

June 17, 2004

Mr. Bobby Peck, No. 865349
Pendleton Correctional Facility
P.O. Box 30
Pendleton, Indiana 46064

*Re: 04-FC-98; Alleged Violation of the Access to Public Records Act by the
Pendleton Correctional Facility*

Dear Mr. Peck:

This is in response to your formal complaint alleging that the Pendleton Correctional Facility (Pendleton) violated the Indiana Access to Public Records Act (APRA) (Ind. Code §5-14-3) when it denied you access to public records. For the reasons set forth below, I find that Pendleton's denial of your request did not violate the APRA.

BACKGROUND

On May 17, 2004, you submitted a written request to Pendleton. Your request sought information regarding the number of employees at the facility, along with each employee's full name, and their race, rank and gender. For each, you also requested their job classification, compensation, and dates of employment. Your request did not identify any specific employee about whom you were seeking this information; rather, it requested that you Pendleton put this information together for all of the employees of that correctional facility. Pendleton responded in writing and denied your request pursuant to Indiana Code 5-14-3-4(b)(8), which provides that personnel file information is subject to exemption from disclosure at the discretion of the public agency. Pendleton's response further noted that certain personnel information, including some of the kinds of information you sought in your request, is required to be disclosed, but that section 4(b)(8) provides that the mandatory disclosure provisions do not apply to information generally on all employees of a public agency. This complaint followed.¹

¹ Indiana Code 5-14-5-8 requires that I immediately forward a copy of any properly filed formal complaint to the public agency that is subject to the complaint. I do so with this opinion. Normally, the complaint is forwarded to the public agency before an opinion is composed in order that the agency be afforded an opportunity to respond and to facilitate resolution of the complaint. While Pendleton may certainly prepare and file a response to the complaint, its response is unnecessary to resolution based on a plain reading of the statutes at issue and the facts asserted in the complaint.

ANALYSIS

Indiana Code 5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as otherwise provided in the APRA. IC 5-14-3-3(a). One exemption to production is personnel file information of public employees. IC 5-14-3-4(b)(8). However, this discretionary exemption is subject to exceptions for three categories of information that are required to be disclosed upon request. Relevant to this opinion is the provision for the mandatory disclosure of a public employee's "name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment." IC 5-14-3-4(b)(8)(A).

You assert that your record request sought only that information that was required to be provided under Indiana Code 5-14-3-4(b)(8)(A). While it did seek some of the kinds of information covered by this statute, it also sought information that is not subject to mandatory disclosure (*e.g.*, number, race and gender of employees). But more importantly, and fatal to your request and your complaint, is that your request was not particularized by employee. *See* IC 5-14-3-4(b)(8). The mandatory disclosure provisions do "not apply to disclosure of personnel information *generally on all employees or for groups of employees without the request being particularized by employee name.*" IC 5-14-3-4(b)(8) (emphasis added). Your request did not identify any employee for whom you were seeking even the required information, but rather asked for all of the information generally on every employee in the public agency. Even if Pendleton had a record responsive to your request, it was not required to provide it. Pendleton told you this in its denial letter, and properly cited to the exemption supporting its nondisclosure. IC 5-14-3-9(c)(2)(A). The denial was proper under the APRA, and your complaint is without merit.

CONCLUSION

For the reasons set forth above, I find that Pendleton did not violate the APRA.

Sincerely,

Michael A. Hurst
Public Access Counselor

cc: Mr. David W. Barr
Ms. Pam Pattison
Mr. Keith Beesley