



Laura Belin <laurabelin@bleedingheartland.com>

public records request

Ben Smith <ben.smith@saccountyiowa.gov>
To: Laura Belin <laurabelin@bleedingheartland.com>

Thu, Aug 17, 2023 at 12:29 PM

You are welcome.

I believe it is necessary and appropriate to reconsider if/when the facts and circumstances underlying my opinion/decision change. I can't guarantee the records will be disclosed after a final disposition in the criminal case is entered, but the same would certainly merit reconsideration.

Ben Smith

Sac County Attorney

(712) 662-4791

ben.smith@saccountyiowa.gov

From: Laura Belin <laurabelin@bleedingheartland.com>**Date:** Thursday, August 17, 2023 at 12:13 PM**To:** Ben Smith <ben.smith@saccountyiowa.gov>**Subject:** Re: FW: public records request

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Thank you for clarifying.

Does that mean you will consider releasing the records after the trial?

On Thu, Aug 17, 2023 at 12:04 PM Ben Smith <ben.smith@saccountyiowa.gov> wrote:

Laura,

First, to avoid confusion, you are requesting records that are confidential under Iowa law.

I believe many considerations outweigh the public's interest in knowing. Foremost is ensuring the defendant has a fair trial. As in all criminal prosecutions, real concerns exist that the public disclosure of evidence will prejudice a defendant's right to a fair trial. As a prosecutor, I have an ethical obligation under our rules to refrain from taking action that will have a substantial likelihood of heightening public condemnation of the accused. Put simply, an Iowa citizen's Constitutional right to a fair trial outweighs the disclosure of confidential information.

If you disagree, you are encouraged to seek all avenues of appeal, including the IPIB appeals process.

The IPIB URL is as follows: <https://ipib.iowa.gov/provided>

Good luck with your article.

Ben Smith

Sac County Attorney

(712) 662-4791

ben.smith@saccountyiowa.gov

From: Laura Belin <laurabelin@bleedingheartland.com>

Date: Thursday, August 17, 2023 at 11:17 AM

To: Ben Smith <ben.smith@saccountyiowa.gov>

Subject: Re: FW: public records request

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Dear Mr. Smith,

I am working on an article about the county's refusal to disclose these records. Can you explain what "limitations and constraints," in your mind, justify not using the balancing test the Iowa Supreme Court has laid out for such decisions?

Are you saying these records should not be subject to a balancing test? Or are you saying after considering the balancing test, you feel the factors weigh against disclosure? If the latter, what are the considerations that outweigh the public's interest in knowing what precipitated the arrest of someone who represents more than 60,000 Iowans in the state Senate?

Thank you in advance for clarifying.

Yours,

Laura

On Thu, Aug 17, 2023 at 10:22 AM Ben Smith <ben.smith@saccountyiowa.gov> wrote:

Laura,

I sincerely appreciate the time and effort you have put into your renewed Ch. 22 request. Your argument for accessing the requested information is well thought out and demonstrates your dedication to journalism. You gave me much to think about. After careful consideration, however, my position remains the same.

While I recognize the importance of transparency and the role of the media in informing the public, there are certain limitations and constraints to which I must adhere. Please know this decision was not made lightly, and I truly value the work that you do in keeping the public informed. If there are alternative ways in which we can assist you or if you have any further questions, please do not hesitate to contact me. I remain open to engaging in constructive dialogue and finding common ground where possible.

Thank you once again for your understanding and passionate journalist endeavors.

Ben

Ben Smith

Sac County Attorney

(712) 662-4791

ben.smith@saccountyiowa.gov

From: Laura Belin <laurarbelin@bleedingheartland.com>

Date: Wednesday, August 16, 2023 at 4:48 PM

To: Ben Smith <ben.smith@saccountyiowa.gov>

Cc: Sac County Attorney Office <saccoaty@saccountyiowa.gov>, Ken McClure <kmclure@saccountyiowa.gov>

Subject: Re: FW: public records request

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Hello again Mr. Smith,

I'm circling back on this matter and hope to receive the materials I have requested soon.

Yours,

Laura

On Mon, Aug 14, 2023 at 3:50 PM Laura Belin <laurarbelin@bleedingheartland.com> wrote:

Dear Mr. Smith,

After doing some research, I respectfully ask you to reconsider your interpretation of Iowa Code Chapter 22.7(5), which does not reflect the applicable case law.

The Iowa Supreme Court held in *Hawk Eye v. Jackson* (1994) that the privilege cloaking communications in officers' investigative files "is qualified, not absolute." The unanimous decision went on to say:

Determining where the line falls between public harm and public good requires weighing the relative merits of the interests at stake. We have long recognized that confidentiality encourages persons to come forward with information, whether substantiated or not, that might be used to solve crimes and deter criminal activity. *Shanahan*, 356 N.W.2d at 529. Secrecy is especially vital where reports are based on confidential informants, persons indispensable to successful police work but who frequently fear intimidation and reprisal. *Id.* at 529-30. Furthermore, nondisclosure permits law enforcement officials the necessary privacy to discuss findings and theories about cases under investigation. *Id.* at 529.

<https://law.justia.com/cases/iowa/supreme-court/1994/93-666-0.html>

In the 2019 case known as *Mitchell v. Cedar Rapids* (attached), a unanimous Iowa Supreme Court (entirely different justices) stated, "We hold that *Hawk Eye* remains the controlling precedent for disputes over access to police investigative reports." In other words, a balancing test should determine whether investigative reports are exempt from disclosure. The justices noted that "the police investigation had been completed without any confidential informant or unidentified suspect," and the high level of public interest in police shootings.

In the *Vaccaro* case released last year (attached), a unanimous Iowa Supreme Court again stated, "We employ a case-specific balancing test to guard against the chilling effect public disclosure could have on police investigations."

In this case, the balancing test points toward disclosure of the materials I have requested, including camera footage from body cams, dashboard cams, and the booking area of the county jail. Public interest in the case is high, because it's rare for a sitting state legislator to be arrested.

Senator Dickey and his attorney have implied the incident was a big misunderstanding. The public deserves to know whether that is the case, or whether Senator Dickey's behavior warranted an arrest and misdemeanor charge.

The case does not involve any confidential informants and does not rest on members of the

public coming forward with tips. Nor is it the kind of case where law enforcement would need "privacy to discuss findings and theories" about what happened on the country road. The incident unfolded in the plain view of several peace officers and numerous members of the public.

Thank you for your consideration.

Yours,

Laura

On Thu, Aug 3, 2023 at 12:14 PM Ben Smith <ben.smith@sacountyiowa.gov> wrote:

Ms. Belin,

Attached please find Sac County's response to your request for open records.

Ben

Ben Smith

Sac County Attorney

(712) 662-4791

ben.smith@sacountyiowa.gov

From: Ken McClure <kmccclure@sacountyiowa.gov>

Date: Thursday, July 27, 2023 at 4:03 PM

To: Ben Smith <ben.smith@sacountyiowa.gov>

Subject: Re: public records request

Thanks

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From: Ben Smith <ben.smith@sacountyiowa.gov>
Sent: Thursday, July 27, 2023 3:57:42 PM
To: Ken McClure <kmclure@sacountyiowa.gov>
Subject: Re: public records request

I'll handle it

Ben Smith
Sac County Attorney
w: (712) 662-4791
c: (515) 570-4008

From: Ken McClure <kmclure@sacountyiowa.gov>
Sent: Thursday, July 27, 2023 3:51:31 PM
To: Ben Smith <ben.smith@sacountyiowa.gov>
Subject: FW: public records request

Do you want me to address this or will you handle it?

Sheriff Ken McClure
100 N.W. State Street
Suite #7
Sac City, Iowa 50583
(712) 662-7127



From: Berlin Auen <borlaug@sacountyiowa.gov>
Sent: Thursday, July 27, 2023 1:41 PM
To: Ken McClure <kmclure@sacountyiowa.gov>
Subject: FW: public records request

From: Laura Belin <laurarbelin@bleedingheartland.com>
Sent: Thursday, July 27, 2023 1:36 PM
To: Berlin Auen <borlaug@sacountyiowa.gov>
Subject: public records request

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To the Sac County Sheriff's Office:

Under Iowa Code Chapter 22, I request the following public records:

1. All officer-worn body camera video and all squad car dash camera video recorded on July 24, 2023, as part of law enforcement's response to the group of RAGBRAI riders blocking Quincy Avenue.

To be clear: I am seeking copies of body camera and squad car dash camera video from all deputy sheriffs who were present during the incident and not just from Sgt. Jonathan Meyer, who eventually made the arrest. The statement your office released on July 27 indicated that multiple deputy sheriffs were present for approximately 80 minutes.

2. Please provide these recordings in their complete, unedited form. Please do not remove, block or mask any of the audio or video content. Do not make any changes to the recording speed to compress the playing time.

In the case of *Jerime Mitchell v. City of Cedar Rapids*, the Iowa Supreme Court held that law enforcement investigative files are not confidential in perpetuity. The court established a balancing test to consider the interests of confidentiality for investigations against the need for public access in cases involving high public interest.

There is high public interest in this case because it is extremely unusual for a sitting member of the Iowa legislature to be arrested in any context.

3. All documents disclosing the time, date, location, and immediate facts and circumstances of the July 24,

2023 incident involving Adrian Dickey and Sgt. Jonathan Meyer (including but not limited to his mug shot and any reports deputy sheriffs filed describing the events of that day).

4. All audio or video recorded of Adrian Dickey at the Sac County Sheriff's Office on July 24, 2023, including but not limited to his booking process, his release, and any phone calls the senator made from the jail (other than phone calls to an attorney).

If you choose not to release any of the records I am requesting, please itemize the records withheld and provide the specific Iowa Code section that you believe justifies keeping each requested record confidential.

Thank you in advance for your assistance with this public records request.

Yours,

Laura Belin

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Windsor Heights, IA 50324

(515) 276-6971

Website: <https://www.bleedingheartland.com>

Substack: <https://laurabelin.substack.com>

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