

**TO: Members of the General Assembly**

**FROM: Brady Carney, Director, ILEA**

**SUBJECT: 80B.13A Revision for Investigative Files**

**Background:**

Iowa Code section 80B.13A (5) is the provision that protects the confidentiality of investigative files. The language used, however, appears to restrict confidentiality to materials received from “an employing agency” or the “attorney general.” In order to maintain complete confidentiality of a licensing investigatory file, the language needs to be changed to include “all investigative materials.”

Additionally, ILEA would still want the ability to make referrals for criminal prosecution to the applicable law enforcement agency if materials in ILEA’s investigative file suggest that a referral for consideration of criminal prosecution may be warranted.

**Proposed Solution:**

Law enforcement agencies across Iowa are required by Iowa Code to submit a change in status form to ILEA within 10 days of an employee being terminated or leaving on their own accord when disciplinary investigation or action was imminent.

When a change in status form suggests possible disciplinary action, ILEA staff may contact the law enforcement agency for additional information and/or supporting documentation. All information received from those requests detailing why a law enforcement officer left an agency or was forced to leave an agency are investigative materials. “Resignation in lieu of termination” has been a common action for bad actors in the law enforcement profession. When this happens, many law enforcement agencies stop their internal investigation and local investigations aren’t completed.

ILEA can continue the investigation and request the relevant materials from the law enforcement agency. The ensuing investigation may take an extended period of time while all information is gathered and a course of action is decided. As detailed in *Calcaterra v. Iowa Bd. of Medicine*, there are good policy reasons to maintain the confidentiality of investigative information until such time as an agency reaches a final disciplinary decision. This is especially true in cases of police officers who are routinely required to appear as witnesses in criminal cases.

KIM REYNOLDS  
GOVERNOR

IOWA LAW ENFORCEMENT ACADEMY  
BRADY CARNEY, DIRECTOR

ADAM GREGG  
LT. GOVERNOR

Providing complete protection of investigatory files may help local law enforcement agencies to be more willing to share their records. More open correspondence with the agencies about the bad actors in law enforcement wouldn't relegate ILEA to learning about potential criminal activity through the rumor mill and/or through local media outlets.

Additionally, in making the change to ensure confidentiality of investigatory files, ILEA also wants to ensure it can still make a referral for prosecution if the investigative materials indicate possible criminal activity.

This change will help close loopholes currently exploited by bad actors and law enforcement agencies and would allow ILEA to take a more proactive role in maintaining the high standards of the law enforcement profession that the citizens of Iowa expect and deserve.

**Requested Language Iowa Code section 80B.13A (5):**

**All investigatory materials, including A**ny recommendation, notification, or other record or information provided by an employing agency or the attorney general pursuant to this section, shall be confidential except as required by rule or order of the council, an administrative law judge, or a reviewing court. Any employing agency or person who, acting reasonably and in good faith, files a notification or recommendation, releases information, or otherwise cooperates with an investigation under this section is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for such action. **If the investigative information in the possession of the academy indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. However, a final written decision and finding of fact of the council in a disciplinary proceeding or an informal stipulation and settlement agreement are public records.**

Thanks for your consideration,



**Brady Carney**

Director

IA Law Enforcement Academy

515.331.5766

***Professionalism Through Training***