



STATE OF INDIANA

MIKE BRAUN, Governor

**PUBLIC ACCESS COUNSELOR
JENNIFER RUBY**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317) 234-0906
Email: pac@opac.in.gov
Website: www.IN.gov/pac

July 31, 2026

Re: Complaint 25-FC-441
EWU Media LLC (Complainant) v.
Marshall County Prosecutor's Office (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed December 15, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on February 19, 2026, requesting a formal response by March 18, 2026. A formal response, submitted by Ashley Lowe, Deputy Prosecuting Attorney, was received in this office on March 17, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by declining to provide the requested records under IC 5-14-3-4.

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(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).

Complainant filed an APRA request on December 3, 2025, seeking a large batch of records pertaining to the arrest or investigation of a certain suspect in Elkhart County. The request was for the complete prosecutorial case file, including charging documents, affidavits, warrants, and probable cause statements. The request also included photographs, videos, and other digital evidence.

On the same day, the Public Information Officer with the Marshall County Prosecutor's Office wrote to deny disclosure of records pursuant to IC 5-14-3-4.

APRA provides that:

A denial of disclosure by a public agency occurs when a person making the request is physically present in the office of the agency, makes the request, makes the request by telephone or enhanced access to a document and:

- 1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or*
- 2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;*

whichever occurs first. IC 5-14-3-9(b).

Complainant has argued that the Respondent violated APRA by failing to specify which exemption to disclosure was used under IC 5-14-3-4. Respondent argues that it is entitled to assert that the requested documents fall within the exceptions laid out in the entirety of the code section. Respondent failed to identify which subsection of IC 5-14-3-4 it was asserting in its responses to Complainant.

APRA provides that:

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.

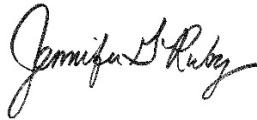
IC 5-14-3-9(d).

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).

Although Respondent cited specific statutory exceptions in its reasoned response to this office, it failed to articulate those statutory exceptions as required, when it denied disclosure to Complainant.

CONCLUSION

This office finds that Respondent violated APRA by failing to specify the statutory exceptions from disclosure used in its denial.

A handwritten signature in black ink, appearing to read "Jennifer G. Ruby". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer G. Ruby
Public Access Counselor