

**IN THE SUPREME COURT OF IOWA**

---

SUPREME COURT NO. 24-0864  
Linn County No. LACV102698

---

ANTOINE SMITH,  
Plaintiff,

v.

CITY OF CEDAR RAPIDS,  
Appellee.

---

APPEAL FROM THE IOWA DISTRICT COURT  
FOR LINN COUNTY  
HONORABLE CHAD KEPROS, DISTRICT COURT JUDGE

---

**BRIEF OF APPELLEE**

---

Patricia G. Kropf (AT0009364)  
Assistant City Attorney  
City of Cedar Rapids  
101 1st Street SE  
Cedar Rapids, IA 52404  
Telephone: (319) 286-5025  
Facsimile: (319)286-5135  
Email: t.kropf@cedar-rapids.org  
**ATTORNEY FOR APPELLEE**

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES ..... 4

STATEMENT OF ISSUES PRESENTED FOR REVIEW ..... 6

ROUTING STATEMENT..... 6

NATURE OF THE CASE ..... 6

STATEMENT OF FACTS..... 8

ARGUMENT.....12

I. The District Court correctly found that the investigation into the complaint against Officer Smith was complete upon Chief Jonker’s approval.....12

    A. The plain language of Section 80F.1(3) requires an officer be notified of the results of the investigation when it is completed.....14

    B. CRPD’s formal administrative investigations are complete upon approval by the Chief of Police. ....16

    C. The investigation into the complaint against Officer Smith was completed on May 31, 2023 under the plain language of the statute as well. ....21

II. The District Court correctly held that the City complied with Sections 80F.1(3) and (9) and was entitled to judgment as a matter of law.....31

    A. The District Court correctly held the City immediately provided Officer Smith a copy of the results of the investigation in accordance with Section 80F.1(3). ....33

    B. The District Court correctly held the City did not violate Section 80F.1(9) because Officer Smith was not entitled to the complete investigative report until after the investigation resulted in discipline. ....36

CONCLUSION.....43

REQUEST FOR ORAL ARGUMENT.....45

CERTIFICATE OF COMPLIANCE WITH TYPEFACE  
REQUIREMENTS AND TYPE-VOLUME LIMITATION.....46

CERTIFICATE OF SERVICE AND FILING .....47

## TABLE OF AUTHORITIES

### Cases

<i>Armstrong v. Davenport Civil Service Commission</i> , 789 N.W.2d 165, 2010 WL 2925896 (Iowa Ct. App. 2010) (unpublished) .	17, 18, 20
<i>Beverage v. Alcoa, Inc.</i> , 975 N.W.2d 670 (Iowa 2022) .....	12
<i>Bitner v. Ottumwa Cmty. Sch. Dist.</i> , 549 N.W.2d 295 (Iowa 1996) ..	33
<i>City of Davenport v. Shewry Corp.</i> , 674 N.W.2d 79 (Iowa 2004) .....	31
<i>Cleveland Bd. of Educ. v. Loudermill</i> , 470 U.S. 532 (1985).....	39, 40
<i>Doe v. State</i> , 943 N.W.2d 608 (Iowa 2020) .....	24
<i>Feeback v. Swift Pork Co.</i> , 988 N.W.2d 340 (Iowa 2023) .....	30-31
<i>Hummel v. Smith</i> , 999 N.W.2d 301 (Iowa 2023).....	12
<i>In re J.C.</i> , 857 N.W.2d 495 (Iowa 2014).....	12
<i>Jorgensen v. Smith</i> , 2 N.W.3d 868 (Iowa 2024).....	12, 14, 39
<i>Kelly v. Iowa Mut. Ins. Co.</i> , 620 N.W.2d 637 (Iowa 2000) .....	31
<i>Matsushita Elec. Indus. Co. v. Zenith Radio Corp.</i> , 475 U.S. 574, 587, 106 S.Ct. 1348 (1986) .....	33
<i>Matter of Est. of Janssen</i> , 7 N.W.3d 516, 524 (Iowa 2024), as <i>amended</i> (Aug. 5, 2024) .....	39
<i>Moulton v. Iowa Emp. Sec. Comm’n</i> , 239 Iowa 1161, 34 N.W.2d 211 (1948) .....	39
<i>Myers v. City of Cedar Falls</i> , 8 N.W.3d 171 (Iowa 2024).....	30
<i>Save Our Stadiums v. Des Moines Indep. Cmty. Sch. Dist.</i> , 982 N.W.2d 139 (Iowa 2022) .....	28
<i>Smith v. Des Moines Civil Service Commission</i> , 561N.W.2d 75 (Iowa 1997) .....	17, 18, 20
<i>Star Equip., Ltd. v. State, Iowa Dept. of Transp.</i> , 843 N.W.2d 446 (Iowa 2013) .....	26
<i>State v. Iowa Dist. Ct. for Scott Cnty.</i> , 889 N.W.2d 467 (Iowa 2017) .....	28-29
<i>State v. Ness</i> , 907 N.W.2d 484 (Iowa 2018).....	12
<i>State v. Schultz</i> , 604 N.W.2d 60 (Iowa 1999) .....	12, 41
<i>State v. Zacarias</i> , 958 N.W.2d 573 (Iowa 2021) .....	39
<i>Stevenson v. Blytheville Sch. Dist. #5</i> , 800 F.3d 955 (8th Cir. 2015) .....	40
<i>Wesley Retirement Servs., Inc. v. Hansen Lind Meyer, Inc.</i> , 594 N.W.2d 22 (Iowa 1999) .....	12

**Statutes**

IOWA CODE Ch 80F.1 ..... 5, 13, 14, 35  
IOWA CODE § 4.1(38) .....24  
IOWA CODE §§ 4.4(3), (4).....34  
IOWA CODE § 80F.1(1)(c) ..... 14, 27,  
IOWA CODE § 80F.1(3).....passim  
IOWA CODE § 80F.1(4) .....24  
IOWA CODE § 80F.1(5) .....24  
IOWA CODE § 80F.1(6) .....24  
IOWA CODE § 80F.1(7) .....24  
IOWA CODE § 80F.1(9).....passim  
IOWA CODE § 80F.1(10) .....24  
IOWA CODE § 80F.1(11) .....24  
IOWA CODE § 80F.1(13) .....38  
IOWA CODE § 80F.1(16) .....24  
IOWA CODE § 80F.1(18)..... 11  
IOWA CODE § 80F.1(19) .....24  
IOWA CODE § 80F.1(23)(a) .....24  
IOWA CODE § 364.6.....35  
IOWA CODE § 372.13(4)..... 19

**Other Authorities**

2021 IOWA ACTS ch. 183 § 18 ..... 25, 36, 38  
CEDAR RAPIDS MUNICIPAL CODE § 7.09 ..... 19, 20  
IOWA R. APP. P. 6.1102(c), (d) .....5

## **STATEMENT OF ISSUES PRESENTED FOR REVIEW**

I. Whether the District Court correctly held that the investigation into the complaint against Appellant Antoine Smith (“Officer Smith”) by Appellee City of Cedar Rapids (“City”) was complete once it was approved by the Chief of Police.

II. Whether the District Court correctly held that the City complied with Iowa Code Sections 80F.1(3) and (9) and was entitled to judgment as a matter of law.

## **ROUTING STATEMENT**

The City agrees with Officer Smith that the Iowa Supreme Court should retain this case in accordance with Iowa Rules of Appellate Procedure sections 6.1102(c) and (d). This case presents substantial issues of first impression and issues of broad public importance concerning the Peace Officer’s Bill of Rights (“POBR”) under Iowa Code Section 80F.1 that are likely to require ultimate determination by the Iowa Supreme Court.

## **NATURE OF THE CASE**

This case raises issues of first impression regarding the proper interpretation of several provisions of Iowa Code Chapter 80F.1, the POBR. These issues arose in the context of a formal administrative

investigation conducted by the Cedar Rapids Police Department (“CRPD”) in spring of 2023 into a complaint that Officer Smith violated CRPD policies by refusing to obey a superior officer’s lawful order to have his official photograph taken. More specifically, this matter concerns the timing of the City’s provision of the results of that investigation to Smith.

The City gave Officer Smith a copy of the investigation results once the investigation had been approved by the acting Chief of Police—i.e., the point at which the investigation was complete. Officer Smith contends that the investigation should have been considered complete prior to that time and brought suit against the City under the POBR for the alleged failure to immediately provide him a copy of the investigation report.<sup>1</sup> The District Court found that the investigation was complete upon the Chief’s approval, that there was no violation of the POBR because the City provided Smith a copy of the results of the investigation immediately once the investigation was complete, and that the City was entitled to

---

<sup>1</sup> Officer Smith’s suit included other claims not relevant to this appeal.

judgment as a matter of law. The decision of the District Court should be affirmed.

## **STATEMENT OF FACTS**

### *CRPD Complaint Procedure Policy*

To facilitate complaint investigations and ensure uniform handling thereof, CRPD has an internal “Complaint Procedure” policy. (Attachment to D0026, Def.’s Supp. Summ. J. App. (hereafter, “Def.’s MSJ App.”) (3/25/24) at APP0457 – APP0486.)<sup>2</sup> In accordance with that policy, an investigator drafts a written summary of their findings, which is subsequently reviewed by several others, including the division captain, a disciplinary board, and the Chief of Police (“Chief”). (*Id.* at APP0465 – APP0467.) The policy specifies that “[n]o line or internal investigation shall be considered complete until it has been approved by the Chief of

---

<sup>2</sup> The policy was updated on May 3, 2023, while the investigation into the complaint against Officer Smith was still ongoing. However, the relevant language concerning completion of an investigation is identical in both the earlier version, which was effective September 9, 2021, (D0026, Def.’s MSJ App. at APP0467), and the version that went into effect on May 3, 2023. (*Id.* at APP0482.) For ease of reference, this brief will refer to both versions collectively as “the policy” or the “Complaint Procedure policy,” and all record citations will be to the September 9, 2021 version.



Police.” (*Id.* at APP0467.) The investigation is not considered complete until the Chief approves because, at any time during their review of the investigator’s written findings, the disciplinary board and/or the Chief may ask the investigator for additional information or to perform additional investigation related to the complaint before reaching a final determination. (*Id.* at APP0455 (Aff. of Douglas Doyle (hereafter, “Doyle Aff.”) at ¶ 7 (“Further investigation has been requested after completion of my written investigation report in other Professional Standards investigations conducted by me.”)).)

### Smith Complaint Investigation

In March 2023, CRPD Captain Ryan Abodeely (“Capt. Abodeely”) made a complaint against Officer Smith to Lieutenant Douglas Doyle (“Lt. Doyle”) based on Officer Smith’s failure to obey a lawful order.<sup>3</sup> (*Id.* at APP0488; Attachment to D0018, Pl.’s App. Supp. Mot. Summ. J. (hereafter, “Pl.’s MSJ App.”) (3/3/24) at APP0130 – APP0134.) After performing an investigation, including

---

<sup>3</sup> On appeal, it is undisputed that Capt. Abodeely had given Officer Smith a lawful order to have an official employee photo taken, and that Officer Smith refused to follow that order.

an interview with Officer Smith, Lt. Doyle sustained the complaint against Officer Smith in a written investigation report dated April 18, 2023. (*Id.* at APP0138 – APP0146.) The results of Lt. Doyle’s investigation were subject to review by the CRPD disciplinary board and Interim Chief Thomas Jonker (“Chief Jonker”) before his investigation was complete. (D0026, Def.’s MSJ App. at APP0466 – APP0467.)

On April 27, 2023, Officer Smith emailed Lt. Doyle requesting a copy of the investigation results. (D0018, Pl.’s MSJ App. at APP0117 – APP0119.) Lt. Doyle did not provide any documents at that time, explaining, “[t]he investigation has been handed off to the Captains for their review but is not considered complete as they can request further follow up if needed.” (*Id.* at APP0117.)

The Investigation Report was subsequently reviewed by the CRPD disciplinary board, consisting of Captains Hembera, Long, Estling, and Abodeely, and on May 2, 2023, the board sent a memorandum to Chief Jonker concurring in Lt. Doyle’s findings sustaining the complaint against Officer Smith. (D0018, Pl.’s MSJ App. at APP0136 – APP0137.) Lt. Doyle provided a notice of

administrative hearing to Officer Smith on May 18, 2023, (*id.* at APP0188 – APP0190), and the pre-discipline hearing was held on May 25, 2023. (*Id.* at APP0265 – APP0276.) Chief Jonker sent a letter to Officer Smith on May 31, 2023, suspending him for ten hours without pay. (*Id.* at APP0147 – APP0148.) At any point up until he approved the investigation into the complaint and made his final decision to suspend Officer Smith, Chief Jonker could have asked Lt. Doyle to investigate the complaint further. (*Id.* at APP0106, line 23 – APP0107, line 7 (Dep. Douglas Doyle); D0026, Def.’s MSJ App. at APP0455 – APP04656.) Lt. Doyle informed Officer Smith and his counsel on May 31, 2023, that the complete investigation report and witness statements were available for them on a flash drive. (*Id.* at APP0507 – APP0508.)

### District Court Decision

Officer Smith brought suit against the City in the Iowa District Court for Linn County, asserting several violations of the POBR. (D0001, Pet. at Law.) Specifically, he alleged that the City violated Sections 80F.1(3), (9), and (18). (*Id.*) The parties brought cross-motions for summary judgment, and the District Court granted the

City's motion. (D0033, Ruling Defs.' Mot. Summ. J. (hereafter, "Ruling") (4/22/24).) Notably, the District Court concluded that (1) the investigation was not complete until Chief Jonker approved it on May 31, 2023, (*id.* at 6-7); (2) the City did not violate Section 80F.1(3) by making a copy of the investigation report available to Officer Smith on May 31, 2023, (*id.* at 7); (3) Officer Smith was not entitled to the complete investigative file under Section 80F.1(9) prior to Chief Jonker's decision on May 31, 2023, as no discipline had been imposed prior to that time, (*id.* at 8); and (4) the City did not violate Section 80F.1(18) by hanging Officer Smith's photograph on a wall in an area of the police station to which the general public did not have access.<sup>4</sup> (*Id.* at 9.)

## **ARGUMENT**

### **I. The District Court correctly found that the investigation into the complaint against Officer Smith was complete upon Chief Jonker's approval.**

#### Preservation of Issue

The City does not dispute that this issue was sufficiently preserved for appeal.

---

<sup>4</sup> Officer Smith has not appealed the District Court's decision on the latter issue.

## Standard of Review

Plaintiff appeals the District Court’s interpretation of Iowa Code Section 80F.1(3) as to when an investigation is completed. (See generally Appellant’s Am. & Substituted Br. (hereafter, “Appellant Br.”) 19 – 33.) An appellate court reviews issues of statutory interpretation for correction of errors at law. *Hummel v. Smith*, 999 N.W.2d 301, 304 (Iowa 2023) (quoting *State v. Ness*, 907 N.W.2d 484, 487 (Iowa 2018)). In interpreting statutes, courts start with the language of the statute to determine what it means. *Beverage v. Alcoa, Inc.*, 975 N.W.2d 670, 680 (Iowa 2022). Courts generally give words “their common, ordinary meaning in the context within which they are used.” *Jorgensen v. Smith*, 2 N.W.3d 868, 873 (Iowa 2024) (quoting *In re J.C.*, 857 N.W.2d 495, 500 (Iowa 2014)). Additionally, “[w]hen the text of a statute is plain and its meaning clear, the court should not search for a meaning beyond the express terms of the statute.” *State v. Schultz*, 604 N.W.2d 60, 62 (Iowa 1999) (quoting *Wesley Retirement Servs., Inc. v. Hansen Lind Meyer, Inc.*, 594 N.W.2d 22, 25 (Iowa 1999)).

## Argument

The parties' first dispute centers around delineating the point in time at which the investigation into the complaint against Officer Smith was completed. The City's position is that the investigation was not complete until Chief Jonker signed off on it on May 31, 2023, based on both the CRPD Complaint Procedure policy and the plain language of the POBR. Specifically, the City points out that at any time up to approving the investigation, Chief Jonker could have asked Lt. Doyle to conduct any additional investigation he felt necessary to adequately resolve the complaint. (D0026, Def.'s MSJ App. at APP0455 – APP0456.) Officer Smith asserts that, because no additional information or investigation *was* ultimately requested, the investigation should be deemed completed at the time Lt. Doyle finished his report on April 18, 2023. (Appellant Br. 43 – 45.)

- A. *The plain language of Section 80F.1(3) requires an officer be notified of the results of the investigation when it is completed.*

The purpose of the POBR is to guarantee certain rights to peace officers, and prominent among the rights afforded by Chapter 80F.1 are several relating to procedures for complaints against

officers, their corresponding investigations, and any related disciplinary proceedings. At issue in this particular matter is Subsection 3 of the POBR, which states: “A formal administrative investigation of an officer shall be commenced and completed in a reasonable period of time. An officer shall be immediately notified in writing of the results of the investigation when the investigation is completed.”<sup>5</sup> IOWA CODE § 80F.1(3) (2024).<sup>6</sup>

The statute neither provides a definition for “completed” nor articulates a specific point at which an investigation ought to be considered completed. The word should therefore be given its common and ordinary meaning in the context of Chapter 80F.1. See *Jorgensen*, 2 N.W.3d at 873. When used as a verb, as in Section 80F.1(3), “complete” is commonly understood to mean “to bring to an end and especially into a perfected state” and “to make whole or perfect.” *Complete*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/complete> (last visited August 29, 2024)

---

<sup>5</sup> A “formal administrative investigation” is defined in Iowa Code Section 80F.1(1)(c), and the definition is discussed in more depth in Section I.C. of this brief.

<sup>6</sup> All statutory references are to the 2024 version unless otherwise specified.

(hereafter, “*Complete* definition”). Interestingly, among the several definitions of “perfect” in the Merriam-Webster Dictionary is one for when the word is used as a synonym for “complete”: “lacking in no essential detail.” *Perfect*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/perfect> (last visited August 29, 2024)

(hereafter, “*Perfect* definition”). Taking the common meanings of these words together, the use of “completed” in the context of Section 80F.1(3) is understood to mean the point at which the investigation lacks no essential details and has been brought to an end.

B. *CRPD’s formal administrative investigations are complete upon approval by the Chief of Police.*

The CRPD Complaint Procedure policy clearly resolves the question of when an investigation is complete: “No line or internal investigation shall be considered complete until it has been approved by the Chief of Police.” (D0026, Def.’s MSJ App. at APP0467.) The reason for having the Chief’s approval mark the completion of an investigation is that prior to that point, the disciplinary board or the Chief could request further investigation into the complaint. (*Id.* at APP0454 (Doyle Aff. at ¶ 8).) Regardless of



whether additional investigation is actually requested, the possibility always remains up until the point at which the Chief approves the investigation. (*Id.*) Lt. Doyle indicated that, in his experience conducting professional standards investigations, there have been circumstances in which additional investigation was requested after he completed his initial written investigation report. (*Id.* (Doyle Aff. at ¶ 7).) Importantly, Lt. Doyle (and any other investigator) has no way to predict whether he will be asked to perform additional investigation until the Chief approves the investigation. (*Id.*) With respect to Officer Smith specifically, Lt. Doyle stated that he “had no way of knowing for certain if” Chief Jonker would request further investigation concerning the complaint “until on or after May 31, 2023.” (*Id.*)

Not only does considering an investigation complete upon the Chief’s approval make logical sense, as it provides room for additional investigation as needed, using the Chief’s approval to mark the completion of the investigation also provides certainty, predictability, and uniformity of results for all officers who are the subject of complaints. Establishing the Chief’s approval as the

trigger for completion of an investigation creates a reasonable and bright-line expectation for the resolution of formal administrative investigations. Such an interpretation makes sense in the larger context of the POBR as well, as the statute as a whole also serves to provide certainty, predictability, and uniformity with respect to officers' rights.

Officer Smith attempts to sidestep the Complaint Procedure policy's unambiguous language concerning the completion of an investigation by arguing that the policy itself is invalid because it was not approved by the Cedar Rapids City Council. (Appellant Br. 40 – 43.) The cases Officer Smith cites in support of that argument are inapposite.<sup>7</sup>

Neither *Smith v. Des Moines Civil Service Commission*,

---

<sup>7</sup> The City responded to Officer Smith's arguments concerning the validity of the CRPD Complaint Procedure policy in its "Reply to Plaintiff's Resistance to City's Cross-Motion for Summary Judgment," which was filed on April 22, 2024—the same day the District Court issued its ruling on the parties' cross-motions. Although the City's brief was timely filed, it was filed a few hours after the court's decision and was therefore not analyzed in the District Court Ruling. The District Court nonetheless rejected Officer Smith's arguments related to *Smith* and *Armstrong*. (D0033, Ruling at 6.)

561N.W.2d 75 (Iowa 1997), nor *Armstrong v. Davenport Civil Service Commission*, 789 N.W.2d 165, 2010 WL 2925896 (Iowa Ct. App. 2010) (unpublished), stands for the proposition that no personnel policy of any kind is valid unless approved by the city council. Rather, both cases involved specific physical standards for job qualifications—spirometry tests for firefighters in *Smith* and physical examination requirements, including vision standards, for commercial vehicle drivers in *Armstrong*—established by individual departments rather than by the city’s governing body. The courts in those cases held that governmental policies that create standards to be generally applied in lieu of particularized determinations in individual cases ought to be approved by the city council. *Smith*, 561 N.W.2d at 79; *Armstrong*, 2010 WL 2925896 at \*3.

The Complaint Procedure policy at issue here is not such a policy. It neither establishes specific physical standards or job qualifications nor precludes individualized determinations of specific matters; all it does is establish an internal process for CRPD’s handling of complaints. (*See generally* D0026, Def.’s MSJ App. at APP0457 to APP0471.) Officer Smith has not pointed to any

case law that requires a policy creating an administrative procedure, such as the CRPD Complaint Procedure policy, to have been approved by the Cedar Rapids City Council before it can be given effect. Indeed, requiring the City Council to formally approve and adopt each and every policy or practice of each of the numerous City departments would result in an unnecessary and excessive level of micromanagement that would negatively impact the productivity of both the City Council and the City departments, thereby harming the public as a whole.

This is particularly true where, as here, the Cedar Rapids City Council has given the Chief of Police the authority to create this type of complaint procedure policy, as it is statutorily empowered to do. IOWA CODE § 372.13(4) (“[T]he council may appoint city officers and employees, and prescribe their powers, duties, compensation, and terms.”) Specifically, the City Council passed an ordinance authorizing the Chief of Police to “promulgate orders, rules and regulations for the conduct and guidance of the members of the Police Department not inconsistent with law or ordinance and see that they are enforced.” Cedar Rapids Municipal Code (“CRMC”) §

7.09.<sup>8</sup> The creation or modification of the Complaint Procedure policy falls within the Chief's authority under CRMC § 7.09, and nothing in *Smith* or *Armstrong* mandates a different result.

The language of the CRPD Complaint Procedure policy is dispositive. It very clearly establishes the time of the Chief's approval of an investigation as the time of the investigation's completion, and Officer Smith has not provided any valid reason why the policy language should not control. Accordingly, the investigation into the complaint against Officer Smith was completed on May 31, 2023, when Chief Jonker signed off on it.

C. *The investigation into the complaint against Officer Smith was completed on May 31, 2023 under the plain language of the statute as well.*

The plain language of Section 80F.1(3) indicates that an investigation is completed when it lacks no essential details and has been brought to an end. (See *Complete* definition; *Perfect* definition.) Accordingly, even if the CRPD policy did not specify that an investigation is only complete upon the Chief's approval, that

---

<sup>8</sup> The full language of CRMC § 7.09 can be found at: [https://library.municode.com/ia/cedar\\_rapids/codes/code\\_of\\_ordinances?nodeId=CH7PODE\\_7.09RURE](https://library.municode.com/ia/cedar_rapids/codes/code_of_ordinances?nodeId=CH7PODE_7.09RURE).

approval would nonetheless mark the time at which the investigation is completed. Prior to that point, the Chief may request additional investigation in order to ensure that there are no essential details lacking, and the entire investigation cannot be said to be “brought to an end” until the Chief makes a determination as to discipline.

For his part, Officer Smith contends that the investigation into his complaint should be deemed to have been completed on April 18, 2023, when Lt. Doyle prepared his initial report, because Lt. Doyle was not actually asked to perform any additional investigation. (Appellant Br. 43 – 46.) He also argues that considering an investigation complete when an initial report is written does not cause any issues, as a “commanding officer could simply order the investigation reopened.” (*Id.* at 38 – 39.)

As an initial matter, Officer Smith’s argument conflates Lt. Doyle’s completion of his investigation report with the completion of the entire formal administrative investigation into the complaint against Officer Smith. As the District Court correctly pointed out, Lt. Doyle’s report “is just one step in the formal administrative

investigation and is not the whole of the investigation.” (D0033, Ruling at 7.) Officer Smith’s counsel also acknowledged that Lt. Doyle’s completion of his report is only a part of the formal administrative investigation during depositions in this matter. (D0018, Def.’s MSJ App. at APP0028, lines 12 – 14, 20 – 21 (Dep. Douglas Doyle).) To accept Officer Smith’s argument that the relevant date for purposes of completion of the investigation is the completion of Lt. Doyle’s report would be to discount the remainder of the formal administrative investigation—many steps of which serve important functions to protect the due process rights of officers. Officer Smith’s argument on this point therefore necessarily fails.

Additionally, the City’s interpretation is the more reasonable one, not only based on the plain meaning of Section 80F.1(3) itself, but also in the larger context of the POBR. First, the statute is unambiguous and its plain meaning suggests that a formal administrative investigation is complete only once all relevant evidence related to the complaint has been gathered. As applied to the City, it is reasonable to conclude that only upon the Chief’s

approval of the investigation results can there be certainty that all relevant evidence has been collected, and it therefore follows that that event is the appropriate marker for the completion of the investigation.

Officer Smith asserts, without support, that such an interpretation would give “unfettered discretion to CRPD to unilaterally decide when the investigation is completed” (Appellant Br. at 22); however, quite the opposite is true. The City’s standard creates a uniform point in time at which investigations are complete—i.e., upon the Chief’s approval—and the timing of investigations is also addressed in the CRPD Complaint Procedure policy. (D0026, Def.’s MSJ App. at APP0465, APP0467.) In contrast, using a nebulous earlier point in the investigation process, which is determined on a case-by-case basis, as Officer Smith urges, (Appellant Br. 28), would create confusion and inconsistent determinations as to when an investigation is complete.

Creating a consistent standard marking the Chief’s approval as the time at which CRPD investigations are complete provides certainty to all parties involved in the investigation and ensures



officers' rights are protected as required by the POBR. This is particularly important in light of the context and purpose of the POBR as a whole. *Doe v. State*, 943 N.W.2d 608, 610 (Iowa 2020); IOWA CODE § 4.1(38) (“Words and phrases shall be construed according to the context and the approved usage of the language”). The POBR articulates the rights of peace officers in Iowa, and an examination of its provisions clearly indicates the legislature’s intent to ensure certain employment protections for such officers. *E.g.*, IOWA CODE §§ 80F.1(3), (5), (9) (specifying documentation that must be provided to officers related to a formal administrative investigation); *id.* at §§ 80F.1(4), (6)-(7), (10)-(11) (governing procedures for interviewing officers); *id.* at §§ 80F.1(9), (16), (19), (23)(a) (related to the imposition of discipline against officers). These provisions make it clear that the POBR is intended not only to secure certain rights for peace officers, but also to provide them with certainty and predictability as to what they can expect during formal administrative investigations.

Reading the rights granted by Section 80F.1(3) in light of these other provisions of the POBR, and given the POBR’s lofty overall

statutory purpose, it makes complete sense to wait to declare an investigation complete until after the entire complaint review process has occurred. Only in doing so can the officer be ensured that an investigation is not limited to one investigator's initial findings, is instead subject to others' review and can be supplemented as appropriate. Put simply, not considering the investigation complete until commanding officers have reviewed the situation and determined that they have all of the necessary evidence protects the rights of officers by ensuring that complaints against them are resolved based on all relevant facts.

Officer Smith suggests that, by changing Section 80F.1(3) from one sentence to two and adding a requirement that an officer be provided the results of the investigation in writing, the legislature intended to expand the rights afforded to officers under the POBR in the 2021 amendments. (Appellant Br. 23 – 25 (citing 2021 Iowa Acts ch. 183 § 18)). That argument misses the mark, however. The City does not dispute that the 2021 amendments to the POBR were intended to expand officers' rights and formalize processes thereunder; that alone, however, does not necessitate the

interpretation of Section 80F.1(3) Officer Smith would have this Court adopt. Neither the mandate that an investigation be commenced and completed in a reasonable time nor the requirement for the results thereof to be provided to the officer in writing provides any actual guidance or instruction as to the point in time at which the legislature considered an investigation to be complete. Quite the contrary.

Despite the sweeping amendments in 2021, and the numerous other amendments to the POBR since its enactment, the legislature has opted not to articulate a specific point in time or step in the investigatory process after which after which an investigation is to be considered complete. As the District Court correctly noted, “[i]f the legislature wanted all investigations to proceed according to a specified, uniform timeline, it would have incorporated such a timeline when drafting the statute.” (D0033, Ruling at 7 (citing *Star Equip., Ltd. v. State, Iowa Dept. of Transp.*, 843 N.W.2d 446, 455 (Iowa 2013)). Officer Smith asks this Court substitute its judgment for the legislature’s and read such a delineation into otherwise unambiguous statutory language.

Officer Smith also asserts that the date of the Chief’s approval of the investigation should not be considered the date on which the investigation is complete because, in his view, the POBR separates the discipline process from the investigatory process. (Appellant’s Br. at 25 – 33.) Unfortunately, Officer Smith misunderstands the grammatical structure of the statutory definition of “formal administrative investigation” in Section 80F.1(1)(c). The POBR defines that term as “an investigative process ordered by a commanding officer of an agency or commander’s designee during which the questioning of an officer is intended to gather evidence to determine the merit of a complaint *which may be the basis for seeking removal, discharge, or suspension, or other disciplinary action against the officer.*” IOWA CODE § 80F.1(1)(c). Officer Smith reads the italicized language as relating back to “an investigative process”; however, that language is more appropriately read as a relative clause describing “complaint.” Specifically, the preposition “during” breaks the sentence down into two main parts, with the second half describing an event that occurs during the investigative process mentioned in the first half—i.e., the officer is questioned to

gather evidence related to a complaint. And the relative clause that begins with “which” describes the type of complaint that triggers a formal administrative investigation—i.e., one that can result in discipline. If the legislature had intended that clause to relate back to and describe “investigative process,” one would expect to see the preposition “and” or similar language preceding it.

Beyond the semantic issues with Officer Smith’s interpretation, however, it is also worth noting that his argument that the investigatory and disciplinary processes must be entirely separate runs contrary to the language and spirit of Section 80F.1(3), which requires that investigations be completed in a reasonable time. Creating a division between the two would create unnecessary delays in the process, contrary to the spirit of the POBR and to principles of statutory construction. Such an interpretation would be largely unworkable in practice, as it would require CRPD to restructure its entire complaint review procedure. *Save Our Stadiums v. Des Moines Indep. Cmty. Sch. Dist.*, 982 N.W.2d 139, 147 (Iowa 2022) (“Generally, we try to interpret statutes so they are reasonable and workable.” (quoting *State v.*

*Iowa Dist. Ct. for Scott Cnty.*, 889 N.W.2d 467, 473 (Iowa 2017))).

Finally, it is also important to note that Officer Smith's proffered solution of "simply" having a commanding officer order an investigation reopened if further information is needed is not supported anywhere in the POBR, and certainly not in Section 80F.1(3). (Appellant Br. 38 – 39.) Indeed, such a process would prolong the complaint investigation process, in direct contradiction of the mandate in Section 80F.1(3) that formal administrative investigations be "commenced and completed in a reasonable period of time." Similarly unsupported is Officer Smith's suggestion that Chief Jonker could have reviewed Lt. Doyle's report on the day it was written—i.e., April 18, 2023. (Appellant Br. 45 – 46.) However, as the District Court correctly noted, doing so would "require the investigative process to skip a few steps, namely review of the file by the Captains and the subsequent review by the Disciplinary Board." (D0033, Ruling at 7-8.) Nothing in the POBR requires an agency to upend its complaint investigation procedures or skip usual steps thereof, and reading it to do so is contrary to the statute's expressed terms and is unworkable in practice, as it would create confusion

for officers as to the steps in the investigatory process.

The City's position that the investigation into the complaint against Officer Smith was completed upon its approval by Chief Jonker is supported not only by the CRPD Complaint Procedure policy, but also by the plain language of Section 80F.1(3).

Accordingly, the District Court correctly held that the formal administrative investigation was completed on May 31, 2023, when Chief Jonker approved it. (D0033, Ruling at 6-7.)

**II. The District Court correctly held that the City complied with Sections 80F.1(3) and (9) and was entitled to judgment as a matter of law.**

Preservation of Issue

The City does not dispute that these issues were sufficiently preserved for appeal.

Standard of Review

The District Court granted summary judgment in the City's favor on Officer Smith's arguments under Sections 80F.1(3) and (9). (D0033, Ruling at 8 – 9.) The standard of review for motions for summary judgment is for correction of errors of law. *Myers v. City of Cedar Falls*, 8 N.W.3d 171, 176 (Iowa 2024) (quoting *Feedback v.*

*Swift Pork Co.*, 988 N.W.2d 340, 346 (Iowa 2023)). The appellate court’s role is to “determine whether a genuine issue of material fact exists and whether the law was correctly applied.” *City of Davenport v. Shewry Corp.*, 674 N.W.2d 79, 82 (Iowa 2004) (quoting *Kelly v. Iowa Mut. Ins. Co.*, 620 N.W.2d 637, 641 (Iowa 2000)).

### Argument

The District Court correctly determined that “[t]he formal administrative investigation did not end and discipline did not result until May 31, 2023,” (D0033, Ruling at 8). Based on that finding, it was also proper for the District Court to conclude that the City did not violate Section 80F.1(3) because it made the results of the investigation available to Officer Smith in writing on May 31, 2023, the same day the investigation was completed. (*Id.* at 7.) For the same reason, the District Court’s conclusion that Officer Smith was not entitled to the investigative report prior to the imposition of discipline was also correct. (*Id.* at 8.) The relevant facts and law in this case support both conclusions, and this Court should uphold the District Court’s grant of summary judgment in the City’s favor.



- A. *The District Court correctly held the City immediately provided Officer Smith a copy of the results of the investigation in accordance with Section 80F.1(3).*

Section 80F.1(3) requires that an officer be provided written of the results of an investigation when the investigation “is completed.” As detailed in Section I of this Argument, the plain language of the statute dictates that, as a matter of law, an investigation is completed when all essential details have been gathered and the entire process has been brought to an end. The District Court properly granted the City’s motion for summary judgment if there is no material factual dispute as to the point at which the CRPD investigation into the complaint against Officer Smith actually ended—and the City contends there is none.

Here, the investigation was completed on May 31, 2023, when Chief Jonker made the determination as to discipline. The investigation was complete on that date not only because CRPD policy says that investigations are complete only when the Chief approves them, but also because at any point up until making his final determination, Chief Jonker could have required additional investigation and information to ensure the accuracy and

completeness of the investigative record. (D0026, Def.'s MSJ App. at APP0467; *id.* at APP0455 – APP0456 (Doyle Aff. ¶¶ 7 – 8).

It is only with the benefit of hindsight that we know that no additional investigation was required in Officer Smith's situation; at any point up to Chief Jonker's determination as to discipline, he could have deemed additional investigation was necessary. For that reason, in addition to the plain language of the CRPD Complaint Procedure policy, no reasonable trier of fact could conclude that the investigation was completed prior to that time, and the City is entitled to judgment as a matter of law. *Bitner v. Ottumwa Cmty. Sch. Dist.*, 549 N.W.2d 295, 300 (Iowa 1996) ("Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no 'genuine issue for trial.'" (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587, 106 S.Ct. 1348, 1356 (1986))).

Given that the investigation was completed on May 31, 2023, there can also be no genuine factual dispute that Officer Smith was not immediately provided the investigative report in accordance with Section 80F.1(3). Lt. Doyle made the investigation results and

files available to Officer Smith and his attorney on a jump drive on the same day that Chief Jonker issued his disciplinary decision— May 31, 2023. (D0026, Def.’s MSJ App. at APP0507 – APP0508.) Accordingly, the City complied with Section 80F.1(3), and the District Court correctly granted judgment in the City’s favor on that issue. (D0033, Ruling at 7 (“[T]he Court finds that Defendant provided notice on May 31, 2023, as required by § 80F.1(3).”.)

The City’s position is that under the plain statutory language and the CRPD Complaint Procedure policy, the investigation was not complete until Chief Jonker approved it on May 31, 2023. Even if the Court concludes that the investigation concluded at some point prior to that time, however, the City substantially complied with its obligations under Section 80F.1(3) when it provided its written Notice of Administrative Hearing to Officer Smith on May 18, 2023. (D0018, Pl.’s MSJ App. at APP0188-90.)

There is a presumption that, when the legislature enacts a statute, the intended result is just, reasonable, and feasible of execution. IOWA CODE §§ 4.4(3), (4). Additionally, a city must “substantially comply with a procedure established by a state law

for exercising a city power.” IOWA CODE § 364.6. The City maintains the power to conduct investigations into complaints against officers in its employ, provided it does so in accordance with the procedures and protections set forth in the POBR. Accordingly, substantial compliance with Chapter 80F.1 is sufficient, *id.*, and the City substantially complied with Section 80F.1(3) by providing the written Notice of Administrative Hearing to Officer Smith on May 18, 2023.

- B. *The District Court correctly held the City did not violate Section 80F.1(9) because Officer Smith was not entitled to the complete investigative report until after the investigation resulted in discipline.*

Officer Smith also argues that the City violated Section 80F.1(9) by not providing him a copy of the investigative report prior to the pre-disciplinary hearing. The District Court correctly found in the City’s favor on this point as well. (D0033, Ruling at 8 (“[The City] did not violate Iowa Code § 80F.1(9) by waiting to provide [Officer Smith] with the report until after May 31, 2023.”).) Importantly, Officer Smith does not point to a factual issue dispute regarding the time at which he was provided the materials; rather,

he raises only legal arguments concerning the District Court's interpretation of Section 80F.1(9). (Appellant Br. 30 – 39.)

On appeal, Officer Smith points to the 2021 revisions to the POBR to support his argument that he was entitled to a copy of the investigative report when his counsel asked for it. (*Id.* at 30 – 33.) In its entirety, Section 80F.1(9) says:

If a formal administrative investigation results in the removal, discharge, or suspension, or other disciplinary action against an officer, copies of any witness statements and the complete investigative agency's report shall be timely provided to the officer upon the request of the officer or the officer's legal counsel upon request at the completion of the investigation.

2021 Iowa Acts ch. 183 § 18 (amended text underlined). The underlined language signifies the language added to the subsection at the time of the 2021 amendments to the POBR. Specifically, Officer Smith argues that the legislature's inclusion of the language "or the officer's legal counsel upon request at the completion of the investigation" requires that the results of an investigation be provided to an officer's attorney upon completion of an investigation. Both the plain language of Section 80F.1(9) and the amendments from 2021 actually refute Officer Smith's argument,

however.

As is evident from the plain language of Section 80F.1(9), Officer Smith’s interpretation of the statute only works if you read the last clause wholly out of context. The added language concerning legal counsel’s access to the investigative report cannot be divorced from the conditional clause requiring that the investigation first result in discipline. Reading the amended language in the context of the entire subsection—as statutory interpretation principles dictate we must—the requirement to immediately provide a copy to counsel only applies “[i]f formal administrative investigation results in the removal, discharge, or suspension, or other disciplinary action” against the officer. IOWA CODE § 80F.1(9). To accept Officer Smith’s proffered interpretation, the Court would have to ignore essential statutory language. If, as Officer Smith argues, the legislature had intended its 2021 amendments to afford officers’ attorneys the right to request the full investigative report at any time, regardless of whether discipline had been imposed, it could have added a separate sentence to Subsection (9) doing just that. That the legislature opted not to do

so is telling. A plain reading of the amended language, as a whole, clearly demonstrates that up until the time that the investigation results in disciplinary action, Subsection (9) entitles neither officers nor their attorneys to the complete investigative file.<sup>9</sup>

Officer Smith asks this Court to adopt a reading of Subsection (9) that creates ambiguity where there is none, is contrary to its plain meaning and requires the omission of certain words—in other words, one that is contrary to nearly every canon of statutory

---

<sup>9</sup> Officer Smith asserts that Section 80F.1(13), which gives officers a private cause of action for false complaints made against them, mandates a reading of Section 80F.1(9) that guarantees access to the investigation results prior to the imposition of discipline. (Appellant Br. 31 – 32.) While Officer Smith is correct in that statutes are read in the context of one another, Subsections (9) and (13) were amended at the same time, and yet the legislature opted to condition an officer’s and his legal counsel’s ability to obtain an investigatory file contingent on the imposition of discipline. *See* 2021 Iowa Acts ch. 183 § 18. If the legislature intended the result Officer Smith asserts they did, they would have explicitly said so.

It is also worth noting that, even if the Court were to adopt Officer Smith’s interpretation and find that an officer’s legal counsel is entitled to the investigative report without discipline being imposed, counsel is only entitled to those records when the investigation is complete. As described throughout this brief, that does not occur until the Chief approves the investigation; thus, as applied to Officer Smith, he still would not have been entitled to the results of the investigation prior to the pre-disciplinary hearing.

construction. *State v. Zacarias*, 958 N.W.2d 573, 581 (Iowa 2021); *Jorgensen*, 2 N.W.3d at 873; *Matter of Est. of Janssen*, 7 N.W.3d 516, 524 (Iowa 2024), *as amended* (Aug. 5, 2024) (Courts “can neither add words to the statute [n]or eliminate them.” (alteration original; quoting *Moulton v. Iowa Emp. Sec. Comm’n*, 239 Iowa 1161, 34 N.W.2d 211, 216 (1948))).

Officer Smith also argues that by not providing the investigative report prior to the pre-disciplinary hearing, the City interfered with his right to counsel. (Appellant Br. 33 – 37.) This argument is a red herring. As an initial matter, Officer Smith has not made any allegation that he did not have “an oral or written notice of the charges against him, an explanation of the [City’s] evidence, and an opportunity to present his side of the story” at the pre-disciplinary hearing, as required by *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 546-47 (1985). Indeed, at the time of the pre-disciplinary hearing, Officer Smith had been provided with ample notice of the nature of the complaint against him, the CRPD policies at issue, the discipline he might face, the CRPD disciplinary board’s recommendation and basis therefore, and the documents he



requested from his personnel file; he had also made his own recording of his administrative interview on April 13, 2023. (APP0172 – 0193; APP0330, lines 6 – 21; APP0489 – 0502; APP0503 – 0506.) Furthermore, Officer Smith’s legal counsel was present at the administrative interview on April 13, 2023, as well as the pre-disciplinary hearing. (APP0226; APP0351; APP0265; APP0414.)

Officer Smith asserts, without support, that the POBR and the 2021 Amendments thereto give officers “substantive and procedural rights” beyond those afforded by *Loudermill*. (Appellant Br. 34 – 35.) While it is true that states can codify additional due process protections beyond those afforded by federal law, those protections must be explicit, and not discernable only by making assumptions about what the legislature intended in drafting certain provisions. *See Stevenson v. Blytheville Sch. Dist. #5*, 800 F.3d 955, 968 (8th Cir. 2015) (“A protected property interest is a matter of state law involving a legitimate claim to entitlement as opposed to a mere subjective expectancy.” (internal citations and quotation omitted)).

Importantly, Officer Smith has not pointed to anything in *Loudermill* or any other case, nor indeed any provision of the POBR,

that stands for the proposition that not having the full investigative report prior to the pre-disciplinary hearing deprived him of or even interfered with his right to legal counsel. He likewise has not pointed to anything in the POBR or case law that supports his contention that he was entitled to the full report prior to the pre-disciplinary hearing, other than his misinterpretation of the amended language of Section 80F.1(9). While it may be true that state laws can ensure additional due process protections beyond those federally mandated, such protections must actually be identifiable and not just implied based on supposition and guesswork as to the meaning of amended language. In the absence of any articulable authority mandating a different interpretation, this Court should not deviate from the plain language of Section 80F.1(9). *Schultz*, 604 N.W.2d at 62 (“[T]he court should not search for a meaning beyond the express terms of the statute.” (quoted source omitted).) As discussed in this section, those express terms do not entitle Officer Smith to a copy of the complete investigative report until after discipline is imposed.

There is no dispute between the parties that the City made a

copy of the full investigative report available to Officer Smith on May 31, 2023, the same day on which Chief Jonker issued his letter to Officer Smith imposing the latter's 10-hour suspension. (D0018, Pl.'s MSJ App. at APP147; D0026, Def.'s MSJ App. at APP0507 – APP0508.) It follows, then, that Officer Smith does not—and indeed cannot—dispute that he was provided a copy of the investigation report immediately following the imposition of his discipline. Accordingly, the City strictly complied with Section 80F.1(9), and the District Court correctly concluded that the City was entitled to judgment as a matter of law on this issue. (D0033, Ruling at 8.)

### **CONCLUSION**

For the foregoing reasons, the District Court correctly held that the City was entitled to judgment as a matter of law and granted the City's cross-motion for summary judgment. The rulings of the District Court must be affirmed.

Respectfully submitted,

*/s/ Patricia G. Kropf*

Patricia G. Kropf (AT0009364)

Assistant City Attorney

City of Cedar Rapids

101 1st Street SE

Cedar Rapids, IA 52404

Telephone: (319) 286-5025

Facsimile: (319)286-5135

Email: [t.kropf@cedar-rapids.org](mailto:t.kropf@cedar-rapids.org)

**ATTORNEY FOR APPELLEE**

## **REQUEST FOR ORAL ARGUMENT**

The City respectfully requests to be heard at oral argument on this appeal if such right is granted to Appellant Antoine Smith.

/s/ Patricia G. Kropf  
Patricia G. Kropf (AT0009364)  
Assistant City Attorney  
City of Cedar Rapids  
101 1st Street SE  
Cedar Rapids, IA 52404  
Telephone: (319) 286-5025  
Facsimile: (319)286-5135  
Email: t.kropf@cedar-rapids.org  
**ATTORNEY FOR APPELLEE**

**CERTIFICATE OF COMPLIANCE WITH TYPEFACE  
REQUIREMENTS AND TYPE-VOLUME LIMITATION**

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) because:

This brief has been prepared in a proportionally spaced typeface using Bookman Old Style in 14-point font and contains 7,126 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

*/s/Patricia G. Kropf*

Patricia G. Kropf (AT0009364)  
Assistant City Attorney  
City of Cedar Rapids  
101 1st Street SE  
Cedar Rapids, IA 52404  
Telephone: (319) 286-5025  
Facsimile: (319)286-5135  
Email: t.kropf@cedar-rapids.org  
**ATTORNEY FOR APPELLEE**

## **CERTIFICATE OF SERVICE AND FILING**

The undersigned hereby certifies that on September 3, 2024, the foregoing Brief of Appellees was electronically filed with the Iowa Supreme Court by using the EDMS system. I further certify that all parties or their counsel of record are registered as EDMS filers and will be served by the EDMS system.

/s/ Patricia G. Kropf  
Patricia G. Kropf (AT0009364)  
Assistant City Attorney  
City of Cedar Rapids  
101 1st Street SE  
Cedar Rapids, IA 52404  
Telephone: (319) 286-5025  
Facsimile: (319)286-5135  
Email: t.kropf@cedar-rapids.org  
**ATTORNEY FOR APPELLEE**