

May 30, 2007

Darrell Williams
#26008-044
United States Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

Re: Formal Complaint 07-FC-113; Alleged Violation of the Access to Public Records Act by the Indiana Department of Correction

Dear Mr. Williams:

This is in response to your formal complaint alleging that the Indiana Department of Correction (“Department”) violated the Access to Public Records Act. I find that the Department apparently has not responded to your request for records, and this was a violation of the Access to Public Records Act.

BACKGROUND

You made a request dated April 1, 2007 to the Department for a listing of the full names of all correctional officers who are currently employed at the Indiana Department of Correction Reception and Diagnostic Center located in Plainfield, Indiana.

You claim that your request was “to no avail.” I sent a copy of your complaint to the Department. To date, I have not received any response.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). If a public agency receives a request for a record via U.S. Mail or facsimile, the public agency is required to respond within seven calendar days, or the request is deemed denied. IC 5-14-3-9(b).

If a request initially is made in writing, 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(c).

The Department apparently did not respond to your request for the records. If the Department received your request and failed to respond, the Department violated the Access to Public Records Act.

Although the Department should have responded to your request for records, the Department could have required you to particularize your request by employee name if the records containing the employees' names is part of a personnel file. Personnel files of public employees may be withheld except for:

(A) the 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 of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. *This subdivision does 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 supplied.)

You requested the names of all employees at the Reception and Diagnostic Center. This request involves a group of employees, and the law allows a public agency to require a person to particularize a request for personnel file information by employee name.

CONCLUSION

For the foregoing reasons, I find that the Indiana Department of Correction violated the Access to Public Records Act by failing to respond to your request for records.

Sincerely,

Karen Davis
Public Access Counselor

cc: J. David Donahue