

# SUNSHINE ADVISORY

A Bulletin on Iowa Open Meetings and Public Records Laws

By Attorney General Tom Miller – May 2007

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## Are E-Mails and Telephone Billing Records of Peace Officers in Law Enforcement Agencies Confidential?

*Maybe, if they are related to investigative reports -- but only until the time to file criminal charges expires.*

The Public Records Law allows “investigative reports” of peace officers to be confidential – but the “date, time, specific location and immediate facts and circumstances surrounding a crime or incident shall *not* be kept confidential,” except in limited circumstances. Iowa Code sec. 22.7(5). What about e-mails and telephone billing records of law enforcement agencies – can the public have access to these records if they relate to an ongoing investigation? The law allows some parts of these records to be kept confidential, but only for a limited time.

**Here are the principles that govern access to e-mail and telephone billing records of law enforcement agencies that relate to an ongoing investigation:**

- **Investigative Reports:** The law allows peace officers’ investigative reports to be kept confidential, but makes the “date, time, specific location and immediate facts and circumstances surrounding a crime or incident” public unless “disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual.” Iowa Code sec. 22.7(5).
- **E-Mail and Telephone Billing Records:** The same confidentiality and exceptions apply to e-mail and telephone billing records of law enforcement agencies if information is included in these records as part of an ongoing investigation. The “date, time, specific location and immediate facts and circumstances” shall not be kept confidential, unless the exceptions to disclosure apply for plain and serious jeopardy or clear and present danger.
- **Time Limitation on Confidentiality:** Confidentiality for e-mail and telephone billing records extends only until the statute of limitation expires for the crime under investigation.

**Remember:** E-mail and telephone billing records related to an ongoing investigation in a law enforcement agency are treated like peace officers’ investigative reports, but confidentiality of e-mail and telephone billing records extends only until the time to file charges expires.

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.



Iowa Attorney General’s Office: Hoover Building, Des Moines, Iowa 50319.

On the Web: [www.IowaAttorneyGeneral.org](http://www.IowaAttorneyGeneral.org) . (Click on “open government.”)