

Records Maintenance and Release

804.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of Sheriff's office records. Protected information is separately covered in the Protected Information Policy.

804.2 POLICY

The Vigo County Sheriff's Office is committed to providing public access to records in a manner that is consistent with the Indiana Public Records Act (I.C. § 5-14-3-1 et seq.).

804.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Sheriff shall designate a Custodian of Records. The responsibilities of the Custodian of Records include, but are not limited to:

- (a) Managing the records management system for the Sheriff's Office, including the retention, archiving, release and destruction of Sheriff's office public records.
- (b) Maintaining and updating the Sheriff's office records retention schedule, including:
 1. Identifying the minimum length of time the Sheriff's Office must keep records.
 2. Identifying the Sheriff's office division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of Sheriff's office public records as reasonably necessary for the protection of such records and to regulating any material interference with the regular discharge of the functions or duties of the Sheriff's Office and its members (I.C. § 5-14-3-7).
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring the availability of a current schedule of fees for public records as allowed by law is available (I.C. § 5-14-3-8).
- (g) Ensuring a daily log is maintained that lists suspected crimes, accidents or complaints and makes available information relating to arrests, summons and jailed persons as required by I.C. § 5-14-3-5.

804.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any Sheriff's office member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

804.4.1 REQUESTS FOR RECORDS

The processing of requests for any record is subject to the following:

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- (a) All requests for public records shall be in writing or on a form supplied by the Sheriff's Office and shall identify with reasonable particularity the record being requested (I.C. § 5-14-3-3).
- (b) A written response shall be provided to the requester within seven days.
- (c) Within a reasonable time after the request, the Custodian of Records or the authorized designee shall make records or copies available to the requester as provided by I.C. § 5-14-3-3.
- (d) Copies of electronic data may be provided in the medium requested if it is compatible with the Sheriff's office's system (I.C. § 5-14-3-3).
- (e) The Sheriff's Office is not required to create records that do not exist.
- (f) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released (I.C. § 5-14-3-6).
 - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio/video, a copy of the redacted audio/video release should be maintained in the Sheriff's office-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

804.4.2 DENIALS

The denial of a written request for records shall (I.C. § 5-14-3-9):

- (a) Be made within seven days of receipt of the request.
- (b) Be in writing.
- (c) Include the reason for the denial.
- (d) Contain a citation to the specific authority that authorizes the denial.
- (e) Contain the name and position title of the person denying the request.

804.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

- (a) Any personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver's license record, motor vehicle record, or any Sheriff's office record, including traffic accident reports, is restricted except as authorized by the Sheriff's Office, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722; I.C. § 5-14-3-4).
- (b) Personnel files and files of applicants except for names; compensation; job title; business address and telephone number; job description; education and training background; previous work experience or dates of first and last employment of present or former members; information relating to the status of any formal charges against a

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member; and the factual basis for a disciplinary action in which final action has been taken and that resulted in the member being suspended, demoted, or discharged (I.C. § 5-14-3-4).

1. Job titles and job descriptions of deputies shall remain confidential (I.C. § 5-14-3-4.3).
 2. The home address, telephone number, and contact information of a deputy shall remain confidential (I.C. § 5-14-3-4(b)(19)).
 3. If a deputy is operating undercover, the name, compensation, business address and telephone number, education and training background, previous work experience, or dates of first employment shall also remain confidential.
- (c) Records that are either intra-agency/interagency advisories or deliberative material that are expressions of opinion or of a speculative nature and that are communicated for the purpose of making a decision (I.C. § 5-14-3-4).
- (d) Work product of an attorney for the Sheriff's Office (I.C. § 5-14-3-4).
- (e) Administrative or technical information that would jeopardize a record keeping or security system (I.C. § 5-14-3-4).
- (f) The telephone number and address of a complainant contained in Sheriff's office records except if the address is the location of the suspected crime, infraction, accident, or complaint reported (I.C. § 5-14-3-4).
- (g) Records requested by an offender that contain personal information about a correctional officer, law enforcement officer, judge, the victim of a crime, or a family member of any of the preceding (I.C. § 5-14-3-4).
- (h) Certain law enforcement juvenile-related records (I.C. § 31-39-3-4).
- (i) Investigatory records (I.C. § 5-14-3-2(i); I.C. § 5-14-3-4).
- (j) Criminal intelligence information (I.C. § 5-14-3-2(c); I.C. § 5-14-3-4).
- (k) Certain types of reports involving but not limited to child abuse and molestation (I.C. § 31-33-18-1; I.C. § 31-33-18-2) and endangered adult abuse (I.C. § 12-10-3-15).
- (l) Personal identifying information submitted by a person to obtain or renew a license to carry a handgun, or information obtained by a federal, state, or local government entity in the course of an investigation concerning a person who applies to obtain or renew a license to carry a handgun (I.C. § 35-47-2-3).
- (m) Audio, visual, or audiovisual recordings of law enforcement activities captured by a body-worn camera or MAV system (I.C. § 5-14-3-4):
- (a) If disclosure of any law enforcement recording is required under I.C. § 5-14-3-5.1 or I.C. § 5-14-3-5.2, the Records Clerk should ensure applicable portions are obscured as required, before releasing the recordings.
- (n) A recording that has captured information about airport security, procedures, areas, or systems, unless there is approval by an appropriate public agency.
- (o) A record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism, including a record which, if released, would have a reasonable likelihood

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of threatening public safety by exposing a vulnerability of locations or structures to a terrorist attack (I.C. § 5-14-3-4(b)(19)).

- (p) Any other information that may be appropriately denied by those records declared confidential by a rule adopted by the Sheriff's Office granted by statute, state statute, rules adopted by the Indiana Supreme Court, or federal law (I.C. § 5-14-3-4).

804.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the County Prosecutor, County Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Sheriff's Office so that a timely response can be prepared.

804.7 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the Sheriff's office name and to whom the record was released.

Each audio/video recording released should include the Sheriff's office name and to whom the record was released.

804.8 EXPUNGEMENT

Expungement orders received by the Sheriff's Office shall be reviewed for appropriate action by the Custodian of Records. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction.

The Custodian of Records shall expunge such records as ordered by the court. Once expunged, members shall respond to any inquiry as though the record did not exist (I.C. § 35-38-9-6).

A court order that requires records to be marked as expunged shall be clearly and visibly marked by the Custodian of Records. These records shall remain public records (I.C. § 35-38-9-7).

804.9 TRAINING

All members authorized to manage, release or facilitate public access to Sheriff's office records shall complete a training program that includes identification of material appropriate for public access and the Sheriff's office systems and procedures guiding such release and access.