



STATE OF INDIANA

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October 27, 2026

Re: Complaint 26-FC-248
Koma Mnyofu (Complainant) v.
Marion County Prosecutor's Office (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed on May 4, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on May 13, 2026, requesting a formal response by June 11, 2026. A formal response, submitted by Celita Scott, Chief Counsel, on behalf of Respondent was filed in this office on June 15, 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." 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 April 10, 2026. The request sought:

- 1) Copies of any policy or procedure in practice by your office which gives your office and/or any deputy prosecutor in your office, the authority under Indiana Law, to call any person not a subject of any criminal complaint or criminal information and threaten to prosecute that person for a crime not committed.
- 2) Please cite any policy or procedure in practice approved by your office

which allows the same above and the date r=that policy or procedure was approved and implemented.

On April 17, 2026, Respondent informed requestor that

“the records requested are exempt from disclosure under the Indiana Access to Public Records Act (IC 5-14-3) because the written policies of the office are exempt from disclosure as deliberative materials.”

The response did not identify the specific statutory exception upon which it was denying disclosure of the information under APRA.

APRA provides detailed guidance regarding the form and content of denials by a public agency, as provided below:

(d) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

IC 5-14-3-9(d).

Respondent failed to identify the specific exception it was asserting to deny Complainant's request. "This office has consistently interpreted this provision to require a public agency to cite a specific provision of Indiana Code as the grounds for nondisclosure. Any failure to cite code would therefore be improper." *Opinion of the Public Access Counselor 15-FC-334.*

Respondent also failed to provide the name and title of the person making the denial, but rather cited the Office as having reviewed the request and having made the determination to deny it. These failures contravene the requirements of APRA.

CONCLUSION

This office finds that Respondent did violate APRA as alleged in the complaint.

A handwritten signature in black ink, appearing to read "Brittney A. Long". The signature is stylized with a large, looped "B" and a long, sweeping underline.

Brittney A. Long
Public Access Counselor