



Logan Foster <info@redresssouthbend.com>

Re: Re: St. Joseph County - Records Request RDPR-2025-1207 Clarification Requested

5 messages

Eli Wax (St. Joseph County, IN) <StJosephCountyIN@request.justfoia.com>

Tue, Dec 2, 2025 at 10:04 AM

Reply-To: 8b638570-9b3e-4555-b382-8bd0b9eaa703.StJosephCountyIN@request.justfoia.com

To: info@redresssouthbend.com

Cc: wax@aaklaw.com

Mr. Foster,

Thank you for your thorough response and analysis. While I concur with your general conclusion that the 4 factor test isn't an absolute test, I do not concur with your application to this request.

In 22-INF-9, the requester provided the recipient email address, subject, and timeframe. The only missing factor was the sender email address. The requester wanted to see what emails might have been received relating to a specific subject from the public. To this, the PAC said it is unreasonable to expect the requester to be clairvoyant and know the specific sender.

This is very different than not providing keywords or subject matter. If you are seeking emails relating to a specific issue, you would presumably have the information necessary to provide keywords. The PAC's analysis that you cited was addressing situations where the requester couldn't reasonably be expected to have the information, as you yourself quoted the PAC: "This is especially true in situations where there is no practical way for the public to know an aspect of a search." I don't think that is our situation here.

Nevertheless, as the PAC states, this is something that requires a case-by-case analysis. Accordingly, if you feel that this is a situation that you are unable to provide subject matter/keyword information, please let me know. I would be happy to discuss this with you further to better understand the specific concerns that you have that would allow for consideration.

I will be in my office tomorrow and can be reached at 574-288-1510. If you'd prefer, I'd be happy to give you a call as well; just let me know.

All the best,

Eli Wax

On Tue, Nov 18, 2025 at 11:03 am, Logan Foster wrote:

Attorney Wax,

Your denial relies on Public Access Counselor Opinion 22-FC-42, but your reasoning is inconsistent with Public Access Counselor Luke H. Britt's subsequent guidance in 22-INF-9, issued later in the same year, directly addresses how "reasonable particularity" applies to email requests.

In 22-INF-9, Counselor Britt made clear that the four historical parameters (sender, recipient, timeframe, subject matter) are not rigid requirements and should not be treated as an absolute test. He expressly states:

"These search parameters are intended to be guardrails but not hard-and-fast rules. Each request should be evaluated on a case-by-case basis."

Britt further states:

“Relatively specific descriptions of three factors can make up for a fourth factor that might not be as specific.”

My original request identified:

1. A **specific sender**
2. A **specific recipient**
3. A **fixed timeframe of six months**, which aligns with the PAC's recommended parameters

Three of the four parameters were satisfied with precision. Under Britt's explicit guidance, these factors are more than adequate to meet the standard of reasonable particularity.

PAC Britt also clarified the meaning of “reasonable particularity”:

“APRA's standard is reasonable particularity. The standard is not absolute pinpoint accuracy. This is especially true in situations where there is no practical way for the public to know an aspect of a search.”

And more forcefully:

“These cases do not stand for the proposition that a requester must be clairvoyant or have insider knowledge... Reasonableness simply implies a degree of practicality. Your request is far from blindly throwing darts.”

Your office's denial (as your office wrote they cannot process my request as is, and will close the request without more information) claims I lacked sufficient particularity because I did not provide specific keywords or subject matter. However, Britt's own analysis in 22-INF-9 holds that where the request otherwise contains multiple specific parameters, such as identified individuals and a defined timeframe, the absence of subject-matter terms does not invalidate the request. That is precisely the scenario here.

Additionally, Counselor Britt, citing both Jent and Anderson, warns agencies that the four-factor framework should not be misused to obstruct disclosure or impose requirements that APRA does not contain. Yet that appears to be what has occurred in this case.

St. Joseph County's refusal to conduct a search and produce records, despite having all information necessary to locate emails between two known individuals over a fixed period, exceeds the authority of APRA and contradicts the PAC's most recent guidance.

Please also note another relevant point from PAC precedent: Agencies should respond and produce records as promptly as possible, and Britt has been clear that responses or productions exceeding 30 days are presumptively unreasonable absent valid justification. Your office's ongoing delays, combined with this unwarranted denial (unless we add a 4th factor), raise legitimate concerns about whether records are being improperly withheld or whether the personnel processing APRA requests are inadequately trained to process these requests. If your office officially closes/denies this request, please note, I will be filing a formal complaint with the PAC.

On Mon, Nov 17, 2025 at 5:53?PM Eli Wax (St. Joseph County, IN) <StJosephCountyIN@request.justfoia.com> wrote:

RE: Request Number Request Number: RDPR-2025-1207 Submitted on: 11/10/2025

Description of records requested:

Requesting all emails between John H. Murphy and James (Jamie) O'Brien between 07/01/2024 and 12/31/2024
Potential email addresses may include (but not limited to) jmurphy@sjcindiana.gov & jamesobrienesc@yahoo.com

Dear Redress South Bend,

For the County to continue to process your request for records, we require additional information.

To the extent you are seeking emails your request lacks the reasonable particularity required by Ind. Code § 5-14-3-3(a)(1). I reference you to Indiana Public Access Counselor opinion 22-FC-42 which discusses reasonable particularity as it applies to emails and gives the following guidelines:

“This office (h)as continued to develop the standard for what is a reasonably particular request for email messages:

1. Sender;
2. Recipient;
3. Reasonable timeframe (e.g., six months or less); and
4. Particularized subject matter or set of search terms.”

To the extent you are requesting information related to emails please comply with the above guidelines. Your request does specify the sender and receiver and provides a reasonable time frame. Your request, however, does not provide a particularized subject matter or set of search terms. Accordingly, we need you to provide more targeted and specific search terms for us to proceed.

Just so you understand, we are happy to respond to your records request. However, the way this has been requested lacks the particularity required by the statute. Once you amend your request to comply with the guidelines stated above, we will work to respond to your request.

If a response is not received in 7 days, your request will be closed.

Thank you,
Eli Wax, Attorney
St. Joseph County
APRA Requests c/o Board of Commissioners
227 W Jefferson Blvd., 7th Floor
South Bend, 46601
(574) 235-9534
sjccom@sjcindiana.com

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Logan Foster
574-261-1180
RedressSouthBend.com



Logan Foster <info@redresssouthbend.com>
To: 8b638570-9b3e-4555-b382-8bd0b9eaa703.StJosephCountyIN@request.justfoia.com
Cc: wax@aaklaw.com

Thu, Dec 11, 2025 at 3:46 PM

Attorney Wax,

Thank you for your call and our conversation Monday evening. I appreciate your patience this week as I gathered and reviewed the relevant Public Access Counselor guidance pertaining to my request.

Please review Public Access Counselor decision **11-INF-63**, which I believe strongly supports the fulfillment of my request.

In **11-INF-63**, the Public Access Counselor says:

“If, on the other hand, the request identified the records with particularity enough that the School could determine which records are sought (e.g. all emails from a person to another for a particular date or date range), the School would

be obligated to retrieve those records and provide access to them, subject to any exceptions to disclosure.”

That same opinion further states, in full:

“I would note that a request for all e-mail correspondence to and from Jane Doe for a range of dates is not reasonably particular. See Opinion of the Public Access Counselor 09-FC-124, 11-FC-12, and 11-FC-257. **However, a request of all e-mail correspondence from Jane Doe to Jim Smith for a range of dates would be reasonably particular.”**

My request: **"Requesting all emails between John H. Murphy and James (Jamie) O'Brien between 07/01/2024 and 12/31/2024 Potential email addresses may include (but not limited to) jmurphy@sjcindiana.gov & [jamesobrienesc@yahoo.com](mailto:amesobrienesc@yahoo.com)"**

My request identified a sender (John Murphy & Jamie O'Brien), a recipient (John Murphy & Jamie O'Brien) as well as a defined date range (07/01/2024-12/31/2024)

As my request identifies a specific sender, a specific recipient, and a defined date range, it would appear to align with the precise example the PAC has repeatedly identified as reasonably particular.

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Logan Foster
574-261-1180
RedressSouthBend.com



REDRESS

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[Quoted text hidden]

Eli Wax <wax@aaklaw.com>

Tue, Dec 23, 2025 at 6:57 PM

To: Logan Foster <info@redresssouthbend.com>, "8b638570-9b3e-4555-b382-8bd0b9eaa703.StJosephCountyIN@request.justfoia.com" <8b638570-9b3e-4555-b382-8bd0b9eaa703.StJosephCountyIN@request.justfoia.com>

Good afternoon, Logan,

I just wanted to touch base to let you know I have received your email and am researching the issue further. I expect to have a substantive response to you soon. Thank you for your patience on this.

All the best,

Eli

From: Logan Foster <info@redresssouthbend.com>

Sent: Thursday, December 11, 2025 3:46 PM

To: 8b638570-9b3e-4555-b382-8bd0b9eaa703.StJosephCountyIN@request.justfoia.com

Cc: Eli Wax <wax@aaklaw.com>

Subject: Re: Re: St. Joseph County - Records Request RDPR-2025-1207 Clarification Requested



IRONSCALES couldn't recognize this email as this is the first time you received an email from this sender info@redresssouthbend.com

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Eli Wax <wax@aaklaw.com>

Mon, Dec 29, 2025 at 6:38 PM

To: Logan Foster <info@redresssouthbend.com>, "8b638570-9b3e-4555-b382-8bd0b9eaa703.StJosephCountyIN@request.justfoia.com" <8b638570-9b3e-4555-b382-8bd0b9eaa703.StJosephCountyIN@request.justfoia.com>

Good afternoon, Logan,

I have reviewed the matter further, including the opinion you provided. I do agree that 11-INF-63 indicates that if sender, recipient, and time range are clear, then subject matter may not be required for particularity. At the same time, that opinion is not consistent with the guidance regarding emails from the PAC given over the past number of years. My impression is that the PAC's opinion regarding email particularity has developed over time as email has become the primary form of communication between parties. While the PAC may have said subject isn't required in 2011, I don't think that is their position today, nor has it been for years.

But I acknowledge that I may be incorrect. If that is the case, I would of course make sure the county complies with the APRA regarding your request.

Therefore, as discussed, I propose that we jointly submit an informal request to the PAC. I.C. 5-14-4-10(5) requires the PAC to respond to informal inquiries from the public and public agencies. I think a joint email is the best approach as it ensures the question is presented accurately and reduces the possibility of confusion as to the applicability of the PAC's answer.

If this is agreeable to you, I can send a draft joint email/letter for your review. I started drafting it, but I will not be able to finish it today.

All the best,

Eli

[Quoted text hidden]

Logan Foster <info@redresssouthbend.com>

Fri, Jan 2, 2026 at 11:03 AM

To: Eli Wax <wax@aaklaw.com>

Cc: "8b638570-9b3e-4555-b382-8bd0b9eaa703.StJosephCountyIN@request.justfoia.com" <8b638570-9b3e-4555-b382-8bd0b9eaa703.StJosephCountyIN@request.justfoia.com>

Attorney Wax,

Under APRA, the **burden of proof for nondisclosure rests entirely with the public agency**, not the requester. A denial must be supported by **statute, case law, or written Public Access Counselor authority**—not impressions, speculation, or assumptions about how the PAC *might* view an issue today. While I have acted in good faith by supplying PAC authority

supporting this request, APRA does not place the burden on a requester to educate the County on binding PAC guidance; that obligation rests squarely with the public agency. As of today, I will not be providing additional guidance. If the County continues to deny this request, I will proceed with filing a formal complaint with the Public Access Counselor and pursue all remedies available under APRA to compel production of the requested records. *****To preserve the record, I request that all further communications regarding this matter occur exclusively in writing via email.***

In your most recent correspondence, you acknowledge that **11-INF-63** supports the proposition that where sender, recipient, and time range are clearly identified, subject matter may not be required for reasonable particularity. You further state that your contrary view is based on an *impression* and expressly acknowledge that **you may be incorrect**.

A public agency that cannot affirmatively determine that a request is subject to denial, but instead expresses doubt or uncertainty, cannot as a matter of law satisfy its burden to justify nondisclosure.

Existing written PAC opinions—including **11-INF-63** and **22-INF-9**—govern unless and until they are expressly superseded. Speculation regarding an alleged progression in PAC thinking, or assumptions about the views of a current or future Counselor, is legally irrelevant and cannot support withholding records.

Accordingly, the County lacks a lawful basis to continue denying or delaying this request. APRA does not permit a public agency to withhold records while seeking advisory clarification. The County is obligated to process and produce the requested records **now**, subject only to any applicable statutory exemptions. The Public Access Counselor has already determined, through written opinions, that requests of this nature are reasonably particular as a matter of law. The County therefore cannot lawfully deny this request on the basis of reasonable particularity.

Please confirm when production will begin.

Regards,
Logan Foster

11-INF-63: "If, on the other hand, the request identified the records with particularity enough that the School could determine which records are sought (e.g. all emails from a person to another for a particular date or date range), the School would be obligated to retrieve those records and provide access to them, subject to any exceptions to disclosure."

"However, a request of all e-mail correspondence from Jane Doe to Jim Smith for a range of dates would be reasonably particular."

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