

August 5, 2022

Iowa Public Information Board  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Email: [ipib@iowa.gov](mailto:ipib@iowa.gov)

**SENT VIA ELECTRONIC MAIL ONLY**

**RE: City of Newton's Response to Michael J. Merritt's Complaint**

This office and the undersigned have been asked to respond on behalf of the City of Newton, Iowa ("City") to the July 20, 2022, complaint by Michael Merritt alleging violations of Iowa Code Chapter 22 ("Complaint"). As an initial matter, Mr. Merritt's Complaint about the City of Newton appears to be the fifth such complaint he has filed with the Iowa Public Information Board ("Agency") over the last few months and the City questions whether this Complaint was filed in good faith compliance with the Iowa Code. As set forth by this Agency in the matter of *Michael Merritt and Guthrie County*, Case 22FC:0018, "Iowa Code section 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint." See attached Exhibit A, Dismissal Order. Similar to that case, the City requests this case be dismissed.

Mr. Merritt's Complaint is sixteen pages long and broken into nine paragraphs with thirteen subsections. See attached Exhibit B, July 20, 2022, Merritt Complaint. The Complaint is difficult to follow and understand, so the City's response addresses the allegations set forth in each separate paragraph/subparagraph of the Complaint. The City's response is intended to address all of Mr. Merritt's allegations; however, given the disjointed nature of the Complaint, if the City accidentally missed any argument that the Agency would like addressed, please let me know.

Paragraphs 1, 2 & 3:

Mr. Merritt's allegation is based upon a violation that supposedly occurred on June 23, 2022. See Exhibit B. Mr. Merritt made no open records request on July 23, 2022; however, he sent two records to the City on July 24, 2022. See attached Exhibits C & D, July 24, 2022, Merritt Requests. (Please note that Exhibit C was sent at 10:17 a.m. and demanded a response by 4:00 p.m. that day.) See Exhibit D. Mr. Merritt followed up with another email to the City dated June 28, 2022. See attached Exhibit E, Merritt Correspondence.

The City responded to Mr. Merritt's outstanding requests with an initial response on June 29, 2022, then provided a more detailed response on July 15, 2022. See attached Exhibits F & G, City Responses. The City's estimate of costs was over five thousand dollars due to Mr. Merritt's demand for copies of nearly every City email sent from January 1, 2021, through June 24, 2022 (*i.e.*, an almost eighteen month period of time). Mr. Merritt's Complaint alleges—without providing any evidence—that the City's estimate of fees was "not consistent with fees charged by

other Iowa Agencies for similar records searches.” *See* Exhibit B, p. 6. If Mr. Merritt objected to the cost of the response, he could have contacted the City to discuss the fees or minimize the cost of the response by amending his requests to reduce the number of months or employees included in the search. The City asks that this portion of Mr. Merritt’s Complaint be dismissed because the City responded to Mr. Merritt’s request and the reason Mr. Merritt does not have the requested records is that he has not yet provided payment for the records he requested.

Paragraph 4(a):

Mr. Merritt’s allegations in this subparagraph are based upon a records request to Mayor Michael Hansen dated March 14, 2022. *See* Exhibit B, p. 1. The City respectfully requests that this portion of the Complaint be dismissed as Iowa Code Subsection 23.7(1) requires complaints to be filed within sixty (60) days from the date of the alleged violation. *See* Iowa Code 23.7(1).

Paragraph 4(b):

Mr. Merritt’s allegations in this subparagraph are based upon a records request to City Clerk Katrina Davis dated March 14, 2022. *See* Exhibit B, p. 1. The City respectfully requests that this portion of the Complaint be dismissed as Iowa Code Subsection 23.7(1) requires complaints to be filed within sixty (60) days from the date of the alleged violation. *See* Iowa Code 23.7(1).

Paragraph 4(c):

Mr. Merritt’s allegations in this subparagraph are based upon a records request to Police Chief Rob Burdess dated April 1, 2022. *See* Exhibit B, p. 2. The City respectfully requests that this portion of the Complaint be dismissed as Iowa Code Subsection 23.7(1) requires complaints to be filed within sixty (60) days from the date of the alleged violation. *See* Iowa Code 23.7(1).

Paragraph 4(d):

In this subparagraph, Mr. Merritt alleges that Police Lieutenant Ron Cook violated Iowa Code Chapter 22 by engaging in “gender-based discrimination” when he did not provide a copy of an incident report.<sup>1</sup> *See* Exhibit B, p. 2. Any allegations involving discrimination are beyond the scope of this Agency; however, the City strongly denies that it treats individuals differently based on membership in a protected class.

Paragraph 4(e):

Mr. Merritt’s allegations in this subparagraph are based upon a records request to Police Lieutenant Chris Wing dated January 13, 2022. *See* Exhibit B, p. 4. The City respectfully requests that this portion of the Complaint be dismissed as Iowa Code Subsection 23.7(1) requires complaints to be filed within sixty (60) days from the date of the alleged violation. *See* Iowa Code 23.7(1).

Paragraph 4(f):

Mr. Merritt’s allegations in this subparagraph are based upon a response to a records request provided by Police employee Missy Graff. *See* Exhibit B, p. 4. The alleged violation of Iowa Code Chapter 22 appears to be that, in early 2022, Mr. Merritt was informed there was a \$10 fee to obtain an incident report, whereas a female who requested an incident report a few months later was only charged \$5. *See id.* This is Mr. Merritt’s second allegation of gender-based discrimination. *See* Exhibit B, p. 2. As set forth above, any allegations involving discrimination

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<sup>1</sup> Subparagraph 4(d) includes over a dozen sentences; however, they do not appear to include any allegations involving violations of Iowa Code Chapter 22.

are beyond the scope of this Agency; however, the City strongly denies that it treats individuals differently based on membership in a protected class. In addition, the City would note that the Police Department reduced its standard fee for reports from \$10 to \$5 at the end of June/beginning of July—so it would be true that anyone requesting a report after the fee schedule changed would be charged a lesser amount than someone requesting a report earlier in the year.

Paragraph 5:

Mr. Merritt provides no evidence in this subparagraph to support an alleged violation of Iowa Code Chapter 22.

Paragraph 6:

Mr. Merritt repeatedly defames the City Attorney and other City staff in this subparagraph alleging unethical behavior, misrepresentation of facts, gender discrimination, and charging excessive fees to avoid providing records. If Mr. Merritt objected to the cost of any of the City's responses, he could have contacted the City to discuss the fees or amended his requests to minimize the cost. The City affirms that the costs quoted to Mr. Merritt to respond to his voluminous requests—including a copy of every City email for an eighteen month period—are based on the actual cost estimates to provide the records. All of the other allegations in this subsection are beyond the scope of this Agency.

Finally, the City would note that Mr. Merritt appears focused on the fact that he requested a copy of the “official portrait” of the Police Chief and Officer Zylstra on April 18, 2022, and the City responded that it has no official portraits of peace officers. *See* attached Exhibit H, April 18, 2022, Merritt Request, and Exhibit I, May 3, 2022, City Response. Mr. Merritt has decided that, since there is a picture of the Chief of Police on the City's website, the City's response was a misrepresentation. *See* Exhibit B, p. 6. The City states that there are a number of photographs of the Chief of Police available online but there is not an “official portrait” of the Chief or other officers.

Paragraph 7(a):

Mr. Merritt's allegations in this subparagraph are based upon records requests dated November 27, 2021, and December 3, 2021, as well as the City's response dated February 10, 2022.<sup>2</sup> *See* Exhibit B, p. 6. The City respectfully requests that this portion of the Complaint be dismissed as Iowa Code Subsection 23.7(1) requires complaints to be filed within sixty (60) days from the date of the alleged violation. *See* Iowa Code 23.7(1).

Paragraph 7(b):

Mr. Merritt provides no evidence in this subparagraph to support an alleged violation of Iowa Code Chapter 22.

Paragraph 7(c):

Mr. Merritt's allegations in this subparagraph are based upon a records request dated January 4, 2022, as well as the City's response dated March 10, 2022. *See* Exhibit B, p. 9. The City respectfully requests that this portion of the Complaint be dismissed as Iowa Code Subsection

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<sup>2</sup> Subparagraph 7(a) includes a total of nineteen sentences, the majority of which consist of baseless defamation of the City Attorney but there does not appear to be any timely allegations involving a violation of Iowa Code Chapter 22.

23.7(1) requires complaints to be filed within sixty (60) days from the date of the alleged violation. *See* Iowa Code 23.7(1).

Paragraph 7(d):

Mr. Merritt provides no evidence in this subparagraph to support an alleged violation of Iowa Code Chapter 22.

Paragraph 7(e):

Mr. Merritt's allegations in this subparagraph are based upon a records request dated March 14, 2022, as well as the City's response dated March 10, 2022. *See* Exhibit B, p. 10. The City respectfully requests that this portion of the Complaint be dismissed as Iowa Code Subsection 23.7(1) requires complaints to be filed within sixty (60) days from the date of the alleged violation. *See* Iowa Code 23.7(1). Without waiving said objection, the City would note that—due to the multiple requests from Mr. Merritt to the City sent on a number of different dates—he was asked to let the City know if there was any additional information he was waiting to receive, yet he never identified any such information prior to filing his Complaint. *See* Exhibit I.

Paragraph 7(f):

Mr. Merritt's allegations in this subparagraph are based upon a records request dated January 4, 2022, as well as the City's response dated March 10, 2022. *See* Exhibit B, p. 10. The City respectfully requests that this portion of the Complaint be dismissed as Iowa Code Subsection 23.7(1) requires complaints to be filed within sixty (60) days from the date of the alleged violation. *See* Iowa Code 23.7(1). As mentioned above, there is no “official portrait” of the Chief of Police or Officer Zylstra.

Paragraph 7(g):

Mr. Merritt's allegations in this subparagraph are based upon a records request dated June 24, 2022, as well as the City's response dated July 15, 2022.<sup>3</sup> *See* Exhibit B, p. 11. Mr. Merritt's allegations in this subparagraph do not appear to involve a violation of Iowa Code Chapter 22 as it is merely a defamatory statement attacking the City's “integrity” because City staff previously provided some records to Mr. Merritt at no cost as part of a response that also include a fee estimate to provide the remainder of the requested records. *See* Exhibit B, p. 12. Again, if Mr. Merritt objected to the cost of any of the City's responses, he could have contacted the City to discuss the fees or reduce the total cost by amending his requests prior to filing his Complaint.

Paragraph 8:

Mr. Merritt's allegations in this subparagraph are based upon records requests that are more than two months old. *See* Exhibit B, pp. 13 & 14. The City respectfully requests that this portion of the Complaint be dismissed as Iowa Code Subsection 23.7(1) requires complaints to be filed within sixty (60) days from the date of the alleged violation. *See* Iowa Code 23.7(1). Without waiving said objection, and as mentioned previously, the estimate of costs to respond to Mr. Merritt's voluminous requests, including, but not limited to, a copy of every City email for an eighteen-month period, are based on the actual costs to provide the records.

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<sup>3</sup> The remainder of subparagraph 7(g) involves bald assertions about email systems and, as it is outside the scope of this Agency, the City provides no response.

Paragraph 9:

Mr. Merritt provides no evidence in this subparagraph to support an alleged violation of Iowa Code Chapter 22.

For the reasons set forth above, the City respectfully requests that Mr. Merritt's claim be dismissed. If additional information is needed to process this complaint, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Brick', written in a cursive style.

MATTHEW S. BRICK

## The Iowa Public Information Board

In re the Matter of: Michael Merritt, Complainant And Concerning: Guthrie County, Respondent	Case Number: 22FC:0018  Dismissal Order
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COMES NOW, Margaret E. Johnson, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order.

Michael Merritt filed formal complaint 22FC:0018 on March 9, 2022, alleging that Guthrie County (County) violated Iowa Code chapter 22. He provided documentation of a record request he filed on December 3, 2021, which requested copies of:

1. "City of Guthrie Center Information System End-User interaction with the following uniform resource locators (URL)" between January 1, 2017, and December 3, 2021. Twenty-four URLs were then listed.
2. "All Guthrie Center, IA end-user electronic mail/attachments mentioning domains in paragraph 1(a)."
3. All City of Guthrie Center emails or attachments including a list of 22 specific names from January 1, 2017, to December 3, 2021.
4. City of Guthrie incident reports regarding three named individuals.

He requested that the records be provided on a portable document format/thumb drive. The December 3, 2021, record request was sent to the Guthrie Center City Hall and a Guthrie County Sheriff's deputy.

Mr. Merritt alleged that the County did not provide the records and did not acknowledge his record request. On February 15, 2022, he sent a status request, this time including Guthrie County. This is the first time he included the County. He alleged that a Sheriff deputy responded, stating that the deputy wrote that he did not understand what records were being requested.

On February 17, 2022, Mr. Merritt sent a second status update request, this time requesting similar records from the County.

At the time of the filing of this complaint, Mr. Merritt alleged that he had not received any other contact from the County and had not received any records.

On March 22, 2022, the County responded to the complaint and stated that the County has no records responsive to the record request.

On April 4, 2022, the county attorney stated that the County was now aware of the records being requested and that a deputy was retrieving the records.

On April 6, 2022, the county attorney provided additional information. The delay in response to the record request was due to the deputy being on medical leave and because there was some confusion as to whether Mr. Merritt was requesting Guthrie County or City of Guthrie Center records.<sup>1</sup>

The county attorney added that the County does not record the information requested in item 1, above. The County also does not have any incident reports as requested in item 4, but could provide dispatch information.

The county attorney stated that a request would be made to search for the records requested in items 2 and 3. Those records were released on April 18, 2022. Copies of the calls for service logs requested in item 4 were also released.

All responsive records have now been released. The County stated that the record request was difficult to understand. Once the complaint was filed, it was quickly determined that two of the record requests described records that the County did not maintain or possess. The email records were retrieved and released in twelve days.

The Iowa Supreme Court provided some guidance on the timeliness of record release in *Horsfield Materials, Inc. v. City of Dyersville*, 834 N.W.2d 444, 461 (Iowa 2013):

*Under this interpretation, practical considerations can enter into the time required for responding to an open records request, including “the size or nature of the request.” But the records must be provided promptly, unless the size or nature of the request makes that infeasible.*

According to an Iowa Attorney General Sunshine Advisory Opinion from August 2005, “Delay is never justified simply for the convenience of the governmental body, but delay will not violate the law if it is in good faith or reasonable.”

In this case, the records request initially referenced only the City of Guthrie Center, creating some confusion as to which body was responsible for fulfilling the request. Any initial delay by the County was in good faith and reasonable.

Iowa Code section 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint does not meet those requirements.

IT IS SO ORDERED: Formal complaint 22FC:0018 is dismissed as legally insufficient pursuant to Iowa Code section 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

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<sup>1</sup> Mr. Merritt has filed a separate formal complaint concerning the City of Guthrie Center, formal complaint 22FC:0019.

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on May 19, 2022. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director

  
Margaret E. Johnson

#### CERTIFICATE OF MAILING

This document was sent by electronic mail on the 10<sup>th</sup> day of May, 2022, to:

Michael Merritt  
Brenna Bird, Guthrie County Attorney



1 Michael J. Merritt  
Pro Se  
2 PO BOX 187  
Newton, IA 50208  
3 pyrebird@phoenixharbor.com

4 IOWA PUBLIC INFORMATION BOARD

5  
6  
7 Michael J. Merritt ) Case no. : Pending Assignment  
8 Plaintiff, )  
9 vs. ) CITY OF NEWTON, IA - ALLEGED  
10 City of Newton, IA ) VIOLATION OF IOWA CODE CHAPTER 22  
11 Defendant. )

12  
13 1. Time of alleged violation: City of Newton, IA City Hall public business  
14 hours on 23 JUN 2022.

15  
16 2. Date of alleged violation: 23 JUN 2022 (Reference: Newton, IA Police  
17 Department Iowa Incident Report record production receipt - Monica L. Speaks)

18  
19 3. Place of alleged violation: City Hall, City of Newton, IA

20  
21 4. Names of government employees/officials involved:

22  
23 (a.) City of Newton, IA Mayor Michael Hansen - Electronically served Iowa Open  
24 Records Request - City of Newton, IA - #005.pdf on 14 MAR 2022 at 1144 PM. No  
25 available evidence indicates the City of Newton, IA has responded to this  
26 records request.

27 (b.) City of Newton, IA City Clerk, Katrina Davis - Electronically served  
28 Iowa Open Records Request - City of Newton, IA - #005.pdf on 14 MAR 2022 at

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PO BOX 187  
Newton, IA 50208

CITY OF NEWTON, IA - ALLEGED  
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1 1144 PM. No available evidence indicates the City of Newton, IA has responded  
2 to this records request.

3 (c.) City of Newton, IA, Police Department, Chief of Police, Robert Burdess  
4 - Produced evidence of violating Iowa Code Chapter 22.2(2.) while denying  
5 Michael J. Merritt his right to examine and copy a public record as protected  
6 by Iowa Code Chapter 22.2(1.) by communicating in electronic mail dated 01 APR  
7 2022 at 0806 am, "Mr. Merritt, Your request is being handled by our contracted  
8 City Attorney at Brick Gentry Law Firm. Please contact them with your  
9 questions regarding these requests." Iowa Code Chapter 22.2(2.) states, "A  
10 government body shall not prevent the examination or copying of a public  
11 record by contracting with a nongovernment body to perform any of its duties  
12 or functions."

13 (d.) City of Newton, IA, Police Department, LT Ron Cook - Produced evidence  
14 of the City of Newton, IA's possible gender-based discrimination regarding the  
15 execution of their responsibilities in accordance with Iowa Code Chapter 22  
16 while denying Michael J. Merritt (male) access to requested Iowa Incident  
17 Reports while at the same time issuing an Iowa Incident Report upon a  
18 communicated request in accordance with Iowa Code Chapter 22.4 to Monica L.  
19 Speaks (female). Suppose the City of Newton, IA does not execute gender-based  
20 discrimination with its execution of Iowa Code Chapter 22. Another possible  
21 logical conclusion regarding the City of Newton, IA's failure to consistently  
22 perform its responsibilities in accordance with Iowa Code Chapter 22 while  
23 denying access to Iowa Incident Reports requested by Michael J. Merritt could  
24 be attributed to evidence that indicates the Newton, IA Police Department  
25 (under the leadership of Chief Robert Burdess) failed to properly investigate  
26 a restraining order violation in August 2019. Legal documents received from  
27 Ames, IA Community School District show this restraining order violation  
28 occurred while Claudia J. Bergman was coordinating the concealed transfer of

Michael J. Merritt  
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Newton, IA 50208

CITY OF NEWTON, IA - ALLEGED  
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1 children to live in Ames, IA with an Education Director of Iowa State  
2 University. Claudia J. Bergman, Matthew E. Merritt, and Sara N. Merritt  
3 executed this conspiracy while concealing Michael J. Merritt's children from  
4 court-ordered appearances at San Diego East County Superior Court while  
5 preventing court-ordered witnesses from communicating thier testimony  
6 regarding allegations Claudia J. Bergman utilized to acquire her 17 MAY 2019  
7 temporary restraining order. San Diego East County Superior Court would later  
8 document on 16 SEP 2021 there is zero evidence to support any of Claudia J.  
9 Bergman's allegations of abuse she has utilized against Michael J. Merritt  
10 since immediately after separation in December 2016. Public Records received  
11 from over one hundred Iowa Public School Districts show this Iowa State  
12 University Education Director leads education programs while coordinating  
13 field trips for the children of Iowa that visit Reiman Gardens while  
14 participating in programs facilitated by school districts within the Iowa  
15 Department of Education and other non-profit based organizations that mentor  
16 children (i.e., Boy Scouts of America). Additionally, the Newton, IA Police  
17 Department has failed to execute consistent law enforcement regarding reports  
18 of harassment from 11 APR 2019 through 08 JAN 2022 reported by Michael J.  
19 Merritt (documented on records the City of Newton, IA has resisted releasing  
20 in accordance with Iowa Code Chapter 22.7 while continuing to release Iowa  
21 Incident Reports upon request to other citizens as supported by evidence  
22 provided by Monica L. Speaks). The City of Newton, IA took zero action  
23 regarding a complaint filed by Michael J. Merritt on 17 NOV 2021 regarding  
24 evidence of identity theft located at a pharmacy approximately seven blocks  
25 from the City of Newton, IA Police Department. Insurance records show Claudia  
26 J. Bergman executed a multi-year conspiracy that has occurred in the States of  
27 California, Iowa, and Montana while utilizing personal protected information  
28 without authorization to access health benefits. Claudia J. Bergman has

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1 utilized Michael J. Merritt's Social Security Number to access health care  
2 benefits without permission or Michael J. Merritt's knowledge while at the  
3 same time providing false statements to conceal this unauthorized use. Upon  
4 being questioned regarding this unauthorized use of Michael J. Merritt's  
5 Social Security Number, Claudia J. Bergman ultimately halted communications in  
6 early 2022 and has reverted to concealing the last child Michael J. Merritt  
7 has, who has not reached the age of majority.

8 (e.) City of Newton, IA, Police Department, LT Chris Wing - Communicated in  
9 an electronic mail sent on 13 JAN 2022 at 0456 am an intention to release a  
10 requested Iowa Incident Report at the cost of \$10 through the Newton, IA  
11 Police Department Records Clerk (City Attorney Matthew S. Brick communicated  
12 on 15 JUL 2022 the City of Newton, IA no longer has a records clerk while  
13 stipulating it would cost over \$10,000 for a City of Newton, IA employee that  
14 is not a records clerk or third-party contracted individual to retrieve  
15 records that have been requested since November of 2021).

16 (f.) City of Newton, IA, Newton, IA Police Department, Missy Graff - Provided  
17 a printout of the City of Newton, IA Police Department's public records fee  
18 schedule to Michael J. Merritt (male) indicating a \$10 fee for Iowa Incident  
19 Reports while releasing zero records. The Newton, IA Police Department, on 23  
20 JUN 2022, released an Iowa Incident Report to Monica L. Speaks (female) for  
21 \$5. City Attorney Matthew S. Brick communicated in electronic mail released  
22 on 17 JUN 2022 at 0839, "...To the extent your email requires a response, the  
23 City states that it continues to comply with Iowa Code Chapter 22 and, as  
24 mentioned previously, we remain willing to provide the records you requested  
25 upon receipt of payment." The only two possible conclusions the historical  
26 evidence of actions executed by the City of Newton, IA provides in contrast to  
27 City Attorney Matthew S. Brick's 17 JUN 2022 assertion is that the City of  
28 Newton, IA's compliance with Iowa Code Chapter 22 is either based upon the

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1 gender of the individual requesting Iowa Incident Reports or possibly the  
2 historical record of whether the reports being requested are by an individual  
3 that evidence indicates the City of Newton, IA could be providing records that  
4 could be used against itself while creating a liability regarding the release  
5 of records showing possible negligence, prejudice, or discrimination regarding  
6 actions executed by the City of Newton, IA Police Department under the  
7 leadership of Chief Robert Burdess's form of law enforcement.

8  
9 5. Alleged Violation of: Iowa Code Chapter 22 - Open Records Act

10  
11 6. Other Persons Having Information and their Contact Information:

12  
13 Matthew S. Brick

14 Brick Gentry PC

15 6701 Westown Parkway, Suite 100

16 West Des Moines, Iowa 50266

17 Phone: 515-274-1450

18 Fax: 515-274-1488

19 matt.brick@brickgentrylaw.com

20  
21 Evidence of unethical use of Iowa Code Chapter 22.7 while resisting the  
22 release of requested Iowa Incident Reports while records produced by the City  
23 of Newton, IA, show they continued to release similar records to other  
24 citizens upon request. Evidence of misrepresenting the City of Newton, IA's  
25 historical execution of Iowa Code Chapter 22 when comparing the inconsistent  
26 execution of the City of Newton, IA's resistance to releasing requested  
27 records to Michael J. Merritt (male) while at the same time releasing similar  
28 records on 23 JUN 2022 upon request to Monica L. Speaks (female) under the

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1 direction of LT Ron Cook. City Attorney Matthew S. Brick misrepresented the  
2 non-availability of records requested by Michael J. Merritt that are published  
3 publicly on the official City of Newton, IA website and Newton, IA Police  
4 Department Facebook page (Official Portrait of Chief Burdess). City Attorney  
5 Matthew S. Brick acknowledged having knowledge of both of these City of  
6 Newton, IA online assets in electronic mail he transmitted on 27 MAY 2022 at  
7 0745 am. City Attorney Matthew S. Brick has produced evidence of possible use  
8 of excessive fees to prevent the release of records consistent with other  
9 behavior executed by City Attorney Matthew S. Brick. In contrast, the fees he  
10 has documented are not consistent with fees charged by other Iowa agencies for  
11 similar record searches. City Attorney Matthew S. Brick communicated in an  
12 electronic mail released on 15 JUL 2022 at 0850 am while responding to a  
13 request for the hourly rate for the City of Newton, IA records clerk, that the  
14 City of Newton, IA no longer has a records clerk. At the same time,  
15 communicating since 10 FEB 2022, the City of Newton, IA would have to charge  
16 thousands of dollars for the City of Newton, IA to search for records that  
17 have been requested. Evidence suggests that City Attorney Matthew S. Brick  
18 utilizes an array of tools while representing his clients that evidence  
19 indicates include misrepresentation of facts, vague, ambiguous assertions  
20 regarding requirements that are alleged to be necessary to search for  
21 requested records leading to excessive fees in this case for a city that he  
22 communicates on 15 JUL 2022 no longer has a records clerk.

23  
24 7. Description of Alleged Violation:

25  
26 (a.) Iowa Open Records Request - City of Newton, IA #001 dated 27 NOV 2021  
27 and #002 dated 03 DEC 2021 were mailed to the City of Newton, IA and  
28 acknowledged by the City of Newton, IA on 16 DEC 2021. The City of Newton, IA

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1 provided a final response on 10 FEB 2022, including 86 electronic mail pages  
2 as requested in paragraph (1.) (e.) of request #001 dated 27 NOV 2021.

3  
4 City Attorney Matthew S. Brick communicates on page 2 of 3 in paragraph 2 of  
5 his 10 FEB 2022 response a cost of \$4,691.70 regarding tracking City of  
6 Newton, IA municipal information systems usage, which is inconsistent with  
7 other state and federal agencies that have provided similar records. This  
8 device, in the form of requesting excessive monetary compensation for the  
9 search for records in this situation, may enable City Attorney Matthew S.  
10 Brick not to be required to release records to a party that cannot afford the  
11 communicated cost. Consequently, in this situation, it only shows evidence  
12 that the City of Newton, IA does not know the use of their network assets  
13 (possibly unethical/illegal) by users that have been granted access to their  
14 information systems. When a citizen provides DNS (Domain Name System)  
15 evidence originating from the City of Newton, IA network that possibly  
16 violates municipal code regarding employee use of their network, or perhaps a  
17 law enforcement agency's surveillance of free speech published by a citizen  
18 they know is currently investigating them. At the same time, the City of  
19 Newton, IA attorney communicates a cost of over \$4000 to confirm the existence  
20 of those records; it indicates that the City of Newton, IA possibly has no  
21 information assurance/security audits in place generating regular reports  
22 regarding how their network is utilized that would provide those records.  
23 Reports that track whether users are executing illegal activity or  
24 unauthorized behavior (i.e., going to unauthorized sites) that are not allowed  
25 by the City's information assurance user agreement and municipal code. In  
26 this case, the City of Newton, IA was provided DNS evidence showing that a  
27 city employee regularly made visits to phoenixharbor.com (a site with  
28 theological, philosophical, and creative writing, including sexual poetry with

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1 BDSM themes) in the days after Matthew E. Merritt reported Michael J. Merritt  
2 for harassment on 23 NOV 2021 at 1021 am to the City of Ames, IA Police  
3 Department. City of Newton, IA City Attorney Matthew S. Brick indicates the  
4 City of Newton, IA requires over \$4000, so they can ascertain how their  
5 employees are utilizing their network and what they are downloading. I have  
6 reached out to the Iowa State Auditor and reported that the City of Newton,  
7 IA's attorney, is requesting over \$4000 to collect records showing how their  
8 network is utilized. It is possible that if the City of Newton, IA is not  
9 tracking this information properly through regular security audits, the City  
10 of Newton, IA is possibly leaving its information systems open for unethical  
11 and illegal use by those it grants access, which could generate excessive  
12 costs to the taxpayers of the City of Newton, IA. City Attorney Matthew S.  
13 Brick is quoted on his professional profile, "Working with clients is what I  
14 do best. Whether it's advising cities on issues or helping settle employment  
15 disputes, I always want the best outcome for those I represent." Suppose the  
16 City of Newton, IA represents the people that live there. In that case, the  
17 evidence in this situation supports the conclusion that City Attorney Matthew  
18 S. Brick only represents the integrity of the political institution and the  
19 careers of those employed by it that allegedly are in place to provide  
20 municipal governance and services to the community that has created it. City  
21 Attorney Matthew S. Brick's professional profile also stipulates, "Matt has  
22 experience with municipal issues involving governmental immunity, open  
23 records, open meetings, constitutional rights and eminent domain." however,  
24 the evidence in this situation supports the conclusion that City Attorney  
25 Matthew S. Brick's execution of his representation leans toward the integrity  
26 of the political entity that makes up his client as opposed to the people  
27 regarding his handling of requests in accordance with Iowa Code Chapter 22.  
28 When the personnel employed by a municipality put their survive-ability above

Michael J. Merritt  
PO BOX 187  
Newton, IA 50208

CITY OF NEWTON, IA - ALLEGED  
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CHAPTER 22



1 the rights of the people they serve, it only provides evidence of their  
2 disregard for the rights of the citizens they serve in accordance with Section  
3 2 of Article 1 of the Constitution of the State of Iowa.

4  
5 (b.) Iowa Open Records Request - City of Newton, IA - #002 was completed and  
6 referred to the Jasper County, IA Sheriff's office that processed the case.

7  
8 (c.) Iowa Open Records Request - City of Newton, IA - #003 was mailed to the  
9 City of Newton, IA via USPS First Class mail. In paragraph (1.) (a.), the City  
10 of Newton, IA was requested to provide, "All Newton, IA Police Department Iowa  
11 Incident Reports mentioning the names Michael Merritt, Michael J Merritt,  
12 Michael J. Merritt, or Michael James Merritt during 01 JUL 2018 at 0001 Local  
13 Time through 03 JAN 2022 at 2359 Local Time." City Attorney Matthew S. Brick  
14 responded on 10 MAR 2022 by communicating, "There are certain records in  
15 response, specifically incident reports and call for service records  
16 mentioning the names in your request; however, peace officer investigative  
17 reports are exempt from public disclosure. See Iowa Code section 22.7." City  
18 Attorney Matthew S. Brick's assertion is inconsistent with the City of Newton,  
19 IA Police Department's records release policy, historical execution of Iowa  
20 Code Chapter 22, and evidence of records it released on 23 JUN 2022. The City  
21 of Newton, IA, previously issued their Iowa Incident Report for case 19-26175  
22 that documents a restraining order violation reported on 26 AUG 2019 to the  
23 Newton, IA Police Department. On 13 JUN 2022, City Attorney Matthew S. Brick  
24 communicated, "Mr. Merritt, Attached is a copy of my March 10, 2022 response.  
25 As a reminder, the City agreed to provide documents responsive to your  
26 requests—except for any records confidential pursuant to Iowa Code Section  
27 22.7—upon receipt of payment from you for the estimated cost."

28  
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1 (d.) Iowa Open Records Request - City of Newton, IA - #004 was mailed to the  
2 City of Newton, IA, and acknowledged by City Attorney Matthew S. Brick on 10  
3 MAR 2022.

4  
5 (e.) Iowa Open Records Request - City of Newton, IA - #005 was electronically  
6 served to the City of Newton on 14 MAR 2022 at 1144 pm. As of 20 JUL 2022,  
7 the City of Newton, IA has failed to provide an appropriate response to this  
8 request for records. The originator of this correspondence has provided the  
9 City of Newton, IA, more than adequate time to provide a response regarding  
10 the failure of the City of Newton, IA emergency weather notification system on  
11 05 MAR 2022 when it failed to alert citizens of inclement weather in the form  
12 of a tornado that moved through the City of Newton, IA. Negligence is a  
13 disease within leadership that moves through an organization much like it  
14 spreads through the body. Regarding the evidence of prejudice, negligence,  
15 and discrimination the originator of this declaration to the Iowa Public  
16 Information Board has experienced while living in the City of Newton, IA; it  
17 would seem reasonable for a citizen to utilize rights protected by Section 2  
18 of Article 1 of the Constitution of the State of Iowa and Iowa Code Chapter 22  
19 to investigate how deep this disease exists through the leadership of the City  
20 of Newton, IA. At the same time, requesting records to examine whether  
21 evidence of this disease is related to the city's emergency weather system  
22 reported failure during inclement weather that occurred on 05 MAR 2022.

23  
24 (f.) Iowa Open Records Request - City of Newton, IA - #006 was electronically  
25 served to the City of Newton on 19 APR 2022 at 351 pm. In paragraph (1.) (a.),  
26 the City of Newton, IA was requested to provide an, "Official portrait of  
27 Newton, IA Police Department Chief of Police Burdess." City Attorney Matthew  
28 S. Brick responded in correspondence dated 03 MAY 2022, "There are no official

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Newton, IA 50208

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1 portraits or headshots or peace officers, so there are no documents responsive  
2 to this request. On 27 MAY 2022 at 0745 am, City Attorney Matthew S. Brick  
3 verified having knowledge of the URL for the official City of Newton, IA  
4 website, official City of Newton, IA Facebook page, and official Newton, IA  
5 Police Department Facebook page. An official portrait of Chief Burdess is  
6 located here:

7  
8 <https://newtongov.org/527/Meet-the-Chief>  
9

10 City Attorney Matthew S. Brick responds to the request in paragraph (1.) (c.)  
11 regarding a request for an official Newton, IA Police Department video  
12 published to the Newton, IA Police Department Facebook Page with guidance on  
13 downloading the video from Facebook. As this is not technically possible, it  
14 is uncertain if City Attorney Matthew S. Brick was advising on executing an  
15 extraction method of the video that possibly violates the Meta Platforms, Inc.  
16 subsidiary Facebook's Terms of Service.

17  
18 (g.) Iowa Open Records Request - City of Newton, IA - #007 was electronically  
19 served to the City of Newton, IA on 24 JUN 2022 at 528 pm. City Attorney  
20 Matthew S. Brick provided a response on 15 JUL 2022 at 0850 am that provides  
21 anomalies consistent with his historical correspondence while responding to  
22 requests for records in accordance with Iowa Code Chapter 22. City Attorney  
23 Matthew S. Brick communicates in paragraph 2, "The City's email network  
24 retains emails for thirty days so, based on the dates your provided, there are  
25 no records responsive to your request on the email network. While some  
26 employees retain emails longer than thirty days on their Outlook profile, the  
27 City's IT staff would be required to login under each employee's Outlook  
28 profile to search for the keywords specified. The estimate to perform this

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1 work would be approximately 210 hours, which could be reduced if you would  
2 choose to narrow your request to identify specific employees and/or email  
3 addresses to search. Once the emails, if any, are found it will take  
4 additional time to review and redact any confidential information. An estimate  
5 of that cost cannot be provided until the IT search has been completed. The  
6 cost for the IT staff to search every employee's Outlook profile for the  
7 keywords in your records requests would be \$5,317.20, which is based on a 210  
8 hour search at a cost of \$25.32 per hour. The City will begin preparing a  
9 response to your requests upon receipt of payment. Finally, please note that  
10 the City no longer has a Records Clerk position." The integrity of this  
11 assertion can easily be questioned, given that City Attorney Matthew S. Brick  
12 provided eighty-six pages of City of Newton, IA electronic mail in his 10 FEB  
13 2022 response with dates going back to 2019 at zero cost.

14  
15 Furthermore, electronic mail in a TCP/IP-based GOV, MIL, or corporate network  
16 environment is generally centrally stored on a mail server. This alleged  
17 centralized mail server is possibly located at the DNS address  
18 mail.newtongov.org which publicly available DNS information show is hosted  
19 with information systems owned and operated by Amazon Inc. While a City of  
20 Newton, IA (municipality) internet protocol address logged at  
21 phoenixharbor.com from 24 NOV 2021 - 29 NOV 2021 show the City of Newton, IA  
22 is/was a Mediacom Enterprise Customer. Additionally, Mediacom should be fully  
23 capable of providing a consolidated report of web traffic produced by the City  
24 of Newton, IA employees that were requested in the originator's original  
25 request for records dated 27 NOV 2021 to determine if their use adheres with  
26 municipal code. (Note: This DNS traffic from the City of Newton, IA was  
27 logged at phoenixharbor.com approximately 24 hours after Matthew E. Merritt  
28 reported Michael J. Merritt for harassment with the City of Ames, IA Police

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Newton, IA 50208

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1 Department (Case: 21005052) based upon creative writing on a webpage that was  
2 never shared or provided to or advertised with an intent to intimidate, annoy,  
3 or alarm Matthew E. Merritt of Ames, IA. Evidence of this surveillance of  
4 Michael J. Merritt by multiple parties, including the Ames, IA Police  
5 Department and Newton, IA Police Department, is available at the following  
6 location:

7  
8 <https://airtable.com/shrZbsIv5OutMFGBr>

9  
10 8. What would you like the board to do?

11  
12 Assistance is being requested from the Iowa Public Information Board regarding  
13 receiving all Iowa Incident Reports that Michael J. Merritt (male) has  
14 requested the City of Newton, IA has denied access in accordance with Iowa  
15 Code Chapter 22.7 while issuing the identical type of record to another City  
16 of Newton, IA citizen (female) on 23 JUN 2022 without delay.

17  
18 The Iowa Public Information Board is respectfully requested to assist with  
19 receiving a response to Iowa Open Records Request - City of Newton, IA - #005  
20 dated 07 MAR 2022 that evidence indicates the City of Newton, IA failed to  
21 respond.

22  
23 The originator of this declaration has downloaded the official portrait of  
24 Chief of Police Robert Burdess (as directed in paragraph (2.) of City Attorney  
25 Matthew S. Brick's memorandum dated 03 MAY 2022 regarding similar online  
26 media) that the City Attorney Matthew S. Brick claimed does not exist in  
27 paragraph (1.) of City Attorney Matthew S. Brick's memorandum dated 03 MAY  
28 2022. The Iowa Public Information Board is respectfully requested to assist

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1 with releasing the social media video the Newton, IA Police Department  
2 published that was requested in Iowa Open Records Request - City of Newton, IA  
3 - #006 paragraph (1.) (c.) that City Attorney Matthew S. Brick provided  
4 download instructions that possibly violate Meta Platforms, Inc. subsidiary  
5 Facebook's terms of service. There is generally no "download" button to  
6 extract another user's published content on this social media platform. The  
7 Iowa Public Information Board is requested to determine if City Attorney  
8 Matthew S. Brick's fee to release this video (which the city has already  
9 shared on social media) is in accordance with Iowa Code Chapter 22.3. Suppose  
10 releasing this video to one private citizen requires an excessive fee. In that  
11 case, it is possible the City of Newton, IA, is generating high costs to City  
12 of Newton, IA taxpayers while uploading these propaganda pieces to social  
13 media.

14  
15 The Iowa Public Information Board is respectfully requested to assist with  
16 determining the ethical merit of the \$10,658.90 in fees City Attorney Matthew  
17 S. Brick alleges he has been quoted to perform the search for records that  
18 have been requested. The originator of this declaration has served similar  
19 requests for records to over 380 different government agencies in four states  
20 while searches for requested records was performed at no cost or less than  
21 approximately \$170 (Michael J. Merritt vs. City of Ames, IA IPIB: 22FC:0020.)  
22 All records requested in correspondence provided in evidence that have been  
23 lined out have been identified by City Attorney Matthew S. Brick as not  
24 existing or are no longer are available.

25  
26 9. Conclusion  
27  
28

Michael J. Merritt  
PO BOX 187  
Newton, IA 50208

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1 If Truth is a straight line or metaphysical blockchain of related facts based  
2 upon evidence that establishes the foundation on which we stand. This  
3 investigation of the City of Newton, IA, while collecting and organizing  
4 evidence of its form of law enforcement as well as its historical execution of  
5 Iowa Code Chapter 22 (while utilizing a contracted non-government entity to  
6 prevent a citizen from examining or copying requested public records in  
7 accordance with Iowa Code Chapter 22) has been similar to standing a pier  
8 watch and observing a drunken sailor stumbling down a pier while waiting to  
9 see which side of the pier they are going to fall off of based upon evidence  
10 of their historical actions. Available evidence indicates the City of Newton,  
11 IA fell off the pier after providing over 6 months of questionable responses  
12 to requests for records in accordance with Iowa Code Chapter 22 when it issued  
13 an Iowa Incident Report to the girlfriend of the originator of this  
14 declaration the City of Newton, IA has resisted releasing the same form of  
15 record while utilizing Iowa Code Chapter 22.7 with highly questionable ethical  
16 motives.

17  
18 If the City of Newton, IA were confident regarding their historical actions  
19 against Michael J. Merritt and their handling of incidents he has reported, it  
20 would seem logical to conclude they would have released records documenting  
21 their activities as they did for Monica L. Speaks on 23 JUN 2019.

22  
23 The Iowa Supreme Court has communicated the spirit of Iowa Code Chapter 22 is  
24 "to open the doors of government to public scrutiny to prevent government from  
25 secreting its decision-making activities from the public, on whose behalf it  
26 is its duty to act." Iowa Civil Rights Comm'n v. City of Des Moines, 313  
27 N.W.2d 491, 495 (Iowa 1981). Unfortunately, evidence indicates the City of  
28 Newton, IA, and City Attorney Matthew S. Brick's interpretation and execution

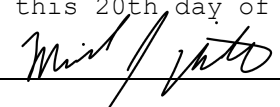
Michael J. Merritt  
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Newton, IA 50208

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1 of Iowa Code Chapter 22 manifests local government into a "brothel" of public  
2 servants that possibly conceal records that may provide evidence of a  
3 violation of the law or a citizens rights while only opening their records if  
4 a citizen can afford to pay the communicated high price for the requested  
5 service.

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Dated this 20th day of July, 2022

X 

Michael J. Merritt

Pro Se

PO BOX 187

Newton, IA 50208

Michael J. Merritt  
PO BOX 187  
Newton, IA 50208

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MICHAEL J MERRITT

24 JUN 2022

**MEMORANDUM**

From: Michael J. Merritt, USN Retired/Writer  
PO BOX 187  
Newton, IA 50208  
(641)-840-9916

To: City of Newton, IA  
Electronic Service in accordance with Iowa Code Chapter 22.4

**Subj: IOWA OPEN RECORDS REQUEST – CITY OF NEWTON, IA – #007**

Ref: 1. Iowa Code Title I State Sovereignty and Management, Chapter 22 Examination of Public Records (Open Records)  
2. Electronic Mail – Michael J. Merritt – 21 JUN 2022  
3. Electronic Mail – Michael J. Merritt – 24 JUN 2022

**1. Requested Information**

(a.) All electronic mail, including attachments sent externally (domains other than [newtongov.org](http://newtongov.org)) from 01 JAN 2021 – 31 DEC 2021 from the City of Newton, IA information systems accounts [npdrecords@newtongov.org](mailto:npdrecords@newtongov.org) and [missyg@newtongov.org](mailto:missyg@newtongov.org).

(b.) All City of Newton, IA electronic mail, including attachments from 01 JAN 2021 – 31 DEC 2021, including the domain [newtondailynews.com](http://newtondailynews.com).

(c.) All Newton, IA Police Department generated record receipts including the words “incident”, “report”, or a case, incident, or call for service number.

(d.) All City of Newton, IA electronic mail including attachments including the domains [kadingproperties.com](http://kadingproperties.com) or [dickinsonlaw.com](http://dickinsonlaw.com) from 31 JUL 2021 – 24 JUN 2022.

Exhibit C

(e.) All electronic mail including attachments including the name “Heather Burns” or “Heather Kading” from 31 JUL 2021 – 24 JUN 2022.

(f.) All City of Newton, IA electronic mail including attachments including the name “David Wetsch” from 31 JUL 2021 – 24 JUN 2022.

(g.) All City of Newton, IA available recorded phone calls related to Newton, IA Police Department case: 22-18513.

(h.) All City of Newton, IA available body cam footage related to Newton, IA Police Department case: 22-18513.

(i.) All City of Newton, IA electronic mail and attachments related to Newton, IA Police Department case: 22-18513.

(j.) Documentation showing the supplier and price the City of Newton, IA pays per ream of copy paper utilized to print requested records.

(k.) Documentation showing the hourly wage of the Newton, IA Police Department records clerk.

(l.) The desired format of requested data: Portable Document Format sent to [pyrebird@castlephenix.com](mailto:pyrebird@castlephenix.com).

(m.) The originator of this request is not responsible for any costs generated by the production or organization of this data if the clerical, professional, clerical staff, legal fees, or any other required actions or charges exceed 10 hours or \$1000 (whichever comes first) without prior coordination and approval from the originator of this request.

## **2. Conclusion**

The City of Newton IA Police Department and the City of Newton, IA attorney Matthew Brick failed to respond to or release the Iowa Incident Report #22-18513 to the originator of this memorandum (male) as requested in References (2.) and (3.). Instead, this information was received from a private citizen (female); the City of Newton, IA, while under legal representation provided by Matthew Brick, chose to adhere to its responsibilities in accordance with Iowa Code Chapter 22 regarding the release of requested records.

Respectfully,



Michael J. Merritt  
PO BOX 187

**From:** pyrebird pyrebird@phoenixharbor.com

**Subject:** Re:

**Date:** June 24, 2022 at 10:17 AM

**To:** Matt Brick matt.brick@brickgentrylaw.com

**Cc:** Rob Burdess robb@newtongov.org, Ron Cook ronc@newtongov.org, Chris Wing chrisw@newtongov.org, office@kadingproperties.com

P

Mr. Brick:

I requested the case number for the Newton, IA Police Department case for the sworn statement Monica Speaks provided the Newton, IA Police Department regarding Kading Properties, LLC's interaction with her after I published a memorandum regarding our historical experiences while living as a tenant in one of their properties.

21 JUN 2022 - 1547 - Original request sent to the Newton, IA Police Department via electronic mail.

21 JUN 2022 - 1551 - This request sent via electronic mail was viewed by Chief Burdess of the Newton, IA Police Department.

21 JUN 2022 - 1628 - This request sent via electronic mail was viewed by LT Wing of the Newton, IA Police Department.

24 JUN 2022 - Status request sent regarding the case number for this Iowa Incident Report initially requested on 21 JUN 2022 - 1547

I will be transmitting legal correspondence to Newton, IA Police Department, and Kading Properties LLC with or without a response to my request for this case number at 1600 today. Suppose I do not receive a response from the Newton, IA Police Department with this requested information (case number) by 1459. In that case, I am going to determine that to be further evidence of the City of Newton, IA's failure to ethically and consistently execute their responsibilities in accordance with Iowa Code Chapter 22 regarding records they have historically released showing information that cannot be withheld by law enforcement in accordance with Iowa Code Chapter 22.7(5).

I am sending this request to you because historical evidence shows your record of providing alleged false and misrepresented information that may violate the Iowa Court Rules - Chapter 32 - Iowa Rules of Professional Conduct:

"Rule 32:8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Iowa Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Iowa Rules of Professional Conduct or other law;
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or
- (g) engage in sexual harassment or other unlawful discrimination in the practice of law or knowingly permit staff or agents subject to the lawyer's direction and control to do so."

I desire to keep you talking because I love to listen.

Respectfully,

Michael J. Merritt, USN Retired/Writer

Founder: [phoenixharbor.com](http://phoenixharbor.com)

Creative Writer/Musician

Information Warfare Specialist

Information Systems Manager

PO BOX 187

Newton, IA 50208

(515)-446-8993

<https://castlephoenix.com>

<https://cipherphoenix.com>

*"The study of Ethics is a pursuit of understanding the philosophical nature of right and wrong in its most perfect form.*

*A society's justice system is an ever-evolving pursuit of that perfection.*

Exhibit D

**From:** Michael J. Merritt pyrebird@phoenixharbor.com

**Subject:** Honor, Courage, and Commitment

**Date:** June 28, 2022 at 4:43 PM

**To:** Rob Burdess robb@newtongov.org

**Cc:** Chris Wing chrisw@newtongov.org, Ron Cook ronc@newtongov.org, Margaret Johnson margaret.johnson@iowa.gov, "Hannah"  
hannah.fordyce@iowa.gov, Matt Brick matt.brick@brickgentrylaw.com



Chief Burdess:

I want to take this opportunity to communicate that I am sure it is obvious at this point that I don't agree with how the Newton, IA Police Department has historically handled issues involving my life, but I want to take this opportunity to communicate that I appreciate and respect the fact that the City of Newton, IA has not blocked me and evidence I have indicates you and your officers read my electronic mail or at the very least open them.

I was at the Newton, IA Police Department for approximately an hour to an hour and a half Friday night to speak with LT Wing who is usually cordial with me at Hy-Vee where I see him regularly. Even though I saw Newton, IA Police cars driving by the station and around nearby blocks numerous times while I waited I never got the opportunity to talk to LT Wing as I was told the second time I called your dispatch after waiting for an hour or so that LT Wing had been busy and had gone home.

I talked to LT Winchell I believe Saturday at approximately 1650 and he greeted me at the front door and spoke to me for I believe 30 - 40 minutes while he had his officers waiting for shift turnover. It was apparent that LT Winchell and I did not agree with what I believe the evidence I have shows or the historical handling of this situation by the Newton, IA Police Department. I want to communicate that LT Winchell who was the supervising officer of my restraining order violation investigation (according to your records) was professional, polite, and attentive to what I was trying to communicate. He listened to what I had to say and was professional and respectful toward me as a citizen, but at the same time I was able to detect emotional withdrawal possibly as I communicated to him due to his respect and adherence to the orders you have put out regarding this situation and communications with me.

In the United States Navy we have a custom of owning our failure, forgiving the failures of others and working together to make the operational capabilities of our ship better for the future with no regard for the trespasses of yesterday that were handled openly and honestly. In my strategic analysis of this situation it is my opinion that it is only a matter of time before I have access to the records I requested 6 months ago. I think the reason I am emailing you is because I no longer feel a grievance toward the City of Newton or it's Police Department. It disappoints me that you guys will not sit down and talk to me openly and honestly and look at the evidence I have provided you and honestly look me in the eyes and communicate, "Merritt, you know it is possible we fucked this up." I think all I am wanting is to feel heard and acknowledged by the city I live in.

I spent my entire career managing, leading, and training users of cryptographic assets that were reportable to the National Security Agency. When I was deployed on the USS Bataan in 2007 (I believe we were in the Persian Gulf at the time) it was around 0300 we were all tired, evidence would indicate I became complacent after doing the same 12 hour watch possibly for over a month or more straight and I accidentally deleted the cryptographic key approximately 1 hour early that the flag ship I was stationed on utilized to provide SHF bulk encryption. This occurred because I was not paying attention to details and I made a mistake that ends careers and leads to non-judicial punishment in accordance with the Uniform Code of Military Justice where people lose rank, pay, and benefits. Shortly after that mistake Murphy's Law being what it is the communications circuit that used that key went down due to signal loss or a possible cryptographic failure requiring the key that I had already destroyed to restore the circuit providing afloat internet, electronic mail, voice, and data services for a few thousand users including ships company, command staff, and an embarked Marine Expeditionary Unit. When we went into our safe to get the key needed to reload the circuit it became apparent that myself and my fellow watch stander (2 people are required for destruction) destroyed the key accidentally approximately 1 hour earlier than we were supposed to and we had no way to restore communications for the entire ship until the next key was scheduled for use nearly 40 minutes later. In that moment I felt immediate panic because I realized my career was over and I was about to possibly lose my rank, pay, and benefits that my family depended on. I sat at my desk staring at the top of the desk for a few moments while the watch standers I worked with scrambled to come up with an excuse (i.e. signal loss, attenuation, weather) for why the entire ship was down and unable to communicate with units on the beach and back in CONUS (Continental United States). I realized in that moment that I would rather burn in that moment and safeguard the lives of others while taking ownership for my failure than burn in eternity and take the easy path while putting those I serve with in danger by misrepresenting the true reason why we were down. I went up to my Chief (Chief Lee Meadows) I looked him in the eyes and I told him, "Chief we are down right now on SHF because I fucked up, I destroyed the key we need to reload the circuit early." My Chief looked at me and my recollection is that he didn't say anything, he turned around went to the vault and reissued a spare key and we restored the circuit.

The next day our Division Officer and my Chief's boss became aware that a key was reissued, I got dragged out of my rack while I was asleep in between watches and got the ass chewing of my life, but I never went to Captain's mast or received non-judicial punishment. I believe because the Chief I reported myself to respected my honesty and protected me from that. I retired from the United States Navv in July 2017 with 20 years of honorable service not because I never

Exhibit E

made a mistake, but because when I did I was honest and I reported myself to my superiors so I could maintain my honor and receive assistance with fixing the problem that I had caused.

While raising my Son James whom I have not seen since 2017, and who now rarely talks to me because of the damage my ex-wife has caused. I taught him based upon this life experience. If you screw up and you are honest and let me know, I am going to talk to you about it but you are going to have my respect because you had the courage to stand in the light and acknowledge your failure. If you screw something up and you cover it up I am going to talk to you about the failure, but more important the loss of trust your desire to conceal the truth from me has created.

My only desire in this situation is the pursuit of truth so that I can help fix the problems that exist in our system that led to the damage that has been caused to the life of my children and my life. A lot of your officers publish very spiritual and religious content on social media indicating they should understand this concept: I have no desire nor do I feel the City of Newton, IA owes me financial compensation for damages I have allegedly incurred while living in the City of Newton, IA because when my Lord Jesus Christ was crucified by the Romans he did not take the Romans to civil court the day after he was resurrected. He spoke the truth and spread the good news to help others understand and know God's love and grace.

We live in a capitalistic republic where people have this entitled attitude that when they experience loss someone else should have to pay for it. I believe that when you experience loss we should execute actions to protect others from experiencing that loss. Execute actions that allows others to profit off of our loss while preventing them from experiencing it not pursue something only for ourselves.

I lost my children, there is nothing I can change about that. Evidence indicates the Newton, IA Police Department has executed prejudice against me regarding investigations it has handled or assisted the Marshalltown, IA Police Department, and failed to properly investigate a restraining order violation I reported to your department; there is nothing you can do to change that. What we can do is work together to ensure it doesn't happen to someone else. What you can do is take the time to talk to me in person and shake my hand and apologize and communicate to me you are going re-double your efforts to ensure these mistakes do not happen again. You can execute actions to ensure those that concealed my children do not coordinate filed trips for your own and the citizens that you serve.

All we can do is learn from the past with open communications among ourselves so that we can build a better future.

Respectfully,

Michael J. Merritt, USN Retired/Writer  
Founder: [phoenixharbor.com](https://phoenixharbor.com)  
Creative Writer/Musician  
Information Warfare Specialist  
Information Systems Manager  
PO BOX 187  
Newton, IA 50208  
(515)-446-8993  
<https://castlephoenix.com>  
<https://cipherphoenix.com>

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*A society's justice system is an ever-evolving pursuit of that perfection.*

*Corruption is the cultural, political, or personal bias that overrules and interferes with that system."*

Pyrebird



**From:** Matt Brick Matt.Brick@brickgentrylaw.com  
**Subject:** Re: Iowa Open Records Request Status Update  
**Date:** June 29, 2022 at 7:35 AM

**To:** pyrebird pyrebird@phoenixharbor.com

**Cc:** Margaret Johnson margaret.johnson@iowa.gov, Fordyce, Hannah hannah.fordyce@iowa.gov, Matt Brick Matt.Brick@brickgentrylaw.com, Rob Burdess robb@newtongov.org, Chris Wing chrisw@newtongov.org, Ron Cook ronc@newtongov.org, Doug Cupples dcupples@jasperia.org, Brandon Talsma btalsma@jasperia.org, John Halferty jhalferty@jaspersheriff.org, Peter Blink general@jaspercoatty.org, Michael Tupper mtupper@marshalltown-ia.gov, Geoff Huff geoff.huff@cityofames.org, mark.lambert@cityofames.org, mnorton@iastate.edu, attorney@marshallcountya.gov, jphillips@marshallcountya.gov, sheriffweb@storycountyiowa.gov, ombudsman@legis.iowa.gov, icrc@iowa.gov, dwetsch@dickinsonlaw.com, attorney@storycountyiowa.gov

Mr. Merritt,

This email is to acknowledge receipt of your emails dated June 24, 2022 and June 28, 2022, email and letter requesting records. The response to these requests will involve a considerable amount of time and cost to compile, which will need to be paid before the information will be provided so, as soon as the City is able to compute those costs, we will let you know.

Thanks,

Matthew S. Brick  
Brick Gentry PC  
6701 Westown Parkway, Suite 100  
West Des Moines, Iowa 50266  
Phone: [515-274-1450](tel:515-274-1450)  
Fax: [515-274-1488](tel:515-274-1488)  
[Matt.Brick@BrickGentryLaw.com](mailto:Matt.Brick@BrickGentryLaw.com)  
[www.BrickGentryLaw.com](http://www.BrickGentryLaw.com)

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On Jun 28, 2022, at 2:36 PM, pyrebird <pyrebird@phoenixharbor.com> wrote:

Correction - Paragraph 2 should read as follows:

" I am currently communicating with a lawyer in the State of Iowa to help provide me with the necessary software update, so I know which forms to communicate what I know is right in accordance with our laws and evidence of how the leadership of Jasper County, IA has allegedly violated the constitutional rights of at least one of its citizens that they represent while showing prejudice towards constitutional rights (2nd Amendment to the Constitution of the United States) that it favors. For any section of government, whether it be municipal, county, state, or federal, to properly adhere to the 14th Amendment to the Constitution of the United States of America, it must provide evidence that it demonstrates a constitutional commitment to providing its **citizens** a sanctuary that promotes equality to all amendments to the Constitutions of the State of Iowa and the United States of America."

Respectfully,

Michael J. Merritt, USN Retired/Writer  
Founder: [phoenixharbor.com](http://phoenixharbor.com)  
Creative Writer/Musician  
Information Warfare Specialist  
Information Systems Manager

**From:** Matt Brick Matt.Brick@brickgentrylaw.com  
**Subject:** Re: Iowa Open Records Request Status Update  
**Date:** July 15, 2022 at 8:50 AM  
**To:** pyrebird pyrebird@phoenixharbor.com



Mr. Merritt,

This email is to provide you with the cost to respond to your records requests dated June 24, 2022 and June 28, 2022. As previously mentioned, the response to these requests will involve a considerable amount of time and cost to compile, which will need to be paid before the information will be provided.

The City's email network retains emails for thirty days so, based on the dates you provided, there are no records responsive to your request on the email network. While some employees retain emails longer than thirty days on their Outlook profile, the City's IT staff would be required to login under each employee's Outlook profile to search for the keywords specified. The estimate to perform this work would be approximately 210 hours, which could be reduced if you would choose to narrow your request to identify specific employees and/or email addresses to search. Once the emails, if any, are found it will take additional time to review and redact any confidential information. An estimate of that cost cannot be provided until the IT search has been completed.

The cost for the IT staff to search every employee's Outlook profile for the keywords in your records requests would be \$5,317.20, which is based on a 210 hour search at a cost of \$25.32 per hour. The City will begin preparing a response to your requests upon receipt of payment.

Finally, please note that the City no longer has a Records Clerk position.

Thanks,

Matthew S. Brick  
Brick Gentry PC  
6701 Westown Parkway, Suite 100  
West Des Moines, Iowa 50266  
Phone: [515-274-1450](tel:515-274-1450)  
Fax: [515-274-1488](tel:515-274-1488)  
[Matt.Brick@BrickGentryLaw.com](mailto:Matt.Brick@BrickGentryLaw.com)  
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Mr. Merritt,

Exhibit G

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Matthew S. Brick  
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West Des Moines, Iowa 50266  
Phone: [515-274-1450](tel:515-274-1450)  
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Michael J. Merritt, USN Retired/Writer  
Founder: [phoenixharbor.com](http://phoenixharbor.com)  
Creative Writer/Musician  
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MICHAEL J MERRITT

18 April 2022

**MEMORANDUM**

From: Michael J. Merritt, USN Retired/Writer  
PO BOX 187  
Newton, IA 50208  
(515)-446-8993

To: City of Newton, IA  
Electronic Service in accordance with Iowa Code Chapter 22.4

**Subj: IOWA OPEN RECORDS REQUEST – CITY OF NEWTON, IA – #006**

Ref: 1. [Iowa Code Title I State Sovereignty and Management, Chapter 22 Examination of Public Records \(Open Records\)](#)

**1. Requested Information**

- (a.) Official portrait of Newton, IA Police Department Chief of Police Burdess.
- (b.) Official portrait of Officer Zylstra of the Newton, IA Police Department.
- (c.) [Employment Video](#) posted to Facebook Page “NewtonPolice” on 23 FEB 2022.
- (d.) The desired format of requested data: Pictures: jpg/jpeg/png, Video: mp4/mov file format emailed to [pyrebird@castlephoenix.com](mailto:pyrebird@castlephoenix.com).
- (e.) The originator of this request is not responsible for any costs generated by the production or organization of this data if the clerical, professional, clerical staff, legal fees, or any other required actions or costs exceed 10 hours or \$1000 (whichever comes first) without prior

Exhibit H

coordination and approval from the originator of this request.

Respectfully,

A handwritten signature in black ink, appearing to read "Michael J. Merritt". The signature is written in a cursive style with a large, sweeping initial "M".

Michael J. Merritt

PO BOX 187

Newton, IA 50208

(515)-446-8993

[phoenixofinformation.com](http://phoenixofinformation.com)



**MATTHEW S. BRICK**  
**SHAREHOLDER**

T: 515-274-1450

F: 515-274-1488

[Matt.Brick@brickgentrylaw.com](mailto:Matt.Brick@brickgentrylaw.com)

May 3, 2022

Michael Merritt  
PO Box 294  
Newton, IA 50208

**Re: Response to Records Requests**

Dear Mr. Merritt:

In response to your outstanding open records requests, the City makes this initial response:

1. There are no official portraits or headshots of peace officers, so there are no documents responsive to this request.
2. The requested February 23, 2022 employment video posted to Facebook remains available to the public online and is posted on the City's website. If you want a free copy, I would recommend you download it; however, if you still would like the City to provide a copy, let me know and I will send you the estimate of costs to provide.

City staff has been included in a number of emails from you to government officials asking questions and seeking information. If there is additional information you are specifically requesting from the City, let me know and I will provide an updated response. If you have any questions or comments about this response, please let me know.

Sincerely,

Matthew S. Brick