



STATE OF INDIANA

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August 21, 2026

Re: Complaints 26-FC-035 & 26-FC-086
John S. Dietrich (Complainant) v.
City of Delphi Clerk-Treasurer (Respondent)

This advisory opinion is issued in response to the above-referenced complaints filed January 20, 2026, for 26-FC-035, and February 26, 2026, for 26-FC-086.

Notices of Complaint, along with a copy of the complaint, were sent to the Respondent on March 4, 2026, and on March 11, 2026, requesting formal responses by April 2, 2026, and by April 9, 2026. A formal response, submitted by Amber Morgan of Robeson Law, LLC, on behalf of Respondent, was received in this office on April 1, 2026.

The complaints allege that Respondent violated the Access to Public Records Act (APRA) by failing to respond within a reasonable period of time and improperly withholding access to certain records.

Complainant stated in an email:

I filed another Formal Complaint on 2/26/2026, which addresses denial issues related to my 1/20/2026 (this complaint) complaint, but which occurred subsequent to my 1/20/2026 complaint.

Respondent also asked to address the complaints together. Therefore, we are combining Complaints 26-FC-035 & 26-FC-086 with this Opinion.

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 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(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 has made requests. Respondent has either provided records or asked for clarification. There has been back and forth to clarify what Respondent wants versus what Complainant can provide.

Complainant states the following in one of his emails to Delphi's water utility:

I've sent several Public Access Requests to the Clerk for the customer's meter usage data to use in software I am writing for current and future analysis, which would number-crunch that data and predict current and future usage amounts, trends, and Aquifer impact, etc. The Clerk's latest response included some revenue items, but the Clerk says they don't have any of the individual customer's usage information in their database.

Complainant has made several requests to Respondent and the water utility for information that he intends to use in his software program.

This office would like to point out that some of the information that Complainant is requesting may be subject to the following provisions, which is an exception to disclosure under to APRA at IC 5-14-3-4(b)(20):

(20) The following **personal information concerning a customer of a municipally owned utility** (as defined in [IC 8-1-2-1](#)):

(A) Telephone number.

(B) Address.

(C) Social Security number.

I. Reasonable Time

Complainant filed two (2) APRA requests on October 10, 2025, and one on October 19, 2025, seeking a broad assortment of revenue and expense information for the City of Delphi, including transaction amounts, dates, authorizations, and funding source information. The Respondent produced records on January 29, 2026, following the filing of the first Complaint, but before the second Complaint was filed.

APRA does not define the term "reasonable time". This office has in the past provided guidance on what would be considered a reasonable time for purposes of compliance with the APRA provisions. An informal benchmark this office observes for a typical response time would be thirty (30) days from the receipt of the request. *Opinion of the Public Access Counselor 20-FC-87.*

However, this office has further observed that many requests cannot be fulfilled within thirty (30) days for a variety of reasons. In those circumstances, this

office considers the following factors:

- (1) the size of the public agency;
- (2) the size of the request;
- (3) the number of pending requests;
- (4) the complexity of the request; and
- (5) any other operational considerations or factors that may reasonably affect the public records process.

Opinion of the Public Access Counselor 25-FC-034.

Respondent's response argues that factors one and five are implicated in evaluating its response time. Respondent argues that it is small public agency, with only three (3) full-time employees. The Respondent also explained that the requests were submitted at the end of its fourth fiscal quarter and that it could not deviate from several statutory fiscal obligations and deadlines.

Because of the large volume of documents, the complexity, and the demands on a small public agency, the amount of time to produce records is not unreasonable.

II. Denial of Access to Records

The Complainant has argued that his records request has been denied in numerous ways by the Respondent. The alleged forms of denial include failure to provide records in the requested format and that the records provided January 29, 2026, were incomplete. This office has on numerous occasions opined that the public agency is not required to provide records that do not exist nor is it required to create such records. *Opinion of the Public Access Counselor 25-FC-112.*

It appears that the Clerk-Treasurer only receives funds and documentation based on the amount collected on various days, which are then electronically batched to its office system. The funds are not distinguished by individual consumer.

Respondent may refer Complainant to other potential resources for obtaining requested documents, but such a referral is not required under APRA.

Opinions of the Public Access Counselor 25-FC-002A and 25-FC-092. There is no requirement in APRA for the public agency to make a referral because staff of the public agency may not know where or to which office the referral should be made.

Further, although the Clerk-Treasurer may be able to pull individual customer water usage data, there is currently no way to bulk pull all customers data as requested by Complainant. A public agency is not required to create a record that does not exist and is not required to produce a record it does not have.

Opinions of the Public Access Counselor 15-FC-79 & 52 & 25-FC-136 contain two relevant sections. First,

A public agency is not required to create a list of names and addresses nor publish and disseminate such information. The agency is required to allow a person to inspect such a list, only if it is already created. [IC] 5-14-3-3(f). Public agencies are not required to reprogram a computer system to provide enhanced access. [IC] 5-14- 3-6(d)(1).

And second,

Furthermore, the Public Access Counselor has previously determined a “public agency is not required to compile or create a record to satisfy a person’s request for information. Rather, the APRA requires that a public agency make available its current records.” See Opinion of the Public Access Counselor 06-FC-196.

The specific deficiency, as alleged by Complainant, had to do with records related to customer billing for water and trash services. As Complainant had clarified and changed his request, Respondent asked Complainant to submit a new request, since it fulfilled Complainant’s previous APRA requests.

APRA provides that “any person may inspect and copy the public records of any public agency during regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

- 1) identify with reasonable particularity the record being requested; and
- 2) be at the discretion of the agency, in writing or on a form provided by the agency.”

IC 5-14-3-3(a).

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.”

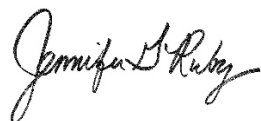
Respondent summarized its position:

[A]fter a public agency has provided responsive records and has responded with clarification of the records provided when asked, it is impractical and burdensome on the public agency and its resources to continuously respond to subsequent emails from a citizen who is unhappy that the exact records provided in accordance to the citizen's request does not meet the citizen's unspoken expectation of what the record should contain. Mr. Dietrich has consistently been directed and encouraged to submit an APRA request for public records he mentioned in his emails that are outside the scope of his original APRA request dated October 10, 2025, but the Clerk-Treasurer's Office should not be held responsible for either his dissatisfaction with a public record that is responsive to his request or his frustration with the process to submit a request for public records.

Here, the Respondent has engaged with the Complainant, produced records, and requested further APRA submission to review, clarify and potentially provide additional public records not previously requested. In many cases, a denial has not occurred, because the Complainant has declined to identify with reasonable particularity what records are sought or has declined to submit a new APRA request such as the one requested by the water utility.

CONCLUSION

This office finds that Respondent did not violate APRA because it produced records on January 29, 2026, and because Complainant declined to submit new APRA requests for water and trash related services prior to submitting a complaint.



Jennifer G. Ruby
Public Access Counselor

This Advisory Opinion combines and is issued in lieu of separate advisory opinions for the following complaints:

26-FC-035 & 26-FC-086