

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)
Catherine Lucas (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

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 virtually,
please send an email to IPIB@iowa.gov prior to the meeting.**

Agenda

December 19, 2024, 1:00 p.m.
Conference Room: IPIB Offices, 3rd Floor
Wallace Building
502 East 9th Street, Des Moines

1:00 PM – IPIB Meeting

- I. Approval of agenda***
- II. Approval of the November 21, 2024 minutes ***
- III. Public Forum (5-minute limit per speaker)**
- IV. Comments from the board chair. (McHugh)**
- V. Discussion and Potential Action regarding District Court Judicial Review rulings:**
 - a. John F. Swarm v. City of Mt. Pleasant/IPIB, Henry County No. CVEQ006708*
 - b. Hendrik van Pelt v. IPIB, Clayton County No. CVCV011232*

The Board may go into Closed Session under Iowa Code § 21.5(c): To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.

VI. Consent Agenda *

A. Dismissals

1. 24FC:0108 (Charles Kerker - Chapter 22- City of Dyersville IA) 11/4/2024
2. 24FC:0115 (Justin Scott - Both- Denver Community School District) 11/21/2024
3. 24FC:0119- (Tony Reed - Open Meetings Law- Central Iowa Juvenile Detention Center) 11/25/24

B. Acceptance

1. 24FC:0116 (Timothy, miller - Both- City of Waterloo Municipal Police) 10/16/2024
2. 24FC:0109 (Joe Goche - Chapter 21- Kossuth county Supervisors and Auditor) 11/5/2024
3. 24FC:0111 (Michael McPeek - Chapter 22- Iowa Department of Corrections) 11/7/2024
4. 24FC:0117 (Michael Merritt – Chapter 22 - Jasper County) 11/21/2024
5. 24FC:0118 (Kevin Cahalan - Both- Eagle Grove) 11/21/2024
6. 24FC:0120 (Paul Dorr - Both- Osceola County, Iowa) 11/27/2024
7. 24FC:0123 (Rachel Wherley - Chapter 22- Estherville Lincoln Central CSD) 12/6/2024
8. 24FC:0124 (Kenneth Brown - Chapter 22- City of Sidney) 12/10/2024
9. 24FC:0125 (Anthony Wynkoop - Chapter 22- Clinton Iowa PD) 12/12/2024
10. 24FC:0127 (John Gruca - Both - Cedar Rapids Veterans Memorial Commission) 12/17/24

VI. Advisory Opinion – No Deliberation/Action (Informational Only).

1. 24AO:0014 (Dustin Zeschke) 12/11/2024 - Is a government body required to produce bodycam footage and witness statements in response to a public records request pursuant to Chapter 22?
2. 24AO:0013 (IPIB) 12/12/2024 - How should interviews for public employees be conducted after the Teig v. Loeffler decision?

VII. Cases involving Board Deliberation/Action.* (Eckley)

1. 24FC:0013 (Bonnie Castillo - Both- Union County Emergency Management Agency) 2/2/2024 - Probable Cause
2. 24FC:0056 (Steven Asche - Chapter 22- City of Eagle Grove) 6/20/2024 -Final Report
3. 24FC:0064 (Mark Milligan - Chapter 22- Monroe County Sheriff's Department; represented by Monroe County Attorney) 7/30/2024 -Informal Resolution
4. 24FC:0070 (Brian Thomas - Both- Jefferson County BOS) 8/13/2024 - Informal Resolution
5. 24FC:0072 (Lucian Diaconu - Chapter 22- Gilbert Community School District) 8/14/2024 -Revised Dismissal
6. 24FC:0079 (Tiffany South - Chapter 22- CAM Community School District) 9/18/2024 -Dismissal
7. 24FC:0081 (Joe Monahan - Chapter 22- Ames Public Library, Ames City Attorney) 9/20/2024 - Dismissal
8. 24FC:0083 (Tim Ferguson - Chapter 22- Scotty County government) 9/25/2024 -Dismissal
- 24FC:0090 (Sarah Weber - Chapter 21- Orange City Council) 10/9/2024 -Acceptance
9. 24FC:0092 (Aubrey Burress - Both- Pleasant Grove township) 10/21/2024 -Informal Resolution
10. 24FC:0094 (Ben Lynch - Both- Des Moines City Council) 10/24/2024 -Probable Cause
11. 24FC:0097 (Tyler Patterson - Both- Clarke County Hospital, Unity Point Affiliate) 10/27/2024 - Probable Cause
12. 24FC:0106 (Sheryl Pilkington - Chapter 22- City of Fairfield, ia) 10/29/2024 -Probable Cause

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

1. 24FC:0082 (Robin Delaney - Chapter 21- Des Moines County Board of Supervisors) 9/25/2024 - Withdrawn
2. 24FC:0085 (Gregory Mangold - Chapter 21- Des Moines County Board of Supervisors) 9/27/2024 - Withdrawn

3. 24FC:0088 (Randy Evans - Chapter 21- Des Moines County Board of Supervisors) 10/5/2024 - Withdrawn
4. 24FC:0121 (Presten Smith - Chapter 22- Freedom Of Information Act - Request: 24-3345) 11/30/2024 -Withdrawn

IX. Pending Complaints. Informational Only – No Deliberation or Action (Eckley)

1. 24FC:0052 (Erik Johnson - Chapter 22- Delaware Township) 6/6/2024 - Informal Resolution Process
2. 24FC:0068 (Drake Riddle - Chapter 21- Page County Board of Supervisors and their Clerk) 8/8/2024 - Board Acceptance of IR
3. 24FC:0077 (Kyle Ocker - Chapter 22- Mahaska County Sheriff's Office) 9/9/2024 - Informal Resolution Process
4. 24FC:0089 (Curtis Wagler - Chapter 22- Henry County Sheriff's Office) 10/8/2024 - Information Gathering
5. 24FC:0093 (Timothy Hansen - Chapter 22- Franklin County Sheriff's Office) 10/24/2024 - Information Gathering
6. 24FC:0096 (Rachel Dolley - Chapter 21- Commission of Wapello County Veterans Affairs) 10/28/2024 - Information Gathering
7. 24FC:0101 (Erin Sommers - Chapter 21- City of Pocahontas) 10/29/2024 - Information Gathering
8. 24FC:0104 (Matthew Rollinger - Chapter 22- Linn Mar Community School District) 10/31/2024 - Information Gathering
9. 24FC:0110 (Keegan Jarvis - Chapter 21- City of Swan IA) 11/6/2024 - Information Gathering
10. 24FC:0112 (Keegan Jarvis - Chapter 21- City of swan iowa) 11/8/2024 - Acknowledgement of Complaint
11. 24FC:0113 (Geralyn Jones - Chapter 21- Linn-Mar Board of Directors) 11/12/2024 - Information Gathering
12. 24FC:0122 (Justin Scott - Chapter 21-) 12/5/2024 - Complaint Open
13. 24FC:0126 (Keegan Jarvis - Open Meetings Law- Swan City council) 12/9/2024 - New / Complaint Information Reviewed

X. Committee Reports

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

XI. Office status report.

1. Office Update * (Eckley)
 - a. Deliberation and potential action on Facebook pages review/advice
2. Financial/Budget Update (FY25) * (Eckley)
3. Presentations/Trainings (Eckley)
 - a. Tama County
 - b. ISAC New County Officers
 - c. State Library Webinar
4. District Court Update (Eckley)

XII. Next IPIB Board Meeting will be held on January 16, 2024, at 1:00 p.m.

XIII. Adjourn

*** Attachment**

IOWA PUBLIC INFORMATION BOARD

November 21, 2024
Unapproved Minutes

The Iowa Public Information Board (IPIB) met on November 21, 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: E.J. Giovannetti, Barry Lindahl (remote), Catherine Lucas, Luke Martz, Joel McCrea, Monica McHugh. Also present were IPIB Executive Director, Erika Eckley; IPIB Deputy Director, Kimberly Murphy; IPIB Agency Counsel, Alexander Lee. A quorum was declared present.

On a motion by McCrea and second by Giovannetti, to approve the agenda. Adopted, 6-0.

On a motion by Giovannetti and second by Lindahl, to approve the October 17, 2024, minutes. Adopted, 6-0.

Public Forum –

There were no public comments.

Comments from the Board Chair –

McHugh introduced the new member of IPIB, Catherine Lucas.

Update Complaint Process Review Pilot -

Eckley provided updates regarding the status of the complaint process pilot.

Consent Agenda -

1. **Dismissals.** Eckley discussed the dismissals within the consent agenda. Board discussion occurred. On a motion by Giovannetti and second by Martz, to approve the dismissals within the consent agenda. Approved, 6-0.
2. **Acceptances.** Eckley discussed the acceptances within the consent agenda. Board discussion occurred. On a motion by Martz and second by Lucas, to approve the dismissals within the consent agenda. Approved, 6-0.

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

1. **24AO:0012 – Public Records Requests and Government-Moderated Social Media.** Board discussion occurred. On a motion by Martz and second by McCrea, to adopt the Advisory Opinion. Approved, 6-0.

IPIB Cases – The Board was briefed on each case and acted as indicated below:

1. **23FC:0053 (Debra Schiel-Larson – Both - Indianola Community School District) 5/4/2023 - Final 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 Lindahl and second by Martz, to approve the Final Report. Approved, 6-0.

2. **24FC:0052 (Erik Johnson - Chapter 22 - Delaware Township) 6/6/2024 - Acceptance.** Nick Bailey, representing Delaware Township, addressed the Board. Board discussion occurred. On a motion by Giovannetti and second by Martz, to approve the Acceptance. Approved, 6-0.
3. **24FC:0056 (Steven Asche - Chapter 22 - City of Eagle Grove) 6/20/2024 - Informal Resolution Report.** Board discussion occurred. On a motion by Martz and second by Giovannetti, to approve the Informal Resolution. Approved, 6-0.
4. **24FC:0057 (Jody Phillips - Chapter 22 - Pekin Community School District - Board) 7/3/2024 - Final Report.** On a motion by Giovannetti and second by Lindahl, to approve the Final Report. Approved, 6-0.
5. **24FC:0059 (Jan Norris – Both - Montgomery County Board of Supervisors) 7/23/2024 - Final Report.** Jan Norris addressed the Board. Drew Swanson, representing Montgomery County, addressed the Board. Board discussion occurred. On a motion by Lucas and second by Giovannetti, to approve the Final Report. Approved, 6-0.
6. **24FC:0068 (Drake Riddle - Chapter 21 - Page County Board of Supervisors and their Clerk) 8/8/2024 - Informal Resolution Report.** Board discussion occurred. On a motion by Martz and second by Lindahl, to approve the Informal Resolution. Approved, 6-0.
7. **24FC:0072 (Lucian Diaconu - Chapter 22 - Gilbert Community School District) 8/14/2024 - Dismissal.** Lucian Diaconu addressed the Board. Board discussion occurred. On a motion by Martz and second by Giovannetti, to table the issue for the next meeting of the Board. Approved, 6-0.
8. **24FC:0084 (Paul A. Reed, Sr. - Chapter 22 - City of West Liberty) 9/25/2024 - Dismissal.** Paul Reed, Sr. addressed the Board. Board discussion occurred. On a motion by Lucas and second by Martz, to approve the Dismissal. Approved, 6-0.
9. **24FC:0087 (Nicholas Bargren - Chapter 22 - Iowa City Police Department) 10/5/2024 - Dismissal.** Nicholas Bargren addressed the Board. Board discussion occurred. On a motion by Martz and second by Lucas, to approve the Dismissal. Approved, 6-0.
10. **24FC:0089 (Curtis Wagler - Chapter 22 - Henry County Sheriff's Office) 10/8/2024 - Dismissal.** Lucas recused and abstained. Peter Sand, representing the Henry County Sheriff's Office, addressed the Board. Board discussion occurred. On a motion by Martz and second by McCrea, to approve the Dismissal. Approved, 5-0; one abstention.

Matters Withdrawn, No Action Necessary –

Eckley updated the Board on the following cases that were withdrawn by the Complainant:

1. **24FC:0078 (Megan Pegorick - Chapter 22- Midland Community School District) 9/10/2024**
2. **24FC:0102 (John Johnson - Chapter 22- Britt Public Library) 10/26/2024**

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

1. 24FC:0013 (Bonnie Castillo - Both- Union County Emergency Management Agency) 2/2/2024 - Informal Resolution Process
2. 24FC:0064 (Mark Milligan - Chapter 22- Monroe County Sheriff's Department; represented by Monroe County Attorney) 7/30/2024 - Informal Resolution Process
3. 24FC:0070 (Brian Thomas - Both- Jefferson County BOS) 8/13/2024 - Informal Resolution Process
4. 24FC:0077 (Kyle Ocker - Chapter 22- Mahaska County Sheriff's Office) 9/9/2024 - Informal Resolution Process
5. 24FC:0079 (Tiffany South - Chapter 22- CAM Community School District) 9/18/2024 - Information Gathering
6. 24FC:0081 (Joe Monahan - Chapter 22- Ames Public Library, Ames City Attorney) 9/20/2024 - Information Gathering
7. 24FC:0082 (Robin Delaney - Chapter 21- Des Moines County Board of Supervisors) 9/25/2024 - Informal Resolution Process
8. 24FC:0083 (Tim Ferguson - Chapter 22- Scotty County government) 9/25/2024 - Information Gathering
9. 24FC:0085 (Gregory Mangold - Chapter 21- Des Moines County Board of Supervisors) 9/27/2024 - Informal Resolution Process
10. 24FC:0088 (Randy Evans - Chapter 21- Des Moines County Board of Supervisors) 10/5/2024 - Informal Resolution Process
11. 24FC:0090 (Sarah Weber - Chapter 21- Orange City Council) 10/9/2024 - Information Gathering
12. 24FC:0108 (Charles Kerker - Chapter 22- City of Dyersville IA) 11/4/2024 - Acknowledgement of Complaint
13. 24FC:0109 (Joe Goche - Chapter 21- Kossuth county Supervisors and Auditor) 11/5/2024 - Acknowledgement of Complaint
14. 24FC:0111 (Michael McPeck - Chapter 22- Iowa Department of Corrections) 11/7/2024 - Acknowledgement of Complaint

Discussion and Possible Action on Policy for Record Request Fees –

Murphy provided an overview of the proposed policy for record request fees. Board discussion occurred. On a motion by McCrea and second by Martz, to adopt the policy. Adopted, 6-0.

Committee Reports -

1. **Training** – Lee addressed the Board and indicated he is learning about the training process.
2. **Legislative** – Eckley discussed the following legislative proposals.
 - i. **90-day jurisdiction of IPIB.**
 - ii. **Records request acknowledgement.**
 - iii. **Reasonably calculated notice changes.**

Board discussion occurred. On a motion by Giovannetti and second by McCrea, to approve all legislative proposals. Adopted, 6-0.

3. **Rules** – Murphy addressed the Board and stated the Rules Committee would meet in December to discuss the pilot project and existing rules drafts.

Office Status Report –

1. **Office Update** – Eckley provided an update.
2. **Financial/Budget Update (FY25)** – Eckley provided an update and reviewed the budget for FY25.
3. **Presentations/Trainings** – Eckley provided an update regarding presentations and trainings and indicated the following trainings are upcoming:
 - a. Tama County
 - b. ISAC New County Officials
4. **District Court Update** – Eckley provided an updated regarding cases being heard in district court, appellate court, and the Supreme Court.

Upcoming Meetings –

The next meeting of the IPIB will be held on December 19, 2024, at 1:00 p.m.

Board discussion occurred regarding the preference for Respondents (government bodies) to attend the IPIB meetings when complaints are on the agenda.

Meeting was adjourned at 3:39 p.m.

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0108
Charles Kerker, Complainant	Dismissal Order
And Concerning:	
City of Dyersville, Respondent	

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

On November 4, 2024, Charles Kerker filed formal complaint 24FC:0108, alleging the City of Dyersville (City) violated Iowa Code chapter 22.

Facts

On October 25, 2024, Kerker submitted a public records request to the City of Dyersville seeking a purchase and sale agreement entered into between Dyersville Events, Inc. and Colorado Corners, LLC. Kerker previously received the documents from the State of Iowa and believes the City should provide the purchase and sale agreement. This request is similar to a request made by Kerker earlier in October, which resulted in dismissal of the complaint in November.

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

Kerker is requesting records regarding Dyersville Events, Inc. and Colorado Corners, LLC. Dyersville Events, Inc. is an incorporated and not-for-profit 501(c)(3). Colorado Corners, LLC is an Illinois limited liability company. Neither entity meets the definitional requirements of a government body pursuant to Iowa Code Chapter 22 and are not subject to open records under this chapter.

Kerker concludes the document is a public record because the document was previously provided by the State of Iowa. Even if the document is a public record through another government body, such as a Recorder or the Secretary of State, the City is not the lawful custodian of records related to agreements entered into by these entities.

Because the complaint involves private entities that do not fall within the scope of Iowa Code Chapter 22, IPIB does not have jurisdiction of this complaint.

Conclusion

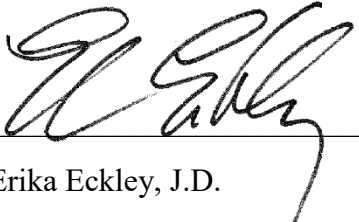
Iowa Code § 23.8 requires a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found this complaint does not meet those requirements.

Specifically, the complaint is legally insufficient as the Dyersville Events, Inc. and Colorado Corner, LLC are not government bodies under Iowa Code § 22.1. Furthermore, the City of Dyersville is not the lawful custodian of the records being sought.

IT IS SO ORDERED: Formal complaint 24FC:0108 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 December 13, 2024, to:

Charles Kerker, Complainant

The Iowa Public Information Board

<p>In re the Matter of:</p> <p>Brandi Scott, Justin Scott, Kala Trunkhill, and Tyson Trunkhill, Complainants</p> <p>And Concerning:</p> <p>Denver Community School Board, Respondent</p>	<p>Case Number: 24FC:0115</p> <p>Dismissal Order</p>
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On November 21, 2024, Brandi Scott, Justin Scott, Kala Trunkhill, and Tyson Trunkhill filed formal complaint 24FC:0115, alleging the Denver Community School Board (School Board) violated Iowa Code Chapter 21.

Facts

The Denver Community School District is a public school-district in Northeast Iowa. Denver CSD is represented by a five-member Board of Directors.

On June 12, 2024, the School Board convened for its monthly meeting. The agenda posted for this meeting included several items of old and new business for the board to review, as well as a section entitled "VIII. Reports." The first subsection under Reports was listed as "A. Personnel." No further information was provided for this subsection.

During the June 12 meeting, when the School Board reached the "Personnel Report" item of the agenda, the Board voted unanimously to remove a girl's track coach from the list of names and positions to be renewed for the 2024-25 school year, meaning the coaching contract with the school district would not be renewed. The School Board then voted to renew the contracts of thirteen other coaches, also under the "Personnel Report" agenda item. According to the complaint, there was no discussion between School Board members before the unanimous vote. The entire meeting lasted 24 minutes.

On November 21, 2024, IPIB received two formal complaints against the School Board related to this matter, including one from Brandi and Justin Scott and another from Kala and Tyson Trunkhill. Both complaints contained substantially similar allegations and arguments and, as such, the complaints were combined into case 24FC:0115.

The complainants allege the School Board violated Iowa Code § 21.4(1)(a) by failing to provide sufficient notice “reasonably calculated to apprise the public” of the matter to be discussed. Specifically, they argue that “VIII: Reports – Personnel” failed to inform potential attendees that the School Board would be voting on whether or not to renew the contracts of multiple employees, who had apparently been identified in advance to be voted on individually. Because the public was not adequately informed, there was no opportunity for public comment in advance of the vote, and members of the public who might have otherwise appeared for the June meeting based on their interest in the vote did not attend due to lack of notice.

The complainants also allege 1) the lack of Board discussion during the meeting before the unanimous vote could suggest improper deliberation on the matter outside of open session; 2) the Board failed to consider or discuss the endorsement of the coach’s contract by the Superintendent and Activities Director; and 3) the Board refused to waive fees for public records requests seeking records related to the decision not to renew the coaching contract, despite the substantial public interest involved.

Both sets of complainants acknowledged the 60-day statutory requirement for IPIB’s review of potential violations of Chapter 21 and 22, explaining they were unaware of IPIB’s existence as an oversight agency capable of responding to the issues raised in their respective complaints. The complainants state that, upon learning of IPIB’s role, they acted swiftly to gather documentation and prepare a complaint. Given this and the asserted seriousness of potential violations raised, the complainants have asked IPIB to waive the 60-day time window to consider the allegations despite the delay.

Applicable Law

“The complaint must be filed within sixty days from the time the alleged violation occurred or the complainant could have become aware of the violation with reasonable diligence. All complaints filed with the board shall become public records.” Iowa Code § 23.7(1).

Analysis

In its initial facial review, IPIB considers all factual allegations provided by the complainant to be true and accurate for the purposes of deciding whether to accept or dismiss a complaint. In this case, even accepting all facts provided as true and accurate, any potential violation arising from the facts presented would have occurred before or during the School Board’s monthly meeting on June 12, 2024. Both complaints were filed on November 21, 2024 —162 days later.

Iowa Code § 23.7(1) provides a strict 60-day statute of limitations for IPIB’s jurisdiction to review any formal complaint once “the complainant could have become aware of the violation with reasonable diligence.” The School Board’s decision with respect to the coaching contract had

become a matter of local notoriety by the subsequent board meeting on July 17, 2024 based on the numerous news stories provided by the complainants. July 17 was 127 days before either complaint was filed.

Nothing provides IPIB with the authority to waive the 60-day rule. It is a strict jurisdictional limit set by the legislature on IPIB's authority to review a complaint, regardless of its potential merits. For that reason, IPIB is statutorily obligated to dismiss without further consideration.

Conclusion

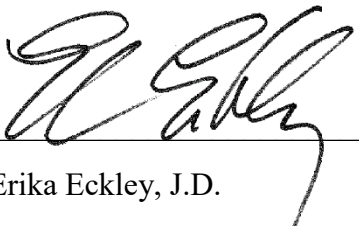
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

Because this complaint was filed more than 60 days from the time the alleged violation occurred or the complainants could have become aware of the violation with reasonable diligence, IPIB lacks jurisdiction to consider the complaint on its merits.

IT IS SO ORDERED: Formal complaint 24FC:0115 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 November 21, 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 December 13, 2024, to:

Brandi Scott, Complainant
Justin Scott, Complainant
Kala Trunkhill, Complainant
Tyson Trunkhill, Complainant

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0119
Tony Reed, Complainant	Dismissal Order
And Concerning:	
Central Iowa Juvenile Detention Center Commission, Respondent	

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

On November 25, 2024, Tony Reed filed formal complaint 24FC:0119, alleging the Central Iowa Juvenile Detention Center Commission (CIJDC Commission) violated Iowa Code Chapters 21 and 22.

Facts

The Central Iowa Juvenile Detention Center (CIJDC) is a juvenile detention facility and social services agency based in Eldora, Iowa, formed pursuant to a 28E agreement to exercise certain government functions, including juvenile detention, drug and alcohol testing, and in-home counseling. The CIJDC Commission is comprised of one designee per member county, with a Chair and two Vice Chairs elected to serve as Executive Officers. The complainant, Tony Reed, is an employee of the CIJDC who serves as the agency's Executive Director.

On September 27, 2024, Reed alleges the CIJDC Commission Chair sent a "Confidential Personnel Report" to approximately 95 people, including to members of the general public. The Report concerned an attorney's review of a complaint which Reed had made. Reed alleges the contents of this Report were entitled to confidentiality under both Iowa Code § 22.7(11)(a) as "personal information in confidential personnel records" and as privileged communications shared in the context of an attorney-client relationship. Reed alleges the CIJDC Commission violated Chapter 22 by publicizing a public record entitled to confidentiality, thereby damaging his reputation with the member counties served by the CIJDC.

Additionally, Reed alleges the CIJDC Commission violated Iowa Code chapter 21 on October 25, 2024, when the CIJDC Commission held an open meeting which included the following agenda item: "9. c. Executive Director Mentoring update from Shawn with possible closed session

Pursuant to Iowa Code 21.5 (1) (i).” Upon reaching this agenda item during the meeting, the Chair proceeded to discuss the topic in open session, without providing Reed the option to request the CIJDC Commission move into closed session. By failing to provide an opportunity to request a closed session for the portion of the meeting discussing Reed’s professional competency as an employee, the CIJDC Commission caused serious harm to Reed’s reputation which could have been avoided by going into closed session, as authorized by Iowa Code § 21.5(1)(i).

Applicable Law

“The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of records, or by another person duly authorized to release such information.” Iowa Code § 22.7.

“A governmental 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. A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:

- i.* To evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual’s reputation and that individual requests a closed session.”

Iowa Code § 21.5(1)(i).

“Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.” Iowa Code § 21.5(6).

Analysis

In its initial facial review, IPIB considers all factual allegations provided by the complainant to be true and accurate for the purposes of deciding whether to accept or dismiss a complaint.

On the first allegation, even assuming the Report would have been entitled to confidentiality, under Iowa Code § 22.7(11)(a) or because of confidential attorney-client privilege, government bodies are not *required* to assert confidentiality merely because confidentiality is authorized under Iowa Code § 22.7. Thus, a government body has the discretion to release a public record for which it is a lawful custodian despite having the option not to. *See* Iowa Code § 22.7 (“[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). Because Iowa Code § 22.7(11) does not provide for a requirement of confidentiality and because attorney-client privilege may be waived by a client’s consent, it would be within the Commission’s discretion to release the Report as a public record, so there is no violation of Iowa Code chapter 22.

As for the second allegation, even of the CIJDC Commission would have been authorized to hold a closed session to discuss Reed’s professional competency, Iowa Code expressly provides that “[n]othing in [Section 21.5] requires a governmental body to hold a closed session to discuss or act upon any matter.” Iowa Code § 21.5(6). Thus, it was within the CIJDC Commission’s discretion to continue in open session, regardless of whether a closed session would have been permissible. Because of this, there is no violation of Iowa Code chapter 21.

Conclusion

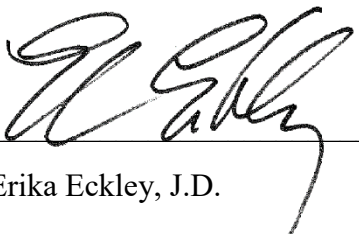
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The CIJDC Commission was not required to withhold its Report as confidential under Chapter 22, nor was it required to move into closed session to discuss the complainant’s professional competency under Chapter 21.

IT IS SO ORDERED: Formal complaint 24FC:0119 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 December 19, 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 December 13, 2024, to:

Tony Reed, Complainant

IPIB Case Number	Contact Name	Name of Entity Involved	Complaint Type	Description	Board Meeting Consent
24FC:0116	Timothy, miller	CITY OF WATERLOO-MUNICIPAL POLICE	Both	Failure to comply with records, data and videos requests per a legal and lawful request; willfully denying public information to commit tortious constitutional fraud in an attempt to force some fictio juris unconscionable contract. I want hard copies of any correspondence for use in a Writ of Mandamus and USDOJ civil rights filing; if necessary. I DO NOT NOR DID I CONSENT TO CONTRACT. ALL RIGHTS RESERVED-WITHOUT PREJUDICE. /s/ BY: Timothy-John; Miller	Accept
24FC:0109	Joe Goche	Kossuth county Supervisors and Auditor	Chapter 21	Motion by Stecker and 2nd by Tjarks to add to our Kossuth County Drainage District Policy to send an informational letter to landowners of any district at the start of any litigation and a yearly update between the time assessments are approved and mailed out. Chairman Stecker called for a roll call vote: Plathe: yes, Tjarks: yes, Waechter: yes, Nath: yes, Stecker: yes. Motion carried. From 9 17 2024 approved Supervisor minutes. This item was not on the 09-17-2024 Supervisors Agenda. Tuesday, September 17, 2024, Regular Session ? Board of Supervisors Meeting Drainage ? Discussion/Decision DD 80 Assessment ? Acknowledge Drainage Transfers Made by the Kossuth County Auditor?s Office ? Discussion/Decision Website Renewal and Replacement ? Discussion with Kossuth County Auditor ? Board Discussion and Committee Reports ? Adjournment	Accept
24FC:0111	Michael McPeek	Iowa Department of Corrections	Chapter 22	Denied BioCup instructions from Dept. of Corrections. They stated it is a confidential record under 904.602. See PDF letter.	Accept
24FC:0117	Michael Merritt	Jasper County	Chapter 22	I have spoken to Jasper County, IA Attorney Scott Nicholson and he has expressed resistance to providing the requested Facebook Social Media Block Lists. Therefore I am filing a complaint so you can clean up the evidence of the mess the IPIB has created regarding the evidence of this board's alleged collusion with this alleged county prosecutor. I would like to direct your attention to the following public records within IPIB Case 22FC:0091 Electronic Mail - Jasper County, IA Attorney Scott Nicholson - 08 NOV 2022 Electronic Mail - Jasper County, IA Attorney Scott Nicholson - 09 NOV 2022 These electronic mail records show Jasper County, IA Attorney Scott Nicholson was representing 1 block list for multiple Jasper County, IA Facebook pages including the requested Facebook Pages for Jasper County, IA Supervisor Brandon Talsma and Jasper County, IA Supervisor Doug Cupples. The included 01 SEP 2023 chest cam footage provides evidence that Jasper County, IA misrepresented its 08 NOV 2022 provided Facebook Block List to the Iowa Public Information Board (See: IPIB Case: 22FC:0091). At the same time, the IPIB's tabled original dismissal for case 22FC:0091 and complete disregard for the testimony I provided that has now been confirmed only provides evidence of the waste of tax dollars Iowa Code Chapter 23 and the Iowa Public Information Board manifest.	Accept
24FC:0118	Kevin Cahalan	City of Eagle Grove	Both	Fulfillment of Public Request incomplete, parts omitted on information delivered, contradicting information provided to general public and ambiguous documents not released. After reasonable due diligence, violation was found on 11/12/2024	Accept
24FC:0120	Paul Dorr	Osceola County, Iowa	Both	In August 2023, I requested Osceola County Attorney Nolan McGowan's browsing history from November 2021 to February 2022. He denied the request on 08/25/23, citing Iowa Code 22.7(11)(a) and Iowa Public Information Board Advisory Opinion 23AO:0004, claiming it was a confidential record. On 11/5/2024, I updated my request to include records from the county's servers, submitting it to the County Auditor and Board of Supervisors. Three members denied the records, again citing Iowa Code 22.7(11)(a). Ericka Eckley then responded that my definition of an employee was limited, but I assert her interpretation is incorrect. One can be an officer or official of an Iowa government jurisdiction by employment or appointment, not elected. A search of the Iowa Code finds hundreds of examples of ?elected officials? and of ?officials? alone. The legislature would have specified it if confidentiality was to cover elected officials. Please amend Advisory Opinion 23AO:0004 to exclude elected officials.	Accept

24FC:0123	Rachel Wherley	Estherville Lincoln Central CSD	Chapter 22	I am filing a formal complaint against the Estherville Lincoln Central Community School District (ELC CSD) for noncompliance with Iowa's public records law (Iowa Code Chapter 22). I requested records related to discussions or decisions about the district's "Mighty Midget" mascot within the past five years. Despite receiving a response that no records exist, the evidence suggests otherwise. Superintendent Responses: The responses from former Superintendent Tara Paul (March 2024) and Superintendent Aiddy Phomvisay (October 2024) use nearly identical language. This indicates pre-coordination and the potential existence of unacknowledged records. Delayed Acknowledgment: My request was not acknowledged until November 2024, despite follow-ups. No Records Claim: The district's assertion that no records exist is implausible, given the longstanding public interest and coordination required for their templated responses. Board Minutes: Recent board meeting minutes show no record of mascot discussions, raising concerns about compliance with open meetings laws. I have attached all correspondence and supporting documents for review. I request an investigation to ensure a thorough search of records and compliance with Iowa law.	Accept
24FC:0124	Kenneth Brown	City of Sidney	Chapter 22	On October 23 sent in request for Clerk's Financial Reports. After several request for a reply to the email I received this email. Mr. Brown, I apologize for the delay on your request, but this has not been approved by the council yet. We will process this for you as soon as possible. Thank you for your patience. Andrea Clark and as of this date I have not received them. It is now going on over a month since the request was sent in and it looks like there is no effort to fulfill the request. My understanding of the Iowa code and the city ordinances this information does not need to have the approval of the council before completing the public information request. Iowa Code 22.8.4.d A reasonable delay for this purpose shall not exceed twenty calendar days and ordinarily should not exceed ten business day	Accept
24FC:0124-2	Kenneth Brown	City of Sidney	Chapter 22	The public information request are being ignored and going unanswered. There have been several sent in requesting the recording of the council meetings and no answer from city hall. 10/23/2024, 11/13/2024, 11/22/2024, and 11/26/2024	Accept
24FC:0125	Anthony Wynkoop	Clinton Iowa PD	Chapter 22	Unreasonable cost to access public records. \$414 for digital copy of policy and procedures	Accept
24FC:0127	JOHN GRUCA	Cedar Rapids Veterans Memorial Commission	Both	After repeated requests for meeting minutes I have still not received minutes for meetings held on 11/14, 9/12, 8/84, 7/11 & 5/9/24, 7/11/24, 8/8/24, 9/12/24 & 11/14/24.	Accept

24FC:0123	Rachel Wherley	Estherville Lincoln Central CSD	Chapt er 22	I am filing a formal complaint against the Estherville Lincoln Central Community School District (ELC CSD) for noncompliance with Iowa's public records law (Iowa Code Chapter 22). I requested records related to discussions or decisions about the district's "Mighty Midget" mascot within the past five years. Despite receiving a response that no records exist, the evidence suggests otherwise. Superintendent Responses: The responses from former Superintendent Tara Paul (March 2024) and Superintendent Aiddy Phomvisay (October 2024) use nearly identical language. This indicates pre-coordination and the potential existence of unacknowledged records. Delayed Acknowledgment: My request was not acknowledged until November 2024, despite follow-ups. No Records Claim: The district's assertion that no records exist is implausible, given the longstanding public interest and coordination required for their templated responses. Board Minutes: Recent board meeting minutes show no record of mascot discussions, raising concerns about compliance with open meetings laws. I have attached all correspondence and supporting documents for review. I request an investigation to ensure a thorough search of records and compliance with Iowa law.	Accept
24FC:0124	Kenneth Brown	City of Sidney	Public Recor ds Law	On October 23 sent in request for Clerk's Financial Reports. After several request for a reply to the email I received this email. Mr. Brown, I apologize for the delay on your request, but this has not been approved by the council yet. We will process this for you as soon as possible. Thank you for your patience. Andrea Clark and as of this date I have not received them. It is now going on over a month since the request was sent in and it looks like there is no effort to fulfill the request. My understanding of the Iowa code and the city ordinances this information doe not need to have the approval of the council before completing the public information request. Iowa Code 22.8.4.d A reasonable delay for this purpose shall not exceed twenty calendar days and ordinarily should not exceed ten business day	Accept
24FC:0124-2	Kenneth Brown	City of Sidney	Chapt er 22	The public information request are being ignored and going unanswered. Ther have been several sent in requesting the recording of the council meetings and no answer from city hall. 10/23/2024, 11/13/2024, 11/22/2024, and 11/26/2024	Accept

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0013
Bonnie Castillo, Complainant	Probable Cause Order
And Concerning:	
Union County Emergency Management Agency, Respondent	

On February 2, 2024, Bonnie Castillo filed formal complaint 24FC:0013, alleging that Union County Emergency Management Agency (“UCEMA”) violated Iowa Code chapters 21 and 22.

Facts

Bonnie Castillo alleged board minutes were not being maintained or available by UCEMA. She alleged a board member requested meeting minutes from 2023 meetings. Jo Duckworth, Director of Emergency Management, was not able to quickly provide the requested documents, however, days later after spending time in her office and being viewed typing diligently she produced a copy of what she stated were the approved minutes. She also alleges the minutes are not posted on the UCEMA website where they are supposed to be posted.

Castillo also alleged UCEMA had a closed session called by the county attorney on January 24, 2024, that was not published on the agenda or announced prior to the start of the closed session. The county attorney came in and interrupted the regular meeting, asked all but UCEMA members to leave and held the closed session.

In response, Duckworth stated she responded to the request for minutes on the same day as requested. She also stated she keeps the minutes from the monthly meeting in printed and digital form. She provided copies of a number of previous meetings. Duckworth admits she has not posted the minutes on the website due to time and capacity constraints, but stated Iowa Code § 21.3 does not require posting the minutes on the website.

Duckworth, however, does admit UCEMA held a closed session that was not on the meeting agenda because the attorney did not tell her about it. She admits that she, the media, and other participants were asked to leave the meeting to hold the closed session.

The Iowa Public Information Board (IPIB) accepted the complaint on April 18, 2024, to address the improper closed session. Pursuant to Iowa Code section 23.9, IPIB staff provided an informal resolution agreement to all parties. The agreement required the following:

1. The UCEMA acknowledges that for the meeting on January 24, 2024, a portion of the meeting was a de facto closed session when members of the public were asked to leave the meeting to conduct a discussion with the county attorney. This was not included on the agenda as required under Iowa Code chapter 21.
2. The UCEMA will conduct Open Meetings and Public Records training at an open meeting with notice to the public. This training will be conducted by the Iowa Public Information Board. This will be scheduled by the Board and the UCEMA, staff, and county attorney will attend. Other government bodies may be invited at the UCEMA's discretion.
3. The UCEMA will review its policies and procedures for providing notice and setting agendas and for preparing minutes for every meeting as required under Iowa Code chapter 21 and make any necessary changes to any existing policies.
4. The UCEMA will develop a checklist for conducting a closed meeting and will provide it to the IPIB for approval.
5. The UCEMA will approve this agreement at an open meeting and provide a copy of this Informal Resolution in full with its meeting minutes.

The informal resolution was provided to the parties on April 26, 2024. On May 30, IPIB followed up with the parties regarding the informal resolution. A revised informal resolution was sent to the parties on June 4. IPIB again followed up on adoption of the informal resolution on September 10 after training had been completed on August 21. IPIB was informed it would be on the UCEMA agenda for September 19. The informal resolution was resent to the parties on September 19. On October 3, IPIB followed up again regarding the informal resolution. To date, neither party has signed or adopted the informal resolution. But, the UCEMA has done the following:

- Training by IPIB was conducted at the UCEMA building on August 21, 2024. Members and staff of UCEMA attended as well as individuals from local government bodies.
- UCEMA passed a policy at its September 19, 2024, meeting regarding closed sessions and procedures to follow.

Instead of a signed informal resolution, UCEMA provided a copy of the policy it passed on September 19, 2024.¹ On October 3, 2024, IPIB asked for documentation of the notice provided for the training, information about attendance by UCEMA members and the county attorney, copies of the minutes from the meeting adopting the resolution, and the minutes from the

¹ There was some confusion regarding what was actually passed by UCEMA. The copy provided by Duckworth was inaccurate. A corrected copy was provided by Paul Greufe, but the original inaccurate version was included in one of the meeting packets sent on November 14.

meeting in which the informal resolution and its terms are approved and the document included as part of the minutes, if applicable. On October 31, 2024, IPIB followed up again for documentation, Duckworth responded to IPIB's inquiry with the following:

"I apologize for the delay in getting back to you, I took some much needed vacation time off and am just getting settled back into the office. I will get you the documents requested within the next week. I am working on a time dependent grant today and tomorrow. If you have any questions, please reach out to me directly."

Despite the assurances of sending the documents, nothing was received. IPIB followed up again and on November 14, 2024, Paul Greufe provided three packets of documents provided to UCEMA for their meetings in August and September. One of the packets included an agenda and minutes. An agenda for August 21, 2024, was included that listed the training by IPIB following the regular meeting of the UCEMA and a sign-in sheet for the training. One packet appeared to be the same as another packet with the addition of the draft resolution for closed sessions.

No other response from UCEMA has been provided. No informal resolution has been signed. Notice of the agenda in which the training occurred and a sign in sheet of attendees was provided. No information has been provided regarding the review of providing notice, setting meeting agendas, or preparing minutes. UCEMA has not publicly acknowledged the improper closed session.

Action Taken

Under Iowa Code section 23.9, once the Board accepts a complaint, IPIB is required to work with the parties to attempt to resolve the complaint informally. Since April, IPIB has tried to get an informal resolution completed. IPIB staff provided training on August 21, 2024. UCEMA appears to have adopted a resolution regarding closed sessions in September 2024, although no minutes have been provided to show adoption and the version adopted is debated. UCEMA appears unable or unwilling to adopt the informal resolution and the director has become non-responsive to IPIB. At this point in time, IPIB has done everything it can to try to resolve the Complaint.

IPIB Action

The Board may take the following actions upon receipt of a probable cause report:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or

d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding.

Iowa Admin. Code r. 497-2.2(4).

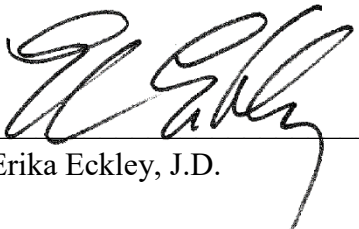
Recommendation

It is recommended the Board determine probable cause exists to believe UCEMA violated Iowa Code chapter 21 because UCEMA held a closed session without proper notice or procedure on January 24, 2024. The closed session was not published on the agenda or announced prior to the start of the closed session. The county attorney came in and interrupted the regular meeting, asked all but UCEMA members to leave, and held the closed session.

UCEMA has held training on open meetings and closed sessions and made efforts to address the closed session procedures, but UCEMA has not provided minutes regarding this meeting and the form of the actual resolution is in doubt. IPIB staff is not confident UCEMA will be able to avoid future violations of chapters 21 and 22 based on its lack of organization and responsiveness to this matter. IPIB would be fully within its right to initiate a contested case proceeding in this matter, but it is unlikely that will address the issues.

Instead, IPIB staff recommend the IPIB make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion dismiss the matter with a strong recommendation the UCEMA take significant hands-on measures to address the lack of organization and/or responsiveness of the UCEMA in addressing this matter and likely an inability or unwillingness to comply with administrative requirements of Iowa Code chapters 21 and 22. If UCEMA does not take this seriously and address the issues and future, similar violations are found, IPIB should make clear it will move to a contested case proceeding and award fines for those violations.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on December 19, 2024, to:

Jo Duckworth and Paul Greufe for UCEMA
Bonnie Castillo

The Iowa Public Information Board

In re the Matter of: Steven Asche, Complainant And Concerning: City of Eagle Grove, Respondent	Case Number: 24FC:0056 Final Report
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Complaint 24FC:0056 was opened on June 25, 2024, and accepted by the IPIB on September 19, 2024.

Before and throughout the life cycle of this complaint, numerous correspondence and documents moved between Asche and the City of Eagle Grove (City). Asche paid for access to records and maintained he had not received numerous records. The City continued to provide access to records after the filing of the Complaint. Due to the complexity of the communications between the parties, IPIB accepted the complaint and worked with the parties to resolve the public records dispute. In addition, IPIB requested a review of the fees charged to Asche to access the public records.

Applicable Law

“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. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public record without charge while the public record is in the physical possession of the custodian of the public record.” Iowa Code § 22.2(1).

“In the event expenses are necessary, such expenses shall be reasonable and communicated to the requester upon receipt of the request.” Iowa Code § 22.3(1).

Procedure

On September 19, the IPIB accepted the complaint. Upon acceptance, the parties worked toward an informal resolution agreement.

Asche approved the Informal Resolution on October 30, 2024. The City approved the Informal Resolution on November 4, 2024. In response to the Informal Resolution, the following actions were taken:

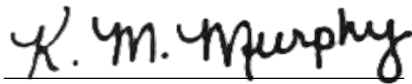
- IPIB staff traveled to Eagle Grove and facilitated a discussion with Asche and City staff and officials regarding outstanding issues. Following the discussion, the City was tasked with presenting a specific set of public records by November 25, 2024.

- On November 25, 2024, the City provided the required public documents to Asche.
- Upon receipt, Asche reviewed the documents and provided a list of public records not included. IPIB staff followed up with the City and requested clarification of the outstanding public records.
- The City provided clarification on December 10, 2024.
- In addition, IPIB staff obtained a detailed statement of fees charged to Asche for access to public records. Since payment of fees, hundreds of public records have been provided to Asche at no charge. IPIB found the original fees charged to Asche were appropriate and reasonable. This was discussed at the facilitated discussion.

Asche continues to contest procedures used by the City to develop and construct the recreational center, which is the focus of this dispute. Asche's remaining concerns are either outside the scope of IPIB's jurisdiction or involve records not included within the current records request. Asche has been encouraged to seek additional records through new public records requests.

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

By the IPIB Deputy Director,



Kimberly M. Murphy, J.D.

CERTIFICATE OF MAILING

This document was sent on December 12, 2024, to:

Steven Asche, Complainant
Bryce Davis, City of Eagle Grove

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 Informal Resolution Report
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Complaint 24FC:0064 was opened on July 30, 2024, and accepted by the IPIB on October 17, 2024. This Informal Resolution is adopted in response to the IPIB acceptance of the complaint.

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

On May 13 of this year, Mark Milligan 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 Mark 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, Mark Milligan filed a complaint with the IPIB.

IPIB accepted this case on October 17, 2024, to allow the IPIB staff to focus the parties on a resolution of this matter and to ensure requested records, not deemed confidential pursuant to Iowa Code Chapter 22 or other laws, are provided.

Applicable Law

"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. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public record without charge while the public record is in the physical possession of the custodian of the public record." Iowa Code § 22.2(1).

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 has created two case files: The Historical Case File refers to the missing persons case file regarding Henry Dennis Lane Milligan opened in 1984. The New Case File refers to a missing persons case file regarding Henry Dennis Lane Milligan opened after the Historical Case File.
2. The County will provide the Historical Case file to Mark Milligan. If the County refuses to release any portions of the Historical Case File, the County will provide a justification for each record withheld. IPIB staff will review each justification, and the corresponding record, if necessary, to determine whether the justification is legally acceptable.
3. The County will work with IPIB staff to review the New Case File and determine what portions of the New Case File should be released as a public record. If the County refuses to release any portions of the New Case File, the County will provide a justification for each record withheld. IPIB staff will review each justification, and the corresponding record, if necessary, to determine whether the justification is legally acceptable.
4. Upon disclosing all public records responsive to Mark Milligan's request or providing justifications for withholding the public records, Mark Milligan will provide a clear and concise list of public records he believes have not been provided by the County pursuant to his public records request. IPIB staff will review the final list of public records and determine whether the requested items are public records, whether the public records fall within the scope of the original request, and whether the public records should be released.
5. The County has the right to redact or maintain as confidential any information subject to the confidentiality requirements provided in Iowa Code Chapter 22. IPIB staff may request to review materials redacted or maintained as confidential to ensure the documents meet requirements outlined in Chapter 22. Any disputes regarding confidentiality will be heard by the Iowa Public Information Board pursuant to a probable cause proceeding.

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.

Mark Milligan approved the Informal Resolution on December 5, 2024.

The County approved the Informal Resolution on December 3, 2024.

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

By the IPIB Deputy Director,

K. M. Murphy

Kimberly M. Murphy, J.D.

CERTIFICATE OF MAILING

This document was sent on December 12, 2024, to:

Mark Milligan, Complainant
Laura Davis, Monroe County Attorney

The Iowa Public Information Board

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

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

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.

IPIB accepted this Complaint on October 17, 2024, finding the following potential violations.

Supervisor Discussion as a Meeting

A quorum of the Board was audio recorded having a conversation about the topics upon which it exercised decision-making. Even if the conversation did not rise to 'deliberation' between the supervisors, it is difficult to find that 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. It was 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.

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 Board will acknowledge at an open meeting that there are sufficient facts to show the conversation between a majority of the Board discussing matters within in the policy-

making responsibilities of the Board could be found to be a violation of Iowa Code chapter 21. This acknowledgement will be recorded in the minutes of the meeting and minutes will be provided to IPIB.

2. The Board will provide information to IPIB as outlined below regarding Thomas' records request:
 - 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.
 - a) This response will include information regarding what public records were provided, whether records were withheld as confidential, and the reason for the confidentiality.
 - b) The Board will provide information on the process and procedure used for obtaining relevant documents from the County and identified individuals, and if applicable, their personal emails, texts, etc. in response to the request.
 - c) Any documents discovered that have not previously been provided will immediately be provided, at no cost, to Thomas.
3. The Board will conduct training during an open meeting for members of the Jefferson County Board of Supervisors regarding Iowa Code Chapters 21 and 22. Supervisor Sandquist is not required to attend, but any newly-elected Supervisors are highly encouraged to attend. The Board will work with the Iowa State Association of Counties or the Iowa Public Information Board staff to schedule and provide the training. Additional Board and County staff or local government bodies may be invited to the training at the discretion of the Board.
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.

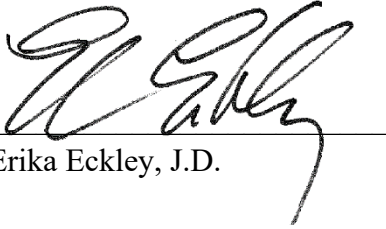
The terms of the Informal Resolution will be completed within 60 days of the date of approval of this Informal Resolution by all parties. Upon showing of proof of compliance, the IPIB will dismiss this complaint as successfully resolved.

Brian Thomas approved the Informal Resolution on December 13, 2024.

The County approved the Informal Resolution on December 13, 2024.

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

By the IPIB Executive Director



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

Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on December 16, 2024, to:

Brian Thomas
Chauncey Moulding, attorney for Jefferson County

The Iowa Public Information Board

In re the Matter of: Lucian Diaconu, Complainant And Concerning: Gilbert Community School District, Respondent	Case Number: 24FC:0072 Revised 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 14, 2024, Lucian Diaconu filed formal complaint 24FC:0072, alleging the Gilbert Community School District (District) violated Iowa Code Chapter 22. The dismissal order was presented to the IPIB on November 21, 2024. The dismissal order was tabled to December 19, 2024, and the IPIB requested the Respondent be present and additional information be reviewed.

Facts

The complaint alleges the District violated Iowa Code Chapter 22 by failing to disclose all public records responsive to the request, unreasonable delays for production, unreasonable fees charged for production, and the release was “on paper, with missing information, printed pages in random order and with words out of context.”

On May 24, 2024, Diaconu submitted a records request to the District seeking all electronic communication sent or received in reference to the words, “soccer, safe, time, Noreen, and team” related to two specific employees. Diaconu requested the information be delivered via USB device. The District acknowledged the request on the same date.

On June 4, 2024, Diaconu followed up with the District and requested an update. On the same date, the District responded and indicated the request would take 40 searches and a minimum of 15-20 hours of work. The District estimated the cost for production would be \$47.22 per hour at 15 hours, for a cost of \$708.30. Additional conversations took place on this date regarding fees, payment, and timing of release.

On June 24, Diaconu followed up with the District and requested an update. The District responded as follows:

We wanted to assure you we are working on your records request. We understand it is taking more time than you expected. Just so you are aware, there are over 4900 documents we have to hand sort and review prior to releasing the information to you, and that takes a significant amount of time. The reason we have so many records, for example, is one of the words you have listed was the word "soccer." One person you asked for has the word soccer in their signature line, so every email this person sent is included in your request. We then have to hand-sort and review every email to be sure it does not contain information not a part of your request that would require redaction, for example names of students not related to your request. We are continuing to work on your request, but we wanted to give you a status update and we will continue to work on this project and hope to have it completed in the next 2 weeks.

On August 2, Diaconu again requested an update on the status of the request. Diaconu did not receive a response to the request and again followed up on August 6. The District responded and indicated the documents would be available on Friday and provided the actual cost for production. It should be noted Diaconu informed the District in July he would be out of the country from July 12 through August 2, and that he would be in touch upon his return.

On August 8, the District outreached to Diaconu and indicated the documents were ready to be received. The District stated the payment for release was \$522.64 and the total was based on 12 hours of work at \$47.22 per hour.

On August 9, Diaconu sent an email to the District indicating the format for production was paper copies, some pages were copied several times, communications were missing, and an itemized receipt was not provided. Diaconu requested to know how many emails should have been provided and if there were not communications disclosed and why. At this time, a second public records request was also submitted by Diaconu to the District.

Following the request from Diaconu, conversations via phone and email continued. In one conversation, the District sought clarification of Diaconu's request to address his concerns. Based on this conversation, the District broadened the types and number of records provided and prepared another public records disclosure. The District states that not all records were provided on August 8 because the District initially believed some of the records were not relevant to the request. The District states,

“Due to the use of the word “soccer” in one of the employee’s email signature, District staff initially understood that some of the 4900 records were not relevant to Complainant’s request because the subject matter of the emails were not “in reference to” the actual

subjects identified and so the records produced were the records reasonably believed to be responsive to Complainant's request.”

This was further confirmed in an email between Diaconu and the District. Diaconu wrote,

“From my understanding, over the phone, for my request placed on 5/24/2024 it was given on 08/08/2024 ONLY emails between the coaches (back and forth) from that time frame. It was my understanding, that other emails were omitted to be released as they have the word soccer (one of the words requested) in their signature and it may have not been what I asked for. I was also told that if I want all the emails containing soccer the cost will be higher, because 4900 emails will have to be reviewed and furthermore, and extra charge for scanning all the documents and release them electronically (how I requested).”

On August 14, Diaconu filed this complaint.

On August 15, the second round of public records responsive to Diaconu's request was released, which was provided on an electronic drive and contained 5,750 pages of records.

Applicable Law

Payment of Fees and Access to Records

Iowa Code § 22.3 is clear governmental bodies can charge reasonable fees for the production of public records. Iowa Code § 22.3(1) states as follows:

Although fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of reasonable expenses, the lawful custodian shall make every reasonable effort to provide the public record requested at no cost other than copying costs for a record which takes less than thirty minutes to produce. In the event expenses are necessary, such expenses shall be reasonable and communicated to the requester upon receipt of the request.

Iowa Code § 22.3(2) goes on to define reasonable fees and states,

The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those reasonable expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the

office of the lawful custodian. Costs for legal services should only be utilized for the redaction or review of legally protected confidential information.

Timeframe for Production of Records

Iowa Code § 22.8(4) provides a foundation for defining a good-faith and reasonable delay in the production of public records:

Good-faith, reasonable delay by a lawful custodian in permitting the examination and copying of a government record is not a violation of this chapter if the purpose of the delay is any of the following:

- a. To seek an injunction under this section.
- b. To determine whether the lawful custodian is entitled to seek such an injunction or should seek such an injunction.
- c. To determine whether the government record in question is a public record, or confidential record.
- d. To determine whether a confidential record should be available for inspection and copying to the person requesting the right to do so. A reasonable delay for this purpose shall not exceed twenty calendar days and ordinarily should not exceed ten business days.

This section implies review of public records to determine confidentiality should be between 10 and 20 days. But this does not end the analysis. The Supreme Court has held in a recent case that the reasonability of a delay may be determined by the following factors:

- (1) how promptly the defendant acknowledged the plaintiff's requests and follow-up inquiries
- (2) whether the defendant assured the plaintiff of the defendant's intent to provide the requested records
- (3) whether the defendant explained why requested records weren't immediately available (e.g., what searches needed to be performed or what other obstacles needed to be overcome)
- (4) whether the defendant produced records as they became available (sometimes called "rolling production")
- (5) whether the defendant updated the plaintiff on efforts to obtain and produce records
- (6) whether the defendant provided information about when records could be expected.¹

Analysis

¹ *Belin v. Reynolds*, 989 N.W.2d 166 (Iowa 2023). See also, *Kirkwood Inst. Inc. v. Sand*, 6 N.W.3d 1 (Iowa 2024); IPIB Advisory Opinion, 24FC:0010, Clarification on the definition of "reasonable delay" as it pertains to the period of time for a record's custodian to determine the confidentiality of records.

Diaconu raises the following concerns: Failure to to disclose all public records responsive to the request, unreasonable delays for production, unreasonable fees charged for production, and the release was “on paper, with missing information, printed pages in random order and with words out of context.” This analysis addresses each issue.

Failure to Disclose All Public Records. Diaconu alleges the District failed to disclose all public records. Diaconu’s request included very broad search terms that resulted in the review of 4,900 documents resulting in production of over 5,000 pages. One of the search terms was included in the signature line of emails, which resulted in a lot of potentially irrelevant emails.

The District asked Diaconu to provide more specifics in regards to the information being requested to assist in narrowing the search and reducing the time and cost in reviewing. Diaconu refused to provide more information. This is within Diaconu’s discretion. This decision, however, will likely result in Diaconu needing to make additional records requests to further narrow and identify the information being sought if it was not captured through the key word search terms “soccer, safe, time, Noreen, and team.”

Improper Delay. Diaconu alleges the District has improperly delayed production of public records. Diaconu submitted his request for public records on May 24, 2024. The District released the records on August 8, 2024.

The District had to review 4,900 documents to prevent release of student information or other potentially confidential information. The District communicated this as the reason for delay to Diaconu. In addition, the District acknowledged receipt of the request, assured Diaconu the records would be provided, and responded to Diaconu’s requests for updates on the status of the request. Ultimately, Diaconu received over 5,000 pages of documents.

Excessive Fees. Diaconu alleges the fees charged in this case are improper. Diaconu received an estimate of fees on June 4, 2024. The estimate was based on the requirement that 40 searches be performed. The District estimated this would be 15-20 hours of labor at a cost of \$47.22 per hour. The total estimate provided was \$708.30. When Diaconu retrieved the public records, fees totaling \$522.69 were paid. The District provided the following invoice:

12 hours of labor by the IT Director \$43.56 \$522.69

Labor included:

Reviewed documents in reference to the words: soccer, safe, time, Noreen and team. Redaction of information, when necessary. Downloading and uploading documents.

Diaconu’s request was very broad and involved documents containing student information. The District communicated costs to Diaconu in the form of an estimate, receipt, and invoice. The estimate provided was higher than the actual costs paid. Expenses related to the cost of production were actual costs directly attributable to the work done by District IT staff. The fees charged to Diaconu for the retrieval and production of records resulting in over 5,000 pages are appropriate and reasonable.

Form of Disclosure. Diaconu requests the IPIB make a finding based on the form of release and indicates the release was “on paper, with missing information, printed pages in random order and with words out of context.” Diaconu was charged for time, not copies. There is nothing within Iowa Code Chapter 22 stating the manner in which public records must be organized or printed.

Conclusion

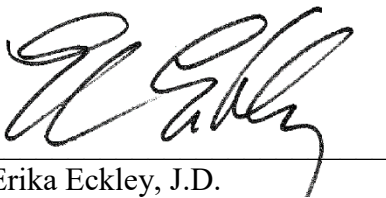
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations, it is found that this complaint does not meet the jurisdictional requirements for acceptance as IPIB was unable to find any evidence of violations of Iowa Code Chapter 22.

IT IS SO ORDERED: Formal complaint 24FC:0084 is dismissed pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

The District utilized Diaconu’s broad search terms, reviewed 4900 documents, provided over 5,000 pages of documents, and charged the actual costs of the time spent retrieving the documents.

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 November 21, 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 December 12, 2024, to:

Lucian Diaconu, Complainant

Elizabeth Heffernan, Attorney for the Gilbert Community School District

The Iowa Public Information Board

In re the Matter of: Tiffany South, Complainant And Concerning: CAM Community School District, Respondent	Case Number: 24FC:0079 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 18, 2024, Tiffany South filed formal complaint 24FC:0079, alleging CAM Community School District (District) violated Iowa Code Chapter 22.

Facts

The District is a rural public school district in Southwest Iowa, serving the cities of Anita, Cumberland, Massena, and Wiota. The complainant, Tiffany South, was previously employed by the 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 District conducted an internal investigation involving South and the S.W.A.T. Booster Club, the details of which are outside the scope of the present complaint. At the end of the 2023-2024 school year, the School District made the decision not to renew South's coaching contract.

On August 29, 2024, South filed a records request seeking six categories of records created between October 22 and present, as follows:

1. All emails, texts, notes, or documents regarding Tiffany South exchanged with IGHSAU;
2. All emails, texts, notes, or documents regarding the S.W.A.T. Girls Wrestling Booster Club exchanged with the IGHSAU;
3. All emails, texts, notes, or documents regarding Tiffany South's job performance;

4. All emails, texts, notes, or documents regarding not renewing Tiffany South's wrestling coach position;
5. All emails, texts, notes, or documents regarding any complaints made against Tiffany South; and
6. All emails, texts, notes, or documents regarding Tiffany South and S.W.A.T. Girls Wrestling Booster Club.

On the same day, a similar records request was filed with the IGHSAU. This request was the subject of a parallel formal complaint, 24FC:0080, which was dismissed by IPIB on the basis that IGHSAU was not a government body subject to Chapter 22.

On September 3, 2024, Director of Technology Joel Klobnak responded, acknowledging South's request and stating a preliminary search had yielded 3,737 potentially relevant email records, which would take approximately 30 hours to review for confidentiality and responsiveness. Including printing fees, the estimated cost provided was \$1,400 for emails alone. Gathering and reviewing other categories of records sought would require additional time and incur further costs.

South promptly responded: "Joel, please proceed with copies of every other document regardless." Klobnak asked for clarification on whether South was asking the District to proceed with the records request for all documents regardless of associated costs.

South then amended her request such that the timeframe was shortened to "November 2023 to present" and the categories were revised to read as follows:

1. All emails, texts, notes, or documents regarding Tiffany South exchanged with Paul Croghan, Barry Bower, and/or Joe Wollum with the IGHSAU;
2. All emails, texts, notes, or documents regarding the S.W.A.T. Girls Wrestling Booster Club exchanged with the IGHSAU;
3. All emails, texts, notes, or documents regarding Tiffany South's job performance;
4. All emails, texts, notes, or documents regarding not renewing Tiffany South's wrestling coach position;
5. All emails, texts, notes, or documents regarding any complaints made against Tiffany South
6. All emails, texts, notes, or documents regarding Tiffany South and the S.W.A.T. Girls Wrestling Booster Club from or to Paul Croghan and/or Barry Bower.¹

On September 4, 2024, South confirmed with Klobnak the District had received the amended records request.

On September 18, 2024, the District informed South her request had been completed and the cost for production would be \$295.00 (not including legal fees incurred, which the respondent opted to waive). South promptly paid the fee, and the School District released a 37-page PDF with

¹ At the filing of this case, Croghan was the CAM CSD Superintendent, Bower was the CAM Middle and High School Principal, and Wollum was the CAM High School Athletic Director

responsive records. All other responsive records were withheld pursuant to one or more grounds for confidentiality, including 1) the exception for “personal information in confidential personnel records,” as described in Iowa Code § 22.7(11); 2) the student records exception of Iowa Code § 22.7(1); and 3) attorney-client privilege and work-product privilege protected by judicial interpretation and Iowa Code § 22.7(4). Notably, the School District included all documents shared with IGHSAU following the investigation, even though these records were related to the investigation involving South, as they had been disclosed to a third party outside of government.

Following the release of these records, South filed formal complaint 24FC:0079.

On October 1, 2024, during the course of case 24FC:0080, IGHSAU voluntarily released all records in its possession relating to South, the S.W.A.T. Wrestling Team, and the Booster Club, which included additional documents received from other sources aside from the District.

Three alleged violations were asserted against the District in this case:

1. The District did not provide a timeframe for its response;
2. The District failed to provide a fee estimate for the amended request prior to charging South \$295.00; and
3. The District improperly withheld responsive records which should have been disclosed, notwithstanding the asserted bases for confidentiality.

IPIB has not reviewed the records withheld as confidential, though the School District suggested an in-camera review if it was deemed necessary.

Applicable Law

“Although fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of reasonable expenses, the lawful custodian shall make every reasonable effort to provide the public record requested at no cost other than copying costs for a record which takes less than thirty minutes to produce. In the event expenses are necessary, such expenses shall be reasonable and communicated to the requested upon receipt of the request. A person may contest the reasonableness of the custodian’s expenses as provided for in this chapter.” Iowa Code § 22.3(1).

“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:

1. Personal information in records regarding a student, prospective student, or former student maintained, created, collected, or assembled by or for a school corporation or educational institution maintaining such records. [caveats omitted]
4. Records which represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body.

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(1), (4), (11)(a).

Analysis

I. Failure to Provide Timeframe

With regards to the first alleged violation, that the District failed to provide a timeline for responding to the complainant's Chapter 22 request, there is no provision which requires a timeline be provided upon receipt. Similarly, Chapter 22 does not impose any general standard for what constitutes a reasonable response time (aside from Iowa Code § 22.8(4)(d), which addresses one specific reason for delay), and IPIB has noted that "[t]he time to locate a record can vary considerably depending on 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." 22AO:0004, *Timeliness of Responding to Record Requests*. In a recent Iowa Supreme Court case, *Belin v. Reynolds*, the Court found an unreasonable delay could constitute an implied refusal to respond to a records request, but only where a confluence of factors clearly indicates an unwillingness on the custodian's part to fulfill its Chapter 22 duties. 989 N.W.2d 166, 175 (Iowa 2023); see also 24AO:0010, *Clarification on the Definition of "Reasonable Delay" as*

it Pertains to the Period of Time for a Record's Custodian to Determine the Confidentiality of Records.

The request in this case was made on August 29, 2024. The School District responded on September 3, 2024, with an estimate of the scope of responsive emails, likely review time, and resulting costs. The complainant amended her request the same day. The amended request was promptly acknowledged, and the School District finalized its response on September 18, 2024. Given the scope of records to be retrieved and reviewed from multiple different sources, this 15-day response was reasonable. Because no timeframe was required and the actual time taken to respond was within the bounds permitted by Chapter 22, there was no violation under these facts.

II. Failure to Provide Fee Estimate in Advance

Iowa Code § 22.3(1) provides that, where a lawful custodian makes its response contingent on the payment of actual costs associated with retrieval, “such expenses shall be reasonable and communicated to the requester upon receipt of the request.” IPIB has interpreted this language to mean a fee estimate must be provided when a government body responds to a request, rather than billing a requester after the request has been fulfilled. 20AO:0002, *Related to the Production of Records*. This provision is intended to protect requesters from unfair surprises and allow for the opportunity to narrow the scope of a request for the convenience of both parties.

In this case, the District provided an estimated cost of \$1,400 for the first request, based on the scope of records which would need to be reviewed, including non-emails, which were not included in the estimate. The complainant initially replied by instructing the District to “proceed with copies of every other document regardless.” When the school’s IT director asked whether the complainant intended for them to proceed “regardless of associated costs,” the complainant responded with an amended request. The ultimate cost was \$295.00, which did not include the legal fees, which were waived by the District. The complainant paid these costs prior to the release of records.

The District’s first response clearly satisfied its duties under Iowa Code § 22.3(1) to communicate estimated expenses upon receipt, including a sufficiently thorough explanation of how the costs were calculated. As for the amended request, the complainant’s first response following the estimate was instruction to proceed “regardless,” then an amended request which merely narrowed the date range and limited the scope of two categories to apply to specifically named district personnel. The final, actual costs were also communicated to the complainant in a phone call before payment and the release of records.

Because an amended records request takes the place of a previous request, it is generally considered independent for the purposes of the government’s Chapter 22 responsibilities. In this analysis, IPIB emphasizes the specific facts of this case, including 1) the complainant’s instruction to proceed “regardless,” 2) the substantial similarity of the two requests, and 3) the fact the final costs were actually communicated in advance of the release of records.

IPIB strongly recommends the District provide revised fee estimates in response to amended records requests, should similar situations arise in the future. Under these circumstances, IPIB does not find a violation of Iowa Code § 22.3(1).

III. Confidentiality of Withheld Records

The third alleged violation concerns whether the School district properly characterized the documents in its possession. For this portion of the analysis, IPIB looks to the specific wording of Tiffany South's amended records request.

Categories #3, #4, and #5 of the request seek records relating to South's job performance as wrestling coach, records relating to the decision not to renew South's coaching contract, and any complaints made to the district against South. All three of these categories are covered by Iowa Code § 22.7(11), which protects "personnel records" information relating to "identified or identifiable" public employees and officials. While "personal information in confidential personnel files" is not defined in statute, the Iowa Supreme Court has interpreted this language broadly, finding that the legislature intended a "categorical exemption." *ACLU Foundation of Iowa, Inc. v. Records Custodian, Atl. Cmty. Sch. Dist.*, 818 N.W.2d 231, 233 (Iowa 2012). IPIB finds the type of records which would be responsive to the complainant's request would be of the same nature as the disciplinary records protected as confidential in *ACLU Foundation. Id.* at 232, 236; *see also Des Moines Indep. Cmty. Sch. Dist. v. Des Moines Register & Tribune Co.*, 487 N.W.2d 666, 670 (Iowa 1992) (finding the nature of a record determines its classification, rather than its "location in a filing system").

The fact the complainant is seeking her own personnel records does not affect this analysis, as Chapter 22 does not differentiate between requesters as it relates to the obligation to release public records. Because South's personnel files would not be accessible to the general public under Chapter 22, they cannot be provided to her alone as a public record without making the records available to everyone else.

Two more categories, #1 and #2, were fully addressed by the District and IGHS AU's combined disclosures, as *all* documents exchanged between the two entities on the matter of South and the Booster Club were already released.

That leaves Category #6, seeking all "emails, texts, notes or documents regarding Tiffany South and the S.W.A.T. Girls Wrestling Booster Club from or to Paul Croghan and/or Barry Bower." The District did, in fact, release several records within this category, while withholding others on multiple bases, including 1) attorney-client and work-product privilege; 2) the personal student information exception of Iowa Code § 22.7(1); and 3) the aforementioned personnel records exception of Iowa Code § 22.7(11)(a). The School District has attested there are no additional responsive documents outside of these confidentiality exceptions, and a significant number of records withheld would be consistent with the nature of the request.

Based on this analysis, the District did not violate its disclosure obligations under Chapter 22.

Conclusion

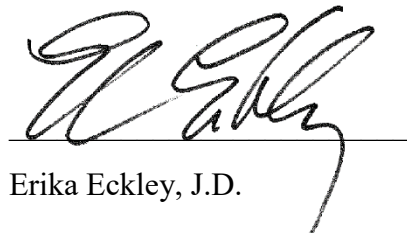
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The District timely responded to the records request, provided an estimate of costs and worked with South on an amended request, and did not improperly withhold confidential documents.

IT IS SO ORDERED: Formal complaint 24FC:0079 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 December 19, 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 December 12, 2024, to:

Tiffany South, Complainant

CAM Community School District, Respondent

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0081
Joe Monahan, Complainant	Dismissal Order
And Concerning:	
Ames Public Library, Respondent	

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

On September 9, 2024, Joe Monahan filed formal complaint 24FC:0081, alleging the Ames Public Library (APL) violated Iowa Code Chapter 22.

Facts

In mid-2024, the complainant, Joe Monahan, filed a series of Chapter 22 requests with the APL, seeking records of the library relating to SF 496, an education omnibus bill passed by the Iowa Legislature in 2023. In his requests, Monahan sought information related to the public library's involvement in opposition to this bill.

Certain responsive records were provided. Of particular interest to Monahan were conversations involving the APL manager, who also serves as the treasurer of the Iowa Library Association (ILA) Executive Board. Monahan also sought emails involving the APL director the ILA.

One email record provided in response to Monahan's Chapter 22 requests contains an email chain started to the ILA Executive Board with the subject line "TIMELY INFORMATION: potential amicus brief for SF 496." This email, which was sent to the APL manager's work email, provided updates on ILA's efforts to challenge SF 496. In response, the APL manager replied:

Hey Sam - We just got a public records request last week, so receiving this type of stuff at my work email is top of mind for me. Could you resend to people's personal emails so that future conversation happens on more private servers?

Thank you as always for the amazing work you're doing for Iowa libraries!

The APL denied subsequent requests seeking emails sent to the employees' private accounts.

On September 9, 2024, Monahan filed formal complaint 24FC:0081, alleging the library employees' communications were public records connected to their employment and the APL was therefore in violation of Chapter 22 based on their refusal to process Monahan's records requests with regards to emails exchanged using the employees' private accounts.

In response, the APL argued that "Iowa Library association emails are not government records, and are not subject to disclosure under the Open Records Law" and the emails instead "belong[ed] to the Iowa Library Association and/or [the APL employees] personally."

The APL employees prepared sworn affidavits that stated the affiants do not intermingle their personal email accounts with their work as public library employees. The APL manager explained her intent in asking the ILA president to send future emails to her personal account was to prevent intermingling, as "these emails constitute the work of the private, non-profit Iowa Library Association, not Ames Public Library."

The ILA and ALA are private, non-profit professional membership organizations. However, Monahan alleges because the APL manager's membership dues to the ILA are paid for by the APL, and her activities within the association bear a clear relation to her employment as a public librarian, the emails are public records. The APL acknowledged it pays membership dues, but stated neither membership nor involvement with ILA activities are required as a condition of employment. Further, the APL manager does not serve on ILA's Executive Board "on behalf of" the Ames Public Library.

Applicable Law

"*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." Iowa Code § 22.1(2).

"*Public records*' includes all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city, township, school corporation, political subdivision, nonprofit corporation other than a fair conducting a fair event as provided in chapter 174, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D, or tax-supported district in this state, or any branch, department, board, bureau, commission, council, or committee of any of the foregoing." Iowa Code § 22.1(3)(a).

"A government body shall not prevent the examination or copying of a public record by contracting with a nongovernment body to perform any of its duties or functions." Iowa Code § 22.2(2).

Analysis

It is a well-established principle in public records law that “[i]t is the nature and purpose of the document, not the place where it is kept, which determines its status.” *Linder v. Eckard*, 152 N.W.2d 833, 835 (Iowa 1967). In *City of Dubuque v. Dubuque Racing Association*, the Iowa Supreme Court clarified that “[a] document of the government is a document that was produced by or originated from the government,” while “[d]ocuments belonging to the government would include those documents that originate from other sources but are held by public officers in their official capacity.” 420 N.W.2d 450, 452 (Iowa 1988). A lawful custodian with regards to public records, meanwhile, is “the government body currently in physical possession of the public record” or, where a public record is in the physical possession of persons outside a government body, “the government body owning that record.” Iowa Code § 22.1(2).

Dubuque Racing Association arose out of a Chapter 22 records request seeking the board meeting minutes of a private, non-profit dog racing corporation, on the basis that multiple members of the local city council sat on the non-profit’s board. 420 N.W.2d at 451. The requester argued that council members were acting in their official capacity during these meetings, based in part on a condition of the city’s lease for the racetrack, which required four positions on the Board of Directors to be reserved for city council members and the city manager. *Id.* at 453. The Court held the minutes were *not* public records, finding that “[s]imply because members of a city council serve on the board of directors of a private nonprofit corporation, the affairs of the corporation do not become the affairs of the government.” *Id.* The Court reasoned that permitting public inspection of the requested minutes would not further the goals of government transparency and, instead, “the realistic effect of disclosure of the minutes [would] be to provide public scrutiny over the affairs of a private nonprofit corporation.” *Id.* at 453–54.

The ILA is an independent nongovernment body. Iowa’s public libraries are not themselves “members” of the ILA, the APL’s employees do not formally represent the APL when conducting ILA business, and ILA activities are not a part of any APL employee’s official duties. The fact the library covers the cost of membership for its employees and may pay for incidental costs associated with ILA involvement does not transform the ILA’s organizational business into government business. The email records sought are therefore neither “of the government,” as they were not produced by the APL itself, nor are they “belonging to the government,” as they are sent and received by the APL’s employees as members of a professional organization, rather than as a part of their official duties as librarians.

Monahan provided screenshots of several email conversations between the APL manager and ILA leadership for IPIB’s review. These screenshots include work done on the ILA’s 2024 budget, a vote to endorse a “Freedom to Read Statement” to be issued by the ILA, and discussion of various efforts the ILA was involved in to challenge SF 496. These activities are also squarely within the ILA’s business as a professional organization. As such, these communications are not public records of the APL.

Conclusion

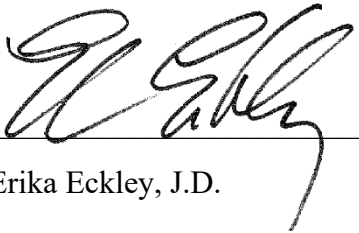
Iowa Code § 23.8 requires a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

ILA is a private nongovernment body not subject to Iowa Code chapter 22. The communications between APL librarians, as members of the ILA, are not public records even if the individual's membership is paid for by its public employer.

IT IS SO ORDERED: Formal complaint 24FC:0081 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 December 19, 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 December 16, 2024, to:

Joe Monahan, Complainant

Ames Public Library, Respondent

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0083
Tim Ferguson, Complainant	Dismissal Order
And Concerning:	
Scott County, Respondent	

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

On September 26, 2024, Tim Ferguson filed formal complaint 24FC:0083, alleging Scott County (County) violated Iowa Code Chapter 22.

Facts

This complaint arises in the context of an ongoing dispute between the complainant, Tim Ferguson, and Scott County. The details of the dispute are tangential to the Chapter 22 issues presented in the case before IPIB, but they are provided when necessary.

On August 16, 2024, Ferguson filed the first of a series of records requests with the County. The initial request identified several public employees and a private law firm which provided its services to the county, a specified date range, and a list of responsive topics. In subsequent emails, Ferguson expanded the request to include additional persons, records of payments made to the private law firm, records relating to the hiring of four particular government employees, a list of persons involved in reviewing his Chapter 22 request, a list of donations made to the County, and other similar requests. The Scott County Attorney's Office and Scott County Sheriff's Office were eventually brought into the conversation to respond to portions of the request covering records for which they, rather than the Board of Supervisors, were lawful custodians.

The County released records in response to some of these requests and asserted confidentiality or a lack of responsive records for others. On September 26, 2024, Ferguson filed formal complaint 24FC:0083, alleging he had requested "numerous public records" from the County government, and the County had failed to properly respond.

The HR Director for the County responded to the complaint with an enumerated list of records requests made and the County's responses to each, including attachments with records disclosed. The County sought clarification on which requests were in dispute, given that, quote, "there have

been numerous expansions upon Mr. Ferguson’s original request.” IPIB staff worked with Ferguson to prepare a concise list of outstanding records requests which Ferguson believed the County had failed to properly address.

On October 23, 2024, Ferguson provided a list with two requests, including 1) a request for emails exchanged between a specified assistant county attorney and an attorney with a private law firm that provides legal services to the County and 2) a request for phone call logs between several County individuals and others involved in Ferguson’s dispute, including the two attorneys named in the first request. Ferguson clarified for the second request he was not seeking the content of these communications and instead wanted only the fact that a call or text was made between any of the listed individuals and the time and date of each instance.

On November 18, 2024, after additional communication between IPIB and the parties, the County stated there were no emails responsive to the first request outside of what had already been provided. A 41-page call analytics report was released in this same response, which included phone calls tracked by the county for the listed numbers between April 18, 2024 and June 3, 2024, with responsive lines highlighted.

At this point, a dispute arose between the parties as to whether there might be additional responsive records stored on or involving the assistant county attorney’s private cell phone, which he had previously used for work related business, as he did not have a government-issued phone.

In response, an affidavit signed by the attorney was provided attesting the only phone calls regarding Ferguson were placed from the attorney’s work phone.

Applicable Law

Iowa Code § 23.6(4) grants IPIB the authority to “[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A.”

Analysis

Despite the broad range of requests made in this case prior to the filing of formal complaint 24FC:0083, the parties agreed the scope of the case before IPIB was limited to the resolution of two particular requests. And, following IPIB’s informal mediation and the County’s affirmation there were no further responsive emails beyond what had already been provided and the release of the requested phone call log, the only remaining dispute between the parties was whether there

were additional records present on the attorney's personal cell phone which could be sought and obtained pursuant to Chapter 22.¹

The County provided a signed affidavit swearing, under penalty of perjury, that no such records existed. Absent evidence to the contrary, IPIB is obligated to accept the statements made in this affidavit as true.

The County ultimately released all responsive records in its possession, and any delay in production was attributable to IPIB staff's work to resolve the matter, as opposed to bad faith on the part of the County. Under these facts, the County did not violate Chapter 22.

Conclusion

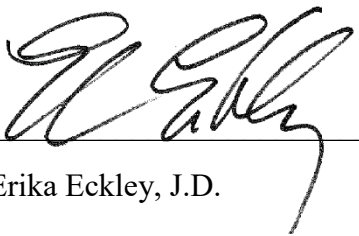
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The parties worked to resolve the matter, and all responsive records were produced.

IT IS SO ORDERED: Formal complaint 24FC:0083 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 December 19, 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.

¹ "It is the nature and purpose of the document, not the place where it is kept, which determines its status." *Linder v. Eckard*, 152 N.W.2d 833, 835 (Iowa 1967). IPIB's own case precedent and advisory opinions affirms that government bodies may not avoid the transparency requirements of Chapter 22 simply by redirecting their activities only privately-owned devices. See 21AO:0009, *Public Records Maintained on Privately-Owned Electronic Devices*.

CERTIFICATE OF MAILING

This document was sent on December 12, 2024, to:

Tim Ferguson, Complainant

Scott County, Respondent

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0090
Sarah Weber, Complainant	Acceptance Order
And Concerning:	
City of Orange City, Respondent	

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

On October 9, 2024, Sarah Weber filed formal complaint 24FC:0090, alleging the City of Orange City (City) violated Iowa Code Chapter 21.

Facts

In August 2024, Sarah Weber submitted a Chapter 22 request with the City, seeking records relating to a local livestock ordinance. Responsive records were released in two batches, on September 16 and October 3. Weber paid all associated costs charged by the City.

On October 9, 2024, Weber filed formal complaint 24FC:0090, which made two allegations:

- 1) The City was conducting “2x2 meetings” These “meetings” fit within the definition provided by Iowa Code § 21.2(2), and therefore the City violated Chapter 21 by failing to provide notice or public access; and
- 2) The City violated Chapter 21 by making policy decisions via emails between council members which meant deliberations were inaccessible to the public.

Facts Regarding the 2x2 Meetings

Weber alleges the City has been engaged in a long-running practice of holding 2x2 meetings. These meetings are discussions held in private between up to two council members, the mayor, and the city administrator. Because the 2x2 meetings were not held as official meetings of the city council, there are no recordings or minutes available for review. All gatherings were outside the view of the public.

According to the City, these meetings are used “to inform council members of upcoming issues that may need to be dealt with, and to allow council members an opportunity to share their own questions or concerns.” Because these 2x2 meetings only have one or two council members, the City argues they never reach a quorum, placing them outside the scope of the Iowa Code § 21.2(2) definition of a “meeting.”

The City submitted signed affidavits from all council members, the city administrator, and the mayor in conjunction with this issue. Both the city administrator and the council members attest the purpose of these meetings was solely to inform members of the options available to them, with no attempts to push members towards any particular decision. The City’s affidavits also state the administrator did not communicate the views of absent members during these meetings. The affidavits also indicate that 2x2 meetings are occasionally used for similar purposes “to stay up to date on issues and to learn about upcoming agenda items for council meetings.”

Facts Regarding the Use of Email Between Council Members

Weber provided substantial documentation on the use of emails by the Council that showed potential deliberation occurring between a majority of the council members outside a formal City meeting.

The City argued the emails could not create a potential meeting because “nothing was actually decided in these emails,” “none of the statements made by council members contained information of which they were not already aware,” and none of the emails “contained any secret information or had any impact on the final policy decision.”

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).

Analysis

Iowa Code § 21.2(2) defines a meeting as having four key attributes: 1) there must be a majority of members; 2) of a governmental body subject to Chapter 21; in which 3) members engage in deliberation; 4) on a matter within the scope of their policy-making duties. Unless all four requirements are met, there is no meeting, and Chapter 21 does not apply. The City Council has five members, so three members would constitute a majority of members.

The complainant alleges the City's 2x2 meetings and certain emails exchanged between council members constitute meetings within the scope of Chapter 21.

I. Orange City's Practice of Holding 2x2 Meetings

The City argues that 2x2 meetings do not meet the definition of a meeting because they involve, at most, two council members, whereas a majority would require at least three members present.

In *Hutchison v. Shull*, the Court found a three-member Board of Supervisors intentionally developed a "sophisticated methodology of communicating effectively with one another" in private, with the city administrator acting as a "conduit" intermediary to develop and deliberate on a reorganization plan outside the public's view. 878 N.W.2d 221, 235–36 (Iowa 2016). The Court concluded the County's one-on-one discussions could constitute a Chapter 21 "meeting" despite the fact that only one supervisor was present at any given time. *Id.* at 228.

The City argues that the 2x2 meetings held in response to the chicken ordinance are distinguishable from the meetings in *Hutchison*, as the city administrator "did not relay communications between council members, did not inform council members what other members were thinking or how they were planning to vote, and in no way did he use these meetings in an attempt to build consensus or act as any sort of conduit for private deliberations among a quorum of council members."

Despite these sworn affidavits, the surrounding circumstances of the July 2x2 meetings suggest a meeting likely occurred under the *Hutchison* framework. First, the council member who requested the meetings stated that "I have asked [the city administrator] if we can have '2 x 2' meetings with council members to get a direction as to how people will vote" and suggested that "[i]f there is a 3-2 majority to make an adjustment to have chickens, then let's come to the next meeting with a proposal/vote and get on with it. (no more council room debates/feedback)." In the administrator's response, he stated that the "Council will need to identify a clear direction as soon as possible. As I heard from one Council member, we need to make a decision and move on."

Even if what actually happened during the July meeting differed from the apparent intent reflected in these statements, this strongly suggests an understanding amongst members of the City that 2x2 meetings are generally available as a means of reaching consensus on controversial issues outside the public's view.¹

Considering all the evidence, it is highly likely the 2x2 meetings held by the City were meetings under the precedent established in *Hutchison*. Specifically, at least one of the objectives of these

¹ A former councilmember shared that 2x2 meetings had become "very frequent" in the latter half of his term, particularly when matters of public controversy were presented to the council. He stated the city administrator would use 2x2 meetings not only to share information and options, but also to summarize the positions of the council, build consensus, and reach proposed resolutions before open meetings were convened on the same topics. This calls into question the content of the specific 2x2 meetings in this matter.

meetings was to build consensus amongst council members in closed session through the use of the mayor and/or city administrator as intermediaries. The City's use of these meetings likely does not meet the standards set forth in Chapter 21.

II. Email Conversations Between Council Members

The second alleged violation relates to the email conversations produced through the complainant's Chapter 22 records request. The emails provided show the council members communicating amongst themselves and with the city administrator regarding the chicken ordinance and other topics. The conversations are related to topics within council's official policy-making duties. Thus, the only two issues in contention to determine whether these emails constituted a meeting are 1) whether council members deliberated or merely received information and 2) whether an email conversation qualifies as "a gathering in person or by electronic means, formal or informal."

In response to the first issue, the City argues that email discussions do not constitute deliberation within the scope of policy-making duties because "[n]o decisions were made" and the council members involved in the discussions "voted in compliance with the law" at subsequent council meetings. The City acknowledged some discussion occurred in emails between council members, but it characterized these discussions as hypothetical. For example, describing one email, the City stated: "This email does not constitute deliberation because [the council member] weighs multiple options with the highlighted word 'IF' indicating multiple paths were in play."²

However, the court has found a "meeting may develop, for example, if a majority of the members of a body engage in any discussion that focuses at all concretely on matters over which they exercise judgment or discretion." *Hettinga v. Dallas Cnty. Bd. of Adjustment*, 375 N.W.2d 293, 295 (Iowa Ct. App. 1985) (quoting Op. Att'y Gen. # 81-7-4(L) at 10). Where members of a government body merely receive information without weighing in with their own opinions or the reasoning behind those opinions, a gathering remains non-deliberative and therefore does not qualify as a meeting. *See, e.g., Dooley v. Johnson Cnty. Bd. of Sup'rs*, 2008 WL 5234382 (Iowa Ct. App. Dec. 17, 2008) (finding no meeting occurred where board members met to receive details on a report prepared by an engineering firm without discussion between the members on the report). On the other hand, deliberation *does* occur where members inject their own commentary, discussing "thoughts, concerns, opinions, or potential action on the matters" before the government body. 24AO:0004, *Attendance at Social and Ministerial Events*.

² In addition to the emails produced from Weber's records request, Weber also provided copies of an email thread obtained through a former city council member. These emails, from 2023, show the council members using a "1-2-3" rating system for their first, second, and third ranked choices in making a hiring decision. This information suggests the City has also utilized email for potential deliberation for a period before this complaint was filed.

Because the council members discussed their “thoughts, concerns, opinions, or potential action on the matters,” deliberation occurred. It does not matter that the final vote on the issue was conducted during open meeting as to whether a meeting occurred while they were deliberating. *See* Iowa Code § 21.2(2) (requiring only deliberation of a majority of members of a government body).

As for the question of whether email conversations can qualify as meetings, the present complaint is distinguishable from previous “email chain” cases in which IPIB declined to find a meeting occurred.³ In this case, the emails provided to IPIB include back-and-forth conversation between at least four of the five council members, meaning a clear majority were engaged in active discussion on the issue through emails.

The asynchronous nature of email messages does raise a question of whether the email communications have the “temporal proximity” required to form a meeting as stated in *Telegraph Herald, Inc. v. City of Dubuque*, 297 N.W.2d 529, 532 (Iowa 1980). In the *Hutchison* case, however, one of the grounds the Court distinguished the *Telegraph Herald* holding on temporal proximity requirement was the serial sub-majority meetings to interview candidates in the case never included any deliberation among the councilmembers. 878 N.W.2d at 228. Similarly, in reviewing the email exchanges, a majority of the council was included in the email chains and act deliberation did occur among the councilmembers. Unlike in *Telegraph Herald* in which a sub-majority of members met and waited to deliberate in open session creating no temporal proximity in the meetings, in this matter, the council members appear to engage in deliberation amongst a majority of members in an ongoing discussion.

Based on this analysis, IPIB concludes City council members were likely engaged in a “meeting” when they shared “thoughts, concerns, opinions, or potential action on the matters” with one another via email messages on the chicken/livestock ordinance, a matter within their policy-making duties.

Conclusion

³ *See, e.g.*, 21FC:0110, Ellen Heather/Mitchellville Library Board (finding no meeting where messages relating to an upcoming board meeting were sent to all members of a library board, but no member ever replied); 23FC:0098, Joseph Foran/City of Audubon (finding no meeting where one council member shared opinions on an upcoming matter, but none of the other members ever engaged).

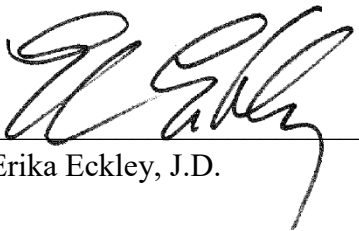
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint meets the necessary requirements for acceptance.

The City’s use of 2x2 meetings to reach consensus on issues before the City Council likely meets the definition of a meeting under the Hutchison analysis. Further, the council’s use of email messaging to deliberate on matters within its policy-making duties also likely created a meeting under Iowa Code chapter 21.

IT IS SO ORDERED: Formal complaint 24FC:0090 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 December 19, 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 December 13, 2024, to:

Sarah Weber, Complainant
Orange City, Respondent

The Iowa Public Information Board

In re the Matter of: Aubrey Burress, Complainant And Concerning: Pleasant Grove Township Trustees, Respondent	Case Number: 24FC:0092 Informal Resolution Report
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Complaint 24FC:0092 was opened on October 21, 2024, and accepted by the IPIB on November 21, 2024. This Informal Resolution is adopted in response to the IPIB acceptance of the complaint.

The Pleasant Grove Township Trustees (Trustees) and clerk to the Pleasant Grove Township have presented allegations showing the Trustees are unable to effectively conduct business due to internal conflict. This is not a new issue as the IPIB received a similar complaint in 2023. The information presented to IPIB from two Trustees and the clerk demonstrates issues with the following:

- Providing notice of meetings
- Posting meeting agendas
- Interruptions at and during meetings
- Cancelling meetings due to internal conflict
- Not sharing relevant documents between and amongst all Trustees

Based on information presented, the citizens of the Pleasant Grove Township are left with questionable timing and posting of agendas, shifting meeting times and locations, and Trustees plagued with internal conflict.

IPIB accepted this case on November 21, 2024, to allow the IPIB staff to focus the Trustees on a resolution to this matter. IPIB recommends training be conducted for the Trustees. IPIB also recommends policies or procedures be developed to address reoccurring issues.

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).

“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(2).

“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.” Iowa Code § 21.4(1).

“Each meeting shall be held at a place reasonably accessible to the public and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impracticable. Special access to the meeting may be granted to persons with disabilities.” Code § 21.4(2).

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. This Informal Resolution will be formally approved at a meeting of the Pleasant Grove Township Trustees. The Trustees will provide IPIB staff with a copy of the minutes demonstrating approval.
2. All Trustees, and anyone serving as clerk to the Trustees, will complete training related to public meetings and records. This training will be arranged by the Trustees and conducted by IPIB.
3. The Trustees will develop policies or procedures to address the following:
 - Posting of agendas, including timeframe and location;
 - Scheduling of meetings; and
 - Providing agendas and documents for the meeting to Trustees and the public in advance of meetings.

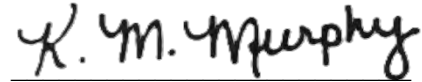
Any developed policies or procedures will be provided to IPIB staff for review before approval by the Trustees.

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.

All Trustees have indicated consent to the Informal Resolution and it will be approved at an upcoming meeting of the Trustees, at which time it will be formally executed.

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 December 12, 2024, to:

Aubrey Burress, Complainant
Jocelyn Richards, Trustee
Norman Fry, Trustee

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0094
Ben Lynch, Complainant	Probable Cause Report
And Concerning:	
City of Des Moines, Respondent	

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

On November 7, 2024, Ben Lynch filed formal complaint 24FC:0094, alleging the City of Des Moines violated Iowa Code chapter 22.

Facts

Ben Lynch alleges he was blocked from a City Councilmember’s Facebook page and this was a violation of the public records law.

In response, the City stated no records request was ever received from Lynch, so there was no denial of a records request. The City also states the social media account is not a city-controlled account and any information included in the councilmember’s account is likely available on city-controlled social media sites. The City also argues any violation that may occur from blocking an individual on social media is outside the jurisdiction of IPIB to review.

Applicable Law

“The rights of persons under this chapter may be exercised under any of the following circumstances:

1. In person, at any time during the customary office hours of the lawful custodian of the records.
...
2. In writing, by telephone, or by electronic means. The lawful custodian of records shall post information for making such requests in a manner reasonably calculated to apprise the public of that information.” Iowa Code § 22.4

Analysis

Lynch alleges a “block” on a councilperson’s Facebook page is a violation of chapter 22 because he is not able to see the councilperson’s information. Lynch, however, has not made a records request for the information. Iowa Code chapter 22 requires a person to exercise their right to access public records through a request. This request can be in person, in writing, by telephone, or by electronic means.

Until a person exercises their right to access a public record and the request is denied or implicitly denied, there can be no violation of Iowa Code chapter 22. Because no request was made, there is no violation. A “Facebook block” on its own is not a violation of Iowa Code chapter 22.

Because there was no request, there is no need to determine whether the councilperson’s Facebook page is a public record or whether the City would be the proper custodian.

IPIB Action

The Board may take the following actions upon receipt of a probable cause report:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding.

Iowa Admin. Code r. 497-2.2(4).

Recommendation

It is recommended the Board dismiss the matter for lack of probable cause to believe a violation has occurred. Lynch has not made a records request for the information in the councilperson’s Facebook page. Without a request, there is no violation of Iowa Code chapter 22.

By the IPIB Executive Director



CERTIFICATE OF MAILING

This document was sent on December 12, 2024, to:

Ben Lynch
Carol Moser, City of Des Moines

The Iowa Public Information Board

In re the Matter of: Tyler Patterson, Complainant And Concerning: Clarke County Hospital Board of Trustees, Respondent	Case Number: 24FC:0097 Probable Cause Report
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Probable Cause Report:

On October 29, 2024, Tyler Patterson filed formal complaint 24FC:0097, alleging the Clarke County Hospital Board of Trustees (Hospital Board) violated Iowa Code chapters 21 and 22.

Facts

Tyler Patterson alleges he is a whistleblower who began demanding open meetings and open records laws be upheld by the Hospital Board. Patterson alleges there are no hospital agenda records or meeting minutes available in the county recorder's office. Patterson alleges the CEO of the hospital assures everyone there are agendas and minutes, but no one in the county can find them. Patterson further alleges Hospital Board meetings are held at noon in a locked building on the hospital campus. Sometimes the meetings rotate and to enter a person has to use a key card or ring a doorbell, so they are not accessible to the public.

The Hospital Board responded through the Hospital CEO, Brian Evans. Evans stated the Hospital Board meets monthly on the last Wednesday of the month at noon. Evans explained prior to 2005, Board meetings were held in the evenings, but Hospital Board attendance was poor, so the time was changed to noon.

The monthly meeting is held in the Board Room, which is located in the Administration Building directly across the street from the hospital. The Administration Building is locked for security reasons and there is a sign on the Main Entrance of the door that reads "Please ring door bell for assistance." On Board meeting days, an additional sign is placed on the front door that reads "WELCOME. Board of Trustees Meeting Today at Noon. Please ring doorbell for assistance."

Evans provided the Hospital Board posts the agenda for the meeting on the Friday prior to the meeting. The agenda is publicly posted in the cafeteria of the hospital. In addition, a copy of the agenda is sent the same day to the Osceola Sentinel Tribute, the local newspaper.

Evans stated meeting minutes are taken for all of the Hospital Board meetings. The prior month's minutes are reviewed (and approved) by the Hospital Board each month. Minutes are available to anyone who makes a request for a copy of the minutes from the Hospital.

Evans stated the Hospital Board was provided copies of the "Iowa Open Meetings Open Records Handbook" at its October 2024 Hospital Board meeting, and they briefly reviewed the law so all members were aware of their responsibilities. Evans stated Patterson has not made a request for minutes from the Hospital Board. Patterson was also offered a video link to join the Hospital Board meeting virtually in September 2024, but did not join.

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

"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. *Each meeting shall be held at a place reasonably accessible to the public and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impracticable.* Special access to the meeting may be granted to persons with disabilities.

Except as otherwise provided in paragraph "c", 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

““Lawful custodian”” means the government body currently in physical possession of the public record.” Iowa Code § 22.1(2).

Analysis

No agenda or meeting minutes in County Recorder’s Office

Patterson alleges the Clarke County Recorder’s Office does not have copies of the agendas or minutes for the Hospital Board and this is a violation of Iowa Code chapter 22.

The Clarke County Recorder’s Office, however, would not be the lawful custodian of the Hospital Board’s agendas and minutes. The Hospital Board would be the government body in possession of the public records. Patterson has not requested the agendas or minutes from the Hospital Board. There is no violation of Iowa Code chapter 22 for a government body that is not the lawful custodian of the records to not have the requested records.

Hospital Board meetings do not have agendas, are held at noon, and are in a secured location

Patterson alleges a violation of Iowa Code chapter 21 because Hospital Board meetings do not have agendas, are held at noon, and in a locked building on the hospital campus requiring a person to use a key card or ring a doorbell to enter, so they are not accessible to the public.

In response, the Hospital Board stated the agenda for the meetings are posted in the hospital cafeteria and sent to the newspaper on the Friday before the meeting on Wednesday. Iowa Code requires the agenda be posted at least 24 hours in advance of the meeting. The Hospital Board posts the meeting agenda four to five days before the meeting occurs. The notice is posted on a hospital cafeteria bulletin board. This location would be easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting.

The Hospital Board meetings are held at noon to ensure better participation. The meetings are held in a secured conference room, but a sign is posted that states, “WELCOME. Board of Trustees Meeting Today at Noon. Please ring doorbell for assistance.” Iowa Code § 21.4 requires meetings to be held “at a place reasonably accessible to the public and at a time reasonably convenient to the public.” Holding a meeting over the lunch hour appears to be a time “reasonably convenient to the public.” The Hospital Board used to schedule meetings in the evenings, but that proved to not be a convenient time because Board attendance was poor. Further, requiring the public to ring a doorbell to gain access to a secured meeting room does not, by itself, make the location inaccessible to the public. There does not appear to be any chapter 21 violations alleged.

IPIB Action

The Board may take the following actions upon receipt of a probable cause report:

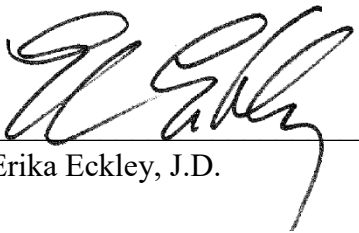
- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding.

Iowa Admin. Code r. 497-2.2(4).

Recommendation

It is recommended the Board dismiss the matter for lack of probable cause to believe a violation has occurred. Patterson's complaint the Clarke County Recorder's lack of copies of Hospital Board agendas and minutes is not a violation of Iowa Code chapter 22. The County Recorder is not the lawful custodian of the records for the Hospital Board. Patterson has not made a records request to the Hospital Board. Further, Hospital Board agendas are posted in the Hospital cafeteria more than 24 hours in advance of the meeting. The meetings are held at noon on Wednesdays in a secured conference room that requires a person to ring a doorbell for access. Neither fact makes the meetings not reasonably convenient or accessible.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on December 12, 2024, to:

Tyler Patterson
Brian Evans, Clarke County Hospital

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0106
Sheryl Pilkington, Complainant	Probable Cause Report
And Concerning:	
City of Fairfield, Respondent	

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

On November 1, 2024, Sheryl Pilkington filed formal complaint 24FC:0106, alleging the City of Fairfield (City) violated Iowa Code chapter 22.

Facts

Sheryl Pilkington alleges the City violated Iowa Code chapter 22 because the City is refusing to give Pilkington information needed to address city sewer issues.¹ Pilkington requested documentation of when the City ran cameras down N F Street, when the City flushed them, dates, names of employee who did work and camera footage of the drains for the year 2023. Pilkington alleges the camera was sent down on November 30, 2023, and again on December 19, 2023, when the City main was flushed. Pilkington states the City has the information but does not want to provide it.

The City responded through Counsel. The City stated the records request on October 4, 2024, from Pilkington was:

1. "Dates that the city sewer was flushed on north F street in 2023;"
2. "Camera imaging of City sewer lines on north F Street in 2023;"
3. "name of person Inspecting north F Street city sewer on dates in 2023."

In response to this request, the city produced copies of two photos of the city sewers in the area in question, from 11-19-23 and 12-19-23, on October 9, 2024, which are the only records in possession of the city from the time frame requested.

¹ There is a dispute regarding who is responsible for the costs of fixing the sewer issues. This is beyond the jurisdiction of IPIB.

The City's counsel followed up with Pilkington on October 11, 2024 with the following:
the City of Fairfield promptly provided you with two sewer camera photos of the sewer line in question, with still-photos dated 11/30/2023 and 12/19/2023. These same records were also produced by the city as exhibits in the recent small claims matter, which was decided in favor of the city.

Please be advised that the city does not have any further or more specific information as requested by you concerning the city sewers in this area. The city does not possess any records which would specifically confirm the dates that any city sewers in this area were flushed between November 30 and December 19, 2023. However, as verified by the city employee who testified at the small claims hearing, the city sewers in this area were flushed on December 19, 2023.

In response to your recent inquiry to the city in which you requested additional information, please be advised that the city does not possess any other documents than those previously produced which would show any specific "dates cameras were sent into the sewer," or any other specific dates that the city flushed the sewer, and which persons would have performed such work. The city does not keep records specific to these matters, and the city does not keep specific records as to which individual employees performed such work. As you can imagine, the several public works employees employed by the City of Fairfield are involved with any number of tasks on any given day, and various and different employees may be involved with all sorts of various tasks throughout the year, including work on city sewer lines. Therefore, the city does not have any additional information to provide you at this time, as they have provided you everything within their possession in response to the information you requested.

In response, Pilkington stated "This is crazy that this is the only records they would have or kept or made. Do they have no records of us contacting them with the issue and what their reply was to solve the issue? The reason this is an issue is because their employee ... came to court and said he was the one that ran the camera and did flushing. That flushing was done on 11/30/23 when it was not."²

Applicable Law

"Public records' includes all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city...." Iowa Code § 22.1(3)(a).
"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.

² IPIB has no jurisdiction over the veracity of testimony provided in court.

Analysis

Pilkington requested records from the City on October 4, 2024. On October 9, the City provided two photos in response to the request. The City has stated specifically in a letter to Pilkington on October 11, from the City's counsel no additional records responsive to the request exist.

Pilkington does not believe there are no additional records responsive to the request. Iowa Code chapter 22 requires the City to provide "all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to" the City. Nothing in Iowa Code chapter 22 requires the City to create a new document in response to a request.

There is no evidence the City has not provided all responsive records to Pilkington's request.

IPIB Action

The Board may take the following actions upon receipt of a probable cause report:

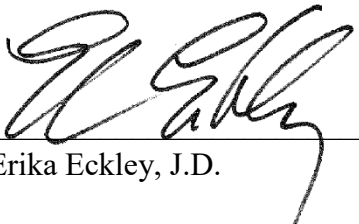
- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding.

Iowa Admin. Code r. 497-2.2(4).

Recommendation

It is recommended the Board dismiss the matter for lack of probable cause to believe a violation has occurred. Pilkington made a records request on October 4. The City provided two photographs in response to the request on October 9. Pilkington has been informed there are no other responsive records. The City is not required to create records in response to a records request. There does not appear to be any violation of Iowa Code chapter 22.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on December 12, 2024, to:

Sheryl Pilkington
Dave Schrock, counsel for City of Fairfield



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

Re: Powerpoint for tomorrow's training

1 message

Robin Delaney

Wed, Dec 11, 2024 at 2:41 PM

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

Mississippi Valley Publishing is 100% satisfied and appreciative. We are withdrawing our complaint.

On 12/11/24 11:16 AM, Eckley, Erika wrote:

All,

Yesterday, I attended the Des Moines County Board of Supervisors meeting. At the meeting, the Board passed a resolution acknowledging the closed session did not meet the requirements under Iowa Code chapter 21. Following the formal meeting, we had a great training session on chapters 21 and 22 in an open work session.

I appreciate everyone's willingness to work to resolve this matter. With these items complete, please indicate whether you will now withdraw your complaint.

If you have any questions or concerns, please do not hesitate to contact me.

Erika Eckley, Executive Director
Iowa Public Information Board (IPIB)
515-393-8339

On Mon, Dec 9, 2024 at 2:58 PM Eckley, Erika <erika.eckley@iowa.gov> wrote:

See attached.

**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) 393-8339erika.eckley@iowa.govwww.ipib.iowa.gov



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

Re: Powerpoint for tomorrow's training

1 message

Gregory Mangold <

Wed, Dec 11, 2024 at 5:50 PM

To: "Eckley, Erika" <erika.eckley@iowa.gov>,</div>

Erika:

I, too, withdraw my complaint. I watched the training session on-line and agree that it went very well.

Thank you to all who participated in resolving this matter.

Greg Mangold

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

Sent: Wednesday, December 11, 2024 11:16 AM

To: SARA DOTY <dotys@dmcounty.com>; Trent Henkelvig <Henkelvig@dmcounty.com>; editor@dailydem.com <editor@dailydem.com>; Iowa FOI Council <iowaFOICouncil@gmail.com>; Greg Mangold <gregmangold@msn.com>

Subject: Re: Powerpoint for tomorrow's training

All,

Yesterday, I attended the Des Moines County Board of Supervisors meeting. At the meeting, the Board passed a resolution acknowledging the closed session did not meet the requirements under Iowa Code chapter 21. Following the formal meeting, we had a great training session on chapters 21 and 22 in an open work session.

I appreciate everyone's willingness to work to resolve this matter. With these items complete, please indicate whether you will now withdraw your complaint.

If you have any questions or concerns, please do not hesitate to contact me.

Erika Eckley, Executive Director
Iowa Public Information Board (IPIB)
515-393-8339

On Mon, Dec 9, 2024 at 2:58 PM Eckley, Erika <erika.eckley@iowa.gov> wrote:

See attached.

The logo for the Iowa Public Information Board (IPIB). It features a stylized sunburst or flower-like graphic composed of small dots in orange, yellow, and red. To the right of the graphic, the letters "IPIB" are written in a large, bold, blue font. Below "IPIB", the full name "Iowa Public Information Board" is written in a smaller, blue, sans-serif font.

Erika Eckley, JD, MPA

Executive Director

Iowa Public Information Board (IPIB)

502 East 9th Street

Wallace Building, 3rd Floor

<https://mail.google.com/mail/u/0/?ik=90b6079741&view=pt&search=all&permthid=thread-a:r7716824330401552360%7Cmsg-f:181818989400310703...>

1/2



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

Re: Powerpoint for tomorrow's training

1 message

Iowa FOI Council <
To: "Eckley, Erika" <erika.eckley@iowa.gov>
Cc:

Wed, Dec 11, 2024 at 4:28 PM

Erika:

I wish to withdraw my complaint now.

Thank you, Erika, for your efforts to bring about this resolution to this matter.

Randy Evans
Executive Director
Iowa Freedom of Information Council

P.O. Box 8002 Des Moines, IA 50301

On Dec 11, 2024, at 11:16 AM, Eckley, Erika <erika.eckley@iowa.gov> wrote:

All,

Yesterday, I attended the Des Moines County Board of Supervisors meeting. At the meeting, the Board passed a resolution acknowledging the closed session did not meet the requirements under Iowa Code chapter 21. Following the formal meeting, we had a great training session on chapters 21 and 22 in an open work session.

I appreciate everyone's willingness to work to resolve this matter. With these items complete, please indicate whether you will now withdraw your complaint.

If you have any questions or concerns, please do not hesitate to contact me.

Erika Eckley, Executive Director
Iowa Public Information Board (IPIB)
515-393-8339

On Mon, Dec 9, 2024 at 2:58 PM Eckley, Erika <erika.eckley@iowa.gov> wrote:
See attached.

Re: IPIB Complaint 24FC:0121 Received

1 message

P10

Fri, Dec 13, 2024 at 6:14 AM

To: "Murphy, Kimberly" <kim.murphy@iowa.gov>
Cc: "Eckley, Erika" <erika.eckley@iowa.gov>

Good morning. I appreciate the follow-up. I did receive an update to my request a day after filing this complaint. Unsure how there was no body camera video when the officer said his camera was on. But my time has already been wasted enough trying to get some sort of answers.

You can go ahead and close this complaint.

Thank you.

On Thu, Dec 12, 2024, 10:30 AM Murphy, Kimberly <kim.murphy@iowa.gov> wrote:

Presten,

I am following up on Director Eckley's email. At this time, we need additional information to process your complaint.

Please provide a copy of your records request and the date it was submitted.

Thank you.

**Kimberly Murphy, JD**

Deputy Director
Iowa Public Information Board (IPIB)
502 East 9th Street
Wallace Building, 3rd Floor
Des Moines, Iowa 50319
New Phone Number: 515-393-7664
kim.murphy@iowa.gov
www.ipib.iowa.gov

On Mon, Dec 2, 2024 at 9:10 AM Eckley, Erika <erika.eckley@iowa.gov> wrote:

Good morning.

We have received your complaint, which has been given the following number: 24FC:0121. You allege a public records request has not been fulfilled. Please provide all available communications regarding this request to assist in review.

We will be reviewing the allegations solely as alleged (a facial review) to determine whether we will accept or dismiss this complaint. Facial review means that we look at the complaint and if we assume everything stated is true, we would determine we could find a violation of Iowa's open meeting or public records law. If upon review we could find a violation, then we will accept the complaint. If we could not find a violation of Iowa Code chapters 21 or 22 based on the facts, then we will dismiss the complaint.

We will advise you regarding the acceptance or dismissal and next steps at that time.

**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
www.ipib.iowa.gov

Subject	Contact Name	Status	IPIB Open Date	IPIB Close Date	Outcome	Board Review Document	First eligible board meeting	Days Opened	Reviewed within two board meetings	Notes
24FC:0056	Steven Asche	Board Acceptance of IR	6/25/2024			Final Report	7/18/2024	179	yes	<div style="border: 1px solid black; padding: 2px;"> % reviewed within 2 Board meetings 69% </div>
24FC:0064	Mark Milligan	IR Agreed to by Parties	7/31/2024			Informal Resolution	8/15/2024	139	yes	
24FC:0068	Drake Riddle	Board Acceptance of IR	8/13/2024				8/15/2024	130	yes	
24FC:0070	Brian Thomas	Informal Resolution Process	8/16/2024			Informal Resolution	8/15/2024	125	yes	
24FC:0077	Kyle Ocker	Informal Resolution Process	9/9/2024				9/19/2024	98	yes	
24FC:0089	Curtis Wagler	Information Gathering	10/9/2024				10/17/2024	69	no	
24FC:0090	Sarah Weber	Draft Order	10/11/2024			Acceptance	10/17/2024	68	no	
24FC:0057	Jody Phillips	Closed	7/8/2024	11/21/2024	Board Acceptance - Closed		7/18/2024	145	yes	
24FC:0059	Jan Norris	Closed	7/25/2024	11/21/2024	Board Acceptance - Closed		8/15/2024	125	yes	
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> avg. days to dismiss/withdrawn <i>*delay in resolution due to scheduling</i> 93 </div>										
24FC:0072	Lucian Diaconu	Information Gathering	8/22/2024			Dismissal	9/19/2024	124	no	
24FC:0079	Tiffany South	Draft Order	9/18/2024			Dismissal	10/17/2024	89	no	
24FC:0081	Joe Monahan	Information Gathering	9/25/2024			Dismissal	10/17/2024	87	no	
24FC:0082	Robin Delaney	Final Report	9/26/2024			Withdrawn*	10/17/2024	82	no	
24FC:0083	Tim Ferguson	Draft Order	9/26/2024			Dismissal	10/17/2024	82	no	
24FC:0085	Gregory Mangold	Final Report	10/1/2024			Withdrawn*	10/17/2024	80	no	
24FC:0088	Randy Evans	Final Report	10/8/2024			Withdrawn*	10/17/2024	72	no	
24FC:0058	Chad Miller	Closed	7/5/2024	10/17/2024	Dismiss		7/18/2024	105	yes	
24FC:0065	Mandi Hutchins	Closed	8/6/2024	9/19/2024	Dismiss		8/15/2024	49	yes	
24FC:0066	Kenneth Brown	Closed	8/6/2024	9/19/2024	Resolved		8/15/2024	60	yes	
24FC:0067	Janet Pierson	Closed	8/9/2024	10/17/2024	Dismiss		8/15/2024	73	yes	
24FC:0069	William Vandenberg	Closed	8/10/2024	10/17/2024	Dismiss		8/15/2024	75	yes	
24FC:0071	Kevin Wymore	Closed	8/19/2024	10/17/2024	Dismiss		9/19/2024	66	yes	
24FC:0073	Gail Bonath	Closed	8/27/2024	10/17/2024	Dismiss		9/19/2024	54	yes	
24FC:0074	Diane Holst	Closed	8/27/2024	10/17/2024	Resolved		9/19/2024	53	yes	
24FC:0075 (1 of 2)	Karen Davis	Closed	9/3/2024	10/17/2024	Dismiss		9/19/2024	45	yes	
24FC:0075 (2 of 2)	Karen Davis	Closed	9/3/2024	10/17/2024	Dismiss		9/19/2024	45	yes	
24FC:0076	Montgomery McKernan	Closed	9/9/2024	9/19/2024	Dismiss		9/19/2024	15	yes	
24FC:0078	Megan Pegorick	Closed	9/10/2024	11/21/2024	Resolved		9/19/2024	76	no	
24FC:0080	Tiffany South	Closed	9/23/2024	10/17/2024	Dismiss		10/17/2024	27	yes	
24FC:0084	Paul A. Reed, Sr.	Closed	9/26/2024	11/21/2024	Dismiss		10/17/2024	61	yes	
24FC:0086	Ben Ward	Closed	10/1/2024	10/17/2024	Dismiss		10/17/2024	19	yes	
24FC:0087	Nicholas Bargren	Closed	10/7/2024	11/21/2024	Dismiss		10/17/2024	51	yes	
it Project Implemented										
24FC:0092	Aubrey Burress	Information Gathering	10/24/2024			Informal Resolution	11/21/2024	56	yes	<div style="border: 1px solid black; padding: 2px;"> % reviewed within 2 Board meetings 100% </div>
24FC:0093	Timothy Hansen	Information Gathering	10/24/2024				11/21/2024	53	yes	
24FC:0094	Ben Lynch	Draft Order	10/25/2024			Probable Cause	11/21/2024	53	yes	
24FC:0096 (1 of 2)	Rachel Dolley	Information Gathering	10/29/2024				11/21/2024	49	yes	
24FC:0096 (2 of 2)	Rachel Dolley	Information Gathering	11/26/2024				12/19/2024	25	yes	
24FC:0097	Tyler Patterson	Information Gathering	10/29/2024			Probable Cause	11/21/2024	50	yes	
24FC:0101	Erin Sommers	Information Gathering	10/28/2024				11/21/2024	48	yes	
24FC:0104	Matthew Rollinger	Information Gathering	11/1/2024				11/21/2024	46	yes	
24FC:0106	Sheryl Pilkington	Draft Order	11/1/2024			Probable Cause	11/21/2024	48	yes	
24FC:0109	Joe Goche	Information Gathering	11/13/2024				11/21/2024	41	yes	
24FC:0110	Keegan Jarvis	Information Gathering	11/6/2024				11/21/2024	40	yes	
24FC:0111	Michael McPeck	Draft Order	11/7/2024				11/21/2024	39	yes	
24FC:0112	Keegan Jarvis	Information Gathering	11/12/2024				11/21/2024	38	yes	
24FC:0113	Gerilyn Jones	Information Gathering	11/13/2024				11/21/2024	34	yes	
24FC:0115	Justin Scott	Draft Order	11/22/2024				12/19/2024	25	yes	

24FC:0116	Timothy, miller	Information Gathering	11/27/2024			11/21/2024	61	yes
24FC:0117	Michael Merritt	Information Gathering	11/27/2024			11/21/2024	25	yes
24FC:0118	Kevin Cahalan	information Gathering	11/22/2024			12/19/2024	25	yes
24FC:0119 (1 of 2)	Tony Reed	Draft Order	11/26/2024			12/19/2024	21	yes
24FC:0119 (2 of 2)	Tony Reed	Draft Order	11/26/2024			12/19/2024	21	yes
24FC:0120	Paul Dorr	Information Gathering	12/2/2024			12/19/2024	19	yes
24FC:0122	Justin Scott	Complaint Open	12/5/2024			12/19/2024	11	-
24FC:0123	Rachel Wherley	Information Gathering	12/6/2024			12/19/2024	10	yes
24FC:0124 (1 of 2)	Kenneth Brown	Information Gathering	12/12/2024			12/19/2024	6	yes
24FC:0124 (2 of 2)	Kenneth Brown	Information Gathering	12/12/2024			12/19/2024	6	yes

24FC:0091	Ellen Becker	Closed	10/21/2024	11/21/2024	Dismiss		11/21/2024	35	yes
24FC:0095	Justin Scott	Closed	10/25/2024	11/21/2024	Dismiss		11/21/2024	31	yes
24FC:0098	Charles Kerker	Closed	10/29/2024	11/21/2024	Dismiss		11/21/2024	27	yes
24FC:0099	Tyson Trunkhill	Closed	10/30/2024	11/21/2024	Dismiss		11/21/2024	26	yes
24FC:0100	Tyson Trunkhill	Closed	10/30/2024	11/21/2024	Dismiss		11/21/2024	26	yes
24FC:0102	John Johnson	Closed	10/31/2024	11/21/2024	Resolved	Withdrawn	11/21/2024	30	yes
24FC:0103	Sue Miles	Closed	11/1/2024	11/21/2024	Dismiss		11/21/2024	25	yes
24FC:0114	Chad Brewbaker	Closed	11/14/2024	11/21/2024	Dismiss		11/21/2024	11	yes
Brewbaker (1 of 2)	Chad Brewbaker	Closed	11/1/2024	11/21/2024	Dismiss		11/21/2024	25	yes
Brewbaker (2 of 2)	Chad Brewbaker	Closed	11/4/2024	11/21/2024	Dismiss		11/21/2024	24	yes
24FC:0121	Presten Smith	Final Report	12/2/2024			Withdrawn	12/19/2024	16	yes

avg. days to dismiss/withdraw 25
--

Active Cases Report

45

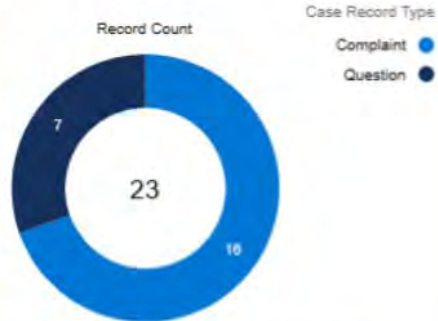
[View Report \(Active Cases Report\)](#)

Active Questions Report

2

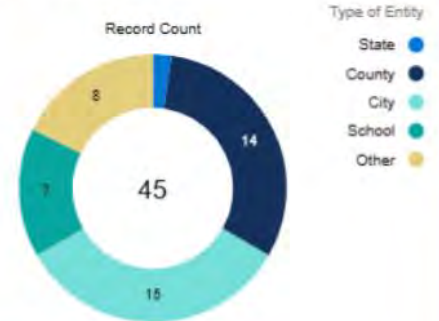
[View Report \(Active Questions Report\)](#)

New complaints &/or question last 30 day



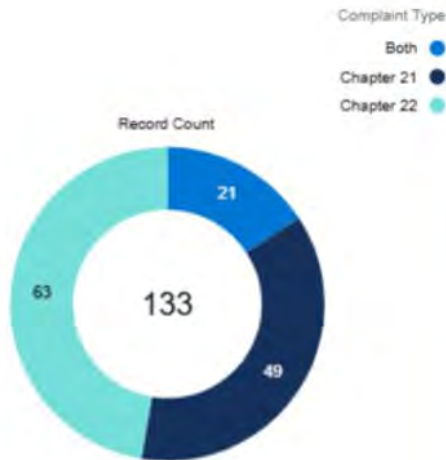
[View Report \(New complaints &/or question last 30 day\)](#)

Cases by Entity



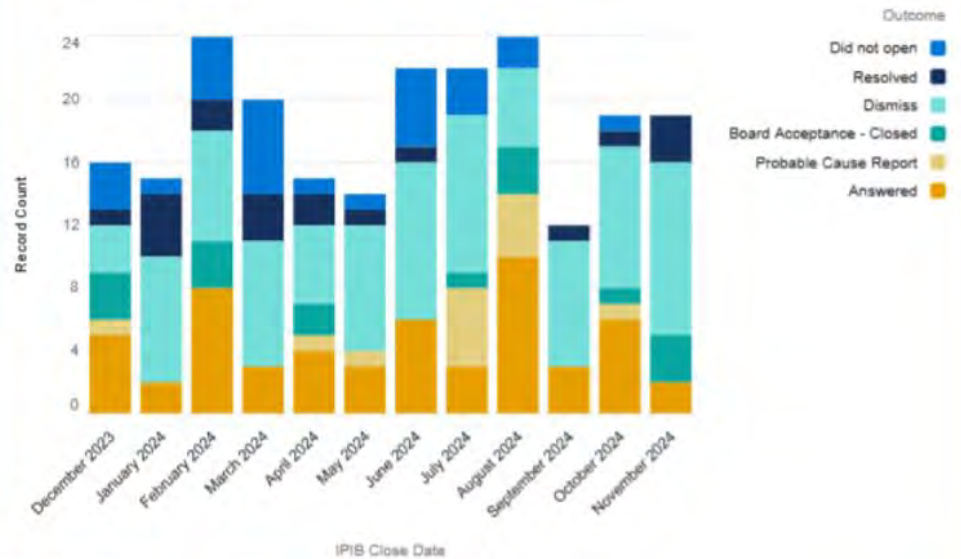
[View Report \(Cases by Entity\)](#)

Broad Type (Filed in Current)



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

Closed cases (past 12 months)

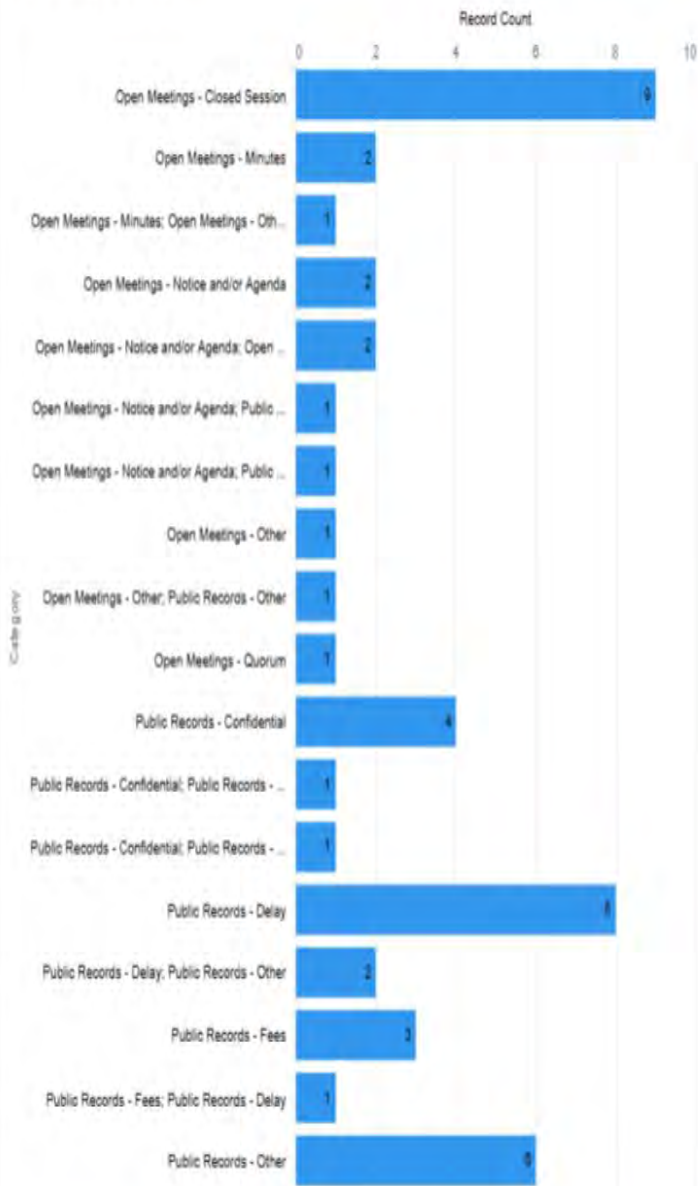


[View Report \(Closed cases \(past 12 months\)\)](#)

Dashboard
Cases by Type

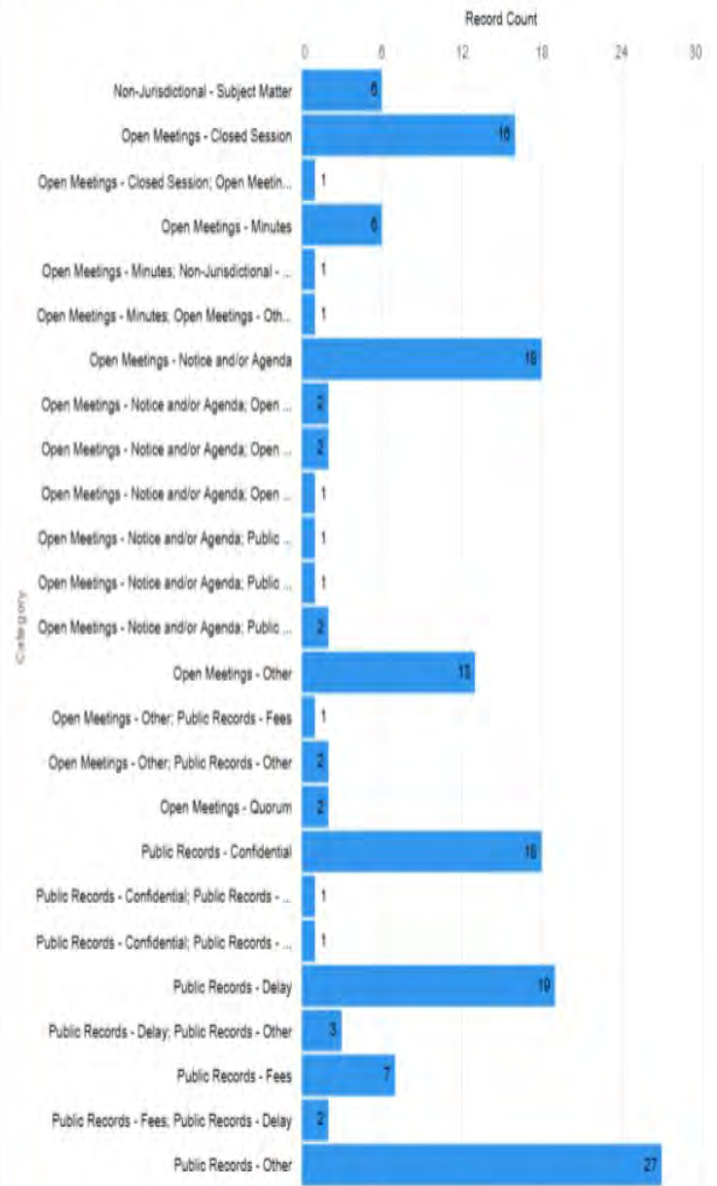
As of Dec 13, 2024 2:38 PM Viewing as Erika Eckley

Cases by Type (Active)



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

Cases by Type (Filed in Current Year)



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

Fund: 0001 Unit: OP22 Sub Unit: Blank Approp: P22		FY2025 Iowa Public Information Board												EDas Customer Number: 1882 Percent of Year Complete 41.67%								
Obj/Rev Class	Obj/Rev Class Name	JULY Actual	AUG Actual	SEPT Actual	OCT Actual	NOV Actual	DEC Forecast	JAN Forecast	FEB Forecast	MAR Forecast	APR Forecast	MAY Forecast	JUNE Forecast	HO13 Forecast	HO14 Forecast	HO15 Forecast	YTD Actual	End of Year Forecast (C=A+B)	Annual Budget (D)	Percent of Budget To Date	Percent of Budget Forecasted EOY	
	Appropriation	363,227																				
	Deappropriation																					
	BBF (T&T)																					
Expenditures																						
101	Personal Services	19,563	19,067	19,474	35,990	23,251	23,450	23,450	23,450	23,450	35,990	23,450	23,450	7,492	-	-	117,345	301,529	323,270	36%	93%	
202	In State Travel	333	38	625	-	122	224	-	-	-	-	-	-	-	-	-	1,117	1,341	3,487	32%	38%	
301	Office Supplies	-	129	304	255	148	255	255	255	255	255	255	255	255	-	-	836	2,875	3,000	28%	98%	
309	Printing & Binding	-	-	-	-	61	-	-	-	-	-	-	-	-	-	-	61	61	500	12%	12%	
313	Postage	-	6	8	3	6	4	4	4	4	4	4	4	4	-	-	23	57	150	16%	38%	
401	Communications	-	174	160	221	139	250	250	250	250	250	250	250	250	-	-	695	2,695	3,000	23%	90%	
406	Outside Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,000	1,000	0%	0%
414	Reimbursements To Other Agency	1,600	1,600	1,608	1,603	1,915	1,678	1,603	1,603	1,603	1,603	1,603	1,603	1,603	1,603	1,603	6,726	19,623	12,000	56%	164%	
416	ITD Reimbursements	299	276	11,271	(6,376)	309	276	314	314	314	314	314	314	314	314	314	5,503	7,975	15,820	35%	50%	
418	IT Outside Services	146	146	146	146	146	146	146	146	146	146	146	146	146	146	146	585	1,756	1,000	59%	176%	
Total Expenditures:		19,896	21,459	33,596	31,842	26,097	26,283	26,022	26,022	26,022	36,562	26,022	26,022	10,064	-	-	132,890	337,911	363,227	37%	93%	
Current Month Operations		343,331	(21,459)	(33,596)	(31,842)	(26,097)	(26,283)	(26,022)	(26,022)	(26,022)	(36,562)	(26,022)	(26,022)	(10,064)	-	-	-	-	-	-	-	
Cash Balance		343,331	321,872	288,276	256,434	230,337	204,054	178,032	152,009	125,987	87,425	61,403	35,380	25,316	25,316	25,316	25,316	25,316	25,316	25,316	25,316	
Footnotes:		Unit should be managed to \$0 at year end.																				
Expenditures		<p>101 - Slip was budgeted for retirement, but is not being utilized in FY25. Months of October and April have 3 payroll warrants written. July actual included retirement vacation payout.</p> <p>309 - November actual was B&W General Copy - October 17 packet from Kim Murphy Per Board. 414 - Space could be affected after move. Will update as forecasts are available. DAS finance time is included and could vary depending on month's needs.</p> <p>416 - October includes move of Salesforce renewal to P22T.</p>																				

