

# **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, Johnston (Government Representative, 2024-2028)**  
**Luke Martz, Ames (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, please send an email to [PIB@iowa.gov](mailto:PIB@iowa.gov) prior to the meeting.**

## **Agenda**

**February 20, 2025, 1:00 p.m.**

**Conference Room**

**Jessie Parker Building, East**

**510 East 12<sup>th</sup> Street, Des Moines**

### **1:00 PM – IPIB Meeting**

- I. Approval of agenda\***
- II. Approval of the January 16, 2025 minutes \***
- III. Public Forum (5-minute limit per speaker)**
- IV. Comments from the board chair. (McHugh)**
- V. Consent Agenda \***
  - A. Dismissals**
    - 1. 24FC:0129 (Joe Monahan - Chapter 22- Ames Public Library) 12/24/2024
    - 2. 24FC:0130 (Joe Monahan - Chapter 22- Iowa City Public Library) 12/24/2024
    - 3. 24FC:0131 (Jordan Johnson - Chapter 22- City of Ankeny) 12/31/2024
    - 4. 25FC:0001 (Steven Asche - Chapter 22- City of Eagle Grove) 1/10/2025
    - 5. 25FC:0002 (Berleen Wobeter - Chapter 21- Tama County Supervisors) 1/8/2025
    - 6. 25FC:0005 (Frank Viola - Chapter 22- Iowa Judicial Branch, Polk County Clerk of Court) 1/16/2025
    - 7. 25FC:0010 (Edmund Baprawski - Chapter 22- Unemployment Insurance Division Iowa Workforce Development) 1/30/2025
  - B. Acceptance**
    - 1. 24FC:0110-2 (Keegan Jarvis - Chapter 21- City of Swan IA) 1/22/2025

2. 25FC:0007 (Kelly Smith - Chapter 22- Bettendorf Community School District) 1/22/2025
3. 25FC:0008 (Britt Gagne - Chapter 22- City of West Des Moines) 1/23/2025
4. 25FC:0009 (Bryce Hubert - Chapter 22- City of Maxwell) 1/24/2025
5. 25FC:0011 (Cliff Williams - Chapter 22- Keomah Village City Council, Mayor and Clerk) 2/1/2025
6. 25FC:0012 (Matt Loffer - Chapter 22- City of Marengo, Marengo Police Department) 2/3/2025
7. 25FC:0015 (Lori Daughenbaugh - Chapter 22- City of Runnells, Iowa) 2/3/2025
8. 25FC:0017 (Lori White - Chapter 22- Missouri Valley) 2/9/2025
9. 25FC:0018 (Tammy Wise - Open Meetings Law- Tama County) 2/10/2025
10. 25FC:0003 (Robert Roquet - Chapter 22- City of Jesup) 1/13/2025

**VI. Advisory Opinion – Deliberation/Action.\***

1. 24AO:0015 (Chuck Isenhart/City of Dubuque) 12/31/2024 - When are RFP documents no longer confidential under Iowa Code
2. 24AO:0016 (Jack Hatanpa) 12/31/2024 - Is a contracted city attorney the appropriate custodian of a records request

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

1. 22FC:0011 (Jack Swarm - Chapter 21- Mt. Pleasant) 3/1/2022 -Acceptance
2. 24FC:0013 (Contested Case Settlement - Both- Union County Emergency Management Agency) 2/2/2024 -Final Report
3. 24FC:0052 (Erik Johnson - Chapter 22- Delaware Township) 6/6/2024 -Probable Cause
4. 24FC:0077 (Kyle Ocker - Chapter 22- Mahaska County Sheriff's Office) 9/9/2024 -Probable Cause
5. 24FC:0101 (Erin Sommers - Chapter 21- City of Pocahontas) 10/29/2024 -Final Report
6. 24FC:0109 (Joe Goche - Chapter 21- Kossuth county Supervisors and Auditor) 11/5/2024 - Probable Cause
7. 24FC:0113 (Geraldyn Jones - Chapter 21- Linn-Mar Board of Directors) 11/12/2024 – Informal Resolution
8. 24FC:0123 (Rachel Wherley - Chapter 22- Estherville Lincoln Central CSD) 12/6/2024 -Probable Cause
9. 24FC:0125 (Anthony Wynkoop - Chapter 22- Clinton Iowa PD) 12/12/2024 -Probable Cause
10. 25FC:0003 (Robert Roquet - Chapter 22- City of Jesup) 1/13/2025 -Probable Cause

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

1. 25FC:0004 (Linda Reardon-Lowry - Chapter 22- Gladbrook-Reinbeck School District) 1/12/2025
2. 25FC:0006 (Jordan George - Chapter 22- City of Palo, Iowa) 1/16/2025

**IX. Pending Complaints. Informational Only [No deliberation or action to be taken] (Eckley)**

1. 24AO:0013 (Erika Eckley) 12/12/2024 - New / Question Information ReviewedHow should interviews for public employees be conducted after the Teig v. Loeffler decision? [on hold until appellate review]
2. 24FC:0064 (Mark Milligan - Chapter 22- Monroe County Sheriff's Department; represented by Monroe County Attorney) 7/30/2024 - Board Acceptance of IR
3. 24FC:0070 (Brian Thomas - Both- Jefferson County BOS) 8/13/2024 - Board Acceptance of IR
4. 24FC:0089 (Curtis Wagler - Chapter 22- Henry County Sheriff's Office) 10/8/2024 - Information Gathering/IR Process
5. 24FC:0090 (Sarah Weber - Chapter 21- Orange City Council) 10/9/2024 - Information Gathering/IR Process
6. 24FC:0092 (Aubrey Burress - Both- Pleasant Grove Township) 10/21/2024 - Board Acceptance of IR

7. 24FC:0093 (Timothy Hansen - Chapter 22- Franklin County Sheriff's Office) 10/24/2024 - Information Gathering/IR Process
8. 24FC:0096 (Rachel Dolley - Chapter 21- Commission of Wapello County Veterans Affairs) 10/28/2024 - Information Gathering/IR Process
9. 24FC:0110-1 (Keegan Jarvis - Chapter 21- City of Swan) 11/6/2024 - Information Gathering/IR Process
10. 24FC:0117 (Michael Merritt - Chapter 22- Jasper County) 11/21/2024 - Information Gathering/IR Process
11. 24FC:0120 (Paul Dorr - Both- Osceola County, Iowa) 11/27/2024 - Probable Cause
12. 25FC:0013 (Kevin Kilgore - Both- Department of Management County Finance Committee Valuation/Budgets database developers/operators) 2/2/2025 - Complaint Opened/Acknowledged
13. 25FC:0014 (Michael Merritt - Chapter 22- Jasper County, IA) 2/3/2025 - Complaint Opened/Acknowledged
14. 25FC:0016 (Donnie Anthony - Both- Otho) 2/5/2025 - New / Complaint Information Reviewed
15. 25FC:0020 (Kira Werstein - Public Records Law- Ames Community School District) 2/12/2025 - Complaint Opened/Acknowledged

**IX. Deliberation/Action on Extension or Permanency of Pilot Complaint Process\***

**X. Committee Reports**

1. Training – (Lee)
2. Legislative – (Eckley)\*
3. Rules – (Murphy)\*
  - a. Deliberation/Action on Current Draft Rules to Proceed to Stakeholder Outreach

**XI. Office status report.**

1. Office Update \* (Eckley)
2. Financial/Budget Update (FY25) \* (Eckley)
3. Presentations/Trainings (Eckley)
  - a. State Library
  - b. Iowa State Deputies Association
4. District Court Update (Eckley)

**XII. Next IPIB Board Meeting will be held on March 20, 2025, at 1:00 p.m.**

**XIII. Adjourn**

**\* Attachments**

# IOWA PUBLIC INFORMATION BOARD

**DRAFT**

**January 16, 2025**

**Unapproved Minutes**

The Iowa Public Information Board (IPIB) met on January 16, 2025, for its monthly meeting at 1 p.m. at the offices of the Iowa Public Information Board located at 502 East 9<sup>th</sup> Street, Des Moines. The following members participated: E.J. Giovannetti, Barry Lindahl, Catherine Lucas, Luke Martz, Joel McCrea. 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 Giovannetti and second by Martz, to approve the agenda. Adopted, 5-0.

On a motion by Martz and second by McCrea, to approve the December 19, 2024 minutes. Adopted, 5-0.

## **Public Forum –**

There were no public comments.

## **Comments from the Board Chair –**

Lindahl did not have any comments as the Deputy Chair.

## **Consent Agenda –**

1. **Dismissals.** Eckley presented 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, 5-0.
2. **Acceptances.** Eckley presented the acceptance within the consent agenda. Board discussion occurred. On a motion by Lucas and second by Martz, to approve the acceptance within the consent agenda. Approved, 5-0.

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

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?** Board discussion occurred. On a motion by Giovannetti and second by Martz, to adopt the Advisory Opinion. Approved, 5-0.

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

1. **24FC:0013 (Bonnie Castillo - Both- Union County Emergency Management Agency) 2/2/2024 -Informal Settlement Contested Case.** Board discussion occurred. On a motion by McCrea and second by Giovannetti, to approve the Informal Settlement. Approved, 5-0.

2. **24FC:0068 (Drake Riddle - Chapter 21- Page County Board of Supervisors) 8/8/2024 - Final Report.** Board discussion occurred. On a motion by Martz and second by McCrea, to approve the Final Report. Approved, 5-0.
3. **24FC:0083 (Tim Ferguson - Chapter 22- Scott County) 9/25/2024 -Dismissal.** Tim Ferguson addressed the Board. Board discussion occurred. On a motion by Martz and second by Giovannetti, to approve the Dismissal. Approved, 5-0.
4. **24FC:0089 (Curtis Wagler - Chapter 22- Henry County Sheriff's Office) 10/8/2024 - Acceptance.** Lucas recused and abstained. The Henry County Sheriff's Office and counsel appeared in person and addressed the Board. Board discussion occurred. On a motion by Martz and second by Giovannetti, to approve the Acceptance. Approved, 4-0; one abstention.
5. **24FC:0101 (Erin Sommers - Chapter 21- City of Pocahontas) 10/29/2024 -Informal Resolution Report.** Board discussion occurred. On a motion by Lucas and second by McCrea, to approve the Informal Resolution Report. Approved, 5-0.
6. **24FC:0104 (Matthew Rollinger - Chapter 22- Linn Mar Community School District) 10/31/2024 -Probable Cause Report.** Rollinger addressed the Board. Counsel for the Linn Mar Community School District addressed the Board. Board discussion occurred. On a motion by Giovannetti and second by Martz, to approve the Probable Cause Report and dismiss the complaint. Approved, 5-0.

\*Board discussion occurred regarding retention requirements. The IPIB requested that the staff review retention requirements and include on a future agenda for discussion.

7. **24FC:0109 (Joe Goche - Chapter 21- Kossuth county Supervisors and Auditor) 11/5/2024 -Probable Cause Report.** Goche addressed the Board. Board discussion occurred. The Board discussed tabling the Probable Cause Report to hear from the County regarding the complaint. On a motion by Lucas and second by Giovannetti, to table the Probable Cause Report to the next meeting of the IPIB. Ayes: Giovannetti, Lindahl, Lucas, Martz. Nays: McCrea. Approved, 4-1.
8. **24FC:0111 (Michael McPeek - Chapter 22- Iowa Department of Corrections) 11/7/2024 -Probable Cause Report.** Michael Savala, representing the Iowa Department of Corrections addressed the Board. Board discussion occurred. On a motion by Giovannetti and second by McCrea, to approve the Probable Cause Report and dismiss the complaint. Approved, 5-0.
9. **24FC:0112 (Keegan Jarvis - Chapter 21- City of Swan) 11/8/2024 -Probable Cause Report.** Board discussion occurred. On a motion by Lucas and second by Martz, to approve the Probable Cause Report and dismiss the Complaint. Approved, 5-0.
10. **24FC:0116 (Timothy Miller - Both- CITY OF WATERLOO-MUNICIPAL POLICE) 10/16/2024 -Probable Cause Report.** The City of Waterloo Police Department addressed the

Board. Board discussion occurred. On a motion by Martz and second by McCrea, to approve the Probable Cause Report and dismiss the complaint. Approved, 5-0.

11. **24FC:0118 (Kevin Cahalan - Both- City of Eagle Grove) 11/21/2024 - Probable Cause Report.** Kevin Cahalan addressed the Board. Board discussion occurred. On a motion by McCrea and second by Martz, to approve the Probable Cause Report and dismiss the complaint for lack of jurisdiction. Approved, 5-0.
12. **24FC:0124 (Kenneth Brown - Chapter 22- City of Sidney) 12/10/2024 -Probable Cause Report.** Counsel for the City of Sidney addressed the Board. Board discussion occurred. On a motion by Giovannetti and second by McCrea, to approve the Probable Cause Report and dismiss the complaint. Approved, 5-0.

**Matters Withdrawn, No Action Necessary** – Eckley updated the Board on the following cases that were withdrawn by the Complainant:

1. 24FC:0122 (Justin Scott - Chapter 21- ) 12/5/2024
2. 24FC:0127 (JOHN GRUCA - Chapter 22- Cedar Rapids Veterans Memorial Commission) 12/17/2024
3. 24FC:0128 (David Sherwood - Chapter 22- Tama County board of supervisors) 12/18/2024

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

1. 22FC:0011 (Jack Swarm - Chapter 21- ) 3/1/2022 - Complaint Opened/Acknowledged
2. 24FC:0052 (Erik Johnson - Chapter 22- Delaware Township) 6/6/2024 - Information Gathering/IR Process
3. 24FC:0064 (Mark Milligan - Chapter 22- Monroe County Sheriff's Department) 7/30/2024 - Board Acceptance of IR
4. 24FC:0070 (Brian Thomas - Both- Jefferson County BOS) 8/13/2024 - Board Acceptance of IR
5. 24FC:0077 (Kyle Ocker - Chapter 22- Mahaska County Sheriff's Office) 9/9/2024 - Information Gathering/IR Process
6. 24FC:0090 (Sarah Weber - Chapter 21- Orange City Council) 10/9/2024 - Information Gathering/IR Process
7. 24FC:0092 (Aubrey Burrell - Both- Pleasant Grove township) 10/21/2024 - Board Acceptance of IR
8. 24FC:0093 (Timothy Hansen - Chapter 22- Franklin County Sheriff's Office) 10/24/2024 - Information Gathering/IR Process
9. 24FC:0096 (Rachel Dolley - Chapter 21- Commission of Wapello County Veterans Affairs) 10/28/2024 - Information Gathering/IR Process
10. 24FC:0110 (Keegan Jarvis - Chapter 21- City of Swan IA) 11/6/2024 - Information Gathering/IR Process
11. 24FC:0113 (Gerald Jones - Chapter 21- Linn-Mar Board of Directors) 11/12/2024 - Information Gathering/IR Process
12. 24FC:0117 (Michael Merritt - Chapter 22- Jasper County) 11/21/2024 - Information Gathering/IR Process

13. 24FC:0120 (Paul Dorr - Both- Osceola County, Iowa) 11/27/2024 - Board Approval of A/D
14. 24FC:0123 (Rachel Wherley - Chapter 22- Estherville Lincoln Central CSD) 12/6/2024 - Informal Resolution Process
15. 24FC:0125 (Anthony Wynkoop - Chapter 22- Clinton Iowa PD) 12/12/2024 - Information Gathering/IR Process
16. 24FC:0129 (Joe Monahan - Chapter 22- Ames Public Library) 12/24/2024 - Complaint Opened/Acknowledged
17. 24FC:0130 (Joe Monahan - Chapter 22- Iowa City Public Library) 12/24/2024 - Complaint Opened/Acknowledged
18. 25FC:0001 (Steven Asche - Chapter 22- City of Eagle Grove) 1/10/2025 - New / Complaint Information Reviewed
19. 24AO:0013 (IPIB) 12/12/2024 - How should interviews for public employees be conducted after the Teig v. Loeffler decision?
20. 24AO:0015 (Chuck Isenhart) 12/31/2024 - When are RFP documents no longer confidential under Iowa Code?
21. 24AO:0016 (Jack Hatanpa) 12/31/2024 - Is a contracted city attorney the appropriate custodian of a records request

### **Committee Reports –**

1. **Training** – Lee addressed the Board and indicated that a Training Committee meeting will be scheduled in the near future.
2. **Legislative** – Eckley addressed the Board and gave an update on the status of legislation and the legislative session.
3. **Rules** – Murphy addressed the Board and gave an update on the status of administrative rules.

### **Office status report –**

1. **Office Update** –
  - a. IPIB Office Move week of January 27. Eckley provided an update regarding the status of the move.
  - b. 2024 Annual Report. Eckley reviewed the draft of the 2024 Annual Report. On a motion by Martz and second by Lucas, to approve 2024 Annual Report.
2. **Financial/Budget Update (FY25)** – Eckley provided an update regarding financials for FY 2025.
3. **Presentations/Trainings** – Eckley provided an overview of upcoming trainings.
  - a. State Library Board
  - b. Pocahontas
4. **District Court Update** - Eckley provided an updated regarding cases being heard in district court, appellate court, and the Supreme Court.

The next meeting of the IPIB will be held on February 20, 2025, at 1:00 p.m.

Meeting adjourned by Lindahl at 3:05 p.m.



## The Iowa Public Information Board

In re the Matter of:  Joe Monahan, Complainant  And Concerning:  Ames Public Library, Respondent	Case Number: 24FC:0129  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 December 24, 2024, Joe Monahan filed formal complaint 24FC:0129, alleging the Ames Public Library (APL) violated Iowa Code Chapter 22.

### Facts

The complaint in this case relates to the same subject matter and arguments as 24FC:0081, *Joe Monahan/Ames Public Library*, which was dismissed on December 19, 2024 and 24FC:0130 *Joe Monahan/Iowa City Public Library*.

In a public records request to the Ames Public Library, Joe Monahan, sought records of emails exchanged between the Iowa Library Association (ILA) and the APL. The ILA is a private, nonprofit organization.

The Ames city attorney responded to Monahan's request as follows:

Your Open Records request asks for records that are clearly not public records under IPIB advice and under Iowa Supreme Court decisions. These are simply not public records, as they are records of the Iowa Library Association, even if received on a government email. Since your request is only for records that are not public records, we are not producing anything in response to your request.

## 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).

## Analysis

Iowa Code § 22.1(3)(a) defines “public records” to include the “records, documents, tape, or other information . . . of or belonging to” a government body, as the term is used in Chapter 22. 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).

In *Dubuque Racing Association*, the Court addressed a records request seeking the minutes of a private, non-profit corporation on the basis that multiple members of the local city council sat on the non-profit’s board. *Id.* at 451. The records sought were in the possession of city council members and were physically maintained in the city manager’s office at the time of the request. *Id.* at 451–52. The requestor argued the records were public records because the non-profit was required to reserve four positions for members of the city council. The Court held the documents were not public records. The Court stated “[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.* at 453. The Court held the requestor was not entitled to the records, as they belonged to the non-profit and were therefore not records or documents “of or belonging to” the city. *Id.* at 454; *see United States v. Story County*, 28 F. Supp. 3d 861, 871 (S.D. Iowa 2014) (emails were not “produced by or originated from” the sheriff’s role as sheriff and were not held in his official capacity with the county so requestor was not entitled to access them); *see also Linder v. Eckard*, 152 N.W.2d 833, 835 (Iowa 1967) (“It is the nature and purpose of the document, not the place where it is kept, which determines its status.”); 24AO:0007: Are private email communications sent from a government email address public records?

The emails sought in this matter are not records “of or belonging to” the APL as outlined in 24FC:0081, *Joe Monahan/Ames Public Library*. ILA as an independent non-profit entity and their

records are not subject to the requirements of Iowa Code chapter 22. The treatment of ILA records is the same regardless of whether the request is made directly to the ILA or to the APL.

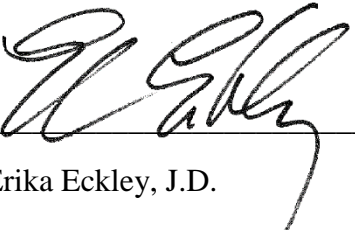
### Conclusion

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

IT IS SO ORDERED: Formal complaint 24FC:0129 is dismissed as legally insufficient and a matter previously disposed of on its merits pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on February 20, 2025. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



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Erika Eckley, J.D.

### CERTIFICATE OF MAILING

This document was sent on February 14, 2025, to:

Joe Monahan, Complainant

Click or tap here to enter text.

## The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0130
Joe Monahan, Complainant	Dismissal Order
And Concerning:	
Iowa City Public Library, Respondent	

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

On December 24, 2024, Joe Monahan filed formal complaint 24FC:0130, alleging the Iowa City Public Library (Library) violated Iowa Code Chapter 22.

### Facts

The complaint in this case relates to the same subject matter and arguments as 24FC:0081, *Joe Monahan/Ames Public Library*, which was dismissed on December 19, 2024 and 24FC:0129 *Joe Monahan/Ames Public Library*.

In a public records request to the Library, Joe Monahan, sought records of emails exchanged between the Iowa Library Association (ILA) or the American Library Association (ALA) and between employees of the Library and the Ames Public Library who are on the Board of the ILA and/or the ALA using either their public or private email addresses. Both the ILA and ALA are private non-profit entities. Monahan stated that there were emails responsive, but only three were provided in response to his request.

The attorney for the Library provided the following response to Monahan's request:

"The ILA and ALA records are their own, and are not public records. You may respond that many of these emails were sent or received on a government email address, which would be true. However, as the IPIB noted, it's the content that controls. "

Monahan requested IPIB to direct the Library to follow Iowa law and allow the release of the requested documents.

## 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).

## Analysis

Iowa Code § 22.1(3)(a) defines “public records” to include the “records, documents, tape, or other information . . . of or belonging to” a government body, as the term is used in Chapter 22. 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).

In *Dubuque Racing Association*, the Court addressed a records request seeking the minutes of a private, non-profit corporation on the basis that multiple members of the local city council sat on the non-profit’s board. *Id.* at 451. The records sought were in the possession of city council members and were physically maintained in the city manager’s office at the time of the request. *Id.* at 451–52. The requestor argued the records were public records because the non-profit was required to reserve four positions for members of the city council. The Court held the documents were not public records. The Court stated “[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.* at 453. The Court held the requestor was not entitled to the records, as they belonged to the non-profit and were therefore not records or documents “of or belonging to” the city. *Id.* at 454; *see United States v. Story County*, 28 F. Supp. 3d 861, 871 (S.D. Iowa 2014) (emails were not “produced by or originated from” the sheriff’s role as sheriff and were not held in his official capacity with the county so requestor was not entitled to access them); *see also Linder v. Eckard*, 152 N.W.2d 833, 835 (Iowa 1967) (“It is the nature and purpose of the document, not the place where it is kept, which determines its status.”); 24AO:0007: Are private email communications sent from a government email address public records?

The emails sought in this matter are not records “of or belonging to” the Library as outlined in 24FC:0081, *Joe Monahan/Ames Public Library*. ILA as an independent non-profit entity and their

records are not subject to the requirements of Iowa Code chapter 22. The treatment of ILA records is the same regardless of whether the request is made directly to the ILA or to the Library.

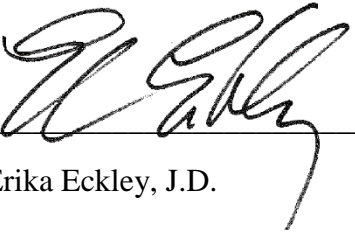
### Conclusion

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

IT IS SO ORDERED: Formal complaint 24FC:0129 is dismissed as legally insufficient and a matter previously disposed of on its merits pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on February 20, 2025. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



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Erika Eckley, J.D.

### CERTIFICATE OF MAILING

This document was sent on February 14, 2025, to:

Joe Monahan, Complainant

Click or tap here to enter text.

## The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0131
Jordan Johnson, Complainant	Dismissal Order
And Concerning:	
City of Ankeny, Respondent	

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

On December 26, 2024, Jordan Johnson filed formal complaint 24FC:0131, alleging the City of Ankeny (City) violated Iowa Code Chapter 22.

### Facts

In December 2024, the complainant, Jordan Johnson, submitted a Chapter 22 request seeking a police report filed with the City of Ankeny against his wife and family. Johnson claims the allegations in the report were false, causing “significant distress and concern” for Johnson and his family.

According to Johnson, the City provided the report, but certain information was redacted, including the reporter’s employer and address. Johnson claims that he should have access to “the identity and background of the individual who made this false report” so that he and his family are able to “take appropriate measures” to protect themselves. Johnson also asserted that the public interest arising from the false nature of the report and potential risks posed by the reporter could justify an exception to the usual confidentiality and privacy protections of Chapter 22.

IPIB acknowledged receipt of the complaint on December 31, 2024. A second email seeking clarification on the facts alleged in the complaint was sent on January 3, 2025, and two follow-up emails were sent on January 16 and February 4. Johnson has not been in contact with IPIB since the initial email sent on December 26, 2024.

### Applicable Law

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

...

Peace officers' investigative reports, privileged records or information specified in section 80G.2, and specific portions of electronic mail and telephone billing records of law enforcement agencies if that information is part of an ongoing investigation, except where disclosure is authorized elsewhere in this Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual. Specific portions of electronic mail and telephone billing records may only be kept confidential under this subsection if the length of time prescribed for commencement of prosecution or the finding of an indictment or information under the statute of limitations applicable to the crime that is under investigation has not expired." Iowa Code § 22.7(5).

"Communications not required by law, rule, procedure or contract that are made to the government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination. As used in this subsection, '*persons outside of government*' does not include persons or employees of persons who are communicating with respect to a consulting or contractual relationship with a government body or who are communicating with a government body with whom an arrangement for compensation exists." Iowa Code § 22.7(18).

### **Analysis**

This matter is dismissed for two reasons. First, the complainant has not been in contact with IPIB since his initial email, despite multiple attempts at outreach. Dismissal is appropriate for an abandoned complaint.

Second, the challenged redactions – the reporter's employer information and home address – would likely be protected under both Iowa Code §§ 22.7(5) and (18).

Iowa Code § 22.7(5)'s protection for peace officers' investigative reports includes "all of the information gathered by officers are part of an investigation into a crime or incident." 23AO:0003, *Confidentiality of Police Investigative Files*. The protection for investigative reports is considered a qualified privilege, subject to the three-part *Hawk Eye* balancing test, which requires that "(1) a public officer is being examined, (2) the communication [to the officer] was made in official confidence, and (3) the public interest would suffer by disclosure." *Mitchell v. City of Cedar Rapids*, 926 N.W.2d 222, 232 (Iowa 2019) (citing *Hawk Eye v. Jackson*, 512 N.W.2d 750, 752 (Iowa 1994)).

IPIB has previously held that 911 calls may be covered by the qualified privilege, implying that the first and second prongs may be met where a public records request seeks information from such reports. *See, e.g.*, 23FC:0026, *Sydney Crnkovich/Carroll County Sheriff's Office*. The third



prong “requires the weighing of public interest in disclosure against the potential harm that such disclosure may cause.” *Hawk Eye*, 521 N.W.2d at 753. The complainant alleges significant public interest in “the false nature of the report” and “the potential risk posed to [his] family,” but there is no public interest under these facts in revealing where the reporter lives and works. On the contrary, the potential harm of revealing such information is quite significant. The balancing test weighs against disclosure.

The reporter’s address and employer information would also likely be withheld under Iowa Code § 22.7(18). Multiple IPIB cases have found that this provision may be properly applied for reports made by third parties to law enforcement, provided all other conditions are met. *See, e.g.*, 20FC:0127, *Robert Corry/Iowa City Police Department* (finding that a police department could withhold a request for a victim’s statements to law enforcement about an alleged crime, as release would “clearly discourage” reporting and it would be impossible to release a statement from a known victim without identifying them).

Because the complaint has been effectively abandoned, and because the redacted information would almost certainly be entitled to confidentiality under both Iowa Code § 22.7(5) and Iowa Code § 22.7(18), dismissal is appropriate.

### **Conclusion**

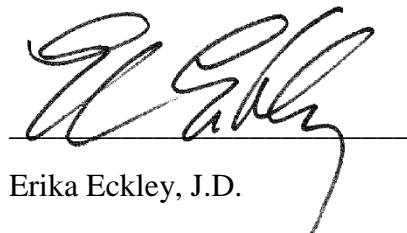
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The complainant is unreachable after multiple unsuccessful attempts to reestablish contact, and the request itself seeks confidential information.

IT IS SO ORDERED: Formal complaint 24FC:0131 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 February 20, 2025. 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 February 14, 2025, to:

Jordan Johnson, Complainant

# The Iowa Public Information Board

In re the Matter of:  Steven Asche, Complainant  And Concerning:  City of Eagle Grove, Respondent	Case Number: 25FC:0001  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 January 7, 2025, Steven Asche filed formal complaint 25FC:0001, alleging that additional information was discovered demonstrating the City of Eagle Grove (City) withheld information in violation of Iowa Code Chapter 22.

## Facts

In June of 2024, Steven Asche filed complaint 24FC:0056 alleging the City failed to provide public records pursuant to Chapter 22. Asche's records request was for communication between the City and the 501(c)(3) Eagle Grove Recreation (501(c)(3)). IPIB accepted the case, which resulted in an Informal Resolution. Pursuant to the Informal Resolution, IPIB staff met with City officials and Asche to ensure all public records within the request were provided. As a result, a large volume of public records were provided to Asche and the case was dismissed as resolved.

On January 7, 2025, Asche provided a large volume of additional emails and information to IPIB staff alleging the information demonstrated that the City failed to provide all public records pursuant to his prior request and complaint. The additional information contained communications between the City of Eagle Grove and Wright County, the City of Eagle Grove and various citizens and internal conversations between various City representatives. Much of the communications are aged, with some communications dating back to 2022.

## 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).

### **Analysis**

Asche’s original complaint in 24FC:0056 requested specific communications *between* the City and a 501(c)(3). Asche provided voluminous amounts of recently discovered communications and argues all of the communications *relate* to the 501(c)(3). While this may be true, the communications are not *between* the City and the 501(c)(3). For this reason, the recently discovered records do not fall within the original records request filed by Asche. There is no evidence the City failed to produce records in violation of Chapter 22.

Asche has been reminded he may submit a follow-up records request and expand the scope of his original request to seek additional information from the City.

### **Conclusion**

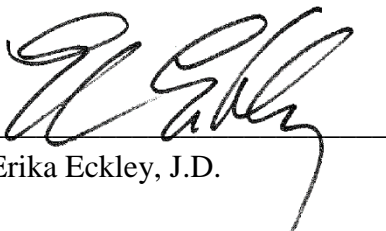
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The complaint alleges failure to produce public records within the scope of the previous complaint. IPIB staff find no evidence the recently produced communications fall within the scope of the original public records request.

IT IS SO ORDERED: Formal complaint 25FC:0001 is dismissed as outside IPIB’s jurisdiction 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 February 20, 2025. 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 February 13, 2025, to:

Steven Asche, Complainant

# The Iowa Public Information Board

In re the Matter of:  Berleen Wobeter, Complainant  And Concerning:  Tama County Board of Supervisors, Respondent	Case Number: 25FC:0002  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 January 8, 2025, Berleen Wobeter filed formal complaint 25FC:0002, alleging the Tama County Board of Supervisors violated Iowa Code chapter 21.

## Facts

Wobeter’s specific concerns are that after appointment to the Tama County Board of Adjustment, the newly-elected Tama County Board of Supervisors voted to change her status to “interim” at the January 6, 2025 meeting. This change was made pursuant to the following agenda item: “Discuss/possible action to approve terms of the two new Board of Adjustment members.” Wobeter states this change is in violation of Iowa Code § 335.11 and Iowa Code §§ 21.3 and 21.4 because no written charges or public hearing were held at the meeting on January 6. Wobeter states the “interim” status does not fit a defined category so it is uncertain whether this can be done without written charges or a public hearing.

## Applicable Law

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

1. Determine that, on its face, the complaint is within the board’s jurisdiction, appears legally sufficient, and could have merit. In such a case the board shall accept the complaint, and shall notify the parties of that fact in writing.
2. Determine that, on its face, the complaint is outside its jurisdiction, is legally insufficient, is frivolous, is without merit, involves harmless error, or relates to a specific incident that has previously been finally disposed of on its merits by the board or a court. In such a case

the board shall decline to accept the complaint. If the board refuses to accept a complaint, the board shall provide the complainant with a written order explaining its reasons for the action.”

Iowa Code § 23.8.

### **Analysis**

The IPIB only has jurisdiction to review alleged violations of Iowa Code chapters 21 and 22. Wobeter alleges the Tama County Board of Supervisors unlawfully changed her appointment status to the Board of Adjustment to “interim” at an open meeting on January 6, 2025, in potential violation of Iowa Code § 335.11 because there were no written charges or public hearing as required under Iowa Code § 335.11.<sup>1</sup>

The IPIB does not have jurisdiction to enforce the requirements of Iowa Code § 335.11 or to determine the propriety of changing an appointment to an “interim” status because either would be outside the scope of IPIB’s jurisdiction.

The mere fact the action took place during an open meeting does not provide jurisdiction to IPIB. As there is not jurisdiction over the controversy alleged, IPIB must dismiss the complaint for lack of jurisdiction.

### **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 complaint alleges failure to properly follow Iowa Code § 335.11 procedures for the change in status of an appointed member of a Board of Adjustment. Review of this matter is outside IPIB’s limited jurisdiction of chapters 21 and 22.

IT IS SO ORDERED: Formal complaint 25FC:0002 is dismissed as outside IPIB’s jurisdiction pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

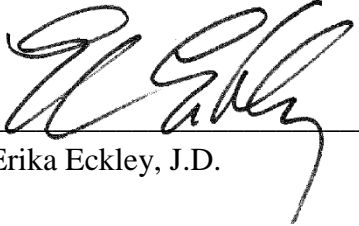
Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review

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<sup>1</sup> Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

this Order on February 20, 2025. 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 February 5, 2025, to:

Berleen Wobeter



## The Iowa Public Information Board

In re the Matter of:	Case Number: 25FC:0005
Frank Viola, Complainant	Dismissal Order
And Concerning:	
Iowa Judicial Branch, Respondent	

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

On January 10, 2025, Frank Viola filed formal complaint 25FC:0005, alleging the Iowa Judicial Branch and Polk County Clerk of Court violated Iowa Code Chapter 22.

### Facts

The complainant, Frank Viola, alleges that the Iowa Judicial Branch does not provide any electronic method for submitting Chapter 22 public records requests on their website ([www.iowacourts.gov](http://www.iowacourts.gov)). According to the complaint, “[t]he website does not appear to provide an online form, an email address, or any other straightforward electronic submission mechanism for public records request.” Viola also alleges that he examined Polk County Clerk of Court resources and attempted to contact the Clerk of Court’s office without success.

Viola asserts this lack of accessible electronic method for submitting records requests “creates barriers to public access” and violates Iowa Code § 22.4(2), which states the rights of persons under Chapter 22 may be exercised “[i]n writing, by telephone, or by electronic means. The lawful custodian of the records shall post information for making such requests in a manner reasonably calculated to apprise the public of that information.”

### Applicable Law

“The [Iowa Public Information Board] shall not have jurisdiction over the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or over the governor or the office of the governor.” Iowa Code § 23.12.

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**

Pursuant to Iowa Code § 23.12, the Iowa Public Information Board lacks jurisdiction to review complaints related to the state judicial branch, or “any entity, official, or employee” thereof. Because the case is facially outside IPIB’s jurisdiction, Iowa Code § 23.8(2) requires dismissal without further review.

### **Conclusion**

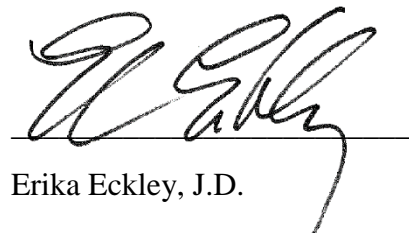
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

IPIB lacks jurisdiction to review complaints against the state judicial branch.

IT IS SO ORDERED: Formal complaint 25FC:0005 is dismissed as outside IPIB’s jurisdiction 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 February 20, 2025. 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 January 17, 2025, to:

Frank Viola, Complainant

# The Iowa Public Information Board

In re the Matter of:	Case Number: 25FC:0010
Edmund Baprawski, Complainant	Dismissal Order
And Concerning:	
Iowa Workforce Development, Respondent	

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

On January 30, 2025, Edmund Baprawski filed formal complaint 25FC:0010, alleging Iowa Workforce Development withheld information in violation of Iowa Code Chapter 22.

## Facts

Baprawski filed a complaint alleging the Iowa Workforce Development failed to produce public records relating to identity theft crime. The request was made on May 11, 2024, and relates to public records regarding someone other than Baprawski. The request was sent to an Integrity Manager at the Unemployment Insurance Division at Iowa Workforce Development.

Iowa Workforce Development responded on May 13, 2024, and indicated a waiver and authorization needed to be completed by the individual who is subject of the confidential records. The response also indicated the records could be subpoenaed if a waiver could not be obtained.

Complex correspondence was submitted by Baprawski, including police reports from Virginia and communications with a corporation. There is no detailed information that demonstrates why Baprawski is entitled to unemployment files for another individual or that Baprawski took steps to provide the waiver and authorization required by Iowa Workforce Development. It also appears Baprawski failed to file the complaint within the 60-day timeframe required by Iowa Code § 23.7.

### **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).

### **Analysis**

There is no evidence the Iowa Workforce Development failed to produce public records to which Baprawski was entitled. Even if there was evidence demonstrating failure to produce public records, Baprawski’s complaint falls outside the jurisdictional 60-day timeframe for filing required by Iowa Code § 23.7.

### **Conclusion**

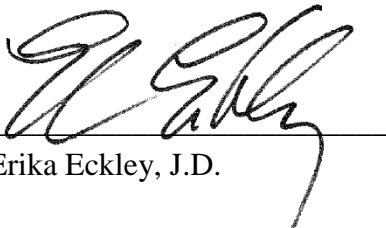
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

IPIB staff find no evidence that Iowa Workforce Development failed to provide public records to which Baprawski was entitled. Furthermore, Baprawski’s complaint was filed beyond the 60-day timeframe required by Iowa Code § 23.7.

IT IS SO ORDERED: Formal complaint 25FC:0010 is dismissed as outside IPIB’s jurisdiction 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 February 20, 2025. 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 February 13, 2025, to:

Edmund Baprawski, Complainant

IPIB Case Number	Contact Name	Name of Entity Involved	Complaint Type	Description	Board Meeting Consent
24FC:0110-2	Keegan Jarvis	City of Swan IA	Chapter 21	An unannounced special meeting was held at 8pm on Friday Jan 10 2025. This meeting was not announced on the letterboard sign outside of city hall, where council meetings are regularly announced. The need for a special meeting was not mentioned at the regular city council meeting on January 6th. It seems quite irregular for the council to meet with their attorney at 8 PM on a Friday night. The council doesn't normally meet at this time, nor on Fridays. Today I took a picture of the city hall letterboard sign. The sign still shows the meeting on the 6th at 6pm. It doesn't mention anything about a special session. Today i found the minutes posted in the window of city hall. These minutes did not include who was present, what reason each individual council member cited for their vote to go into closed session. The city did post the special meeting agenda on their website on the 8th and made revision on the 9th i believe. This does not suffice the requirements of 21.4 sub 1, sub A.	Accept
25FC:0003	Robert Roquet	City of Jesup	Chapter 22	I sent a certified letter to the Jesup city clerk on November 20, 2024 to which he (city clerk) signed for it and I received back the signed return receipt. I requested a letter about Josh Evans from the Buchanan County Attorney to the City of Jesup Council, the city Attorney, and the Mayor regarding Josh Evans and his actions. To this date I have received no answer of any kind. No denial, acceptance, etc. of any kind from anyone in the city of Jesup.	Accept
25FC:0004	Linda Reardon-Lowry	Gladbrook-Reinbeck School District	Chapter 22	On September 28th, I requested the following from the GR School Board officials, Harms and Bonjour: 1. A copy of the 2024-2025 Budget including line item expenses 2. Monthly financial report provided to Board including the monthly expenditures and line item report beginning in September 2024. 3. A copy of the 2023-2024 final line item budget I received no response so sent an additional email on October 8. Superintendent provided information on October 18th, however it was not what I requested. He acknowledged the line item budget does not exist. On October 20, I emailed Superintendent to receive Board Packets starting with October 20th meeting. I did not receive Oct or Nov packets. On December 19th, I emailed a third request. Superintendent Bonjour committed to getting me the information for Oct, Nov, Dec meetings that day and all future meetings. As of today. January 12th, no further correspondence has been received from the Gladbrook-Reinbeck administration	Accept

25FC:0006	Jordan George	City of Palo, Iowa	Chapter 22	The City of Palo's fees for public information requests do not comport with the expectations set forth in IA Code Chap 22.3. According to the decision by IPIB 22AO:0003, "Reasonable Fees for Producing Records Requests," reasonable fees should offset retrieval costs, not serve as a form of revenue for the city. My request was for the salaries and job descriptions of four employees for a research project. Palo's response was a public records request which is fair, but their baseline fees for receiving this information as a citizen were set out as \$5 for email or physical mail (plus \$0.10/\$0.25 per page for printing). I was also informed that "[the \$5 fee] would need to be paid before information would be sent" (email with Ms. Groff). This response does not align with the legislation's language of "the lawful custodian shall make every effort to provide the public record requested at no cost other than copying costs?" No one should be charged \$5 for emailed limited scope public records.	Accept
25FC:0007	Kelly Smith	Bettendorf Community School District	Chapter 22	I requested "a copy of all monies paid into this program by parents, athletes, sponsors, and money received from fundraising;" and "a complete list of everything that has been paid.?. The district failed to provide this. The cheer coach used Venmo, PayPal, cash app (and also collected cash). The school failed to provide a these records to me (including what I paid). They also failed to provide the receipts which the Venmo, cash app, PayPal payments were made.	Accept
25FC:0008	Britt Gagne	City of West Des Moines	Chapter 22	Records were requested to include microchip numbers for animals that were impounded by the city and held as strays. Public information should be accessible regardless of the purpose for which it is being requested. This information, however, is needed as the city has failed to notify animal shelters who have contracted ownership rights to animals when they have been impounded. Taxpayer funds have been used to pay another shelter to take these animals rather than allow shelters with ownership rights to reclaim these animals. There is no confidentiality to a microchip number assigned to an animal. Any information that could be obtained from a microchip number would be subject the the policies of the microchip company (generally not provided to the public without prior consent) and would never contain social security numbers or other sensitive information regarding any person.	Accept
25FC:0009	Bryce Hubert	City of Maxwell	Chapter 22	I am a resident of Maxwell and I have requested the contract, scope, and plan for the road construction project on Baldwin Street. I have requested them by email and verbally to the city council multiple times.	Accept



25FC:0011	Cliff Williams	Keomah Village City Council, Mayor and Clerk	Chapter 22	I can share all the emails that detail the violation. The City is imposing unreasonable fees to obtain public records. They wish to charge me \$500 to \$750 for all emails, texts, letters with one or more of the following since August 2022 to or from any city official: 304 306 Cliff Williams toilet They say "the cost includes printing the emails from past board members laptops. Using an IT specialist to help retrieve old emails. Scanning all emails into a pdf file so you can have them in one file." But I believe this should cost less than \$100. For example, I did a request of another State entity last year and they produced hundreds of pages of material for less than \$100.	Accept
25FC:0012	Matt Loffer	City of Marengo, Marengo Police Department	Chapter 22	I am sending an email with the subject "formal complaint" to Executive Director Eckley @ erika.eckley@iowa.gov due to not being able to fit the complaint in the space provided. I apologize for any inconvenience this may cause and will re-send it to a more appropriate place if directed to do so.	Accept
25FC:0015	Lori Daughenbaugh	City of Runnells, Iowa	Chapter 22	I have sent requests in to our City Clerk (Tami Curry) in the past, all to go unanswered until I finally gave up. This year I put in a request via email and specifically labeled it FOIA request. Email communications are once again leading to this request not being fulfilled. I have requested the standard general ledger detail report for FY24 and FY25 to date. I copied the Mayor in on my original email of my FOIA request sent to Tami and Tami copied in the city attorney on her response indicating the report I am requesting does not exist and the city is under no obligation to create the report in response to my request. The general ledger detail reports is not a special report, but a standard accounting software report that is generally created with a click of a button. It is also a standard financial record that should be readily available to our council providing full transparency into the details behind the financial records (Revenue and Expenditure reports).	Accept
25FC:0017	Lori White	Missouri Valley	Chapter 22	Requested open records 11/19/2024 for all formal complaints, notices of violations, abatement, citations and supporting documentation from January 1, 2021 to November 18, 2024. I've followed up multiple times via email. John Harrison committed to getting these to me by the end of the year in 2024 and we're in February and still don't have them.	Accept
25FC:0018	Tammy Wise	Tama County	Open Meetings Law	21.5.I Board went in closed session to discuss my termination; they didn't invite me to the meeting, and I did not ask for a closed session.	Accept



510 East 12<sup>th</sup> Street  
Des Moines, Iowa 50319  
[www.ipib.iowa.gov](http://www.ipib.iowa.gov)

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

**Advisory Opinion 24AO:0015**

**DATE: February 20, 2025**

**SUBJECT: When are RFP documents no longer confidential under Iowa Code**

Charles Isenhart  
P.O. Box 3353  
Dubuque, IA 52004-3353

and

Crenna Brumwell  
City of Dubuque  
50 W. 13th St.  
Dubuque, IA, 52001

Mr. Isenhart and Ms. Brumwell,

This opinion concerns the time-limited confidentiality of sealed bid proposals. Advisory opinions may be adopted by the board pursuant to Iowa Code section 23.6(3) and Rule 497–1.2(2): “[t]he board may on its own motion issue opinions without receiving a formal request.” IPIB’s jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

**FACTS:**

Both the records requestor and the City requested an advisory opinion regarding the confidentiality of sealed bid responses after receipt, but prior to the completion of review, scoring, and a recommendation report regarding the responses.

The City solicited sealed bids to award farmland leases. The bids are not publicly opened like a construction bid. They are reviewed and evaluated by a committee. The City stated that in other RFPs they have issued there may sometimes be interviews before the committee recommends selection of a consultant.

The City stated it has concerns about the integrity of the review process if it is required to disclose the information before the evaluation committee completes its work and makes its recommendation.

**Board Members**

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

The questions raised by the records requestor include:

1. May a governmental body withhold a public record in its custody until a “proposal award process is completed” after the proposals being requested have been opened following an application deadline and are being reviewed by staff?
2. May § 72.3 be relied upon by a government body to withhold a record after sealed bids are properly opened?
3. If so, does § 72.3 REQUIRE a government body to withhold the contents of a sealed bid “until an award process is completed” after the bids have been properly opened according to the published bid process?

### **OPINION:**

There is no question that once sealed bids have been reviewed, scored, and action taken, the responses received are no longer confidential records. The issue is at what point does confidentiality cease.

Iowa Code § 22.7(60) allows information that could be kept confidential in a closed session to be confidential until final action is taken.<sup>1</sup> Iowa Code 21.5(1)(a) allows a government body to go into closed session “To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body’s possession or continued receipt of federal funds.”

Iowa Code § 72.3 explicitly requires sealed bids to be kept confidential<sup>2</sup> and provides penalties against any individual who violates the requirements.<sup>3</sup> Iowa Code § 21.5(1)(a) would, thus, allow a government body to go into closed session to consider the bids required under state law to be kept confidential. Iowa Code § 22.7(60) would also allow for confidentiality of the documents for so long as the confidentiality requirement under Iowa Code § 72.3 applies.

The City’s municipal policies also support the concept that confidentiality exists during the review process. The review of the sealed bids from a request for proposal are delegated to a committee that scores the request for proposal and makes a recommendation to the city manager and the city council. The specific policy states the following, “The committee members review and evaluate the proposals based on the established selection criteria. Proposals may be initially evaluated individually by each selection committee member on a qualitative basis with members not provided fee information. The Chairperson may mark or eliminate proposals from consideration that are not within a feasible total cost range based on budgeted costs. A meeting will be scheduled by the Chairperson at which fees will be made known and the committee will discuss the results of individual evaluations. If necessary, the committee will request an interview with one or more of the firms to clarify and/or expand on the proposal(s). The committee must meet and reach a consensus on the selection of the firm which, based on ability to perform services and fees, appears to be the best able to serve the City. The

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<sup>1</sup> “Information in a record that would permit a governmental body subject to chapter 21 to hold a closed session pursuant to section 21.5 in order to avoid public disclosure of that information, until such time as final action is taken on the subject matter of that information. Any portion of such a record not subject to this subsection, or not otherwise confidential, shall be made available to the public. After the governmental body has taken final action on the subject matter pertaining to the information in that record, this subsection shall no longer apply. This subsection shall not apply more than ninety days after a record is known to exist by the governmental body, unless it is not possible for the governmental body to take final action within ninety days. The burden shall be on the governmental body to prove that final action was not possible within the ninety-day period.” Iowa Code § 22.7(60).

<sup>2</sup> “No public officer or deputy thereof, if any, shall directly or indirectly or in any manner whatsoever, at any other time or in any other manner than as provided by law, open any sealed bid or convey or divulge to any person any part of the contents of a sealed bid, on any proposed contract concerning which a sealed bid is required or permitted by law.” Iowa Code § 72.3.

<sup>3</sup> “A violation of the provisions of section 72.3 shall, in addition to criminal liability, render the violator liable, personally and on the violator’s bond, if any, to liquidated damages in the sum of one thousand dollars for each violation, to inure to and be collected by the state, county, city, school corporation, or other municipal corporation of which the violator is an officer or deputy.” Iowa Code § 72.4.

Committee Chairperson will then make a recommendation to the City Manager of the firm which best meets the City's needs. The committee should comment on the pluses and minuses of all qualified proposals to provide the City Manager with adequate information to make a final decision who will forward with recommendation to the City Council, if deemed appropriate. Proposers should not be notified of the results of the committee until a response to the committee's recommendation is received from the City Manager." Policy 3.09 Contractual Services Proposal (Request for Proposals) §§ 4-5.

There is no question this delegation of review is allowed under Iowa Code §§ 26.11 and 26.14.<sup>4</sup> This leads to the crux of the issues raised: Does the review and scoring by a committee, pursuant to delegated authority, erode confidentiality?

The answer to this question requires an analysis of Iowa Code § 72.3 and the § 22.7(60) (and Iowa Code § 21.5(1)(a)). The interplay between these provisions and the question of whether absolute confidentiality still applies when a delegated committee is reviewing requests for proposal have not been addressed. For this reason, it is important to review the policy goals of requiring confidentiality in public bids versus the goal of transparency in a government body's decision-making authority under Iowa Code chapters 21 and 22.

The purpose of Iowa's competitive bidding requirements is "employed for the protection of the public to secure by competition among bidders, the best results at the lowest price, and to forestall fraud, favoritism and corruption in the making of contracts." C. Rhyne, *The Law of Local Government Operations* § 27.6, at 942 (1980); *Istari Const., Inc. v. City of Muscatine*, 330 N.W.2d 798, 800 (Iowa 1983) 1982 Iowa Op. Att'y Gen. 484 (1982). "Whether stated as part of the purpose of competitive bidding or as a secondary objective, it is clear that fairness to bidders is a requirement in the competitive process. Fairness to bidders is assured by various means including the requiring specifications that include sufficient detail to permit bidders to prepare their bids on a particular proposal. Opening all bids at the same time and the use of 'sealed bids,' are other means for assuring fairness to bidders. 1982 Iowa Op. Att'y Gen. 484 (1982). It is important that public bidding is done on a level playing field unencumbered with favoritism or conflicts of interest in the process. See *Medco Behavioral Care Corp. v. Dept. of Human Services*, 553 N.W.2d 556, 569 (1996).

Iowa Code § 72.3 makes explicit that confidentiality in the public bidding process is necessary to further these policy goals. The legislature has provided that government bodies may delegate the opening of bids as well as review and analysis of the bids to provide a recommendation to the government body at its "next regular meeting" or "at a special meeting for that purpose." Iowa Code § 26.11. Iowa Code § 26.14 states the "unconditional acceptance and approval of the lowest responsive, responsible quotation shall constitute the award of a contract. The governmental entity shall record the approved quotation in its meeting minutes ....[or] for quotation approved outside a meeting of the governing body of a governmental entity shall be included in the minutes of the next regular or special meeting of the governing body."

Allowing for a government body to award a contract based not solely on the amount bid, but also on qualitative measures to determine the "lowest responsive, responsible bidder" favors a recognition that additional analysis of the sealed bids is necessary beyond simply comparing the amounts provided. This additional review, potentially "at a special meeting for that purpose" would also need to be protected to ensure the forestalling of "fraud, favoritism, and corruption in the making of contracts." If the confidential bids were required to be

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<sup>4</sup> "When bids are required for any public improvement, the governmental entity may delegate, by motion, resolution, or policy to the city manager, clerk, engineer, or other public officer, as applicable, the duty of receiving and opening bids and announcing the results. The officer shall report the results of the bidding with the officer's recommendations to the next regular meeting of the governmental entity's governing body or at a special meeting called for that purpose." "A governmental entity may delegate the authority to award a contract, to execute a contract, to authorize work to proceed under a contract, or to approve the contractor's performance and payment bond to an officer or employee of the governmental entity. A quotation approved outside a meeting of the governing body of a governmental entity shall be included in the minutes of the next regular or special meeting of the governing body."

released prior to the qualitative review of the bids, then the process to review the bids could be compromised through outside pressures or favoritism to unfairly impact the results.

The policy goals of Iowa's Sunshine laws are to ensure "the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people." Iowa Code § 21.1. This is not absolute, however, as Iowa Code § 21.5 allows for closed sessions for specific purposes and Iowa Code § 22.7 allows certain public records to be withheld as confidential.

Treating documents as confidential until a qualitative analysis can be completed and the confidential bidding documents analyzed, scored, and a recommendation made is the only way to meet the policy objectives of the public bidding process. Ensuring the documents retain their confidentiality during this limited time frame does not prevent the public from obtaining records showing the "basis and rationale of governmental decisions." Following the review, the records and accompanying recommendation are no longer confidential and the governing body of a government body can deliberate and take action on the recommendation at its next meeting in open session.

### **QUESTIONS POSED:**

- 1. May a governmental body withhold a public record in its custody until a "proposal award process is completed" after the proposals being requested have been opened following an application deadline and are being reviewed by staff?**

Yes, the government body may keep confidential the bid responses until a qualitative analysis is completed and a recommendation is provided. This period of confidentiality allows the designated reviewers the opportunity to review, analyze and score the bids without outside interference ensuring fairness to all bidders and avoiding favoritism or other improper influence.

- 2. May § 72.3 be relied upon by a government body to withhold a record after sealed bids are properly opened?**

Iowa Code § 72.3 requires sealed bids as well as "any part of the contents of a sealed bid, on any proposed contract concerning which a sealed bid is required or permitted by law" to be kept confidential. Iowa law does not require the awarding of a bid solely on the lowest bid received, but instead on the "lowest responsive, responsible bidder" and other measures depending on the contract or service. This contemplates additional measures will need to be considered in addition to the opening of the sealed bid. As all components of the bid are to be considered and all parts of the contents are to retain confidentiality, Iowa Code § 72.3 would require the confidentiality of the information until the bids are properly analyzed.

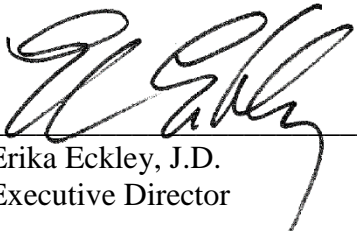
- 3. If so, does § 72.3 REQUIRE a government body to withhold the contents of a sealed bid "until an award process is completed" after the bids have been properly opened according to the published bid process?**

The purpose for maintaining confidentiality of sealed bids is to ensure fairness to bidders in the process. Iowa Code § 72.3 makes a clear directive about the importance of confidentiality in the process. Any disclosure of "any part of the contents of a sealed bid, on any proposed contract concerning which a sealed bid is required or permitted by law" results in punitive fines.

**BY DIRECTION AND VOTE OF THE BOARD:**

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

**SUBMITTED BY:**



---

Erika Eckley, J.D.  
Executive Director

**ISSUED ON:**

February 20, 2025

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

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



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Des Moines, Iowa 50319  
www.ipib.iowa.gov

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

**Advisory Opinion 24AO:0016**

**DATE:** February 20, 2025

**SUBJECT:** Is a contracted city attorney the appropriate custodian of a records request?

Jack Hatanpa  
Brick Gentry, P.C.  
6701 Westown Parkway, Ste 100  
West Des Moines, IA 50266

Dear Mr. Hatanpa,

We are writing in response to your request dated December 18, 2024, seeking an advisory opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code chapter 23 and Iowa Administrative Code rule 497-1.3. This advisory opinion offers clarification on whether a city is obligated to treat a request made to a contracted city attorney as a valid records request where the attorney is not the designated lawful custodian and the request is made in a manner inconsistent with city policy.

“Any person may request a board advisory opinion construing or applying Iowa Code chapters 21, 22, and 23. An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request.” We note at the outset that IPIB’s jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

**FACTS PRESENTED:**

The City of Newton’s city clerk is the designated lawful custodian for Iowa Code chapter 22. The City provides an online “Public Records Request Form,” and City policy asks that online requests be made through this form.

On April 24, 2024, the City’s attorney received an email asking several questions, which ended with a request for records. The City provided a prompt response to the questions in the email, but it did not provide the requested documents. The requester did not follow up on the email until two months later, when they complained the City had refused to release records in response to the request. The City subsequently provided responsive records.

The City seeks guidance on a government body’s obligations when responding to a request which is not sent to the designated lawful custodian.

**QUESTION POSED:**

**Board Members**

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

Under Iowa Code § 22.4, a person may make a records request “[i]n writing, by telephone, or through electronic means,” but “[t]he lawful custodian of the records shall post information for making such requests.” Does an email request sent to the city attorney, who is not the lawful custodian for the government body constitute a records request under Chapter 22?

### OPINION:

Chapter 22 defines the term “lawful custodian” as follows:

*“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 the 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. Each government body shall delegate to particular officials or employees of that government body the responsibility for implementing the requirements of [Chapter 22] and shall publicly announce the particular officials or employees to whom responsibility for implementing the requirements of this chapter has been delegated.*

Iowa Code § 22.1(2).

Throughout Chapter 22, the legislature discusses the rights of individuals to access public records in terms of the duties of the lawful custodian for those records. Iowa Code § 22.3(1) states that the “examination and copying of public records shall be done under the supervision of the lawful custodian.” Iowa Code § 22.4(1) provides that requesters may exercise their rights “[i]n person, at any time during the customary office hours of the lawful custodian of the records,” while Iowa Code § 22.4(2) further provides that requesters may exercise their rights under Iowa’s open records law “[i]n writing, by telephone, or by electronic means,” and that “[t]he lawful custodian of the records shall post information for making such requests in a manner reasonably calculated to apprise the public of that information.”

Read together with the final sentence of Iowa Code § 22.1(2), which requires a government body to “delegate to particular officials or employees of that government body the responsibility for implementing the requirements of [Chapter 22],” the legislature’s clear intent is that valid requests must be made to the proper lawful custodian for the records sought, and appropriate venue for records requests within a government body is the official(s) or employee(s) who are identified to the public for this purpose.

A lawful custodian’s discretion over the process for submitting requests is limited by the Code in some respects. For instance, Iowa Code § 22.4(2) requires multiple avenues for submitting records requests, including in-person, written, telephonic, and electronic. However, where Iowa Code § 22.1(2) requires a government body to publicly “designate particular officials or employees” to be responsible for handling Chapter 22 requests, IPIB reads this requirement to limit the government body’s responsibility for requests submitted to an improper recipient. As one Attorney General Sunshine Advisory put it, “[i]t is not possible for every employee to be familiar with every public record maintained by a public office, especially in today’s complex world of large, multi-divisional government offices, electronic records, and confidential record requirements.” *Public Records Contact Persons: Helping Iowans with Access to Public Records.*<sup>1</sup>

Therefore, where a government body has provided information about how and where to submit a request, a requestor has the responsibility to submit the request through the designated channels. Best practice for the purposes of transparency and responsiveness would still be for non-designee officials or employees to redirect

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<sup>1</sup> Iowa Att’y Gen., <https://www.iowaattorneygeneral.gov/about-us/sunshine-advisories/public-records-contact-persons-helping-iowans-with-access-to-public-records> (last updated Dec. 1, 2014).



the requestor to the appropriate lawful custodian or instruct them on how to submit a proper request. Nevertheless, where a city has appropriately designated an individual as the lawful custodian to receive and respond to public records requests, it would not be an unreasonable delay if the city failed to respond to a request improperly sent to individuals outside the government or unconnected to the records. *See, e.g., 24FC:0116, Timothy-John; Miller/City of Waterloo Police Department* (“[w]hile there was a delay between the original records requests made directly to police officers and the IPIB communications to the publicly-designated records custodian identified by the Department for receiving such requests, the delay between submission of the original requests and when the requests were submitted the appropriate individual is not unreasonable”).

This is particularly true where outside legal counsel is concerned. With regards to legal fees, Iowa Code § 22.3(2) states that “[c]osts for legal services should only be utilized for the redaction or review of legally protected confidential information.” While a city may consult with its attorney in responding to a records request and shift the cost of legal fees to the requestor when used to review responsive records for confidentiality, the Code clearly does not contemplate the contracted attorney would be the appropriate contact in a typical records request outside an explicit designation as the lawful custodian by the government body for such purposes.

**BY DIRECTION AND VOTE OF THE BOARD:**

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

**SUBMITTED BY:**

Alexander Lee  
Agency Counsel  
Iowa Public Information Board

**ISSUED ON:**

February 20, 2025

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

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

# The Iowa Public Information Board

In re the Matter of:  Jack Swarm, Complainant  And Concerning:  Mount Pleasant City Council, Respondent	Case Number: 22FC:0011  Acceptance Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On February 28, 2022, Jack Swarm filed formal complaint 22FC:0011, alleging the Mount Pleasant City Council (Council) violated Iowa Code chapter 21.

## Facts

Jack Swarm alleges the Council improperly held a closed session on January 12, 2022, in violation of Iowa Code § 21.5 when it went into closed session pursuant to Iowa Code § 21.5(1)(c) to discuss strategy with Council in regards to a personnel matter. Swarm argues because an employee was discharged following the closed session the Council could only have utilized Iowa Code § 21.5(1)(i), which allows a closed session 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.

Four of six Council members voted to go into closed session under Iowa Code § 21.5(1)(c). Following the closed session, the Council took action in open session to remove an employee pursuant to Iowa Code § 372.15. The employee filed an appeal. Hearings on the appeal were held on February 9 and February 23, 2022. The Council unanimously upheld the removal.

In response, legal counsel for the Council stated that attorney-client privileged legal advice was provided to the Council during the closed session. Until the Council understood the legal ramifications of various actions the Council could take, the Council did not know what action would be most appropriate. The only appropriate provision by which a government body can

receive attorney-client privileged advice in closed session is Iowa Code § 21.5(1)(c). Council has not waived attorney-client privilege regarding these communications with legal counsel.

Swarm appealed IPIB's July 21, 2022, dismissal of Complaint 22FC:0011 under Iowa Code chapter 17A.

On January 25, 2024, the Iowa District Court in and for Henry County heard arguments on this matter. The Court also considered the stipulated record from IPIB's consideration of the complaint. In its order on November 30, 2024, the Court held, "IPIB not accepting the complaint was unreasonable 'in the face of evidence as to which there is no room for difference of opinion among reasonable minds' and that the board declining the complaint as legally insufficient was not based on substantial evidence. *Greenwood Manor v. Iowa Dept. of Public Health*, 641 N.W.2d 823, 831 (Iowa 2002)." "The IPIB should have accepted the complaint based upon the facts and law."

### **Applicable Law**

"Upon receipt of a complaint alleging a violation of chapter 21 or 22, the board shall do either of the following: Determine that, on its face, the complaint is within the board's jurisdiction, appears legally sufficient, and could have merit. In such a case the board shall accept the complaint, and shall notify the parties of that fact in writing." Iowa Code § 23.8(1).

"After accepting a complaint, the board shall promptly work with the parties, through employees of the board, to reach an informal, expeditious resolution of the complaint." Iowa Code § 23.9.

### **Analysis**

The District Court directed "pursuant to Iowa Code section 23.8(1), the IPIB shall notify the parties in writing that the complaint is accepted, and pursuant to Iowa Code section 23.9 'shall promptly work with the parties ... to reach an informal, expeditious resolution of the complaint.' Iowa Code §§ 23.8(1) & 23.9; *Klein v. Iowa Public Information Board*, 968 N.W.2d at 229."

Swarm's complaint 22FC:0011 is accepted to address the matter of a closed session held on January 12, 2022 pursuant to Iowa Code § 21.5(1)(c).<sup>1</sup>

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<sup>1</sup> 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: ...

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.

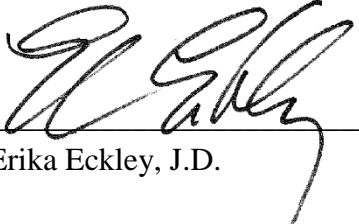
### **Conclusion**

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

IT IS SO ORDERED: Formal complaint 22FC:0011 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 February 20, 2025. 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 February 13, 2025, to:

Jack Swarm  
Holly Corkery, legal counsel for City of Mt. Pleasant

## The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0013
Iowa Public Information Board, Petitioner	<b>Final Report and Dismissal – Iowa Code § 17A.10</b>
And Concerning:	
Union County Emergency Management Agency, Respondent	

On February 2, 2024, Bonnie Castillo filed formal complaint 24FC:0013, alleging that the Union County Emergency Management Agency (UCEMA) violated Iowa Code Chapters 21 and 22. The Iowa Public Information Board (IPIB) accepted the Complaint, which was later presented to the IPIB as a Probable Cause Order. On December 19, 2024, the IPIB voted to accept the Probable Cause Order and proceed to a contested case.

Pursuant to Iowa Code Iowa Code § 17A.10(1), an Informal Settlement was reached between IPIB and UCEMA. The Informal Settlement was executed by the Union County Attorney on January 10, 2025, and the UCEMA officially approved the Informal Settlement at a public meeting of the body held on January 15, 2025. The full terms of the Informal Settlement are as follows:

The UCEMA will complete the following terms by February 7, 2025. If all terms are not met to the satisfaction of IPIB by February 7, 2025, IPIB will proceed to a contested case proceeding.

1. The UCEMA will agree to the full terms of this Informal Settlement at a public meeting of the UCEMA to be held on January 15, 2025. The full Informal Settlement will be read into the record at the public meeting and will be formally approved by the UCEMA. The following statement will be read at the public meeting of the UCEMA and will be included in the minutes: “The UCEMA agrees to the terms of the Informal Settlement and further agrees to fulfill all terms of the Informal Settlement by February 7, 2025. Failure to complete all terms of the Informal Settlement by February 7, 2025, will result in a contested case proceeding before the Iowa Public Information Board.” The minutes will be published, at a minimum, on the UCEMA website. The minutes will also be provided to IPIB. If the minutes cannot be formally approved by the February 7, 2025 deadline, the draft minutes will be utilized.
2. The UCEMA will formally acknowledge that a violation of Iowa Code Chapter 21 occurred at a meeting of the UCEMA on January 24, 2024, when a de facto

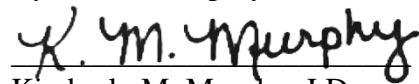
closed session was held. This formal acknowledgement will occur in a public meeting of the UCEMA to be held on January 15, 2025. The full formal acknowledgement will be included in the minutes, which will be published, at a minimum, on the UCEMA website. The minutes will also be provided to IPIB. If the minutes cannot be formally approved by the February 7, 2025 deadline, the draft minutes will be utilized.

3. The UCEMA will develop policies and procedures to ensure compliance with Iowa Code chapters 21 and 22. Policies and procedures will address the following elements: Notice of meetings, setting agendas, minutes, response to public records requests, closed sessions, and maintenance of existing policies. All policies and procedures reviewed and developed for this Informal Settlement will be provided to IPIB and will be formally reviewed and approved in a public meeting of the UCEMA. All policies and procedures will be included in the minutes, which will be published, at a minimum, on the UCEMA website. The minutes will also be provided to IPIB. If the minutes cannot be formally approved by the February 7, 2025 deadline, the draft minutes will be utilized.
4. The UCEMA understands that this Informal Settlement is a recommendation to the IPIB by IPIB staff. The IPIB may reject this Informal Settlement and advance to a contested case proceeding. The IPIB will review the Informal Settlement on January 16, 2025.

IPIB staff has reviewed all actions taken by the UCEMA to comply with the terms of the Informal Settlement and finds all terms are completed. Furthermore, all terms were completed by the deadline of February 7, 2025.

Based on Iowa Code § 17A.10(1), IPIB staff recommends that IPIB acknowledge all terms of the the Informal Settlement have been met and dismiss 24FC:0013 as resolved.

By the IPIB Deputy Director,



Kimberly M. Murphy, J.D.

#### CERTIFICATE OF MAILING

This document was sent on February 13, 2025, to:

Union County Emergency Management Agency  
Union County Attorney's Office

# The Iowa Public Information Board

In re the Matter of:  Erik Johnson, Complainant  And Concerning:  Delaware Township, Respondent	Case Number: 24FC:0052  Probable Cause
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On June 6, 2024, Erik Johnson filed formal complaint 24FC:0052, alleging Delaware Township violated Iowa Code chapter 22. The IPIB accepted this Complaint on November 21, 2024,

## Facts

Johnson alleged the Township failed to produce records requested on April 29th, 2024, within a reasonable time. Johnson also alleged the Township was causing additional costs to him by requiring digital documents to be provided in hardcopy form.

The Township did provide documents to IPIB and Johnson in response to the complaint. Additionally, the Township explained, some of the records requested were not Township records, such as the Facebook page, which is maintained by non-government parties. Other documents, such as communications between counsel and others was confidential as attorney-client privileged documents.

Prior to acceptance of the complaint, IPIB had difficulty communicating with Johnson after the complaint was filed in June. The complaint was accepted by IPIB with direction to work toward a resolution and IPIB staff were advised to work to make contact with Johnson. Johnson had provided only an email address with his complaint.

On November 25, IPIB staff forwarded the acceptance order with a request for Johnson to respond. On December 2, IPIB staff sent another email seeking a response from Johnson. On December 9, IPIB staff emailed again stating, "Mr. Johnson if I do not hear from you by the end of the week, this complaint will be dismissed." "On December 10, Johnson responded and stated,

“I am so sorry. I lost access to this email and just got it back. I have received the order approved by the IPIB.”

On December 11, IPIB staff stated an informal resolution would be prepared and asked Johnson to provide a list of what documents he believed had not yet been provided after the Township’s provision of records. After awaiting a response from Johnson that never came, on January 2, IPIB staff prepared a draft informal resolution for the parties with terms relating to the records request. On January 21, IPIB staff reached out to the parties regarding the draft of the informal resolution as neither party had responded. On January 21, counsel for the Township responded and stated the Township needed a list of documents still outstanding from Johnson before agreeing to the proposed informal resolution. Johnson did not respond. On January 27, Johnson had not responded, so IPIB again requested his response. On February 12, IPIB again requested a response from Johnson.

Since this complaint was filed, IPIB has received only two responses from Johnson. On July 7, 2024, Johnson emailed in response to the Township’s response to the complaint. On December 10, Johnson responded within a day of receiving notice the complaint was going to be dismissed, but has been unresponsive since. He has failed to provide an answer as to what documents are still missing after the receipt of documents from the Township. He has failed to respond to a proposed informal resolution.

IPIB staff are unable to address this matter without Johnson’s participation in his complaint.

### **Applicable Law**

“The examination and copying of public records shall be done under the supervision of the lawful custodian of the records or the custodian’s authorized designee. The lawful custodian shall not require the physical presence of a person requesting or receiving a copy of a public record and shall fulfill requests for a copy of a public record received in writing, by telephone, or by electronic means. 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.

...

All reasonable expenses of the examination and copying shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian’s authorized designee in supervising the examination and copying of the records. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any



public record in the custody of the office upon the payment of a fee. 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.” Iowa Code § 22.3

### **Analysis**

This matter was accepted to address Johnson’s records request and the estimate of fees from the Township. Johnson has repeatedly failed to provide any information to IPIB staff to address either of these matters despite repeated requests for information. On December 10, Johnson stated he had lost access to the email, but did not respond to a request for information from IPIB staff on December 11 or any other communications after.

### **IPIB Action**

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

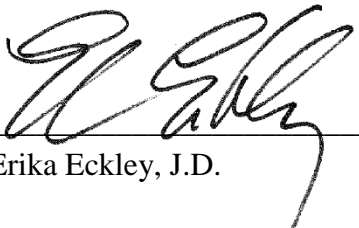
- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or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

Based on Johnson’s failure to participate in this complaint, it is recommended the IPIB dismiss the matter for lack of probable cause to believe a violation has occurred.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on February 13, 2025, to:

Erik Johnson  
Nicholas Bailey, Counsel for Delaware Township

# The Iowa Public Information Board

In re the Matter of:  Kyle Ocker, Complainant  And Concerning:  Mahaska County Sheriff's Office, Respondent	Case Number: 24FC:0077  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 September 9, 2024, Kyle Ocker filed formal complaint 24FC:0077, alleging the Mahaska County Sheriff's Office (Sheriff's Office) violated Iowa Code Chapter 22.

The IPIB accepted this Complaint on October 17, 2024.

## Facts

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

On June 27, 2024, Kyle Ocker, editor for the *Oskaloosa Herald*, submitted a Chapter 22 request with the Sheriff's Office, seeking five categories of records, including the reasons and rationale for the deputy's resignation in lieu of termination. The request was promptly acknowledged. Approximately three weeks later, the Sheriff's Office responded to the records request, properly explaining which categories did not have responsive records and disclosing other records. In response to the "reasons and rationale" request, the Sheriff confirmed there had been a formal investigation and the deputy had resigned in lieu of termination prior to a final ruling.

On September 9, 2024, Ocker filed a formal complaint with the IPIB, alleging further disclosure was required for the "documented reasons and rationale" for the deputy's resignation pursuant to Iowa Code § 22.7(11)(a)(5).

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

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

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

On October 17, 2024, IPIB accepted the case for further review. In its acceptance order, IPIB relied on Advisory Opinion AO18:0008, which interprets what information is covered by "documented reasons and rationale for the resignation in lieu of termination" as the phrase is used in Iowa Code § 22.7(11)(a)(5). Because the Sheriff's Office did not directly address the behavior or incident which served as the basis for their adverse employment decision, IPIB accepted on the grounds that additional disclosure was needed.

IPIB then worked with the Sheriff's Office to prepare a new record to meet the requirements set by AO18:0008. The Sheriff's Office produced an amended version of the record previously released as "Attachment 04," which read as follows (new substantive material in bold):

*On May 16, 2024, I became aware of a citizen complaint regarding your on-duty activity. **The nature of this complaint was that you were involved in a 3 ½ year ongoing personal relationship with a citizen while on duty in Mahaska County.** On the same date, I initiated*

*a formal administrative investigation into this allegation which was assisted by an outside agency. The results of this investigation confirmed that you violated multiple stands of conduct, specifically those contained in Iowa Code 341A.11(1), (2), (4), and (7), the Mahaska County Employee Handbook grounds for discipline specified in (2), (4), (10), and (14), and the Mahaska County Sheriff's Office policies 1-3(2), 1-3(11), 1-3(22), and 1-4(V). Prior to outlining the findings of this investigation with you, on May 29 you tendered your resignation which I accepted before final disciplinary action was taken.*

By agreement of the parties, the former deputy who was the subject of the record was given two weeks to choose whether or not to seek a court injunction against disclosure. On January 14, 2024, after the deputy declined to take any action, IPIB relayed the new record to Ocker.

Kyle Ocker, on behalf of the *Oskaloosa Herald*, disputes the amended disclosure meets the requirement to provide the “documented reasons and rationale” for the adverse employment decision. Specifically, Ocker argues disclosing a “3 ½ year ongoing personal relationship with a citizen while on duty” is both “broad and ambiguous,” as it leaves the door open for multiple interpretations (i.e. it is unclear whether the relationship is platonic or sexual, and it is similarly unclear whether the cause for termination was the relationship itself, neglected duties as a result of the relationship, or preferential treatment given to the citizen by virtue of the relationship). Ocker also suggests the disclosure should provide more information about how the conduct could have gone undetected for three-and-a-half years and more detail about the alleged use of “lost, found, or stolen property” in possession of the Sheriff’s Office, which was also cited amongst the deputy’s several policy violations.

### **Applicable Law**

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

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]:

...

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.” Iowa Code § 22.7(11)(a)(5).

## Analysis

Iowa Code § 22.7(11)(a) provides a broad category of confidentiality for “personal information in confidential personnel files relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies.” The Iowa Supreme Court has ruled that this is intended to be a categorical exemption, for which the legislature “has performed its own balancing and made the policy choice to protect such records categorically.” *Mitchell v. City of Cedar Rapids*, 926 N.W.2d 222, 234 (Iowa 2019). Thus, unless information contained in a record falls into one of the five exempted categories set forth by Iowa Code § 22.7(11)(a)(1) – (5), a government body is entitled to assert confidentiality to withhold it.

Under normal circumstances, disciplinary records for individual employees would be wholly covered by this categorical exemption. *ACLU Foundation of Iowa, Inc. v. Recs. Custodian, Atl. Cmty. Sch. Dist.*, 818 N.W.2d 231, 235–36 (Iowa 2012) (finding disciplinary records and related information for two employees involved in a “locker room strip search” were entitled to confidentiality as personnel records); *see also Des Moines Indep. Cmty. Sch. Dist. Pub. Recs. v. Des Moines Register & Tribune Co.*, 487 N.W.2d 666, 670 (Iowa 1992) (finding job performance evaluations and documents generated by an internal investigating committee were “essentially in-house, job performance documents exempt from disclosure”).<sup>1</sup>

Despite this general protection, Iowa Code § 22.7(11)(a)(5) provides that information pertaining to “[t]he fact that [an employee] resigned in lieu of termination” and “the documented reasons and rationale for the resignation in lieu of termination” are non-confidential public records. In other words, the fact of the deputy’s resignation in lieu of termination partially lifted confidentiality protections for the investigation files which justified the adverse employment decision, but only to the extent of the fact itself and the “documented reasons and rationale.”

In Advisory Opinion 18AO:0008, IPIB interpreted “reasons and rationale” to mean “sufficient factual information to support and substantiate the action taken.” 18AO:0008, *Definition of “Documented Reasons and Rationale.”* As an alternative to the release of redacted records (e.g. investigation records created prior to the adverse employment decision), IPIB recommended disclosure requirements could be met through the drafting of a new document which provides the information required to be released in Iowa Code § 22.7(11)(a)(5). Following the guidelines set forth in 18AO:0008, such a document would need to, at a minimum, 1) disclose the fact that an employee resigned in lieu of termination, was discharged, or was demoted as the result of disciplinary action, 2) saw which law, rule, or policy, if any, they believe the employee violated, and 3) provide at least one sentence about the behavior or incident that triggered the action, which

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<sup>1</sup> *See also* 15FC:0060, *Ryan Foley/Iowa Department of Public Safety* (finding Iowa Code § 22.7(11) applied to the records of an internal investigation into three DPS employees placed on administrative leave who were ultimately exonerated and returned to their previous positions).

must include 4) details, such as the date(s) of alleged behavior, location, or how it was discovered. *Id.* One-word descriptions, such as “work rules” or “performance,” would be insufficient. *Id.*

In its acceptance, IPIB found the first and second requirements were met, as it was clearly stated the deputy resigned in lieu of termination, and Attachment 04 provided a list of policies violated from three different sources. IPIB also found that the fourth point was likely met, from the explanation of how the conduct was discovered (a citizen complaint), a location (on-duty in Mahaska County), and a date (May 16, 2024). The only requirement unmet from 18AO:0008 was the need for “at least one sentence about the behavior or incident that triggered the action.”

The additional sentence in the amended disclosure explains the “behavior or incident” which triggered the investigation and compelled the deputy to resign in lieu of termination was a “3 ½ year ongoing personal relationship with a citizen while on duty.” Combined with cited policies and highlighted violations already provided by the Sheriff’s Office, including mention of absence without leave, negligence of duty, and “unauthorized persons in patrol cars,” what has been provided would appear sufficient to meet the requirement set by 18AO:0008.

The complainant contends the term “reasons and rationale,” as used in Iowa Code § 22.7(11)(a)(5), should be read to require additional disclosure, including clarification on the specific nature of the “ongoing personal relationship,” the reasons for the government’s failure to identify the misconduct earlier, whether the deputy’s responses to emergency calls were delayed as a result, and the details of the alleged violation of the Sheriff’s Office policy 1-3(22), dealing with the misappropriation of property belonging to or held by the government.

While these disclosures would arguably be in the public interest, they are not required under the standard established in 18AO:0008. The Mahaska respondents have provided “at least one sentence about the behavior or action” which led to the deputy’s resignation, which is well above the sort of “one-word description” cited as insufficient by IPIB. Disclosing the existence of a long-term unauthorized relationship with a citizen while on duty is sufficient to “support and substantiate” the action taken. Where the legislature has provided a categorical exemption for personnel files and this exemption would wholly protect the details of the investigation if not for the subsequent fact of resignation in lieu of termination, IPIB does not interpret “reasons and rationale” to require the additional disclosures the complainant seeks.

Because the respondents have now met their disclosure requirements under Iowa Code § 22.7(11)(a)(5), based on IPIB’s interpretation in 18AO:0008, there is no longer any remaining violation of Chapter 22.

### **IPIB Action**

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

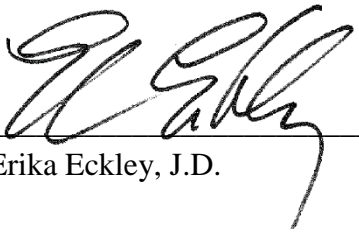
- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- 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. Through the informal resolution process, the respondents have now satisfied the disclosure requirements of Iowa Code § 22.7(11)(a)(5), and further disclosure is not required.

By the IPIB Executive Director



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Erika Eckley, J.D.

### **CERTIFICATE OF MAILING**

This document was sent on February 13, 2025, to:

Kyle Ocker, Complainant  
Mahaska County Sheriff's Office, Respondent



**The Iowa Public Information Board**

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<p>In re the Matter of:</p> <p>Erin Sommers, Complainant</p> <p>And Concerning:</p> <p>City of Pocahontas, Respondent</p>	<p>Case Number: 24FC:0101</p> <p>Informal Resolution Report</p>
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On October 28, 2024, Erin Sommers filed formal complaint 24FC:0101, alleging the City of Pocahontas (“City”) violated Iowa Code chapter 21.

**Facts**

The City Council went into closed session at the end of its meeting on October 21, 2024. This closed session was not listed on the posted agenda, but came as a result of a staff report that was listed on the agenda. The purpose of the closed session was stated to be to address concerns with the clerk and City policies. Despite being informed a closed session was not permitted under the scenario, four members of the Council voted to enter closed session under Iowa Code § 21.5(1)(i). The clerk did not request the Council go into closed session.

**Procedure**

The IPIB accepted this complaint at its meeting on November 21, 2024. Upon acceptance, the parties worked toward an informal resolution agreement.


Erin Summer approved the Informal Resolution on December 16, 2024.

The City approved the Informal Resolution on December 16, 2024.

The IPIB approved the Informal Resolution Report on January 16, 2025.

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 Executive Director



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Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on February 13, 2025, to:

Erin Summers  
Adam Humes, City of Pocahontas

# The Iowa Public Information Board

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In re the Matter of:	Case Number: 24FC:0109
Joe Goche, Complainant	Probable Cause Report
And Concerning:	
Kossuth County Board of Supervisors, Respondent	

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

On November 13, 2024, Joe Goche filed formal complaint 24FC:0109, alleging Kossuth County Board of Supervisors (Board) violated Iowa Code chapter 21.

The IPIB accepted this Complaint on November 21, 2024

## Facts

Goche alleges the Board violated Iowa Code Chapter 21 when it voted to send informational letters and add to Kossuth County Drainage District Policy the requirement to send an informational letter to landowners of any district at the start of any litigation and a yearly update between when assessments are approved and mailed out. Goche alleges the item was not on the September 17, 2024 Board Agenda, because it only stated: "Drainage District 80 Assessment."

At the September 10, 2024, Board meeting, the Board addressed a question raised by a landowner in Drainage District 80 (DD80) about an assessment they received because the cost was not related to any work done in the district. Most of the cost was related to litigation concerning DD80 that was appealed to the Iowa Supreme Court.<sup>1</sup> The Board agreed to consider how to respond to the question raised on the DD80 assessment at the following meeting on September 17, 2024. The Board said it would address the DD80 assessment first and consider following the process for other districts.

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<sup>1</sup> *William and Mary Goche, LLC v. Kossuth Cnty. Bd. of Supervisors*, 5 N.W.3d 650 (Iowa 2024).

At the September 17 meeting during agenda item “Drainage District 80 Assessment,” the Board deliberated on how best to inform District landowners about litigation costs assessed to the District. They voted to work on a policy to be brought to the Board that would include sending a letter to landowners in the District at the start of litigation and then again before the District assessments are sent out so landowners are informed of the litigation costs before receiving the assessments. In responding to the complaint, the Board argues the decision of the landowner notice issue was inextricably linked with the discussion of DD80 assessment.

Goche stated he attended the September 17 meeting because of the agenda item “Drainage District 80 Assessment.”

### **Applicable Law**

“[A] governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information.” Iowa Code § 21.4(1)(a).

### **Analysis**

“[T] the issue to be resolved is not whether the notice given by the governmental body could have been improved, but whether the notice sufficiently apprised the public and gave full opportunity for public knowledge and participation. In determining whether the public was sufficiently apprised, we may consider the public’s knowledge of an issue and actual participation in events in light of the history and background of that issue. *Cf. Keeler v. Iowa State Bd. of Pub. Instruction*, 331 N.W.2d 110, 111 (Iowa 1983). We agree with the trial court’s conclusion that the sufficiency of the detail on the tentative agenda must be viewed in the context of surrounding events. Evidence in the record indicates that the issue ... had been on a previous agenda and previously discussed.” *KCOB/KLVN, Inc. v. Jasper County Bd. of Sup’rs*, 473 N.W.2d 171, 173 (Iowa 1991).

During the agenda items related to drainage districts at the September 10 meeting, the Board brought up an issue regarding landowners’ lack of awareness of attorney fees impacting their assessment in DD80.<sup>2</sup> The Board gathered some information, but agreed to wait until the September 17 meeting to discuss how to address the matter when it could be listed as an item on the agenda. They agreed to discuss the “Drainage District 80 Assessment.” Similar to the facts of the *KCOB/KLVN* case, the matter had been discussed at the previous Board meeting. Further, the DD80 landowners had received their assessments and had asked questions about the costs.

Goche stated he attended the Board meeting on September 17 because the DD80 assessment was listed on the agenda. Goche stated he believed the Board was going to take an “impounded and

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<sup>2</sup> All Board meetings are video-recorded and available online.

impeded watershed” off the assessment schedule and charge repair costs to the United States Fish and Wildlife Service as he and a neighbor, also in attendance, had requested the Board to do.<sup>3</sup>

Viewed in the context of the surrounding events in the community, the agenda item was sufficient to notify the community regarding the discussion concerning notice of the costs causing the drainage district assessment. The community had received the assessments. The community had raised questions about what caused the assessment. The Board discussed the fact questions had been raised about the assessments at the September 10 meeting. The Board agreed at the September 10 meeting to put how to inform the landowners about the litigation costs causing the DD80 assessment on the September 17 agenda. The Board even agreed what the agenda item for September 17 would say at the September 10 meeting. Viewed in this context of community knowledge, the agenda was sufficient to notify the community regarding the topic.

### **Was any Action by the Board Necessary?**

Even if there is a question as to the sufficiency of the notice, any error that exists would be harmless error. Chapter 21 does not specifically mandate what actions require discussion and deliberation by a government body. In a previous case, IPIB found no violation when a City Manager sent a letter of support for a housing project without formal approval by the Council. The letter was not in the form of a resolution or committed the City to formal action but rather explained potential city plans.<sup>4</sup> In this matter, the Board responded to a landowner’s questions regarding why his assessment was so high and voted to send information to drainage district landowners and create a policy to notify landowners about litigation and costs that would be brought before the Board for review and final action.

There likely was no need to take formal action to direct staff to send informational letters to DD80 landowners or to draft a policy to be brought to the Board for formal approval. Even if action were necessary for the letters to be sent or to draft a policy, the public will have knowledge of the proposed policy when it is brought before the Board for approval. The draft policy has not yet been presented to the Board for review, deliberation or action. When it is, the matter will be placed on the agenda, the policy documents will be public records, and the public will have the opportunity to provide input if they prefer a different policy regarding drainage district landowners receipt of information regarding litigation costs impacting drainage district assessments.

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<sup>3</sup>Goche does not explain how the agenda item he contests provided more information about this USFWS issue than a discussion about notification to all landowners about costs the assessment was based on. Nonetheless, by Goche’s own admission, he, and at least one other DD80 landowner, had notice the Board would discuss matters related to the DD80 assessment.

<sup>4</sup>24FC:0061: Kelly Caldwell/Carroll City Council - Dismissal Order

### **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**

The Board brought up a question raised by a landowner regarding the costs driving the DD80 assessment. The Board set the matter for consideration of how to address the question raised at the following Board so the item could be added to that meeting's agenda. The Board's action was to send informational letters and prepare a policy for review by the Board at a later date. At least two DD80 landowners were in attendance because DD80 assessment was listed on the agenda.

By the IPIB Executive Director

  
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Erika Eckley, J.D.

### **CERTIFICATE OF MAILING**

This document was sent on February 13, 2025, to:

Joe Goche  
Todd Holmes, attorney for Kossuth County Board of Supervisors

**The Iowa Public Information Board**

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<p>In re the Matter of:</p> <p>Geralyn Jones, Complainant</p> <p>And Concerning:</p> <p>Linn-Mar Community School District, Respondent</p>	<p>Case Number: 24FC:0113</p> <p>Informal Resolution Report</p>
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On November 11, 2024, Geralyn Jones filed formal complaint 24FC:0113, alleging the Linn-Mar School Board of Directors (Board) violated Iowa Code Chapter 21.

The IPIB accepted this complaint at its meeting on November 21, 2024.

**Facts**

On November 11, 2024, the Linn-Mar School Board of Directors held their annual election for School Board President. Two candidates, Barry Buchholz and Katie Lowe-Lancaster, were nominated for the position in open session. The election was conducted by distributing paper ballots to each of the seven Directors, including the candidates themselves, for a “written tally.” The Board Secretary announced that the tally was 4-3 in favor of Lowe-Lancaster. The Board then unanimously approved a motion to elect Lowe-Lancaster the new Board President.

The entire process was conducted in open session. However, the votes of individual Directors were not disclosed to the public at any point during the meeting. On December 9, 2024, the Board released the full results of the written tally as part of their approved meeting minutes for the November meeting.

**Applicable 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).

“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.” Iowa Code § 21.3(2).

### **Informal Resolution**

Pursuant to Iowa Code § 23.9, IPIB presents the following terms for an informal resolution of this matter:

1. This Informal Resolution will be formally approved at a meeting of the Linn-Mar School Board of Directors. The Board will provide a copy of this Informal Resolution with its meeting minutes and will provide IPIB staff with a copy of the minutes demonstrating approval.
2. During the same meeting, in open session, the Board will publicly re-announce the results of the written tally conducted during the Board President election on November 11, 2024, including the votes of each individual Director, in order to satisfy the requirements of Iowa Code § 21.3(1).
3. The Board will develop an official policy for the conduct of future Board elections, which shall include a requirement that each participating Director’s vote be made public during the open session in which the election is held. The Board will provide IPIB staff with a copy of this policy after it is ratified.
4. All Board Directors, and any staff officially involved in the conduct of Board elections, will complete training related to public meetings and records. This training will be arranged by the Board and conducted by IPIB or the Iowa Association of School Boards.

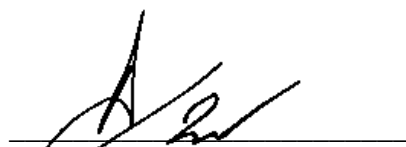
The terms of the Informal Resolution will be completed within 60 days of the date of approval of this Informal Resolution by all parties. Upon showing of proof of compliance, the IPIB will dismiss this complaint as successfully resolved.

Geralyn Jones approved the Informal Resolution on February 13, 2025.

The School Board approved the Informal Resolution on February 10, 2025.

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

By the IPIB Agency Counsel,



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Alexander Lee, J.D.



CERTIFICATE OF MAILING

This document was sent on February 14, 2025, to:

Geralyn Jones, Complainant  
Linn-Marr School Board of Directors, Respondents

# The Iowa Public Information Board

In re the Matter of:  Rachel Wherley, Complainant  And Concerning:  Estherville Lincoln Central Community School District, Respondent	Case Number: 24FC:0123  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 Order:

On December 6, 2024, IPIB received formal complaint 24FC:0123 from Rachel Wherley, alleging the Estherville Lincoln Central Community School District (District) violated Iowa Code Chapter 22. The complaint was accepted by IPIB on December 19, 2024.

## Facts

Wherley works with the Mascots Matter campaign and submitted a public records request to the District on November 11, 2024, requesting “any records, including meeting minutes, emails, or documents, that relate to discussions or decisions regarding the mascot within the past five years.”

On November 18, the District responded and indicated a public records search found no records responsive to the request. Since this response, the District has consistently maintained it has no records responsive to the request. On January 10, 2025, counsel for the District stated:

“A review of the District’s records that may be responsive to the Complainant’s request revealed that there were no records that related to discussions or decisions about the District’s mascot within the past five years. The District’s review of its records determined that there was an instance during a school board meeting on January 18, 2021 where an individual addressed the Board during public comment about retiring the District’s logo. However, due to the fact this individual provided this information during public comment and not regarding an agenda item, there was no discussion or decision related to the District’s mascot as a result of this communication. In addition, the District review of its records found that the District had received written communications from individuals

regarding the District’s mascot; however, none of those communications led to any discussions or decisions by the District about the District’s mascot.”

Wherley argues the District failed to release records responsive to her request and cites to specific information to support her position. First, Wherley cites to an email from a concerned individual urging the District to reconsider the mascot. The email reflects the District responded to the concerned individual and stated the concerns would be shared with the District’s Board. Second, Wherley cites to an article posted in the Business Insider in 2021 regarding the District’s mascot. Wherley believes this article would have generated discussions regarding the District’s mascot.

### **Applicable Law**

A public record is defined as “all records, documents, tape, or other information stored or preserved in any medium, of or belonging to this state...”

“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).

### **Analysis**

IPIB has consistently taken the position that a public record must exist – must be stored or preserved in a medium in the possession of the government body – to hold a government body responsible for production of the public record. In this complaint, the District maintains there is no public record stored or preserved in any medium responsive to Wherley’s request.

Wherley presents communications that could have generated discussions or decisions regarding the District’s mascot, but there are no records to suggest the District actually discussed or made decisions regarding the mascot in light of these communications. Agendas and minutes of board meetings do not show discussions or decisions and any news articles written regarding the District are silent on discussions or decisions by the District.

There is no clear evidence to suggest the District has discussed or made decisions regarding the District’s mascot, which means there is no clear evidence to suggest public records exist regarding the same.

### **IPIB Action**

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

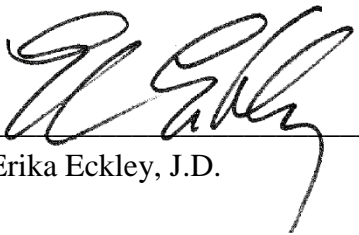
- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- 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. The District maintains there are no public records in response to Wherley's request and no evidence has been presented to the contrary.

By the IPIB Executive Director



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Erika Eckley, J.D.

### **CERTIFICATE OF MAILING**

This document was sent on February 13, 2025, to:

Rachel Wherley, Complainant  
Brett Nitzschke, Attorney for the District

# The Iowa Public Information Board

In re the Matter of:  Anthony Wynkoop, Complainant  And Concerning:  Clinton Police Department, Respondent	Case Number: 24FC:0125  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 Order:

On December 12, 2024, IPIB received formal complaint 24FC:0125 from Anthony Wynkoop, alleging the Clinton Police Department (Department) violated Iowa Code chapter 22. The complaint was accepted by IPIB on December 19, 2024.

## Facts

Wynkoop's daughter was stopped by the Clinton Police Department, which prompted Wynkoop to submit a public records request seeking the following items:

- Clinton Police Department Policies and Procedures
- Any and all dash and body camera from the traffic stop
- All communications related to the traffic stop
- Vehicle information of the officer who initiated the stop
- Training and discipline records of the officer who initiated the stop, including name and badge number

On December 5, the Department responded to Wynkoop, acknowledged the records request, and indicated that Wynkoop would need to pay \$471.50 to access the records. The Department indicated the bulk of the cost was for policies and procedures, which was \$414 based on the production of 838 pages. The cost beyond \$414 was due to production of footage and report fees.

Wynkoop filed a complaint on December 12, 2024, stating the cost of \$414 to access policies and procedures was an unreasonable cost, particularly due to the fact that digital copies were requested.

IPIB staff opened the complaint on December 12, 2024, and the complaint was accepted on December 19, 2024.

On December 20, 2024, the Department responded and stated it would change its procedures to make the full Policy and Procedures Manual available to the public at no cost. The Department indicated the Policy and Procedures Manual was provided on the Department's website at no charge. The Department reduced the total amount charged to Wynkoop to \$57.50 and requested Wynkoop pay the amount for the release of footage and other outstanding public records.

Based upon this development, IPIB staff asked Wynkoop if he wanted to proceed with the complaint. Wynkoop indicated he had not received all requested information. IPIB staff directed Wynkoop to retrieve the public records and follow up to ensure full closure of all items.

Between the filing of the complaint and current status, numerous interactions occurred between Wynkoop and the Department:

- Wynkoop requested discipline and training records. The Department indicated these records were exempt as personnel records pursuant to Iowa Code Chapter 22. IPIB staff agreed with the Department's analysis and conveyed this to both parties.
- The Department provided the names and badge numbers of all officers involved in the traffic stop to Wynkoop.
- The Department directed Wynkoop to outreach to the lawful custodian (Communications) to obtain any radio communications that occurred during the traffic stop.
- The Department provided the bodycam footage to Wynkoop via email and on a USB. It was discovered that some of the bodycam footage did not contain audio. The Department refunded \$8.29 for the bodycam footage that did not contain audio as they believed Wynkoop should not be charged for the footage without audio.
- The Department provided a call log to Wynkoop related to the traffic stop.

Wynkoop has continued to increase his complaints and:

- Requested all policies and procedures on a flash drive, indicating he did not want to search for policies and procedures on a website.
- Objected to the process for use of audio (or lack thereof) within police footage.
- Entered the Department's private parking lot searching for a vehicle VIN and was warned that he could be charged with trespassing, which Wynkoop raised as an issue that negatively impacts transparency.

The Department has stated that all requested information has been provided to or is available to Wynkoop and the Department is no longer responding to his numerous communications.

## **Applicable Law**

A public record is defined as “all records, documents, tape, or other information stored or preserved in any medium, of or belonging to this state...”

“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).

## **Analysis**

This complaint started with concern regarding the costs associated with production of policies and procedures. Immediately after commencing this case, the Department eliminated the cost at issue, thus addressing the complaint. As the case progressed, the complaint evolved into different issues beyond the cost associated with production.

At this time, Wynkoop has access to all requested public records that are non-confidential and within the possession of the Department. Wynkoop has outstanding complaints:

- The Department policies and procedures are not available on a flash drive. The Department has made the policies and procedure publicly available at no charge on the Department website. The IPIB has long held that the format of public records cannot be dictated as long as the records are produced. This is not a violation.
- The Department has failed to produce disciplinary and training records. Again, IPIB has consistently found that these items constitute personnel records and are confidential pursuant to Iowa Code Chapter 22. This is not a violation.
- The Department does not always have audio on the bodycam or dashcam footage. Iowa Code Chapter 22 does not require audio for bodycam or dashcam footage. The Department has produced the public records within their lawful custody.
- The Department has not produced a VIN for a vehicle. This was not specifically requested within the original public records request.
- The Department has prohibited Wynkoop from entering private parking lots. This issue is outside the scope of IPIB’s jurisdiction.

## **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. The Department has addressed Wynkoop's initial concern related to the cost to access public records and has made available all non-confidential public records originally requested by Wynkoop.

By the IPIB Executive Director



### **CERTIFICATE OF MAILING**

This document was sent on February 13, 2025, to:

Anthony Wynkoop, Complainant  
Clinton Police Department



# The Iowa Public Information Board

In re the Matter of:  Robert Roquet, Complainant  And Concerning:  City of Jesup, Respondent	Case Number: 25FC:0003  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 January 13, 2025, Robert Roquet filed formal complaint 25FC:0003, alleging the City of Jesup (City) violated Iowa Code Chapter 22. IPIB accepted this Complaint.

## Facts

The City of Jesup is a city primarily located in Buchanan County, Iowa. At the time of this complaint, there is ongoing litigation between the City and the complainant, Robert Roquet.

On November 20, 2024, Roquet sent a Chapter 22 records request via certified letter to the city clerk, seeking a letter authored by the Buchanan County Attorney regarding a local law enforcement officer. Roquet received a signed return receipt for the request, but he alleged the City had failed to provide any acknowledgement or response.

After IPIB opened the case for further review, the City provided email documentation to explain the lack of response. Due to the ongoing litigation, the City's legal counsel contacted Roquet's attorney concerning the request with the stated purpose of avoiding ethical issues arising from direct communication with a represented party. After a brief email exchange, Roquet's attorney sent a response which read: "Sorry, my email wasn't clear. I spoke to [Roquet] re the FOIA. Disregard the request from him."

Roquet responded to acknowledge the legitimacy of the email, though he asserted he had never authorized his attorney to dismiss the complaint, nor had he been informed about the conversation between his attorney and the City on the request in the first place. Roquet has not been in contact with IPIB since providing this response.

### **Applicable Law**

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

...

In writing, by telephone, or electronic means. The lawful custodian of the records shall post information for making such requests in a manner reasonably calculated to apprise the public of that information.” Iowa Code § 22.4(2).

### **Analysis**

Iowa Code § 22.4(2) provides that, in addition to in-person requests, members of the public may exercise their right to access public records through requests made in writing, by telephone, or by electronic means. A lawful custodian’s responsibilities are therefore dependent on the receipt of a valid request. If a person who files a request later affirmatively amends or retracts it, the lawful custodian would be relieved of their duty to respond with regards to records no longer being sought.

In this case, Roquet did not revoke the request himself. Rather, his attorney instructed the City to disregard the request on his behalf. Although Roquet states he never actually discussed the matter with his attorney, the attorney possessed apparent authority where he was already representing the complainant on a different matter in litigation with the City. The City had no reason to question the attorney’s representations, and their legal counsel had limited ability to communicate with the Roquet directly due to ethical restrictions. Under these conditions, the failure to respond to a records request cannot be considered a violation, as the City justifiably believed Roquet had retracted the request.

### **IPIB Action**

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

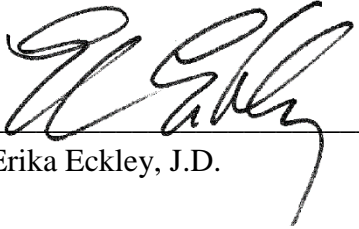
- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- 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. Because the City justifiably believed Roquet had revoked his request through the representations of his legal counsel, they were not required to take further action on his Chapter 22 request.

By the IPIB Executive Director



Erika Eckley, J.D.

## CERTIFICATE OF MAILING

This document was sent on February 13, 2025, to:

Robert Roquet, Complainant  
City of Jesup, Respondent



Lee, Alexander <alexander.lee@iowa.gov>

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## Notice of New IPIB Complaint (25FC:0004)

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auntdaster@yahoo.com <auntdaster@yahoo.com>

Mon, Jan 27, 2025 at 9:22 PM

To: Caleb Bonjour <caleb.bonjour@gr-rebels.net>, "Lee, Alexander" <alexander.lee@iowa.gov>

Cc: "christine.harms@gr-rebels.net" <christine.harms@gr-rebels.net>, mark lowry <goobiajc@yahoo.com>

Hello!

Thank you, Superintendent Bonjour for the information. I've reviewed what you recently sent. This will suffice. I trust going forward my request for all Board packets will continued to be received monthly and when you have the monthly line item budget established that will be provided monthly.

Although delayed, I am satisfied with the response and anticipate this will continue.

Thank you!  
Linda

[Quoted text hidden]



Lee, Alexander <alexander.lee@iowa.gov>

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## Notice of New IPIB Complaint (25FC:0006)

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**Jordan George** <jordanolivergeorge@yahoo.com>

Fri, Jan 24, 2025 at 3:26 PM

To: Deputy Clerk <deputyclerk@cityofpalo.com>

Cc: Alexander Lee <alexander.lee@iowa.gov>, Lenna Goodale <lennagoodale@cityofpalo.com>

Hello Mr. Lee,

I have received the records from the city with no charge and am very pleased with this resolution. I see no further concerns in any area and deeply appreciate everyone's efforts and assistance in this matter.

Thank you,  
Jordan George, MA

On Jan 24, 2025, at 11:48, Deputy Clerk <deputyclerk@cityofpalo.com> wrote:

[Quoted text hidden]

Open cases

Before and after pilot

Subject	Contact Name	Status	IPIB Open Date	First eligible board meeting	Board accept date	Days Opened	Reviewed within two board meetings
24FC:0013	Bonnie Castillo	Resolved/Withdrawn	2/2/2024			378	0
24FC:0052	Erik Johnson	Draft Order	6/6/2024	6/20/2024	11/21/2024	253	0
24FC:0064	Mark Milligan	Board Acceptance of IR	7/31/2024	8/15/2024	10/17/2024	199	1
24FC:0070	Brian Thomas	Board Acceptance of IR	8/16/2024	8/15/2024	10/17/2024	185	1
24FC:0077	Kyle Ocker	Draft Order	9/9/2024	9/19/2024	10/17/2024	158	1
24FC:0089	Curtis Wagler	Information Gathering/IR Process	10/9/2024	10/17/2024	1/16/2025	129	1
24FC:0090	Sarah Weber	Information Gathering/IR Process	10/11/2024	10/17/2024	12/19/2024	128	0
24FC:0092	Aubrey Burress	Board Acceptance of IR	10/24/2024	11/21/2024	11/21/2024	116	1
24FC:0093	Timothy Hansen	Information Gathering/IR Process	10/24/2024	11/21/2024	11/21/2024	113	1
24FC:0096	Rachel Dolley	Information Gathering/IR Process	10/29/2024	11/21/2024	11/21/2024	109	1
24FC:0101	Erin Sommers	Board Acceptance of IR	10/28/2024	11/21/2024	11/21/2024	108	1
24FC:0109	Joe Goche	Draft Order	11/13/2024	11/21/2024	12/19/2024	101	1
24FC:0110	Keegan Jarvis	Information Gathering/IR Process	11/6/2024	11/21/2024	11/21/2024	100	1
24FC:0113	Geralyn Jones	IR Agreed to by Parties	11/13/2024	11/21/2024	11/21/2024	94	1
24FC:0117	Michael Merritt	Information Gathering/IR Process	11/27/2024	11/21/2024	12/19/2024	85	1
24FC:0120	Paul Dorr	Draft Order	12/2/2024	12/19/2024	12/19/2024	79	1
24FC:0123	Rachel Wherley	Draft Order	12/6/2024	12/19/2024	12/19/2024	70	1
24FC:0125	Anthony Wynkoop	Draft Order	12/12/2024	12/19/2024	12/19/2024	64	1
24FC:0129	Joe Monahan	Accept/Dismiss	12/24/2024	1/16/2025		52	1
24FC:0130	Joe Monahan	Accept/Dismiss	12/24/2024	1/16/2025		52	1
24FC:0131	Jordan Johnson	Accept/Dismiss	12/31/2024	1/16/2025	1/16/2025	45	1
25FC:0001	Steven Asche	Accept/Dismiss	1/10/2025	1/16/2025		35	1
25FC:0002	Berleen Wobeter	Accept/Dismiss	1/14/2025	1/16/2025		37	1
25FC:0003	Robert Roquet	Draft Order	1/14/2025	1/16/2025		32	1
25FC:0004	Linda Reardon-Lowry	Resolved/Withdrawn	1/14/2025	1/16/2025		33	1
25FC:0005	Frank Viola	Accept/Dismiss	1/16/2025	2/20/2025		29	1
25FC:0006	Jordan George	Resolved/Withdrawn	1/17/2025	2/20/2025		29	1
25FC:0007	Kelly Smith	Accept/Dismiss	1/23/2025	2/20/2025		23	1
25FC:0008	Britt Gagne	Information Gathering/IR Process	1/23/2025	2/20/2025		22	1
25FC:0009	Bryce Hubert	Accept/Dismiss	1/27/2025	2/20/2025		21	1
25FC:0010	Edmund Baprawski	Accept/Dismiss	2/4/2025	2/20/2025		15	1
25FC:0011	Cliff Williams	Information Gathering/IR Process	2/3/2025	2/20/2025		13	1
25FC:0012	Matt Loffer	Accept/Dismiss	2/4/2025	2/20/2025		11	1
25FC:0013	Kevin Kilgore	Complaint Opened/Acknowledged	2/5/2025	2/20/2025		12	0
25FC:0014	Michael Merritt	Complaint Opened/Acknowledged	2/5/2025	2/20/2025		11	0
25FC:0015	Lori Daughenbaugh	Accept/Dismiss	2/5/2025	2/20/2025		11	1

without outlier 175  
average days 204

average days 54

closed cases

before and after pilot

Subject	Contact Name	IPIB Open Date	IPIB Close Date	Outcome	First eligible board meeting	Days Opened	Reviewed within two board meetings
24FC:0001	Steve St. Clair	1/3/2024	3/21/2024	Dismiss		77	0
24FC:0002	Cliff Sheakley	1/5/2024		Resolved		11	0
24FC:0003	Andrew Kida	1/6/2024	4/23/2024	Dismiss		108	0
24FC:0004	Janelle Lund	1/5/2024	3/21/2024	Dismiss		77	0
24FC:0005	Jon Uhl	1/10/2024	3/21/2024	Resolved		75	0
24FC:0006	Cheryl Shagens	1/10/2024	3/21/2024	Resolved		75	0
24FC:0007	Mathew Boon	1/17/2024	2/15/2024	Dismiss		33	0
24FC:0008	Jeff Sherman	1/22/2024	3/21/2024	Dismiss		64	0
24FC:0009	Brett Christensen	1/23/2024	8/15/2024	Board Acceptance - Closed		210	0
24FC:0010	Tirzah Wedewer	1/29/2024	7/18/2024	Dismiss		172	0
24FC:0011	Frederick Shaddock	1/30/2024	3/21/2024	Resolved		55	0
24FC:0012	Diane Holst	2/5/2024		Resolved		7	0
24FC:0014	Keegan Jarvis	2/6/2024	6/27/2024	Dismiss		143	0
24FC:0015	Kelly Smith	2/12/2024	3/21/2024	Dismiss		48	0
24FC:0016	Valerie Close	2/8/2024	5/16/2024	Dismiss		112	0
24FC:0017	Latrice Lacey	2/12/2024	10/17/2024	Probable Cause Report		249	0
24FC:0018	Zach Vulich	2/13/2024	8/15/2024	Board Acceptance - Closed		188	0
24FC:0019	Kenneth Brown	2/21/2024	5/16/2024	Dismiss		99	0
24FC:0020	Charles Nocera	2/21/2024	4/23/2024	Dismiss		62	0
24FC:0021	Kathryn Crumly	2/26/2024	4/23/2024	Dismiss		57	0
24FC:0022	Maher "Mark" Waad	2/26/2024	5/16/2024	Dismiss		94	0
24FC:0023	Shawn Shearer	2/19/2024	5/16/2024	Dismiss		97	0
24FC:0024	Megan Rimmel	3/14/2024		Resolved		24	0
24FC:0025	Dana Sanders	3/7/2024	5/16/2024	Resolved		75	0
24FC:0026	Dan Nugteren	3/7/2024	5/16/2024	Dismiss		84	0
24FC:0027	Valerie Close	3/14/2024	5/16/2024	Dismiss		83	0
24FC:0028	Danny Jensen	3/14/2024	4/23/2024	Dismiss		42	0
24FC:0029	Dana Sanders	3/14/2024	3/27/2024	Dismiss		13	0
24FC:0030	Leah Schwery	3/17/2024	4/22/2024	Dismiss		36	0
24FC:0031	Jessie Austin	4/16/2024	6/27/2024	Dismiss		74	0
24FC:0032	Old Davenport Dump	3/28/2024	6/27/2024	Dismiss		92	0

closed cases

before and after pilot

24FC:0033	Amy Hagan	4/9/2024	5/16/2024	Dismiss		51	0
24FC:0034	Keegan Jarvis	4/9/2024	7/18/2024	Dismiss		100	0
24FC:0035	Shaylea Caris	3/23/2024	9/19/2024	Dismiss		158	0
24FC:0036	Jason foust	3/27/2024	6/27/2024	Dismiss		93	0
24FC:0037	Christine Knapp	4/15/2024	6/27/2024	Dismiss		74	0
24FC:0038	Joe Monahan	4/17/2024	7/18/2024	Dismiss		93	0
24FC:0039	Steven Menke	4/30/2024	5/16/2024	Dismiss		51	0
24FC:0040	James Warnke	4/29/2024	6/27/2024	Dismiss		60	0
24FC:0041	Laurie Kramer	4/23/2024	7/18/2024	Dismiss		87	0
24FC:0042	Kenneth Brown	5/3/2024	7/18/2024	Dismiss		77	0
24FC:0043	Blake Jones	5/19/2024	8/15/2024	Dismiss		99	0
24FC:0044	Kaila Benson	5/23/2024	7/18/2024	Dismiss		57	0
24FC:0045	Arthur Anderson	5/31/2024	9/19/2024	Dismiss		115	0
24FC:0046	hannah koppenhaver	5/31/2024	7/18/2024	Dismiss		49	0
24FC:0048	Ethan Vorhes	6/9/2024	9/19/2024	Dismiss		106	0
24FC:0049	Lindsie Gallardo	6/10/2024	8/15/2024	Dismiss		77	0
24FC:0050	Beckett	5/31/2024	8/15/2024	Dismiss		87	0
24FC:0051	Laurie Kramer	5/30/2024	7/18/2024	Dismiss		50	0
24FC:0053	Blake Jones	6/18/2024	10/17/2024	Board Acceptance - Closed	6/20/2024	122	1
24FC:0054	Samuel Kleiss	6/18/2024	8/15/2024	Dismiss		70	0
24FC:0055	Chandler Trautwein	6/18/2024	8/15/2024	Dismiss		70	0
24FC:0056	Steven Asche	6/25/2024	12/19/2024	Board Acceptance - Closed	7/18/2024	183	1
24FC:0057	Jody Phillips	7/8/2024	11/21/2024	Board Acceptance - Closed	7/18/2024	145	1
24FC:0058	Chad Miller	7/5/2024	10/17/2024	Dismiss	7/18/2024	105	1
24FC:0059	Jan Norris	7/25/2024	11/21/2024	Board Acceptance - Closed	8/15/2024	125	1
24FC:0060	Jeanette Shoop	7/25/2024	9/19/2024	Dismiss		60	0
24FC:0061	Kelly Caldwell	7/26/2024	9/19/2024	Dismiss		60	0
24FC:0062	Ben Ward		9/19/2024	Dismiss		70	0
24FC:0063	Joe Monahan			Resolved		56	0
24FC:0065	Mandi Hutchins	8/6/2024	9/19/2024	Dismiss	8/15/2024	49	1
24FC:0066	Kenneth Brown	8/6/2024	9/19/2024	Resolved	8/15/2024	60	1
24FC:0067	Janet Pierson	8/9/2024	10/17/2024	Dismiss	8/15/2024	73	1
24FC:0068	Drake Riddle	8/13/2024	1/16/2025	Board Acceptance - Closed	8/15/2024	168	1
24FC:0069	William Vandenberg	8/10/2024	10/17/2024	Dismiss	8/15/2024	75	1
24FC:0071	Kevin Wymore	8/19/2024	10/17/2024	Dismiss	9/19/2024	66	1
24FC:0072	Lucian Diaconu	8/22/2024	12/19/2024	Dismiss	9/19/2024	131	0



closed cases

before and after pilot

24FC:0073	Gail Bonath	8/27/2024	10/17/2024	Dismiss	9/19/2024	54	1	
24FC:0074	Diane Holst	8/27/2024	10/17/2024	Resolved	9/19/2024	53	1	
24FC:0075	Karen Davis	9/3/2024	10/17/2024	Dismiss	9/19/2024	45	1	
24FC:0076	Montgomery McKernan	9/9/2024	9/19/2024	Dismiss	9/19/2024	15	1	
24FC:0078	Megan Pegorick	9/10/2024	11/21/2024	Resolved	9/19/2024	76	0	
24FC:0079	Tiffany South	9/18/2024	12/19/2024	Dismiss	10/17/2024	96	0	
24FC:0080	Tiffany South	9/23/2024	10/17/2024	Dismiss	10/17/2024	27	1	
24FC:0081	Joe Monahan	9/25/2024	12/19/2024	Dismiss	10/17/2024	94	0	
24FC:0082	Robin Delaney	9/26/2024	12/19/2024	Resolved	10/17/2024	86	0	
24FC:0083	Tim Ferguson	9/26/2024	1/16/2025	Dismiss	10/17/2024	120	0	
24FC:0084	Paul A. Reed, Sr.	9/26/2024	11/21/2024	Dismiss	10/17/2024	61	1	
24FC:0085	Gregory Mangold	10/1/2024	12/19/2024	Resolved	10/17/2024	84	0	
24FC:0086	Ben Ward	10/1/2024	10/17/2024	Dismiss	10/17/2024	19	1	
24FC:0087	Nicholas Bargren	10/7/2024	11/21/2024	Dismiss	10/17/2024	51	1	
24FC:0088	Randy Evans	10/8/2024	12/19/2024	Resolved	10/17/2024	76	0	
							average days	83
24FC:0091	Ellen Becker	10/21/2024	11/21/2024	Dismiss	11/21/2024	35	1	
24FC:0094	Ben Lynch	10/25/2024	12/19/2024	Probable Cause Report	11/21/2024	60	1	
24FC:0095	Justin Scott	10/25/2024	11/21/2024	Dismiss	11/21/2024	31	1	
24FC:0097	Tyler Patterson	10/29/2024	12/19/2024	Probable Cause Report	11/21/2024	58	1	
24FC:0098	Charles Kerker	10/29/2024	11/21/2024	Dismiss	11/21/2024	27	1	
24FC:0099	Tyson Trunkhill	10/30/2024	11/21/2024	Dismiss	11/21/2024	26	1	
24FC:0100	Tyson Trunkhill	10/30/2024	11/21/2024	Dismiss	11/21/2024	26	1	
24FC:0102	John Johnson	10/31/2024	11/21/2024	Resolved	11/21/2024	30	1	
24FC:0103	Sue Miles	11/1/2024	11/21/2024	Dismiss	11/21/2024	25	1	
24FC:0104	Matthew Rollinger	11/1/2024	1/16/2025	Probable Cause Report	11/21/2024	84	1	
24FC:0105	Chad Brewbaker	11/1/2024	11/21/2024	Dismiss	11/21/2024	25	1	
24FC:0106	Sheryl Pilkington	11/1/2024	12/19/2024	Probable Cause Report	11/21/2024	55	1	
24FC:0107	Chad Brewbaker	11/4/2024	11/21/2024	Dismiss	11/21/2024	24	1	
24FC:0108	Charles Kerker	11/6/2024	12/19/2024	Dismiss	11/21/2024	49	1	
24FC:0111	Michael McPeek	11/7/2024	1/16/2025	Probable Cause Report	11/21/2024	77	1	
24FC:0112	Keegan Jarvis	11/12/2024	1/16/2025	Probable Cause Report	11/21/2024	76	1	
24FC:0114	Chad Brewbaker	11/14/2024	11/21/2024	Dismiss	11/21/2024	11	1	
24FC:0115	Justin Scott	11/22/2024	12/19/2024	Dismiss	12/19/2024	32	1	
24FC:0116	Timothy, miller	11/27/2024	1/16/2025	Probable Cause Report	11/21/2024	99	1	
24FC:0118	Kevin Cahalan	11/22/2024	1/16/2025	Probable Cause Report	12/19/2024	63	1	
24FC:0119	Tony Reed	11/26/2024	12/19/2024	Dismiss	12/19/2024	28	1	

closed cases

before and after pilot

24FC:0121	Presten Smith	12/2/2024	12/19/2024	Resolved	12/19/2024	20	1	
24FC:0122	Justin Scott	12/5/2024	1/16/2025	Resolved	12/19/2024	47	1	
24FC:0124	Kenneth Brown	12/12/2024	1/16/2025	Probable Cause Report	12/19/2024	44	1	
24FC:0126	Keegan Jarvis	12/13/2024	1/16/2025	Dismiss	12/19/2024	45	1	
24FC:0127	John Gruca	12/17/2024	1/16/2025	Resolved	12/19/2024	35	1	
24FC:0128	David Sherwood	12/20/2024	1/16/2025	Resolved	12/19/2024	34	1	
24FC:0132	Charlene Hoover	12/31/2024	1/16/2025	Dismiss	1/16/2025	23	1	
							average days	44

## Summary of Feedback Received from Members:

1. *Basic Corrections* – Changes made
2. *Burden of Proof* – For discussion
  - a. Preferred Language – “Burden of proof – Chapter 22 Investigations. The burden of proof before the Board is allocated according to Iowa Code section 22.10(2).”
  - b. This will work for Chapter 22, but creates confusion for Chapter 21. See Iowa Code provisions. (Attachments B and C, with highlights)
3. *Delegation of Investigation* – For discussion. For 2.13(4), does there need to be a process for a party to object to the person appointed as delegate? What if one of the parties believes the investigator has a bias?
4. *Overall EO10 Compliance*. Changes made. The following terms have been removed from all rules drafts:
  - Shall
  - May not
  - Must
  - Prohibit
  - Require
  - Restrict

# IOWA PUBLIC INFORMATION BOARD [497]

## *Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order Number Ten. Chapter 2 provides information to the public about the Iowa Public Information Board's complaint process.

## *Text of Proposed Rulemaking*

ITEM 1. Rescind 497—Chapter 2 and adopt the following new chapter in lieu thereof:

### CHAPTER 2 COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

**497—2.1(23) Scope and applicability.** This chapter applies to complaints filed with the Iowa Public Information Board.

**497—2.2(23) Definitions.** Except where otherwise specifically defined by law:

“Board” is the Iowa Public Information Board created and defined by Iowa Code section 23.3.

“Complaint” is as defined by Iowa Code chapter 23.

“Complainant” is a person who files a complaint with the board as defined by Iowa Code chapter 23.

“Meeting” is as defined by Iowa Code chapter 21.

“Probable cause” is evidence provided to demonstrate a reasonable belief that a violation of chapter 21 or 22 exists. Probable cause is more than a suspicion and is the presentation of facts that would establish a belief in a reasonable person that a violation occurred.

“Public Records” is as defined by Iowa Code chapter 22.

“Reasonable Diligence” is the degree of diligence expected from a person of ordinary prudence under the circumstances.

“Respondent” is any agency or other unit of state or local government, custodian, government official, or government employee who is the subject of a Complaint, as defined in Iowa Code Chapter 23. “Respondent” does not include the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or the governor or the office of the governor as the Board does not have jurisdiction over these bodies pursuant to Iowa Code section 23.12.

**497—2.3(23) Filing of complaint.** Any complainant may file a complaint with the board alleging a violation of Iowa Code chapter 21 or 22.

**497—2.4(23) Timing of complaint.** A complaint will be filed within sixty calendar days from the time the alleged violation occurred or from the time the complainant could have become aware of the violation with reasonable diligence. Any dispute regarding timing, the complainant's awareness of the violation, and whether the complaint meets statutory timing requirements will be resolved by the board at its discretion.

**497—2.5(23) Form of complaint.** A complaint will be submitted in writing and on a form designated by the board. A complaint may also be accepted without using a designated form if the complaint contains the elements of information contained within the form. The board may refuse to accept a complaint if it does not contain information consistent with this rule.

**497—2.6(23) Content of complaint.** The complaint will include in the body of the complaint or the attachments thereto any information, issues, and arguments supporting the complainant's position. The complaint also may include any attachments, affidavits, certifications, or other documentation deemed relevant or supportive of the allegations set forth in the complaint.

**2.6(1) Amendments to complaint.** Any amendments to the complaint received after filing will be reviewed by the board. The board, at its discretion, may allow an amendment after filing based on the facts and circumstances of the complaint.

**2.6(2) Merging of complaints.** The board, at its discretion, may merge complaints based on the facts and circumstances of each complaint.

**497—2.7(23) Complaint process.** Upon receipt of a complaint, the board will review the complaint and determine whether the complaint is accepted or dismissed.

**2.7(1) Delegation of duties.** In order to expedite proceedings, the executive director may delegate to designated employees of the board, at his or her discretion, the task of developing and presenting acceptance and dismissal orders.

**2.7(2) Not a contested case.** The board's review of a complaint for legal sufficiency is not a contested case proceeding and will be made solely on the facts alleged in the complaint and the results of the initial review conducted by employees of the board.

**497—2.8(23) Complaint process – dismissal.** The board will issue a dismissal order if the board determines that the complaint, on its face, is outside the board's jurisdiction, is legally insufficient, is frivolous, is without merit, involves harmless error, or relates to a specific incident that has previously been finally disposed on its merits by the board or a court. A copy of the dismissal order will be provided to the complainant. The dismissal order will explain the reasons for the dismissal.

**497—2.9(23) Complaint process – acceptance.** If the board determines the complaint, on its face, is within the board's jurisdiction, appears legally sufficient, and could have merit, the board will accept the complaint. Upon acceptance, the board will do the following:

- a. Provide notification of acceptance in writing to the complainant and respondent.
- b. Provide all available information to the respondent, including the complaint and any supporting documentation provided by the complainant as part of the complaint.
- c. Request a response to the complaint from the respondent.

**497—2.10(23) Respondent's response to complaint.** The respondent, upon request to respond to the complaint pursuant to rule 497—2.9(c) will submit a written response to the complaint within fourteen calendar days. The executive director, at his or her discretion, may grant an extension to the respondent for the respondent's response based on a justifiable reason and the facts and circumstances of the complaint. The respondent's response will include the details of the respondent's position for each element of the complaint and any information, defenses, and arguments that support the respondent's position. Failure to respond will result in a probable cause finding pursuant to rule 497—2.17.

**497—2.11(23) Complainant’s response to respondent.** The complainant will be granted the opportunity to respond to the respondent’s response.

**497—2.12(23) Informal resolution process.** Following acceptance of the complaint, the board, acting through the employees of the board, will work with the complainant and respondent to develop a resolution in response to the complaint.

**2.7(1) Resolution.** If the informal resolution process resolves the complaint, the complaint will be dismissed as resolved by the board. The complaint may also be withdrawn by the complainant.

**2.7(2) Failure to resolve.** If the complainant or respondent decline the informal resolution process or if the informal resolution process fails to resolve the complaint, the board will initiate a formal investigation.

**497—2.13(23) Formal investigation.** If the complainant or respondent decline the informal resolution process or if the information resolution process fails to resolve the complaint, the board will initiate a formal investigation to determine whether there is probable cause to believe a violation of Iowa Code chapter 21 or 22 has occurred.

**2.13(1) Request for information.** During the formal investigation process, the complainant and respondent may be asked to provide additional information. Failure to respond to requests for information may result in a finding of probable cause or dismissal of the Complaint.

**2.13(2) Actions taken.** Formal investigation actions that may be taken by the board include, but are not limited to, the following actions:

- a. Review applicable laws, rules, regulations, and policies.
- b. Request statements from the complainant and respondent.
- c. Submit verbal or written requests for information to other persons and governmental bodies.
- d. Examine and copy relevant records.
- e. Issue investigative subpoenas requiring the production of books, papers, records, electronic records and other evidence, as well as requiring the attendance and testimony of witnesses.
- f. Holding hearings.
- g. Any other methods determined appropriate by the board.

**2.13(3) Report to board.** Following the formal investigation, IPIB staff will make a report to the board and will provide a recommendation related to probable cause.

**2.13(4) Delegation of investigation.** The board, at its discretion, may delegate a formal investigation to an independent investigator. An independent investigator may be an alternative state agency, attorney practicing outside of state government, or any other investigator that the board determines is qualified. Any alleged conflicts of interest regarding an independent investigator will be addressed at the discretion of the board.

**497—2.14(23) Burden of proof – Chapter 21 investigations.** Once a complainant demonstrates to the board that the government body in question is subject to the requirements of Iowa Code Chapter 21 and has held a meeting, the burden going forward will be on the government body to demonstrate compliance with the requirements of Iowa Code Chapter 21.

**497—2.15(23) Burden of proof – Chapter 22 investigations.** The burden of proof applied will be the same burden of proof applied to judicial enforcement as outlined in Iowa Code section 22.10(2).”

**497—2.16(23) Settlement of complaint.** The parties to the complaint may reach an agreement during the formal investigation process that results in a settlement between the parties. Any settlement reached by the parties is solely between the parties and does not impact the formal investigation conducted by the board. If a settlement is reached, the board may dismiss the complaint as an exercise of administrative discretion pursuant to rule 497—2.17 and terminate the formal investigation.

**497—2.17(23) Probable Cause Finding.** Upon receipt and review of the formal investigative report completed by IPIB staff and any recommendations from IPIB staff, the board may take any of the following actions:

- a. Redirect the complaint for further investigation.
- b. Dismiss the complaint for lack of jurisdiction or lack of probable cause to believe there has been a violation of Iowa Code chapter 21 or 22.
- c. Determine that probable cause exists to believe a violation has occurred but dismiss the matter as an exercise of administrative discretion. The dismissal order may contain actions the respondent will take to effectuate the dismissal.
- d. Determine the complaint is within the board’s jurisdiction and there is probable cause to believe a violation of Iowa Code chapter 21 or 22 has occurred and direct civil penalties or other appropriate remedies as provided in subrule 497—2.18. The respondent may decline the penalties or remedies and request a contested case proceeding be initiated.
- e. Determine that the Complaint is within the Board’s jurisdiction and there is probable cause to believe a violation of Iowa Code chapter 21 or 22 has occurred and initiate a contested case proceeding. The probable cause order will initiate a contested case proceeding pursuant to Iowa Code Chapter 17A. The board will designate a prosecutor and direct the issuance of a statement of charges to initiate the contested case proceeding pursuant to Iowa Code chapter 23.10.

For any actions taken by the board pursuant to this subrule, the board will issue a written order and a copy of the order will be provided to the complainant and the respondent. The order will explain the reasons for the dismissal or the finding of probable cause.

**497—2.18(23) Civil penalties and other appropriate remedies.** If it is determined after appropriate board proceedings that a violation of statute or rule under the board’s jurisdiction has occurred, the board may impose any of the remedies set out in Iowa Code section 23.6(8) or 23.10(3)(b).

**497—2.19(23) Appeal.** Any person or party who is aggrieved or adversely affected by agency action may utilize the remedies provided by Iowa Code Chapter 17A.

## IOWA PUBLIC INFORMATION BOARD [497]

### *Purpose and Summary*

This proposed rulemaking re-promulgates administrative rules based on the requirements of Executive Order 10. Chapter 10 provides information to the public about the Iowa Public Information Board's injunction request procedure.

### *Text of Proposed Rulemaking*

ITEM 1. Rescind 497—Chapter 10 and adopt the following new chapter in lieu thereof:

#### CHAPTER 10 INJUNCTION REQUEST PROCEDURE

**497—10.1(23) Complaint.** As provided in Iowa Code section 23.5(3), when a request for an injunction to enjoin the inspection of a public record has been filed in district court under Iowa Code section 22.8, the respondent or the person requesting access to the record may remove the proceeding from district court to the board by filing a complaint within 30 days of the commencement of the judicial proceeding. The complaint will detail the parties involved, the records sought, and the district court in which the matter was originally filed. A copy of the original court filing seeking an injunction will be filed with the complaint. A complaint filed under this chapter is not a “complaint” triggering the procedures under 497—Chapter 2.

**497—10.2(23) Notice to court.** Upon receipt of a complaint under this chapter, the board's staff will file notice with the appropriate district court that the complaint has been filed with the board.

**497—10.3(23) Staff review.** If the court issues an order removing jurisdiction of the matter to the board, the board's staff will conduct an initial review of the complaint and may request that the parties provide further information or documents.

**497—10.4(23) Hearing.** A hearing on the request for the injunction will be heard before the board. The board may request briefs or the filing of other documents. The board will work with the parties in establishing guidelines for the time of the hearing, the length of arguments, and any other procedural matters. A hearing under this rule is not a contested case under 497—Chapter 4.

**497—10.5(23) Board determinations.** The board will make the following determinations after hearing:

1. Whether the requested records are public records or confidential public records.
2. If the records are public records, whether an injunction should be issued enjoining the inspection of the records under the criteria set out in Iowa Code sections 22.8(1) and 22.8(3).

**497—10.6(23) Judicial review.** The board's determinations under rule 497—10.5(23) are deemed final agency action for purposes of seeking judicial review under Iowa Code chapter 17A.



## IOWA PUBLIC INFORMATION BOARD [497]

### *Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order Number Ten. Chapter 11 provides information to the public about the Iowa Public Information Board's advisory opinion process. This information exists within Chapter 1, which addresses agency organization and will be rescinded. This new Chapter 11 is dedicated to advisory opinions for consumer ease and clarity.

### *Text of Proposed Rulemaking*

ITEM 1. Adopt the following new chapter:

#### CHAPTER 11 ADVISORY OPINION PROCEDURES

**497–11.1(23) Scope and applicability.** This chapter applies to Public Information Board advisory opinions.

**497–11.2(23) Requirements for requesting advisory opinions.**

**11.2(1) Jurisdiction.** The board will accept requests for advisory opinions only pertaining to Iowa Code chapters 21 and 22, or rules adopted thereunder. The board does not have jurisdiction over the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or over the governor or the office of the governor.

**11.2(2) Who may request an advisory opinion.** Any person may request an advisory opinion construing or applying Iowa Code chapters 21 and 22. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request.

**11.2(3) Form of request.** The request for an advisory opinion will pose specific legal questions and describe any specific facts relating to the questions posed. A request for an advisory opinion will be submitted in writing and on a form designated by the board. A request for an advisory opinion may also be accepted without using the designated form if the request for an advisory opinion contains the elements of information consistent with the designated form.

**497–11.3(23) Processing of advisory opinions.** After receiving an advisory opinion request, the board's executive director will cause to be prepared a draft advisory opinion for board review.

**11.3(1) Same or similar issue.** If the same or similar issue has been addressed in an opinion of a court, or in an attorney general's opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion, however the board may still issue an advisory opinion.

**11.3(2) Delegation of duties.** The executive director may delegate to designated employees of the board, at his or her discretion, the task of developing and presenting advisory opinions.

**497–11.4(23) Timing of advisory opinions.** The board will make every reasonable attempt to issue an advisory opinion within 30 days after a formal request is made.

**497—11.5(23) Approval of advisory opinions.** Upon an affirmative vote of a majority of the board, the executive director will issue an advisory opinion on behalf of the board. Advice contained in a board opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances.

**11.5(1) *Advice on routine matters.*** Board staff may provide written advice on routine matters. However, such advice is not an advisory opinion.

**11.5(2) *Modification or reconsideration requested.*** A person who receives an advisory opinion may, within 30 days after the issuance of the advisory opinion, request modification or reconsideration of the advisory opinion. A request for modification or reconsideration will be deemed denied unless the board acts upon the request within 60 days of receipt of the request.

**11.5(3) *Modification or reconsideration by board.*** The board may modify or reconsider an advisory opinion on its own motion within 30 days after the issuance of an advisory opinion.

**497—11.6(23) Declaratory Orders.** Nothing in this rule precludes a person who has received an advisory opinion or advice from petitioning for a declaratory order pursuant to Iowa Code section 17A. The board may refuse to issue a declaratory order to a person who has previously received an advisory opinion on the same question, unless the requester demonstrates a significant change in circumstances from those in the advisory opinion.

## IOWA PUBLIC INFORMATION BOARD [497]

### *Purpose and Summary*

The Iowa Administrative Procedure Act has long required agencies to adopt rules describing its internal organization and mission, its rulemaking process (to include receiving and evaluating rulemaking petitions), and how it will receive and process declaratory orders. To satisfy these obligations, the board promulgated Chapters 1 and 3 and also adopted by reference, with appropriate edits, the applicable chapters contained in the Uniform Rules on Agency Procedure (Chapters 4, 5, 6, 7, 9).

However, 2024 Iowa Acts, Senate File 2370, rescinds some applicable law (section 4) and creates a new related statute (section 12). The new statute states that the administrative rules coordinator, in partnership with the Iowa Attorney General's Office, may adopt a new set of uniform model rules that will automatically apply to agencies in the absence of self-promulgated rules (more information can be found in Iowa Code section 17A.24 as enacted by 2024 Iowa Acts, Senate File 2370).

Accordingly, the board is proposing to rescind these chapters consistent with the principles of Executive Order 10 as being either unauthorized or unnecessary. It will instead operate under the new model rules and other applicable laws. Specific information regarding advisory opinions from Chapter 1 has been incorporated in Chapter 11.

### *Text of Proposed Rulemaking*

- ITEM 1. Rescind and reserve 497—Chapter 1.
- ITEM 2. Rescind and reserve 497—Chapter 3.
- ITEM 3. Rescind and reserve 497—Chapter 4.
- ITEM 4. Rescind and reserve 497—Chapter 5.
- ITEM 5. Rescind and reserve 497—Chapter 6.
- ITEM 6. Rescind and reserve 497—Chapter 7.
- ITEM 7. Rescind and reserve 497—Chapter 9.

Active Cases Report

45

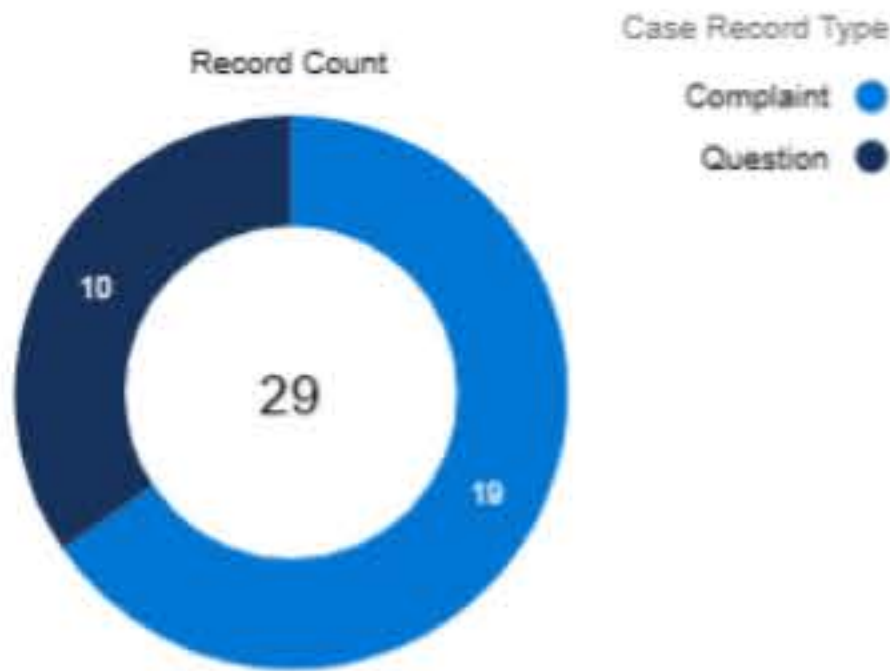
[View Report \(Active Cases Report\)](#)

Active Questions Report

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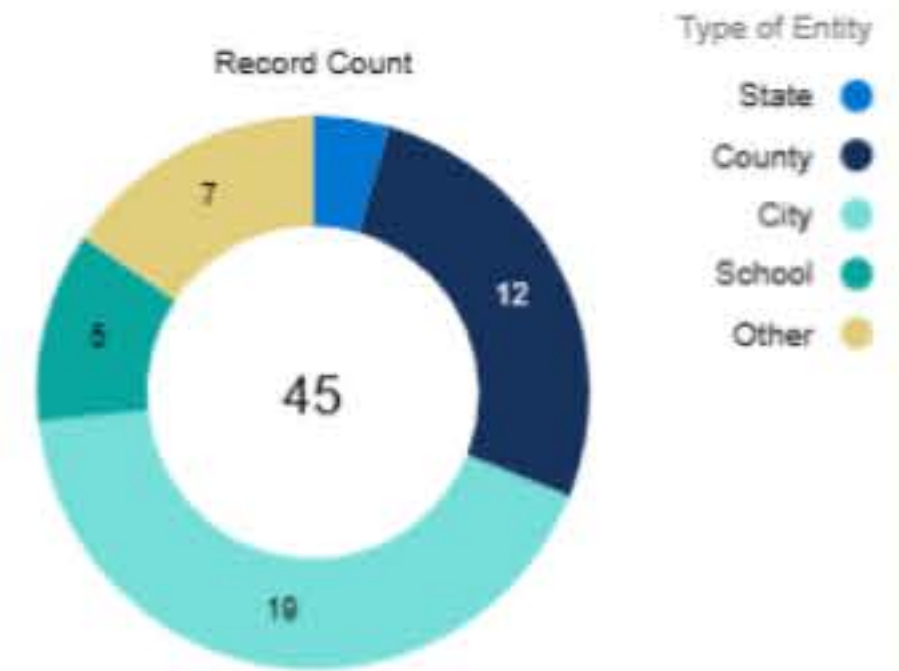
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New complaints &/or question last 30 day



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Cases by Entity

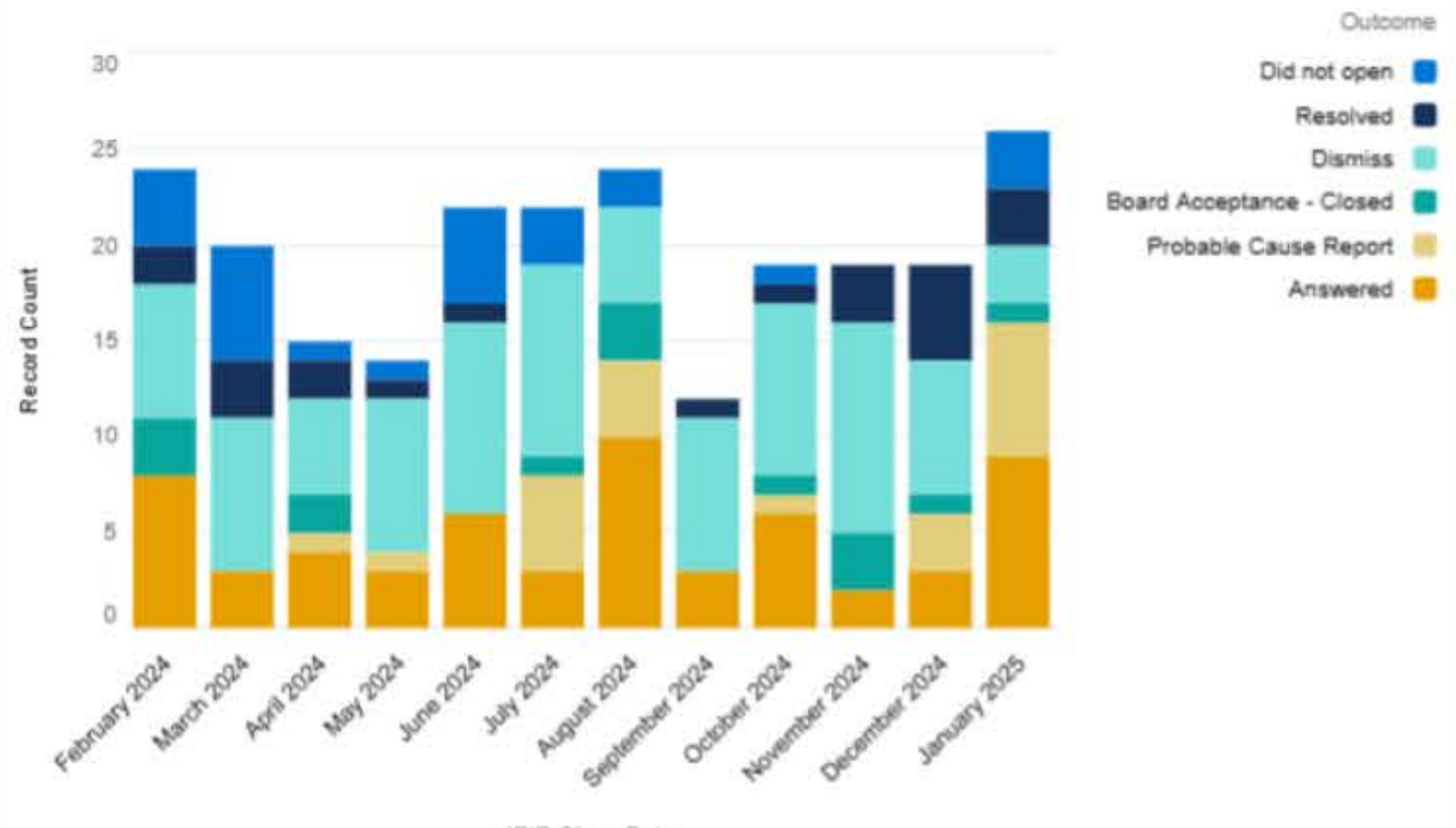


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Broad Type (Filed in Current



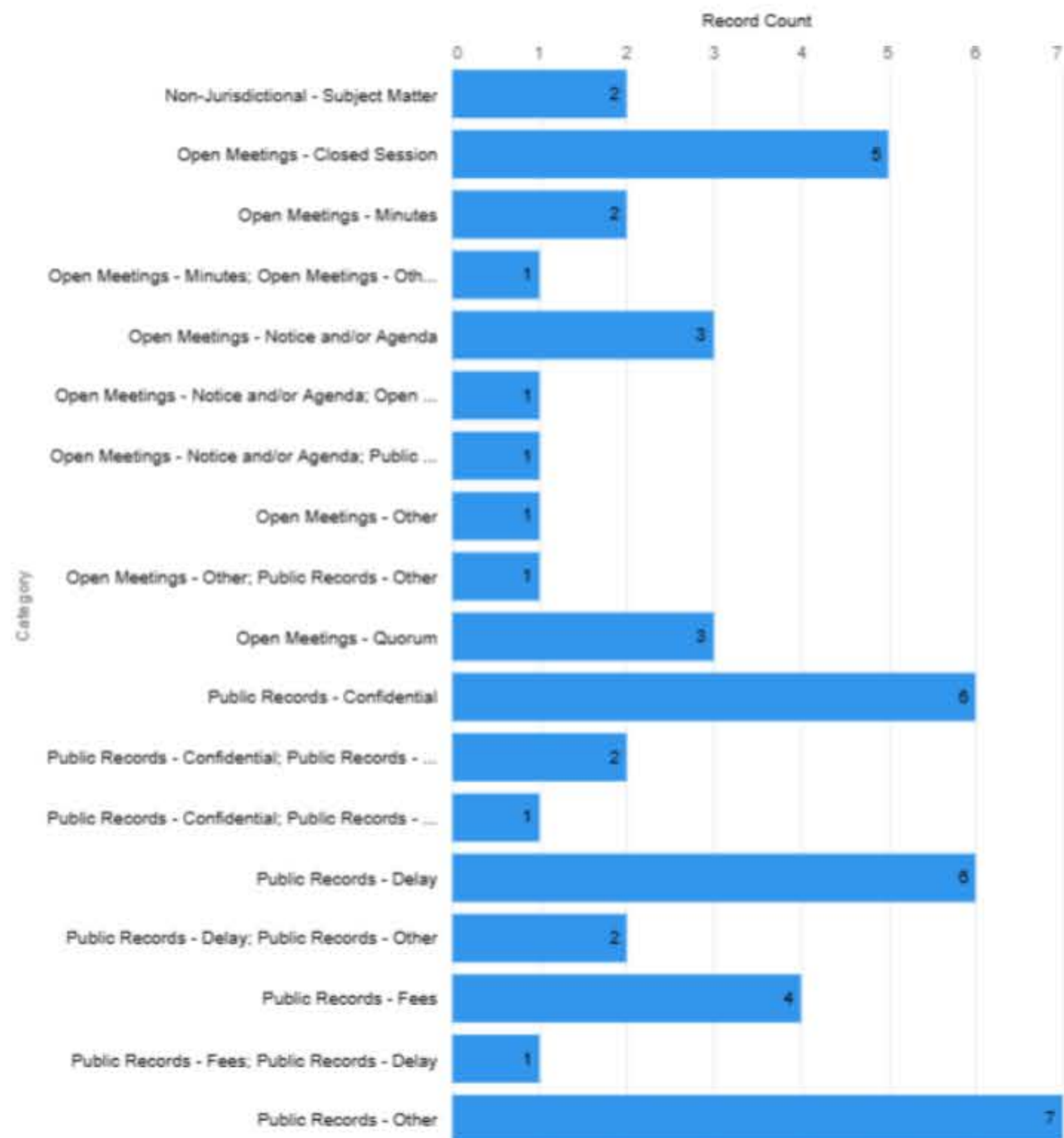
Closed cases (past 12 months)



# Cases by Type

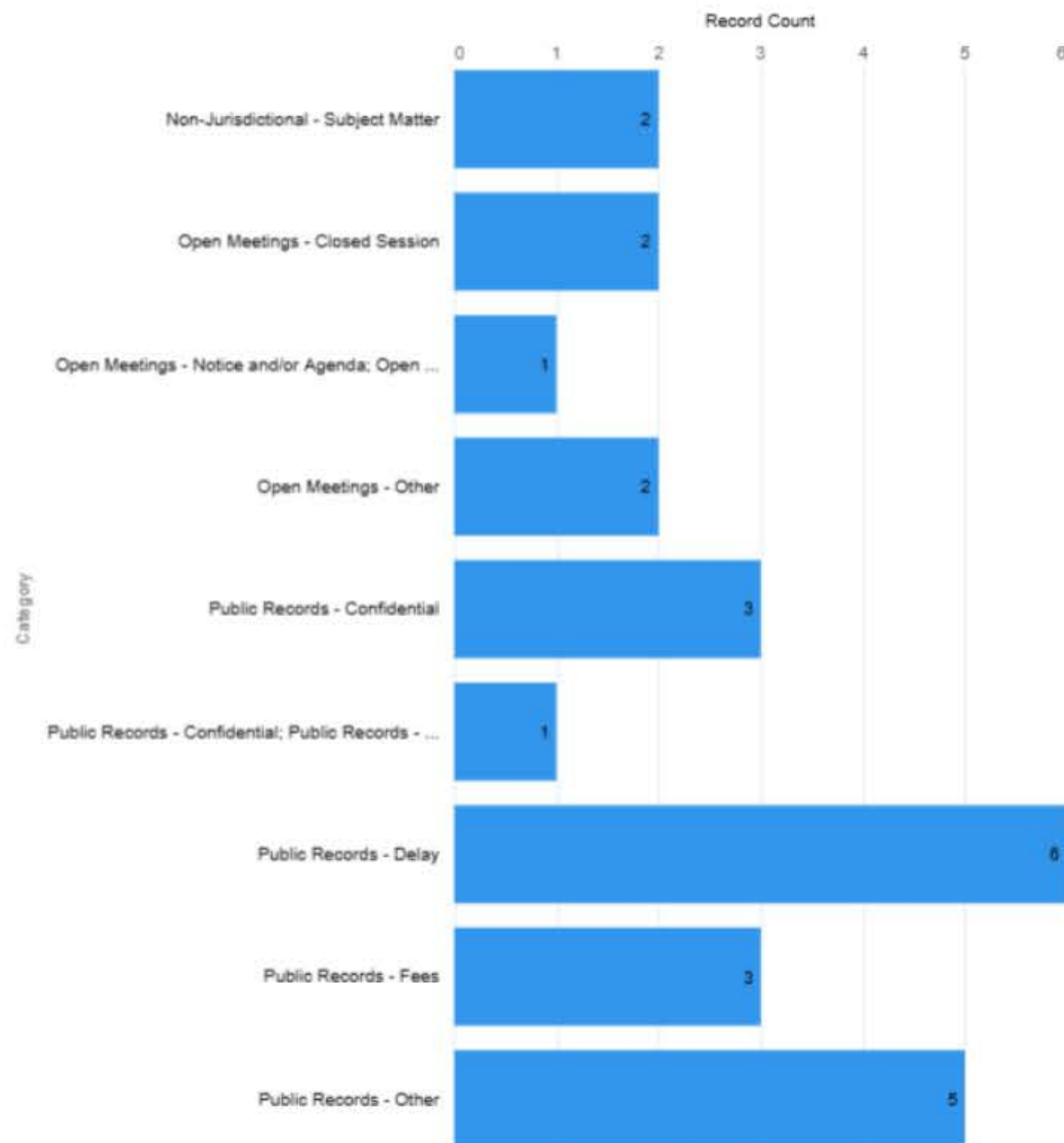
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## Cases by Type (Active)



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## Cases by Type (Filed in Current Year)



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