

## *Iowa Public Information Board Annual Report*

*As Required by Code Subsection 23.6(12)*

### 2022

Iowa Code chapter 23, enacted in 2012 and amended in 2013 to establish the Iowa Public Information Board (IPIB or Board), requires the Board to “prepare and transmit to the governor and to the general assembly, at least annually, reports describing complaints received, board proceedings, investigations, hearings conducted, decisions rendered, and other work performed by the board.” This report reviews the work performed by the Board in 2022 in accordance with the directives of Chapter 23.

### *From the Executive Director’s Desk –*



This has been another busy year at the IPIB. We are staffed with three individuals working daily to promote and educate Iowans about transparency within our government. The IPIB works with Iowa’s governmental bodies, the media, and the citizenry at large. For the past several years, the annual number of contacts through our agency has remained steady, ranging in the neighborhood of 700-800 per year. We are remaining steady in the number of formal complaints that are filed with us. In 2022, we received 131 formal complaints. I believe that people have discovered our ability to address their concerns. During the past few years of the pandemic, the IPIB has been responsive to concerns and questions regarding how open meetings and public records laws are affected.

As we look forward, the IPIB Board and staff strive to resolve complaints in an efficient way while also providing effective educational outreach to Iowa’s governmental bodies. The IPIB is open to receiving your questions, thoughts, or concerns about Iowa’s open meetings and public records laws.

Margaret E. Johnson, J.D.  
Executive Director

#### **Board Members**

Daniel Breitbarth • Joan Corbin • E.J. Giovannetti • Barry Lindahl • Joel McCrea  
Monica McHugh • Julie Pottorff • Jackie Schmillen • vacant

**The Board was created to provide a free, efficient way for Iowans to receive information and resolve complaints related to chapters 21 and 22, Iowa’s open meetings and public records laws. The agency’s case load has far exceeded expectations since its inception, with the Board receiving 131 formal complaints and answering 623 informal inquiries in 2022. The vast majority of complaints were settled informally, with the Board staff negotiating a compromise that satisfied both parties, reduced community conflict, and resulted in increased government transparency. In addition, Board staff conducted training sessions for state, county, and city officials. The Board identified continuing problems in the areas of meeting notice, governmental subcommittees, and law enforcement records.**

In particular, the number of informal inquiries, from around the state, establishes the value of the services of the IPIB. Many complaints are handled within 24 hours and without the need for formal IPIB action. Examples include:

- A small Southwestern Iowa community was not able to adequately provide a response to a public records request. Assisted with guidance for an appropriate search of records and the development of a record request policy.
- A citizen questions the gathering of council members in the parking lot following adjourning their meeting. Referred to Iowa Code section 21.2(2) definition of a meeting, not including a gathering for purely ministerial or social purposes.
- A small city government wanted to know if they could continue to hold meetings electronically by Zoom. They were referred to Iowa Code section 21.8 for information on conducting electronic meetings.
- A citizen from eastern Iowa wanted to know if it is permissible to not allow public comment at a city council meeting. They were referred to Iowa Code section 21.7 for rules of conduct at meetings.
- A township board of trustees needed guidance on the requirements of the open meetings code. They were directed to work with their county attorney and to arrange trustee training with the extension service in their area.
- A city attorney with questions about the confidentiality of draft documents as public records was referred to previous ruling by the IPIB posted on our website and Iowa Code section 22.7(65).
- The Mayor of a small community asked about an agenda and the procedure to go into a closed session. He was referred to Iowa Code section 21.5 to review prior to the meeting.
- A city clerk had questions about charging fees for the production of public records. She was referred to Iowa Code section 22.3 for guidance. It was recommended that the city set a policy on the issue in accordance with Iowa Code chapter 22.

## The Board

The first Board was appointed by Governor Branstad in July, 2012. Since then the Board has met at least bi-monthly. The Board achieved operational status on July 8, 2013, with the opening of an office on the third floor of the Wallace Building in the Capitol Complex.



Iowa Code chapter 23 states no more than three members of the nine-member board shall represent the media and not more than three shall represent cities, counties, or other local governments. The members serve staggered four-year terms. The Board must be balanced by political party and gender. The Board appoints a chair and vice chair from among its members. The Board is an

independent agency. In 2022, the Board met for twelve monthly meetings.

### Current board membership:

- **Daniel Brietbarth, JD**, Des Moines – (Government Representative) (Republican) (2022-2026) – Dan is currently the Assistant Attorney General for Legislative Affairs with the newly elected Attorney General, Brenna Bird. He previously was an Assistant County Attorney in Boone, and a graduate of Iowa State University and Drake Law School.
- **Joan Corbin**, Pella – (Government Representative) (Democrat) (2020-2024) – Joan is a community volunteer and serves on the Pella Community School District Board. She currently serves as the President of the school board and is in her fifth term with the district. She served on the Iowa Association of School Boards for 12 years, including two years as President, just completing her last year in December of 2022.
- **E.J. Giovannetti, JD**, Urbandale – (Public Representative) (Republican) (2022-2026) – E.J. is currently active as an attorney for Hopkins & Huebner, P.C. and has been a public servant for the past 40 years, including being Mayor of the City of Urbandale (20 years) and member of the Board of Supervisors (10 years).
- **Barry A. Lindahl, JD**, Dubuque – (Government Representative) (Democrat) (2020-2024) - Barry served in the City of Dubuque City Attorney's Office from 1975 to the present. He was City Attorney from 1983 to 2016. He is now Senior Counsel. Barry was a University of Iowa College of Law Adjunct Faculty Member from 1978-2018. Barry is the author of West Publications Iowa Practice: vol.9-10 Civil Practice Forms and vol.11-12 Civil and Appellate Procedure.
- **Joel McCrea**, Pleasant Hill – (Media Representative) (Republican) (2022-2026) – Joel is Market President of iHeartMedia Des Moines since 2000. Past President of the Iowa Broadcasters Association (2010) and currently a member of the board of directors of the IBA.
- **Monica McHugh, CPA**, Zwingle, (Vice Chair) (Public Representative) (Republican) (2022-2026) – Monica is Regional Controller for Sonac USA LLC in Maquoketa, IA and owns JM Farm Accounting, a small tax and accounting practice. She also serves as chair of the Jackson County Zoning Board of which she has been a member of since 2010.
- **Julie Pottorff, JD**, Des Moines, (Chair) (Public Representative) (Democrat) (2020-2024) – Julie worked in the Iowa Department of Justice over thirty years. She joined the Department in 1979 as a staff attorney, was appointed as the Division Director for the Administrative Law Division in 1990, and then appointed as a Deputy Attorney General in 1994. She retired from the Department in 2013.

- **Jackie Schmillen**, Urbandale (Media Representative) (Democrat) (2022-2026) - Jackie has been a broadcast journalist for nearly 20 years throughout the state of Iowa. She has worked in promotions, producing, writing, editing, reporting and anchoring with local TV newscasts. Jackie now works as the Director of Public Affairs for the Iowa National Guard.
- **Vacant**, (2020-2024), since January 2022 due to the resignation of a Board member. Governor appoints replacement.

**Board Staff:**



**Margaret E. Johnson, JD**, was named the Executive Director on July 20, 2017. Previous to this appointment, she served as the interim and the deputy director of the Board since its inception. She received a bachelor’s degree in Journalism from Iowa State University and a law degree from Marshall/Wythe Law School at the College of William and Mary. Her prior legal experience includes serving as a captain with the Army JAGC; assistant district attorney in the 4<sup>th</sup> Judicial District, Colorado; assistant county attorney for Teller County, Colorado; private practice; the El Paso County GAL office; contract prosecutor for the Iowa Attorney Disciplinary Board; and Fremont County, Iowa, county attorney. Her judicial experience is as a substitute juvenile magistrate in Colorado. She joined the staff on July 22, 2013. Ms. Johnson was honored in 2019 with the “Free Press Champion Award” given by the Iowa Center for Public Affairs Journalism.



**Brett J. Toresdahl, CPM**, serves as Deputy Director for the Board. He received his bachelor’s degree in Political Science from Iowa State University. Prior to coming to work with the Board in July 2017, he led the ISBA Public Service Project as its Executive Director for 24 years working on pro bono and access to justice issues. Before that he served a term as Executive Assistant in the Office of Lieutenant Governor in Iowa which at that time was a stand-alone state agency and served as the President of the Senate. In 2019, he earned the Certified Public Manager designation through Drake University.



**Daniel M. Strawhun, JD**, serves as legal counsel for the Board. He received his juris doctor from the University of Iowa College of Law and his bachelor of arts in English from the University of Missouri-St. Louis. Prior to his current position, Daniel worked as a business litigation associate at a law firm in Sioux City, Iowa. He also served as a board member on the Sioux City Parks & Recreation Advisory Board. During law school, Daniel worked as a judicial extern for the Honorable Thomas D. Waterman, Associate Justice of the Iowa Supreme Court. Daniel joined the IPIB staff in December 2022.

**The Board’s vision**

At its first meeting on July 19, 2012, the Board outlined its vision for the agency it was setting out to define. The minutes of that meeting state the Board said its operation should

- be inexpensive
- be convenient
- provide a one-stop service
- provide uniformity of information and
- provide consistency of information.

## **Transparency**

The IPIB jurisdiction covers Iowa Code chapters 21 (open meetings) and 22 (public records). In that light, it is the goal of the Board to model and be the state's most transparent state agency. The IPIB routinely sends notice out earlier than the required 24 hours prior to all meetings and to anyone who requests. Over 150 citizens, media, and agencies are sent meeting notices, board packets, and other information related to IPIB activities.

In addition to distributing required tentative agendas, the Board also sends agenda materials and prior meeting minutes when notifying requestors about meetings. The Board also posts its agendas and minutes on the Board's website.

## **IPIB Year in Review**

Staff processed 754 cases and inquiries in 2022. Not all are complaints as indicated below. Case inquiries arrive via the website, mail, phone, email, and office contacts. The Case Management System (CMS) developed by staff assigns a number and case type to each, as well as statistical information and case notes. Prior to opening the office in 2013, it was anticipated the IPIB would see an annual case rate of 300 to 350. The 754 cases/inquiries opened in 2022 include:

Formal Complaints (131) – these cases require investigation and are processed for Board review as outlined in the Rules. Complainants have included citizens, media, and elected officials. Selected documents are posted on the IPIB website ([www.ipib.iowa.gov](http://www.ipib.iowa.gov)) under “Rulings.”

Advisory Opinions (4) – these cases require research and investigation and are processed for Board review as outlined in the Rules. Requests have been made by agencies, media, and private citizens. The finalized opinions are published to the IPIB website under “Rulings.”

Declaratory Orders (0) – these requests involve research, investigation, and coordination with governmental bodies and other organizations as outlined by the IPIB administrative rules prior to presentation to the Board.

Informal Complaints (130) – these informal cases also require investigation, research, and mediation. Informal Complaints are resolved without the filing of a formal complaint to the Board. The majority of these complaints in 2021 were from citizens requesting assistance in obtaining records or accessing meetings.

Informal Requests (359) – these informal requests for assistance require review and research. Informal Requests can normally be resolved within 24 hours. They do not require Board review and action under the Rules. Often the requestor is a public official, staff, or legal counsel seeking assistance in the interpretation of Chapters 21 and 22 or a member of the public with a question.

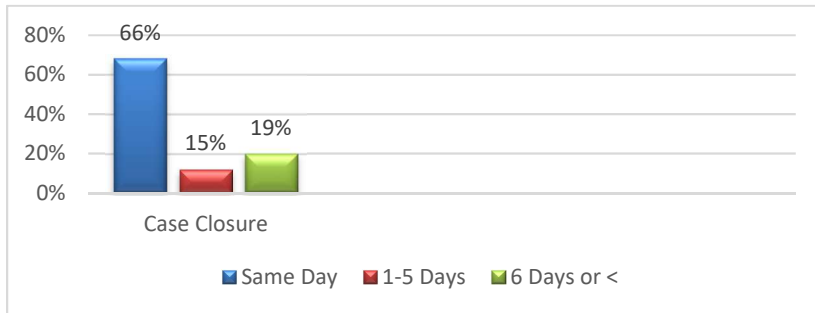
Miscellaneous Others (130) – this category includes other requests for assistance that do not fall within the above categories, such as training, legislative issues, research, etc.

In 2022, the requestor breakdown was citizen 66%, media 9%, and government official or staff 25%.

## Decisions Rendered

Of the 131 formal complaints filed in 2022, 22 remained open at year’s end, primarily to complete the intake or achieve an informal resolution. Accepted complaints progressed through informal resolution as envisioned by Iowa Code section 23.9, resulting in remedial plans that were negotiated by IPIB staff. In 2022, the Board did not initiate any contested cases.

Some cases were dismissed as not timely filed - outside the Board’s sixty-day period of jurisdiction. Also, some requests seek assistance on problems that are not within the Board’s jurisdiction. Frequently staff has been able to be of assistance on an informal basis to help citizens obtain a satisfactory result with the cooperation of public officials in other agencies.



In 2022, 66% of the incoming matters were resolved in less than a day, 15% were resolved in one to five calendar days, and 19% were resolved in six or more calendar days.

## Investigations

The investigatory phase of most cases occurs in the process of conciliation, the preferred method of dispute resolution. Good cooperation among parties has been the rule, not the exception. The occasional exception has been overcome with patient persistence and the cooperation of government bodies and the attorneys who represent the involved governments.

## Hearings Conducted

There were no formal hearings held in 2022.

At year’s end, there were no contested case proceedings pending. Two cases had been submitted for appeal to the Iowa Supreme Court. One concerned a public record (chapter 22) request to the City of Burlington and the Iowa Department of Public Safety. The other involved a public records request to the Polk County Assessor office. Both appeals were argued by legal counsel. The Iowa Supreme Court issued a decision in both cases. These decisions are accessible on the IPIB website under “rulings.”

## Board proceedings

All IPIB meeting agendas and minutes for the past year are available on the website ([www.ipib.iowa.gov](http://www.ipib.iowa.gov)).

## Board Outreach and Training

IPIB staff represented the Board at events and trainings. In most cases presentations were made concerning the operation of the Board, its goals, and its powers and duties. The Board has made it known to civic, law enforcement, local government, media, and professional organizations that it welcomes the opportunity to provide speakers and training opportunities.

All presentations emphasize the statutory goal, embraced by the Board, of using a conciliatory approach to solving transparency issues. Building a reputation as a convenient resource to be used free of charge by local government officials and custodians of public records is a key Board goal. Board staff also continues to serve on professional boards and on informal research committees to provide input on transparency goals.

## **Resources and activities**

The IPIB met twelve times in open meetings in 2021 to review cases and conduct other required business. Board committees have been active to focus on several tasks including:

- Developing and implementing a communications plan
- Developing and implementing a legislative recommendations process and drafting proposed legislation
- Reviewing and revising administrative rules

Committees met six times throughout the year in open meetings.

## **Board tasks continued in 2022 include:**

---**Website.** The IPIB website, [www.ipib.iowa.gov](http://www.ipib.iowa.gov), opened in late August 2013. The website includes the full text of Chapters 21, 22, and 23. It also includes questions and answers (FAQs) about various issues, copies of all formal complaint decisions, all minutes and agendas for the IPIB meetings, activities of the IPIB, and contact information. The website also has links that make it possible to file a formal complaint with or to ask a question of the IPIB. Statistics from the web host for January through December 2022 show that 36,828 visitors viewed our website. Around 88% of the visitors to the website were new, first-time visitors.

A training PowerPoint presentation is a feature that is hosted on the website: “Iowa Sunshine Law – Open Meetings and Open Records in Iowa.” The free training program is available to any group, agency, governmental body, or individual wanting basic, comprehensive training on Chapters 21 and 22. This continues to be a valuable resource.

---**A coordinated training program.** The IPIB continues to coordinate with the Iowa League of Cities, the Iowa State Association of Counties, the Iowa Association of School Boards, the Iowa Newspaper Foundation, the Iowa Broadcasters Association, and the Iowa Freedom of Information Council to present training opportunities for their constituents and the general public. Development of the website training program (above) was an integral part of developing a universal training curriculum for this combined effort.

IPIB staff coordinated and participated in four trainings state-wide in May 2022 for the ISSDA Regional Training on Record Retention and Redaction.

In addition, IPIB staff drafted and published educational articles monthly. The articles are posted on the website and emailed to the IPIB distribution lists.

**---Information policies and processes established.** The IPIB maintains an email distribution list. Anyone can be added to the list to receive copies of all general notice items such as meeting notices, agendas, board packets, and minutes. Other general interest items are also circulated on this list. The policies and processes reflect the Board’s transparency goal stated above.

**---Establishing Board goals and metrics to measure progress.** The Board has established a case management system that continues to be refined and adjusted as experience warrants. This system allows for statistical reporting on audience served (citizen, media, government), location by city and county, the length of time a case is open, whether a case meets the jurisdictional requirements of Chapter 23, types of cases (complaint, opinion, ruling), and whether the complaint is focused on state, city, county, school, or other governmental bodies. The system also allows staff to enter notes and comments and upload emails and other documents to the case record.

### **Feedback from people who contact the IPIB:**

- “Thanks for your swiftly administered courtesies!” – media representative.
- “I couldn’t be happier that we have an Iowa Public Information Board.” – Western Iowa citizen.
- “Thank you for clarifying this for us. I appreciate you serving as an intermediary to resolve this.” – Iowa City attorney.
- “I love how quickly your office responds to my questions.” – A northeast Iowa newspaper editor
- “I would like to commend you on your website, it is very informative and extremely easy to navigate.” – Waterloo citizen
- “Every time I’ve called I’ve been helped immediately and in a very friendly way. I am very impressed with how you operate.” – Central Iowa attorney
- “As a side note – a HUGE thank you to you and the Iowa Public Information Board. I have listened through the better part of two meetings and I am impressed with the level of professionalism at your meetings. Thank you!” – Director of a conservation commission
- “Thanks so much! I really appreciate all your help on this issue.” – Eastern Iowa newspaper reporter

REVIEWED AND APPROVED ON JANUARY 19, 2023.

Julie Pottorff, Chair