

SUNSHINE ADVISORY

A Bulletin on Iowa Open Meetings and Public Records Laws

By Attorney General Tom Miller – January, 2004

Which Records Are Confidential?

Most public records are available for examination and copying – but some are confidential under law. Where are the laws on confidentiality found?

At first it sounds contradictory, but some “public records” in Iowa are confidential by law and are not available for public examination and copying. (Example: your income tax return.) Government offices maintain many types of public records. Some are open for public examination and copying, some must be kept confidential under the law, and some may be kept confidential in the discretion of the lawful custodian. How do you know whether public records are open or confidential?

Openness is the rule, and confidentiality is the exception. Here are the three types of exceptions that make public records confidential under Iowa law and court decisions:

- ! *Discretionary exceptions under Chapter 22.* Iowa section 22.7 currently lists 47 categories of records which “shall be kept confidential, unless otherwise ordered” by the lawful custodian, or by others authorized to release information. Many of these records commonly are kept confidential, but could be released in the discretion of public officials or employees.
- ! *Mandatory exceptions under other statutes.* In addition to the list in Iowa Code section 22.7, other statutes outside Chapter 22 may mandate that records be kept confidential -- for example, income tax return information under section 422.20, or pre-sentence investigative reports under section 901.4.
- ! *Privilege or professional duty to maintain confidentiality.* Still other records may be confidential under a “privilege” or professional confidence recognized by the courts -- for example, attorney-client privilege.

Remember: Openness is the rule and confidentiality is the exception. Public officials and employees may keep records confidential only if authorized by law. If access is refused, people may ask for an explanation, and officials would be well-advised to explain the legal authority that makes a public record confidential.

Citizens who have inquiries or complaints about public records or open meetings may call the Iowa Citizens’ Aide/Ombudsman Office – 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.

On the Web: www.iowaattorneygeneral.org . (Click on “open government.”)