

IOWA PUBLIC INFORMATION BOARD

MEMBERS

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

STAFF

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

Use the following link to watch the IPIB meeting live:

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

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

Agenda

March 20, 2025, 1:00 p.m.

Conference Room

Jessie Parker Building, East

510 East 12th Street, Des Moines

1:00 PM – IPIB Meeting

- I. Approval of agenda***
- II. Approval of the February 20, 2025 minutes ***
- III. Public Forum (5-minute limit per speaker)**
- IV. Comments from the board chair. (McHugh)**
- V. Potential Closed Session under Iowa Code § 21.5(1)(c)** To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.
- VI. Consent Agenda ***
 - A. Dismissals**
 1. 25FC:0013 (Kevin Kilgore - Both- Department of Management) 2/2/2025
 2. 25FC:0016 (Donnie Anthony - Both- Otho) 2/5/2025
 3. 25FC:0019 (Krystal Weringa - Open Meetings Law- City of Roland, Iowa) 2/11/2025
 - B. Acceptance**
 1. 25FC:0020 (Kira Werstein - Chapter 22- Ames Community School District) 2/12/2025
 2. 25FC:0022 (Steve St. Clair - Chapter 22- Winneshiek County Board of Supervisors and the City of Ossian) 2/17/2025

3. 25FC:0024 (Jason Kensett - Chapter 22- Request was made to "Iowa DCI") 2/21/2025
4. 25FC:0025 (Colby Schumann - Chapter 22- City of Carroll, Iowa Communities Assurance Pool (ICAP)) 3/11/2025
5. 25FC:0001 (Steven Asche - Chapter 22- City of Eagle Grove) 1/10/2025
6. 25FC:0014 (Michael Merritt - Chapter 22- Jasper County, IA) 2/3/2025
7. 25FC:0021 (Jennifer Olson – Chapter 21- City of Marengo) 2/13/2025 -

VII. Advisory Opinion – Deliberation/Action.

1. 25AO:0001 2/18/2025 - Can county attorneys, as lawful custodians of public records, charge fees for the retrieval of public records?
2. 25AO:0002 Mixed-use or personal social media accounts and records requests.

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

1. 24FC:0070 (Brian Thomas - Both- Jefferson County BOS) 8/13/2024 -Final Report
2. 24FC:0092 (Aubrey Burress - Both- Pleasant Grove township) 10/21/2024 – Status Report
3. 24FC:0093 (Timothy Hansen - Chapter 22- Franklin County Sheriff's Office) 10/24/2024 -Probable Cause
4. 24FC:0120 (Paul Dorr - Both- Osceola County, Iowa) 11/27/2024 -Probable Cause
5. 25FC:0015 (Lori Daughenbaugh - Chapter 22- City of Runnells, Iowa) 2/3/2025 -Probable Cause
6. 25FC:0020 (Kira Werstein - Chapter 22- Ames Community School District) 2/12/2025 -Probable Cause

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

1. 24FC:0110-2 (Keegan Jarvis - Chapter 21- City of Swan IA) 1/22/2025 -Withdrawn
2. 25FC:0009 (Bryce Hubert - Chapter 22- City of Maxwell) 1/24/2025 - Withdrawn
3. 25FC:0017 (Lori White - Chapter 22- Missouri Valley) 2/9/2025 -Withdrawn

X. Pending Complaints. Informational Only (Eckley)

3. 24AO:0013 (IPIB) 12/12/2024 - Should interviews for public employees be conducted after the *Teig v. Loeffler* decision?
4. 25AO:0003 (Andrea Collins) 3/6/2025 - Is the City government required to provide unclaimed property information to a tax firm that does not presume to represent a specific client especially when the requests are made quarterly and for records for all claims greater than \$1000.00?
5. 25AO:0004 (Mitchell Flaherty) 2/26/2025 – Meta data requirements
6. 24FC:0129 (Joe Monahan - Chapter 22- Ames Public Library) 12/24/2024 - Board Approval of A/D
7. 22FC:0011 (Jack Swarm - Chapter 21-) 3/1/2022 – Informal Resolution Process
8. 24FC:0064 (Mark Milligan - Chapter 22- Monroe County Sheriff's Department) 7/30/2024 - Board Acceptance of IR
9. 24FC:0089 (Curtis Wagler - Chapter 22- Henry County Sheriff's Office) 10/8/2024 - Information Gathering/IR Process
10. 24FC:0090 (Sarah Weber - Chapter 21- Orange City Council) 10/9/2024 - Information Gathering/IR Process
11. 24FC:0096 (Rachel Dolley - Chapter 21- Commission of Wapello County Veterans Affairs) 10/28/2024 - Information Gathering/IR Process
12. 24FC:0110-1 (Keegan Jarvis - Chapter 21- City of Swan IA) 11/6/2024 - Information Gathering/IR Process
13. 24FC:0113 (Geraldyn Jones - Chapter 21- Linn-Mar Board of Directors) 11/12/2024 - Board Acceptance of IR
14. 24FC:0117 (Michael Merritt - Chapter 22- Jasper County) 11/21/2024 - Information Gathering/IR Process

15. 25FC:0007 (Kelly Smith - Chapter 22- Bettendorf Community School District) 1/22/2025 - Information Gathering/IR Process
16. 25FC:0008 (Britt Gagne - Chapter 22- City of West Des Moines) 1/23/2025 - Information Gathering/IR Process
17. 25FC:0011 (Cliff Williams - Chapter 22- Keomah Village City Council, Mayor and Clerk) 2/1/2025 - Information Gathering/IR Process
18. 25FC:0012 (Matt Loffer - Chapter 22- City of Marengo, Marengo Police Department) 2/3/2025 - Information Gathering/IR Process
19. 25FC:0018 (Tammy Wise - Chapter 21- Tama County) 2/10/2025 - Information Gathering/IR Process
20. 25FC:0023 (Clay Thomas - Chapter 22-) 2/18/2025 - Complaint Opened/Acknowledged
21. 25FC:0026 (Ron Engle - Chapter 22- Iowa Public Employee Retirement System (IPERS)) 3/11/2025 - Complaint Opened/Acknowledged
22. 25FC:0027 (Jerry Hamelton - Chapter 22- Keokuk Police Department) 3/12/2025 - Complaint Opened/Acknowledged

XI. Committee Reports

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

XII. Office status report.

1. Office Update * (Eckley)
2. Financial/Budget Update (FY25) * (Eckley)
3. Presentations/Trainings (Eckley)
4. District Court Update (Eckley)

XIII. Next IPIB Board Meeting will be held on April 17, 2025, at 1:00 p.m.

XIV. Adjourn

*** Attachments**

IOWA PUBLIC INFORMATION BOARD

Unapproved Minutes

February 20, 2025

- I. Approval of Agenda.** On a motion by Martz and second by Giovannetti, to approve the agenda. Unanimously approved, 8-0.
- II. Approval of Minutes.** On a motion by Lindahl and second by Martz, to approve the January 16, 2025 minutes. Unanimously approved, 8-0.
- III. Public Forum.** Joe Monahan addressed the Board regarding 24FC:0129 and 24FC:0130. On a motion by Giovannetti and second by Martz, to remove 24FC:0129 and 24FC:0130 from the consent agenda. Unanimously approved, 8-0.
- IV. Comments from Board Chair.** McHugh provided comments to the Board. McHugh noted new office spaces.
- V. Consent Agenda.** On a motion by X and second by X, to remove 25FC:0001 from the consent agenda. Unanimously approved, 8-0.

A. Consent Dismissals. On a motion by Lucas and second by Giovannetti, to approve 24FC:0131, 25FC:0002, 25FC:0005, and 25FC:0010 as consent dismissals. Unanimously approved, 8-0.

- 1. 24FC:0129 (Joe Monahan - Chapter 22- Ames Public Library) 12/24/2024 (removed from consent; separate deliberation)**
- 2. 24FC:0130 (Joe Monahan - Chapter 22- Iowa City Public Library) 12/24/2024 (removed from consent; separate deliberation)**
- 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 (removed from consent)**
- 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. 24FC:0129 and 24FC:0130.

- 1. 24FC:0129 (Joe Monahan - Chapter 22- Ames Public Library) 12/24/2024.** The Board considered 24FC:0129. Monahan addressed the Board. Board discussion occurred. On a motion by Lucas and second by Martz, to accept 24FC:0129 for further review. Unanimously approved, 8-0.
- 2. 24FC:0130. (Joe Monahan - Chapter 22- Iowa City Public Library) 12/24/2024.** The Board considered 24FC:0130. Monahan addressed the Board. Board discussion occurred. On a motion by Martz and second by Lucas, to dismiss 24FC:0130. Unanimously approved, 8-0.

C. Consent Acceptances. On a motion by Lucas and second by Martz, to approve the consent acceptances. Unanimously approved, 8-0.

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 Opinions.

1. **24AO:0015 (Chuck Isenhardt/City of Dubuque) 12/31/2024 - When are RFP documents no longer confidential under Iowa Code.** On a motion by Lucas and second by Lindahl, to approve the Advisory Opinion with amendment. Unanimously approved, 8-0.
2. **24AO:0016 (Jack Hatanpa) 12/31/2024 - Is a contracted city attorney the appropriate custodian of a records request.** On a motion by Martz and second by Giovannetti, to approve the Advisory Opinion with amendment. Unanimously approved, 8-0.

VII. Cases involving Board Deliberation/Action.

1. **22FC:0011 (Jack Swarm - Chapter 21- Mt. Pleasant) 3/1/2022 -Acceptance.** Swarm addressed the Board. On a motion by Giovannetti and second by Martz, to approve the acceptance report. Unanimously approved, 8-0.
2. **24FC:0013 (Contested Case Settlement - Both- Union County Emergency Management Agency) 2/2/2024 -Final Report.** UCEMA addressed the Board. On a motion by Lindahl and second by Giovannetti, to approve the Final Report and dismiss the contested case as resolved. Unanimously approved, 8-0.
3. **24FC:0052 (Erik Johnson - Chapter 22- Delaware Township) 6/6/2024 -Probable Cause.** On a motion by Martz and second by Lindahl, to accept the probable cause report and dismiss the case. Unanimously approved, 8-0.
4. **24FC:0077 (Kyle Ocker - Chapter 22- Mahaska County Sheriff's Office) 9/9/2024 -Probable Cause.** Mahaska County addressed the Board. Board discussion occurred. On a motion by Giovannetti and second by Lindahl, to accept the probable cause report and dismiss the case. Unanimously approved, 8-0.
5. **24FC:0101 (Erin Sommers - Chapter 21- City of Pocahontas) 10/29/2024 - Final Report.** Sommers addressed the Board. On a motion by Martz and second by Lucas, to accept the Final Report and dismiss the case as resolved. Unanimously approved, 8-0.

6. **24FC:0109 (Joe Goche - Chapter 21- Kossuth County Supervisors and Auditor) 11/5/2024 - Probable Cause.** Goche addressed the Board. Kossuth County Attorney addressed the Board, with other representatives of Kossuth County. Board discussion occurred. On a motion by Martz and second by Lindahl, to approve the probable cause report and dismiss. Unanimously approved, 8-0.
7. **24FC:0113 (Geraldyn Jones - Chapter 21- Linn-Mar Board of Directors) 11/12/2024 – Informal Resolution.** On a motion by Lucas and a second by Giovannetti, to approve the Informal Resolution Report. Unanimously approved, 8-0.
8. **24FC:0123 (Rachel Wherley - Chapter 22- Estherville Lincoln Central CSD) 12/6/2024 - Probable Cause.** Wherley addressed the Board. Counsel for the Estherville Lincoln Central Community School District addressed the Board. Board discussion occurred. On a motion by Martz and second by Giovannetti, to approve the probable cause report and dismiss. Unanimously approved, 8-0.
9. **24FC:0125 (Anthony Wynkoop - Chapter 22- Clinton Iowa PD) 12/12/2024 - Probable Cause.** On a motion by Lindahl and second by Lucas, to approve the probable cause report and dismiss. Unanimously approved, 8-0.
10. **25FC:0003 (Robert Roquet - Chapter 22- City of Jesup) 1/13/2025 - Probable Cause.** On a motion by Martz and second by Corbin, to approve the probable cause report and dismiss. Unanimously approved, 8-0.

VIII. Matters Withdrawn, No Action Necessary.

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.

1. 24AO:0013 (Erika Eckley) 12/12/2024 - New / Question Information Reviewed How 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. Eckley addressed the Board and presented information. Board discussion occurred. On a motion by Martz and a second by Lindahl, to approve the use of the pilot project as the permanent process for complaints. Unanimously approved, 8-0.

X. Committee Reports

1. **Training.** Lee addressed the Board and discussed the status of the Training Committee.
2. **Legislative.** Eckley addressed the Board and discussed the status of legislation during the 2025 legislative session.
3. **Rules.** Murphy addressed the Board and reviewed the status of administrative rules drafts.
 - a. **Deliberation/Action on Current Draft Rules to Proceed to Stakeholder Outreach.** On a motion by Martz and a second by Lucas, to advance the draft of the administrative rules to stakeholder outreach. Unanimously approved, 8-0.

IPIB staff was directed to create a comparison draft between old and new versions to provide for stakeholder feedback.

XI. Office Status Report.

1. **Office Update.** Eckley provided an update regarding the new office space.
2. **Financial/Budget Update (FY25).** Eckley reviewed the financials.
3. **Presentations/Trainings.** Eckley provided an update regarding future presentations and trainings.
 - a. State Library
 - b. Iowa State Deputies Association
4. **District Court Update.** Eckley provided an update regarding pending and new court cases.

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

XIII. Adjourn. Meeting adjourned at 3:48 p.m.

The Iowa Public Information Board

In re the Matter of:	Case Number: 25FC:0013
Kevin Kilgore, Complainant	Dismissal Order
And Concerning:	
Department of Management, Respondent	

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

On February 5, 2025, Kevin Kilgore filed formal complaint 25FC:0013, alleging the Department of Management violated Iowa Code chapters 21 and 22.

Facts

Kevin Kilgore alleges the Department of Management violates Iowa Code chapters 21 and 22 because he believes an online excel spreadsheet provided by the Department does not align with the statutory changes mandated by legislation in determining the levy rates for property taxes set by local governments. His complaint involves his analysis of this online spreadsheet provided and seeks corrections he asserts are needed to comply with Iowa Code § 331.423. He further argues the online budget form is not capable of auditing the budgets for noncompliance or inaccuracies.

He argues a chapter 21 violation has occurred because the Department's administrative rules do not have a complaint mechanism for him to submit his assessment that the Department's spreadsheet does not align with his interpretation of Iowa Code § 331.423. He also argues that the Department violated chapter 22 because portions of the spreadsheet are password protected, and the Department is in violation because it cannot prevent access to a public record merely because it is part of a data processing software.¹

¹ He alleges this is related to a complaint he previously filed regarding the legislature's failure to have a revised Iowa Code on the legislative website in a timely fashion. (This complaint is currently on appeal with the district court for IPIB's failure to adjudicate the complaint as outside its jurisdiction granted under Iowa Code chapter 23.)

Kilgore supplemented his complaint multiple times and provided additional documentation including the instructions for completion of the county budgeting online requirements from the Department, the county levy calculation instructions, and email responses from the Department.

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

Kilgore couches his complaint as a violation of Iowa Code chapters 21 and 22, but he provides no evidence there have been any violations of either of these chapters.

Kilgore alleges the Department’s lack of a mechanism for his complaint regarding the budgetary spreadsheet provided to local governments is a violation of Iowa Code chapter 21. However, nothing within Iowa Code chapter 21 requires a complaint mechanism exist within an agency’s administrative rules. Iowa Code chapter 21, instead, requires notice and other requirements when a government body holds a meeting.

Iowa Code § 21.2(2) states a “‘Meeting’ means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.” Iowa Code § 21.2(3) states an “‘Open session’ means a meeting to which all members of the public have access.”

Nowhere within Iowa Code chapter 21 is a requirement for and agency to adopt administrative regulations outlining a “complaint mechanism” for the public’s interpretation of the statutory requirements of a budgeting worksheet provided by the state agency or any other type of assistance and administration within the agency’s powers. Kilgore advances no specific allegation beyond his desire for a complaint mechanism outside the emails he sent to the Department. He points to

no specific provision within Iowa Code chapter 21 he alleges was violated. Despite his multiple filings, he has provided no evidence of any violation of Iowa Code chapter 21.

In regards to Kilgore's complaint the budgeting spreadsheet violates Iowa Code chapter 22 because the spreadsheet contains password-protected provisions, there is also no actual violation alleged. Documentation provided by Kilgore shows the Department was responsive to his questions regarding the spreadsheet and promptly provided the information from the document he requested. Again, he points to no specific provision within Iowa Code chapter 22 to bolster his belief that the Department's online form should allow full review and manipulation of all cells and formulas. His allegation does not align with the requirements of Iowa Code chapter 22. He requested the public information. He received the public information requested. There is no violation of Iowa Code chapter 22.

Despite couching the complaint as violations of Iowa Code chapters 21 and 22, Kilgore's actual complaint is his belief the Department's spreadsheet does not comply with his interpretation of Iowa Code § 331.423 as amended by legislation in 2024. Interpretation of Iowa Code § 331.423 and its application within a spreadsheet provided to local governments to comply with their budgeting responsibilities is outside the jurisdiction of IPIB. IPIB is limited to addressing complaints within the jurisdictional authority granted by Iowa Code chapter 23 only, so this complaint must be dismissed.

Conclusion


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

There are no violations of Iowa Code chapters 21 or 22 alleged in the complaint. The remaining issues regarding the statutory interpretation of Iowa Code § 331.423 are outside IPIB's scope and jurisdiction.

IT IS SO ORDERED: Formal complaint 25FC:0013 is dismissed as it is legally insufficient, without merit, and frivolous 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 March 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 March 5, 2025, to:

Kevin Kilgore

The Iowa Public Information Board

In re the Matter of: Donnie Anthony, Complainant And Concerning: City of Otho, Respondent	Case Number: 25FC:0016 Dismissal Order
--	---

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

On February 5, 2025, Donnie Anthony filed formal complaint 25FC:0016, alleging the City of Otho (City) violated Iowa Code Chapter 21.

Facts

Anthony alleges members of the City Council and Mayor are “operating as a gang and like a gang to control private citizens using their power as a weapon to systematically, openly harass and intimidate residents targeting who they perceive as a threat, using zoning and code enforcement to exert dominance while maintaining a façade of legitimacy in the community.” Anthony also alleges the mayor and three council members were at a mower repair shop and were “having some kind of meeting.” He recognized two of the council members, but did not know their names.

Applicable Law

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

“Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.” Iowa Code § 21.3(2).

“Except as provided in subsection 3, a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.” Iowa Code § 21.4(1).

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

Analysis

After opening the complaint, Anthony has continued to raise numerous serious allegations against the City. Most of the issues raised are outside the scope of IPIB’s jurisdiction and some of the allegations have been raised to law enforcement. Anthony also states he has been busy with other events and is in the process of gathering additional evidence to support his complaint.

At this time, IPIB finds there is insufficient information to support the finding of a facial violation. Anthony has not provided information regarding which council members were present, whether the content of their discussion constitutes a meeting, or that a meeting was held without notice or agenda. Anthony states he is collecting additional evidence and has been advised to file a complaint with IPIB when his process is complete.

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.

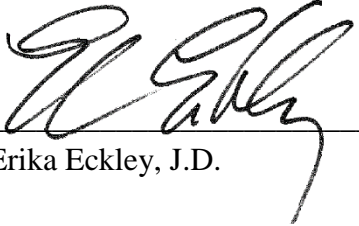
The complaint makes several allegations against the City, including an allegation that a meeting took place at a mower repair shop. At this time, the complaint is legally insufficient to demonstrate a facial violation of the law. Anthony has been advised to refile his complaint when sufficient information exists.

IT IS SO ORDERED: Formal complaint 25FC:0019 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 March 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 March 11, 2025, to:

Donnie Anthony, Complainant

The Iowa Public Information Board

In re the Matter of: Krystal Weringa, Complainant And Concerning: City of Roland, Respondent	Case Number: 25FC:0019 Dismissal Order
---	---

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

On February 11, 2025, Krystal Weringa filed formal complaint 25FC:0019, alleging the City of Roland violated Iowa Code Chapter 21.

Facts

On February 11, 2025, Weringa filed a complaint alleging the City of Roland failed to properly post minutes within 15 days. The complaint further stated, “I’m also wondering if they are including all the needed information in their minutes.”

In response to the complaint, IPIB staff reviewed minutes available on the City’s website for timeliness and content.

Applicable Law

“Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.” Iowa Code § 21.3(2).

Analysis

Weringa’s first allegation within the complaint is based on the timing of the posting of minutes. Weringa states the minutes are not being posted within 15 days. There is nothing within Iowa Code § 21.3(2) establishing minutes be posted on the governmental body’s website or that minutes be posted within a specific timeframe. Rather, the law requires that governmental bodies keep minutes and make those minutes available to public inspection as public records. There is nothing alleged by Weringa indicating the City is not complying with the law in Chapter 21.

Weringa's second allegation questions the content of the minutes. It is unclear from Weringa's complaint whether this is truly a component of the complaint or curiosity. Due to the ambiguity, IPIB staff reviewed available records to determine whether facial information existed to support Weringa's question or allegation. IPIB staff reviewed minutes on the City's website and found the minutes included all required information. Iowa law requires that minutes show the date, time and place of the meeting, the members present, the action taken, the results of each vote taken, and information sufficient to indicate the vote of each member present. Iowa Code § 21.3(2).

Conclusion

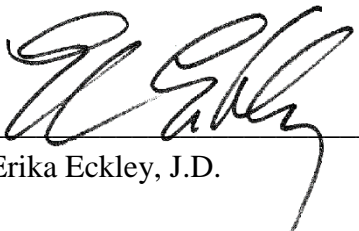
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The complaint alleges that minutes are not appropriately posted within 15 days on the City's website. There are no legal posting or timeframe requirements for meeting minutes of governmental bodies. The complaint further questions whether the content of minutes is appropriate. IPIB staff found the minutes to include all information required by law.

IT IS SO ORDERED: Formal complaint 25FC:0019 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 March 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 March 5, 2025, to:

Krystal Weringa, Complainant

IPIB Case Number	Contact Name	Name of Entity Involved	Complaint Type	Description	Board Meeting Consent
25FC:0001	Steven Asche	City of Eagle Grove	Chapter 22	<p>To IPIB Board I Steven Asche am Filing an additional Formal Complaint to the IPIB Board. I was informed by the IPIB Board that at the meeting December 19, 2024, that I had received everything. This email is regarding my former complaint. Case: 24FC:0056 It appears that the City of Eagle Grove was not truthful with the FOIA request I had filed with the State IPIB Board. I was informed during The last IPIB Board Meeting Dated December 19, 2024, That the City of Eagle Grove had supplied me with everything. They have not done so. *FOIA request to the City of Eagle Grove by a citizen of Eagle Grove. I then received a copy of its findings. Please see attached records the City has received from the previous City Attorney, Eagle Grove Recreation, and other City officials, organizations, contractors, or consultants. These records were furnished by the previous City Attorney. On January 2, 2025, I received a batch of emails that have been provided regarding FOIA request by a different citizen in the community. The emails were from the former City Attorney, Wright County, citizens of the community, City Administrator, Attorney representing the Rec Board, City Council members. Some fifty-five pages. Can you explain why these emails were not produced as part of the formal complaint of ?Any and All,? that I had filled out. Kim Murphy has been provided these documents in question. This shows that there is more information, and the City of Eagle Grove is not up front about what information is being produced. During my correspondence with the IPIB Board, dated December 10, 2024, I raised numerous questions and concerns. My email prior to the December 19, 2024. I also voiced my continued concerns during this IPIB meeting. On Tue, Dec 10, 2024, at 6:17?PM Steve & Melia Asche <aschesm@gmail.com> wrote: Any and all communication / not just documents. Also, the Former City Attorney was also part of the city during this time period. As I had asked before, what is to take place when there is discovery of information and or documents that were not produced per my request, and the State of Iowa Request? The City of Eagle Grove has failed to produce documents, and how many more will be discovered? Can the IPIB Board provide me with their Formal Opinion, as to the next step that I need to take, and or what does the State of Iowa do regarding additional discovery? To my understanding this would need to proceed to a Complete Audit and or the court system. As the City has Failed both The State Of Iowa?s request as well as my request. Steven Asche</p>	Accept
25FC:0004	Linda Reardon-Lowry	Gladbrook-Reinbeck School District Christine Harms - Board Secretary Caleb Bonjour -Superintendent	Chapter 22	<p>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</p>	Accept
25FC:0003	Robert Roquet	City of Jesup	Chapter 22	<p>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.</p>	Accept
25FC:0006	Jordan George	City of Palo, Iowa	Chapter 22	<p>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.</p>	Accept

25FC:0014	Michael Merritt	Jasper County, IA	Chapter 22	On 18 DEC 2024, Jasper County, IA was requested to providing billing documents related to their Microsoft 365 commerical vendor subscriptions. As with the majority of all requests submitted to Jasper County, IA the evidence indicates the Jasper County, IA Attorney's office has once again disregarded a public records request. The purpose of this request is to gather data to build a statewide database that will halt the evidence of unethical fees that some government bodies are currently deploying.	Accept
25FC:0020	Kira Werstein	Ames Community School District	Chapter 22	The Ames Community School District allegedly violated Iowa Code Chapter 22 by withholding public records. On January 31, 2025, I requested video recordings of my daughter's interaction with Ms. Fuqua, assistant principal. On February 3, Mr. Sevond Cole stated no such records existed and that the office lobby had no cameras. On February 11, he claimed new cameras became operational on February 4, 2025. However, multiple teachers informed me that cameras were active all year. Fearing retaliation, they requested anonymity. This contradiction suggests video footage existed but was withheld. I request the Board investigate whether records were unlawfully withheld, require the district to provide records or explain their absence, obtain internal communications on camera installation, and enforce corrective actions to ensure compliance with Iowa Code Chapter 22. I am happy to share my email correspondence with Mr. Cole, but there is no place to upload documents that I see.	Accept
25FC:0021	Jennifer Olson	City of Marengo, Personnel Committee	Chapter 21	After the public city council meeting Adam Rabe informed Karen Wayson and John Hinshaw that they were to stay to have a brief personnel committee meeting. There was no agenda, and no notification posted about the meeting. This meeting occurred at approximately 7:12pm, right after the council meeting adjourned.	Accept

25FC:0022	Steve St. Clair	The Winneshiek County Board of Supervisors and the City of Ossian. The governmental entities associated with the other government employees/officials listed above were also involved, less directly.	Chapter 22	<p>OVERVIEW: On August 16, 2024, I emailed Dan Langreck an open records request for all of his official communications as a Winneshiek County Supervisor since the first of that year, and separately emailed him a comparable request for his communications as a member of the Ossian City Council. Holding both positions creates the possibility of conflicts of interest, and a review of such communications could shed light on that issue. These August requests were made about 11 weeks in advance of the November 5 election in which Supervisor Langreck was running for re-election. BACKGROUND: This complaint is informed by the following principles, which are familiar to the IPIB, but less so to others who might read this complaint. Although the time allowed to produce requested records depends on several factors, requests are to be fulfilled as soon as feasible. The law contemplates immediate access to public records, and absent special circumstances or a good faith effort, six weeks [42 days] would generally be considered unacceptable. [14FO:0004]. A responding entity should provide a timeline for fulfillment within the first few business days of the request. [22AO:0004] Prepayment of the actual and reasonable costs of production may be required, but the estimated expense must be given upon receipt of the request. [22AO:0003] Fees may have the effect of limiting access to public records [22AO:0003], and the determination of a reasonable fee must be done in a very deliberative and collaborative manner. [15AO:0004] Charges may cover staffing as well as copy costs, but charges for an employee's time must focus on hourly wages, and may not include health insurance or other employee benefits. Neither can a requester be charged for the entity's overhead (such as electricity, maintenance, or the like). [20AO:0002; Iowa Code section 22.3(2)] VIOLATIONS ? DELAYS AND COSTS: The Open Records Law was apparently violated by the repeated delays in responding to the August 16, 2024 records request, and by the handling of costs. The full course of communications between the requester and the various officials (consisting primarily of emails, but also scans of mailed reimbursement checks and an invoice) will be submitted electronically with this complaint. Unacceptable delays included: 1. Delaying until October 6, 2024 (44 days) for Mr. Langreck to respond to my August 16th request for the projected costs. That October 6th response was confusing (as he explained at the time, probably should not do this during a football game?), and it was not until October 13th (51 days) that he clearly stated that two \$500 deposits would be required to cover the costs of fulfilling the requests, one deposit with the County Auditor and one with the City Clerk. Although having to pay \$1000 to proceed with the requests was arresting, the deposits were promptly made as instructed, on October 14 (county) and October 15 (city). 2. Delaying until November 7, 2024 (90 days after the request, and two days after the election) to provide the first instalment of requested records, consisting of 34 hard-copy pages of Langreck's Ossian-related communications, sent by City Clerk Goltz. Note that Goltz had originally provided a same-day email response to the initial records request on August 16th, saying she would contact Langreck, determine the projected time and costs, and that I could expect a reply sometime next week. It is</p>	Accept
25FC:0024	Jason Kensett	Request was made to "Iowa DCI". Response was from Open Records Custodian.	Chapter 22	I submitted request for documents from 15 years ago. Was denied with a blanket statement of being confidential and directing me to go through a lawyer if it is a pending case. Even if it was a pending case it still wouldn't matter because the statute of limitations has long expired or the case has been adjudicated. Failure to articulate a reason to withhold records is the same as no reason. The burden is not on the Citizen to prove to a servant of the people they have a right, it is the burden of the servant to show cause to deny a right. Blanket denials do nothing to serve the public and only serves to protect tyrants.	Accept
25FC:0025	Colby Schumann	City of Carroll, Iowa Communities Assurance Pool (ICAP)	Chapter 22	We have requested maintenance records for the sewer lines on E. 11th St. and Forest St. in Carroll. We requested these because we had sewage backup in our basement. When we requested these records on 1/31 we were questioned by Randy Krauel as to why we wanted them. I said because we had sewage backup and was willing to get a lawyer if need be. Was told they would have to speak to their attorney before proceeding, never heard back. My wife called the City of Carroll on 2/24 to request the sewer maintenance records. My wife was transferred to the waste water department and spoke to Sean, the waste water superintendent who stated "I have been advised by Randy Kraul not to give out any records for that street due to possible lawsuit against the city." My wife then placed a call to Randy Kraul who stated " We have been advised by our insurance company (Tonia) not to give out maintenance records for E 11th St. due to a possible lawsuit against the city." We are looking to obtain records.	Accept



510 East 12th Street
Des Moines, Iowa 50319
www.ipib.iowa.gov

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

Advisory Opinion 25AO:0001

DATE: March 6, 2025

SUBJECT: Fees charged by county attorneys as lawful custodians of public records

This opinion concerns fees charged by county attorneys for the production of public records when county attorneys are the lawful custodians of the records. Advisory opinions may be adopted by the Iowa Public Information Board (IPIB) pursuant to Iowa Code section 23.6(3) and Rule 497–1.2(2): “[t]he board may on its own motion issue opinions without receiving a formal request.” IPIB’s jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in an IPIB opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

QUESTION POSED:

Can county attorneys, as lawful custodians of public records, charge fees for the production of public records pursuant to Iowa Code Chapter 22?

OPINION:

It is clear the lawful custodian of a public record has the right to charge reasonable fees for retrieving and producing the public records.¹ The question posed is whether county attorneys, as lawful custodians, can charge reasonable fees for the fulfillment of a public records request or if they are able only to charge fees affiliated with their role as legal counsel to the government body.

IPIB’s opinion is that the office of the county attorney can charge reasonable fees for the retrieval and production of a public record. This ability exists separate and apart from authority to charge the legal fees for review and redaction of public records as counsel to a government body.

This Advisory Opinion will analyze three components of Iowa Code Chapter 22 to support this position: The definition of a government body, the definition of a lawful custodian, and the role of counsel to redact or review legally protected confidential information.

Definition of a Government Body

Iowa Code § 22.1(1) defines a government body broadly to include any county and any branch, department, board, bureau, commission, council, committee, official, or officer of the county, or any employee of the county

¹ See, e.g. *Teig v. Chavez*, 8 N.W.3d 484, 496 (Iowa 2024); 22AO:0003 Reasonable Fees for Producing Records Requests (June 16, 2022); 21AO:0006 Fees for Public Records (September 16, 2021).

Board Members

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

delegated the responsibility for implementing the requirements of Chapter 22. Without question, the breadth of the definition of government body includes the county attorney and the county attorney's office. The county attorney is an official or officer of the county and the county attorney's office is a department of the county. This means the county attorney and the county attorney's office are an independent government body uniquely subject to Iowa Code Chapter 22.

Definition of a Lawful Custodian

Iowa Code § 22.1(2) goes on to define a lawful custodian, which means the government body currently in physical possession of the public record. As noted above, a county attorney and the county attorney's office constitute a government body. Therefore, the county attorney and the county attorney's office can be the lawful custodian of a public record in physical possession of a public record.²

It is true the county attorney's office may also represent other departments, boards, bureaus, commissions, councils, committees and officials within the county and may not be the lawful custodian of all public records for these county offices and political subdivisions. But, it is equally clear the county attorney's office would be the lawful custodian of its own public records. There are no exceptions within Iowa Code Chapter 22 that differentiate the county attorney's office from other government bodies in regards to the duty to respond to public records and their role as custodian.

This does not mean exceptions do not exist. Iowa Code Chapter 22 does explicitly identify situations in which response to a public record must be treated differently due to the unique nature of the government body. The law makes clear exceptions in two circumstances:

1. A county recorder shall not charge a fee for the examination and copying of public records necessary to complete and file claims for benefits with the Iowa department of veterans' affairs or the United States department of veterans' affairs; and
2. Costs for legal services should only be utilized for the redaction or review of legally protected confidential information. Iowa Code § 22.3(2).

It is the second exception that creates confusion and is the focus of this Advisory Opinion.

Role of Counsel Pursuant to Iowa Code Chapter 22

There is a difference between the function of the lawful custodian retrieving and producing public records and of an attorney for the lawful custodian performing legal analysis reviewing legally-protected, confidential information to determine which portions should be wholly retained as confidential or redacted and produced. The county attorney is a unique public office as it can be required to perform both functions.

Iowa Code § 22.3(2) states the lawful custodian may charge a reasonable fee for the services of the lawful custodian in supervising the examination and copying of the records. The fee for the lawful custodian's services may not exceed the actual cost of providing the service and may not include charges for ordinary expenses such as employment benefits, electricity, or maintenance. A secondary provision states that costs for legal services should only be utilized by the lawful custodian for the legal review of confidential information. Iowa Code § 22.3(2); 23AO:0002 Costs for legal services.³

² See 23AO:0006: Who is the lawful custodian when there are multiple levels of political subdivisions involved?

³ "a lawful custodian may only charge for the time an attorney spends redacting or reviewing legally protected confidential information is 'review of legally protected confidential information.' 'Review of' legally protected confidential information implies that the information under review has already been determined to be legally protected and confidential."

The reasonable fees for the lawful custodian's retrieval of the public records and the fees for legal services are the actual costs incurred for two separate functions that may be required to fulfill a public records request under Iowa Code chapter 22. The lawful custodian for the county attorney and county attorney's office can charge fees separately for both functions, if applicable. Merely because the lawful custodian may also be an attorney, does not prohibit the lawful custodian from charging fees for the actual cost of the retrieval of the public records in fulfilling the request. When the county attorney is the lawful custodian of a public record, the county attorney or county attorney's office can charge reasonable fees for the retrieval and production of public records consistent with Iowa Code Chapter 22. These retrieval fees are separate and apart from any legal fees charged for an attorney's review of legally-protected, confidential information to be withheld or redacted.

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:

Kim Murphy,
Deputy Director
Iowa Public Information Board

ISSUED ON:

March 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.



510 East 12th Street
Des Moines, Iowa 50319
www.ipib.iowa.gov

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

Advisory Opinion 25AO:0002

DATE: March 20, 2025

SUBJECT: Mixed-use or personal social media pages and Iowa Code chapter 22 requirements

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

QUESTION POSED:

How does Iowa Code Chapter 22 apply to social media pages of public officials and employees that are not clearly designated as official government pages or include a mixture of personal and potentially government-related posts?

OPINION:¹

The question of whether social media can be a public record is a relatively easy question when a social media account is clearly identified as of or belonging to a government body.² The question becomes more difficult when the social media account belongs to an individual who is an elected official or public employee and the account contains a combination of personal information, such as posts about their family life, and government business, such as updates on city-wide projects or other policy decisions.³ The United States Supreme Court recently grappled with the question of whether a personal social media account maintained by a public employee could be considered government action subject to § 1983 liability for blocking an individual from the site and potentially limiting their speech. *Lindke v. Freed*, 601 U.S. 187 (2024). The *Lindke* case is applicable to analyzing individual social media accounts and Iowa Code chapter 22 requirements.⁴

¹ The IPIB appreciates the invaluable assistance and insights provided by the social media workgroup that included representatives from the Iowa Association of School Boards, the Iowa Ethics and Campaign Disclosure Board, the Iowa Freedom of Information Council, the Iowa League of Cities, the Iowa Newspaper Association, and the Iowa State Association of Counties.

² For more guidance on government-owned social media and public records requests, see 24AO:0012: Public Records Requests and Government-Moderated Social Media

³ For ease, these mixed-use social media pages will be referred to as personal or individual social media pages.

⁴ The IPIB does not have jurisdiction to make determinations regarding constitutional questions, and as such, this advisory opinion does not address constitutional issues that may arise from an individual’s social media pages.

Board Members

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

In *Lindke*, the Court examined the implications of an individual’s mixed-use Facebook account. The individual was a city administrator. His account included his job title and included posts related to both city business and his personal life. In reviewing the claim, the Court acknowledged public officials have the capacity to speak in the “official capacity” when using speech to fulfill “responsibilities pursuant to state law” but also “in his own voice” when not “in furtherance of his official responsibilities.” *Id.* at 202.

The analysis for speech used in *Lindke* is similar to the analysis of Iowa’s public records law under chapter 22. “By statutory definition, a public record is a record or document of or belonging to the state or local government. A document of the government is a document that was produced by or originated from the government. Documents belonging to the government would include those documents that originate from other sources but are held by public officers in their official capacity.” *City of Dubuque v. Dubuque Racing Ass’n*, 420 N.W.2d 450, 452 (Iowa 1988); *See also* 24AO:0007: Are private email communications sent from a government email address public records?; 21AO:0009 Public records maintained on privately-owned electronic devices.

Due to the open and public nature of social media, there is lower risk the documentation or decision-making of a government body is being hidden from the public, but there are still requirements to comply with public records requests that may include an individual’s social media activity when engaged in public business related to the person’s official capacity.

Individual Posts

In regards to individual, posts on personal social media pages, the inquiry regarding whether the post is subject to public records requirements would be determined by the content of the post itself. *See 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.”) Under *Lindke* “we can safely presume that speech on a ‘personal’ page is personal (absent significant evidence indicating that a post is official)” in which case “a fact-specific undertaking of the post’s content and function are the most important considerations.” 601 U.S. at 202.

A post about the family vacation or the decision to adopt a puppy would almost certainly not be subject to a public records disclosure. A post about updates on a new city-sponsored recreational facility or road paving project could likely be related to the government business of a city employee if there are sufficient indicators the post is of or related to the government business.

In considering whether an individual post is of or related to the government business, and would be a public record, factual considerations should include the following:

1. Whether there is an express invocation of government authority;
2. Whether there is an immediate legal effect;
3. Whether the post is available elsewhere, such as on an official government website or social media page;
4. Whether the post is related to an area within the government official’s responsibilities.⁵

For instance, a roads maintenance worker could post information about a policy on solar panels being considered by the local county board of supervisors. But, this would not be a public record because the post does not meet any of the factual considerations. The approval of siting solar panels would not be within the scope of the roads maintenance employee. The employee does not have the government authority to implement the policy or the legal authority to invoke the authority. The solar panel policy would be available through the official county website or from the board of supervisors meeting materials. So, the post on the roads maintenance employee’s social media page would likely be their personal opinion rather than a public record subject to Iowa Code chapter 22 requirements even though the subject may be something within the broader county government’s decision-making scope.

⁵ *See Lindke* 601 U.S. at 203.

If a post meets the factual considerations of government business, then public access to the social media page, like the government body's official social media page, is sufficient to meet the requirements of disclosure under Iowa Code chapter 22.⁶

Sharing, Reposting and Likes from Government-Moderated Pages

A personal social media page that merely reposts, likes or shares a post from a governmental social media page would not be a public record.⁷ The public record would be the original government post on its official government-moderated social media page. The repost, sharing, or liking the original post is not a separate communication of or concerning government business. It would be more akin to a photocopy of the original public document rather than the creation of a new or additional government record. Access to the original post from the government-moderated site is sufficient to meet the government body's requirements under Iowa Code chapter 22.

Analytics and Background Settings for Site as a Whole

An individual can set personal preferences on their social media. This could include notifications, social media accounts the individual chooses to follow, and blocking content or other individual social media users. Social media may also allow an individual to choose to block algorithm-generated posts that may be personally offensive or not in alignment with an individual's personal beliefs, values, or political leanings. Blocking on Facebook or other social media sites can be a blunt instrument that impacts the entire social media feed and does not allow an individual to designate between potentially governmental public posts and personal posts. Disclosing a block list or other personal settings of an individual would likely also require disclosure of an individual's choice of association and preferences. This would likely violate the individual's personal freedoms of association and/or reveal other personally-identifiable, personal information. Iowa Code § 22.7 makes confidential personal information such as library books checked out by a patron, certain personal information about an employee, gambling treatment program participants, public assistance, etc.

As the Court indicated in *Lindke*, there is no way to determine the tipping point upon which a private individual's social media account becomes an official government site.⁸ Requiring an individual to disclose a personal block list or other analytics or settings in their social media page would require disclosure of personal and protected information with little benefit to the general public and would not be required under Iowa Code chapter 22 as it would not be a record of or belonging to the government body.

Best Practices-

To better ensure clear boundaries for compliance with Iowa Code chapter 22 between a personal social media page and a government-moderated or public official's page, the following best practices are recommended.

- If the social media is a personal page, clearly label the social media page as personal, including statements such as: "This is the personal page of..." or with disclaimers such as "The views expressed are strictly my own." *Lindke*, 601 U.S. at 202.
- Avoid utilizing a personal social media page for clearly governmental functions, such as soliciting public comments on regulations or policies, hosting live council meetings, or similar official government-focused communications or functions. *Id.* at 203.

⁶ See 24AO:0012: Public Records Requests and Government-Moderated Social Media ("[T]he government body may satisfy its responsibilities as lawful custodian by directing the requester to the public social media page, as doing so provides the requester with access in the same format that the government body itself enjoys. ... the government body may also choose to produce a record in another format according to the requester's preferences, but this is not required, and the government body may then charge 'reasonable costs of any required processing, programming, or other work required to produce the public record' in that format, along with any other costs authorized elsewhere in Chapter 22.")

⁷ "[I]t is much more likely [the public employee] is engaging in private speech 'related to his public employment' or 'concerning information learned during that employment'" rather than exercising the power of his office [of or concerning the government business]. *Lindke*, 601 U.S. at 203.

⁸ See *Lindke*, 601 U.S. at 203-04.

- Avoid posting personal information on an official or government-moderated social media page.
- Social media pages for candidates should follow specific guidance from the Iowa Ethics and Campaign Disclosure Board regarding the required disclosures and their limited use.

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:

Iowa Public Information Board

ISSUED ON:

March 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

<p>In re the Matter of:</p> <p>Brian Thomas, Complainant</p> <p>And Concerning:</p> <p>Jefferson County Board of Supervisors, Respondent</p>	<p>Case Number: 24FC:0070</p> <p>Final Report</p>
--	---

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

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

Supervisor Discussion as a Meeting

A quorum of the Board was audio recorded having a conversation about the topics upon which it exercised decision-making. Even if the conversation did not rise to 'deliberation' between the supervisors, it is difficult to find that there was no intention by the supervisors to avoid the purposes of the open meeting requirements.

Records Requests

Thomas made a request regarding documents related to Thomas' employment situation. It was not possible to determine whether all public records have been provided, whether documents not provided were properly withheld as confidential, and what efforts were taken by the Board to respond to the request for communications between the supervisors and others.

Procedure

IPIB accepted this Complaint on October 17, 2024. Upon acceptance, the parties worked toward an informal resolution agreement.

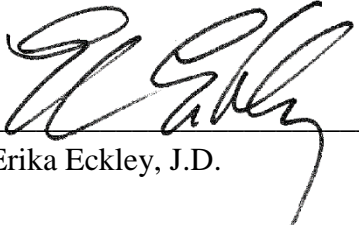
Brian Thomas approved the Informal Resolution on December 13, 2024.

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

The IPIB approved the Informal Resolution Report on December 19, 2024.

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



Erika Eckley, J.D.

CERTIFICATE OF MAILING

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

Brian Thomas
Chauncey Moulding, attorney for Jefferson County

The Iowa Public Information Board

In re the Matter of: Aubrey Burress, Complainant And Concerning: Pleasant Grove Township Trustees, Respondent	Case Number: 24FC:0092 Status Report
---	--

Complaint 24FC:0092 was opened on October 21, 2024, and accepted by the IPIB on November 21, 2024. An Informal Resolution was adopted on December 19, 2024. Since the Informal Resolution, additional issues have been raised. This Status Report is developed to update the Board on the status of the complaint.

Background

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

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

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

An Informal Resolution was agreed to requiring the following steps be taken:

- The Informal Resolution will be formally approved at a meeting of the Trustees.
- All Trustees, and anyone serving as clerk to the Trustees, will complete training related to public meetings and records.
- The Trustees will develop policies or procedures to address postings of agendas, scheduling of meetings, and providing agendas and materials in advance of meetings.

The Informal Resolution was scheduled for approval at a Board meeting in December. While awaiting the meeting, continued arguments occurred over actions taken by the Trustees without notice, meeting, or involvement of all Trustees. At one point, a member of the Board of Supervisors entered into the disagreements and voiced concerns. The December meeting was ultimately canceled due to weather.

A second meeting was scheduled in December. This meeting was also canceled because a Trustee was unable to attend at the last minute. As stated by another Trustee, it was not necessary to cancel the meeting as quorum still existed to hold the meeting.

The Informal Resolution was finally approved in January and IPIB presented training to the Trustees on February 7. IPIB staff departed the meeting on February 7 and two events occurred immediately thereafter:

- The Clerk stated at the meeting that he obtained approval and paid for two items by calling two of the Trustees. There was no notice or meeting for this action.
- An individual showed up at the meeting for a presentation and was not included on the agenda.

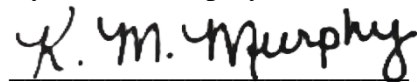
Present Concerns

These recent events appear to be a continuation of facial violations, with recent facial violations occurring on the same day and immediately following IPIB's training. IPIB staff remain concerned the Trustees are unable to meet the terms of the Informal Resolution, even if policies and procedures are implemented.

Based on these concerns, IPIB staff outreached to the Marion County Attorney's Office. IPIB staff expressed concern with the status of the Trustees, the ongoing conflict, and continued compliance concerns with Chapter 21.

IPIB staff is providing this update to the Board and seeking guidance in addressing this matter. Options discussed to address this complaint include moving directly to a contested case or taking additional steps to ensure the Trustees are complying with the law.

By the IPIB Deputy Director,



Kimberly M. Murphy, J.D.

CERTIFICATE OF MAILING

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

Aubrey Burress, Complainant
Marion County Attorney's Office, Counsel to the Trustees

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0093
Timothy Hansen, Complainant	Probable Cause Report
And Concerning:	
Franklin County Sheriff's Office, Respondent	

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

On October 24, 2024, Timothy Hansen filed formal complaint 24FC:0093, alleging the Franklin County Sheriff's Office (FCSO) violated Iowa Code Chapter 22

The IPIB accepted this Complaint on November 21, 2024.

Facts

This complaint concerns a fatal police shooting incident that occurred on June 20, 2023, in Franklin County, Iowa. The incident involved two deputies employed by the FCSO, and it was investigated by the Iowa Division of Criminal Investigation (DCI) pursuant to Iowa Code § 13.12. On August 28, 2023, the Iowa Attorney General's Office released its final report on the matter, which concluded that the deputies had acted with legal justification.¹ The DCI's investigation was therefore closed. There is no ongoing criminal investigation in this case.

On September 6, 2024, Timothy Hansen submitted a Chapter 22 records request to the FCSO, seeking bodycam footage and related records from the incident. The FCSO denied the request, asserting that the DCI was the lawful custodian of all materials included in their investigative file, including materials obtained from the FCSO.

¹ Brenna Bird & Andrew B. Prosser, *Iowa Attorney General's Review of Officer Involved Death*, Iowa Att'y Gen., Aug. 28, 2023, <https://www.iowaattorneygeneral.gov/newsroom/iowa-ags-office-concludes-franklin-county-deputies-acted-with-legal-justification-in-shooting>.

On October 21, 2024, Hansen filed formal complaint 24FC:0093, alleging that the FCSO had unlawfully refused to release requested public records. Upon opening the complaint, the FCSO's initial position was that the DCI was the sole lawful custodian for the investigative file due to their control over the investigation. IPIB's review of the complaint was put on hold while Hansen communicated with the DCI about the records.

On December 6, 2024, the DCI responded to Hansen's parallel records request, explaining that bodycam footage "remains in the custody of the original jurisdiction in which the video was captured." Following additional review, IPIB determined that the FCSO was the lawful custodian and provided advice on the application of Iowa Code § 22.7(5) to determine whether any portion of the investigative records could be withheld as confidential.

As of early January 2025, the parties had organically reached an informal agreement between themselves, in which Hansen would meet with the Sheriff in person to review the records together prior to their release. The parties agreed that, based on *Hawk Eye* balancing considerations, Hansen would only access the portion of the video leading up to the shooting itself, meaning footage of the deceased's body and the aftermath would be withheld. This arrangement was suggested in part to address Hansen's concerns that the FCSO might improperly edit the records to disguise certain details if they were released by other means.

Several attempts were made to schedule this meeting:

- On December 30, the parties spoke over the phone and arranged to meet at the Sheriff's Office on either January 2 or 3. Hansen was unable to attend this meeting.
- On January 21, the Sheriff proposed several meeting times, though this message was not conveyed to Hansen until two days later due to an oversight. Hansen was unable to make any of these times work, though he had short notice in this instance.
- On January 31, Hansen agreed to call the Sheriff to arrange a new meeting time. His call went to voicemail. No further attempts were made to contact the Sheriff.
- In early February, the Sheriff left a message with Hansen, proposing multiple dates and times for a potential meeting. Hansen did not respond to this message.
- On February 14, the parties again spoke over the phone, agreeing to another meeting to take place on February 18. Hansen was unable to attend due to illness, and he did not attempt to reestablish contact after this time.

Hansen remains interested in the records.

Applicable Law

"Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public

record without charge while the public record is in the physical possession of the custodian of the public record. The right to copy a public record shall include the right to make photographs or photographic copies while the public record is in the possession of the custodian of the public record.” Iowa Code § 22.2(1).

Analysis

The initial review of this complaint was focused on resolving two legal disputes: 1) which government body was the lawful custodian of the records sought and 2) what standard applied to determine whether the records were entitled to confidentiality under Chapter 22. Although the FCSO resisted disclosure while IPIB considered these questions, the respondent Sheriff has made active efforts to fulfill his obligations as lawful custodian since the legal issues were settled. An informal agreement for the disclosure of these records was reached in late December 2024, and both parties assented to the terms of that agreement in written email communications.

Unfortunately, the parties still have not met more than two months after reaching their agreement, despite multiple attempts by the Sheriff to arrange a date. While the complainant has not necessarily been uncooperative, a review of the case timeline shows that he has been unwilling or unable to follow through with his portion of the informal agreement to resolve the case on at least four occasions for a period of over two months. In other words, the only factor preventing disclosure has been the complainant’s failure to appear to receive those records.

For this reason, dismissal is warranted. The complainant still has a right to access public records under Chapter 22, and nothing in this order would prevent him from contacting IPIB in the future regarding this matter, whether for clarification on the law or to file a new formal complaint. However, where the original denial of records was based solely on good faith legal interpretation issues which have since been resolved and where the lawful custodian has since made numerous attempts to fulfill their obligations pursuant to an informal agreement approved by both parties, there is no longer probable cause to find any violation of Chapter 22.

IPIB Action

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

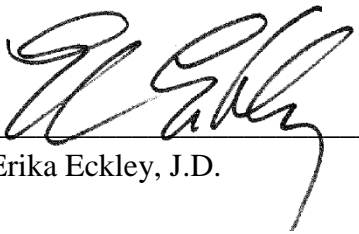
- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- 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. Because the parties came to an informal agreement for the release of the records and because the sole factor preventing fulfillment of the records request at this stage is the complainant's failure to meet with the lawful custodian pursuant to the terms of that agreement, there is no probable cause basis to find that the Franklin County Sheriff's Office has violated Chapter 22.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

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

Timothy Hansen, Complainant
Franklin County Sheriff's Office, Respondent

The Iowa Public Information Board

In re the Matter of: Paul Dorr, Complainant And Concerning: Osceola County, Respondent	Case Number: 24FC:0120 Probable Cause Report
---	---

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

On December 2, 2024, Paul Dorr filed formal complaint 24FC:0120, alleging Osceola County violated Iowa Code chapter 22.

The IPIB accepted this Complaint on December 19, 2024.

Facts

Paul Dorr sought public records related to an internal investigation file involving a public official. The County responded stating the records were confidential and cited IPIB Advisory Opinion 23AO:0004: Confidentiality of Documents in Personnel Investigation. Dorr seeks reconsideration by IPIB of the advisory opinion. Dorr's argument is that an elected official is not an employee; therefore, the elected official cannot fall within the confidentiality granted by Iowa Code § 22.7(11).

Dorr also alleges the records have previously been provided as a public record and cannot now be withheld as confidential.

In response, the County agrees with the scope of 23AO:0004 covering elected officials based on the language of Iowa Code § 22.7(11) including the personnel records of "identified or identifiable individuals who are officials, officers, or employees of the government bodies."

The County agrees the record was previously released in a confidential disclosure June 9, 2023. The County released the record to an individual member of the media. The County argues, however, this disclosure does not destroy the confidentiality of the record. The County states the record was released in an extremely limited manner during an "off the record" conversation, the

record was never published or released to the public, and the custodian of these records, intended to keep the record confidential.

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.” Iowa Code 22.7(11)(a).

Public disclosure by a lawful custodian with authority to disclose may waive later claims of confidentiality under Iowa Code § 22.7 with regard to the same records. *See City of Riverdale v. Diercks*, 806 N.W.2d 643 (Iowa 2011).

Analysis

Reconsideration of 23AO:0004: Confidentiality of Documents in Personnel Investigation

Dorr argues the IPIB was incorrect to conclude an investigation regarding a public official could be included within the confidentiality provisions of Iowa Code § 22.7(11) because an elected official and does not have a personnel file. Dorr argues elected officials report to the voters, so they cannot be “employees” and Iowa Code § 22.7(11) cannot apply to them. Additionally, Dorr’s argument hinges on the fact that in other parts of the Iowa Code the legislature has utilized the phrase “elected officials” rather than merely “officials” when the statutory provisions apply to public or elected officials. Additionally, Dorr alleges IPIB was guilty of eisegesis¹ when interpreting Iowa Code § 22.7(11) and should correct its misinterpretation caused by this bias.

There is legal debate as to whether elected or public officials are employees of the government body.² *See, e.g., Dierks v. Scott County*, Case No. 23-1729, argument Dec. 18, 2024 (<https://www.iowacourts.gov/iowa-courts/supreme-court/supreme-court-oral-argument-schedule/case/23-1729>). Resolution of this matter, however, is not required because the language of Chapter 22 resolves the issue raised by Dorr. It is the nature and purpose of the document, not the place where it is kept, which determines its status,” *Linder v. Eckard*, 152 N.W.2d 833, 835 (Iowa 1967); *see also City of Dubuque v. Dubuque Racing Ass’n*, 420 N.W.2d 450, 453 (Iowa 1988) (Determining a public record does not turn on the physical location of the record). So,

¹ Dorr stated, “Eisegesis is the practice of interpreting a text by inserting one’s own ideas, biases, or agenda into its meaning.”

² Arguments for and against examine hiring and firing decisions, payroll and benefits, federal regulations, etc.

whether the investigation document is held in a “personnel file” or merely is within a category of that type of record is the inquiry. *ACLU v. Atlantic Community Sch. Dist.*, 818 N.W.2d 231, 235 (Iowa 2012) (“to determine if requested information is exempt under section 22.7(11), we must first determine whether the information fits into the category of ‘[p]ersonal information in confidential personnel records.’”); *Des Moines Indep. Cmty. Sch. Dist. v. Des Moines Register*, 487 N.W.2d 666, 670 (Iowa 1992) (“It does not detract from this qualification that the documents were deposited in investigation files. The nature of the record is not controlled by its place in a filing system.”)

Iowa Code § 22.1(1) defines the following as subject to the requirements of the public records chapter: “‘Government body’ means this state, or any county, . . . or any branch, department, board, bureau, commission, council, committee, official, or officer of any of the foregoing or any employee delegated the responsibility for implementing the requirements of this chapter.” If the legislature is required to state “elected official” rather than merely “official” to make any provision apply to elected or public officials, then no elected or public official would be subject to Iowa Code chapter 22 requirements. If Dorr’s interpretation is accepted, then the legislature did not intend to make the public records law apply to elected officials because they did not state “elected officials.” This interpretation would create an absurd result as no one disputes elected officials are subject to Iowa Code chapter 22 requirements. Therefore, when the legislature refers to “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” in Iowa Code § 22.7(11), the legislature is referring to the same “officials, officers, or employees who are subject to the requirements of chapter 22. This would include elected officials.

For these reasons, advisory opinion 23AO:0004 does not require revision to eliminate the category of personnel records from a public official from the confidentiality requirements of Iowa Code § 22.7(11).

Previous Public Disclosure of the Confidential Record

There is no dispute the record was disclosed to a member of the media in an “off-the-record” disclosure with an intention the record would retain its confidential nature. No news article was written about the record or the disclosure nor was there any further disclosure of the information.

Despite the intention of the County for the record to retain its confidentiality, absent any binding confidentiality agreement, prior precedent makes clear disclosure of the record to the media precludes the County from declaring the record confidential when requested by Dorr.

In City of Riverdale v. Diercks, the mayor played video from a confrontation with an individual to a member of the media. When the plaintiff requested a copy of the video, the city claimed the

footage was confidential under Iowa § 22.7(50). 806 N.W.2d 643, 647 (Iowa 2011). The Court stated, “It is untenable for Riverdale to play the video for a reporter covering the dispute between the parties and yet withhold the same video from the defendants who requested it.” *Id.* at 658. While the mayor in the *Riverdale* case did not expect the media to keep the matter private, it is difficult to see how the media disclosure in this matter in an “off the record” manner, does not similarly destroy the confidentiality claim. “[D]isclosure to a third party waives confidentiality.” *Id.* (citing *State v. Demaray*, 704 N.W.2d 60, 66 (Iowa 2005); *Miller v. Cont’l Ins. Co.*, 392 N.W.2d 500, 504 (Iowa 1986)).

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 this matter be redirected for further investigation to determine whether any formal, binding non-disclosure agreement exists between the County and the member of the media. And whether, absent the agreement, the County will provide the requested records pursuant to this Report.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

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

Paul Dorr
James Theobald, counsel for Osceola County

The Iowa Public Information Board

In re the Matter of: Lori Daughenbaugh, Complainant And Concerning: City of Runnells, Respondent	Case Number: 25FC:0015 Probable Cause Report
---	---

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

On February 3, 2025, IPIB received formal complaint 25FC:0015 from Lori Daughenbaugh, alleging the City of Runnells (City) violated Iowa Code Chapter 22. The complaint was accepted by IPIB on February 20, 2025.

Facts

Daughenbaugh states she submitted a public records request to the City on January 15, 2025, seeking the general ledger detail report related to the City’s budget for FY24 and FY25 (to date). Daughenbaugh requested the reports as a download from the City’s accounting software in the form of a PDF, CSV, or Excel file.

The City’s clerk responded on January 16 and stated as follows:

“I received your request below. You are requesting reports that currently do not exist in the form that you have requested. Although the City is under no obligation under Iowa Code chapter 22 to create reports in response to a records request, I will be providing the information requested by Councilman Dingman at Tuesday’s budget workshop to the City Council in preparation for the next City Council meeting. I believe the information requested by Councilman Dingman largely covers what you have requested. If you would like me to, I can send that information to you at that time.”

Daughenbaugh responded the same day, as follows:

“I am not making a request for you to create a special report of any kind. My request is for a standard financial report that should be available in the accounting software.”

Daughenbaugh followed up with the City on January 24, 2025, seeking a status update regarding the records request. The City responded by providing Daughenbaugh with forms to fill out for a FOIA request.

On February 2, the Mayor intervened and asked the Clerk for the status of the records request. The Clerk responded that she had not received the completed FOIA forms sent to Daughenbaugh. The Mayor indicated the FOIA request was the email from Daughenbaugh and directed the Clerk to provide the public records as soon as possible.

The Clerk responded to the Mayor and indicated the specific FOIA forms needed to be completed pursuant to City policy, which would allow the City to process the form and collect a fee for production of the records. Again, the Mayor directed the Clerk to provide the records and an estimate of cost to Daughenbaugh.

On February 3, Daughenbaugh filed a complaint with IPIB. The complaint was accepted on February 5, at which time the City was informed of the complaint.

On February 6, the City processed Daughenbaugh's request not as a public records request, but rather as a request from the Mayor. The City's logic was that this would allow the City to provide the reports while maintaining compliance with the City's policies. On the same date, the Clerk provided reports to Daughenbaugh. The reports were titled "General Ledger History Report." One of the reports covered the timeframe of 7/2023 to 6/2024 and the other report covered the timeframe of 7/2022 to 6/2023.

IPIB staff followed up with the City to determine if this was the City's formal response. Counsel for the City stated, "The City's official response is that the requested records were not in existence at the time of the request. Since the time of the request, the City Clerk has created the record at the request of Mayor Lindquist and provided the same to Ms. Daughenbaugh."

Daughenbaugh responded to the information provided expressing concerns as follows:

- The records do not include the general ledger detail requested.
- The records were provided pursuant to the Mayor's request and not the public records request submitted by Daughenbaugh.

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 or any county, city, [etc.]." Iowa Code § 22.1(3)(a).

"Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. 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

Iowa Code Chapter 22 makes clear that a public record must be information stored or preserved by the government body and in the physical possession of the government body. Consistent with Chapter 22, IPIB has historically 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.

The City states the record requested by Daughenbaugh, the general ledger detail for the City's budget, does not exist and must be specifically created for Daughenbaugh. IPIB staff do not have access to the City's software program or the available reports but have found no evidence to suggest such records exist in the format requested by Daughenbaugh. Because the evidence presented does not provide probable cause to believe the requested record exists, IPIB staff recommend dismissal of the complaint.

IPIB staff make the following additional recommendations based on the complaint:

- The City should review their policies related to public records requests and identify a consistent process for responding. For example, if the City requires a specific form, it should be provided to citizens upon making a request and should be used consistently. IPIB staff also recommend the City review the steps that should be taken to respond to a public records request, as outlined in the recent case *Belin v. Reynolds*.
- Daughenbaugh should consider rephrasing the records request to obtain the budget detail she seeks in a format that can be provided by the City as a public record, if the information has not already been made available.

IPIB Action

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

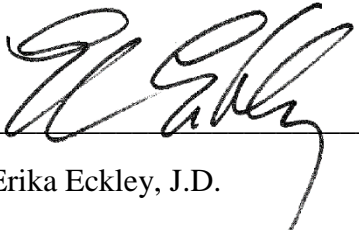
- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- 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 City maintains there are no public records in the format requested by Daughenbaugh, and no evidence has been presented to the contrary.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

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

Lori Daughenbaugh, Complainant

City of Runnells, Respondent

The Iowa Public Information Board

In re the Matter of:	Case Number: 25FC:0020
Kira Werstein, Complainant	Probable Cause Report
And Concerning:	
Ames Community School District, Respondent	

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

On February 12, 2025, Kira Werstein filed formal complaint 25FC:0020, alleging the Ames Community School District (District) violated Iowa Code Chapter 22. IPIB accepted this Complaint.

Facts

On January 31, 2025, the complainant, Kira Werstein, submitted a records request to the District for a video recording of an incident which took place on the same day in the main office lobby of Fellows Elementary School.

The school principal replied on behalf of the District, providing further information related to the incident but denying the records request on the basis that there was no video of the main office lobby on the date in question, although a new camera had been installed shortly after that date.

On February 12, 2025, Werstein filed formal complaint 25FC:0020, alleging that the District had violated Chapter 22 by failing to provide the requested recording. The complaint also alleged that multiple teachers had informed Werstein that there were office cameras active all year.

After opening the complaint to both parties, the District provided additional documentation which showed that the camera in the main office lobby was installed on February 4, 2025, meaning there was no footage of the area prior to that date. Evidence included an email thread with a technical support representative from the company which installed the camera and a screenshot of the

camera's settings page, showing the date and time for the earliest available recording as February 4, 2025.

Applicable Law

“*Public records*’ includes all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city, township, school corporation, political subdivision, [or other government body].” Iowa Code § 22.1(3)(a).

Analysis

The sole matter in dispute between the parties to this case is whether the requested video recording actually exists. If there is no record, then there is nothing to provide.

Here, the District has provided supplemental records in support of their position that there were no security cameras recording the area in question on January 31, 2025, including a correspondence with the security camera company confirming the installation date and consistent data taken from the lobby camera itself. These records have been provided to the complainant.

The complainant has indicated that she received conflicting information from other school employees regarding the possible existence of additional cameras prior to February 2025. However, given what has been presented to IPIB, there is no probable cause to believe a violation has occurred, as the available evidence strongly supports the non-existence of the requested record.

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.

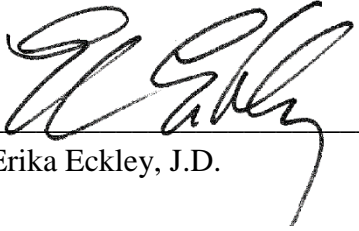
Iowa Admin. Code r. 497-2.2(4).

Recommendation

It is recommended the Board dismiss the matter for lack of probable cause to believe a violation has occurred. Because the evidence suggests that no responsive record actually exists, the District

has fully complied with its obligations under Chapter 22 by indicating that there are no records to produce.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

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

Kira Werstein, Complainant
Ames Community School District, Respondent



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

Notice of New IPIB Complaint (24FC:0110 (2 of 2))

Kegan jarvis <ratrocket127@yahoo.com>

Mon, Feb 17, 2025 at 2:20 PM

Reply-To: Kegan jarvis <ratrocket127@yahoo.com>

To: alexander.lee@iowa.gov, Nicholas Bailey <nbaileylaw@gmail.com>

Cc: Swan City Clerk <swancityclerk@yahoo.com>, Stacy Harding <stacyharding76@gmail.com>

Good afternoon all,

Alex, thanks for your conscientious communications about my complaints against the city of Swan, IA. At this point, I wish to WITHDRAW my complaint concerning the council's closed session on 1/10/25.

While I'm confident i can prove multiple violations of Ch 21, and I would never bring a complaint that lacked merit, I have decided a more fruitful resolution would likely be reached in a different forum. The presentation of a more comprehensive list of violations which continue to unfold, may be more appropriate to bring to the attention of the district court, or otherwise.

For this reason please consider this specific complaint withdrawn at this time.

Thank you

Keegan Jarvis

[Yahoo Mail: Search, Organize, Conquer](#)

[Quoted text hidden]



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

Notice of New IPIB Complaint (25FC:0009)

Bryce Hubert <bryce.hubert@musco.com>
To: Alexander Lee <alexander.lee@iowa.gov>

Wed, Mar 5, 2025 at 3:11 PM

Afternoon,

I appreciate you reaching out. Been hectic lately, I'm not going to request anything right now. There are documents, but I can do without. If I need them later I'll just request them later.

I'm good on this complaint. Thanks for the assistance.

Regards,

Bryce Hubert

On Mar 5, 2025, at 10:04 AM, Lee, Alexander <alexander.lee@iowa.gov> wrote:

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

[Quoted text hidden]



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

Notice of New IPIB Complaint (25FC:0017)

Lori Gifford <loriann3721@yahoo.com>
To: "Lee, Alexander" <alexander.lee@iowa.gov>

Mon, Mar 10, 2025 at 5:45 PM

I understand. In that case I think I'd consider this resolved as I've received the records.

[Quoted text hidden]

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

EDas Customer Number: 1882
 Percent of Year Complete: 66.67%

Class	Obj/Rev Class Name	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	HO13	HO14	HO15	YTD	End of Year Forecast	Annual Budget	Percent of Budget To Date	Percent of Budget forecasted EOY
		Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Actual	(C=A+B)	(D)		
	Appropriation																		-		
	Deappropriation																				
	BBF (T&T)	18,225																			
Expenditures																					
401	Communications	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%	0%
406	Outside Services	-	-	-	3,900	-	-	-	-	-	-	-	-	-	-	-	3,900	3,900	-	0%	0%
416	ITD Reimbursements	-	-	-	6,688	-	-	-	1,109	2,000	-	-	-	-	-	-	7,797	9,797	-	0%	0%
503	Equipment-Non Inventory	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%	0%
Total Expenditures:		-	-	-	10,588	-	-	-	1,109	2,000	-	-	-	-	-	-	11,697	13,697	-	#DIV/0!	#DIV/0!
Current Month Operations		18,225	-	-	(10,588)	-	-	-	(1,109)	(2,000)	-	-	-	-	-	-					
Cash Balance		18,225	18,225	18,225	7,637	7,637	7,637	7,637	6,528	4,528	4,528	4,528	4,528	4,528	4,528	4,528					

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

Active Cases Report 🗲

37

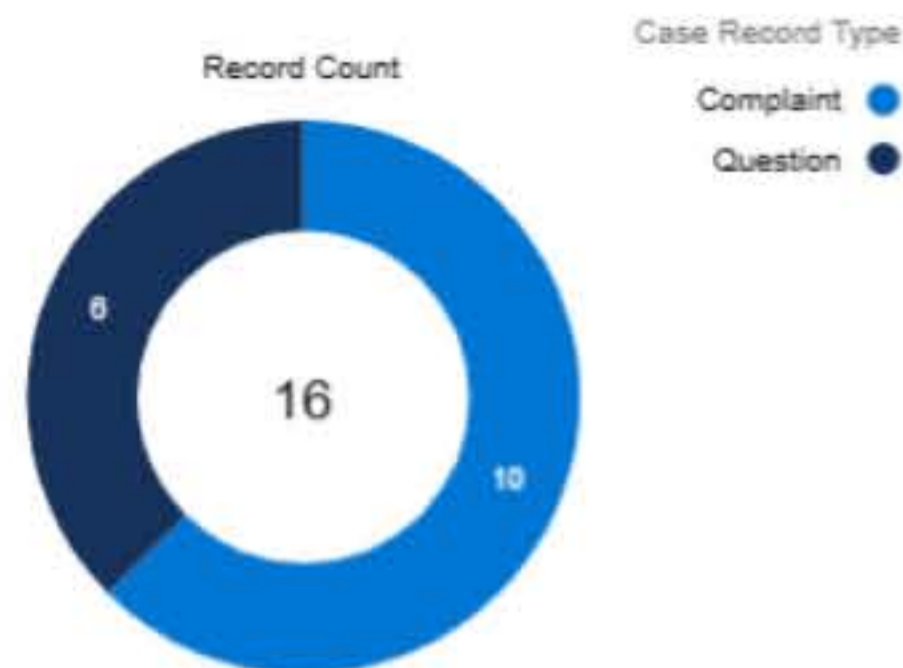
[View Report \(Active Cases Report\)](#)

Active Questions Report 🗲

5

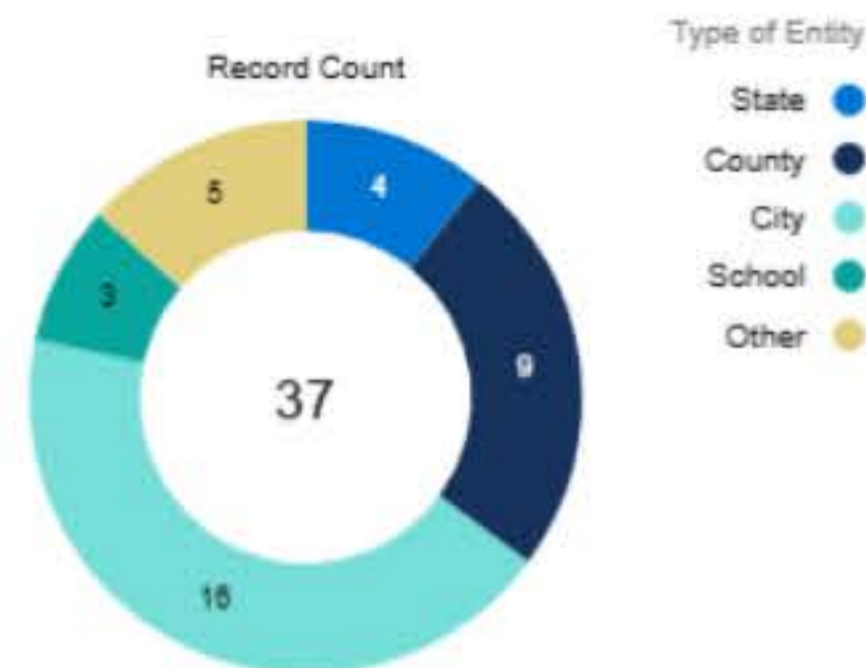
[View Report \(Active Questions Report\)](#)

New complaints &/or question last 30 day 🗲



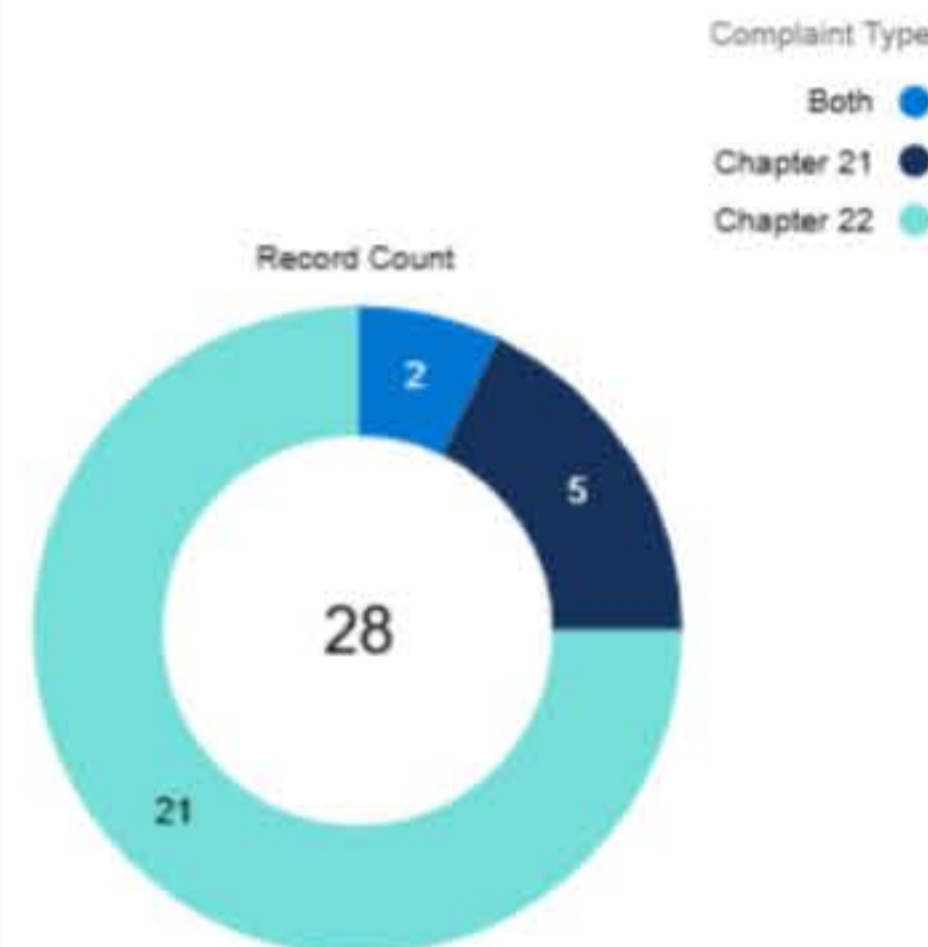
[View Report \(New complaints &/or question last 30 day\)](#)

Cases by Entity 🗲



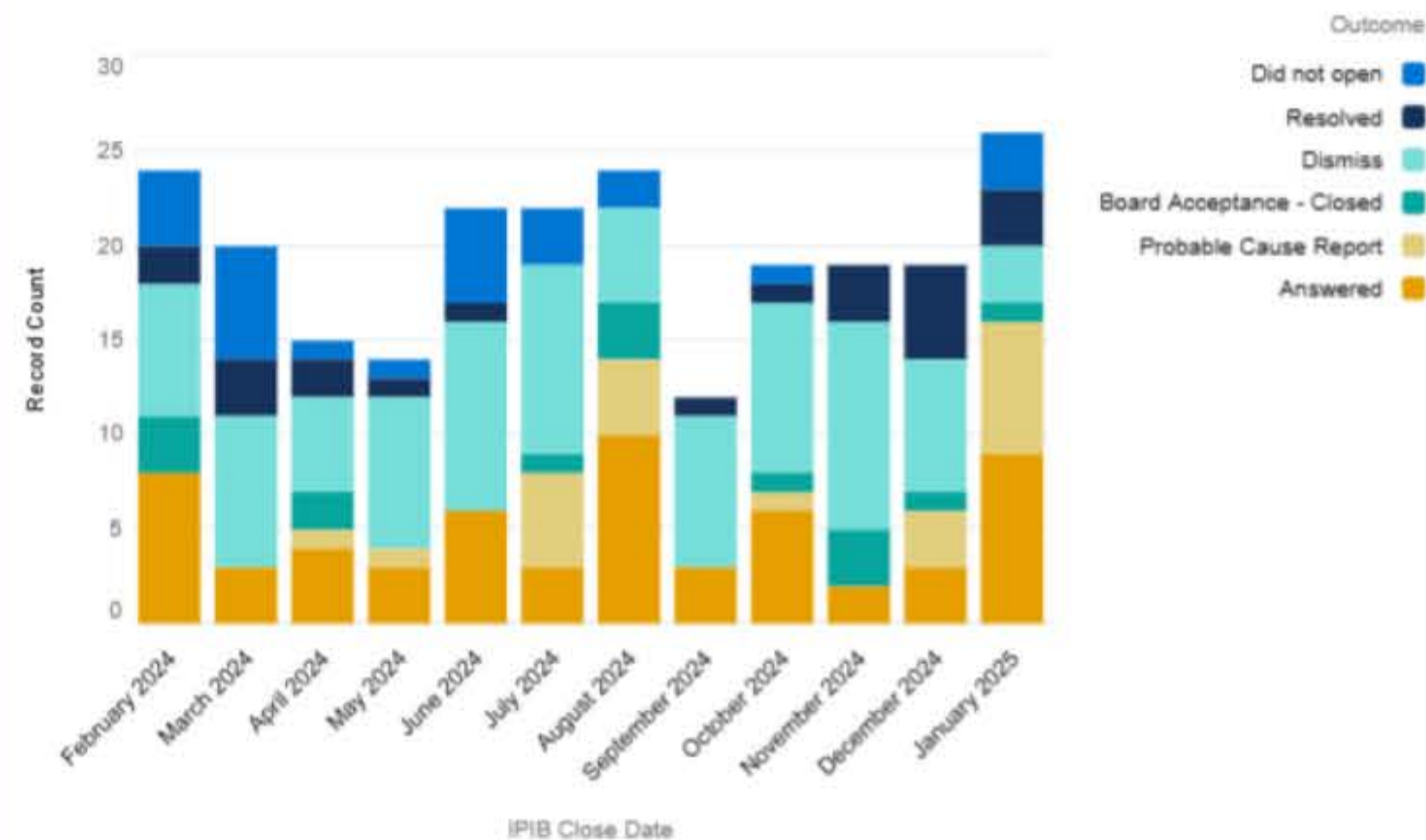
[View Report \(Cases by Entity\)](#)

Broad Type (Filed in Current Year) 🗲



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

Closed cases (past 12 months) 🗲

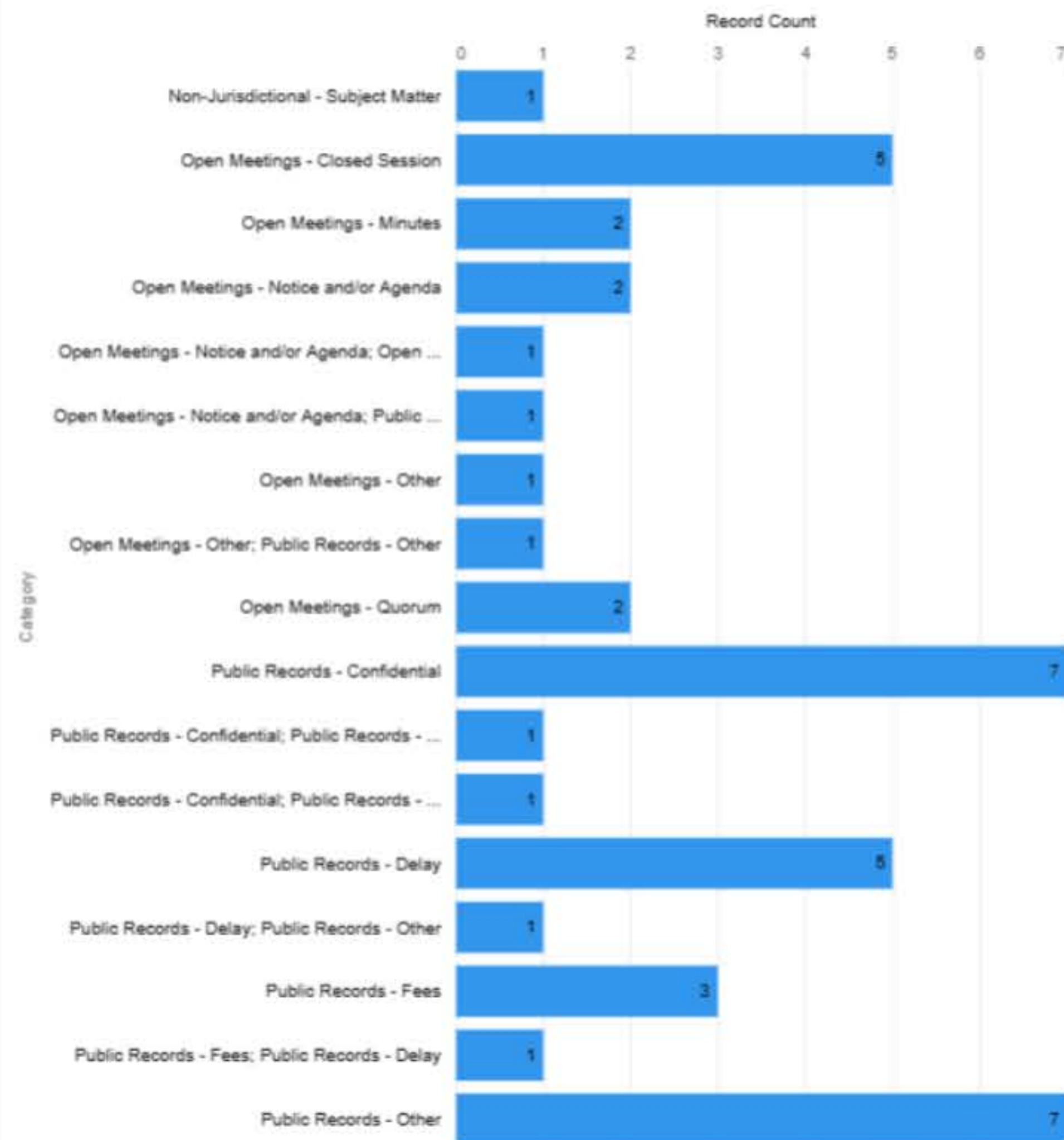


[View Report \(Closed cases \(past 12 months\)\)](#)

Cases by Type

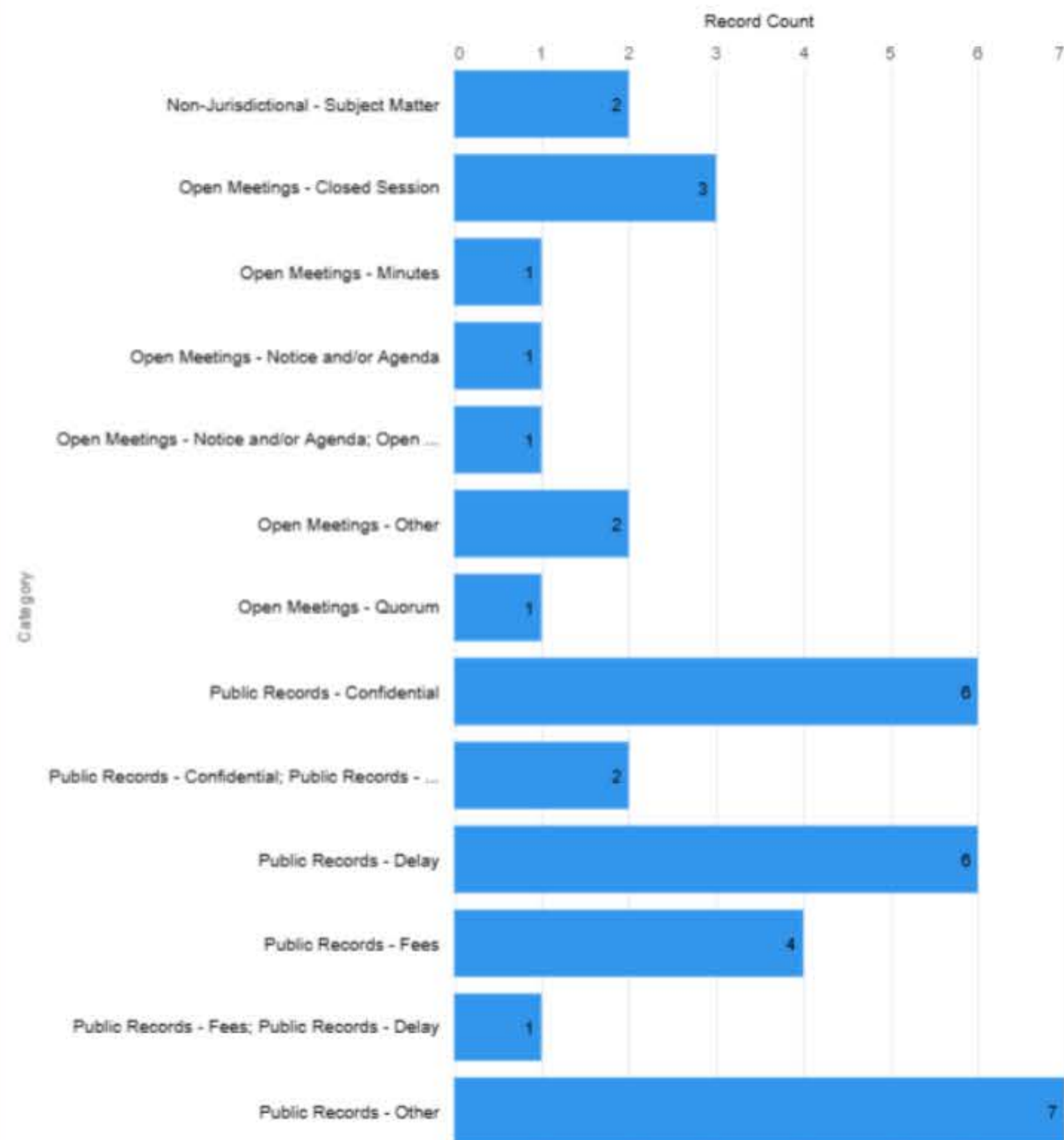
As of Mar 14, 2025, 2:08 PM Viewing as Erika Eckley

Cases by Type (Active)



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

Cases by Type (Filed in Current Year)



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