

IN THE IOWA PUBLIC INFORMATION BOARD
BEFORE THE
IOWA DEPARTMENT OF INSPECTION AND APPEALS
DIVISION OF ADMINISTRATIVE HEARINGS
WALLACE STATE OFFICE BUILDING – THIRD FLOOR
DES MOINES, IOWA 50319

IN THE MATTER OF:

Burlington Police Department
Des Moines County Attorney, and
Department of Criminal Investigation,

Respondents.

15 FC:0030, 15 FC:0034 and 15 MO:0017

**SETTLEMENT AGREEMENT AND
ORDER**

This settlement is by and between the Iowa Public Information Board (IPIB) and the Des Moines County Attorney (Des Moines County Attorney), Amy Beavers, pursuant to IPIB administrative rule 497—2.4 and resolves the matter of complaints 15 FC:0030, 15 FC:0034 and 15 MO:0017 to the extent those complaints make allegations against the Des Moines County Attorney.

1. On Friday February 27, 2015, the Des Moines County Attorney issued her detailed written determination letter in the review of an officer involved shooting case to determine whether criminal charges were warranted. The Des Moines County Attorney had possession of DCI and City of Burlington investigative materials at the time of issuing her decision.

2. On February 27, 2015 prior to issuing such determination letter, the Des Moines County Attorney's Office notified Mr. Gabriel Steele through his attorney that the determination letter was completed and offered to allow Mr. Steele and his attorney a personal meeting to discuss any findings before formal issuance of a determination. Mr. Steele, through counsel, declined.

3. On February 27, 2015 after office hours, Mr. Adam Klein, an attorney for Autumn Steele's family members faxed a request for release of certain records to the Des Moines County Attorney. 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."

4. The Des Moines County Attorney responded that as of March 16, 2015, the date of her response, she had returned all records to the investigating authorities.

5. Iowa Code Section 22.1(2) defines "lawful custodian" as the government body currently in possession of the public record.

6. On February 12, 2016, the Iowa Public Information Board filed a probable cause report.

7. On February 18, 2016, the Iowa Public Information Board determined there was probable cause and a contested case should be filed against the Des Moines County Attorney.

8. The prosecutor filed charges against the Des Moines County Attorney based on this probable cause report and its approval on February 18, 2016, alleging a violation by the County attorney of Iowa Code section 22.2(1)


9. Prior to the filing of charges the Des Moines County Attorney fully cooperated with IPIB's staff's investigation, including participating in the informal resolution process and creating an office policy concerning open records requests.

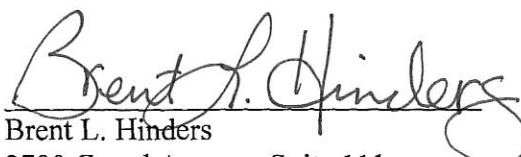
10. The parties hereby agree that the facts are sufficient that a reasonable fact finder could find a violation of Iowa Code Section 22.2(1) by the Des Moines County Attorney. The Des Moines County Attorney does not admit guilt in this circumstance.

11. The Des Moines County Attorney agrees to pay a fine of \$200 as a full resolution of the matter.

12. Upon approval by IPIB, this settlement will resolve any and all disputes between IPIB and the Des Moines County Attorney concerning complaints 15 FC:0030, 15 FC:0034 and 15 MO:0017, that the IPIB shall file no further complaints in reference to this matter, and said complaints against the Des Moines County Attorney shall be deemed closed.

Dated this 13th day of December, 2016.

By: 
Mark McCormick,
Prosecutor
Iowa Public Information
Bd.

By 
Brent L. Hinders
2700 Grand Avenue, Suite 111
Des Moines, IA 50312

ATTORNEYS FOR RESPONDENT

Original filed.

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CERTIFICATE OF SERVICE	
The undersigned certifies that the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause herein at their respective addresses disclosed on the pleadings of record on the <u>15th</u> day of <u>December</u> 20 <u> </u> .	
By	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Fax
	<input type="checkbox"/> Hand Delivery <input type="checkbox"/> Electronically through CM-ECF
	<input type="checkbox"/> Private Carrier <input type="checkbox"/> Other: _____
Signature	<u>W. Charles Smithson</u>

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