



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

W. Charles Smithson, JD
Executive Director
(515) 725-1782
charlie.smithson@iowa.gov

Margaret Johnson, JD
Deputy Director
(515) 725-1783
margaret.johnson@iowa.gov

Annual Status Report As Required by Code Subsection 23.6(12) *January 21, 2016*

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 2014 in accordance with the directives of Chapter 23.

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 97 formal complaints and answering 714 informal inquiries in 2015. The vast majority of complaints were settled informally, with the Board attorneys negotiating a compromise that satisfied both parties, reduced community conflict and resulted in increased government transparency. In addition, Board staff members traveled the state, conducting 19 training sessions for hundreds of state, county and city officials. The Board identified continuing problems in the areas of meeting notice, governmental subcommittees and law enforcement records, and recommended legislative changes to address them.

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:

- An extension service official requested assistance in determining when extension councils could go into closed session. IPIB staff assisted not only by answering the question, but by developing training and policy for use statewide.
- A media representative requested informal assistance with the release of certain body camera recordings that were not part of a police investigation. It was determined and agreed that the recordings were not confidential peace officer investigative reports, and the recordings were released.
- A citizen requested and received assistance in the placement of a private recording device at a city council meeting. The conflict was resolved without requiring the filing of a formal complaint.
- At various times during the year, a question arose about the requirement to send meeting notices to media when a request for such notice had been made. In addition to coordinating an informal resolution with the issue, IPIB staff published information about how to avoid such a situation.

Board Members

Robert Andeweg • Anthony Gaughan • Jo Martin • Andrew McKean • Gary Mohr • William Monroe
Kathleen Richardson • Suzan Stewart • Peggy Weitzl

- Following complaints from citizens, IPIB staff reviewed several policies enacted by local government concerning public record requests. Staff was able to negotiate satisfactory resolution of the informal complaints.
- A county official requested and received assistance in acquiring a public record from a state agency in the format desired by the county official.
- IPIB staff assisted a number of citizens and members of the media in requesting and receiving public records informally, including nomination papers, minutes, agendas, budgets, emails, and other records, often in less than one work day.

The Board

Governor Branstad appointed the Board in July, 2012. Since then the Board has met on a monthly basis performing a number of organizational activities necessary prior to being authorized to become operational July 1, 2013.

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.

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, and the Board must be balanced by political party and gender. The Board appoints a chair from among its members. The Board is an independent agency. The nine members are:

---**Robert Andeweg, JD**, Urbandale (Republican) - Robert is an attorney with the Nyemaster Goode Law Firm in Des Moines. He has served on the Urbandale City Council and currently serves as that city's Mayor.

---**Tony Gaughan, JD**, West Des Moines (Republican) - Tony is an attorney who is an Associate Professor of Law at Drake University in Des Moines.

---**Jo Martin**, Spirit Lake (Democrat) - Jo is a retired vice president of Times-Citizen Communications in Iowa Falls, having worked for several other Iowa newspapers prior to that. She is a Past President of the Iowa Newspaper Association (INA) and the Iowa Newspaper Foundation (INF).

---**Andy McKean, JD**, Anamosa (Republican) – Andy is an attorney who has served as a City Attorney (Morley, Martelle, and Mechanicsville), a County Supervisor (Jones County 2003-2011) and a State Legislator (State Representative 1979-1993 and State Senator 1993-2003).

---**Gary Mohr**, Bettendorf (Independent) - Gary is the retired Executive Director, External Affairs for Eastern Iowa Community College in Davenport. He was elected to the Bettendorf City Council in November, 2013.

---**Bill Monroe**, Johnston (Republican) - Bill retired after 29 years as Executive Director of the Iowa Newspaper Association in 2009. Prior to that, he worked at several Iowa newspapers as an editor or publisher. In 2011, Governor Branstad named him to serve (in a volunteer capacity) as the Governor's Transparency Advisor. He has served on the Executive Committee of the Iowa Freedom of Information Council

---**Kathleen Richardson, JD**, Des Moines (Democrat) - Kathleen is Dean and Professor at the Drake University School of Journalism and Mass Communication in Des Moines and has served as Executive Director of

the Iowa Freedom of Information Council (IFOIC) from 2000 to 2015. She has also served as central coordinator for the Expanded News Media Coverage (electronic coverage of the judiciary) program for the Supreme Court.

---**Suzan Stewart, JD**, Sioux City (Republican) (chair) - Suzan retired in 2015 from her position as Senior Managing Attorney with MidAmerican Energy Company.

---**Peggy Weidl**, Carroll (Democrat) - Peggy retired as the Treasurer of Carroll County on December 31, 2013.

Board Staff

---**W Charles Smithson, JD**, was selected as Executive Director on October 30, 2014, upon the retirement of Keith Luchtel. Charlie received his bachelor's degree in history/political science/sociology from Westmar College and his law degree from Washburn University. He served as Legal Counsel and then also as Executive Director between 1998 to 2010 to the Iowa Ethics and Campaign Disclosure Board. Most recently he served as Legal Counsel and Legislative Liaison in the Iowa Secretary of State's Office. He was Chief Clerk of the Iowa House of Representatives from November of 2010 to November of 2012 and is also an adjunct professor of election law at Drake University Law School.

---**Margaret E. Johnson, JD**, serves as deputy director of the Board. 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 4th 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.

---**Cindy Meyerdirk** serves as Administrative Assistant to the Board. She moved from northwest Iowa, where she held business staff positions, to Des Moines in 2007. Cindy then began government employment with the Iowa Fire Marshal Division of the Department of Public Safety. She served as Assistant to the Building Code Director and served as the Assistant to the Fire Marshal when hired by the IPIB commencing July 5, 2013.

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

It is the goal of the Board to 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 many more people than only those from the media. To date, over 250 people, media and agencies are sent meeting notices.

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 minutes are posted on the Board's website and sent to all who have requested meeting notice.

IPIB Year in Review

As of December 31, 2015, staff has processed 811 cases. 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. We anticipated an annual case rate of 300 to 350. The 811 cases opened in 2015 include:

Formal Complaints (97) – 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) under “Rulings.”

Advisory Opinions (8) – 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 (3) – 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 (151) – 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 2015 were from citizens requesting assistance in obtaining records or accessing meetings.

Informal Requests (531) – these informal cases require review and research. Informal Requests can normally be resolved within 24 hours. They do not require Board review and action under the Rules. Usually the requestor is a public official, staff or legal counsel seeking assistance in the interpretation of Chapters 21 and 22. In 2015, the requestor breakdown was citizen 46%, media 14% and government official or staff 40%.

Miscellaneous Other (21) – this category includes other requests for assistance that do not fall within the above categories, such as training, legislative issues, etc.

Decisions Rendered

Of the 97 formal complaints filed in 2015, fifteen remained open at year's end, primarily filed in December. Nine complaints progressed through informal resolution as envisioned by Iowa Code section 23.9, resulting in remedial plans that were negotiated by IPIB staff. The remedial plans approved during 2015 were successfully completed by year's end.

Several cases have been dismissed as having not been timely filed - outside the Board's sixty-day period of limitation. 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 2015, 62% of the incoming matters were resolved in less than a day, 20% were resolved in one to five days and 18% were resolved in six or more days.

Investigations

Some meetings and research investigatory trips on formal complaints occurred out of the IPIB office. 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 local government organizations and the attorneys who represent involved local governments.

Hearings Conducted

No formal hearings were concluded in 2015.

At year's end, two contested case proceedings were pending concerning public records (chapter 22) requests to the City of Burlington, the Iowa Department of Public Safety and the Des Moines County Attorney. The IPIB Board approved the filing of formal charges in the matters on December 17, 2015.

Board proceedings

All IPIB meeting minutes for the past year are available on the website (www.ipib.iowa.gov).

Board Outreach and Training

Board members and staff represented the Board at events listed on the IPIB website. 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.

Resources and activities

The IPIB met every month in open meetings to review cases and conduct other required business. Board committees have been formed to focus on several tasks including:

- Developing and implementing a communications plan;
- Developing and implementing a legislative recommendations process; and
- Developing and implementing a training program in cooperation with government and media organizations.

Committees met as needed throughout the year in open meetings.

Board tasks completed in 2015 include:

---**Website.** The IPIB website, 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 selected formal complaint decisions of likely interest, all minutes and agendas for the IPIB, activities of the IPIB and contact information. The website also has links to file a formal complaint or to ask a question. Statistics from the web host for January through December 2015 note 9,397 visitors (almost double from 2014) viewing 51,222 pages on the website. Each month around 66% of the visitors to the website were new, first-time visitors.

The Training Committee met with other agencies in 2014 to draft, refine and publish a training PowerPoint presentation to 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.

---**Developing a training program.** For the past decade or so, 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 have worked together 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.

In addition, IPIB staff draft and publish an educational monthly column entitled “Open.Iowa.gov”. The column is posted on the website and emailed to the IPIB distribution lists. The Iowa Newspaper Association prepares and distributes a PDF version of the column for all its members.

---Information policies and processes established. An email distribution list is available to anyone who wants to receive copies of all general notice items such as meeting notices, agendas and minutes. Other general interest items are also circulated on this list. The policies and processes reflect the Board's transparency goal stated above. The executive director is responsible for securing information in the custody of the Board that is required to be kept confidential. The media distribution list developed in 2014 assists with disseminating information of particular interest to the media.

---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. The new, refined 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 new system also allows staff to enter notes, comments and upload emails and other documents to the case record.

---Legislative agenda. During 2015, the Executive Director met with the Legislative Services Agency and the IPIB to draft proposed legislation for the 2016 legislative session

The 2015 Study Bill was not approved by the Legislature during the spring of 2015.

REVIEWED AND APPROVED ON JANUARY 21, 2016.

Suzan Stewart, Chair