



STATE OF NEBRASKA
Office of the Attorney General

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DOUGLAS J. PETERSON
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September 27, 2022

Matthew Pitzer, 31209-047
Unit C
FCI Sandstone
P.O. Box 1000
Sandstone, MN 55072

RE: *File No. 22-R-147; Omaha Police Department; Matthew Pitzer, Petitioner*

Dear Mr. Pitzer:

This letter is in response to your public records petition received by this office on September 12, 2022, in which you sought our assistance in obtaining certain records from the Omaha Police Department ("OPD"). We considered your petition under the provisions of the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2014, Cum. Supp. 2020, Supp. 2021), amended 2022 Neb. Laws LB 876 and LB 1246. In accordance with our normal practice, we forwarded a copy of your petition to Deputy City Attorney Bernard in den Bosch, and requested a response from his office. We received Mr. in den Bosch's response on September 20. We have now completed our review of the materials submitted by the parties. Our findings in this matter are set forth below.

Your petition pertains to three letters mailed to OPD requesting certain public records as follows:

1. Letter dated March 24, 2022, addressed to Lieutenant Neal Bonacci, seeking "[a]ll department records, documents, and policies concerning your Police Department policies and directives discussing, or pertaining to: towing of vehicles, warrantless search, patdowns, warrantless arrest, and fugitive search and apprehension." (Emphasis omitted.)
2. Letter dated April 13, 2022, addressed to Lieutenant Bonacci, seeking "Video/ Body cam Policy that was in effect in Jan. of 2019."

3. Letter dated May 12, 2022, addressed to Deputy Chief Anna Colón, seeking the same items listed in number 1 above.

You state that “the department **NEVER** acknowledged or responded to my requests.” (Emphasis in original.)

Mr. in den Bosch informs us that he was unable to find any record that the City of Omaha received the March 24, 2022, letter. The City did receive the May 12, 2022, letter, and records responsive to this request were mailed to you on September 13, 2022.¹ Documentation provided to us by Mr. in den Bosch shows that Deputy Chief Colón responded to your April 13, 2022, request by letter dated May 2, which included a copy of the requested policy.

This is the second consecutive file in which you have alleged that you received no response from the public body to your record requests.² However, in both instances, public officials have represented to this office that responses were made and, as it relates to your April 13, 2022, request, responsive records were provided. We note further that “in Nebraska . . . , absent contrary evidence, public officers are presumed to faithfully perform their official duties.” *Thomas v. Peterson*, 307 Neb. 89, 98, 948 N.W.2d 698, 706 (2020). In any event, since you have not been denied access to public records, no further action by this office is required and we are closing our file.

Sincerely,

DOUGLAS J. PETERSON
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Bernard in den Bosch

49-3054-30

¹ We acknowledge the City’s ongoing commitment to fully comply with the timelines set out in § 84-712(4).

² See also File No. 22-R-148; Cass County Department of Corrections; Matthew Pitzer, Petitioner (September 26, 2022).