



STATE OF NEBRASKA  
**Office of the Attorney General**

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ASSISTANT ATTORNEY GENERAL  
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October 26, 2012

Mr. Roger L. Benjamin  
NSBA # 19256  
Roger L. Benjamin, P.C.  
P.O. Box 275  
415 Silver Street  
Oxford, NE 68967-0275

Re: File No. 12-R-136; Death/Investigation Records; Benjamin

Dear Mr. Benjamin:

This letter is in response to your correspondence dated October 9, 2012, regarding various public records generated as a result of a traffic accident in Webster County, Nebraska, which took the life of Marla Jean Wentworth. We received your correspondence on October 11, 2012, and we considered that correspondence to be a petition for access to public records under the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2008, Cum. Supp. 2010, Supp. 2011), and § 84-712.03 in particular. Our response to your petition is set out below.

Ms. Wentworth died as a result of a collision between a school bus and a semi-truck and trailer in Webster County on September 5, 2012. From your letter, we understand that you made a written request to the Webster County Attorney for copies of the accident reports, photos, and the Nebraska State Patrol's accident reconstruction evaluation for the fatal accident in question. You were then sent to the Nebraska State Patrol for those materials, and you renewed your request with the Patrol. You also made a request to the Nebraska Bureau of Vital Statistics for two certified copies of the death certificate for Ms. Wentworth. As of the date of your letter to us, you had not yet received those various documents, and that situation precipitated your records petition under the Public Records Statutes.

The Nebraska Public Records Statutes generally allow interested persons in Nebraska the right to examine public records in the possession of public agencies during normal agency business hours, to make memoranda and abstracts therefrom, and to obtain copies of records in certain circumstances. In the event that a public

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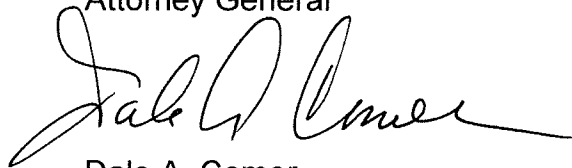
agency denies access to existing records after receipt of a written request seeking them, § 84-712.03 allows this office to require the agency to produce the records should we determine that access to the records has been improperly denied.

From the materials you provided to us, it does not appear that you have been denied access to the records which you seek by the Webster County Attorney, the State Patrol or the Nebraska Bureau of Vital Statistics. Instead, your complaint seems to be that there has been a delay in completing preparation of the records at issue. The focus of § 84-712.03 is a denial of access to existing records by a public agency rather than the time frame in which an agency is required to complete the preparation of particular records. Consequently, we do not believe that § 84-712.03 has application to the situation described in your letter. Under those circumstances, there has been no improper denial of access to public records by the agencies listed in your correspondence.

From news media reports concerning the Webster County collision involving Ms. Wentworth, it appears that the State Patrol has now completed preparation of its accident report and reconstruction evaluation for the accident in question. We also understand that the Bureau of Vital Statistics completed preparation of the death certificate for Ms. Wentworth on or about October 17, and that copies of that certificate have been or will be sent to you. In the event that you are subsequently denied access to or copies of any of the completed public records which you seek, you may petition this office again under § 84-712.03 to review the propriety of that denial.

Since this situation does not implicate § 84-712.03 at this time, we are closing this file. If you disagree with our analysis of the matters at issue, then you may wish to review the Public Record Statutes to determine what additional remedies, if any, are available to you and your clients.

Sincerely,  
JON BRUNING  
Attorney General

A handwritten signature in black ink, appearing to read "Dale A. Comer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dale A. Comer  
Assistant Attorney General  
Chief, Legal Services Bureau