

IOWA PUBLIC INFORMATION BOARD

MEMBERS

Joan Corbin, Pella (Government Representative, 2024-2028)
E. J. Giovannetti, Urbandale (Public Representative, 2022-2026)
Barry Lindahl, Dubuque (Government Representative, 2024-2028)
Luke Martz, Des Moines (Public Representative, 2024-2028)
Joel McCrea, Pleasant Hill (Media Representative, 2022-2026)
Monica McHugh, Zwingle (Public Representative, 2022-2026)
Jackie Schmillen, Urbandale (Media Representative, 2022-2026)
Vacant
Vacant

STAFF

Erika Eckley, Executive Director
Kimberly Murphy, Deputy Director
Alexander Lee, Agency Counsel

Use the following link to watch the IPIB meeting live:

<https://youtube.com/@IowaPublicInformationBoard>

Note: If you wish to make public comment to the Board, please send an email to IPIB@iowa.gov prior to the meeting.

Agenda

October 17, 2024, 1:00 p.m.
IDALS Conference Room 1st Floor
Wallace Building
502 East 9th Street, Des Moines

1:00 PM – IPIB Meeting

- I. Approval of agenda*
- II. Approval of the September 19, 2024 minutes *
- III. Public Forum (5-minute limit per speaker)
- IV. Comments from the board chair. (McHugh)
- VI. Advisory Opinion – Deliberation/Action.
 1. 24AO:0011 Does Iowa Code Chapter 22.7(5A) require that a Department of Justice form be utilized to allow the crisis intervention report to be categorized as confidential?
- VII. Cases involving Board Deliberation/Action.* (Eckley)
 1. 23FC:0053 (Debra Schiel-Larson - Both- Indianola Community School District) 5/4/2023 - Board Acceptance of IR – Verbal Update
 2. 23FC:0126 (Traci Stillwell - Chapter 22- Hampton Public Library Hampton, IA) 11/19/2023 - Final Report
 3. 24FC:0017 (Latrice Lacey - Chapter 22- City of Davenport) 2/12/2024 - Probable Cause
 4. 24FC:0053 (Blake Jones - Chapter 22- City of Eldora) 6/18/2024 - Final Report
 5. 24FC:0057 (Jody Phillips - Chapter 22- Pekin Community School District - Board) 7/3/2024 - Informal Resolution

6. 24FC:0058 (Chad Miller - Both- Scott County Board of Review) 7/8/2024 - Dismissal
7. 24FC:0059 (Jan Norris - Both- Montgomery County Board of Supervisors) 7/23/2024 - Informal Resolution
8. 24FC:0064 (Mark Milligan - Chapter 22- Monroe County Sheriff's Department; represented by Monroe County Attorney) 7/30/2024 - Acceptance
9. 24FC:0067 (Janet Pierson - Chapter 22- Decatur County Auditor, Decatur County Attorney, Decatur County Board of Supervisors) 8/9/2024 – Dismissal
10. 24FC:0068 (Drake Riddle - Chapter 21- Page County Board of Supervisors and their Clerk) 8/8/2024 - Acceptance
11. 24FC:0069 (William Vandenberg - Chapter 22- Lee County Sheriff's Office) 8/10/2024 – Dismissal
12. 24FC:0070 (Brian Thomas - Both- Jefferson County BOS) 8/13/2024 - Acceptance
13. 24FC:0071 (Kevin Wymore - Chapter 21- Cedar Rapids Community School District) 8/13/2024 - Dismissal
14. 24FC:0073 (Gail Bonath - Chapter 21- Drake Community Library, Grinnell, Iowa) 8/25/2024 - Dismissal
15. 24FC:0075 (Karen Davis - Chapter 22- City of Zearing) 9/3/2024 - Dismissal
16. 24FC:0077 (Kyle Ocker - Chapter 22- Mahaska County Sheriff's Office) 9/9/2024 - Acceptance
17. 24FC:0080 (Tiffany South - Chapter 22- Iowa Girls High School Athletic Union) 9/21/2024 - Dismissal
18. 24FC:0086 (Ben Ward - Chapter 22- Office of the Iowa Attorney General, Iowa Civil Rights Commission) 9/29/2024 - Dismissal

VIII. Matters Withdrawn, No Action Necessary. (Eckley)

1. 24FC:0074 (Diane Holst - Chapter 22- Iowa Secretary of State) 8/26/2024 - Withdrawn

IX. Pending Complaints and Advisory Opinions. Informational Only (Eckley)

1. 24AO:0012 If a records request is made for social media posts, such as a government-moderated Facebook page, is the government body required to provide screen shots of the posts or can the government body direct the requestor to the Facebook page and the requested
2. 24FC:0013 (Bonnie Castillo - Both- Union County Emergency Management Agency) 2/2/2024 - Informal Resolution Process
3. 24FC:0052 (Erik Johnson - Chapter 22- Delaware Township) 6/6/2024 - Information Gathering
4. 24FC:0056 (Steven Asche - Chapter 22- City of Eagle Grove) 6/20/2024 - Informal Resolution Process
5. 24FC:0072 (Lucian Diaconu - Chapter 22- Gilbert Community School District) 8/14/2024 - Information Gathering
6. 24FC:0078 (Megan Pegorick - Chapter 22- Midland Community School District) 9/10/2024 - Information Gathering
7. 24FC:0079 (Tiffany South - Chapter 22- CAM Community School District) 9/18/2024 - Information Gathering
8. 24FC:0081 (Joe Monahan - Chapter 22- Ames Public Library, Ames City Attorney) 9/20/2024 - Information Gathering
9. 24FC:0082 (Robin Delaney - Chapter 21- Des Moines County Board of Supervisors) 9/25/2024 - Complaint Open
10. 24FC:0083 (Tim Ferguson - Chapter 22- Scotty County government) 9/25/2024 - Complaint Open
11. 24FC:0085 (Gregory Mangold - Chapter 21- Des Moines County Board of Supervisors) 9/27/2024 - Information Gathering
12. 24FC:0087 (Nicholas Bargren - Public Records Law- Iowa City Police Department) 10/5/2024 - New / Complaint Information Reviewed

13. 24FC:0088 (Randy Evans - Open Meetings Law- Des Moines County Board of Supervisors) 10/5/2024 - New / Complaint Information Reviewed
14. 24FC:0089 (Curtis Wagler - Chapter 22- Henry County Sheriff's Office) 10/8/2024 - New / Complaint Information Reviewed
15. 24FC:0090 (sarah weber - Open Meetings Law- Orange City Council) 10/9/2024 - New / Complaint Information Reviewed
16. 24FC:0091 (Sheryl Pilkington - Public Records Law- City of fairfield and city sewer and waste water) 10/10/2024 - New / Complaint Information Reviewed

X. Discussion and Possible Action on Retention Policy*

XI. Discussion and Possible Action on Pilot Case Review Process*

XII. Charles Nocera's request*

XIII. Committee Reports

1. Training – (Lee)
2. Legislative – (Eckley)
3. Rules – (Murphy)

XIV. Office status report.

1. Office Update * (Eckley)
2. Financial/Budget Update (FY25) * (Eckley)
3. Presentations/Trainings (Eckley)
 - a. Iowa Department of Veterans Affairs
 - b. Montgomery County
 - c. IMAA
 - d. Tama County
 - e. ISAC New County Officers
4. District Court Update (Eckley)

XV. Next IPIB Board Meeting will be held on November 21, 2024, at 1:00 p.m.

XVI. Adjourn

*** Attachments**

IOWA PUBLIC INFORMATION BOARD

September 19, 2024
Unapproved Minutes

The Board met on September 19, 2024, for its monthly meeting at 1 p.m. at the offices of the Department of Agriculture and Land Stewardship located at 502 East 9th Street, Des Moines. The following members participated: Joan Corbin, Pella; E.J. Giovannetti, Urbandale (remote); Barry Lindahl, Dubuque; Luke Martz, Ames (remote); Joel McCrea, Pleasant Hill. Also present were IPIB Executive Director, Erika Eckley; IPIB Deputy Director, Kimberly Murphy; IPIB Agency Counsel, Alexander Lee; Zach Goodrich, Executive Director of Iowa Ethics and Campaign Disclosure Board. A quorum was declared present.

On a **motion** by McCrea and **second** by Corbin, to approve the agenda. Adopted, 5-0.

On a **motion** by Giovannetti and **second** by Martz, to nominate and elect Monica McHugh as the chair of the Iowa Public Information Board for the 2024/2024 term. Adopted 5-0.

On a **motion** by McCrea and **second** by Giovannetti, to nominate and elect Barry Lindahl as the vice-chair of the Iowa Public Information Board for the 2024/2024 term. Adopted 5-0.

On a **motion** by Corbin and **second** by McCrea, to approve the August 15, 2024, minutes. Adopted, 5-0.

Public Forum –

Charles Nocera addressed the Board. The Board discussed. The issues raised will added to the agenda at the next meeting of the Board.

Board Chair Comments –

- Eckley introduced the new attorney, Alexander Lee. Lee introduced himself to the Board.

Advisory Opinions - The Board was briefed on the Advisory Opinion and acted as indicated below:

1. 24AO:0010 - What constitutes a reasonable delay? – On a **motion** by Corbin and **second** by McCrea, to approve the Advisory Opinion. Approved, 5-0.

IPIB Cases - The board was briefed on each case and acted as indicated below:

1. **24FC:0062 (Ben Ward - Chapter 22- Iowa Civil Rights Commission) 7/15/2024 – Dismissal.** Goodrich addressed the Board and summarized the proposed dismissal. Katie Fiala, representing the Office of Civil Rights, addressed the Board. Board discussion occurred. On a **motion** by McCrea and **second** by Martz, to approve the dismissal order. Approved, 5-0.
2. **23FC:0053 (Debra Schiel-Larson - Both- Indianola Community School District) 5/4/2023 – Report.** Eckley addressed the Board and summarized the Report. Debra Schiel-Larson addressed the Board. Emily Ellingson, representing the Indianola Community School District, addressed the

Board. Board discussion occurred. On a **motion** by Martz that the district will review the 500+ emails to identify content related to branding efforts and public comment and provide the identified records to the Complainant and the Complainant will file a new request for any records the Complainant believes are still outstanding. **Second** by Giovannetti. Approved, 5-0.

3. **23FC:0126 (Traci Stillwell - Chapter 22- Hampton Public Library Hampton, IA) 11/19/2023 - Final Report.** Eckley addressed the Board and indicated that the Complainant would like to table the Final Report for the next meeting of the Board due to a family emergency. On a **motion** by Martz and a **second** by Corbin to table the Final Report for the next meeting. Approved 5-0.
4. **24FC:0035 (Shaylea Caris - Chapter 21- Shelby City Council) 4/18/2024 – Dismissal.** Eckley addressed the Board and summarized the dismissal. Board discussion occurred. On a **motion** by Martz and **second** by McCrea, to approve the revised dismissal order. Approved, 5-0.
5. **24FC:0045 (Arthur Anderson - Chapter 22- City of Davenport Iowa) 5/31/2024 – Dismissal.** Eckley addressed the Board and summarized the dismissal order. Wendy Meyer, representing the City of Davenport, addressed the Board. Board discussion occurred. On a **motion** by Giovannetti and **second** by Martz, to approve the dismissal order. Approved, 5-0.
6. **24FC:0048 (Ethan Vorhes - Both- Floyd County Board of Supervisors) 6/9/2024 – Dismissal.** Eckley addressed the Board and summarized the dismissal order. On a **motion** by McCrea and **second** by Corbin, to approve the dismissal order, Approved, 5-0.
7. **24FC:0053 (Blake Jones - Chapter 22- City of Eldora) 6/18/2024 - Informal Resolution Report.** Murphy addressed the Board and summarized the Informal Resolution Report. On a **motion** by Martz and **second** by Corbin, to approve the Informal Resolution Report. Giovannetti abstained. Approved, 4-0. One abstention.
8. **24FC:0056 (Steven Asche - Chapter 22- City of Eagle Grove) 6/20/2024 – Acceptance.** Eckley addressed the Board and summarized the acceptance order. Steven Asche addressed the Board. Bryce Davis, representing the City of Eagle Grove, addressed the Board. Board discussion occurred. The Board requested that IPIB staff specifically review the reasonableness of the fees charged by the City for access to the records. On a **motion** by Giovannetti and **second** by Martz, to approve the acceptance order. Approved 5-0.
9. **24FC:0057 (Jody Phillips - Chapter 22- Pekin Community School District - Board) 7/3/2024 – Acceptance.** Eckley addressed the Board and summarized the acceptance order. Carrie Weber, representing the Pekin Community School District, addressed the Board. The Superintendent for the Pekin Community School District was also available. Board discussion occurred. On a **motion** by Corbin and **second** by Martz, to approve the acceptance order. Approved 5-0.
10. **24FC:0058 (Chad Miller - Both- Scott County Board of Review) 7/8/2024 – Dismissal.** Eckley addressed the Board and summarized the dismissal order. Chad Miller addressed the Board. Board discussion occurred. On a **motion** by Martz and **second** by Giovannetti, to table the complaint to the next meeting of the Board to allow for further review. Approved, 5-0.

11. **24FC:0059 (Jan Norris - Both- Montgomery County Board of Supervisors) 7/23/2024 – Acceptance.** Eckley addressed the Board and summarized the acceptance order. Jan Norris addressed the Board. Drew Swanson, Mike Olson, Charlotte Schmidt, Bruce Swanson, Jill Azuna, representing Montgomery County, addressed the Board. Board discussion occurred. On a **motion** by Corbin and **second** by McCrea, to approve the acceptance order. Approved 5-0.
12. **24FC:0060 (Jeanette Shoop - Chapter 21- Jones County Planning and Zoning Commission) 7/25/2024 – Dismissal.** Eckley addressed the Board and summarized the dismissal order. On a **motion** by Martz and **second** by McCrea, to approve the dismissal order. Approved, 5-0.
13. **24FC:0061 (Kelly Caldwell - Chapter 21- Carroll Iowa city government) 7/25/2024 – Dismissal.** Eckley addressed the Board and summarized the dismissal order. Board discussion occurred. On a **motion** by Giovannetti and **second** by Martz, to approve the dismissal order. Approved, 5-0.
14. **24FC:0065 (Mandi Hutchins - Chapter 21- City of Linden) 8/5/2024 – Dismissal.** Eckley addressed the Board and summarized the order. Juliette Adams, representing the City of Linden, addressed the Board. Board discussion occurred. On a **motion** by McCrea and **second** by Corbin, to approve the dismissal order. Approved 5-0.
15. **24FC:0076 (Montgomery McKernan - Chapter 22- Story County) 9/8/2024 – Dismissal.** Eckley addressed the Board and summarized the dismissal order. Board discussion occurred. On a **motion** by Giovannetti and **second** by Martz, to approve the dismissal order. Approved, 5-0.

Matters Withdrawn - No Action Necessary.

Eckley updated the Board on the following cases that have been withdrawn by the Complainants:

1. 24FC:0063 (Joe Monahan - Chapter 22- Ames Library) 7/29/2024 – Withdrawn
2. 24FC:0066 (Kenneth Brown - Chapter 22- City of Sidney) 7/25/2024 – Withdrawn

Pending Advisory Opinions and Complaints. These matters are informational and do not required Board action at this time.

1. 24AO:011 (Samantha Schueller - - Dubuque Police Department) 8/20/2024 - New / Question Information Reviewed. Does Iowa Code Chapter 22.7(5A) require that a Department of Justice form be utilized to allow the crisis intervention report to be categorized as confidential?
2. 24FC:0013 (Bonnie Castillo - Both- Union County Emergency Management Agency) 2/2/2024 - Informal Resolution Process
3. 24FC:0017 (Latrice Lacey - Chapter 22- City of Davenport) 2/12/2024 - Informal Resolution Process
4. 24FC:0052 (Erik Johnson - Chapter 22- Delaware Township) 6/6/2024 - Information Gathering
5. 24FC:0064 (Mark Milligan - Chapter 22- Monroe County Sheriff's Department) 7/30/2024 - Information Gathering
6. 24FC:0067 (Janet Pierson - Chapter 22- Decatur County) 8/9/2024 - Information Gathering

7. 24FC:0068 (Drake Riddle - Chapter 21- Page County Board of Supervisors) 8/8/2024 - Information Gathering
8. 24FC:0069 (William Vandenberg - Chapter 22- Lee County Sheriff's Office) 8/10/2024 - Information Gathering
9. 24FC:0070 (Brian Thomas - Both- Jefferson County BOS) 8/13/2024 - Information Gathering
10. 24FC:0071 (Kevin Wymore - Chapter 21- Cedar Rapids Community School District) 8/13/2024 - Information Gathering
11. 24FC:0072 (Lucian Diaconu - Chapter 22- Gilbert Community School District) 8/14/2024 - Information Gathering
12. 24FC:0073 (Gail Bonath - Chapter 21- Drake Community Library) 8/25/2024 - Information Gathering
13. 24FC:0075 (Karen Davis - Chapter 21- City of Zearing) 9/3/2024 - Information Gathering
14. 24FC:0077 (Kyle Ocker - Chapter 22- Mahaska County Sheriff's Office) 9/9/2024 - Information Gathering
15. 24FC:0078 (Megan Pegorick - Chapter 22- Midland Community School District) 9/10/2024 - Information Gathering

Committee Reports.

1. **Training Committee:** Lee informed the Board of the status of the Committee.
2. **Legislative Committee:** Eckley provided an overview of recent activities and upcoming meetings.
3. **Rules Committee:** Murphy provided an overview of recent activities and upcoming meetings.

Office Status Report.

1. **Office Update:** Eckley provided an update introducing the new staff member. Eckley also discussed the potential office move slated for October or November of 2024.
2. **Budget Update:** Eckley gave an overview of the IPIB budget and current financials.
3. **Presentations and Trainings:** Eckley gave an overview of upcoming presentations and trainings that include the following:
 - a. Iowa Department of Veterans Affairs
 - b. IMAA
 - c. Tama County
 - d. ISAC New County Officers
4. **District Court Update:** Eckley gave an overview of District Court cases, including Swarm, VanPelt, Reha, Kilgore, and Teig.

Next IPIB Board Meeting. October 17, 2024, at 1:00 p.m.

Adjournment. The meeting was adjourned at 3:51 p.m.



502 East 9th Street
Des Moines, Iowa 50319
www.ipib.iowa.gov

Erika Eckley, JD
Executive Director
(515) 393-8339
erika.eckley@iowa.gov

Advisory Opinion 24AO:0011

DATE: October 10, 2024

SUBJECT: Does Iowa Code § 22.7(5A) require that a department of justice form be utilized to maintain the confidentiality of a crisis intervention report?

Joseph Messerich, Assistant Chief of Police
Samantha Schueller, Records
City of Dubuque Police Department
Dubuque Law Enforcement Center
770 Iowa Street
Dubuque, Iowa

Mr. Messerich and Ms. Schueller,

This Advisory Opinion is written in response to your request dated August 16, 2024, requesting an advisory opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code chapter 23 and Iowa Administrative Code rule 497-1.3. This opinion concerns the confidentiality of a crisis intervention report developed pursuant to Iowa Code § 22.7(5A). Advisory opinions may be adopted by IPIB pursuant to Iowa Code section 23.6(3) and Rule 497–1.2(2): “[t]he board may on its own motion issue opinions without receiving a formal request.” IPIB’s jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in an advisory opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

QUESTION POSED:

Does Iowa Code § 22.7(5A) require that a department of justice form be utilized to maintain the confidentiality of a crisis intervention report?

OPINION:

This question arises from the definition of a crisis intervention report pursuant to Iowa Code § 22.7(5A). A crisis intervention report is defined as “a report generated by a law enforcement agency using a prescribed form created by the department of justice to record the following information relevant to assess the nature of a crisis.

The question is whether a crisis intervention report remains confidential if it is not recorded on a prescribed form created by the department of justice.

Board Members

Joan Corbin • E. J. Giovannetti • Barry Lindahl • Luke Martz
Joel McCrea • Monica McHugh • Jackie Schmillen • vacant • vacant

IPIB staff spent several weeks attempting to locate a prescribed form for the crisis intervention report. After outreach to several agencies and associations, a report finally surfaced. Based on this question and the length of time it took for IPIB to locate the form, it seems likely that law enforcement agencies may be unaware of the existing form and have been utilizing other forms to document crisis intervention incidents.

Iowa Code § 22.7(5A) is a new exemption in Chapter 22, having passed the Iowa Legislature in 2022. Like all new laws, it takes time to socialize the law and to develop corresponding forms to ensure appropriate practice of the law. This appears to be the case with Iowa Code § 22.7(5A).

IPIB's role is to ensure compliance with and appropriate application of transparency laws in Iowa. It is in this spirit that the following recommendations are made:

1. Law enforcement agencies should locate and become familiar with the prescribed crisis intervention report form created by the department of justice for the purpose of recording information relevant to assess the nature of a crisis. It is IPIB's understanding that this form is available in TRaCS, although some law enforcement agencies have reported difficulty in accessing the form. Law enforcement agencies should incorporate this form into their crisis intervention response systems if they have not already done so.
2. It is possible that law enforcement agencies developed crisis intervention reports following the passage of Iowa Code § 22.7(5A) but before the development of the prescribed crisis intervention report form. It is also possible that agencies developed crisis intervention reports following the passage of Iowa Code § 22.7(5A), but were unaware of the existence of the prescribed crisis intervention report form. For these scenarios, IPIB's opinion is that a crisis intervention report maintains its confidentiality even if it had not been recorded on a prescribed department of justice form if the crisis intervention report meets all other requirements of Iowa Code § 22.7(5A).
3. Law enforcement agencies should be on notice that a crisis intervention report exists, and going forward all crisis intervention reports must be on a prescribed form to comply with Iowa Code § 22.7(5A).

The following advisory opinion is applicable to crisis intervention reports created before the development of a prescribed crisis intervention report form or before awareness of the existence of a prescribed crisis intervention report form. **For these circumstances, IPIB's opinion is that a crisis intervention report maintains its confidentiality even if not recorded on a prescribed department of justice form if the crisis intervention report meets all other requirements of Iowa Code § 22.7(5A).** The following analysis applies:

Iowa Code Chapter 22.7 expresses clear intent to establish confidentiality for specific types of public records, including crisis intervention reports.

Iowa Code Chapter 22.7 creates confidentiality for certain types of public records: “[T]he following public records shall be kept confidential unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:” It is clear the intent of Iowa Code Chapter 22.7 is to allow specific types of public records to remain confidential due to the unique circumstances and sensitive information contained within.

Crisis intervention reports are among those listed. (Iowa Code § 22.7(5A).) The specific language in Iowa Code establishing a crisis intervention report as confidential is as follows:

A crisis intervention report generated by a law enforcement agency regarding a person experiencing a mental health crisis, substance-related disorder crisis, or housing crisis, when the report is generated for

the specific purpose of providing crisis intervention information to assist peace officers under any of the following circumstances:

(1) De-escalating conflicts.

(2) Referring a person experiencing a mental health crisis, substance-related disorder crisis, or housing crisis to a mental health treatment provider, substance-related disorder treatment provider, homeless service provider, or any other appropriate service provider.

Iowa Code § 22.7(5A) establishes confidentiality for reports generated during a crisis intervention to de-escalate conflict and refer individuals in crisis to appropriate services.

Iowa Code § 22.7(5A)(b) specifically identifies who may have access to a crisis intervention report.

Consistent with the overall intent to protect crisis intervention reports as confidential, Iowa Code § 22.7(5A)(b) identifies who may access a crisis intervention report. It is notable that most exceptions listed in Chapter 22.7 do not specifically identify who can access a confidential public record. The General Assembly codified a specific subset of individuals authorized to access a crisis intervention report:

A crisis intervention report generated for the purposes of this subsection shall be made available to the person who is the subject of the report upon the request of the person who is the subject of the report, and may be provided to a mental health treatment provider, substance-related disorder treatment provider, homeless service provider, or any other appropriate service provider in connection with a referral for services.

The only individuals granted access to a crisis intervention report are the individual subject to the report itself or the service provider(s) assisting the individual. Iowa Code § 22.7(5A)(c) also explicitly states a crisis intervention report is not a peace officers' investigative report, which is further evidence of the General Assembly's intent to create a specialized exception.

The definition of a crisis intervention report, based on the lack of knowledge a required form exists has created ambiguity in the application of the law.

It is clear that crisis intervention reports are intended to remain protected and confidential pursuant to Iowa Code § 22.7(5A). However, the definition of a "crisis intervention report" creates ambiguity in an otherwise clear law. Within Iowa Code 22.7(5A), a crisis intervention report is defined as a prescribed form created by the department of justice. The question is whether the crisis intervention report, if recorded on a form other than that prescribed by the department of justice, is confidential. This is the heart of the question posed and the focus of this Advisory Opinion.

Iowa Code § 22.7(5A)(e) defines a "crisis intervention report" or "report" as (emphasis added):

"a report generated by a law enforcement agency using a prescribed form created by the department of justice to record the following information relevant to assess the nature of a crisis:

(a) Any biological or chemical causes of the crisis.

(b) Any observed demeanors and behaviors of the person experiencing the crisis.

(c) Persons notified in relation to the crisis.

(d) Whether suicide or injuries occurred in relation to the crisis and the extent of those injuries.

(e) Whether weapons were involved in the crisis and a description of the weapon.

A plain reading of this provision suggests a crisis intervention report is confidential only if generated using a prescribed form created by the department of justice.¹ As IPIB has discovered, some crisis intervention reports may have been developed before the creation of the prescribed form or before awareness of the prescribed form. This creates ambiguity in the application of Iowa Code § 22.7(5A).

Ambiguity in Chapter 22 requires a balancing test to determine if disclosure is appropriate.

Iowa Code § 22.7(5A) was not added until 2022. For this reason, IPIB does not have specific judicial interpretive precedent to follow.

The Iowa Supreme Court has held in many cases addressing Iowa Code § 22.7 that a balancing test must be applied when there is ambiguity within Chapter 22.² There are distinctions between the cases that utilize the balancing test and the question raised in this Advisory Opinion. For example, many of the cases in which a balancing test is applied involve definitional ambiguity. In this case, the definition of a crisis intervention report is clear; however, because the form did not yet exist or there was not awareness of the form, ambiguity was created. A strict reading of the definition in these circumstances would void any confidentiality protections and undermine the intent of the statute. For this reason, and consistent with the cited Iowa cases, a balancing test should be applied weighing the interest of the individual's privacy versus the interest of the public's need to know. Application of the balancing test when ambiguity exists is the common practice applied to Iowa Code § 22.7.

An individual's privacy interests in maintaining the confidentiality of a crisis intervention report outweighs the public's interest in knowing the details of a crisis.

Federal and state laws have taken substantial measures to protect an individual's mental health and substance-related disorder information. Federal laws, such as the Health Insurance Portability and Accountability Act (HIPAA) and the Family Educational Rights and Privacy Act (FERPA) outline specific privacy protections for an individual's information related to mental health and substance-related disorder. Iowa laws also have special protections for data related to mental health and substance-related disorders. (E.g. Iowa Code Chapter 228).

As protections for mental health and substance-related disorder information have increased, numerous justifications have been presented to support the increased protections. These justifications include reducing stigma to ensure that individuals access assistance and protecting the unique and personal nature of mental health and substance-related disorder treatments.

The General Assembly recognized the unique nature of this type of information and the important privacy interests attached when they chose to create a confidentiality exception for crisis intervention reports. Audio recordings of that the legislative debate adding crisis intervention reports as confidential focused on allowing law enforcement to respond to an individual facing a mental health crisis and to protect that individual and their information.

Crisis interventions occur when individuals face their worst moments. Crisis interventions involve issues like teens contemplating suicide, a veteran experiencing PTSD, a woman seeking to leave an environment of domestic violence, or the sexual assault of a child. These are intensely difficult and personal experiences.

¹ The department of justice in Iowa Code is a reference to the Iowa Attorney General's Office. The Iowa Code references the Iowa Attorney General's Office as the department of justice and references the federal agency as the "U.S. Department of Justice."

² E.g. *City of Dubuque v. Telegraph Herald, Inc.*, 297 N.W.2d 523, 526 (Iowa 1980); *State ex rel. Shanahan v. Iowa District court*, 356 N.W.2d 523 (Iowa 1984); *Hawk Eye v. Jackson*, 521 N.W.2d 750 (Iowa 1994); *DeLaMater v. Marion Civil Service Commission*, 554 N.W.2d 875 (Iowa 1996); *Clymer v. City of Cedar Rapids*, 601 N.W.2d 42 (Iowa 1999). These tests have differing elements when applied to different portions of Iowa Code Chapter 22.7, but all contain a balancing test of public vs. private interests.

A strict reading of the definition of crisis intervention report, in circumstances in which the form did not exist or there was not awareness of the form, would completely erode the legislative intent to protect crisis intervention reports. Crisis intervention reports developed in these circumstances, and the details within related to mental health, substance-related disorder, and housing information, could be a matter of public record. This result would be inconsistent with the intent of the law.

There is little question the substantial individual privacy interests connected to mental health crisis, substance-related disorder crisis, and housing crisis information, and the response and assistance provided by law enforcement, far outweigh the public's interest in obtaining detailed information regarding an individual's crisis and the assistance they receive in response. The public may still obtain the date, time, specific location, and immediate facts and circumstances surrounding the incident to ensure transparency of the government action without the need to know the individual's most private facts and information contained in the report.

A crisis intervention report may include recordings.

A corresponding question has also been raised regarding the type of information included within a crisis intervention report. For example, is body camera footage and other types of recordings part of the crisis intervention report? The answer to this question also lies within Iowa Code § 22.7(5A) and the intent of the statute.

- The statute states the report must be generated by a law enforcement agency to record information relevant to assess the nature of the crisis. Among the information that may be recorded, the statute specifically calls out recording any observed demeanors and behaviors of the person experiencing the crisis. Iowa Code § 22.7(5A)(e)(1)(b). This recording could occur by body camera footage, voice recording, or any other mechanism or equipment that law enforcement may use for recordings.
- The intent of the statute is to protect the privacy interests of individuals seeking or receiving assistance in a crisis. To withhold a report but release recordings of the incident would undermine the intent to protect privacy interests.
- The statute has made clear there are only certain portions of the report that may be made available as a public record, which include the date, time, specific location, and immediate facts and circumstances surrounding the incident.

For these reasons, recordings of the incident, in any medium, may be made part of the crisis intervention report and deemed confidential pursuant to Iowa Code § 22.7(5A).

Crisis intervention reports should remain confidential, if the report was created before the development of a prescribed form or before awareness of the existence of a prescribed form, if the crisis intervention reports meet all other requirements of Iowa Code § 22.7(5A).

A crisis intervention report generated pursuant to Iowa Code § 22.7(5A) before development of a prescribed form or awareness of the prescribed form, if it meets all other criteria of Iowa Code § 22.7(5A), should remain confidential even if the report is not generated using a prescribed form. The other criteria within Iowa Code § 22.7(5A) include the following:

- The report must be generated by a law enforcement agency in response to a mental health crisis, substance-related disorder crisis, or housing crisis.
- The report must be generated for the specific purpose of providing crisis intervention information to assist peace officers under any of the following circumstances:
 - De-escalating conflicts.

- Referring a person experiencing a mental health crisis, substance-related disorder crisis, or housing crisis to a mental health treatment provider, substance-related disorder treatment provider, homeless service provider, or any other appropriate service provider.
- The report must be generated by a law enforcement agency to record the following information relevant to assess the nature of a crisis:
 - Any biological or chemical causes of the crisis.
 - Any observed demeanors and behaviors of the person experiencing the crisis.
 - Persons notified in relation to the crisis.
 - Whether suicide or injuries occurred in relation to the crisis and the extent of those injuries.
 - Whether weapons were involved in the crisis and a description of the weapon.
 - The disposition of the crisis intervention and any crime committed.

It should also be noted that not all information related to a crisis intervention report is confidential. Pursuant to Iowa Code § 22.7(5A)(d), the date, time, specific location, and immediate facts and circumstances surrounding the incident can be disclosed in certain circumstances. Governmental bodies should closely review all requirements contained within Iowa Code § 22.7(5A).

BY DIRECTION AND VOTE OF THE BOARD:

Joan Corbin
E.J. Giovannetti
Barry Lindahl
Luke Martz
Joel McCrea
Monica McHugh
Jackie Schmillen

SUBMITTED BY:



Kimberly Murphy, J.D.
Deputy Director
Iowa Public Information Board

ISSUED ON:

October 17, 2024

Pursuant to Iowa Administrative Rule 497-1.3(3), a person who has received a board opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request. The IPIB may take up modification or reconsideration of an advisory opinion on its own motion within 30 days after the issuance of an opinion.

Pursuant to Iowa Administrative Rule 497-1.3(5), a person who has received a board opinion or advice may petition for a declaratory order pursuant to Iowa Code section 17A.9. The IPIB may refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requestor demonstrates a significant change in circumstances from those in the board opinion.

The Iowa Public Information Board

In re the Matter of:	Case Number: 23FC:0126
Traci Stillwell, Complainant	Final Report
And Concerning:	
Hampton Public Library, Respondent	

Traci Stillwell filed formal complaint 23FC:0126 on November 19, 2023, alleging the Hampton Public Library (“Library”) violated Iowa Code chapter 22 on November 14, 2023.

Ms. Stillwell alleges she submitted a public records request on October 22, 2023, to the Library and received an estimate for fees that were not reasonable or actual estimates.

Ms. Stillwell records request included the following, “I would like copies of all correspondence, both written and digital including any and all social media platforms, emails, and text messaging between you and the members of the Hampton City Council, City Manager, Iowa Library Association, The American Library Association, members of press i.e.: news outlets, newspapers, radio, correspondence with directors of other public libraries, present and past Board of Trustees including the board president, employees of the Hampton Public Library, The Hampton Iowa City Attorney, and with any individual who has challenged a book in Hampton Public Library from January 1, 2023 to present day.”

Ms. Stillwell alleges she received a reply from the Library on October 26, 2023 which included an initial estimate of the fees, but with the possibility of additional, open-ended fees. She responded to the library following a conversation with the Iowa Public Information Board on November 3, 2023. A letter was sent to the custodian of the records the same day asking for further explanation of the fees. She received no correspondence in reply from the custodian.

Ms. Kim Manning, Librarian for the Library provided a response. Ms. Manning provided the following estimated fees to Ms. Stillwell. Upon review of the request, the IT firm estimated the work would take approximately four hours at a rate of \$75.00 per hour (\$300 total). She stated that Ms. Stillwell did not object to this expense. Ms. Manning also provided an estimate of \$300 per hour for the review of the requested records by the Library’s local counsel. Ms. Manning states that she is unable to provide additional estimates of fees until the materials are retrieved, how much of it needs to be reviewed by counsel, and how much time it will take.

In a response to the Library, Ms. Stillwell questions the estimate of an IT professional needing four hours to retrieve these records. She also believes reasonable fees should not include attorney fees to verify compliance for the release of requested records. She disagrees that the request would include any confidential information. She also states that a total fee must be agreed upon prior to the records retrieval process.

IPIB staff attempted to work with the parties to put together a reasonable estimate for the records request. Ms. Manning was asked to work with her IT people to determine the number of records used in determining the initial estimate of four hours. Based on this number the Library's counsel, Ms. Rosenberg was asked to determine an estimate for the time and fees to review and redact the records.

During the course of these conversations, it was discovered that the Library had only 30 days of emails available on Ms. Manning's computer and no one has been able to locate where Library emails are hosted and stored. Apparently, the emails are set to automatically delete after 30 days. The Library does not have access to the server and are unclear as to who is hosting the server.

At this juncture, after several meetings with the parties, the matter has not been resolved and more questions have been raised regarding the Library's emails and response to a records request. Ms. Manning has retired from the Library and attempts to resolve these questions and obtain updates and information from the Library have been fruitless. At this time, it is unclear if the requested records exist or if they can be recovered.

The formal complaint was accepted by the IPIB on April 18, 2024.

Pursuant to Iowa Code §23.9, the parties negotiated and reached an informal resolution. The parties agree to the following terms:

1. The Hampton Public Library Board will acknowledge at an open meeting that there are sufficient facts to show that the Library has failed to provide public records requested within a reasonable time and failed to provide a complete estimate of fees pursuant to Iowa Code chapter 22. This acknowledgement shall be recorded in the minutes of said meeting and minutes shall be provided to the City of Hampton and the IPIB.
2. The Hampton Public Library will identify the location, quantity, and availability of the public records requested by Ms. Stillwell. A report reflecting this information will be provided to Ms. Stillwell and the IPIB.
3. All available records, except those identified as confidential shall be provided to Ms. Stillwell at no cost.
4. The Hampton Public Library Board will draft and adopt a policy regarding responding to public record requests. This policy will comply with Iowa Code chapter 22 and shall be reviewed and approved by IPIB staff.
5. The Hampton Public Library Board shall approve this resolution during an open meeting and include the full text in the minutes of said meeting. Said minutes shall be provided to the IPIB.

The terms of this informal resolution will be completed within 30 days of acceptance by all parties and approved by the Iowa Public Information Board. Upon showing proof of compliance, the IPIB shall dismiss this complaint as successfully resolved.

Ms. Stillwell approved the informal resolution on May 15, 2024.

Wendy Lamos, President of the Hampton Public Library Board approved the informal resolution on May 15, 2024.

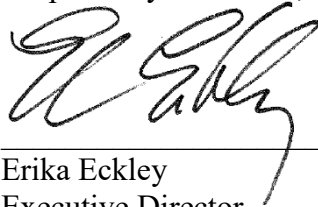
The IPIB approved the informal resolution report on June 27, 2024.

The Library worked with the state of Iowa employee, Jerry Balmer, to retrieve the emails requested. This took approximately eight weeks. Upon receipt of the emails, the new Library director, Suzy Knipfel, worked with a local computer repair person to install a program on her computer allowing the emails to be viewed. See affidavit of Ms. Knipfel.

Once reviewed, all non-confidential emails retrieved were provided to Ms. Stillwell. Ms. Stillwell believes there are additional emails she should have received, but all retrievable emails have been provided. Ms. Stillwell believes there should also have been existing text messages, but the Library, through counsel confirmed no text messages existed.

All other terms have been met. IPIB should dismiss this complaint as resolved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Eckley', is written over a horizontal line.

Erika Eckley
Executive Director

To: Iowa Public Information Board
From: Hampton Public Library
CC'd: Traci Stillwell
Date: August 7, 2024

AFFIDAVIT OF SUZANNE KNIPFEL

In late February of 2024, the former library director, Kim Manning (hereinafter Kim), discovered that the library's emails were automatically deleted after 30 days. Retrieving them requires, among other things, access to the library's server.

Upon discovering her emails were being automatically deleted, Kim contacted the local IT company, Rockwell Telephone Company (hereinafter Rockwell), to help retrieve the delated emails. One of Rockwell's technicians, Jason Dickman (hereinafter Jason) made an onsite service call for the library. Jason attempted to retrieve the emails but discovered that he could not access the library's server and in fact could not even locate the server. Jason advised Kim to contact the State of Iowa to retrieve those, as those may be saved on their server.

Following Jason's advice, Kim then contacted the State of Iowa and requested their help, since she believed that the library emails may be on the State's server. Kim's request for information is referred to as Incident Number: INC0987067. On March 7, 2024, Jason Tse (hereinafter Jason) with the Iowa Executive Branch responded. The response is referred to as Reference Number: MSGPROD9258042. He has informed Kim that the State does not keep those emails, and that the library is not connected to the State's server. Jason advised Kim to seek help from the City and suggested that the library might be connected to or otherwise served by the City's server.

About the same time, city attorney, Megan Rosenberg (hereinafter Megan), contacted Brian Borcharding (hereinafter Brian). Brian also does IT work but is not affiliated with any firm. He, along with Rockwell, provides IT support for the City. Brian could not find the server, but he thought the server we needed was the County's server.

On March 12, 2024, Megan emailed and called the county's IT director, Gabe Johans (hereinafter Gabe). A week to 10 days later Gabe contacted Megan. He could not access the server, but he found the server. The server is physically in Australia.

Kim retired from her position as library director, and Suzy Knipfel (hereinafter Suzy), was appointed interim director on April 1. Upon her appointment, Suzy continued to work on retrieving the emails.

Eventually Suzy connected with Jerry Balmer from the State of Iowa on or about April 10, 2024. He was able to access the server and retrieve the emails. He worked on gathering those emails for approximately eight weeks. Once he had compiled them, he sent them to Suzy electronically.

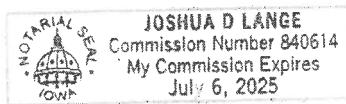
When Suzy attempted to access the emails, she discovered that her software was incompatible with the program used to download the emails. Suzy contacted Pat Palmer (hereinafter Pat) to help. Pat operates a local computer repair business; he is also a member of Hampton's City Council. Pat installed a program on Suzy's desktop, which enabled her to open and print the emails. Other than the installation of the program, Pat had no other involvement.

I, Suzanne Knipfel, swear or affirm that the forgoing statement is true or correct to the best of my knowledge.


Suzanne Knipfel

State of Iowa)
)
County of Franklin)

SS:



Subscribed and sworn to before me on this 7 day of August, 2024.


Notary Public

AFFIDAVIT OF JASON DICK

1. My name is Jason Dick.
2. I am a technician with Rockwell Telephone Company.
3. That in March of 2024, I made an on-site call to the Hampton Public Library.
4. I attempted to retrieve some deleted emails, but I was unsuccessful.
5. I was unable to access the server.
6. I advised the library director to contact the State of Iowa to see if the State had any knowledge as to the server.

I, Jason Dick, swear or affirm that the foregoing statement is true and correct to the best of my knowledge.

State of Iowa)

) ss:

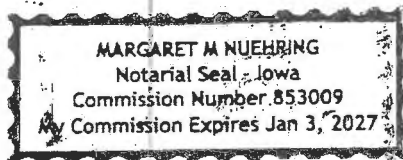
County of _____)

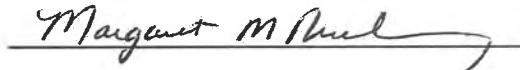


Jason Dick

Subscribed and sworn to me by Jason Dick on the 4 day of September,

2024.





Signature of Notary Public

AFFIDAVIT OF PAT PALMER

1. My name is Pat Palmer.
2. I do business as "The Computer Guy" in and around the Hampton, Iowa area.
3. I am a Hampton City Council member.
4. I installed the necessary program to open and print the emails on Suzy's computer and instructed her how to use it and sort the emails into the appropriate folders. Other than that, I had no involvement.

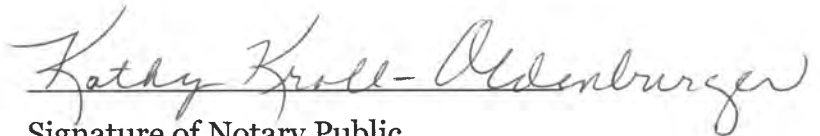
I, Pat Palmer, swear or affirm that the foregoing statement is true and correct to the best of my knowledge.

State of Iowa)
) ss:
County of Franklin)

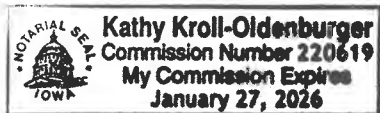


Pat Palmer

Subscribed and sworn to me by Pat Palmer on the 6th day of September
2024.



Signature of Notary Public



AFFIDAVIT OF GABE JOHANS

1. My name is Gabe Johans.
2. I am the IT director for Franklin County.
3. Megan Rosenberg contacted me in mid-March 2024, asking for help in locating the library's server.
4. I was able to determine the name of the company that mail bound for the domain in question was being routed to.
5. The company that controlled the clients domain was based, as detailed on their website, as being located in Australia.


I, Gabe Johans, swear or affirm that the foregoing statement is true and correct to the best of my knowledge.

State of Iowa)
) ss:
County of Franklin)

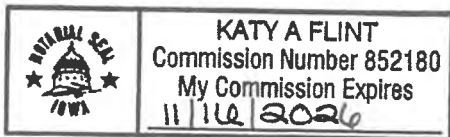


Gabe Johans

Subscribed and sworn to me by Gabe Johans on the 5th day of September,
2024.



Signature of Notary Public



AFFIDAVIT OF BRIAN BORCHERDING

1. My name is Brian Borcharding.
2. I am not affiliated with any firm.
3. That in March of 2024, I spoke with attorney Megan Rosenberg about the location of the server.
4. I advised Megan Rosenberg to contact Franklin County's I.T. Department, as I believed the server may be hosted by Franklin County.

I, Brian Borcharding, swear or affirm that the foregoing statement is true and correct to the best of my knowledge.

State of Iowa)

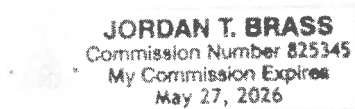
) ss:

County of Franklin)



Brian Borcharding

Subscribed and sworn to me by Brian Borcharding on the 23 day of August, 2024.



Signature of Notary Public

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0017
Latrice Lacey, Complainant	Probable Cause Report
And Concerning:	
City of Davenport, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Probable Cause Report:

On February 12, 2024, Latrice Lacey filed formal complaint 24FC:0017, alleging the City of Davenport (“City”) violated Iowa Code chapter 22. On March 21, 2024, IPIB accepted the Complaint. The original complaint focused on the City’s failure to recognize Lacey’s request because she is the Director of the Davenport Civil Rights Commission (DCRC). The DCRC is a commission established by the City.

Facts

After acceptance, the City responded through counsel and retracted its argument that Lacey was not able to make the records request because of her position with the City. The City also provided the requested records. In the meantime, Lacey had requested additional records requests be included in the City’s response. The City complied with these as well.

One request was for W-2s for specific City employees for certain years. The City requested \$80 for the time and effort in retrieving, reviewing, and redacting the W-2s. IPIB suggested the City could provide other documents that would have the compensation information sought that could be provided at no charge, but Lacey insisted on receiving the W-2 documents.

The City provided the records, with redactions of all information except the employee’s name and the compensation listed in Box 1.¹ In addition, the City provided a document showing the benefits available to the employees, such as health insurance and retirement accounts.

¹ Includes the “total taxable wages, tips, and other compensation that you paid to your employee during the year. However, do not include elective deferrals (such as employee contributions to a section 401(k) or 403(b) plan) except section 501(c) (18) contributions.” Department of Internal Revenue Service, General Instructions for Forms W-2 and W-3, 2024 available at <https://www.irs.gov/pub/irs-pdf/iw2w3.pdf>.

Lacey objected to the redactions arguing Iowa Code § 22.7(11)(a)(1) requires disclosure of “[t]he name and compensation of the individual including any written agreement establishing compensation or any other terms of employment excluding any information otherwise excludable from public information pursuant to this section or any other applicable provision of law. For purposes of this paragraph, ‘compensation’ means payment of, or agreement to pay, any money, thing of value, or financial benefit conferred in return for labor or services rendered by an official, officer, or employee plus the value of benefits conferred including but not limited to casualty, disability, life, or health insurance, other health or wellness benefits, vacation, holiday, and sick leave, severance payments, retirement benefits, and deferred compensation.”

The City reviewed the records again and provided the records with unredacted Boxes 3² and 5.³ These boxes show the total compensation to be considered for federal Medicare and Social Security Insurance taxes.

Lacey argues Iowa Code § 22.7(11)(a)(1) requires more information be unredacted from the W-2.

Law

“The name and compensation of the individual including any written agreement establishing compensation or any other terms of employment excluding any information otherwise excludable from public information pursuant to this section or any other applicable provision of law. For purposes of this paragraph, ‘compensation’ means payment of, or agreement to pay, any money, thing of value, or financial benefit conferred in return for labor or services rendered by an official, officer, or employee plus the value of benefits conferred including but not limited to casualty, disability, life, or health insurance, other health or wellness benefits, vacation, holiday, and sick leave, severance payments, retirement benefits, and deferred compensation.” Iowa Code § 22.7(11)(a)(1).

Analysis

Iowa Code § 22.7(11)(a)(1) requires disclosure of the total compensation paid to a public employee or any other terms of employment, but it specifically excludes, “any information otherwise excludable from public information pursuant to this section or any other applicable provision of law.” (emphasis added) In order to determine whether the City has properly redacted confidential information, it is important to look at the confidentiality provisions of state and federal tax laws.

Tax information is personal information and once submitted with a tax return, the W-2 becomes part of the tax return information, which is confidential under federal statute.

² The “total wages paid (before payroll deductions) subject to employee social security tax but not including social security tips and allocated tips.” Department of Internal Revenue Service, General Instructions for Forms W-2 and W-3, 2024 available at <https://www.irs.gov/pub/irs-pdf/iw2w3.pdf>.
<https://www.irs.gov/pub/irs-pdf/iw2w3.pdf>.

³ The “wages and tips subject to Medicare tax are the same as those subject to social security tax (boxes 3 and 7) except that there is no wage base limit for Medicare tax.” *Id.*

IRS regulations provide:

(a) General rule. – Returns and return information shall be confidential, and except as authorized by this title – (2) no officer or employee of any State . . . shall disclose any return or return information obtained by him in any manner 26 U.S.C. §6103(a) (emphasis added). Section 6103(b) of the Internal Revenue Code defines “return” and “return information,” in pertinent part, as follows: (1) Return. The term “return” means any tax or information return. . . required by . . . the provisions of this title which is filed with the Secretary by . . . any person . . . including supporting . . . attachments (2) Return information. The term “return information” means – (A) a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits . . . tax withheld . . . or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return

Office of the Budget v. Campbell, No. 1745 C.D. 2010 (Commonwealth Court of Pennsylvania, Jan. 21, 2011) (quoting 26 U.S.C. §6103(b)).

Iowa Code § 421.6 has a similar definition⁴ and a similar confidential requirement for personal tax returns under Iowa Code § 422.20.

There is nothing in either state or federal law specifically prohibiting a public employer from releasing a W-2 prior to the individual’s utilizing the W-2 to file their federal and state income taxes, but there is no doubt a W-2 contains highly person financial information. Revealing this information directly or indirectly likely would disclose such personal, confidential information, such as whether the person is married, single or has a family and personal retirement savings and other financial decisions.

At least one state has determined W-2s are not public records based on the confidentiality of tax returns, finding a W-2 is confidential return information.⁵

Because the City has provided redacted W-2’s including the compensation paid (and reported to the IRS and Iowa Department of Revenue), it is not necessary to determine whether a W-2 is a confidential document. It is only necessary to determine whether the City improperly withheld information it had a requirement to disclose.

If “a statutory exemption does not articulate precisely what records or information the legislature considers private, courts commonly apply the following factors as a means of weighing individual privacy interests against the public’s need to know: (1) the public purpose of the party requesting the information; (2) whether the purpose could be accomplished without the disclosure of personal information; (3) the scope of the request; (4) whether alternative sources for obtaining the information exist; and (5) the gravity of the invasion of personal privacy.”

⁴ For purposes of this Title, unless the context otherwise requires, “return” means any tax or information return, amended return, declaration of estimated tax, or claim for refund that is required by, provided for, or permitted under, the provisions of this Title or section 533.329, and which is filed with the department by, on behalf of, or with respect to any person. “Return” includes any amendment or supplement to these items, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return. Iowa Code § 421.6.

⁵ *Office of the Budget v. Campbell*, No. 1745 C.D. 2010 (Commonwealth Court of Pennsylvania, Jan. 21, 2011).

Clymer v. City of Cedar Rapids, 601 N.W.2d 42, 45 (Iowa 1999) (citing *DeLaMater v. Marion Civil Serv. Comm'n*, 554 N.W.2d 875, 879 (Iowa 1996)).

(1) the public purpose of the party requesting the information and (2) whether the purpose could be accomplished without the disclosure of personal information

The public purpose for requesting the information is to determine the compensation of a public employee. The legislature, in Iowa Code § 22.7(11)(a)(1) has specified this is information that is public and required to be provided. The compensation paid to a public employee by a government body employer is not confidential information.

The specific factors that impact this particular matter are the last three.

(3) the scope of the request; (4) whether alternative sources for obtaining the information exist; and (5) the gravity of the invasion of personal privacy.

In this particular instance, the specific concern lies in how much personal financial information must be shared in response to a request for a W-2. The City provided highly redacted W-2s revealing the employee's name and the total compensation paid to the employee. All other information was redacted. In responding to the request, the City also provided information about what benefits the employees were also entitled to receive. The City was also willing to provide other records that would outline compensation paid. There is no need to rely on W-2 documents to collect the compensation information. If the W-2 was not redacted, financial information would be disclosed potentially revealing private information, such as the marital status of an employee or whether their spouse worked, if there are children, etc. These are private, confidential matters of the employee and should not be revealed. In fact, Iowa Code § 22.7(11)(a) states “[p]ersonal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies” is confidential. (emphasis added). W-2s are documents prepared for individuals and the information included is personal and identifiable. Aside from the name of the employee and the compensation received, no other information in a W-2 is public information under Iowa Code § 22.7(11) and should not be disclosed.

In this case, all information was properly redacted.

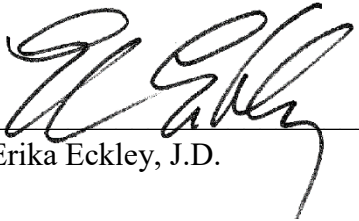
Conclusion

Following acceptance of the original complaint, the City retracted its argument and provided all public record documents to Lacey based on the original request. Lacey requested additional record requests be included in the resolution of the original Complaint. One of the requests was for W-2s of certain public employees. The City provided information regarding the total compensation of the individual as stated on the W-2. Requiring any additional financial information be unredacted from the W-2 would require providing information that is otherwise confidential tax information under federal and state law and would include confidential personal information from identified individuals.

Recommendation

Based on investigation of the complaint, I recommend that the Board Dismiss the matter for lack of probable cause to believe a violation has occurred. Once the Board made clear the legal interpretation by the City was not accepted, the City retracted its argument and provided the requested records. Further, the City responded to the additional requests by Lacey. The W-2s provided were not improperly redacted.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Latrice Lacey
Mikki Schiltz, Attorney for the City of Davenport

Re: [EXT] 24FC:0017 Draft Order to IPIB on October 17, 2024

1 message

Lacey, Latrice <Latrice.Lacey@davenportiowa.com>
To: "Eckley, Erika" <erika.eckley@iowa.gov>, "Schiltz, Mikkie" <mschiltz@l-wlaw.com>

Thu, Oct 10, 2024 at 3:39 PM

Thanks Erika, I believe that the report failed to address the request for the documents detailing the compensation packages for Directors and Assistant Directors and the request for the employment agreements. I sent an email on August 23, 2024 clarifying this continued omission as well as inquiring about whether the redactions were appropriate.

To have this matter addressed, will I need to submit a response or is it possible for your report to be updated to address this issue based upon this email?

Latrice L. Lacey (she/her/hers)
Director
Davenport Civil Rights Commission
226 West 4th Street
Davenport, IA 52801
Phone: 563-326-7888
Fax: 563-326-7956
TTY: 563-326-7959

Notice:

Since e-mail messages sent between you and the Davenport Civil Rights Commission and its employees are transmitted over the Internet, the Davenport Civil Rights Commission cannot assure that such messages are secure. You should be careful in transmitting information (and any enclosures or attachments thereto) to the Davenport Civil Rights Commission that you consider confidential. If you are uncomfortable with such risks, you may decide not to use e-mail to communicate with the Davenport Civil Rights Commission. This message (and any enclosures or attachments thereto) is covered by the Electronic Communication Privacy Act, 18 U.S.C. Sections 2510-2515, is intended only for the use of the person to whom it is addressed and may contain information that is confidential. It should also not be forwarded to anyone else. If you received this message and are not the addressee, you have received this message in error. Please notify the person sending the message and destroy your copy.

From: Eckley, Erika <erika.eckley@iowa.gov>
Sent: Thursday, October 10, 2024 3:26 PM
To: Lacey, Latrice; Schiltz, Mikkie
Subject: [EXT] 24FC:0017 Draft Order to IPIB on October 17, 2024

ATTENTION: This is an external email.

Good Afternoon:

The Iowa Public Information Board (IPIB) will review this Order at its meeting on October 17, 2024. The meeting will begin at 1:00 p.m. The meeting agenda will be posted to the IPIB website (<https://ipib.iowa.gov/2024-board-meetings>) on the afternoon of Tuesday, October 15, 2024.

The IPIB normally allows brief (under five minutes) comments from the parties. You are under no obligation, but if you wish to speak at the meeting, please reply to this email and indicate your agreement to this statement:

 X I want to address the Board and respond to any questions Board members may have when the initial processing of this complaint is considered. In the event this complaint proceeds to a contested case, I waive any objection that I might have concerning personal investigation of this complaint by a Board member.

The IPIB meeting is open to the public. We are now utilizing Google Meet and live streaming of our meetings. You may attend in person at the Wallace Building in Des Moines or remotely. If you would like to attend remotely, you may log into the following meeting:

Google Meet joining info
Video call link: <https://meet.google.com/azw-bney-iig>
Or dial: (US) +1 540-883-0042 PIN: 271 184 396#

If you prefer, you can provide brief, written comments to the Board prior to the meeting, please forward those to me no later than 11:00 a.m. on Tuesday, October 15, 2024, so they may be included in the meeting packet. Please make sure you copy all parties on the email as well.

[https://ci3.googleusercontent.com/mail-sig/AlorK4xAeBHn2eT77qN9ios_aSDyE_loHF3EfZIIQsGXx0SE6iMWu3e2dqVxaqm_7-U09Bln5rEcvCo]

Erika Eckley, JD, MPA
Executive Director
Iowa Public Information Board (IPIB)
502 East 9th Street
Wallace Building, 3rd Floor
Des Moines, Iowa 50319
New phone number (515) 393-8339
erika.eckley@iowa.gov<<mailto:erika.eckley@iowa.gov>>
www.ipib.iowa.gov<<http://www.ipib.iowa.gov>>

The Iowa Public Information Board

In re the Matter of: Blake Jones, Complainant And Concerning: City of Eldora, Respondent	Case Number: 24FC:0053 Final Report
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Final Report.

Facts

Blakes Jones filed formal complaint 24FC:0053 on June 18, 2024, alleging that the City of Eldora (City) violated Iowa Code Chapter 22 between the dates of June 13, 2024, and June 18, 2024.

Mr. Jones states that he went to the Eldora City Hall on June 13, 2024, and requested public records relating to an incident involving his employment. He spoke with City staff and was directed to the City’s designated attorney for the records request.

On the same date, Mr. Jones contacted the City’s attorney. The attorney responded that he was not an employee of the City or a lawful custodian of records and redirected Mr. Jones back to the City. Mr. Jones responded to the City’s attorney indicating he had already attempted to obtain the records through the City. Mr. Jones then filed this Complaint.

Upon the filing of this Complaint, the City responded to Mr. Jones through counsel. The City’s response indicated that the City responded to a request from Mr. Jones in April, that the City’s attorney is not the lawful custodian of the records, and that the City or the Iowa Law Enforcement Academy would be the lawful custodian of records.

Procedure

The IPIB reviewed and accepted the formal complaint on August 15, 2024. The parties worked toward an informal resolution agreement.

Mr. Jones approved the Informal Resolution on August 27, 2024. The City of Eldora approved the Informal Resolution on August 29, 2024.

All terms of the Informal Resolution have been met. IPIB staff recommends that this Final Report be adopted and that the complaint be dismissed as resolved.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Blake Jones, Complainant
Brent Hinders, attorney for the City of Eldora

The Iowa Public Information Board

In re the Matter of: Jody Phillips, Erin Pedrick, and Tracy Diehl, Complainants And Concerning: Pekin Community School District, Respondent	Case Number: 24FC:0057 Informal Resolution Report
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Complaint 24FC:0057 was opened on July 9, 2024, and accepted by the IPIB on September 19, 2024. This Informal Resolution is adopted in response to the IPIB acceptance of the complaint.

The Complainants provided evidence showing a public records request was submitted to the Pekin Community School District (PCSD) on April 25, 2024. The public records request involved public records on private devices utilized by members of the PCSD Board. Specifically, the Complainants requested text messages or screenshots from members of the PCSD Board related to events occurring at specific periods of time.

The PCSD responded on May 2, indicating they did not have any public records responsive to the request.

Jody Phillips responded to the PCSD on the same date requesting the procedure used by PCSD to determine there were no records.

The PCSD responded on May 5, indicating they consulted the school's attorney, took into account any elements of confidentiality, and asked each PCSD board member to review their phones to determine if any records existed in response to the request. Shortly thereafter, a complaint was filed with the IPIB.

Upon the filing of the complaint, counsel for PCSD responded and maintained the position that the PCSD Board did not have any responsive records to provide and that a prior IPIB opinion established that Chapter 22 does not provide specific guidance concerning how a lawful custodian retrieves, reviews, and releases public records on private devices.

On September 19, the IPIB accepted the complaint to further review the surrounding facts and circumstances and to ensure that the PCSD has full knowledge of the requirements related to public records on private devices.

Applicable Law

Iowa Code § 22.2 mandates that every person shall have the right to examine and copy a public record.

A “Public Record” is defined as including all records, documents, tape, or other information stored or preserved in any medium, of or belonging to this state or any county. (Iowa Code § 22.1(3)(a)). Clear precedent exists to establish that “any medium,” as used to define a public record, includes private devices, including personal cell phones. The use of a personal cell phone to record and maintain a public record does not alleviate responsibility to provide a public record upon request.

Informal Resolution Report

Pursuant to Iowa Code § 23.9, the parties have agreed to the following terms and have executed an agreement (Informal Resolution) indicating consent to be governed by these terms:

1. Each member of the PCSD will use good faith efforts to review and retrieve all public records on personal devices responsive to the public records request. The attorney for PCSD will assist each board member in retrieval and review of the records.
2. Each member of the PCSD will review the following acknowledgement of search of private devices:

This written communication verifies that I have completed a search of my private devices in response to the email sent to me on April 29, 2024, from the Superintendent of the Pekin Community School District. I searched for the following public records:

1. *For the period from August 1, 2023, through April 25, 2024 – Text messages from J.J. Greiner or Mike Davis to any other school board member conversing, threatening, indicating, or otherwise stating how a board member should vote on any official school board business.*
2. *For the period from August 1, 2023, through April 25, 2024 – Text messages from Sherry Bemis or Mike Davis to any other school board member conversing, threatening, indicating, or otherwise stating any displeasure with how that board member voted on an official school board vote.*
3. *For the period from March 11, 2024, through March 31, 2024 – Text messages, screenshots, or photos from any board member to any other individual sharing information regarding Derek Phillips’ resignation letter and his call for a special board meeting.*
4. *For the period from March 24, 2024, through April 5, 2024 – Text messages, screenshots, or photos from board members to any other individual sharing a letter (whole or partial) sent to the board members by a parent group.*

Private devices searched include my personal cell phone(s), computer(s), email account(s), smart phone(s), or any other private device that contains public records.

I searched these private device(s) for the above requested records to the best of my ability and belief and have provided any materials responsive to this request to the IPIB for review and coordination with the PCSD.

Upon learning of the above records request on April 29, 2024, I have not deleted or altered any records which may be related to the above records request.

If I should discover any relevant record(s) after this search, I will provide them immediately to the IPIB.

3. Upon review of the acknowledgement, each member of the PCSD will take the following action:
 - a. Provide an affidavit, under oath or affirmation, in support of the written acknowledgement of search of private devices; or
 - b. Provide reason(s) why the school board member cannot provide an affidavit in support of the written acknowledgement.
4. The language of the affidavit will include all of the elements of the acknowledgement.
5. Any public records responsive to the request made on April 25, 2024, that are identified during the informal resolution process will be disclosed immediately to IPIB staff. Any records believed to be confidential should be specifically identified as such. Upon review and coordination with PCSD, the records will be provided to the Complainants. All public records provided to the Complainants will be provided free of charge.
6. The PCSD will develop a policy or procedure to govern requests for public records on private devices. This policy or procedure will be provided to IPIB staff.
7. All board members of the PCSD will complete training related to public records. This training will include requirements related to public records on private devices. This training will be arranged by PCSD and may be conducted by IPIB or by the Iowa Association of School Boards. Proof of completion of training for each board member will be provided to IPIB.
8. This Informal Resolution will be formally approved at a meeting of the Pekin Community School District Board.

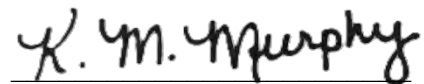
The terms of the Informal Resolution will be completed within 60 days of acceptance by all parties. Upon showing of proof of compliance, the IPIB shall dismiss this complaint as successfully resolved.

The Complainants intend to approve the Informal Resolution on or before October 15, 2024.

The Pekin Community School District intends to approve the Informal Resolution on or before October 15, 2024.

The IPIB staff recommend the IPIB approve the Informal Resolution Report.

By the IPIB Deputy Director,

A handwritten signature in black ink that reads "K. M. Murphy". The signature is written in a cursive style and is positioned above a horizontal line.

Kimberly M. Murphy, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Jody Phillips, Erin Pedrick, and Tracy Diehl, Complainants
Carrie Weber, Attorney for the Pekin Community School District

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0058
Chad Miller, Complainant	Dismissal Order
And Concerning:	
Scott County Board of Review, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On July 5, 2024, Chad Miller filed formal complaint 24FC:0058, alleging the Scott County Board of Review (“Board”) violated Iowa Code chapters 21 and 22.

Facts

Mr. Miller alleges the Board is still not complying with chapters 21 and 22 despite a complaint filed last year.¹ Specifically, he alleges the Board did not give adequate notice of the time, date and place of meetings or post a tentative agenda for their 2024 meetings on May 1, 6, and 10. He also alleges the Board did not publish notice of the meetings for property tax assessment appeals. He alleges the Board did not keep complete and accurate minutes of their meetings because the Board provided minutes showing a record of their vote, but the vote was not taken in public at the meeting as witnessed by Mr. Miller when he was in attendance from 8:48am-10:17am. Mr. Miller attended his hearing and listened to a couple that came afterwards. Some of the other hearings contained a vote immediately following the appeal, but not all. He also alleges Mr. McManus, the county assessor, does not have authority to represent the Board in this matter.

In response, Mr. McManus alleges Mr. Miller has filed this complaint because the Board disagreed with him on the assessment of his property. Mr. McManus stated he personally confirmed that for every meeting and protest hearing, the Board gave at a minimum of 24 hours advance notice by posting the notice/agenda on the public meetings notice board located in the foyer of the Scott County Administration Center at 600 W 4th St in Davenport, Iowa. He stated this is the customary way of posting notice for these meetings/hearings in Scott County. He stated there is currently no

¹ 23FC:0074 Chad Miller/Scott County Board of Review

Iowa statute requiring notice be posted electronically. He also stated the Board was not required to publish notice of the meetings for the 2024 session in a local newspaper.

He stated the Board kept complete, accurate, and detailed minutes of all meetings, hearings and votes. All documents were previously shared with IPIB and Mr. Miller as part of the resolution of the previous complaint.

All meetings, hearings, actions, and votes of the Board were taken in open public meetings. He explained that he is representing the Board as authorized by their rules of procedure as provided in Iowa Code § 441.33.²

Applicable Law

“Meetings of governmental bodies shall be preceded by public notice as provided in section 21.4 and shall be held in open session unless closed sessions are expressly permitted by law. Except as provided in section 21.5, all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session. Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.” Iowa Code § 21.3.

“[A] governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.” Iowa Code § 21.4(1)(a).

Analysis

Notice of Meeting

Mr. Miller’s first allegation is the Board failed to provide notice of the Board’s meetings. A photograph of the notice for the May 10, 2024 meeting was provided by Mr. Miller with concern that he could not determine whether the notice had been timely posted. He also alleged the notice was not sent to the media or published in the newspaper.

² <https://www.scottcountyiowa.gov/assessor/board-review/rules-regulations>

The Board has responded that the physical notice was posted on the County's bulletin board designated for such postings as required under Iowa Code § 21.4. The Board stated that no media notice was requested, so none was provided, and that no publication requirement existed, so no newspaper publication was made.³

In this case, there is evidence the posting was made, but no facts to suggest the time frame regarding the posting was not met. No media requested notice and no newspaper publication was required,⁴ There are no facts provided the posted notice was not posted in a timely fashion. Under these facts there is no violation of Iowa Code chapter 21.

Accurate Minutes

Mr. Miller's second allegation is the Board did not take accurate minutes because they did not vote on his appeal after his allotted time and while he was present. Mr. McManus stated that "[d]ue to multiple hearings per meeting, and hearing time constraints, and in the interest of overall operational efficiency, the Board frequently 'does not' take action/votes immediately following a hearing while the petitioner is still present." The Board may have to review multiple grounds for appeal, copious amounts of data, or they may need to do additional research. The Board often takes the actions and votes at the end of the meeting after all oral protests are heard, or at the end of a session, but that all votes are taken in an open meeting.

Mr. Miller has agreed that in the time he attended his hearing and others afterwards, only some of the hearings were concluded with action and a vote by the Board immediately following the appeal. Nothing in Chapter 21 addresses how a governmental body works through its agenda. In 14FC:0079, IPIB addressed a complaint regarding a government body's practice of skipping around an agenda to fill in gaps while waiting for scheduled items. "The Supervisors, with the assistance of the Osceola County Attorney, reviewed and revised the previous practice of listing agenda items without time indications and the practice of moving around the agenda randomly to consider items. While this action is not specifically prohibited by Iowa Code section 21.4, the Supervisors agreed that the spirit of the section, to 'apprise the public' of the action before the Supervisors and to allow public observation of the meetings, was better served by considering matters in the order presented in the agenda."

The minutes provided did reflect a vote on Mr. Miller's appeal was taken on the date of his hearing, the action did not occur when he was present. There is nothing in chapter 21 that requires a vote at a specific time, so there is no violation of chapter 21 under these facts. The Board should consider, however, how they can work to "apprise the public" better about when deliberation and action may be taken on specific appeals during the open meeting to ensure interested parties can know when to be present for the deliberation and action.

³ There is no newspaper publication or website posting requirement in Iowa Code chapter 21.

⁴ Any publication requirement would have been outside the jurisdiction of IPIB.

County Assessor Responding for the Board

IPIB exists to provide an efficient review of chapter 21 and 22 disputes in lieu of the requirement to go to district court. In this role, IPIB works to allow for parties to address their issues in an efficient manner. Many complainants are pro se and IPIB has not required an attorney to respond on behalf of the governmental body. The Scott County Board of Review has designated the following: “Any time the Board is considered out of session, the Board authorizes the Scott County Attorney’s Office along with assistance from the Scott County Assessor’s Office to speak and act on the Board’s behalf in all assessment appeal matters.” Whether the Board under Iowa Code § 441.33 is allowed to designate Mr. McManus to respond on behalf of the Board is beyond the jurisdiction of IPIB.

Conclusion

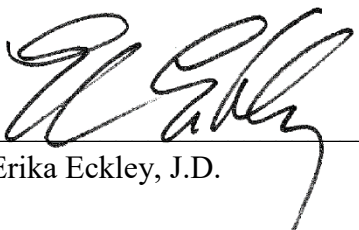
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

Under the facts of this complaint, there are no facts disputing the notice of the meeting was posted in compliance with chapter 21. The minutes reflect a vote that was taken in an open meeting, but at a later time than immediately following the appeal by Mr. Miller. Iowa Code chapter 21 does not specify how an agenda is organized.

IT IS SO ORDERED: Formal complaint 24FC:0058 is dismissed as it is legally insufficient pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Chad Miller

Tom McManus, on behalf of Scott County Board of Review

The Iowa Public Information Board

In re the Matter of: Jan Norris, Complainant And Concerning: Montgomery County Board of Supervisors, Respondent	Case Number: 24FC:0059 Informal Resolution Report
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Complaint 24FC:0059 was opened on July 23, 2024, and accepted by the IPIB on September 19, 2024. This Informal Resolution is adopted in response to the IPIB acceptance of the complaint.

Jan Norris provided evidence showing that the Montgomery County Board of Supervisors (County) violated Iowa Code Chapter 21 by conducting open session requirements within a closed session.

The County held a meeting on July 2, 2024. The agenda for the meeting indicated a closed session would be held pursuant to Iowa Code § 21.5(1)(c) and cited to language from this code section.

When the County arrived at the closed session item on the agenda, the County recessed without taking a public vote or announcing a reason for the closed session. The County indicated to the public they would be reconvening in another room for closed session. The open session minutes of the meeting do not indicate a public vote was held to enter into closed session.

On September 19, the IPIB accepted the complaint.

Applicable Law

Iowa Code § 21.3(1) requires meetings of governmental bodies shall be held in open session and that all actions and discussions shall be conducted and executed in open session, unless closed session is expressly permitted by law.

Iowa Code § 21.3(2) states the vote of each member present shall be made public at the open session and that the minutes shall show the results of each vote taken.

Iowa Code § 21.5 allows that a government body may hold a closed session only by affirmative public vote of either two-thirds of the members of the body or all of the members present at the meeting and requires the vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption shall be announced publicly at the open session and entered into the minutes.

Informal Resolution

Pursuant to Iowa Code § 23.9, the parties have agreed to the following terms and have executed an agreement (Informal Resolution) indicating consent to be governed by these terms:

1. The County will acknowledge at an open meeting that there are sufficient facts to show the County failed to act in open session as required by Iowa Code § 21.3(1) and (2), the County failed to record the vote taken in minutes as required by Iowa Code § 21.3(2), the County failed to hold a public vote to enter closed session as required by Iowa Code § 21.5, and the County failed to publicly announce the reason for holding the closed session pursuant to Iowa Code § 21.5(2). This acknowledgement will be recorded in the minutes of said meeting and minutes will be provided to IPIB.
2. The County will establish a checklist to be used for closed sessions to ensure compliance with Iowa Code Chapter 21. The checklist will include all elements required for a closed session and will be provided to IPIB.
3. The County will conduct training during an open meeting for all members of the Montgomery County Board of Supervisors regarding Iowa Code Chapter 21. The County will work with the Iowa State Association of Counties or the Iowa Public Information Board to provide the training to the County Board of Supervisors.
4. The County will approve this Informal Resolution during an open meeting and include the full text in the minutes of said meeting. The minutes will be provided to IPIB.

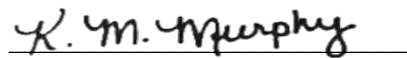
The terms of the Informal Resolution will be completed within 60 days of the date of approval of this Informal Resolution by all parties. Upon showing of proof of compliance, the IPIB will dismiss this complaint as successfully resolved.

Jan Norris executed the Informal Resolution on October 4, 2024.

The County executed the Informal Resolution on October 8, 2024.

The IPIB staff recommend that the IPIB approved the Informal Resolution Report.

By the IPIB Deputy Director,



Kimberly M. Murphy, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Jan Norris, Complainant
Drew Swanson, Montgomery County Attorney

The Iowa Public Information Board

In re the Matter of: Mark Milligan, Complainant And Concerning: Monroe County Sheriff's Office, Respondent	Case Number: 24FC:0064 Acceptance Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On July 30, 2024, Mark Milligan filed formal complaint 24FC:0064, alleging that the Monroe County Sheriff's Office (County) violated Iowa Code Chapter 22.

Facts

This case involves a missing persons case opened regarding Harry Dennis Lane Milligan on July 1, 1984. The Complainant, Mark Milligan, is the brother of the missing person.

Over the course of forty years, Milligan has requested and has been granted access to the case file. On May 13 of this year, Milligan again requested access to the case file. The request included basic case file information, such as handwritten and typed reports, interview reports, and photographs. The request also included more detailed information, such as DNA results, DNA profiles, and requests and responses regarding adoption records in Iowa and Colorado.

On July 24, 2024, the Monroe County Attorney's Office responded to Milligan's request and indicated the disappearance of Henry Milligan was an active investigation and the records would be treated as confidential with the exception of information regarding the date, time, specific location, and immediate facts and circumstances surrounding the crime or incident. In response, Milligan filed a complaint with the IPIB.

Applicable Law

"[P]eace officers' investigative reports, privileged records or information specified in section 80G.2, and specific portions of electronic mail and telephone billing records of law enforcement agencies if that information is part of an ongoing investigation..." Iowa Code § 22.7(5).

Iowa Courts have held refusal to provide a public record merely because it is a peace officer investigative report is not enough. Rather, a balancing test must be applied to determine whether a record should remain confidential. “An official claiming the privilege must satisfy a three-part test: (1) a public officer is being examined, (2) the communication was made in official confidence, and (3) the public interest would suffer by disclosure.” *Hawk Eye v. Jackson*, 521 N.W.2d 750, 753 (Iowa 1994); accord *Shannon v. Hansen*, 469 N.W.2d 412, 414 (Iowa 1991).

In *Hawk Eye*, a local newspaper sought the release of an officer investigation related to a civil suit. The Court’s analysis focused on the third prong of the balancing test and determined that any public harm created by the disclosure of the investigatory report was far outweighed by the public harm accruing from its nondisclosure. *Id.* at 753-54. The Court agreed with the district court that it was appropriate to order the governmental body to turn over the investigative file.

This same balancing test was applied by the Supreme Court in *Mitchell v. City of Cedar Rapids* nearly 25 years later, with a similar outcome. In *Mitchell*, the Court applied *Hawk Eye* and determined the public interest favored disclosure. 926 N.W.2d 222, 232 (Iowa 2019). The Court found the record in the case was “devoid of evidence that disclosure would harm any specific individual.” *Id.* The Court also favored disclosure because the case involved officer injuries to a civilian, which was considered to be a matter of public concern.

Previously Released Public Records

Public disclosure by a lawful custodian with authority to disclose may waive later claims of confidentiality under Iowa Code § 22.7 with regard to the same records. The Court does not permit preferential or inconsistent treatment when it comes to public records requests. In *City of Riverdale v. Diercks*, a security camera above the city clerk’s desk recorded a heated confrontation between the plaintiff and the city’s mayor. 806 N.W.2d 643, 646–47 (Iowa 2011). A local news reporter requested the footage, which the mayor played for him without consulting the city attorney. The plaintiff thereafter requested the same footage, which the city withheld pursuant to § 22.7(50). The Court found the City could no longer claim confidentiality once the mayor, acting as a lawful custodian, had already provided the same record to a third party with no restrictions or expectation of confidentiality. The Court stated, “It is untenable for Riverdale to play the video for a reporter covering the dispute between the parties and yet withhold the same video from the defendants who requested it.” *Id.* at 658.

Analysis

There are two arguments that support disclosure of portions of the missing persons file in this case:

Previously Released Public Records

Milligan has demonstrated he, and others, have been granted access to the case file over the years.

In 2021, portions of the case file were released to the media. The county attorney, at the time, indicated records concerning a ‘historic investigation’ would be provided with redaction of any confidential information. In 2022, Milligan was granted access to files. He was informed by the county attorney they were in a secure room and a mess, but Milligan could review and make copies at his expense. Milligan maintains he has been granted access to the case file on other occasions over the years.

Evidence shows the case file, to various degrees, has been previously released. At times, access to portions of the file were unfettered. At other times, redacted versions of portions of the file were produced. The County cannot now withhold a case file that has been released as public record in the past. Disclosure to a third party waives an argument of confidentiality.

Peace Officers’ Investigative Reports and the Balancing Test

The County denied access to the case file based on Iowa Code § 22.7(5). The *Hawk Eye* balancing test was not applied in determining whether it was appropriate to deny access. Iowa courts have clearly stated that the test must be applied to justify a denial.

If the *Hawk Eye* balancing test had been applied, IPIB staff believe it would support release of portions of the requested case file. This case is over forty years old. An argument can be made that any protected statements made or witness statements collected would no longer present a cooling effect for other witnesses or endanger witnesses if released. Furthermore, there are allegations made by Milligan the file has not been properly maintained. This would support the position that that any public harm created by the disclosure of portions of the file would outweigh the public harm accruing from its nondisclosure.

In conclusion, portions of this case file have been previously released and no argument was made to support confidentiality, other than a blanket statement referencing an ongoing peace officers’ investigation. This is a complicated request that involves records spanning a forty-year investigation. There are records that should clearly be released to Milligan within the case file. There are other portions of the case file that likely should be redacted. This case should be accepted to allow IPIB staff to work with the parties to ensure appropriate release of public records.

Conclusion

Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint meets the necessary requirements for acceptance.

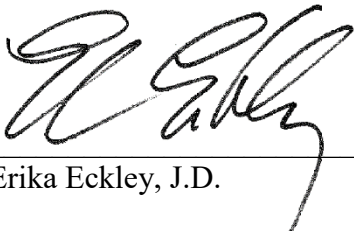
The County failed to produce records that have historically been deemed public records and failed to provide appropriate justification for denial of public records. This case should be accepted for

further review to determine which records should be released and which should be redacted or deemed confidential.

IT IS SO ORDERED: Formal complaint 24FC:0064 is accepted pursuant to Iowa Code § 23.8(1) and Iowa Administrative Rule 497-2.1(2)(a).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director

A handwritten signature in black ink, appearing to read 'Erika Eckley', written over a horizontal line.

Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Mark Milligan, Complainant
Laura Davis, Monroe County Attorney

Members of the Iowa Public Information Board:

First, thank you for the time and your consideration in this matter that I have been dealing with for now over 40 years. I am the brother of Harry Milligan, and I wish this type of situation on no one, but unfortunately situations like this continue to happen every day.

I am not going to waste your time, with a lot of background regarding the Freedom of information request that is in question I am only going to explain the reasons behind the specifics of my request.

As stated in the Acceptance order, I have been provided the entire case file twice in the past once under a completely different administration, and once under the same Sheriff, but different county attorney. Both times with no issues, and the only thing I was advised was there would be some redactions of the normal dates of birth and social security numbers. Most of the request is nothing more than a typical FOI request of a law enforcement case file. I do think it should be noted that this is not a criminal investigation and is a missing person case that law enforcement has not been able to establish any suspects or motive of a crime for now over 40 years.

As for specific elements of the FOI such as DNA, birth information, communications with Harry's birth family and other items I will try to explain the purpose of these items as briefly as possible starting with the DNA results. I know that DNA was obtained according to the Sheriff, and I believe that the DNA has been or should have been entered into all databases accessible by law enforcement. The purpose that I wish to obtain the DNA for is to enter the DNA into now law enforcement databases for the purpose of eliminating or determining if Harry or any other relative, such as a child, would show up in those databases. It's all a part of a process of elimination as to what happened to Harry.

As for the birth information, I should note that this information is not confidential under both Iowa law and Colorado law. Iowa code 144.24A Colorado code 19-5-305 respectfully. It should also state that I have that information and that I signed a consent form for the Monroe County Sheriff to obtain the records or they may have not been able to obtain it. I am mostly concerned with the paper trail and the communications with Harry's birth family and the information obtained.

Regarding the validation information regarding Harry, I am seeking the records validating that law enforcement has contacted a family member every year to ensure Harry has not returned and who they have contacted. This is required by federal law and is required by NCIC, and it is my opinion this has not been done and I want to ensure Harry's information is in the NCIC system. It should be known that with the original case file I received there is dental information on a NCIC entry and in the 2nd request this information along with numerous other documents

are not included. I was not advised that any documents were omitted with my 2nd request. This, after being advised by the Sheriff, that the case file was not well maintained and kept in disarray in a box makes me want to ensure that federal guidelines have been followed.

In closing, it is my opinion that most of the request is self-explanatory, and I would ask that the board apply the Hawk Eye balancing test and not allow the Monroe County Sheriff's Department to hide behind the blanket "open investigation" as law enforcement does in most cases rather than being transparent. There is no public officer being examined, there is no communication made in official confidence, and no public interest would suffer if disclosed. In fact, the primary reason for my request is to see if any of the information requested helps me in my continued investigation as to what happened to my brother on July 1st, 1984.

This information has been released to me and the public (podcasters) in the past and should be once again so that an effort to locate Harry Milligan can be continued on other levels other than depending solely on law enforcement, and for transparency.

Again, thank you for your time regarding this matter.

Respectfully,

Mark Milligan

The Iowa Public Information Board

In re the Matter of: Mark Milligan, Complainant And Concerning: Monroe County Sheriff's Office, Respondent	Case Number: 24FC:0064 Brief Statement Re: Hearing
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COMES NOW, the Monroe County Sheriff's Office, represented by the Monroe County Attorney's Office, respectfully states the following:

Facts

1. On July 30, 2024, Mark Milligan filed a formal complaint (24FC:0064), alleging that the Monroe County Sheriff's Office violated Iowa Code Chapter 22.
2. Mr. Milligan contends that he and others have received complete access to the entire investigation file previously, that confidential adoption records should be released despite Iowa law and court orders that have designated them as sealed, and that peace officers' investigative reports and other documents confidential under Iowa Code Section 22.7(5) should be released to him due to the age of the investigation as well as his unsubstantiated assertion that the investigative file is not organized and it would therefore be in the public's interest to disclose otherwise confidential documents and information.

Argument

1. Previously Released Records

Mr. Milligan contends that he "has been provided the entire case file" for the subject investigation, twice with no issues.

Unfortunately, the statement from Mr. Milligan that he has received the entire file multiple times is misleading at best, and at worst is inaccurate and untrue. This is demonstrated in the numerous previous communications between Mr. Milligan and other individuals and the Monroe County Sheriff's Department and the Monroe County Attorney's Office.

Communications from the county attorney at the time of previous requests actually shows that it was indicated that only redacted documents from the "historic" investigation records could be released, but that documents and information from the current investigation were not public and could not be provided. Please see Attachment 1 (letter dated December 15, 2020), Attachment 2 (letter dated December 24, 2020), and Attachment 3 (letter dated January 4, 2021).

The attachments demonstrate that at no point, did the previous county attorney indicate that the entire case file, including the current investigation were available to the public.

As a result, only information contained in what was deemed by the previous county attorney as the “historical investigation from the ‘80s” has been released before and can be released again. Documents and information from the “current investigation” have been maintained as confidential in the past and therefore cannot be released now under the argument that they have been released before.

2. Adoption Records.

Mr. Milligan further requests sealed adoption records, and contends that the records are not, in fact, confidential.

In reality, Mr. Milligan has been informed previously, and has been informed again, that adoption records are sealed under Iowa Code Section 600.16A. No court order has been received unsealing any of the records associated with the adoption to the public, therefore, the information sought regarding the adoption should remain confidential unless and until a court order is obtained to unseal them.

3. Request for peace officer’s investigative reports, privileged records, and portions of electronic mail.

This issue need only be addressed with reference to the current investigation due to the above discussion regarding the “historic investigation” having been previously disclosed to the public. In regards to the current investigation, Mr. Milligan contends that there is no public officer being examined, there is no communication made in official confidence, and that no public interest would suffer if the information is disclosed.

First, it must be clarified and established what items Iowa Code Section 22.7(5) contemplates as confidential. Here, the Iowa code specifies “peace officers’ investigative reports, privileged records or information specified in section 80G.2, and specific portions of electronic mail and telephone billing records of law enforcement agencies if that information is part of an ongoing investigation.” Furthermore, the IPIB has previously issued opinions that define investigative reports to include written materials, audio and video records, photographs, and other similar information.

Mr. Milligan specifically requested “[a]ll handwritten and typed reports, [a]ll notes, handwritten and maintained in any Sheriff Department issued electronic device: to include personal cell phones used for official business, [a]ll interview reports, [a]ll photographs and or audio-visual type recordings of interviews conducted, [a]ll recorded phone calls and documentation of such calls, [a]ll files provided from outside sources such as Private Investigators, News sources, media outlets, etc., [a]ll DNA results received from the Department of Criminal investigations laboratory, [a]ll requests for DNA profiling and findings, [a]ll electronic communications in regard to the case, [a]ll documented tips and leads provided to the Sheriff’s Department,” and other similar items. All of these items appear to fall under items contemplated in Section 22.7(5) as items that are considered confidential, especially when

previous IPIB opinions have been taken into account regarding what items count as investigative reports.

Reports, conversations, and notes authored and involving peace officers are clearly an examination of the officer that authored or participated in them, satisfying the first prong of the Hawk Eye Balancing Test. Furthermore, communications from peace officers in furtherance of the investigation as well as with witnesses have been made in confidence under the understanding that their involvement was confidential while the investigation is active, satisfying the second prong of the Hawk Eye Balancing Test.

As for the third prong of the Hawk Eye Balancing Test, Mr. Milligan contends that no public interest would suffer if the information contained in the current investigation was disclosed. This is untrue as not only would release of what is essentially every law enforcement lead, interview, action, and investigative avenue, publicize police procedures and investigative methods to the public in general, it would also hinder law enforcement from being able to adequately continue the current investigation as well as hinder future investigations in other potential matters.

Furthermore, disclosing the requested information would hinder the current investigation because, due to the revival of public interest in 2020, many of the individuals speaking with and assisting law enforcement in the current investigation have done so on the understanding that their involvement would not be made public while the investigation was active. If such information were to be made public at this point, cooperation with law enforcement would cease, law enforcement investigative methods of solving crimes would be jeopardized, and it would irreparably harm the investigation into the disappearance of Harry Milligan.

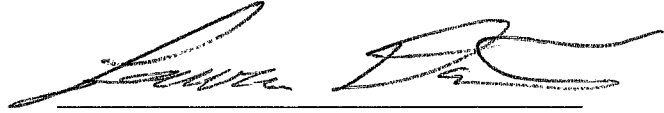
Mr. Milligan further contends that he was informed by the Sheriff that the files were kept in disarray in a box; however, nowhere in the numerous communications with Mr. Milligan over the years is there any indication that the Milligan investigation file is in any such state. In fact, the only documented mention of disorganized files was made by the previous county attorney. However, such statements were made not in reference to the Milligan investigation files, but instead was in reference to files not related to the investigation that had been received from the county attorney before him. Further comments from the previous county attorney indicated that this issue was remedied by reconstructing the criminal docket so that files were organized. Please refer to Attachment 1 for further example of this. Not only, were the files referenced not in the possession of the Sheriff's Department, but they weren't even in reference to the Milligan investigation as referenced in Attachment 1 where the previous county attorney indicated that he had "no records whatsoever relating to [the Milligan] investigation conducted during the terms of" previous county attorneys.

Conclusion

In conclusion, redacted records related to what has been referenced as the "historical investigation from the '80's" can be released due to the fact that they have been released before. On the other hand, adoption records are under seal and no court order has been received to allow them to be released to the public. Furthermore, releasing other items requested by Mr. Milligan would irreparably harm the current investigation, prevent peace officers from being able to

adequately continue to investigate, hinder potential witness cooperation, and reveal law enforcement investigatory protocols and techniques that would hinder and damage future investigations into other matters.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Laura B. Davis', written over a horizontal line.

Laura B. Davis,
Monroe County Attorney
Representing the Monroe County Sheriff's
Department
201 South Main St.
Suite 105
P.O. Box 362
Albia, IA 52531

The Iowa Public Information Board

In re the Matter of: Janet Pierson, Complainant And Concerning: Decatur County Board of Supervisors, Decatur County Attorney's Office, and Decatur County Auditor's Office, Respondents	Case Number: 24FC:0067 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On August 8, 2024, Janet Pierson filed formal complaint 24FC:0067, alleging the Decatur County Board of Supervisors, Decatur County Attorney's Office, and Decatur County Auditor's Office (County) violated Iowa Code Chapter 22.

Facts

The complaint alleges the County violated Iowa Code Chapter 22 by publicly releasing personal information in confidential personnel records. This case stems from disagreements between officials working for Decatur County.

The Decatur County Attorney issued letters to employees of the Decatur County Treasurer's Office indicating they were violating the County Employee Handbook. The Decatur County Auditor, who maintains records for the County, received copies of the letters for filing.

The Decatur County Auditor posted a question on a website used to field and address auditor questions. According to the post, 437 people were included in the communication. The post read:

Reprimand Letter

Our county attorney issued 2 letters of reprimand to 2 different employees in the Treasurer's office for Handbook violation Rule 6.2 for posting on social media during county time. The letters are to be placed in their personnel files.

My question is, does this need to be on the BOS agenda in any way? Such as Review/Discuss employee reprimands pursuant to employee handbook violation Rule 6.2 – use of social media. This would of course be held with no names discussed.

The letters were copied to the Department head and our HR consultant.

The County Treasurer became aware this posting occurred and filed a complaint with IPIB.

Applicable Law

Iowa Code § 22.1(3)(b) defines “Public records” to include “all records relating to the investment of public funds including but not limited to investment policies, instructions, trading orders, or contracts, whether in the custody of the public body responsible for the public funds or a fiduciary or other third party.”

Iowa Code § 22.7 outlines public records that may remain confidential. It is important to note that Iowa Code § 22.7 begins with the following language:

“The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:”

Iowa Code § 22.7 goes on to provide a list of records that may be kept confidential, including:

11.a. Personal information in confidential personnel records of government bodies related to identified or identifiable individuals who are officials, officers, or employees of the government bodies. Iowa Code § 22.7(11)(a).

Analysis

This case raises the following question: Was the information released by the County Auditor a “public record” pursuant to Iowa Code Chapter 22?

The information released by the County Auditor does not meet the definition of a public record. The County Auditor asked a question that discussed certain aspects of a public record-- the letters of reprimand. The County Auditor did not release the letters. The question posed by the auditor did not contain any record, documents, or tape that was stored or preserved in a medium or that belonged to the County. For this reason, a public record was not released.

This case is unfortunate. It results from disagreements between and amongst county officials. This is not a complaint raised by the public seeking transparency from government, but rather elected

officials that cannot agree on county business. These types of disputes do not serve the public and are not the types of disputes that IPIB was created to address.

Conclusion

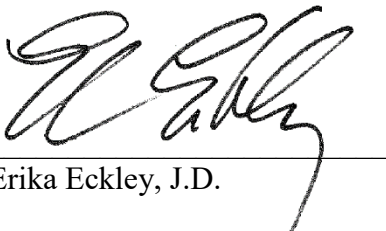
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet the jurisdictional requirements for acceptance.

In this case, the information released did not meet the definition of a public record pursuant to Iowa Code Chapter 22. For this reason, IPIB does not have jurisdiction over the issue.

IT IS SO ORDERED: Formal complaint 24FC:0059 is dismissed pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on , 2024, to:

Janet Pierson, Complainant
Charlene Hoover, Decatur County Auditor's Office
Alan Wilson, Decatur County Attorney's Office

The Iowa Public Information Board

In re the Matter of: Drake Riddle, Complainant And Concerning: Page County Board of Supervisors, Respondent	Case Number: 24FC:0068 Acceptance Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On August 8, 2024, Drake Riddle filed formal complaint 24FC:0068, alleging the Page County Board of Supervisors (Board) violated Iowa Code Chapters 21.

Facts

The complaint alleges that the Board violated Chapter 21 by failing to record accurate minutes.

The Board held a meeting on July 11, 2024. During the meeting, the Board approved a commercial liquor license. Two of the Board members voted yes to approve the liquor license. One of the Board members abstained from the vote. The minutes inaccurately recorded the abstaining Board member as voting no instead of abstaining and reflected the Board unanimously moved the vote.

Riddle filed this complaint on August 8, 2024.

The Chair of the Board responded on August 16, 2024. The response stated as follows:

The Page County Board of Supervisors has reviewed the complaint case # 24FC:0068. The board agrees with the complainant, and the evidence provided shows that the meeting minutes from July 11, 2024 do not meet Iowa code. We would like to expedite this process as the minutes for our board have caused conflict over both content and responsibility on a near weekly basis for over a year. We would like training for the board and the clerk, and the IPIB's help in drafting an official minutes policy. The guidance and opportunity to create policy and procedures to help avoid this conflict and ensure appropriate and legal minutes moving forward is greatly appreciated.

This response was approved by the Board on a 2-1 vote on August 15, 2024.

The County Auditor's Office responded on August 29, 2024, and indicated an error was made in the minutes. The County Auditor's Office indicated that the minutes had been corrected. A copy

of the corrected minutes was included within the response and IPIB staff verified the posting of correct minutes on the County's website.

Applicable Law

Iowa Code § 21.3(2) requires governmental bodies keep minutes of meetings that show the results of each vote taken and information sufficient to indicate the vote of each member.

Analysis

An error was appropriately identified by Riddle. The County Auditor's Office corrected the minutes and posted the corrected minutes on the County website. Although the minutes were corrected and reposted, the amended minutes were not reviewed or approved by the Board. This is a concerning practice.

Upon review of this case, IPIB staff identified an additional issue of concern: The Board produces two sets of minutes for each meeting. This is an example taken from the minutes of the meeting held on October 3, 2024:

Holmes passed out his rewritten minutes from September 19th. On a motion by Maher, seconded by Holmes, the board moved to approve the amended minutes from September 19th and the minutes as written from September 23rd and September 26th to meet Iowa Public Information Board guidelines as presented to the clerk in this meeting and these minutes to be published into the Page County Board of Supervisors Minute Book. Roll call; Maher, aye, Holmes, aye, Clark, nay. Motion carried 2-1.

This is an unfortunate practice that appears to occur because of a disagreement between members of governmental bodies in Page County about whether the County Auditor gets to produce the minutes in the format the County Auditor prefers or whether the Board controls the format and approval of their minutes. The result has been that the County Auditor publishes the minutes as preferred by the County Auditor¹ and ignores the minutes approved by the Board in their meetings that are to be placed in the Minutes Book. The result is that it is uncertain which minutes are actually the official minutes of the Board. In addition, it appears that the Board did not review or approve the amendments to the minutes. IPIB cannot ignore a practice that impacts

¹ The County Attorney provided a legal opinion based on a 1982 AG opinion 82-1-13. This opinion dealt with a question regarding whether, at the time, the publication requirement allowed a summary or the full text of all resolutions and minutes of the proceeding. It opined the auditor to determine the text and format for publication, available here

<https://bloximages.newyork1.vip.townnews.com/kmaland.com/content/tncms/assets/v3/editorial/c/2c/c2cd24c6-1674-11ee-99a1-dfef04db0bdd/649d72bb8272b.pdf.pdf>. The Board has a legal opinion relying on a 1992 AG opinion stating the Auditor is a supporting role for the Board and the Board is responsible for the accuracy of its minutes.

<https://bloximages.newyork1.vip.townnews.com/kmaland.com/content/tncms/assets/v3/editorial/d/23/d2364c34-3dee-11ee-917b-9b0c4442484e/64dfac0e8bb48.pdf.pdf>

the ability of the public to access and understand actions taken by the Board on a matter mandated by Iowa Code § 21.3.

In response to this Complaint, training has been requested by members of the Board regarding Chapters 21 and 22. Another member of the Board has indicated a refusal to attend trainings. Due to the production of two sets of minutes, no approval of amended minutes by the governmental body, and the lack of cooperation by one of the members of the Board, IPIB recommends acceptance of this case to further review practices utilized by governmental bodies in Page County.

Conclusion

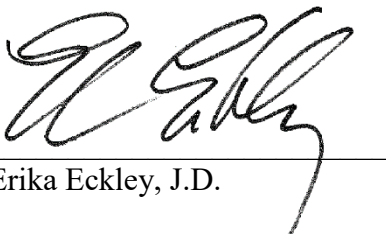
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the facts and circumstances, it is found that this complaint should be accepted.

The Board is currently creating two sets of minutes for each meeting of the Board and one of member of the Board has refused to engage in training. IPIB staff recommends acceptance of this case to further review the County's practices.

IT IS SO ORDERED: Formal complaint 24FC:0068 is accepted pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 15, 2024, to:

Drake Riddle, Complainant
Page County Board of Supervisors
Page County Auditor

Good afternoon, I appreciate the opportunity to send a written brief as my college class schedule prohibits me from joining the meeting in person.

I'd like to thank Director Eckley and the Iowa Public Information Board for reviewing my Chapter 21 complaint in regards to the Page County Board of Supervisors. I began attending meetings of the Page County Board of Supervisors upon returning to the County following my freshman year of college. I had immediate questions concerning the minutes when I learned the supervisors consistently had a split vote on amending the minutes of the prior week's meeting. I researched the Code of Iowa and went to the County Auditor's office to view the Official Minutes Book. The minutes in the book were not amended minutes voted on by a majority of the Board of Supervisors, but were instead the Auditor's original minutes, and they were signed, not by the Chairman of the Board of Supervisors, but by the one supervisor who consistently voted against amending.

I took my questions and concerns to the May 16, 2024, Board of Supervisors meeting, and asked for clarification during the Public Comment agenda item. I was told by the supervisor who consistently voted no on amending that she signed the unapproved minutes in the Official Minutes Book under direction of the State Auditor's Office. I have not been able to confirm that the State Auditor's Office gave this directive or if they did, if they were made aware of all the facts.

I continued to attend the weekly meetings of the Page County Board of Supervisors and followed their actions. On July 18, 2024, they voted unanimously to approve the minutes of the July 11, 2024 meeting which contained the error I referenced in my complaint.

In Director Eckley's "Analysis" of the complaint she stated the County corrected the July 11, 2024, minutes and posted the corrected minutes on the County website; however, the Board of Supervisors have never discussed correcting the July 11, 2024, minutes, nor voted to amend them and post the correction to the website. This was done without a voted action by the Board. I have no information on who took the steps to change the July 11, 2024 minutes on the Page County Board of Supervisors website.

Again, I'd like to thank Director Eckley and the Iowa Public Information Board for reviewing my complaint and the practices of the governmental bodies in Page County Iowa to ensure our taxpayers are receiving the services they fund.

Sincerely,

Drake Riddle

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0069
William Vandenberg, Complainant	Dismissal Order
And Concerning:	
Lee County, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On August 10, 2024, William Vandenberg filed formal complaint 24FC:0069, alleging Lee County violated Iowa Code chapter 22.

Facts

On July 29, 2024, William Vandenberg submitted a public records request with the Lee County Sheriff's Office seeking access to records related to "Firearm qualifications training for each deputy from January 1, 2022 through June 30, 2024 to include officer, date, and weapon system trained on" and "Annual training documentation from January 1, 2017 through December 31, 2023 to include officer, training course name, and training hours per each course."

On August 8, 2024, Lee County declined the request, citing Iowa Code § 22.7(11), which protects certain personal information in confidential personnel records from chapter 22 disclosure requirements.

On August 10, 2024, Vandenberg filed a formal complaint with IPIB, alleging Lee County had violated chapter 22 by refusing to release the requested records. Vandenberg subsequently proposed the training information could be released with the officers' names and badge numbers redacted to prevent individuals from being identified.

On August 26, Lee County responded by reasserting the confidentiality of the requested records, stating training records, scores, and other associated information are personal to each employee and maintained as part of their confidential personnel records. On this basis, Lee County asserted a right to withhold the requested documents and requested dismissal of the complaint.

Lee County also included an affidavit from Captain Craig Burch, in which Burch affirms the requested records are personal to each employee and are maintained as a part of employee personnel records.

Applicable Law

“The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

11. *a.* Personal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies. However, the following information relating to such individuals contained in personnel records shall be public records, except as otherwise provided in section 80G.3 [a provision protecting the confidentiality of personnel information for undercover law enforcement officers]:

(1) The name and compensation of the individual including any written agreement establishing compensation or any other terms of employment excluding any information otherwise excludable from public information pursuant to this section or any other applicable provision of law. [definition of "compensation" omitted]

(2) The dates the individual was employed by the government body.

(3) The positions the individual holds or has held with the government body.

(4) The educational institutions attended by the individual, including any diplomas and degrees earned, and the names of the individual’s previous employers, positions previously held, and dates of previous employment.

(5) The fact that the individual resigned in lieu of termination, was discharged, or was demoted as the result of a disciplinary action, and the documented reasons and rationale for the resignation in lieu of termination, the discharge, or the demotion. For the purposes of this subparagraph, “*demoted*” and “*demotion*” mean a change of an employee from a position in a given classification to a position in a classification having a lower pay grade.” Iowa Code § 22.7(11)(a).

Analysis

Chapter 22 establishes that every person shall have the right to examine and copy a public record and to public or otherwise disseminate a public record or information contained therein. Iowa Code § 22.2. Transparency is thus the default rule for public records, though the general assembly has also outlined a list of over seventy specific categories of records which may be kept confidential. Iowa Code § 22.7. The Iowa Supreme Court has provided that the disclosure requirement should generally be interpreted broadly, with narrow construction for § 22.7 confidentiality exemptions, though “where the legislature has used broadly inclusive language in the exception, [courts] do not

mechanically apply the narrow-construction rule.” *ACLU Foundation of Iowa, Inc. v. Records Custodian, Atl. Cmty. Sch. Dist.*, 818 N.W.2d 231, 233 (Iowa 2012) (quoting *DeLaMater v. Marion Civil Serv. Comm’n*, 554 N.W.2d 875, 878 (Iowa 1996)).

Lee County cites Iowa Code § 22.7(11), which permits government bodies to maintain “personal information in confidential personnel files” as confidential, with the exception of five categories of information which remain subject to disclosure. Iowa’s Supreme Court has described § 22.7(11) as a “categorical exemption” for which the legislature “has performed its own balancing and made the policy choice to protect such records categorically.” *Mitchell v. City of Cedar Rapids*, 926 N.W.2d 222, 234 (Iowa 2019).

As a preliminary matter, courts do not interpret the “confidential personnel files” qualifier as a strict location requirement. The dispositive case, *Des Moines Independent Community School District v. Des Moines Register & Tribune Co.*, held job performance evaluations for school district employees could be kept confidential under § 22.7(11) as “personal information in confidential personnel records,” despite the fact the documents were stored with files pertaining to an ongoing investigation. 487 N.W.2d 666, 670 (Iowa 1992). In reaching this decision, the Court emphasized “[t]he nature of the record is not controlled by its place in a filing system,” indicating the type of information was what was relevant to the determination of confidentiality. *Id.* The fact the records sought are contained in personnel files is, therefore, insufficient on its own for applying § 22.7(11).

With that established, the term “personal information in confidential personnel files” is undefined in the Code, and most existing case law interpreting the phrase arises from an earlier version of § 22.7(11), before the section was amended in 2011. Prior to the 2011 amendment, the full text of § 22.7(11) provided confidentiality for “[p]ersonal information in confidential personnel records of public bodies including but not limited to cities, boards of supervisors and school districts.” From 1980 to 2011, the Iowa Supreme Court analyzed this language narrowly, finding that “personal” should be construed to refer only to certain private affairs and business by contrast to a broader interpretation which would exempt as confidential all information specific to a particular employee. *See City of Dubuque v. Telegraph Herald*, 297 N.W.2d 523, 527 (Iowa 1980). Within this framework, the Court developed a five-factor balancing test, which was used to determine what types of information should be considered sufficiently “personal” in light of the legislature’s failure to define the term in the statute. *DeLaMater v. Marion Civil Serv. Comm’n*, 554 N.W.2d 875, 879 (Iowa 1996). These factors were listed as follows: “(1) the public purpose of the party requesting the information; (2) whether the purpose could be accomplished without the disclosure of personal information; (3) the scope of the request; (4) whether alternative sources for obtaining the information exist; and (5) the gravity of the invasion of personal privacy.” *Id.*

The post-2011 version of the exemption, however, has been changed to read: “[p]ersonal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies,” with the exception of five specific categories which are categorically excluded from the confidentiality provisions for employees. This new language, by its plain meaning, would seem to suggest a legislative intent to broaden the scope of the exemption to cover a larger swath of personal information by clarifying “personal” to include information “relating to identified or identifiable

individuals,” rather than solely the private affairs of those employees. Although no state appellate court has provided meaningful interpretation of the scope of the current “personal information in confidential personnel records” exemption, the current framework can still be found in *ACLU Foundation*, which was decided in 2012 based on the pre-amendment text but in light of the modern statutory language.

In *ACLU Foundation*, the Court diverged from existing case law, outlining a two-part process for evaluating the § 22.7(11) exemption:

In summary, to determine if required information is exempt under section 22.7(11), we must first determine whether the information fits into the category of “[p]ersonal information in confidential public records.” We do this by looking at the language of the statute, our prior caselaw, and caselaw from other states. If we conclude the information fits into this category, then our inquiry ends. If it does not, we will then apply the balancing test under our present analytical framework.

818 N.W.2d at 235. In other words, the *DeLaMater* balancing test became the second step of analysis, following a first-step determination based on statutory interpretation and existing case law, with the goal of honoring the “categorical exemption.” *Id.* Applying its new framework, the Court found the school district could refuse to disclose disciplinary information related to two of its employees, including the “specific consequences they received including duration or amounts of any penalties or consequences.” *Id.* at 232, 236. In reaching this decision, the Court analogized the records at issue to the performance evaluations found to be “personal information” in *Des Moines Register & Tribune Co.*, as well as cases from other jurisdictions dealing with disciplinary reports. *Id.* at 235–36.¹ Because case law supported a finding that disciplinary records fell into the category of “personal information in confidential personnel records,” the categorical exemption applied, and the balancing test was deemed unnecessary.

Two Court of Appeals cases have considered § 22.7(11) since *ACLU Foundation*. In *Doe v. University of Iowa*, which relied on *ACLU Foundation*’s framework while also arising from the pre-2011 statutory language, the court found a settlement agreement between a public university and a professor involving the professor’s resignation was not confidential under § 22.7(11)², despite the terms of the agreement specifying confidentiality “to the extent permitted by the law.” 2013 WL 85781 at *5. In reaching this result, the court found the agreement was not a clear match for “personal information in confidential personnel records,” as required for the first step of *ACLU Foundation*, then found in the second step the public’s interest in disclosure outweighed the former professor’s privacy interests under *DeLaMater*. *Id.* at *4–5. The other case, *State v. Smith*, touched

¹ Notable in the Court’s review of other jurisdictions’ is an emphasis on whether disciplinary records belonged to the category of records which would generally be included in a personnel file, as opposed to the invasion of privacy concerns or interest balancing which characterized *DeLaMater* and other pre-2011 case law.

² Iowa Code §§ 22.13-22.13A address settlement agreements as public records not subject to confidentiality provisions. Current language for Iowa Code § 22.13 was amended in 2011. Iowa Code 22.13A personnel settlements for state employees was added in 2017.

on § 22.7(11) only briefly in finding that a police officer's disciplinary records were presumably confidential under the first step of *ACLU Foundation* (before considering whether they could be sought in discovery notwithstanding this finding). No. 16-0533, 2017 WL 6033880 (Iowa Ct. App. Dec. 6, 2017).

Lee County, asserts the requested police training records are exempt from disclosure under Iowa Code § 22.7(11) as “personal information in confidential personnel records.” In support of their position, the respondent argues “[i]f the legislature wanted to include training records as a personnel record that government bodies should not keep confidential they could have included it with the five exceptions that exist.”

The current statutory direction of Iowa Code § 22.1(11) favors Lee County. The information the complainant seeks – “[f]irearm qualifications training for each deputy . . . to include officer, date, and weapon system trained on” and “[a]nnual training documentation . . . to include officer, training course name, and training hours per each course” – is particular to the identified or identifiable officers who completed the training, and training data belongs to the category of records which would naturally be included with confidential personnel files for individual employees.

As a possible work-around for the confidentiality issue, the complainant proposed Lee County could redact officer names and other identifying details, which would allow the records to be released anonymously (as Officer #1, Officer #2, etc.). This presents a closer question. Nevertheless, § 22.7(11) specifies that confidential personal information may relate to “identified or identifiable individuals who are officials, officers, or employees” (emphasis added). Redaction would not remove the personal character of the information contained in the personnel records requested, nor would it sufficiently protect the individual employees from being *identifiable* from the information that remains unredacted.

Because both records requests fall into the categorical exemption for personal information in confidential personnel records found in § 22.7(11), chapter 22 does not require disclosure.

Conclusion

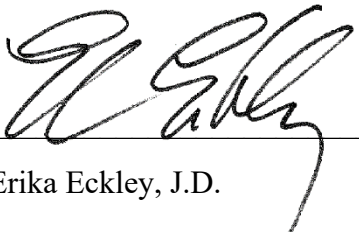
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

Individual training records of Lee County officers are “personal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies.” As such, these records can be withheld as confidential under Iowa Code § 22.7(11).

IT IS SO ORDERED: Formal complaint 24FC_0069 is dismissed as legally insufficient pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 11, 2024, to:

William Vandenberg, Complainant

Lee County, Respondent

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0070
Brian Thomas, Complainant	Acceptance Order
And Concerning:	
Jefferson County Board of Supervisors, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On August 13, 2024, Brian Thomas filed formal complaint 24FC:0070, alleging Jefferson County Board of Supervisors (Board) violated Iowa Code chapters 21 and 22.

Facts

Brian Thomas alleges¹ several violations of Iowa Code chapters 21 and 22 by the Board.

Chapter 21 Violations

Thomas alleges the Board denied Thomas the opportunity to meet with them in open session by declining to add the matter to a Board agenda.

Thomas alleges the June 10 Board meeting agenda was not specific when the Board discussed the Ambulance Director recruitment process during the item stated as “Committee Reports.”

Thomas alleges the Board improperly wanted to go into closed session to discuss matters involved in the ambulance director position.

Thomas also provided an audio recording of Supervisor Drish and Supervisor Dimmitt discussing ongoing Board concerns related to the Ambulance Service. These two supervisors represent a quorum of the Board. The recording is a 22-minute phone conversation ranging in

¹ Thomas’ complaint includes allegations regarding an employment dispute regarding whether he could be investigated and whether he revoked his Resignation of Employment and Release Agreement. These matters are beyond the jurisdiction of IPIB to address.

topics from their frustrations about the hiring process for the ambulance services, discussion on how interviews should be conducted and who they preferred to get the position. They also discussed wanting to meet in closed session. At one point they stated they should not be talking together.

Chapter 22 Violation

Thomas alleges made a records request on June 24 to the Board and the County Attorney. Thomas alleges he has not received any documents regarding this request and the County Attorney is improperly classifying communications as attorney-client protected because the attorney does not represent the human resources representative or the investigator.

“to inspect or obtain copies of public records that relate to the employment, investigation(s), behavior, accusation(s), and performance of Brian Thomas. This includes, but is not limited to, relevant information stored on paper or electronically, text messages, emails, written documents, voicemail, data files, program files, temporary files, website information, archival tapes, and any audio recordings. This request encompasses County-issued phones, computers, and other electronic items as well as personal phones, personal computers, and other personal electronic items that contain relevant information. At a minimum, the record request shall include Chauncey Moulding, Lee Dimmitt, Susie Drish, Dee Sandquist, Jack Reed, Jon Thomas, Brent Heisel, and other individuals possessing relevant information.”

The Board responded through the County Attorney.

Chapter 21 Response

The Board stated the concerns regarding the open meeting violation is based solely on Thomas' employment dispute. The Board did not address the specificity of the agenda item or the claim they did not allow Thomas to be given time of the agenda. Emails do show Thomas was invited to provide comment to the Board during the public comment portion of a meeting.

The Board argued the recorded phone call did not violate Iowa Code chapter 21 because the conversation did not result in any action or deliberation of a majority of the Board. The phone call was merely complaints regarding the process and feeling excluded because of open meeting concerns. While the call including a majority of the members of the Board, the conversation was not a meeting because no deliberation or action occurred.

Chapter 22 Response

The Board argued Thomas' Chapter 22 claims amount to an employment grievance in the guise of an open records request, and are mislaid. It should be noted that other requests by Thomas, to include requests for employment records and for information about Thomas' eventual

replacement as ambulance director, have in fact been provided. The other records Thomas seeks, including files of an investigator employed by the County Attorney, the County HR contractor, and the County Attorney's office were generated in anticipation and preparation of litigation and investigation into potential termination, which was eventually rendered moot by Thomas' resignation. As such, these records are not subject to disclosure pursuant to Chapter 22.

Applicable Law

“‘Meeting’ means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.” Iowa Code § 21.2(2).

“‘Open session’ means a meeting to which all members of the public have access.” Iowa Code § 21.2(3).

“Meetings of governmental bodies shall be preceded by public notice as provided in section 21.4 and shall be held in open session unless closed sessions are expressly permitted by law. Except as provided in section 21.5, all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session.” Iowa Code § 21.3.

“Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record.” Iowa Code § 22.2(1).

Analysis

Chapter 21 Request to be added to the Agenda

Nothing in Iowa Code chapter 21 requires the Board to add Thomas to any meeting agenda. Iowa Code § 21.7 enables the Board to make and enforce “reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators.” Thomas was given the option to provide his information to the Board during the public comment portion of a Board meeting. There is no violation of Chapter 21 under these facts.

Agenda not Specific Enough

The agenda on June 10, 2024, including a provision for committee reports. During this segment, a Supervisor reported to the Board the process for receiving applications and hiring a new ambulance director. A question was raised about what would happen to the interim director if they are not hired because the person's original position had been eliminated. Concern was also raised about how things have been done and advocating for hiring from within rather than going through the application process mentioned in the update. It was a lengthy discussion, but the conversation was about the process, timing, and how to move forward in finding the application. No action was taken or processes changed. Rather information was shared and the Board was aligned on how the process for hiring the ambulance director would be conducted. The conversation was lengthy only because questions regarding the matter were asked and information shared about the hiring process that had been ongoing.

Wanting a Closed Session

During the June 10, 2024, meeting, the Board did express a desire to be able to have a conversation in closed session regarding the ambulance director and accompanying issues. The Board asked the county attorney if there was any way to have a closed session to allow the Board to discuss these matters. The county attorney spent time specifically talking with the Board about how they could not meet as a majority in a meeting that is not open. The Board accepted the legal advice and did not go into closed session.

Supervisor Discussion as a Meeting

Thomas provided a 22-minute phone conversation between two out of the three County Supervisors. The phone conversation seems to have been conducted on speaker phone in a public area as both parties can be heard. There is also another female voice that can be heard commenting periodically.

The County argues this "surreptitiously recorded" conversation between two supervisors is not a meeting because there was no deliberation. Deliberation is generally defined to include "discussion and evaluative processes in arriving at a decision or policy." *Hutchison v. Shull*, 878 N.W.2d 221 n. 1 (Iowa 2016) (quoting *Hettinga v. Dallas Cnty. Bd. Of Adjustment*, 375 N.W.2d 293, 295 (Iowa Ct. App. 1985)). A gathering is considered "purely ministerial" and not a meeting under chapter 21 when members of a governmental body gather "without discussing policy or intending to avoid the purposes of the open meetings law." *Id.*

The conversation ranges in topics, including: the supervisors' frustrations about the hiring process for the new ambulance director, feeling they are left out of the loop, regret in how things were done up to that point, how they believe interviews should be conducted, and who they preferred to get the ambulance director position. They also discussed wanting to meet in closed

session to discuss matters that have occurred. At one point they recognized they should not be talking together outside a regular meeting, but continue the conversation any way.

This phone conversation included the very topics discussed in open meeting by the Board. In addition, the Board had specifically sought advice from the county attorney about whether they had any basis for having these discussions in a closed session. The attorney had advised that a quorum of the Board could not meet in closed session. Yet, a few days later, a quorum of the Board was audio recorded having a conversation about the same topic in a private meeting in violation of Iowa Code chapter 21. Under these facts, it is difficult to see that even if the conversation did not rise to “deliberation” between the supervisors, there was no intention by the supervisors to avoid the purposes of the open meeting requirements.

Records Requests

Thomas made a request regarding documents related to Thomas’ employment situation. The Board stated that Thomas’ personnel file was provided to him because of it was his personnel file, rather than as a records request. Communications between Thomas and the county attorney indicated the Board considered the records related to the investigation to be confidential. At this juncture it is not possible to determine whether all public records have been provided, whether documents not provided were properly withheld as confidential, and what efforts were taken by the Board to respond to the request for communications between the supervisors and others. Based on the telephone conversation between a majority of the Board, it seems likely there would be records of communications that may exist and a review for records should have been conducted. No documentation was provided this occurred.

Conclusion

Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint meets the necessary requirements for acceptance.

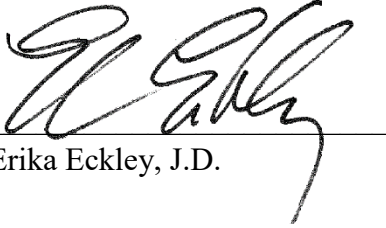
A majority of the Board had a private telephone conversation discussing the very topics previously discussed in open session and after being advised there was no basis for closed session discussion. It is also uncertain whether any review of the records request was done for records of all listed individuals.

IT IS SO ORDERED: Formal complaint 24FC:0070 is accepted pursuant to Iowa Code § 23.8(1) and Iowa Administrative Rule 497-2.1(2)(a).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will

review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Brian Thomas
Chauncey Moulding, Jefferson County Attorney

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0071
Kevin Wymore, Complainant	Dismissal Order
And Concerning:	
Cedar Rapids Community School District, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On August 13, 2024, Kevin Wymore filed formal complaint 24FC:0071, alleging Cedar Rapids Community School District (District) violated Iowa Code chapter 21.

Facts

Wymore alleges he was denied the opportunity to provide comment when the agenda included “building 2 new elementary schools worth ~\$50 million.” Wymore alleges an agenda was not provided until “just before the meeting's 5:30 p.m. start, despite the fact that I made a request for the agenda copy several hours before that time, at the school district's headquarters building, where school board meetings are held.” Wymore also alleges “no notice was posted for the Open Meeting on August 12. This posted document, which I obtained from the district's main receptionist after the Aug. 12 meeting adjourned, never did divulge a tentative open meeting agenda in advance, as required by law.” He alleges the Open Meeting Notice for Aug. 12 Meeting was “faulty” because the Notice of Public Meeting did not include a tentative agenda in advance, as required by law.

Brett Nitzschke, attorney for the District, provided a response. Nitzschke stated, for the August 12, 2024, Special Meeting, a copy of the tentative agenda was uploaded to the District’s website and was available for public view and download on August 10, 2024. A copy of the confirmation the tentative agenda was uploaded to the District’s website was provided by Nitzschke.

A copy of the Notice of Public Meeting was emailed to the Cedar Rapids Gazette on August 7, 2024. A copy of the email was provided. A copy of the Notice of Public Meeting was posted on

a bulletin board outside the board meeting room at the District’s Educational Leadership Support Center (ELSC) on August 8, 2024. A copy of email communication confirming the posting of the Notice of Public Meeting was provided. The meeting was held on August 12, 2024 at 5:30 p.m. at the District’s ELSC. The Notice of Public Meeting did not include the tentative agenda.

The District stated Wymore visited the ELSC at approximately 3:30 p.m. on August 12, 2024, and examined the bulletin board where the Notice of Public Meeting was posted. The Complainant alleges he asked the receptionist on duty for a copy of the special meeting tentative agenda. The receptionist on duty was a substitute employee filling in for the regular receptionist and did not have any experience in handling requests for tentative agendas.

Although the Wymore alleges he was not able to obtain a copy of the tentative agenda when he visited the ELSC prior to the special meeting, a copy of the tentative agenda was available on the District’s website and had been available since August 10. Furthermore, Wymore admits he requested and received a copy of the special meeting tentative agenda when he arrived at the ELSC prior to the beginning of the special meeting.

Applicable Law

“[A] governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.... notice conforming with all of the requirements of subsection 1 shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.” Iowa Code § 21.4(1)-(2)(a).

Analysis

Wymore’s complaint makes two allegations regarding the August 12 Meeting:

1. He was not provided an opportunity to make public comment;
2. The tentative agenda was not properly noticed as required by Iowa Code § 21.4.

He was not provided an opportunity to make public comment

Wymore alleges he was not provided an opportunity to make public comment regarding the District’s consideration of building two elementary school buildings. Nothing in Iowa Code chapter 21 requires the public be given an opportunity to speak by a government body. Iowa Code

§ 21.7 allows a government body the ability to make “reasonable rules for the conduct of its meetings.” The District has established a policy for public comment at its meetings.¹

The recording of the District’s meeting shows the agenda was amended to allow public comment at the beginning of the meeting. Shortly thereafter, the District allowed up to five minutes for each individual to provide public comment. Four individuals provided their comments. Wymore has provided no facts showing the District failed to comply with its policy for public comment when it has allowed it. The District has established a policy for providing public comment as allowed under Iowa Code § 21.7. There is no violation of Iowa Code chapter 21.

The tentative agenda was not properly noticed as required by Iowa Code § 21.4

A Notice of Public Meeting stating the date, time, and place of the meeting was prepared on August 7. This Notice was published in the Cedar Rapids Times on August 10. The Notice stated a tentative agenda would be provided. An email confirmation was provided that the tentative agenda was posted to the District’s website page on August 10.

Both parties agree Wymore visited the ELSC building and requested a copy of the tentative agenda a few hours before the meeting began, but the temporary staff on duty was not certain how to deal with the request and no agenda was provided. The bulletin board where the notices are posted was there as well. Wymore would not likely have needed to request a copy of the tentative agenda if it were posted on the bulletin board as required under Iowa Code § 21.4.

Further, the copy of the tentative agenda provided to Wymore before the meeting started states it was “Printed 8/12/2024 at 4:41 PM CDT”.² The tentative agenda was posted on the District’s website, but there is nothing establishing the agenda was physically posted on the bulletin board as required under Iowa Code § 21.4. This is a violation of the required notice provisions. Iowa Code § 21.4(1)(a); *see also* 23FC:0105 Jeff Law and Kourtney Mammen/River Valley School Board (technical violation for failing to physically post the agenda)³.

District Remedied notice deficiency

After Wymore’s complaint, the District placed consideration of the resolution for the two school buildings on its agenda for its October 14, 2024, meeting. This agenda also includes a provision

¹ “Persons who wish to be heard by the Board during either public hearings or public input times must complete a form “Request to Address the Board” which is available at the Board meeting. The completed form will be submitted to the Board President/Board Secretary who will recognize the speaker. Each participant is to limit his/her remarks to five (5) minutes. A five (5) minute time limit has been established to allow participation by as many persons as possible, while at the same time permitting the Board time to thoroughly consider all agenda items. Additional supporting material may be submitted in writing.” District Regulation 0202.11-R(1): Public Participation in Board Meetings and Public Hearings

² This time stamp appears when printing the agenda from the District’s website.

³ <https://ipib.iowa.gov/23fc0105-jeff-law-and-kourtney-mammenriver-valley-school-board-acceptance-order>

for public comments. The District physically posted the tentative agenda on the ELSC bulletin board and on the District's website on Friday, October 11, 2024.

The reconsideration of the resolution at a properly noticed meeting, has remedied the violation. Based on the reconsideration of the resolution after proper notice procedures, it is recommended IPIB find the technical violation remedied resulting in harmless error and dismiss the Complaint.

Conclusion

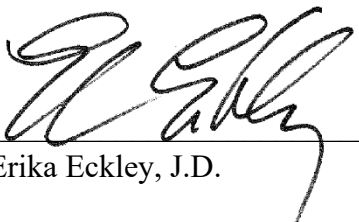
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

A tentative agenda for the District's meeting on August 12, 2024, was posted on the District's website, but not physically posted as required under Iowa Code § 21.4. To remedy the error, the District reconsidered the resolution at a subsequent, properly-noticed meeting on October 14, 2024, and ensured a public comment period was provided.

IT IS SO ORDERED: Formal complaint 24FC:0073 is dismissed pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Kevin Wymore
Brett Nitzschke, attorney for Cedar Rapids Community School District

The Iowa Public Information Board

In re the Matter of: Gail Bonath, Complainant And Concerning: Drake Community Library, Respondent	Case Number: 24FC:0073 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On August 25, 2024, Gail Bonath filed formal complaint 24FC:0073, alleging that the Drake Community Library (Library) violated Iowa Code Chapter 21.

Facts

Bonath states the Library posted an agenda for a meeting to be held on August 28, 2024. The Library instead met on August 21. The agenda for the August 21 meeting was posted to the City of Grinnell’s website on August 21. Bonath was unable to attend the meeting due to the change in meeting dates and inadequate notice.

The City Clerk responded on August 27, 2024, indicating that the agenda was posted on August 19 at the normal posting location for library meetings. In addition, the agenda was posted on the library calendar one week before the meeting. The Clerk conceded that the posting on the City’s website did not occur until August 21, but that the posting on the website was not required by law.

Applicable Law

Iowa Code § 21.4(1)(a) establishes the requirements that governmental bodies must meet to provide appropriate notice for a meeting:

“Except as provided in subsection 3, a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and *posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting*, or if no such office exists, at the building in which the meeting is to be held.” (Emphasis added.)

Analysis

Chapter 21 requires reasonable notice be utilized to advise the public of information related to meetings of the governmental body. Reasonable notice includes posting the meeting notice in a location that is easily accessible to the public and clearly designated as the principal office of the body holding the meeting. In this case, the notice for the Library meeting was posted within the Library at the routine location for the posting of meeting information.

The IPIB has held in advisory opinions and orders that Chapter 21 does not require the posting of notice on the governmental body's website. "Iowa Code Chapter 21 does not have any requirement that notice of a meeting be posted on the governmental entity's website, but choosing to post the public notice on the website at least twenty-four hours prior to the commencement of the meeting would also enable better access for the community." (IPIB Advisory Opinion 24AO:0005.)

While Chapter 21 has not kept pace with the manner in which government bodies conduct business, the IPIB must make decisions within the law as it currently exists. Failure to accurately post meeting information on a governmental body's website is not currently a violation. The meeting information was posted at the routine location at the Library that is commonly used for postings.

Conclusion

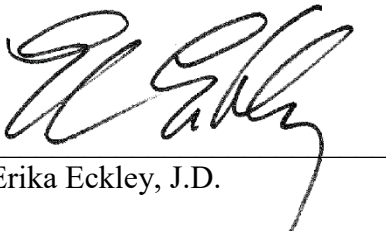
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

After review of the facts and circumstances, the Library posted notice of the meeting in a manner consistent with the requirements of Iowa Code Chapter 21.

IT IS SO ORDERED: Formal complaint 24FC:0073 is dismissed pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:
Gail Bonath, Complainant
Drake Community Library
City of Grinnell

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0075
Karen Davis, Complainant	Dismissal Order
And Concerning:	
City of Zearing, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On September 3, 2024, Karen Davis filed formal complaint 24FC:0075, alleging the City of Zearing violated Iowa Code chapters 21 and 22.

Facts

On July 9, 2024, the city council for the City of Zearing convened a special open meeting, during which the Complainant, Karen Davis, was terminated from their position as city clerk. Following the adjournment of this meeting, Mayor Martin Herr and three of the five current council members (Sandy Parisho, Robin Johnson, and Diane Pascuzzi) remained in the City Hall, along with Davis. Davis alleges, in the first of two formal complaints filed with IPIB, this constituted an unlawful meeting in violation of Iowa Code § 21.3(1).

In support of the chapter 21 claim, Davis provided video evidence of a conversation with the Mayor and three city council members. In the first clip, Davis raises the issue of “this quorum that you guys keep having here and deciding things and talking,” to which Herr and one of the city council members respond “Don’t go there.” In the other two clips, the four city officials and Davis discuss the return of office keys and a government-issued laptop, the latter of which was located at Davis’ home. Davis offers to return the laptop the next morning, and Pascuzzi says they will follow Davis home to retrieve the laptop instead. The City agreed this conversation occurred outside the scheduled council meeting, as well as another portion of the same conversation in which Herr asked Davis to come back to the office the next morning to complete payroll to ensure timely payment for the remainder of the pay period. According to the City, no other matters pertaining to city business were discussed, which is reflected in the video evidence provided by Davis.

On July 16, 2024, Davis filed an open record request form with the City seeking a copy of meeting minutes from the July 9 meeting. The City mailed meeting minutes from a different meeting held on April 23, 2024. Davis alleges reaching out to the City via email to notify them of this discrepancy, but Davis claims the correct minutes were never sent.

In its response, the City acknowledged Davis was initially provided the incorrect minutes, which it claimed was unintentional. According to the City, the correct minutes for the July 9 meeting were ultimately provided to Davis as an email attachment on July 18, two days after the records request.

Davis filed this formal complaint on September 3, 2024. IPIB has not received any further correspondence from Davis since this time.

Applicable Law

“Meetings of governmental bodies shall be preceded by public notice as provided in section 21.4 and shall be held in open session unless closed sessions are expressly permitted by law. Except as provided in section 21.5, all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session.” Iowa Code § 21.3(1).

Iowa Code § 21.2(2) defines a meeting as a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties. The law goes on to state, “Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.”

Analysis

Chapter 21 Complaint

Not all meetings of a governmental body include deliberation or action related to policy-making duties. Deliberation is generally defined to include “discussion and evaluative processes in arriving at a decision or policy.” *Hutchison v. Shull*, 878 N.W.2d 221 n. 1 (Iowa 2016) (quoting *Hettinga v. Dallas Cnty. Bd. Of Adjustment*, 375 N.W.2d 293, 295 (Iowa Ct. App. 1985)). A gathering is considered “purely ministerial” when members of a governmental body gather “without discussing policy or intending to avoid the purposes of the open meetings law,” though ministerial activities may become deliberation within the meaning of Iowa Code § 21.2(2) when members “engage in any discussion that focuses at all concretely on matters over which they exercise judgment or discretion.” *Id.* Looking to relevant IPIB precedent, the board has previously determined that a discussion between a quorum of city council members was “purely ministerial” and thus not a

“meeting” for the purposes of chapter 21 where the sole purpose of discussion was to schedule times for interviewing job applicants. *See* 20FC:0027 Logan Nehman/Fonda City Council.

Only two topics plausibly related to city business were alleged to have been discussed in the post-adjudgment conversation on July 9, 2024: 1) the return of a city-owned laptop from Davis’ house and 2) whether Davis would come in the following morning to complete payroll. Neither of these matters implicate the policy-making authority of the city council as governmental body, nor do they inherently require the judgment or discretion of its members in this capacity. Instead, the purpose was simply to confirm the return of city property from a former employee and ensure that same employee would receive their final paycheck on time.

There is no dispute the three city council members present constituted a majority of a governmental body, as defined by Iowa Code § 21.2(1). Nevertheless, the subject of the conversation was purely ministerial, meaning there was no meeting in violation of Iowa Code § 21.3.

Chapter 22 Complaint

Davis also alleged an open records violation from the receipt of incorrect minutes in response to a records request submitted on July 16. The City agrees it erroneously sent the wrong record in the initial mailing, but the correct minutes from the July 9 meeting were provided to Davis on July 18, two days after the request.

Chapter 22 is largely silent as to the time for response to a records request, though case law establishes a response must be reasonably prompt, after considering the size and nature of the request, including factors such as the specificity of the request, the number of potentially responsive documents, the age of the documents, the location of the documents, and whether documents are stored electronically. *See* 22AO:0004 (providing guidance on the time government bodies have to produce requested records).

Two days would be considered sufficiently prompt for a records request. It is not clear that providing a non-responsive record is a violation of any provision of chapter 22 in and of itself. Even if there were a violation, it would constitute harmless error, as the City’s subsequent email with the correct record attached fully complied with their requirements under chapter 22.

Conclusion

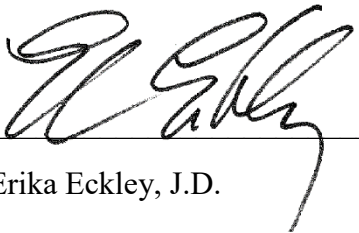
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The facts alleged in Davis’ first complaint do not amount to an unlawful meeting. To the extent there was any chapter 22 violation alleged in Davis’ second complaint, the violation was promptly and entirely remedied by the City’s timely records response.

IT IS SO ORDERED: Formal complaint 24FC:0075 is dismissed as legally insufficient or involves harmless error pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Karen Davis, Complainant

City of Zearing, Respondent

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0077
Kyle Ocker, Complainant	Acceptance Order
And Concerning:	
Mahaska County Sheriff's Office, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On September 9, 2024, Kyle Ocker filed formal complaint 24FC:0077, alleging the Mahaska County Sheriff's Office violated Iowa Code chapter 22.

Facts

On May 16, 2024, a citizen complaint was filed with the Mahaska County Sheriff's Office against Deputy Sheriff Jesse Sanders. An internal investigation was initiated, which confirmed Sanders had violated multiple standards of conduct. On May 29, 2024, Sanders resigned in lieu of termination from the Sheriff's Office. This resignation was accepted the same day.

On June 27, 2024, Ocker, editor for the *Oskaloosa Herald*, submitted a public records request with the Sheriff's Office, seeking five items: 1) the reasons and rationale for Sanders' resignation in lieu of termination, 2) any separation agreement, severance agreement, resignation agreement, legal release, or similar written record created in connection with Sanders' resignation, 3) Sanders' resignation letter, 4) any report or other documentation disclosing any paid or unpaid leave for Sheriff's Office employees during a specified time period, and 5) documents relating to any citizen or internal complaints about the Sheriff's Office or its deputies during the same specified period. This request was promptly acknowledged.

On July 19, 2024, Mahaska County Sheriff Russell Van Renterghem responded to Ocker's records request. In the initial letter, Van Renterghem provided Sanders' brief resignation letter which read, in full: "I, Deputy Jesse Sanders, am resigning from my position of Deputy Sheriff with the Mahaska County Sheriff's Office effective immediately." Van Renterghem also stated that there

were no responsive records for Items #2 or #4 of the request, and that complaints or reports responsive to Item #5 were confidential under Iowa Code § 22.7(18) and § 80F. As for Item #1, Van Renterghem disclosed there had been a formal investigation and Sanders had resigned in lieu of termination prior to a final ruling.

Ocker also made a concurrent request to the Iowa Law Enforcement Academy, for “[c]omplaints filed about any licensed member of the Oskaloosa Police Department or Mahaska County Sheriff’s Office in 2024,” as well as any resulting actions taken in response to such complaints. ILEA responded with a series of partially redacted documents reflecting Sanders’ resignation in lieu of termination, though no reason for the action were provided.

On September 9, 2024, Ocker filed a formal complaint with IPIB, alleging further disclosure was required for the “documented reasons and rationale” for Sanders’ resignation in lieu of termination, pursuant to Iowa Code § 22.7(11)(a)(5).

On September 13, 2024, the Sheriff’s Office provided additional disclosures to Ocker, including a document labeled “Attachment 04.” Attachment 04 read as follows:

On May 16, 2024 I became aware of a citizen complaint regarding your on-duty activity. On the same date, I initiate [sic] a formal administrative investigation into this allegation which was assisted by an outside agency. The results of this investigation confirmed that you violated multiple standards of conduct, specifically those contained in Iowa Code 341A.11(1), (2), (4), and (7), the Mahaska County Employee Handbook grounds for discipline specified in (2), (4), (10), and (14), and the Mahaska County Sheriff’s Office policies 1-3(2), 1-3(11), 1-3(22), and 1-4(V). Prior to the [sic] outlining the findings of this investigation with you, on May 29 you tendered your resignation which I accepted before final disciplinary action was taken.

Ocker has maintained this disclosure was also insufficient under Iowa Code § 22.7(11)(a)(5), as it failed to “go into any information about what the specific violations are and what behavior led to them.” The Sheriff’s Office, relying on the counsel of Mahaska County Attorney Andrew Ritland, responded that Attachment 04 included all information required to be released under Iowa Code § 22.7(11)(a)(5), including 1) the fact of Sanders’ resignation in lieu of termination as the result of disciplinary action, 2) the time and origin of the complaint along with the face that the alleged violation(s) occurred while Sanders was on-duty, and 3) citations to “specific and numerous statutory provisions and county policies that were violated.” The Sheriff’s Office also argued additional information would be protected from disclosure under Iowa Code § 80F.1(20) (concerning the confidentiality of disciplinary proceedings and complaints made against peace officers), as well as a balancing test weighing the right of access to public records against the Sheriff Office’s interests in maintaining employee records.

On October 1, the Sheriff's Office submitted additional documents clarifying the policies described in Attachment 04, which Sanders was found to have violated. From the Mahaska County Handbook, the identified violations included 1) violation of any lawful and reasonable County or departmental policy (#2), 2) absence from duty without permission, proper notice, or satisfactory reason (#4), 3) incompetence, ineffectiveness, inefficiency, or wastefulness in the performance of assigned duties (#10), and 4) actions, including the use of social media, that embarrass, disparage, or negatively impact the image and reputation of Mahaska County (#14). The documents also provided that Sanders had violated policies relating to 1) the appropriation of lost, found, or stolen property, the conversion of county property, and the conversion of property held by the Sheriff's Office as evidence, 2) absence without leave, 3) failure to properly patrol Mahaska County, unauthorized absence from assignment, or failure to respond to a radio call, and 4) "unauthorized persons in patrol cars."

The Sheriff's Office has not provided further detail about the specific nature of the complaint or Sanders' alleged violation to Ocker or any other person, including IPIB.

Sanders has not sought an injunction to restrain disclosures.

Applicable Law

11. *a.* Personal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies. However, the following information relating to such individuals contained in personnel records shall be public records, except as otherwise provided in section 80G.3 [a provision protecting the confidentiality of personnel information for undercover law enforcement officers]:

...

(5) The fact that the individual resigned in lieu of termination, was discharged, or was demoted as the result of a disciplinary action, and the documented reasons and rationale for the resignation in lieu of termination, the discharge, or the demotion. For the purposes of this subparagraph, "*demoted*" and "*demotion*" mean a change of an employee from a position in a given classification to a position in a classification having a lower pay grade.

Iowa Code § 22.7(11)(a)(5).

In relation to the rights of peace officers and public safety/emergency personnel: "The employing agency shall keep an officer's statement, recordings, or transcripts of any interviews or disciplinary proceedings, and any complaints made against an officer confidential unless otherwise provided by law or with the officer's written consent. Nothing in this section prohibits the release of an

officer's statement, recordings, or transcripts of any interviews or disciplinary proceedings, and any complaints made against an officer to the officer or the officer's legal counsel upon the officer's request." Iowa Code § 80F.1(20).

Analysis

Iowa Code § 22.7(11)(a)(5), provides for the disclosure of "[t]he fact that [a public employee] resigned in lieu of termination," as well as the "documented reasons and rationale for the resignation in lieu of termination." Because the Sheriff's Office has stipulated through its answers Deputy Sanders "resigned in lieu of termination as the result of disciplinary action," no further analysis is required to determine this provision applies.

Judicial interpretation of Iowa Code § 22.7(11)(a)(5) is limited, but IPIB Advisory Opinion 18AO:0008 provides useful guidance. The Advisory Opinion provides a government body may appropriately draft a document providing the information required by Iowa Code § 22.7(11)(a) to avoid inadvertent disclosure beyond what is required from the personnel file for the terminated employee. Sufficient documentation for these purposes must include "sufficient factual information to support and substantiate the action taken." Mere one-word descriptions such as "work rules" or "performance" would fall short of this requirement.

In order to comply with Iowa Code § 22.7(11)(a)(5)'s requirements, IPIB has held government bodies must, at a minimum, 1) disclose the fact that an employee resigned in lieu of termination, was discharged, or was demoted as the result of disciplinary action, 2) say which law, rule, or policy, if any, they believe the employee violated, and 3) provide at least one sentence about the behavior or incident that triggered the action, which should 4) include details, such as the date(s) of alleged behavior, location, or how it was discovered. These documentation standards are intended to strike the balance between the government body's obligation to keep "personal information in confidential personnel files" confidential and the public's statutory interest in accessing public records, including the five categories of record information described in Iowa Code § 22.7(11)(a).

On review of the information and arguments presented by the parties, the Sheriff's Office disclosed that Sanders resigned from his position as deputy in lieu of termination, along with a comprehensive list of policies allegedly violated, including provisions from the Iowa Code, the Mahaska County Employee Handbook, and the Mahaska County Sheriff's Office policies. The Sheriff's Office has provided records showing the basis for disciplinary action was a citizen complaint submitted to the Sheriff's Office on May 16, 2024, which related to Sanders' on-duty activity.

It is not clear, however, that the Sheriff's Office has provided "at least one sentence about the behavior or incident that triggered the action," in order to "support and substantiate the action

taken.” Such documentation would *not* require the disclosure of the citizen complaint itself, nor would it require the Sheriff’s Office to turn over its investigatory files or Sanders’ disciplinary record, both of which would likely be protected as “personal information in confidential personnel records.” Nevertheless, the foregoing analysis indicates that compliance with Iowa Code § 22.7(11)(a)(5) requires more than has presently been provided.

Turning to the respondent’s other arguments for dismissal, Iowa Code § 80F.1(20) imposes confidentiality requirements on employers for officers’ statements, recordings, transcripts of interviews and disciplinary proceedings, and complaints made against an officer, with the qualifier that confidentiality applies “unless otherwise provided by law or with the officer’s written consent.” The plain meaning of this text suggests that more specific confidentiality statutes like Iowa Code § 22.7 should be read to take precedent as “otherwise provided by law.”

Courts have held that, when a requested piece of information clearly fits into a category of exemption under Iowa Code § 22.7, there is no need to apply a balancing test, as this reflects a legislative determination with regards to confidentiality which obviates the need for case-by-case analysis. *Des Moines Indep. Cmty. Sch. Dist. Pub. Records v. Des Moines Register & Tribune Co.*, 487 N.W.2d 666, 670 (Iowa 1992). Likewise, where an exemption carves out specific categories of information which must be provided, the legislature has already made its determination the public interests in disclosure outweigh the privacy interests which might otherwise be considered in a balancing test. As such, no further balancing test is required for the disclosure of “documented reasons and rationale” for Sanders’ resignation in lieu of termination.

Conclusion

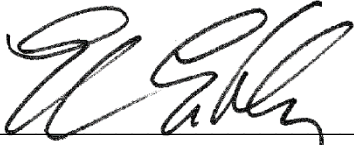
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint meets the necessary requirements for acceptance.

The reasons and rationale for a resignation in lieu of termination in this circumstance requires providing some additional information about the behavior or incident that triggered the action.

IT IS SO ORDERED: Formal complaint 24FC:0077 is accepted pursuant to Iowa Code § 23.8(1) and Iowa Administrative Rule 497-2.1(2)(a).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Kyle Ocker, Complainant
Russ Van Renterghem, Mahaska County Sheriff
Andrew Ritland, Mahaska County Attorney

The Iowa Public Information Board

In re the Matter of: Tiffany South, Complainant And Concerning: Iowa Girls High School Athletic Union, Respondent	Case Number: 24FC:0080 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On September 23, 2024, Tiffany South filed formal complaint 24FC:0080, alleging the Iowa Girls High School Athletic Union violated Iowa Code chapter 22.

Facts

Tiffany South, was previously employed by the CAM Community School District as head coach for the South West Area Team (“S.W.A.T.”), a girls’ wrestling team. The S.W.A.T. Girls Wrestling Booster Club (“Booster Club”) was an independent non-profit organized to support the team. The Iowa Girls High School Athletic Union (“IGHSAU”) is the governing body for interscholastic girls wrestling in the state of Iowa.

In March 2024, the School District conducted an internal investigation involving South and S.W.A.T., the details of which are outside the scope of the present complaint before IPIB. Following this investigation, at the end of the 2023-2024 school year, the School District declined to renew South’s contract.

On August 29, 2024, South submitted a records request to IGHSAU, requesting 1) “All emails, texts, notes, or documents regarding Tiffany South” and 2) “All emails, texts, notes, or documents regarding the S.W.A.T. Girls Wrestling Booster Club” produced between November 2023 and the time of the request. This request was made concurrently with a similar records request made to the School District, which is the subject of a separate formal complaint (24FC:0079).

IGHSAU, through legal counsel Brad Epperly, responded that both the March 2024 investigation and subsequent decisions regarding South’s employment were handled solely by the School District, without IGHSAU’s involvement. Epperly also stated that IGHSAU was coordinating

with the School District concerning the release of records, given IGHSAU's position that any responsive records in their possession would be duplicative.

On September 18, 2024, South submitted an updated records request to IGHSAU, seeking records related to South's pending FOIA/Chapter 22 requests, in addition to the original two categories.

On September 23, 2024, South filed formal complaint 24FC:0080 against IGHSAU, alleging a failure to provide requested records, as well as a failure to provide a responsive timeline upon receipt of the records request, both in violation of chapter 22.

On October 1, 2024, IGHSAU released what it purported to be "all documents responsive to [South's] request." In an accompanying letter, IGHSAU asserted 1) that it had not withheld any documents pursuant to any claims of confidentiality or privilege, 2) that all responsive records in its possession were provided by either the School District or the Booster Club, and 3) that it did not have any other records on the subject aside from those disclosed.

IGHSAU also argued that it did not constitute a "government body" subject to chapter 22, meaning it did not consider itself subject to Iowa open records law in the first place.

Applicable Law

"*Government body*" means this state, or any county, city, township, school corporation, political subdivision, tax-supported district . . . or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official, or officer of any of the foregoing or any employee delegated the responsibility for implementing the requirements of [chapter 22]." Iowa Code § 22.1(1).

"*Lawful custodian*" means the government body currently in physical possession of the public record. The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record. The records relating to the investment of public funds are the property of the public body responsible for the public funds." Iowa Code § 22.1(3).

Analysis

IGHSAU's Classification Under § 22.1's Definition of "Government Body"

IGHSAU is an affiliate member of the National Federation of State High School Associations (NFSHSA). NFSHSA is a national nonprofit with 501(c)(3) status. IGHSAU is a 501(c)(3) organization whose mission is "to govern fair, safe and sportsmanlike interscholastic competition in a manner which emphasizes the educational enhancement of all participants."¹

¹ <https://ighsau.org/about/history/>

IGHSAU is governed by an eight-person Board of Directors, which includes six elected members, each of whom must be an active administrator of one of IGHSAU's member schools, and appointees selected by the Iowa Association of School Boards and the Iowa Department of Education. IGHSAU also includes four Representative Councils serving four geographic districts (Southeast, Northeast, Southwest, and Northwest), ten Sport Advisory Committees specific to each sport governed by IGHSAU, and a Student Athlete Advisory Committee, comprised of female student-athletes elected from across the state. CAM Community School District is a current member.

Membership in IGHSAU is open to all accredited junior and senior high schools in the state of Iowa, including both public and private schools, with applications for membership subject to the approval of the Board of Directors. The IGHSAU Board of Directors has the discretionary authority to sanction member schools for just cause, including probation or suspension.

While the public schools which comprise most of the membership of IGHSAU are undoubtedly government bodies, this fact does not make IGHSAU itself a government body. *See* Iowa Code § 22.1(1). IGHSAU is not an entity of the state, nor of any political subdivision, nor is it a school corporation or a nonprofit licensed to conduct pari-mutuel wagering. IGHSAU does not meet the definition of a government body.

In *Gannon v. Board of Regents*, the Iowa Supreme Court considered the “highly interwoven and symbiotic relationship” between a public university and the nonprofit charitable foundation it contracted with for the purpose of raising money and managing university finances, including money. 692 N.W.2d 31, 42 (Iowa 2005). In *Gannon*, the Court held that the university could not “avoid disclosure of what would otherwise be a public record” by contracting away responsibility for a government function to its charitable foundation. *Id.* While the scope of government function was fact-dependent, a non-governmental entity's records could still therefore be considered public records subject to public scrutiny. *Id.* at 44.

Nevertheless, even where a non-governmental entity generates and possesses public records subject to chapter 22, this does not make them government bodies themselves, nor does it make them lawful custodians with regards to those records. *See* Iowa Code § 22.1(2) (“The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record. The records relating to the investment of public funds are the property of the public body responsible for the public funds.”); *City of Dubuque v. Dubuque Racing Association, Ltd.*, 420 N.W.2d 450, 453 (“This decision [of whether records belong to a government body under § 22.1] does not turn on the physical location of the documents in question, rather, the appropriate inquiry is whether the documents are held by the [government] officials in their official capacity”); 24AO:0009: *The Definition of a Government Body and Whether a Nongovernment Body May Serve as the Lawful Custodian of Public Records for Purpose*, <https://ipib.iowa.gov/advisory-opinion-24ao0009-definition-government-body-and-whether-nongovernment-body-may-serve-lawful> (“Regardless of how ‘highly interwoven and symbiotic’ the relationship is between a government entity and a private entity, a private entity may never be the lawful custodian of public records, regardless of whether it generated those records”).

IGHSAU's delegated authority to organize and govern interscholastic girls' sports in the state of Iowa could potentially be considered performing a government function if there is found to be a "highly woven and symbiotic relationship" with the government bodies it represents. If so, then at least a portion of records generated by it on behalf of its public-school members may qualify as public records, which chapter 22 treats the same as any other public record generated by a government body. Nevertheless, requests for the production of such public records would never be made to IGHSAU. They must be made to the government body which qualifies as the lawful custodian of the records, not to the non-governmental entity acting on its behalf. 24AO:0009: *The Definition of a Government Body and Whether a Nongovernment Body May Serve as the Lawful Custodian of Public Records for Purpose.*

IGHSAU's involvement in this case appears to be limited to email correspondence with the School District and the SWAT Booster Team following the district's investigation and subsequent decision not to renew South's contract. To the extent these may be public records, the lawful custodian would be the School District, and the same would be true for any hypothetical public records generated by IGHSAU if it performs government functions on behalf of the School District. In other words, while IGHSAU may be in physical possession of records subject to public scrutiny under chapter 22, the responsibility for disclosure of any public records would lie with the School District as the government body and lawful custodian.

Conclusion

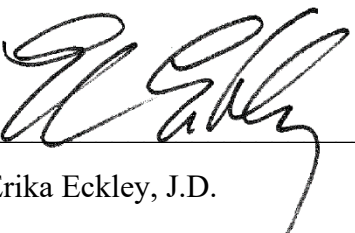
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

Specifically, the complaint is likely legally insufficient, as IGHSAU is not a government body under § 22.1.

IT IS SO ORDERED: Formal complaint 24FC:0080 is dismissed as it is legally insufficient pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Tiffany South, Complainant

Iowa Girls High School Athletic Union, Respondent

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0086
Ben Ward, Complainant	Dismissal Order
And Concerning:	
Iowa Office of Civil Rights, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On September 29, 2024, Ben Ward filed formal complaint 24FC:0086, alleging the Office of Civil Rights violated Iowa Code chapter 22.

Facts

On July 12, 2024, Ben Ward filed formal complaint 24FC:0062, alleging the Iowa Office of Civil Rights (IOCR) violated Iowa Code chapter 22. 24FC:0062 involved seven identifiable allegations and disputes, arising out of multiple different purported records requests.

On September 19, 2024, IPIB found no apparent violation of chapter 22, finding 1) IOCR had fully complied with its statutory obligations as a government body in possession of government records, 2) specific records and information not produced to Ward were properly redacted or withheld in accordance with applicable state law, and 3) unanswered requests for information fell outside the scope of chapter 22 public records. All of Ward's other violations were dismissed as either speculative, lacking probative evidence, or irrelevant to IPIB's analysis.

On September 29, 2024, following the dismissal of 24FC:0062, Ward filed this complaint 24FC:0086, which arose out of the same dispute. In this complaint, Ward alleges the respondents violated Iowa Code chapter 22 by "unlawfully unredacting and disclosing portions of 'Exhibit 1' in [24FC:0062]."

This complaint refers to a formal response letter submitted by Assistant Attorney General Katie Fiala to IPIB on August 12, 2024, during the course of IPIB's investigation into the complaint. In support of IOCR's response, Fiala attached Exhibit 1 as an example. Significant portions of the exhibit were redacted. Ward alleges the release of Exhibit 1 to IPIB violated Iowa Code § 22.7(18), which addresses the confidentiality of incoming communications from persons outside of

government. This same complaint was raised by Ward on September 16, 2024, in an email relating to the prior case, 24FC:0062.

Applicable Law

Upon receipt of a complaint alleging a violation of chapter 21 or 22, the board shall do either of the following:

...

Determine that, on its face, the complaint is outside its jurisdiction, is legally insufficient, is frivolous, is without merit, involves harmless error, or relates to a specific incident that has previously been finally disposed of on its merits by the board or a court. In such a case the board shall decline to accept the complaint. If the board refuses to accept a complaint, the board shall provide the complainant with a written order explaining its reasons for the action.

Iowa Code § 23.8.

Analysis

Formal complaint 24FC:0086 alleges the IOCR violated chapter 22 by unlawfully disclosing unredacted portions of the document entitled “Exhibit 1” to IPIB in the course of responding to complaint 24FC:0062. Iowa Code § 23.6(6) provides IPIB may examine the records of a government body that are the subject matter of a complaint, including confidential records, and all records provided to IPIB “shall continue to maintain their confidential status.” Exhibit 1 was disclosed to IPIB in the context of IOCR’s response to the complainant’s contention that IOCR was in violation of chapter 22.

This Complaint is an extension of the previous complaint, 23FC:0062, that was dismissed by IPIB after thorough investigation. Iowa § 23.8(2) provides IPIB may dismiss a complaint which “relates to a specific incident that has previously been finally disposed of on its merits by the board or a court.” The allegations presented by the complainant in the present formal complaint were previously considered and disposed of on their merits in 24FC:0062.

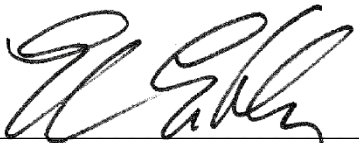
Conclusion

Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

IT IS SO ORDERED: Formal complaint 24FC:0086 is dismissed as legally insufficient or relate to an incident that has previously been finally disposed of on its merits pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on October 10, 2024, to:

Ben Ward, Complainant

Katie Fiala, attorney for Iowa Office of Civil Rights

Re: [EXTERNAL] New complaint received by IPIB - 24FC:0074

1 message

dilholst@netins.net <dilholst@netins.net>

Mon, Sep 30, 2024 at 10:32 AM

To: "Gookin, Eric" <Eric.Gookin@sos.iowa.gov>

Cc: Erika Eckley <erika.eckley@iowa.gov>, "Overschmidt, Emma" <Emma.Overschmidt@sos.iowa.gov>

Mr. Gookin and Erika,

I was able to access and download the files. With the Deliverable Acceptance Forms and invoices being an ongoing activity through completion of the CIVIX project, I will initiate a new open records request after the next quarter. Once I have reviewed the documents that you have supplied, there may be requests for documents described in the "Deliverable(s)".

Thank you for responding to this request, and thank you, Erika, for your assistance. You may consider my complaint closed.

Diane Holst

563-505-3764

On 2024-09-27 14:05, Gookin, Eric wrote:

Ms. Holst:

I just shared the link to the file location via M365. Please confirm you are able to access and download the redacted files. Once you do, we will close out this request.

Thank you

Eric

From: Gookin, Eric**Sent:** Thursday, September 26, 2024 5:19 PM**To:** 'Dilholst' <dilholst@netins.net>**Subject:** RE: [EXTERNAL] New complaint received by IPIB - 24FC:0074

Please see the attached. I'll send over the status reports tomorrow after the second review. If, for some reason, we don't get through them all, I'll send whatever I can tomorrow.

From: Gookin, Eric**Sent:** Thursday, September 26, 2024 2:52 PM**To:** Dilholst <dilholst@netins.net>**Subject:** RE: [EXTERNAL] New complaint received by IPIB - 24FC:0074

Ms. Holst:

A quick update on the status of the status reports. I'm making good progress on my first review of them. However, I will need to pull in a second resource tomorrow to complete a second review. It was not until I got into the redaction process that I realized there was some personnel information and potential security information that needed to be redacted. I'll need to talk to someone involved directly in the project for better context.

In total, there are about 35 documents. Six of them I've already redacted to my satisfaction. Those are invoices and the only redaction that was necessary was the vendor's bank information. I'll send those later today.

Thanks.

From: Eckley, Erika <erika.eckley@iowa.gov>
Sent: Wednesday, September 25, 2024 11:36 AM
To: Gookin, Eric <Eric.Gookin@sos.iowa.gov>
Cc: Dilholst <dilholst@netins.net>
Subject: Re: [EXTERNAL] New complaint received by IPIB - 24FC:0074

Thank you.

Erika Eckley, Executive Director
Iowa Public Information Board (IPIB)

On Wed, Sep 25, 2024 at 11:34 AM Gookin, Eric <Eric.Gookin@sos.iowa.gov> wrote:

I pulled down the documents on Monday, but still need to review them. I have time set aside specifically for that review tomorrow afternoon.

From: Dilholst <dilholst@netins.net>
Sent: Tuesday, September 24, 2024 2:03 PM
To: Eckley, Erika <erika.eckley@iowa.gov>
Cc: Gookin, Eric <Eric.Gookin@sos.iowa.gov>
Subject: Re: [EXTERNAL] New complaint received by IPIB - 24FC:0074

Erika, I have not received anything. Thank you.

Diane

Sent from my iPhone

On Sep 24, 2024, at 1:51 PM, Eckley, Erika <erika.eckley@iowa.gov> wrote:

I am checking in to see whether the information requested has been provided to resolve this matter. Please let me know,

Thank you.

Erika Eckley, Executive Director
Iowa Public Information Board (IPIB)

On Thu, Sep 19, 2024 at 10:39 AM <dilholst@netins.net> wrote:

Ms. Eckley and Mr. Gookin,

Apologies for not replying sooner. I've been out of town. I have no problem with removing Ms. Overschmidt from the complaint. Mr. Gookin has done a fine job explaining how this came about.

Regarding the email provided by Mr. Gookin where he asks Sean Huston to let you (Mr. Gookin) know, "if we sign any subsequent documents like a statement of work or anything else", there is no reply email from Mr. Huston advising Mr. Gookin that there is no statement of work, so this does not deny its existence. Is Mr. Huston the Project Manager on the State side?

A standard statement of work (SOW) outlines; objectives and goals, scope of work, tasks and responsibilities, outcomes and deliverables, schedules and timelines, and standards and testing. A project to replace the state's election management system and voter registration system would span consulting and software development work, and an SOW keeps both parties (State and Civix) on the same page through the project. It's not clear how a project of this nature could be performed without one.

It sounds like the "deliverables acceptance forms" Mr. Gookin describes in his response would be a document created and approved after a milestone is completed and has an invoice associated with it.

Therefore, in order to proceed and close this complaint, I am requesting:

- The confirmation from Mr. Huston that there is not SOW

- Mr. Huston's title

- The deliverables acceptance forms and invoices that you have

Thank you,

Diane Holst

On 2024-09-10 12:32, Gookin, Eric wrote:

Ms. Holst and Ms. Eckley:

As an initial matter: I request that you amend the complaint to remove Ms. Overschmidt's name. I understand why Ms. Holst included her initially; however, I never *escalated* any work related to this request to Ms. Overschmidt. She is new to the office and is learning the process for our records requests. I am the records custodian for the office, and any work that Ms. Overschmidt has performed for this request is at my direction. Ms. Holst would have no way of knowing Ms. Overschmidt's role at the time of filing her complaint.

As to the complaint itself: As previously indicated by my emails to Ms. Holst, the signed contract with Civix, which includes the materials from their project bid, is the document that governs the implementation of the new voter registration database and election management system. As acknowledged in the attached emails, that was delivered to her several months ago. I am happy to provide the invoices and deliverables acceptance forms that we have. Those indicate the work and costs that are attributable to the project. While Ms. Holst has not provided any indication, nor is she required to, of what information she expects to glean from her request, those are the kind of details normally included in statements of work. Also attached is an email from me to our project manager requesting to be notified if any statements of work are executed.

Please let me know how you would like me to proceed.

Best,

Eric

From: Eckley, Erika <erika.eckley@iowa.gov>

Sent: Tuesday, August 27, 2024 1:46 PM

To: Gookin, Eric <Eric.Gookin@sos.iowa.gov>; dilholst@netins.net; Overschmidt, Emma <Emma.Overschmidt@sos.iowa.gov>

Subject: [EXTERNAL] New complaint received by IPIB - 24FC:0074

You don't often get email from erika.eckley@iowa.gov. [Learn why this is important](#)

****Secretary of State Notice****

This email is from an external source. Think before you click links or open attachments. If you believe this email is phishing, please email this as an attachment to the SOS Help Desk.

A formal complaint has been filed with the Iowa Public Information Board, which is attached to this email.

Please review the attached information and provide a response to the IPIB by "reply all" to this email within two weeks. This will ensure all parties are copied on the information. If you have any questions or additional information to provide, please contact our office.

Thank you for your assistance.

<~WRD3582.jpg>

Erika Eckley, JD, MPA

Executive Director

Iowa Public Information Board (IPIB)

502 East 9th Street

Iowa Public Information Board Policy

Subject:	Records Retention
Applicable Law:	Iowa Code Chapter 305
Date Approved:	October 17, 2024
Date Reviewed:	October 17, 2024

Purpose: Iowa Code Chapter 305.10 outlines the responsibilities of each agency head to maintain records and cooperate with the state records commission and state archives in the development and implementation of government information policies, standards, and guidelines, and in the development and implementation of records series retention and disposition schedules. This **Records Retention** policy is developed to comply with Iowa Code Chapter 305.

Definitions:

“Creation” means when a record is first received or recorded.

“Record” means a document, book, paper, electronic record, photograph, sound recording, or other material, regardless of physical form or characteristics, made, produced, executed, or received pursuant to law in connection with the transaction of official business of state government. “Record” does not include library and museum material made or acquired and preserved solely for reference or exhibition purposes or stocks of publications and unprocessed forms.”

Policy:

General Records Retention Schedule: The Iowa Public Information Board will adopt and utilize the [General Records Retention Schedule](#) developed by the State Archives and Records Program. A summary of the General Records Retention Schedule as it applies to the Iowa Public Information is attached as Exhibit 1 to this policy.

Retention: The Iowa Public Information Board will retain and dispose of records based on the schedule established by the General Records Retention Schedule.

Disposition: Once the required retention is reached, as established by the General Records Retention Schedule, and there are no legal holds or open public records requests to which records are relevant, the agency shall dispose of records pursuant to the General Records Retention Schedule.

Disposition Requirements: The General Records Retention Schedule mandates whether a records will be destroyed, retained, or permanently preserved with the State Archivist.

Recordkeeping: The Iowa Public Information Board will document the disposition of each record. The documentation of disposition will include the records series name, records date ranges, date upon which those records, and the manner in which the records were disposed.

Destruction of Records: For any records that are destroyed, the Iowa Public Information Board will destroy the records using secured shredding or other method of secure destruction. The Department of

Administrative Services Procurement Division maintains master state contracts for records destruction contracts and should be consulted when seeking destruction services.

Destruction of Digital Records: In the case of digital records, the Iowa Public Information Board will work with the State's information technology staff or the Office of Chief Information Officer to identify and use appropriate digital data destruction technology.

Policy Review: This policy will be reviewed annually by the Iowa Public Information Board to determine whether changes to this policy should be adopted.

IOWA PUBLIC INFORMATION BOARD - SUMMARY OF GENERAL RECORDS RETENTION SCHEDULE - EXHIBIT 1

<u>Specific Record</u>	<u>Record series description</u>	<u>Record series cutoff</u>	<u>Retention on agency premises</u>	<u>Total Retention</u>	<u>Final Disposition Remarks</u>
Board minutes, committee minutes, policies and procedures, executive correspondence - retain for 5 years past end of fiscal year during which records were created. Includes videos of minutes. Then send to archive.	Records documenting policy discussions, decisions and implementation, including, but not limited to: Executive correspondence; Commission/council minutes; Departmental policies and procedures; Agency program or subject files relating to planning and programming development; Systems analysis, surveys, studies and proposals; Emergency plans.	End of State fiscal year during which records are created.	Retain in office at least 5 years past end of State fiscal year during which records are created.	Offer to State Archivist for permanent preservation (see State Archivist criteria).	
Reports - retain for 5 years past end of fiscal year during which records were created. Then send to archive.	Reports created by State agencies concerning agency official program activities, including but not limited to: annual and biennial reports of agency activities; reports created within agency for program purposes.	End of State fiscal year to which records pertain.	Retain on agency premises 5 years past end of State fiscal year to which records pertain.	Retain on agency premises 5 years past end of State fiscal year to which records pertain. After in agency retention period has lapsed official publications to be offered to State Library for Iowa Publications Online and may be offered to State Archivist .	After in agency retention period has lapsed official publications to be offered to State Library for Iowa Publications Online and may be offered to State Archivist for permanent preservation (see State Archivist criteria).

Presentations - through end of state fiscal year that the presentation is current. Then send to archive.	Records of matter created by agencies for use in disseminating information to the public concerning agency official functions, including but not limited to: Presentations; Addresses and speeches; Publications; Press releases; Contests and awards; Websites; Social media.	End of State fiscal year during which documented actions are completed.	Retain while current past end of State fiscal year during which documented actions are completed. After in agency retention period has lapsed, official publications to be offered to State Library for Iowa Publications Online and may be offered to State Archivist for permanent preservation (see State Archivist criteria.)	Retain while current past end of State fiscal year during which documented actions are completed. After in agency retention period has lapsed, official publications to be offered to State Library for Iowa Publications Online and may be offered to State Archivist for permanent preservation (see State Archivist criteria.)	
Basic communications, including complaints - 6 months. Then destroy.	Including but not limited to complaints, criticisms, requests, letters of appreciation that are not otherwise filed in subject or <i>issue related records</i>	Resolution of cited matter or receipt of correspondence if no action is required.	Retain 6 months past resolution of cited matter or 6 months past receipt of correspondence if no action is required.	Retain 6 months past resolution of cited matter or 6 months past receipt of correspondence if no action is required.	Destroy
Records requests - retain for 3 years past end of fiscal year during which records were created. Then destroy.	This record series includes those records received, created or maintained in responding to open records requests, including original request and related correspondance. It is to be emphasized, nevertheless, that the original records requested are not included in this description. Disposition of original records that are subject to an open records request is governed by the retention period applicable to the records series in which the original records are filed.	End of State fiscal year in which an open records act request was completed.	Cutoff plus 3 years	Cutoff plus 3 years	Destroy

Items with little value -
destroy when no longer
needed.

Transitory records are
recs.,irrespective of
format,that facilitate the
conduct of governmental
actions on a temporary
basis,that have only short term
interest or usage,and that have
no or little value in conducting
state business. Ex. of transitory
recs. include but are not
limited to:1.communications
related to routine and publicly
available info. that requires no
admin. action, no policy
decision and no special
compilation or research for
reply. (For
ex.,reports,publications,brochu
res,etc.) This does not include
open recs. requests under
Iowa Code Ch. 22.
2.Transmittal or routing recs.
that accompany an
email,facsimile or other
rec.,such as a cover sheet,that
do not add any substantive
info. to the transmitted rec.
3.Internal notices of fire
drills,retirements,IT help desk
reminders,communications to

When no longer
needed for
reference.

Until no longer needed.
Transitory records may be
destroyed when they are no
longer needed for reference
as long as they are not the
subject of a pending public
records request or an
existing retention schedule
that requires a longer
retention period.

Until no longer needed.
Transitory records may be
destroyed when they are
no longer needed for
reference as long as they
are not the subject of a
pending public records
request or an existing
retention schedule that
requires a longer
retention period.

Destroy

Records from meetings other than minutes - retain for 2 years past end of fiscal year during which records were created. Then destroy.	Records, other than official minutes, of public meetings, including, but not limited to: correspondence, memos, notices and related material; general correspondence, newspapers, public comments.	End of State fiscal year during which the meeting occurred.	Retain 2 years past end of State fiscal year during which the meeting occurred.	Retain 2 years past end of State fiscal year during which the meeting occurred.	Destroy
Budget materials - retain for 4 years past end of fiscal year during which records were created. Then destroy.	Budget formulation records including, but not limited to: Budget notes; Calculations; Statistics; Background; Minutes of departmental budget hearings; Supplemental budget manual; Capital appropriation request ; Budget details; Related supportive documentation.	End of State fiscal year to which budget applies.	Retain 4 years past end of State fiscal year to which budget applies.	Retain 4 years past end of State fiscal year to which budget applies.	
Purchases and banking information - retain for 3 years past end of fiscal year during which records were created. Then destroy.	Transactional expenditure source records and control records including, but not limited to: Purchase orders; Requisitions; Claims; Bank accounts; Travel expenditures; Registers; Logs; Listings; Related correspondence.	End of State fiscal year during which transactions are completed.	Retain 3 years past end of State fiscal year during which transactions are completed.	Retain 3 years past end of State fiscal year during which transactions are completed.	Destroy

Vendor and service provider information - retain until no longer needed and then destroy.	Information concerning available products, services, vendors and service providers for potential acquisition by the State, including, but not limited to: Vendor lists; Contact information; Catalogs and brochures. This record series is comprised entirely of reference matter. Records of transactions with vendors and service providers are addressed as contracts, accounts payable records, correspondence, etc.	When no longer needed	Retain until no longer needed then destroy.	Retain until no longer needed then destroy.
Equipment records - retain for 1 year past retirement of equipment. Then destroy.	Records documenting ownership, use, maintenance and disposition of State owned or leased equipment, including, but not limited to: Inventory equipment owned, leased or on loan by or to a state agency; Transfers, auctions, disposal records of surplus equipment; Operation records; Maintenance and repair records; Requests for equipment; Equipment assignments	End of State fiscal year during which equipment is retired from use	Retain until equipment is retired from use plus 1 year past end of State fiscal year.	Retain until equipment is retired from use plus 1 year past end of State fiscal year.

<p>State legislature communications - retain for 2 years past end of the legislative session. Then destroy.</p>	<p>All plans, reports, recommendations, working files on the following but not limited to. Correspondence, reports, other information submitted to or received from members of the state or federal legislature; At the state level, see separate schedule for proposed changes to the Iowa Administrative Code.</p>	<p>Close of legislative session</p>	<p>Retain Until: Close of the legislative session; Plus 2 years; then destroy.</p>	<p>Retain Until: Close of the legislative session; Plus 2 years; then destroy.</p>	
<p>Rules materials - retain for 5 years past end of fiscal year during which records were created. Then destroy.</p>	<p>All plans, reports, recommendations, working files on the following but not limited to. Proposed rules, research, drafts, comments and final copies of rules as prepared and submitted by state agencies.</p>	<p>When effective or no longer current</p>	<p>Retain Until: Effective or no longer current; Plus 5 years; then destroy.</p>	<p>Retain Until: Effective or no longer current; Plus 5 years; then destroy.</p>	<p>Destroy</p>

Litigation - retain for 5 years past end of fiscal year during which records were created. Then destroy.

Civil, Criminal and Claims Court Closure Case Files Legal TBD All case files on the following but not limited to. General litigation including investigations, original notices, pleadings, petitions, briefs, and all related information concerning the lawsuits; Non-Litigation case files, approved general claims, disapproved general claims; Civil Rights case files; Criminal case files; Civil case files including writs of certiorari, cases on appeals to courts, filings including petitions, stipulations, orders, and returns to order to show cause, briefs and other legal actions.

Retain Until: Closure; Plus 5 years; then destroy.

Retain Until: Closure; Plus 5 years; then destroy.

Administrative hearings and orders.

All case files on the following but not limited to. Petitions for hearing, tapes and transcripts of hearings, and related documentation and evidence (Calendar Year); Decisions records by hearing officers (Fiscal Year); Appeals case files and tapes of hearings officer including decisions appealed (Fiscal Year); Administrative Appeals Case Files including exhibits, documentation, and related materials concerning agency programs and affirmative actions taken by state or local agency bodies (Calendar Year); Administrative Appeals Hearings - Audio and/or Video recordings (Fiscal Year); Original consumer complaint files including complaints, correspondence and final disposition (Calendar Year); Administrative Enforcement Cases without an Appeal, including administrative orders and other related materials.

Closure plus end of year indicated in description;

Retain Until: Closure plus end of year indicated in description; plus 5 years; then destroy.

Retain Until: Closure plus end of year indicated in description; plus 5 years; then destroy.

Not sure if we have appointment files.

Appointment file copies held by agencies.

End of appointee term of service or when no longer needed.

Retain Until: End of appointee term of service; Retain until no longer needed; then destroy.

Retain Until: End of appointee term of service; Retain until no longer needed; then destroy.

Transfer to state archive records - retain for 5 years past end of fiscal year during which records were created. Then destroy.	Records documenting transfers of inactive records from State agencies to the records center or to the State Archivist, and also performance of scheduled agency records destruction.	End of State fiscal year during which documented record actions are performed.	Retain 5 years past end of State fiscal year during which documented record actions are performed.	Retain 5 years past end of State fiscal year during which documented record actions are performed.
Employee personnel files - retain for 5 years past termination of employment. Then destroy.	All employee personnel files (merit, non-merit, contract, non-contract) staff held at the hiring agency including: Signed PDQs, Personal Performance Plan, Training Files, Grievances, Investigations, Unemployment Compensation, Disciplinary Actions, Appeals, Workers Compensation Files & Reports, etc.	Termination of Employment	Retain Until: Termination of Employment; Plus: 5 years; Then Destroy	Retain Until: Termination of Employment; Plus: 5 years; Then Destroy

Broader employee personnel matters - retain until no longer current. Then destroy.

All employee personnel files as well as reports, plans, agreements and working files including but not limited to the following: Direct deposit agreements for automatic deposit after termination of employment; Worker's compensation reports including but not limited to first report of injury, supplemental reports of injury, etc after termination of employment; Working files of individual employee garnishment records on each employee who has garnished wages during each pay period; Payroll Trustee reports including detail of deductions from employee's pay (e.g. insurance bonds, charitable giving campaigns, retirement, deferred compensation, etc); Orientation programs including presentations, outlines, employee manuals, handbooks, schedules, activities, and related materials concerning new employee

When no longer current

Retain Until: No longer current; Then Destroy

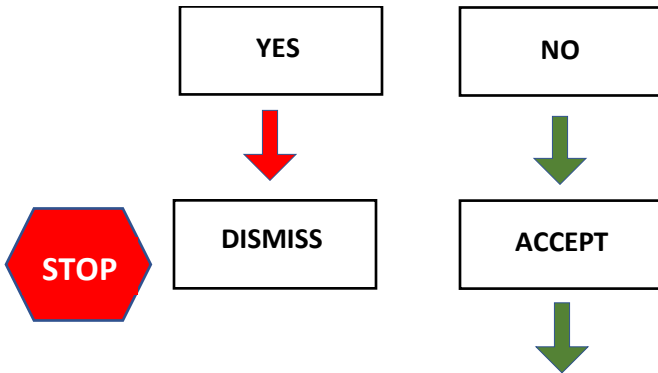
Retain Until: No longer current; Then Destroy

<p>Middle of the road employee personnel matters - retain for 3 years past end of fiscal year during which records were created. Then destroy.</p>	<p>All plans, reports, working files on the following but not limited to: • Employee attendance records: vacation leave, sick leave, leave without pay, educational leave, military leave, FMLA, etc. • Wage and hour records: hours worked, overtime worked, all time sheets, time cards, etc. Tables of authorized positions: Departmental report showing by class and position the number, the name and title of all employees, salary range, the present step, and all other related information; Payroll journals: by department, showing individual earnings, deductions, and net pay, and any departmental summaries; Retirement (FICA/IPERS) Report - Under \$300: Listings of all employees subject to IPERS with earnings less than \$300 during the quarter.</p>	<p>End of State fiscal year</p>	<p>Retain Until: Close of the fiscal year; Plus 3 years; Then Destroy</p>	<p>Retain Until: Close of the fiscal year; Plus 3 years; Then Destroy</p>
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Position classification materials - retain until superseded. Then destroy.	All plans, reports, working files on the following but not limited to: Request to Delete, Establish, Relocate or Transfer Authorized Positions. Position Description Questionnaires (M-2's); Audit Reports, Position Classification Standards & Specifications; State Pay Plans for Merit System Covered Positions; Executive Council Exempt Positions Pay Plans.	When superseded	Retain Until: Superseded; Then Destroy	Retain Until: Superseded; Then Destroy
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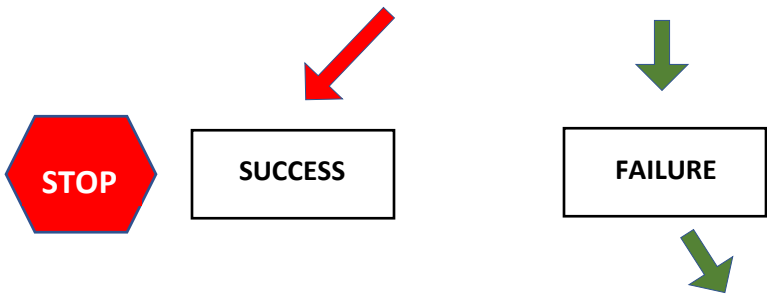
Step 1: Jurisdiction

- Is the complaint submitted beyond 60 days of the alleged violation?
- Is the complaint outside IPIB's jurisdiction?
- Is the complaint legally insufficient?
- Is the complaint frivolous?
- Is the complaint without merit?
- Does the complaint involve harmless error?
- Does the complaint relate to a specific incident that has previously been disposed of on its merits?



Step 2: Collaboration

Informal Resolution



Step 3: Formal Investigation

Note: Burden of Proof may shift to the Governmental Body during this stage.

Formal Investigation Result Options:

- Redirect for further investigation
- Dismiss for lack of probable cause or jurisdiction
- Dismiss as an exercise of administrative discretion
- Determine that probable cause exists and direct resolution
- Determine that probable cause exists and initiate a contested case

Current Process: Investigation of Acceptance or Dismissal

1. Receive complaint.
2. Complaint sent to governmental body for review and response.
3. IPIB staff reviews evidence provided by both parties to determine whether there is evidence to support acceptance.
4. Based on the evidence presented by both parties, IPIB staff recommend dismissal or acceptance.
5. If case is accepted, the parties move to informal resolution.

Proposed Process: Facial Determination of Acceptance or Dismissal

1. Receive complaint.
2. IPIB staff reviews the complaint to determine whether it should be accepted or dismissed. The review assumes the facts of the case are true and accurate. The governmental body is not asked to provide evidence.
3. Based on facial review of the circumstances alleged, IPIB staff recommends acceptance or dismissal.
4. If the case is dismissed, a dismissal order is sent to the complainant. If the case is accepted, an acceptance order is sent to both parties and
5. If case is accepted, the parties move to informal resolution.

Key differences between current and proposed processes:

- Iowa Code Chapter 23 references a facial review to determine whether a case should be accepted or dismissed. Under the proposed process, a facial review is utilized as contemplated by the law.
- Under the proposed process, an investigation only occurs once – at the time of probable cause review. Under the current process, an investigation occurs twice – upon receipt of the complaint and during the probable cause review.
- Under the proposed process, the government body is not notified or asked to provide evidence unless and until the Board determines that there is enough facial evidence to accept the case. Under the current process, the government body must respond even if the case will be dismissed.

Scenario 1: Website Posting

Jane Doe files a complaint with the IPIB. Doe alleges that an agenda was posted on a bulletin board at the City Hall five days before the City Council meeting. The agenda was posted on the City's website twelve hours before the City Council meeting. She alleges that this is a failure to post the agenda within the 24-hour timeframe required by Chapter 21.

Current Process:

- IPIB receives the complaint on October 9 and promptly sends the complaint to the City. The City is asked to review the complaint and respond within two weeks.
- The City responds two weeks later (on October 21) and provides evidence that supports the allegations of Doe. The City says the agenda was posted on the bulletin board in City Hall five days before the meeting. The agenda was posted on the website twelve hours before the meeting. The City states that this is not a violation of Iowa Code Chapter 21 because a website posting is not required.
- IPIB staff review the complaint and determine that a violation of Iowa Code Chapter 21 has not occurred because the City's posting is compliant with the law.
- IPIB staff recommend a dismissal to the IPIB in **November**.

Proposed Process:

- IPIB receives the complaint on October 9. IPIB reviews the allegations made in the complaint.
- Assuming all facts are correct, IPIB determines that the complaint is not legally sufficient as a violation of Iowa Code Chapter 21 has not occurred.
- IPIB staff recommend dismissal to the IPIB in **October**.
- The complainant is notified of the dismissal order. The City is not involved.

Scenario 2: Public Records Request

John Doe files a complaint with the IPIB. Doe alleges that he requested public records from the County in August. The County charged Doe \$700 and he has not received the documents.

Current Process:

- IPIB receives the complaint on October 9 and promptly sends the complaint to the County. The County is asked to review the complaint and respond within two weeks.
- The County responds two weeks later (on October 21) and provides evidence that the County is still collecting the documents. They indicate that it will be two more weeks before they can provide all the documents. They ask for an extension to produce the documents.
- Two weeks later, on November 4, the County provides the documents to Doe.
- Doe responds and indicates that the records do not include what he asked for. He also requests an invoice for the charges.

- IPIB staff request the invoice from the County and a response from the County regarding Doe's allegations that documents are missing.
- Two weeks later, on November 18, the County provides a detailed invoice and indicates that all documents have been provided to Doe.
- IPIB staff review all documents and determine that documents are missing.
- IPIB staff recommend acceptance to the IPIB in **December**.
- Upon acceptance, the case moves to informal resolution to obtain the missing documents.

Proposed Process:

- IPIB receives the complaint on October 9. IPIB reviews the allegations made in the complaint.
- Assuming all facts are correct, IPIB determines that the complaint demonstrates facial evidence that a violation has occurred.
- IPIB staff recommend acceptance to the IPIB in **October**.
- The county and Doe are notified of acceptance and the case moves to informal resolution.

Rules Committee Recommendation:

- Establish a pilot project to determine the pros and cons of each process.
- This pilot project will be used through three board meetings from October 18 to January 16. All cases opened during this time period will use the pilot project (proposed) method.
- At the end of the three months, the Board will weigh the pros and cons of each process and determine next steps at the Board meeting to be held on January 16.
- Administrative rules will be developed based on the Board's decision.

MEMO

To: IPIB Members

From: Erika Eckley

Date: October 17, 2024

Re: Charles Nocera Public Comments Request Background

At the September 19, 2024, Board Meeting, a request was made for IPIB staff to provide the background and information regarding a repeated request from Charles Nocera during public comment.

- February 21, 2024- Filed complaint 24FC:0020 for records from Department of Administrative Services (DAS) (birthdate and date of hire for all state employees).
- March 21, 2024, Board considered 24FC:0020 but tabled for additional information regarding whether DAS could be required to do calculation of hire age because birthdate is confidential.
- April 18, 2024, Board considered again 24FC:0020. Board voted to administratively dismiss the Complaint at this meeting based on the confidential data and the need for further research. It was determined an advisory opinion would be drafted to address the question of how a government body must respond to a records request from a database that requires created a new data set.
- August 15, 2024, Board considered and adopted Advisory Opinion 24AO:0003 Data and Public Records Requests

Nocera's request relates to his desire to include Iowa's data including the age at time of hire in his collection of datasets of similar information from other states and government bodies. He has stated that because others have provided similar information Iowa should provide it as well.

Based on the Board's decision and Advisory Opinion 24AO:0003, IPIB is not able to assist in Nocera's request because:

- IPIB has no authority to mandate DAS create a new dataset to calculate all state employees' age at the time of hire.
- Iowa law does not require a government body to create a record if one does not exist.
- Nocera's request would require providing confidential data or creating a new record.

Nocera has graciously volunteered to do the calculation himself if provided access to the data. Again, this is not something IPIB can require DAS to do. If DAS chooses to provide access to its database so Nocera can do the calculations he wants, that is solely their decision and not one IPIB can make for the agency.

Board Dashboard

Dashboard for Board Meetings

As of Oct 11, 2024 12:58 PM Viewing as Erika Eckley

Active Cases Report

36

[View Report \(Active Cases Report\)](#)

Active Questions Report

2

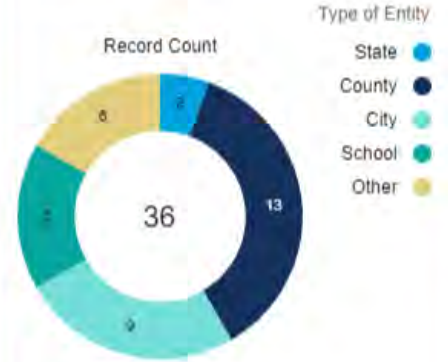
[View Report \(Active Questions Report\)](#)

New complaints &/or question last 30



[View Report \(New complaints &/or question last 30 c](#)

Cases by Entity



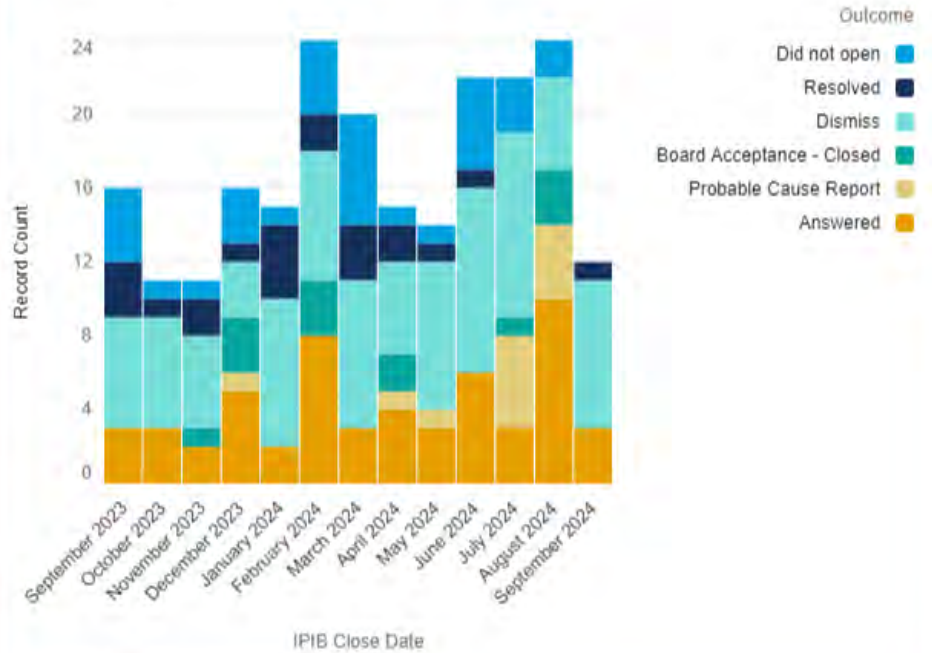
[View Report \(Cases by Entity\)](#)

Broad Type (Filed in Current



[View Report \(Broad Type \(Cases Filed in Current Ye](#)

Closed cases (past 12 months)

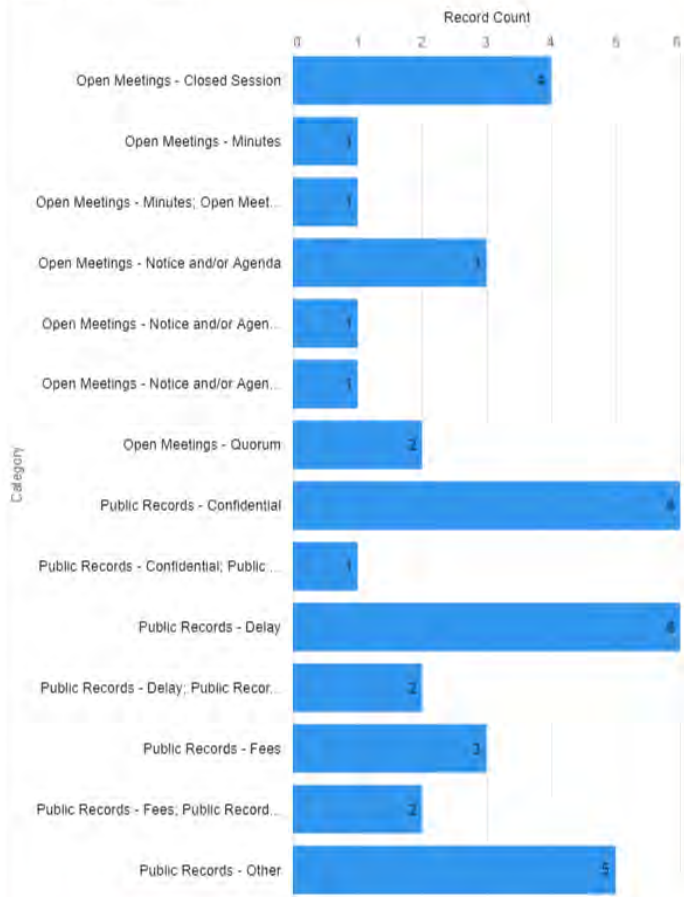


[View Report \(Closed cases \(past 12 months\)\)](#)

Cases by Type

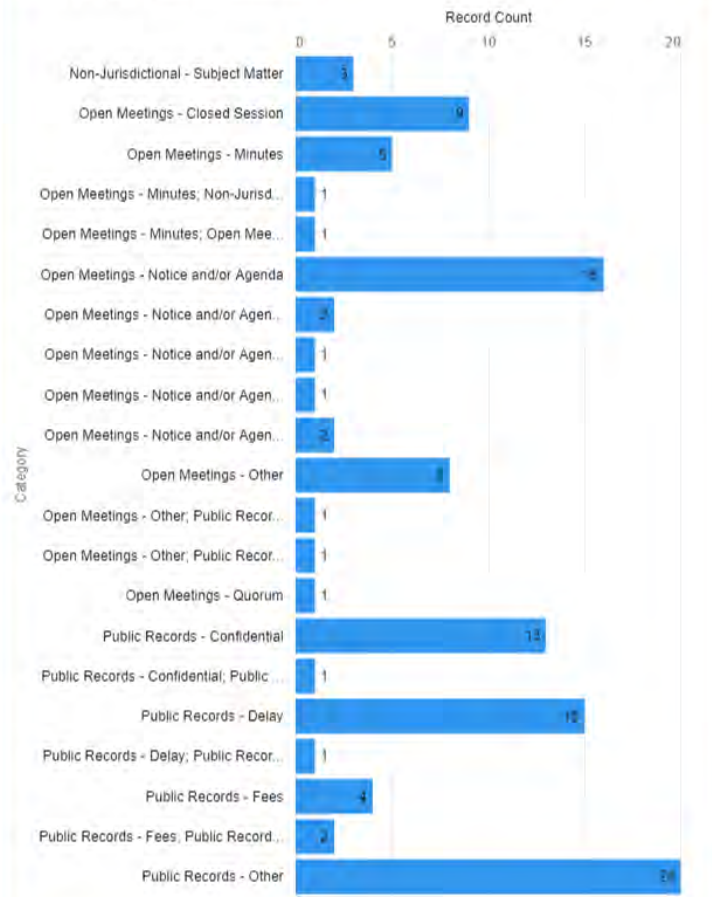
As of Oct 11, 2024 1:03 PM Viewing as Erika Eckley

Cases by Type (Active)



[View Report \(Cases by Type \(Active\)\)](#)

Cases by Type (Filed in Current Year)



[View Report \(Cases by Type \(Filed in Current Year\)\)](#)

Obj/Rev Class	Obj/Rev Class Name	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	HO13	HO14	HO15	YTD	End of Year Forecast	Annual Budget	Percent of Budget	Percent of Budget
		Actual	Actual	Actual	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Actual	(C=A+B)	(D)	To Date	Forecasted EOY
	Appropriation	363,227																			
	Deappropriation																				
	BBF (T&T)																				
	Expenditures																				
101	Personal Services	19,563	19,067	19,474	39,939	23,939	23,939	23,939	23,939	23,939	39,939	23,939	23,939	8,378	-	-	58,104	313,933	323,270	18%	97%
202	In State Travel	333	38	625	-	-	-	-	-	-	-	-	-	-	-	-	995	995	3,487	29%	29%
301	Office Supplies	-	129	304	135	96	96	96	96	96	96	96	96	96	-	-	433	1,435	3,000	14%	48%
309	Printing & Binding	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	500	0%	0%
313	Postage	-	6	8	3	4	4	4	4	4	4	4	4	4	-	-	14	55	150	9%	37%
401	Communications	-	174	160	250	250	250	250	250	250	250	250	250	250	-	-	334	2,834	3,000	11%	94%
406	Outside Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,000	0%	0%
414	Reimbursements To Other Agency	-	1,600	1,608	1,603	1,599	1,599	1,599	1,599	1,599	1,599	1,599	1,599	1,599	-	-	3,208	19,204	12,000	27%	160%
416	ITD Reimbursements	-	299	11,271	(6,376)	314	314	314	314	314	314	314	314	314	-	-	11,570	8,018	15,820	73%	51%
418	IT Outside Services	-	146	146	146	146	146	146	146	146	146	146	146	146	-	-	293	1,756	1,000	29%	176%
	Total Expenditures:	19,896	21,459	33,596	35,700	26,349	26,349	26,349	26,349	26,349	42,349	26,349	26,349	10,788	-	-	74,951	348,231	363,227	21%	96%
	Current Month Operations	343,331	(21,459)	(33,596)	(35,700)	(26,349)	(26,349)	(26,349)	(26,349)	(26,349)	(42,349)	(26,349)	(26,349)	(10,788)	-	-					
	Cash Balance	343,331	321,872	288,276	252,576	226,227	199,878	173,529	147,180	120,831	78,482	52,133	25,784	14,996	14,996	14,996					

Footnotes:
 Unit should be managed to \$0 at year end.

Expenditures
 101 - Months of October and April have 3 payroll warrants written.
 416 - October includes move of Salesforce renewal to P22T.

Fund: 0001 General Fund
 Unit: P22T
 Sub Unit: Blank
 Approp: P22
 Obj/Rev Class: Iowa Public Information Board

EDas Customer Number: 1882
 Percent of Year Complete: 8.33%

Class	Obj/Rev Class Name	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	HO13	HO14	HO15	YTD	End of Year Forecast	Annual Budget	Percent of Budget	Percent of Budget
		Actual	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Actual	(C=A+B)	(D)	To Date	Budget forecastu EOY
	Appropriation																		-		
	Deappropriation																				
	BBF (T&T)																				
Expenditures																					
401	Communications	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%	0%
406	Outside Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%	0%
416	ITD Reimbursements	-	-	-	6,688	-	-	-	-	-	-	-	-	-	-	-	-	6,688	-	0%	0%
503	Equipment-Non Inventory	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%	0%
Total Expenditures:		-	-	-	6,688	-	-	-	-	-	-	-	-	-	-	-	-	6,688	-	#DIV/0!	#DIV/0!
Current Month Operations		-	-	-	(6,688)	-	-	-	-	-	-	-	-	-	-	-	-				
Cash Balance		-	-	-	(6,688)	(6,688)	(6,688)	(6,688)	(6,688)	(6,688)	(6,688)	(6,688)	(6,688)	(6,688)	(6,688)	(6,688)	(6,688)				

Footnotes:
 Unit should be managed to \$0 at year end.