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November 4, 2019

Michael Norton, University Counsel
Iowa State University
3550 Beardshear Hall
515 Morrill Rd.
Ames, IA 50011

VIA EMAIL, mnorton@iastate.edu

Dear Mr. Norton:

I write to you in my role as the executive director of the Iowa Freedom of Information Council. We are a 43-year-old nonprofit education and advocacy organization that focuses on making government more open and accountable to Iowa citizens.

In our past conversations at Iowa Public Information Board meetings, I have appreciated your willingness to discuss important aspects of public records issues facing Iowa State University. I would welcome the opportunity to sit down with you to have such a conversation about the following issue.

The Iowa FOI Council is disappointed with the continuing lack of details being made public by Iowa State University about the accident on October 26 at Jack Trice Stadium. As you are aware, an undisclosed number of spectators were injured when a man fell from the upper deck.

Section 22.7(5) of Iowa's public records law obligates government law enforcement agencies to make public the "immediate facts and circumstances" about any crime or other incident reported to its law officers.

This section of the law provides important guidance that the



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Iowa FOI Council believes is being disregarded by ISU officials. Specifically, the law says the “... date, time, specific location and immediate facts and circumstances shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual. ...”

An important part of the “immediate facts and circumstances” that is routinely made public under this subsection are the names of people who are directly involved in matters reported to law enforcement agencies like Iowa State University Police.

The Iowa Attorney General’s Office, in *Weeg to Holt, 82-10-3*, said the immediate facts and circumstances “may be kept confidential at the discretion of the custodian only when exigent circumstances, as defined in subsection (5), exist. In sum, this amendment reflects a legislative judgment that such information is not generally of a confidential nature and therefore not subject to special protection from disclosure.”

Further, the opinion took note that the Iowa Supreme Court, in *City of Dubuque v. Telegraph Herald, Inc., 297 N.W.2d 523, 526 (Iowa 1980)*, stated that the court, in *Howard v. Des Moines Register and Tribune*, “endorsed the concept that [the public records statute] established a liberal policy of access from which departures are to be made only under discrete circumstances. It is plain that our analysis must start from the premise that [chapter 22] is to be interpreted liberally to provide broad public access to ... public records.”

I don’t believe there is any legitimate basis for withholding the name of the spectator who fell from the upper deck or the names of the spectators in the seats below who were injured when his falling body struck them. Releasing those names, along with the description of the sequence of events, would neither “plainly and seriously jeopardize an investigation” nor would this information “pose a clear and present danger to the safety of an individual.”

In the view of the Iowa FOI Council, there is no legal justification for the university’s continued refusal to release these important details. The very nature of the term “immediate facts and circumstances” carries with it the implicit meaning that Iowa State University cannot wait weeks or months until its investigation of the Jack Trice Stadium incident is finished before releasing the “immediate facts and circumstances.”



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I hope, upon further reflection and analysis, you will come to the conclusion that Iowa State University has an obligation, without further delay, to identify the people who were injured on October 26 and to release a fuller explanation of how the incident unfolded at the stadium.

I look forward to hearing from you soon about this important public information matter.

Respectfully,

A handwritten signature in black ink that reads "Randy Evans". The signature is written in a cursive style with a large, looping initial "R" and a long, sweeping tail.

Randy Evans
Executive Director

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IowaFOICouncil@gmail.com

cc: Michael Crumb, Ames Tribune, via email
Vanessa Miller, Cedar Rapids Gazette, via email