



# STATE OF INDIANA

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February 26, 2026

Re: Complaint 25-FC-124  
Nina Schutzman (Complainant) v.  
Marion County Prosecutor's Office (Respondent)

This advisory opinion is issued in response to a complaint dated June 11, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 23, 2025, requesting a formal response by November 21, 2025. A formal response, submitted Respondent's Chief Counsel Celita Scott, was received in office on December 19, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of records based upon exclusions for investigatory records.

## **ANALYSIS**

The public policy of APRA states that "[p]roviding persons with the 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(q). 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).

APRA contains exceptions-both mandatory and discretionary to the general rule of disclosure. APRA prohibits a public agency from disclosing certain records unless access is specifically required by state or federal statute or is ordered by a court under the rules of discovery. IC 5-14-3-4(a). In addition, APRA lists other types of records that may be excepted from disclosure at the discretion of the public agency. IC 5-14-3-4(b).

The complaint states that Complainant requested, on May 30, 2025, records from Respondent for a specific criminal case. The records requested were:

- 1) Investigative materials (e.g. arrest reports, witness statements);
- 2) Prosecutorial communications;
- 3) Filed exhibits and legal proceedings;
- 4) Discovery materials.

Complainant states that the Respondent provided limited responsive records and then claimed exceptions under APRA for refusing to disclose other records. Respondent denied full disclosure of the records request on June 3, 2025, by stating that certain records fell within the investigatory records exclusion under IC 5-14-3-4(b)(1).

A law enforcement agency has discretion under the investigatory records exception to decide on whether to disclose the records or not. The caveat is that where public records contain disclosable and nondisclosable information, the public agency shall, upon receipt of a request for public records separate the material that may be disclosed and make it available for inspection and copying. IC 5-14-3-6(a). 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.

Complainant disputes that the investigatory records exception should extend after the case investigation has concluded and bench trial was held in 2018. APRA does not limit the applicability of the investigatory records exception based upon the age of the records or status of the investigation. Our courts have observed and recognized that the exception extends beyond the current status of the investigation or other legal proceedings. *See Lane-El v. Spears*, 13 N.E. 3d 859 (Ind. Ct. App. 2014). It is also worth noting that the court in *Lane-El* also cites the statute cautioning against applying discretion arbitrarily.

APRA requires that record requests “must identify with reasonable particularity the records being requested.” IC 5-14-3-3(a)(1). The statutes do not define the term “reasonable particularity”.

In its formal response, Respondent states that requests for communications and other correspondence were not “reasonably particular” to allow Respondent to identify the records requested. Respondent offers to consider any new request for the public records that meets the requirement of reasonable particularity.

The Indiana Court of Appeals addressed the meaning of the phrase, reasonable particularity, in *Jent v. Fort Wayne Police Dept*, 973 N.E.2d 30 (Ind. Ct. App. 2012) which involved a request for daily incident logs. The court concluded that reasonable particularity in a record request “turns in part, on whether the person making the request provides the agency with information that enables the agency to search for, locate, and retrieve the records.”

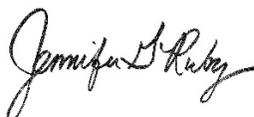
The record request sought “prosecutorial communications”, which might include written letters and materials, faxes and copies of email messages, between the prosecutor’s office and unknown individuals or entities. Respondent considered this request lacking the reasonable particularity required by the statute but did not state this in its denial email dated June 3, 2025.

As to emails, for example, this office has given guidance on the four (4) aspects of what is required to identify emails for purposes of record requests. The aspects are 1) a named sender; 2) a named recipient; 3) a reasonable time frame and 4) a subject matter or set of unique and connected words. *Opinions of the Public Access Counselor 23-FC-59 and 25-FC-124*. In *Anderson v. Huntington County Bd. Of Commissioners*, 983 N.E.2d 613 (Ind. Ct. App. 2013) the Indiana Court of Appeals held that an identified sender and recipient of an email are necessary for a request to satisfy APRA’s reasonable particularity standard.

Respondent provided an attachment to its formal response that included “legal documents” with the statement that Respondent would provide the legal documents to the Complainant. It is unclear whether these documents represent disclosable documents that could have been produced earlier to Complainant or are records that Respondent previously declared as “investigatory records” and now has determined to release them. Respondent also did not specify if or when they have been released to Complainant. The time span from the May 30, 2025, request to the December 23, 2025, response to our office would be an unreasonable delay to produce such records.

## **CONCLUSION**

This office finds Respondent did not violate APRA by failing to provide records which were determined to be investigatory records, a discretionary exception.



Jennifer G. Ruby  
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