



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

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**MIKE HILGERS**  
ATTORNEY GENERAL

**RYAN D. BAKER**  
ASSISTANT ATTORNEY GENERAL

June 14, 2024

Via email at [REDACTED]  
Joel Feistner

RE: *Public Records Matter Involving the Lincoln Police Department*  
Our File No. 20241105

Dear Mr. Feistner:

This letter is in response to your correspondence received by our office on May 30, 2024, in which you sought our assistance regarding a public records request, dated March 19, 2024, submitted to the Lincoln Police Department ("LPD"). Per your request, you sought documents and other materials relating to LPD Case No. C4-009801. We considered your petition in accordance with the Nebraska Public Records Statutes as set forth in Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2014, Cum. Supp. 2022), amended 2024 Neb. Laws LB 43.

You requested that LPD produce several categories of records concerning a traffic accident involving two individuals, including:

1. All audio in LPD's possession, including all 911 calls and radio communications;
2. All accident reports, supplemental reports, and law enforcement records;
3. All accident reconstruction reports;
4. All photographs;
5. All statements from witnesses or involved parties;

6. All video in LPD's possession, including videos recorded by dash cameras, body cameras, and surveillance cameras from adjacent businesses;
7. Any other record in LPD's possession.

You further submitted an accident report alongside your correspondence to LPD.

In an email response on March 21, 2024, Heather Denney, LPD Records Manager, stated that LPD possessed "investigative police reports, recordings, and photos" related to your request but that it would deny your request under the investigatory record exception set forth in § 84-712.05(5). Ms. Denney further communicated that LPD's "public Dispatch Record and public Crash Report" for the traffic accident were subject to release and attached those documents to her response.

Section 84-712.05 permits public bodies to withhold certain public records "unless publicly disclosed in an open court, open administrative proceeding, or open meetings or disclosed by a public entity pursuant to its duties. In pertinent part, § 84-712.05(5) provides that public bodies may withhold "[r]ecords developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination [or] investigation . . . ."

This office has considered the propriety of law enforcement agencies withholding investigatory records under § 84-712.05(5) on multiple occasions through the years.<sup>1</sup> We have consistently held that such withholding is permissible, relying in large part on the plain language of the exception, which expressly permits law enforcement agencies to withhold records developed or received by those agencies in the course of an investigation. LPD is a law enforcement agency charged with duties of investigation of persons, institutions, and businesses. Your petition and LPD's response indicate that the requested records were created in connection with LPD's investigation into the traffic accident. Such records therefore fall under the investigatory records exception set forth in § 84-712.05(5). It is also apparent that any such records have not been disclosed in court or in any other public proceeding. Consequently, the investigatory records exception applies in this matter, and LPD is not required to produce the requested records.

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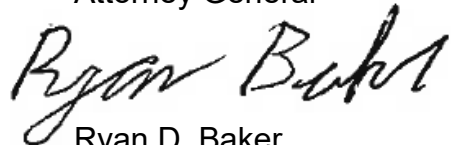
<sup>1</sup> See, e.g., *File No. 23-R-124; City of Fremont/Police Department; Jeff Forward, The Fremont Tribune, Petitioner* (July 10, 2023); *File No. 22-R-136; Douglas County Sheriff, Kathleen Foster, Petitioner* (July 29, 2022); *File No. 21-R-142; Hastings Police Department; Steve Stec, Petitioner* (December 17, 2021); *File No. 21-R-141; Omaha Police Department; Amanda Coleman, Petitioner* (November 3, 2021); *File No. 21-R-139; and Nebraska State Patrol; Chris Dunker, Lincoln Journal Star, Petitioner* (October 20, 2021). You may access the disposition letters for these files at <https://ago.nebraska.gov/disposition-letters>.

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Your petition to our office is therefore denied, and we will be closing this file. If you disagree with our findings set out in this letter, you may pursue the other remedies available to you under the Nebraska Public Records Statutes.

Sincerely,

MIKE HILGERS  
Attorney General

A handwritten signature in black ink, appearing to read "Ryan Baker", written in a cursive style.

Ryan D. Baker  
Assistant Attorney General

c: Heather Denney (via email only)

55-034-31