



STATE OF NEBRASKA
Office of the Attorney General

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MIKE HILGERS
ATTORNEY GENERAL

RYAN D. BAKER
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October 1, 2024

Via email: [REDACTED]

Jacob Lawson
[REDACTED]

RE: *Public Records Matter Involving the Boone County Attorney's Office*
Our File No. 20241180

Dear Mr. Lawson:

This letter is in response to your correspondence received by this office on September 16, 2024, in which you sought our assistance regarding your public records request submitted to the Boone County Attorney's Office and Boone County Attorney John Morgan on August 19, 2024, seeking the autopsy report concerning the death of Zachary Panther. While it is apparent in your correspondence that the autopsy report was initially withheld, it has come to our attention that, prior to our disposition of your public records petition, Mr. Morgan released the autopsy report as reported in an online article published on 10/11 News' website on September 30, 2024.

Notwithstanding the production of Mr. Panther's autopsy report, we would reiterate our previous dispositions concerning autopsy reports as they relate to the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2014, Cum. Supp. 2022), amended 2024 Neb. Laws LB 43 and LB 1204 ("NPRS"). Specifically, our office has generally determined that while autopsy reports constitute "public records" contemplated by the NPRS, public bodies may generally exercise their discretion in withholding such reports under the investigatory exception found at § 84-712.05(5).¹

¹ See, e.g., *File No. 20241046; Dodge County Attorney's Office; Katherine R. Chadek, Petitioner* (March 26, 2024); *File No. 21-R-131; Nebraska State Patrol; Harry N. MacLean, Petitioner* (September 13, 2021); *File No. 17-R-143; Dundy County Attorney and Dundy County Sheriff's Office; Donald Drillien and Kathryn Musso, Petitioners* (November 9, 2017); *File No. 16-R-109; Cedar County Attorney, Cedar County Sheriff; David Domina o/b/o Estate of Frank Potts, Jr., Petitioner* (March 10, 2016); *File No. 11-R-119;*

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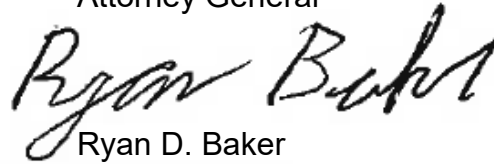
Therefore, the Boone County Attorney's Office would have been within its discretion to withhold the autopsy report under the investigatory exception.

We also note that, per your petition and the emails attached thereto, the Boone County Attorney's Office neither responded to your records request within four business days as required by § 84-712(4), nor did the eventual denial of your request contain the information required by § 84-712.04(1). We will therefore take this opportunity to remind the Boone County Attorney's Office, by sending a copy of this letter to Mr. Morgan, that all public agencies must comply with the obligations of the NPRS.

Because the autopsy report has been produced, no further action by this office is warranted. Accordingly, we are closing this file.

Sincerely,

MIKE HILGERS
Attorney General



Ryan D. Baker
Assistant Attorney General

c: John Morgan

55-053