

## Access to Law Enforcement

The Iowa law on examination of Public Records (Iowa Code, Chapter 22) states the public is entitled to inspect law enforcement records and to receive certain information. §22.7(5) specifically states: “...(T)he date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual.”

Iowa law favors access to public records; a denial of access to information is the exception. According to the Iowa Supreme Court, Chapter 22 “is to be interpreted liberally to provide broad public access to ... public records.” (See *City of Dubuque v. Telegraph Herald, Inc.* and *Howard v. Des Moines Register and Tribune Co.*) The Iowa legislature embodied this liberal policy regarding access to public records in §22.8(3): “...(T)he policy of this chapter [is] that free and open examination of public records is generally in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others.”

The Iowa Attorney General’s opinion of October 7, 1982, focuses on access to law enforcement records. It concludes:

1. Requests for public records pursuant to §22.7(5) should be directed to the person within the agency entrusted to compile and maintain such records (lawful custodian) or to his or her authorized deputy.
  2. “Such requests must reasonably describe the records requested. A request is ‘reasonable’ if it enables the lawful custodian who is familiar with the subject matter of the request to locate the records with a reasonable amount of effort.”
  3. “A citizen may request §22.7(5) information for a particular day or time, or for any number of days or times. The request is not required to specify the particular criminal incident for which the information is requested.”
  4. §22.7(5) requires that **“the date, time, location and immediate facts of a criminal incident be disclosed upon request; the lawful custodian can exercise no discretion with regard to disclosure of this designated information.”**
  5. If the custodian decides to disclose only the required time, date and location information, he or she must take steps to segregate or delete any confidential information also contained within the requested document.
  6. The burden of establishing facts necessary to withhold public records rests with the public agency.
- Public records that are open: police blotters, current arrest records, mug shots, crime victims’ names (except children)**  
**Confidential records: DOT accident reports, police investigative reports**

## A journalist’s guide to **OPENNESS IN IOWA**

A summary of the Iowa Code regarding

- Open meetings
- Open records
- Access to law enforcement



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## Open Meetings Open Records

In the Code of Iowa, both Chapter 21 on open meetings and Chapter 22 on access to public records operate on an assumption of openness. The question is not whether a citizen can attend a meeting or see a record; the question rather is under what limited conditions might a public agency or public servant close a meeting or deny access to a record. For example, the statement of intent in Chapter 21 is: "This chapter seeks to assure, through a requirement of open meetings of governmental bodies, that the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people. Ambiguity in the construction or application of this chapter should be resolved in favor of openness." And in Chapter 22 one reads, "...free and open examination of public records is generally in the public interest even though such examination may cause inconvenience or embarrassment to public officials or others." 22.8(3).

Following are some general guidelines for fulfilling the intent of Chapters 21 and 22 of the Code of Iowa. For more detailed information, the "Iowa Open Meetings, Open Records Handbook" is available from the Iowa Freedom of Information Council for \$2.

## Rules of Thumb

Adherence to several "rules of thumb" will serve citizens, journalists and public servants well in assuring compliance with the spirit and the letter of Iowa laws on access to public meetings and public records. With regard to both Chapter 21 and 22 be familiar with the Acts' requirements; address questions about the laws to the government body's legal counsel.

### CHAPTER 21

1. Assure that the Act's requirements are followed in notifying the public and press about public meetings and for making and preserving records of those sessions.

2. Presume that meetings should be open, unless there is a clear showing of need for a closed meeting specifically authorized by the Act.

3. A public body has discretion over who can speak at its sessions and for how long they might speak.

4. Citizens are allowed access to information, background papers, etc., provided to public officials as part of the materials for discussion at a public meeting.

5. The minutes of meetings should be available to citizens as soon as they are completed. Access to the minutes cannot be denied because the minutes have not been approved.

6. Public officials should vote against the closing of a meeting unless an exemption of Chapter 21.5(1) permits a closing (or a law provides an exemption to Chapter 21). Such a vote provides a sure defense against damages under Chapter 21.6[3a(1)]. An official who votes "No" may still attend if the session nevertheless is closed.

7. When voting to close a meeting:

a. Specify which exemption is being used to close the meeting and have this noted in the minutes and, if necessary, specify why you believe the exemption to be valid in this case.

b. Make sure that either two-thirds of the total membership of the body or all of those present do vote to close the session and that each person's vote is recorded in the minutes.

8. In closed session:

a. Make sure that a tape recording and detailed minutes are kept of the discussion as required by the Act.

b. Limit the closed session to the discussion specified when you moved to close the meeting, and reopen the meeting as soon as you have completed discussing that item.

c. The public body need not allow a person to attend the closed session even if that person or that person's concerns are being discussed.

9. All final action must be taken in public.

### CHAPTER 22

#### For public servants:

1. Assure that the Act's requirements that public records be available for inspection and copying are satisfied.

2. Presume that all government records are open to public inspection and copying, unless they fall within the definitions of the confidential records found in Section 22.7 of the Act or other sections of the Code that provide confidentiality.

3. When denying access to any government record specify what section of the Code provides confidentiality.

#### For citizens:

1. Identify as specifically as possible the record(s) you seek to inspect/copy.

2. If your request for access involves voluminous records, understand that some reasonable delay may be involved before the lawful custodian of the record(s) can provide all of the records requested. However, that delay cannot exceed twenty calendar days and ordinarily should not exceed ten business days [Chapter 22.8(4)(d)].

3. If you anticipate that your request for access to records will be denied, you may want to make that request in writing, addressed to the lawful custodian of the record(s) sought, and request that the lawful custodian issue a written denial of access. In this way you will create documentary evidence that your request for a government record was denied.

4. Fees for copying of public records cannot exceed the actual costs of providing the service [Chapter 22.3].