

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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LAURA BELIN, BLEEDING HEARTLAND  
LLC, CLARK KAUFFMAN, IOWA  
CAPITAL DISPATCH, RANDY EVANS,  
AND IOWA FREEDOM OF INFORMATION  
COUNCIL,

Plaintiffs,

v.

GOVERNOR KIM REYNOLDS, MICHAEL  
BOAL, PAT GARRETT, ALEX MURPHY,  
and OFFICE OF THE GOVERNOR OF THE  
STATE OF IOWA,

Defendants.

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Case No. \_\_\_\_\_

**PETITION FOR DECLARATORY AND  
INJUNCTIVE RELIEF, AND IN THE  
ALTERNATIVE, REQUEST FOR  
ORDER OF MANDAMUS**

**COME NOW**, Plaintiffs Laura Belin (“Belin”) Bleeding Heartland LLC (“Bleeding Heartland”), Clark Kauffman (“Kauffman”), Iowa Capital Dispatch, Randy Evans (Evans), and Iowa Freedom of Information Council (“FOIC”), by and through their attorneys, Leah Patton and Rita Bettis Austen of the American Civil Liberties Union of Iowa Foundation, and pursuant to Iowa Code sections 22.5 and 22.10, pray for declaratory relief finding that the Defendants Governor Kim Reynolds, Michael Boal (“Boal”), Pat Garrett (“Garrett”), Alex Murphy (“Murphy”), and Office of the Governor of the State of Iowa (“Governor’s Office”) violated Iowa Code Chapter 22, Iowa’s open records law, and injunctive relief ordering that the Defendants provide to the Plaintiffs the open records they’ve sought under Chapter 22 and that the Defendants refrain for one year from committing future violations of Chapter 22. In the alternative, the Plaintiffs request an order for

mandamus to similar effect. In support thereof, the Plaintiffs state the following:

**STATEMENT OF THE CASE**

1. “‘Sunlight is said to be the best of disinfectants.’ This concept animates state . . . laws allowing public scrutiny of government records—shining the light of day on the actions of our public officials deters misconduct that thrives in darkness.’”<sup>1</sup>
2. At issue in this case is a troubling and ongoing pattern of non-compliance and unreasonable delay by the Iowa Governor’s Office and its staff to Chapter 22 open records requests submitted by Iowa’s reporters, including Plaintiffs, that spans over 18 months.
3. Plaintiffs acknowledge that the State of Iowa and the Governor’s Office have faced many challenges due to the COVID-19 pandemic, a once in a lifetime event. Indeed, Plaintiffs have afforded Defendants a high degree of patience and understanding over the last year and a half by renewing the requests and writing to seek updates and further information about their requests, most of which have simply been ignored.
4. Despite Plaintiffs providing the Defendants ample time and multiple opportunities to provide the records, Defendants have persisted in violating Iowa Code Chapter 22 in two ways: (1) They have failed to promptly and timely provide the records requested, and (2) they have denied access to the open records altogether.

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<sup>1</sup> *City of Riverdale v. Diercks*, 806 N.W.2d 643, 645 (Iowa 2011) (quoting Justice Louis Brandeis, *What Publicity Can Do*, Harper’s Weekly, Dec. 20, 1913)).

5. Plaintiffs Laura Belin and Bleeding Heartland made numerous requests to obtain public records from Defendants under Iowa's open records law through Michael Boal, the governor's records custodian, from April 27, 2020, until June 16, 2021, on matters of public interest both related and unrelated to the COVID-19 pandemic.
6. Boal acknowledged receipt of a number of the open records requests.
7. However, Defendants never provided Belin and Bleeding Heartland with the requested open records.
8. Since the original open records requests were made, Belin and the Bleeding Heartland have renewed the requests numerous times over many months.
9. Nevertheless, the Defendants still have not produced any records in response to the open records requests to date.
10. Plaintiffs Randy Evans and the FOIC also submitted open records requests to the Governor's Office through Boal from August 10 to August 27, 2021.
11. Boal acknowledged receipt of the FOIC's open records requests.
12. However, Defendants never provided the FOIC with the requested open records even after it renewed its requests.
13. Finally, Plaintiffs Clark Kauffman and Iowa Capital Dispatch submitted open records requests to the Governor's Office through Boal, Pat Garrett, and Alex Murphy from April 8 to November 3, 2021.
14. Boal, Garrett, and Murphy eventually acknowledged receipt of these requests.
15. However, Defendants did not provide Kauffman and Iowa Capital Dispatch with the requested open records except for a few documents.

16. Kauffman and Iowa Capital Dispatch renewed their requests for the records that were not provided several times.
17. Nevertheless, Defendants have still not produced the remaining responsive records.
18. This case illustrates the significant public interests protected by Iowa's statutory right to inspect, copy, and disseminate public records—in challenging times, the public counts on robust reporting by Iowa's investigative journalists more than ever. In order to fulfill this essential role in our democratic system of governance, reporters, in turn, need access to public records.
19. Judicial enforcement is unfortunately necessary to ensure future access to public records in the custody of the Iowa Governor's Office.

### **PARTIES**

20. Plaintiff Laura Belin is an experienced reporter, commentator, and editor for the political blog Bleeding Heartland. Previously, Belin was an analyst and freelancer for Open Media Research Institute and Radio Free Europe/Radio Liberty. She covered Russian campaigns and elections, parliamentary politics, and media issues from 1995 to 2005 during most of Boris Yeltsin's presidency and the early Vladimir Putin years.
21. Plaintiff Bleeding Heartland is a community blog providing original reporting and commentary about Iowa politics and state government.<sup>3</sup> Belin is among the

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<sup>3</sup> Bleeding Heartland, <https://www.bleedingheartland.com/about/> (last visited December 15, 2021).

most widely read Iowa political reporters<sup>4</sup> and authors most of the content for Bleeding Heartland, which publishes hundreds of articles and commentaries each year authored by Belin and guest writers.

22. On a typical day, Bleeding Heartland has anywhere between 1,000 and 2,500 unique visitors to its website. From January 1 to December 15, 2021, Bleeding Heartland had between 852,000 to 940,000 page views. Between that timeframe, total site visits were around 470,000. Bleeding Heartland also has a Facebook page with approximately 5,800 likes, and Belin has a Twitter account with more than 20,000 followers.
23. Bleeding Heartland is a limited liability corporation, which is incorporated in Polk County, Iowa. Belin is the sole member of the Bleeding Heartland.
24. Plaintiff Clark Kauffman is a reporter and deputy editor for the Iowa Capital Dispatch. Kauffman has worked for the last 30 years as both an investigative reporter and editorial writer at two of Iowa's largest newspapers—the Des Moines Register and the Quad-City Times. He has won numerous state and national awards for reporting and editorial writing. His 2004 series on prosecutorial misconduct in Iowa qualified him as a finalist for the Pulitzer Prize for Investigative Reporting. Kauffman was also an assistant ombudsman for the Iowa Office of Ombudsman from October of 2018 until November of 2019, an agency that investigates citizens' complaints of wrongdoing within state and

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<sup>4</sup> The Fix at the Washington Post included Belin of Bleeding Heartland on their 2020 list of outstanding politics reporters to follow in every state. *See* The Washington Post, <https://www.washingtonpost.com/politics/2020/10/26/fixs-2020-list-outstanding-politics-reporters-follow-every-state/> (last visited on December 15, 2021).

local government agencies.

25. Plaintiff Iowa Capital Dispatch is a hard-hitting, independent and non-profit news organization dedicated to connecting Iowans to their state government and its impact on their lives.<sup>5</sup> It combines government coverage and relentless investigative journalism and dives deep in the consequences of policy, political insight, and principled commentary.<sup>6</sup> It is headquartered in Polk County, Iowa.
26. Plaintiff Randy Evans is a reporter and the executive director for the Iowa Freedom of Information Council. Evans has worked as the editor at the Albia Union-Republican and Monroe County News for 2 years and as a news reporter and editor for 40 years at The Des Moines Register. Evans has received multiple awards in journalism, including the Iowa Newspaper Association's Distinguished Service Award, the Iowa Center for Public Affairs Journalism's Free Press Champion Award, and FOIC's inaugural Friend of the First Amendment Award.
27. Plaintiff Iowa Freedom of Information Council is a nonprofit organization of newspapers, radio and television stations, media associations, educators, publishers, broadcasters, and others interested in openness of government and First Amendment rights.<sup>7</sup> FOIC is headquartered in Polk County, Iowa.
28. FOIC joins this action on its own behalf and on behalf of its members, including

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<sup>5</sup> See Iowa Capital Dispatch, <https://iowacapitaldispatch.com/about/> (last visited December 15, 2021).

<sup>6</sup> See *id.*

<sup>7</sup> See Iowa Freedom of Information Council, <https://ifoic.org/about/> (last visited December 15, 2021).

Plaintiffs, who have been adversely impacted by Defendants' actions.

29. Belin, Bleeding Heartland, and Iowa Capital Dispatch are all dues-paying members of FOIC.
30. At all times material hereto, Defendant Kim Reynolds was the Governor of the State of Iowa and lawful custodian in physical possession of the open records at issue in this case.
31. At all times material hereto, Defendant Iowa Governor's Office was a government body created under Iowa Code section 7.1.
32. At all material times hereto, Defendant Michael Boal was the Deputy Legal Counsel and then Senior Legal Counsel to the Governor's Office. Boal was listed as an official contact for the Governor's Office for the fulfillment of open records requests.<sup>8</sup>
33. Up until September of 2021, Defendant Pat Garrett was the Communications Director for the Governor's Office. Because the Communications Director serves as the primary point of contact within the Governor's Office for members of the media, they routinely route requests for open records to the Communications Director. In all instances in which Plaintiffs directed open records requests to Garrett as Communications Director, he never indicated such requests should be directed elsewhere and would either handle them himself or refer inquiries to Boal for further follow-up.

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<sup>8</sup> See Office of the Governor of Iowa Kim Reynolds, <https://governor.iowa.gov/open-records> (last visited on December 15, 2021) (stating that "Governor Reynolds is committed to honest, open government. To make an open records request for records of the Office of the Governor, please contact Michael Boal at michael.boal@iowa.gov.").

34. Starting in September of 2021, Defendant Alex Murphy replaced Garrett as the Communication's Director for the Governor's Office.

### **JURISDICTION AND VENUE**

35. This action seeks a declaratory judgment and injunctive relief pursuant to Iowa Code sections 22.5 and 22.10(3)(a) and Iowa Rules of Civil Procedure 1.1101 et seq. and 1.1501 et seq. In the alternative, the action also seeks an order of mandamus pursuant to Iowa Code section 22.5 and Chapter 661.
36. This Court has jurisdiction over this matter pursuant to Iowa Code section 22.10, 611.4, and Chapter 661.
37. Venue is proper in this district pursuant to Iowa Code § 22.10(1) as Polk County is the county in which the Defendants have their principal place of business and is the county where the relevant violations of Chapter 22 occurred.

### **FACTS**

**I. Belin and Bleeding Heartland's First Open Records Request from April 27, 2020: COVID-19 Videos Produced by State for Distribution to Food Processing Plants**

38. On April 27, 2020, Belin and Bleeding Heartland submitted an open records request to Governor Reynolds, the Office of the Governor, and Michael Boal, via email to Michael Boal, requesting copies of any videos recorded during March of 2020 for distribution to food processing plants in Iowa as well as copies of any letters, emails, or other written communications from Governor Reynolds for distribution to employees of food processing plants in Iowa between March 15,



2020, and April 24, 2020. *See attached* Ex. A (Open Records Request Email dated April 27, 2020).

39. Boal did not respond to this request.
40. When the Governor's Office did not acknowledge receipt of her request, Belin and Bleeding Heartland again contacted Boal by email on April 30, 2020. *See id.*
41. Boal did not respond to this email, either.
42. On May 4, 2020, Belin again emailed Boal and copied Sam Langholz, then Governor Reynolds' senior legal counsel, and Garrett, Governor Kim Reynolds' communications director, verifying whether Boal was still the contact for making public records requests to the Governor's Office. *See id.*
43. That same day, Boal responded by email that the Governor's Office had received her open records request. *See id.*
44. When the Governor's Office subsequently still did not provide the requested information, Belin again renewed her requests by email to Boal on May 12, 2020, May 18, 2020, May 26, 2020, June 4, 2020, June 12, 2020, June 26, 2020, July 9, 2020, July 31, 2020, August 26, 2020, October 28, 2020, January 12, 2021, July 23, 2021, August 20, 2021, and September 24, 2021. *See id.*
45. Despite these multiple attempts to obtain the open records at issue, Defendants have never provided the requested records to Belin and Bleeding Heartland.

**II. Belin and Bleeding Heartland's Second Open Records Request from July 3, 2020: House File 2643-Related Records**

46. On July 3, 2020, Belin and Bleeding Heartland submitted an open records request to Defendants via email to Boal, requesting copies of all written correspondence to Governor Reynolds or her staff asking the governor to sign or veto Division

XXXIII of House File 2643 relating to electric transmission lines as well as copies of memos or staff summaries of telephone messages left for the Governor or her staff regarding the legislation. *See attached* Ex. B (Open Records Request Email dated July 3, 2020).

47. Boal did not respond to this request.
48. When the Governor's Office did not acknowledge receipt of her request, Belin and Bleeding Heartland again emailed Boal on July 19, 2020, verifying whether he was still the contact for making public records requests to the Governor's Office. *See id.*
49. On July 28, 2020, Boal responded by email that the Governor's Office had received her open records request. *See id.*
50. When the Governor's Office subsequently still did not provide the requested information, Belin and Bleeding Heartland renewed the requests by email to Boal on October 28, 2020, January 12, 2021, July 23, 2021, August 20, 2021, and September 24, 2021. *See id.*
51. Despite these multiple attempts to obtain the open records at issue, Defendants have never provided the requested records to Belin and Bleeding Heartland.

**III. Belin and Bleeding Heartland's Third Open Records Request from July 17, 2020: Previously-provided Public Records**

52. On July 17, 2020, Belin and Bleeding Heartland submitted an open records request to Defendants via email to Boal, requesting any responses to open records requests that had already been provided to other news organizations and reporters, including the Des Moines Register, the Associated Press, Iowa Public Radio, the Cedar Rapids Gazette, Caroline Cummings, and any other news organization or

member of the media, from March 15, 2020, to July 17, 2020.<sup>9</sup> *See attached Ex. C* (Open Records Request Email dated July 17, 2020).

53. Boal did not respond to this request.
54. When the Governor's Office did not acknowledge receipt of her request or provide the records, Belin and Bleeding Heartland renewed the requests by email to Boal on October 28, 2020, January 12, 2021, July 23, 2021, August 20, 2021, and September 24, 2021. *See id.*
55. Despite these multiple attempts to obtain the open records at issue, Defendants have never provided the requested records to Belin and Bleeding Heartland.

**IV. Belin and Bleeding Heartland's Fourth Open Records Request from June 1, 2021: Terrace Hill-related Charitable Donation Records**

56. On June 1, 2021, Laura Belin and Bleeding Heartland submitted an open records request to Defendants via email to Michael Boal, requesting a list of all the nonprofits to which Governor Kim Reynolds donated time, a meal, or a private tour of Terrace Hill for a fundraising auction from May 24, 2017 to June 1, 2021, as well as other specified records relating to charity events at Terrace Hill. *See attached Ex. D* (Open Records Request Email dated June 1, 2021).
57. Boal did not respond to this request.
58. When the Governor's Office did not acknowledge receipt of her request or provide the records, Belin and Bleeding Heartland renewed the requests by email

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<sup>9</sup> These "follow-along" public records requests are standard practice among reporters. They allow the requester to cheaply and (normally) quickly see those matters, which are the subject of press reporting, and potentially identify, further investigate, analyze, and report important matters of public interest that have not been already-published by other outlets. It also allows a reporter to see if a records custodian is providing the same public records to some reporters that the custodian has denied to others.

to Boal on June 8, 2021, July 23, 2021, August 20, 2021, and September 24, 2021. *See id.*

59. Despite these multiple attempts to obtain the open records at issue, Defendants have never provided the requested records to Belin and Bleeding Heartland.

**V. Belin and Bleeding Heartland's Fifth Open Records Request from June 16, 2021: Senate File 567-related Records**

60. On June 16, 2021, Belin and Bleeding Heartland submitted an open records request to Defendants via email to Boal, requesting copies of all written correspondence from March 8, 2021 to June 16, 2021, sent to Governor Reynolds or her staff regarding Senate File 567, copies of all communication between the Governor's Office staff and members of the Iowa House or Senate or legislative staff regarding Senate File 567, and copies of all memos or written communication within the Governor's Office regarding Senate File 567. *See attached* Ex. E (Open Records Request Email dated June 16, 2021).

61. Boal did not respond to this request.

62. When the Governor's Office did not acknowledge receipt of her request or provide the records, Belin and Bleeding Heartland renewed the requests by email to Boal on July 23, 2021, August 20, 2021, and September 24, 2021. *See id.*

63. Despite these multiple attempts to obtain the open records at issue, Defendants have never provided the requested records to Belin and Bleeding Heartland.

**VI. Kauffman and Iowa Capital Dispatch's Records Requests from April 8, 2021: Terrace Hill-related Charitable Donation Records**

64. On April 8, 2021, Kauffman and the Iowa Capital Dispatch submitted an open records request to Defendants via email to Garrett, requesting documentation on

an auction to benefit the Des Moines Christian School, specifically the use of Terrace Hill for a dinner of eight with the governor and documentation of the history of Iowa governors offering dinner at Terrace Hill to the highest bidder at an auction. *See attached* Ex. F (Open Records Request email dated April 8, 2021).

65. Garrett did not respond to this request.
66. When the Governor's Office did not acknowledge receipt of the request or provide the records, Kauffman and Iowa Capital Dispatch renewed the requests by email to Garrett on April 14, 2021. *See id.*
67. On May 5, 2021, Garrett responded to the request by email, acknowledging the open records request and copying Boal to the email. *See id.*
68. When the Governor's Office did not provide the records, Kauffman and Iowa Capital Dispatch renewed the requests by email to Garrett and Boal on May 17 and 19, 2021. *See id.*
69. Despite these attempts to obtain the open records at issue, Defendants have never provided the requested records to Kauffman and the Iowa Capital Dispatch.

**VII. Kauffman and Iowa Capital Dispatch's Record Requests from May 10, 2021: Termination of Iowa Veteran's Home Director**

70. On May 10, 2021, Kauffman and Capital Dispatch submitted an open records request to Defendants via email to Garrett, requesting all written communications between Timon Oujiri, the former director of the Iowa Veteran's Home (IVH), Sara Craig, Governor Kim Reynolds' Chief of Staff, and other staff at the Governor's office related to compensation he allegedly had erroneously received. *See attached* Ex. G (Open Records Request Emails dated May 10, 2021).

71. Garrett did not respond to this request.
72. When the Governor's Office did not acknowledge receipt of the request or provide the records, Kauffman and Iowa Capital Dispatch renewed the requests by emails to Garrett on July 28 and August 2, 2021. *See id.*
73. On August 23, 2021, Boal provided a portion, but not all, of the records that were requested. *See id.* In response, Kauffman and Iowa Capital Dispatch the same day and on August 24, 2021 inquired about the 105-day delay to produce the documents that were provided. *See id.*
74. On August 31, 2021, Kauffman and the Iowa Capital Dispatch renewed their request for all email and text exchanges between Boal and Sara Craig on the issue of the IVH director's pay since May 1, 2021. *See id.*
75. Boal did not respond to this request.
76. When the Governor's Office did not provide the records, Kauffman and Iowa Capital Dispatch again renewed their request through a text message on September 20, 2021 to the new Communications Director, Alex Murphy. *See attached Ex. H (Open Records Request Text Messages dated September 20, 2021).*
77. Murphy acknowledged receiving the request, reassured the request was being processed, and stated Boal would be in touch if he had any questions. *See id.*
78. When the Governor's Office did not provide the records, Kauffman and Iowa Capital Dispatch again renewed the request via text message with Murphy on November 3, 2021. *See id.*
79. Murphy did not respond to this request.

80. Despite these attempts to obtain the open records at issue, Defendants have never provided the requested records to Kauffman and the Iowa Capital Dispatch.

**VIII. Evans and FOIC's Open Records Request from August 10, 2021: Deployment of Iowa State Patrol Members to Texas**

81. On August 10, 2021, Evans and the FOIC submitted an open records request to Defendants via email to Boal, requesting records of any authorization by the Texas Workforce Commission of the deployment of Iowa State Patrol to work in Texas from May through July of 2021, and all correspondence, memoranda, and written agreements related to the deployment, sent to or received from the governor of Texas, members of his staff, or representatives of the Texas Department of Public Safety. *See attached Ex. I* (Open Records Request Email dated August 10, 2021).
82. On August 20, 2021, Boal responded by email requesting that Evans and the FOIC identify email domains or particular search terms use to locate responsive records as well as a time range to search email accounts. *See attached Ex. J* (Open Records Request Response dated August 20, 2021).
83. On August 27, 2021, Evans and the FOIC replied to Boal by email with the specific time range for the requested records as well as the specific search terms. *See attached Ex. K* (Open Records Request Reply dated August 27, 2021).
84. Since Evans and the FOIC provided this information almost four months ago, Defendants have still not provided the requested records.

**CAUSE OF ACTION FOR DECLARATORY AND INJUNCTIVE RELIEF UNDER IOWA CODE SECTION 22.10 FOR 45 COUNTS OF ONGOING VIOLATIONS**

85. Plaintiffs hereby reaffirm and reallege each and every allegation made above as

if set forth fully herein.

86. Iowa's open records law under Iowa Code Chapter 22 provides that "[e]very person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record."<sup>10</sup>
87. The purpose of Chapter 22 is "to open the doors of government to public scrutiny [and] to prevent government from secreting its decision-making activities from the public, on whose behalf it is its duty to act."<sup>11</sup>
88. Under Chapter 22, there is a presumption of openness, and disclosure of open records is the rule.<sup>12</sup>
89. The party seeking enforcement of Chapter 22 must show that the record custodian is subject to the chapter's requirements, the records are government records, and the record custodian refused to provide the records to the party for examination and copying.<sup>14</sup>
90. Once the party seeking enforcement meets its burden, the burden shifts to the record custodian to show compliance with Chapter 22.<sup>15</sup>
91. Chapter 22 contemplates immediate access to public records.<sup>16</sup> Under Chapter 22, the records must also be promptly provided unless the size or nature of the

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<sup>10</sup> Iowa Code § 22.2(1).

<sup>11</sup> *City of Riverdale*, 806 N.W.2d at 652.

<sup>12</sup> *Gabrilson v. Flynn*, 554 N.W.2d 267, 271 (Iowa 1996).

<sup>14</sup> *Horsfield Materials v. City of Dyersville*, 834 N.W.2d 444, 460 (Iowa 2013).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 461.



request makes prompt access not feasible; therefore, if the size or nature of the request requires time for compliance, then the record custodian shall comply with the open records request as soon as feasible.<sup>17</sup>

92. Defendants are subject to Chapter 22's requirements because the Governor's Office is a government body.<sup>18</sup>
93. The requested open records at issue in this case are "public records" as defined by Chapter 22.<sup>19</sup>
94. Defendants have failed to provide the open records to Plaintiffs for examination and copying despite the significant passage of time since Plaintiffs' initial requests and multiple renewals attempting to obtain the records since that time.
95. There are no exceptions under Chapter 22 that would apply to the open records requested, and Defendants have never alleged in response to the open records requests that any exceptions apply.
96. Therefore, Plaintiffs have met their burden in showing Defendants have violated Chapter 22, shifting the burden to Defendants.
97. Even if Defendants were to provide the open records that were requested in this case in response to this litigation, Defendants will not have promptly and timely provided the records requested as required by Chapter 22.
98. At this point in time, the delay in providing the records is unreasonable and violates Chapter 22.

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<sup>17</sup> *Id.*

<sup>18</sup> *See* Iowa Code §§ 7.1 and 22.1(1).

<sup>19</sup> *Id.* § 22.1(3).

99. The ongoing delay for the eight initial requests in this case spans from four months to one-and-a-half years.
100. Including the eight initial requests and each renewal set forth above and documented in the attached exhibits, Defendants have violated Chapter 22 on 45 separate instances.
101. In addition to Defendants' actions violating Plaintiffs' rights under chapter 22, Defendants have also unreasonably delayed and outright denied FOIC's other Iowa media members' open records requests under Chapter 22.
102. These include requests from Ryan Foley and David Pitt with the Associated Press, Michael Gartner, Jason Clayworth, then with the Des Moines Register, Ethan Stein with KCRG-TV, and James Stratton with KCCI-TV.
103. The Governor's Office did not respond to most of their initial requests and follow up inquiries were met with a similar lack of response shown to Plaintiffs.
104. These delays and denials have also frustrated the FOIC's purposes in furthering government transparency and access to public records and has required diversion of organizational resources to address problems experienced by media members in seeking public records from Defendants.
105. Before the pandemic, the FOIC focused mostly on open records requests dealing with local governments and only occasionally had complaints about open records requests with the Governor's Office. During the pandemic, the FOIC has been required to focus almost exclusively on open records requests with the Governor's Office's and its lack of compliance with Chapter 22. As a result, the FOIC has had less time to focus on local government open records request

issues.

106. The FOIC has also done substantial outreach to citizens, reporters, and news organizations during the pandemic in response to the Governor's Office lack of compliance with Chapter 22 and have educated its members and the public about what records must be provided, how to tailor requests, and strategies to get access to requests.
107. During a January 7, 2021 online forum, Iowa Capital Press Association president Erin Murphy, another member of the FOIC, asked Governor Reynolds about her Office's ongoing noncompliance with the duty to timely respond to reporters' open records requests and whether she would instruct her staff to respond to open records requests as soon as possible.<sup>20</sup>
108. Governor Reynolds responded, "Yeah, we're not concerned about that at all. We want to be transparent and open. We've just had a lot on our plate this year. So, you know, I'm not trying to make excuses, but everybody, we're working, I mean, working around the clock seven days a week. But it is our intent to be open and transparent, and that means responding in a timely manner. So yeah, I have no issue with making that commitment."<sup>21</sup>
109. Despite this commitment in January 2021 to respond to the press's open records requests in a timelier manner, Defendants unfortunately have persisted in violating Chapter 22.
110. Defendants lack any lawful basis to have unreasonably delayed production of

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<sup>20</sup> Youtube, <https://www.youtube.com/watch?v=-T39kSB1MeI> (last visited December 15, 2021).

<sup>21</sup> *Id.*

the open records that Plaintiffs requested.

111. Defendants cannot carry their burden of demonstrating compliance with Chapter 22 and in fact have violated Chapter 22.

**ALTERNATIVE CLAIM FOR MANDAMUS**

112. Plaintiffs hereby reaffirm and reallege each and every allegation made above as if set forth fully herein.
113. Pursuant to Iowa Code section 22.5, the provisions of Chapter 22 may also be enforced by mandamus.
114. As stated fully above, Plaintiffs have met their initial burden under Chapter 22 regarding their open records requests to Defendants.
115. Defendants have a statutory duty to comply with Chapter 22's requirements because the Governor's Office is a government body.<sup>22</sup>
116. The open records that were requested in this case by Plaintiffs are "public records" as defined by Chapter 22.<sup>23</sup>
117. Defendants failed to timely provide, or provide at all, the open records to Plaintiffs for examination and copying despite repeated requests.
118. There are no exceptions under Chapter 22 that would apply to the open records requests, nor in any case have Defendants asserted any lawful basis to deny the requested open records.
119. Therefore, an order for mandamus is appropriate in this case under Iowa Code §

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<sup>22</sup> Iowa Code §§ 22.1, 22.2.

<sup>23</sup> *Id.* § 22.1.

661.1 et seq.

**PRAYER FOR RELIEF:**

**DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF, AND IN THE ALTERNATIVE, ORDER FOR MANDAMUS**

120. Plaintiffs thereby incorporate the allegations of all previous paragraphs as though those allegations were fully set forth herein.
121. This matter is appropriate for declaratory relief pursuant to Iowa Rules of Civil Procedure 1.1101 et seq.
122. This matter is also appropriate for permanent injunctive relief pursuant to Iowa Code sections 22.5 and 22.10(3)(a) and Iowa Rules of Civil Procedure 1.1106 and 1.1501 et seq. Absent injunctive relief, the Defendants have demonstrated that they would not comply with Chapter 22 now or in the future with Plaintiffs' as well as Plaintiff FOIC's other members' open records requests.
123. Further, this matter is appropriate for an order of mandamus under Iowa Code section 22.5, and Chapter 661, requiring Defendants' compliance with Chapter 22 as to the specific records set forth in this action as well as with future Chapter 22 open records requests for one year, as provided in section 22.10(3),

**WHEREFORE**, Plaintiffs respectfully urge this Court to enter judgment as follows:

- 1) Declaring that Defendants have violated Iowa's Open Records law by failing to provide the records Plaintiffs sought, as required by Chapter 22, and by failing to provide the records to Plaintiffs in a timely manner as required by Chapter 22, even if they are later provided in response to this litigation;
- 2) Entering an injunction ordering Defendants to produce the open records at issue and refrain for one year from committing future violations;

- 3) Alternatively, entering an order of mandamus requiring Defendants' compliance with Chapter 22 as to the specific records set forth in this action as well as with future Chapter 22 open records requests for one year, as provided in section 22.10(3);
- 4) Ordering Defendants to pay court costs and Plaintiffs' attorney's fees; and
- 5) Any other relief that is just and equitable.

Dated: December 16, 2021

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFFS**