
LEGAL UPDATE

Legal Services Division



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SENATE COMMITTEE ON GOVERNMENT OVERSIGHT MEETING — OCTOBER 4, 2019

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

Chairperson: Senator Amy Sinclair

Procedural Business. The Senate Committee on Government Oversight was called to order at 10:03 a.m. and was adjourned at 1:26 p.m. The minutes from the prior meeting were adopted. Chairperson Sinclair and Senator Bisignano gave brief opening comments. Chairperson Sinclair stated it was the intention of the committee to consider information regarding the alleged entry of buildings after normal business hours by individuals who were working under a series of agreements (herein referred to as the 2019 contract) with the judicial branch. She noted that the focus of the committee's inquiry is to consider the actions of government entities and appreciated that answers to certain questions may have to wait until the conclusion of ongoing investigations. Senator Bisignano hoped that persons appearing before the committee could provide some clarification although he noted that some persons with information could not be present.

Presentation by Dallas County Officials. Chairperson Sinclair recognized Mr. Mark Hanson and Mr. Kim Chapman, Dallas County Board of Supervisors; Mr. Chad Leonard, Dallas County Sheriff; and Mr. Chuck Sinnard, Dallas County Attorney. Committee members and the presenters discussed a number of issues involving the apprehension of two individuals on September 11, 2019 by the Dallas County Sheriff's Office, for allegedly entering into the Dallas County Courthouse after normal hours. The individuals were associated with Coalfire, a security firm that had executed the 2019 contract to assess the security needs of Iowa courts. A number of county offices not associated with the judicial branch are located in the courthouse. The county sheriff's office is responsible for providing security for the courthouse. County officials were not notified of any security tests to be conducted at the courthouse. Following the apprehensions, Sheriff Leonard had a telephone conversation with a judicial branch employee who requested that the apprehended individuals be released. Sheriff Leonard contacted all other county sheriff offices notifying them of the event. The following day Chief Justice Cady came to Dallas County and apologized to Sheriff Leonard for the incident. Members and presenters expressed appreciation for the professional manner in which local law enforcement officials handled the situation.

Presentation by Polk County Officials. Chairperson Sinclair recognized Mr. Kevin Schneider, Polk County Sheriff; and Mr. Jeff Noble, Bureau Chief of the Criminal Division of the Polk County Attorney's Office. Committee members and the presenters discussed a number of issues relating to an alleged entry into at least one county-controlled building. The county sheriff provides security for the buildings, including physical and cyber assets. Sheriff Schneider's office had not been contacted regarding a test of security measures conducted in county buildings. On September 11, 2019, Sheriff Schneider received a telephone call from Sheriff Leonard and then conducted an investigation, noting physical damage to the facilities. If in any situation in which an alarm were triggered, county sheriff deputies would normally respond by going inside and securing the building assuming that illegal conduct could be occurring. If a

test of security procedures were to be conducted, the county sheriff's office would normally be notified to avoid any risk of harm occurring. The contract between the judicial branch and Coalfire expressly referred to accessing Polk County facilities. There was a discussion of information contained in search warrant documents arising from this matter. Mr. Noble declined to comment on that information.

Presentation by Iowa State Patrol Official. Chairperson Sinclair recognized Officer Steve Lawrence, Lieutenant, Iowa State Patrol, District 16. Committee members and presenters discussed a number of issues regarding security of the Capitol Complex, including internal and perimeter checks of the Judicial Branch Building. Officer Lawrence was not notified of any testing procedure being conducted. He was notified several days later by the judicial branch that a test had been completed on September 9, 2019. If an alarm had been triggered as part of a testing procedure, without the knowledge of the Iowa State Patrol, an officer would have immediately responded with the potential risk of harm occurring.

Presentation by Judicial Branch Officials. Chairperson Sinclair recognized the Honorable Mark Cady, Chief Justice of the Iowa Supreme Court; Ms. Molly Kottmeyer, Legal Counsel to the Chief Justice; Mr. Todd Nuccio, State Court Administrator; Ms. Elaine Newell, Legal Counsel to the State Court Administrator; Mr. Mark Headlee, Director of Information Technology, Iowa Judicial Branch State Court Administration; and Mr. John Hoover, Manager, Information Technology, Iowa Judicial Branch State Court Administration. Committee members and the presenters discussed a number of issues regarding the decision to enter into the 2019 contract with Coalfire and the apparent related entry of county and state facilities. Chief Justice Cady assumed full responsibility for the events described by the prior presenters, assured the committee that the judicial branch will cooperate with the committee and others, and was correcting mistakes and restoring confidence in the judicial system. The judicial branch has its own information system in partnership with the Office of the Chief Information Officer. It maintains a number of different records containing personal identifying information, and has implemented security procedures to safeguard such information. In 2015, the judicial branch entered into a series of agreements (herein referred to as the 2015 contract) with Coalfire to perform security testing which included entering into facilities. The testing procedures did not involve breaking into facilities, occurred during business hours, and was limited to court-controlled areas. Although the 2019 contract provides for judicial branch approval of tests conducted outside normal business hours (6:00 a.m. to 6:00 p.m.), no known request was made to conduct such testing. There was no expectation that a security test would include after-business-hours access to a building, use extraordinary methods to gain entry, or that testing would occur in areas outside judicial branch control. No similar issues were raised in connection with the 2015 contract. The 2019 contract is based on 2015 contract documents. The 2019 contract does include language excluding areas within the Judicial Building but does not contain areas of exclusion in county courthouses. The judicial branch could not comment regarding any conversation made by the judicial branch employee and Sheriff Leonard immediately following the apprehensions. An independent investigation by the judicial branch is being conducted. The normal method of testing involves placing a simulated malicious device into a computer, sitting at an open desk without being challenged, or following an employee through an entryway not open to the public. The 2019 contract provided that Coalfire was authorized to perform lockpicking activities. The use of lockpicks was expected to be used to access data-secured areas controlled by the judicial branch. Recently, the judicial branch discovered that individuals associated with Coalfire gained after-hours access to the Judicial Building. In 2015, it was communicated to Coalfire that courthouses are not under the control of the judicial branch but that information may not have been communicated to Coalfire under the 2019 contract. The judicial branch has suspended further activity with Coalfire. The 2019 contract was drafted by Coalfire, and was not subject to legal review by judicial branch staff. Members expressed a number of concerns regarding the events discussed, including the judicial branch's decision-making process, the fiscal impact, the judicial branch's apparent overreach into areas not under its jurisdiction, the failure of the judicial branch to cooperate with local governments and state agencies, and the frustration experienced by local governments.

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