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October 29, 2024

Via email at [REDACTED]
Cory Ditter

RE: *Public Records Matter Involving the Columbus Police
Department/Nebraska Department of Justice*
Our File No. 20241208

Dear Mr. Ditter:

This letter is in response to your correspondence emailed to Assistant Attorney General Mike Jensen on October 23, 2024. You requested Mr. Jensen's assistance in facilitating your request for "employment training records for School Resource Officer Jodi Hefti." Your correspondence included a copy of Resolution No. R19-151, dated October 7, 2019, approving an attached memorandum of understanding executed by the City of Columbus, Columbus Public Schools, and the Columbus Police Department (CPD). You also provided us a letter from the CPD denying your request for the training records under the exception to disclosure in Neb. Rev. Stat. § 84-712.05(8). Based on the materials provided, it was unclear to us whether you were challenging the CPD's denial of records or requesting records from this office. Consequently, we briefly address each scenario below. Our review was conducted in accordance with the Nebraska Public Records Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2014, Cum. Supp. 2022), amended 2024 Neb. Laws LBs 43 and 1204.

The NPRS generally allow Nebraska residents and other interested persons the right to examine public records in the possession of public agencies during normal agency business hours, to make memoranda and abstracts from those records, and to obtain copies of records in certain circumstances. However, while the NPRS do provide access to public documents, they are not absolute, and they also provide for exceptions to disclosure by express and special provisions. *Orr v. Knowles*, 215 Neb. 49, 337 N.W.2d 699 (1983). The CPD withheld the training records under the exception in subsection (8),

which pertains to “[p]ersonal information in records regarding personnel of public bodies other than salaries and routine directory information.” We agree with the CPD that the training records constitute personal information of Officer Hefti, a public employee, and may be withheld under § 84-712.05(8).

To the extent you are seeking the training records from the Nebraska Department of Justice (NDOJ), public records are defined as “all records and documents, regardless of physical form, *of or belonging to*” governmental entities in the state. Neb. Rev. Stat. § 84-712.01(1) (emphasis added). Neb. Rev. Stat. § 84-712(4) requires that requests for public records be submitted in writing to the *custodian* of records being sought. Officer Hefti’s training records are not records “of or belonging to” the NDOJ nor is the NDOJ the custodian of her training records. Consequently, we have no records responsive to your request.

However, while you may not be entitled to access the training records under the NPRS, you may be able to access the records under the provisions governing grand juries. According to Mr. Jensen, the grand jury convened to review the officer-involved shooting returned a “no true bill.” In this event, Neb. Rev. Stat. § 29-1406(2)(g)(i) and (ii) (Cum. Supp. 2022) require the following:

- (i) The grand jury shall create a grand jury report with the assistance of the prosecuting attorney. The grand jury report shall briefly provide an explanation of the grand jury’s findings and any recommendations the grand jury determines to be appropriate based upon the grand jury’s investigation and deliberations; and
- (ii) The no true bill and the grand jury report shall be filed with the court, where they shall be available for public review, along with the grand jury transcript provided for in subsection (3) of section 29-1407.01.

(Emphasis added.) Neb. Rev. Stat. § 29-1407.01(3) (Cum. Supp. 2022) provides, in relevant part:

- (b) A transcript, including any exhibits of the grand jury proceedings, and a copy of such transcript and copies of such exhibits shall be prepared at court expense and shall be filed with the court. Such transcript shall not include the names of grand jurors or their deliberations.
- (c) If the grand jury returns a no true bill, a copy of the transcript, including a copy of any exhibits, shall be available for public review upon written request to the clerk of the district court. Such review shall be made at a reasonable time set by the clerk of the district court. Except as otherwise provided in this subdivision, no copies of such transcript or exhibits shall be made available.

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(Emphasis added.) Accordingly, we would encourage you to send a written request to the Clerk of the District Court in Platte County to schedule a time to review the grand jury records outlined above. It is our understanding that the training records may be found in Exhibit 159. A link to the Platte County District Court is provided below for your convenience.

<https://plattecounty.ne.gov/district-court/>

Sincerely,

MIKE HILGERS
Attorney General


Leslie S. Donley
Assistant Attorney General

49-3667-31