



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

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**MIKE HILGERS**  
ATTORNEY GENERAL

**RYAN D. BAKER**  
ASSISTANT ATTORNEY GENERAL

March 10, 2025

Via email: [REDACTED]  
Jason Schwarting

RE: *Public Records Matter Involving Custer County Officials*  
Our File No. 20251030

Dear Mr. Schwarting:

This letter is in response to your petition received by this office on February 18, 2025, in which you sought our review of your public records request submitted to the Custer County Attorney's Office ("County Attorney") for records relating to certain Custer County officials. We considered your petition in accordance with the Nebraska Public Records Statutes ("NPRS") as set forth in Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2024), and our conclusions are below.

Per your petition to our office, you submitted a records request under the Freedom of Information Act<sup>1</sup> ("FOIA") to the County Attorney seeking "salary and start dates" for four Custer County officials: Custer County Court Judge Tami Schendt; Deputy Custer County Attorney Kayla Clark; Custer County Clerk of District Court Amy Oxford; and Custer County Court Clerk Debra Hansen. It is unclear from your petition and accompanying materials when your request was received by the County Attorney. You thereafter received a response letter from Ms. Clark, dated January 31, 2025, denying your request on the basis that (1) FOIA "does not apply to [your] request nor the agency involved" and (2) the County Attorney is not the custodian of the requested records.

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<sup>1</sup> See 5 U.S.C. § 552.

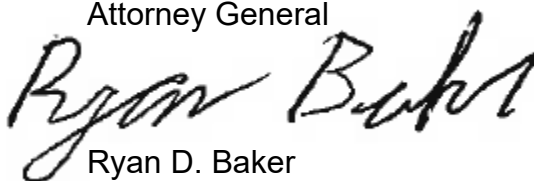
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Your request to the County Attorney was made under the federal FOIA statute, which generally allows individuals to request access to records of federal agencies. FOIA does not apply to Nebraska public bodies and officials and, consequently, the County Attorney had no obligation to produce any public records responsive to your FOIA request. As a result, our office cannot address the merits of a public records request not properly submitted to a Nebraska public body under the NPRS.

Moreover, Neb. Rev. Stat. § 84-712(4) of the NPRS requires requesters to submit written requests to the *custodian* of the records sought. Per the representations of Ms. Clark, the County Attorney is not the custodian of the records at issue here, and we see no indication that the County Attorney, through Ms. Clark, has responded to your request in bad faith.<sup>2</sup> We will accordingly close this file.

Sincerely,

MIKE HILGERS  
Attorney General



Ryan D. Baker  
Assistant Attorney General

c: Kayla Clark

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<sup>2</sup> Under Nebraska law, it is generally presumed that public bodies and officers carry out their duties in good faith. See *Wolf v. Grubbs*, 17 Neb. App. 292, 310, 759 N.W.2d 499, 518 (2009) (observing that, in a case involving the Open Meetings Act, “[i]n the absence of evidence to the contrary, it may be presumed that public officers faithfully performed their official duties”).