

SUNSHINE ADVISORY

A Bulletin on Iowa Open Meetings and Public Records Laws By Attorney General Tom Miller – January 2007

Who's in charge of deciding access to public records?

The "lawful custodian" holds the key to examination and copying.

As the lawful custodian of public records, a government body is obligated to decide whether a record should be confidential or should be released for examination and copying. See Iowa Code sec. 22.3, 22.7. Each government body, in turn, must delegate to particular officials or employees responsibility for implementing Iowa's Public Records Law and must announce those persons to whom responsibility has been delegated. Iowa Code sec. 22.1(2). See January 2002 Advisory, "Public Records Contact Persons -- Helping Iowans with Access to Public Records." But the question remains: Over which records does a person have delegated authority? Does this include all records in the *possession* of a body? *Owned* by the body? What if one body is *storing* records for another?

The following questions define the scope of a lawful custodian's authority over public records:

- **Who possesses or owns the records?** Generally, the government body in physical possession of a public record is the "lawful custodian" of the record. When public records are in the possession of a person outside government, the lawful custodian of the records is the government body that owns the records. For example, a city that rents a storage facility for city records remains the lawful custodian of the public records. Iowa Code sec. 22.1(2).
- **Do the records relate to public funds?** The government body responsible for public funds is always the lawful custodian of public records relating to investment of those funds, no matter who has physical custody of the records. Iowa Code sec. 22.1(2).
- **Is one governmental body storing records for another?** A government body that stores public records for other government bodies is *not* the lawful custodian of stored records. A state agency remains the lawful custodian of the agency's records, even if the records are electronically stored by the data processing unit of another state agency or transferred for long-term storage.

Remember: Persons who are delegated responsibility for complying with the Public Records Law have authority over many records, including records possessed or owned by the government body, records related to public funds, and records stored in rented facilities.

Citizens who have inquiries or complaints about public records or open meetings may call the Iowa Citizens' Aide/Ombudsman Office – call toll-free at 888-IA-OMBUD (888-426-6283.)

"Sunshine Advisory" bulletins provide information on Iowa's public records and open meetings laws – our "Sunshine Laws." The bulletins are a resource for public officials and citizens. Local officials should obtain legal advice from their counsel, such as the city or county attorney.

