

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

61—2.1(17A,22) Definitions. As used in this chapter:

“*Agency*” means the attorney general.

“*Confidential record*” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Custodian*” means the attorney general, or a person lawfully delegated authority by the attorney general to act for the agency in implementing Iowa Code chapter 22.

“*Open record*” means a record other than a confidential record.

“*Personally identifiable information*” means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“*Record*” means the whole or a part of a “public record” as defined in Iowa Code section 22.1.

“*Record system*” means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

61—2.2(17A,22) Statement of policy. This chapter implements Iowa Code section 22.11 by establishing agency policies and procedures for the maintenance of records. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

61—2.3(17A,22) Requests for access to records.

2.3(1) Location of record. A request for access to a record should be directed to the attorney general or the particular agency office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Attorney General, 1300 E. Walnut, Second Floor, Hoover State Office Building, Des Moines, Iowa 50319. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

2.3(2) Office hours. Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

2.3(3) Request for access. Requests for access to open records may be made in writing or in person. The office may also accommodate telephone requests where appropriate. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

2.3(4) Response to requests. Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of

the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 2.4(17A,22) and other applicable provisions of law.

2.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

2.3(6) Copying. A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

2.3(7) Fees.

a. When charged. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour. The custodian shall prominently post in agency offices the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

d. Search fees. If the request requires research or if the record or records cannot reasonably be readily retrieved by the office, the requester will be advised of this fact. Reasonable search fees may be charged where appropriate. In addition, all costs for retrieval and copying of information stored in electronic storage systems may be charged to the requester.

e. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

61—2.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 2.3(17A,22).

2.4(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

2.4(2) Requests. The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified

statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

2.4(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

2.4(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and
b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

2.4(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

61—2.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

2.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

2.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

2.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code section 22.7(3) or 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

2.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not

available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

2.5(5) Request granted or deferred. If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

2.5(6) Request denied and opportunity to seek injunction. If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

61—2.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the attorney general. The request to review such a record or the written statement of such a record of additions, dissents or objections must be dated and signed by requester, and shall include the current address and telephone number of the requester or the requester's representative.

61—2.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

61—2.8(17A,22) Notice to suppliers of information. The agency shall notify persons completing agency forms of the use that will be made of personal information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the form used to collect the information, on a separate fact sheet

or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law, or similar demands for information.

61—2.9(17A,22) Disclosures without the consent of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(2) To the extent allowed by law, disclosure of confidential records or exempt records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a. For a routine use as defined in rule 2.10(17A,22) or in any notice for a particular record system.
- b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that the record is transferred in a form that does not identify the subject.
- c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of the government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e. To the legislative fiscal bureau under Iowa Code section 2.52.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

61—2.10(17A,22) Routine use.

2.10(1) “*Routine use*” means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

2.10(2) Examples. To the extent allowed by law, the following uses are considered routine uses of all agency records:

- a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential or exempt records.
- b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
- c. Disclosure to the agency or officer which this office is advising or representing in the matter in question or to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.
- d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
- e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
- f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

61—2.11(17A,22) Consensual disclosure of confidential records.

2.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 2.7(17A,22).

2.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

61—2.12(17A,22) Release to subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 2.6(17A,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or records otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)

d. As otherwise authorized by law.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

61—2.13(17A,22) Availability of records.

2.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law. Because this office primarily serves as an attorney for the state, many of its records are privileged. This office advises most state agencies. As a result, this office may have records in its possession which are subject to various confidentiality requirements. The office also has possession of many records which may be open records but which are copies of materials from another agency, which have been filed in judicial or administrative proceedings, or which are available in the state law library. This office will often refer persons to the originating agency, the clerk of the appropriate court, or the law library for those records. This is consistent with the functions of those entities, ensures that the requester get a clean official copy of the record, and protects the integrity of attorney files against unintended disclosures of confidential information.

2.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

b. Tax records made available to the agency. (Iowa Code sections 422.20, 422.72)

c. Records which are exempt from disclosure under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))

e. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“d.”

f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2, 17A.3.)

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10, and 622.11, Iowa R. Civ. P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Antitrust investigative records as provided in Iowa Code section 553.9.

i. Criminal investigative reports or investigative data under Iowa Code section 22.7(5).

j. Criminal history and intelligence data under Iowa Code sections 22.7(9), 692.3, and 692.18.

k. Confidential informant information under Iowa Code section 22.7(18).

l. Presentence investigation reports under Iowa Code section 901.4.

m. Minutes of testimony under Iowa Rules of Criminal Procedure 4(6)(a) and 5(5).

n. Information obtained in grand jury investigations under Rule 3(4)(d).

o. Information obtained through a prosecuting attorney's subpoena under Rule 5(6).

p. Information which is confidential under the law governing the referring agency client or the agency providing information to this office.

q. Biographical or identifying information about a child victim under Iowa Code section 910A.13.

r. Victim registration under Iowa Code sections 910A.6 to 910A.10 and 910A.17.

s. Any other records made confidential by law.

2.13(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect these records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 2.4(17A,22). If the agency initially determines that it will release such records, the agency may where appropriate notify interested persons and withhold the records from inspection as provided in subrule 2.4(3).

61—2.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 2.2(17A,22). Unless otherwise stated, the authority for this office to maintain the record is provided by Iowa Code chapter 13, the statutes governing the subject matter of the record, and the enabling statutes of the agency client, where applicable. Because this office primarily acts as an attorney for the state, its officers and agencies, almost all record categories contain information which is confidential as attorney work product or attorney-client communications. Those privileges may render some or all of the following information confidential whether or not asserted in the description of the record. The record systems maintained by the agency are:

2.14(1) Escheats to the state. Records concerning possible escheats to the state under Iowa Code sections 633.543 to 633.546. These records consist primarily of court records and correspondence concerning estates. This office advises the department of revenue and finance, which maintains the original records.

2.14(2) Litigation files. These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include pleadings, briefs, depositions, discovery material, docket sheets, documents, general correspondence, attorney-client correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. Most of these records are paper files. However, some case management records and other records are in computer form. The files are generally maintained by division and are commonly indexed by the name of the opposing party. Some files are indexed by subject matter, witness, agency, or other category. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of

law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

2.14(3) *Criminal data.* Information pertaining to criminal investigations and charges and criminal history and intelligence data is confidential under Iowa Code sections 692.3, 692.8, 692.18. This office has records concerning criminal cases and investigations as a result of prosecutions brought by the area prosecutor's division, appeals by the criminal appeals division, advice to the department of public safety, and other law enforcement functions of the attorney general. Peace officer investigative reports containing criminal investigative data are confidential under Iowa Code section 22.7(5), prior to and following the filing of a charge, except as otherwise ordered by the court. Investigative information obtained through grand jury proceedings or pursuant to a prosecuting attorney's subpoena is confidential under Iowa Rules of Criminal Procedure 3, 4, and 5(6). Confidential informant information is protected under Iowa Code section 22.7(18). Minutes of testimony or evidence attached to an indictment or trial information are not open to inspection by any person other than the court, the prosecuting attorney, or the defendant and defendant's counsel under Rule 4(6)(b). Constitutional restraints, statutes, the Rules of Criminal Procedure, the Iowa Code of Professional Responsibility, and the American Bar Association Standards on pretrial publicity further restrict dissemination of investigative information in criminal cases prior to or during the course of a criminal trial proceeding.

Except as noted above, the charging document and pleadings filed in criminal cases are public records. Copies may be obtained from the clerk of the appropriate court where the official record of the proceeding is maintained.

2.14(4) *Other investigative files.* This office from time to time conducts investigations for a variety of purposes other than enforcement of criminal statutes. Investigative materials are subject to any applicable confidentiality requirements and may be confidential as attorney work product.

2.14(5) *Attorney advice records.* Attorneys in many divisions represent state agencies and officers as well as provide advice to state agencies and officers on a variety of topics. In the course of this representation this office compiles records from those agencies and creates records. These files may contain legal research, attorneys' notes, attorney advice, investigative materials, etc. Attorney advice files often overlap with litigation files. Much of this information is confidential as attorney work product or attorney-client communication. Some of it may also be confidential under other law governing dissemination of the subject matter or governing access to the agency records in question. Some of these files may be retrieved by the names of individuals in division files; the files may have information concerning individuals who are involved in the legal matter. Most of the records are in paper form; some are stored in computerized form.

2.14(6) *Antitrust investigations.* The special litigation division has records of investigations of alleged violations of Iowa Code chapter 533 or other antitrust laws. Information obtained in an investigation under Iowa Code section 533.9 is confidential as provided in that section. These files may also contain attorney notes and memos protected as attorney work product. Pleadings may be obtained from appropriate clerk of court.

2.14(7) *Claim files.* The tort claims division maintains files of general claims against the state, tort claims, and highway claims. The transportation division maintains files of claims against the department of transportation. These files are maintained pursuant to Iowa Code chapters 25 and 669. The files are retrievable by number or name of the claimant. These files contain information which is confidential as attorney work product and attorney-client communications and may contain information which is confidential under other applicable provisions of law. Those matters within the files which are open for public inspection are copies of records within the possession of the state appeal board. Requests to examine and copy claim records would generally be referred to the executive secretary of the state appeal board who maintains the official record.

2.14(8) *Consumer protection division and farm division complaints files.* These files contain consumer complaints, investigations, responses from businesses, correspondence, and other materials. The complaints themselves, including but not limited to consumer credit code complaints under Iowa Code chapter 537, and inquiries concerning complaints are open records. Some responses and information received during a potential investigation, investigation, or litigation may be confidential under

Iowa Code sections 22.7(3), 22.7(6), 22.7(18), and 622.11. Work product of an attorney or an investigator at an attorney's direction is considered to be confidential work product. The name or identity of a person whose acts or conduct the administrator of the consumer credit code investigates pursuant to Iowa Code section 537.6106, and the facts disclosed in the investigation, are confidential under Iowa Code section 537.6106(4). Criminal history or intelligence data contained in a file is confidential under Iowa Code sections 22.7(5), 692.13, and 692.18.

2.14(9) *Consumer protection and farm division database files.* Some of the information in complaint files is also contained on a computer database for investigative purposes pursuant to the consumer fraud Act, Iowa Code section 714.16. This serves as a means of organizing information on particular problem areas into a readily accessible format. The information can be retrieved by name of the consumer or respondent or by subject matter of the complaint. The records are subject to the same confidentiality provisions as are complaint files.

2.14(10) *Records.* State of Iowa files are a subpart of the complaint file system and contain general information on an individual or business including correspondence, investigative information, agency subpoenas, demands for information and responses. Work product information contained in the state of Iowa file is considered confidential. The records are subject to the same confidentiality provisions as are complaint files.

2.14(11) *Consumer protection and farm division investigative records.* The consumer protection division and farm division participate with the Federal Trade Commission, the United States Postal Service and other state attorneys general offices in sharing investigative information. The information is computerized and indexed by the name of the business or individual who is under investigation. The agencies who participate in these information exchange programs do so pursuant to agreements whereby the information is kept confidential. The records are confidential pursuant to Iowa Code sections 22.7(4) and 22.9. The attorney general's office has determined that the viability and utility of these information-sharing systems depend, in part, on the willingness of the Federal Trade Commission and United States Postal Service to participate. Neither of those agencies of the federal government would participate in the information-sharing program unless the confidentiality of the data was maintained. In order, therefore, to prevent the denial of services and information provided by these agencies, the information will be kept confidential and any requirements to the contrary in Iowa Code chapter 22 must be waived as provided in Iowa Code section 22.9.

2.14(12) *Human services monetary collections records.* The human services division maintains on behalf of the Iowa department of human services monetary collection files which contain correspondence, settlement, litigation, and collection records. Collections files for medical subrogation/Title XIX contain information relative to Title XIX medical assistance claims paid on behalf of a recipient, including printouts, copies of claims, correspondence and pleadings regarding personal injury lawsuits; this information is collected under Iowa Code section 249A.6 and chapter 13 and is confidential under Iowa Code section 217.30. Collections files for mental health institutes contain information relative to treatment and counseling on an outpatient self-pay basis. The information is confidential under Iowa Code sections 22.7(2), 217.30, 229.24, and 229.25, and chapter 228. Hospital schools collection records contain similar information about individuals and are confidential under Iowa Code sections 22.7(2), 217.30, and 218.22, and chapter 228. Veterans home collections files contain information relating to patient treatment, residency, financial qualifications, and contracts. The information is confidential under Iowa Code sections 22.7(2), 217.30, and 218.22. Some records are also confidential as work product or attorney-client communications. Personally identifiable information about mental health institutes, hospital schools, and veterans home patients is collected under the authority of Iowa Code sections 218.1 and 218.21, and chapter 13. This information is stored in paper form.

2.14(13) *Personnel files.* The department and individual divisions maintain files containing information about employees and applicants for positions with the agency. The files contain payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-

employee relationship. Some of this information may be confidential under Iowa Code sections 22.7(11) and 22.7(18). The transportation division personnel records for former employees after one year are transferred to the department of transportation human resources bureau. Personnel records are stored in both paper and computerized form.

2.14(14) *Child support recovery records.* Attorneys assigned to the child support recovery unit of the department of human services maintain records necessary for the performance of legal services for the child support recovery program, the enforcement of laws for the recovery of child support from responsible relatives, and the supervision of county attorneys in the recovery of child support. These records are confidential under Iowa Code sections 217.30, 252B.9 and as attorney work product and attorney-client communications.

2.14(15) *Sharing of information with child support recovery unit.* Notwithstanding any statutory confidentiality provision, the attorney general may share information with the child support recovery unit through manual or automated means for the sole purpose of identifying registrants or applicants subject to enforcement under Iowa Code chapter 13C, 252J or 557B.

61—2.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 2.1(17A,22). The records listed may contain information about individuals. Unless otherwise designated, the authority for this office to maintain the record is provided by Iowa Code chapter 13, the statutes governing the subject matter of the record, and the enabling statutes of the agency client, where applicable. Because this office primarily acts as an attorney for the state, its officers, and agencies, almost all record categories contain information which is confidential as attorney work product or attorney-client communications. Those privileges or other provisions of law may render some or all of the following information confidential whether or not asserted in the description of the record. All records are stored both on paper and in automated data processing systems unless otherwise noted.

2.15(1) *Opinions of the attorney general.* Official opinions of the attorney general are available to the public. A card index is maintained by subject and by Iowa Code section. Various legal publications provide citations to these opinions. Formal opinions are published in full every two years in the Report of the Attorney General. Summaries of letter opinions are also published.

2.15(2) *Consumer credit code advice letters.* The attorney general has designated the head of the consumer protection division the administrator of the consumer credit code under Iowa Code chapter 537. The deputy administrator, an attorney in that division, has authority to issue advisory letters interpreting the consumer credit code as provided in Iowa Code section 537.6104(1) “d.” These advisory letters are stored and indexed by number, name of requester, name of business, and subject or issue. These letters are regularly provided to persons inquiring about similar issues. Copies may be obtained by contacting the Consumer Credit Code Administrator, Attorney General’s Office, Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, (515)281-5926.

2.15(3) *Legal research and form files.* Various divisions maintain files on legal issues which may recur. These files include copies of cases and other published materials as well as attorney memoranda, notes, and briefs. Divisions also often maintain form pleadings which may contain attorney notes for use in drafting pleadings, contracts, etc., in future cases. The files contain information which is confidential as attorney work product or attorney-client communications or is confidential under other applicable provisions of law. The compilation of these materials as well as the individual materials may be privileged as attorney work product.

2.15(4) *Collections of documents generated by individual attorneys.* Several divisions maintain a chronological collection of all correspondence, pleadings, briefs, etc., produced by each attorney. Some of this information is confidential as attorney work product or attorney-client communication or by virtue of other applicable law.

2.15(5) *Citizen inquiry and response files.* Many people write this office on a variety of governmental problems or legal issues. The office does not generally provide legal advice to individuals but may provide general information.

2.15(6) *Consumer protection division membership campground licensing files.* Under Iowa Code chapter 557B, membership campground operators must register annually with this office. The applications and correspondence concern the requirements provided in Iowa Code chapter 557B and Iowa Administrative Code 61—Chapter 25. The records, which are retrieved by name of the applicant or registrant, are generally open to the public but may contain attorney work product or confidential communication under Iowa Code sections 22.7(3), 22.7(4), 22.7(6), and 22.7(18).

2.15(7) *Consumer protection division trade and vocational schools registration records.* Under Iowa Code sections 714.18 to 714.22, trade and vocational schools register with this office. The files contain information about whether the applicants meet the registration requirements or are exempt. These files are generally open but may contain attorney work product and information which is confidential under Iowa Code sections 22.7(3), 22.7(4), 22.7(6), and 22.7(18).

2.15(8) *Title opinions and title vesting certificates.* The environmental division maintains a file on all title opinions and title vesting certificates issued regarding the department of natural resources and certain other departments.

2.15(9) *Administrative records.* This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

2.15(10) *Publications.* The office receives a number of books, periodicals, newsletters, government documents, etc. These materials would generally be open to the public but may be protected by copyright law. Most publications of general interest are available in the state law library.

2.15(11) *Office publications.* This office issues a variety of materials including consumer and farm brochures and pamphlets, press releases, statistical reports, Iowa Criminal Law Bulletin, Iowa Criminal Law Handbook and Updates.

2.15(12) *Litigation control dockets.* The office maintains a chronological list of pleadings for each litigation file. These records are generally open to the public.

2.15(13) *Rule-making records.* Official documents executed during the promulgation of agency rules and public comments are available for public inspection.

2.15(14) *Consumer protection division investigative hearing records.* These are records of any hearings which may be held pursuant to Iowa Code section 714.16(4)“a.” Records of these hearings are open except to the extent that they may constitute work product.

2.15(15) *Office manuals.* Information in office manuals such as the Consumer Division Complaint Assignment Book may be confidential under Iowa Code section 17A.2(7)“f” or other applicable provision of law.

2.15(16) *Records concerning charitable trusts.* Under Iowa Code section 633.303 this office may exercise oversight functions over charitable trusts. These files concern such matters as litigation to which the state or this office is a party, review and approval of annual reports, requests for orders regarding trust administration, and correspondence with trust attorneys, trustees, or otherwise. Some of this information is confidential as attorney work product. Litigation records are further discussed in subrule 2.14(2).

2.15(17) *All other records.* Records are open if not exempted from disclosure by law.

61—2.16(17A,22) *Data processing systems.* None of the data processing systems used by the agency compare personally identifiable information in one record system with personally identifiable information in another record system.

61—2.17(17A,22) *Applicability.*

2.17(1) *Scope.* This chapter does not:

a. Require the agency to index or retrieve records which contain information about individuals by that person’s name or other personal identifier.

b. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

c. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.

d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs.

e. Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, the Code of Professional Responsibility, and applicable regulations.

2.17(2) Entities covered. This chapter applies to the office of the attorney general. Iowa farmer creditor mediation service records are confidential under Iowa Code section 654A.13. The office of consumer advocate is exempt from the requirements of Iowa Code section 22.11. This chapter applies to records held by the office of the prosecuting attorneys training coordinator in its official capacity under Iowa Code chapter 13A but does not apply to records of the Iowa county attorneys association held by the coordinator on behalf of that association.

These rules are intended to implement Iowa Code section 22.11.

[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed 11/12/96, Notice 8/28/96—published 12/4/96, effective 1/8/97]

CHAPTERS 3 to 7

Reserved