

IN THE IOWA PUBLIC INFORMATION BOARD

IN THE MATTER OF:)	15 FC:0030, 15 FC:0034 and 15 MO:0017
)	
Burlington Police Department)	
Des Moines County Attorney, and)	
Department of Criminal Investigation,)	
)	PETITION
Respondents.)	

PARTIES, JURISDICTION, AND VENUE

The Iowa Public Information Board ("IPIB") has jurisdiction of case numbers 15 FC:0030, 15 FC:0034, and 15 MO:0017 pursuant to Iowa Code Chapters 22 and 23.

Respondents are Burlington Police Department, Des Moines County Attorney, and Department of Criminal Investigation ("Respondents"). Respondents are government bodies in the State of Iowa pursuant to Iowa Code §§22.1 and 23.2 and are custodians of public records pursuant to Iowa Code §§22.1 and 23.2.

The Complainant in 15 FC:0030 is The Hawk Eye, a newspaper headquartered in Burlington, which is a person pursuant to Iowa Code §23.2. The Complainant in 15 FC:0034 and 15 MO:0017 is Adam Klein, an attorney in Atlanta, Georgia, who is also a person pursuant to Iowa Code §23.2.

Complainants make essentially the same allegations against Respondents, and the allegations arise from the same circumstances. This petition is filed to initiate a contested case.

A contested case hearing will be held in both cases jointly before an administrative law judge on the ____ day of _____, 2016 at ____ o'clock, at the Wallace Building, 502 East 9th Street, Des Moines, Iowa 50319.

STATEMENT OF FACTS

On January 6, 2015, a Burlington police officer responded to a report of a domestic dispute at a local Burlington address of 104 S. Garfield. While attempting to resolve the domestic dispute, the officer shot and killed Autumn Steele, who lived in the residence at the address. The homicide was investigated by the Burlington police department, and the Department of Criminal Investigation (DCI), a division of the Iowa Department of Public Safety, and the DCI investigation was reviewed by the Des Moines County Attorney.

Dale Alison is the managing editor of Complainant The Hawk Eye. On February 16, 2015, a news reporter employed by The Hawkeye submitted an open records request to the Des Moines County Attorney seeking to inspect or obtain copies of public records related to the Autumn Steele homicide of January 6, 2015. On March 2 and 3, 2015, the reporter submitted an open records request to both the Burlington Police Department and DCI seeking to obtain copies of all public records involving the Autumn Steele homicide including, but not limited to, investigative reports by the DCI and Burlington Police. Certain documents were provided, but the Des Moines County Attorney stated that she had returned DCI investigative documents she previously had to the DCI, and the Burlington Police and DCI refused to provide certain records on the ground that they were police officer investigative reports protected against disclosure by Iowa Code §22.7(5).

Complainant Alan Klein is an attorney for Autumn Steele's husband and other family members. On February 27, 2015, he filed two requests for release of certain records. One request was addressed to the Burlington Police Department, and the other was addressed jointly to the Des Moines County Attorney and to the DCI. He requested "all public records relating to the shooting of Autumn Steele by Burlington PD Officer Jesse Hill at 104 S. Garfield, Burlington, on January 6, 2015 at approximately 10:25 a.m., its aftermath, and the incident

which prompted the officer to be dispatched.” Specific records determined to be within the custody of each respondent were also requested. Certain records were provided to Mr. Klein by Respondents, but the Burlington Police Department and DCI declined to release certain records on the ground that they were police officer investigative reports protected against disclosure by Iowa Code section 22.7(5). The Des Moines County Attorney responded that as of the date of her response she had returned DCI records to the DCI.

STATEMENT OF CHARGES: FAILURE TO PROVIDE OPEN RECORDS

1. The IPIB charges the Respondents Burlington Police Department, Des Moines County Attorney and DCI with violation of Iowa Code §22.2.
2. On January 6, 2015, a Burlington, Iowa, police officer responded to a report of a domestic dispute at 104 S. Garfield in Burlington.
3. During the course of his response to the incident, the officer shot and killed Autumn Steele who had lived at that residence.
4. The incident was investigated by the Burlington Police Department, and the DCI. The Des Moines County Attorney reviewed the DCI investigative material.
5. Pursuant to normal procedures, the DCI prepared an investigative report that included witness statements, investigative notes, and video camera footage from the officer’s body-mounted recording device.
6. In their subsequent public records requests. Complainants requested copies of all public records involving the Autumn Steele homicide, including, but not limited to, investigative reports by the Burlington Police and DCI, and which were broad enough to include any police audio, body camera videos, and 911 calls.

7. Certain documents were provided to Complainants, but other documents were withheld.

8. Respondent Des Moines County Attorney responded that she had returned the DCI case file to the DCI. The record establishes, however, that she had those documents in her possession on the date she received Complainants' requests for their disclosure but withheld them from disclosure when they should have been produced in response to the request. The Burlington Police Department and DCI have withheld records covered by the request on the ground that they are confidential as police investigative reports within the meaning of Iowa Code §22.7(5).

9. The IPIB accepted the complaints pursuant to Iowa Code §23.8.

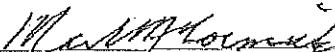
10. As of the date of this Petition, Respondents have not provided the documents they withheld on the contention that they are confidential pursuant to Iowa Code §22.7(5).

11. If found in violation of Iowa Code §22.2, each Respondent may owe statutory damages of not less than \$100 and not more than \$500 pursuant to Iowa Code §22.10.

12. If found to have knowingly violated Iowa Code §22.2, each Respondent may owe statutory damages of not less than \$1,000 and not more than \$2,500 pursuant to Iowa Code §22.10.

WHEREFORE, IPIB respectfully requests that the two cases be consolidated and that a contested case hearing be set, that upon such hearing an appropriate order be entered to ensure Respondents' compliance with Iowa Code Chapter 22, including a requirement that Respondents be ordered to produce the documents that have been withheld for examination and copying without cost to Complainants.

Filed this 27th day of May, 2016.



Mark McCormick, Prosecutor

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