investigatory records exceptions based on the status (*i.e.*, active investigation vs. closed investigation) or age of an investigation. The Indiana courts agree with this notion as well.

With respect to law enforcement recordings, I.C. 5-14-3-5.2(a)(2) authorizes the FWPD to deny disclosure if access to or dissemination of the recording could interfere with the ability of a person to receive a fair trial or may affect an ongoing investigation.

The FWPD does not release investigatory records without a subpoena. This has been FWPD policy for the past 20 plus years and has been applied to **all** criminal investigations. The City has consistently, fairly, and even-handedly applied this policy to all public records requests and will continue to do so in the future.

Very truly yours,

/s/ Malak B. Heiny

Malak B. Heiny
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