



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

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**MIKE HILGERS**  
ATTORNEY GENERAL

**RYAN D. BAKER**  
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August 4, 2025

Via email: [REDACTED]  
Ciara Carson  
[REDACTED]

RE: *Public Records Matter Involving the Bellevue Police Department*  
Our File No. 20251079

Dear Ms. Carson:

This letter is in response to your petition received by this office on July 18, 2025, in which you sought our review of your public records request submitted to the Bellevue Police Department ("BPD") on July 8, 2025. 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 conclusion in this matter is set out below.

### FACTS

Our understanding of the facts in this matter comes from your petition to this office and the materials attached thereto. Per your petition, you sought a "written official copy of the disposition related to a citizen complaint [you] filed involving Lt. Brown and the handling of an incident on May 17, 2025."<sup>1</sup>

In a response letter dated July 10, 2025, the BPD denied your records request in full. Relying on Neb. Rev. Stat. § 84-712.05(5), the BPD withheld records relating to the disposition of your complaint and further stated that such records constituted a part of its

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<sup>1</sup> We note that your public records request to the BPD also include requests for "[c]larification on what, if anything, is being done to address leadership conduct within the department in light of this recent arrest" and "[a]n explanation of the technical error you cited as the reason [your] original complaint was not received . . . ." Our office has previously stated that the NPRS "do not require public officials to provide copies of public records, to answer questions, or to create documents which do not otherwise exist." See Op. Att'y Gen. No. 94092 (November 22, 1994). We therefore limit our review solely to your request for records relating to the disposition of your complaint to the BPD.

investigation into the complaint. The denial of your request came at the direction of Daniel Willis, Assistant City Attorney for the City of Bellevue.

Following our receipt of your petition, the undersigned contacted Mr. Willis and requested additional information regarding this matter. Mr. Willis confirmed that the requested records exist and had not been disclosed in either open court or an open administrative proceeding or otherwise pursuant to the BPD's duties as a public body.

## DISCUSSION

The basic rule for access to public records in Nebraska is set out in § 84-712(1). This provision generally states that “[e]xcept as otherwise expressly provided by statute,” all Nebraska residents and other interested persons have 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. “Public records” are defined as

all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

Section 84-712.01(1). Based on our review of this matter, there can be no dispute that the requested records fall within the definition of “public records” under Nebraska law.

While the NPRS broadly authorize public access to public records, they are not absolute. Section 84-712.05 lists several categories of public records that may be withheld at the discretion of the records custodian. The burden of showing that a statutory exception applies to disclosure of particular records rests upon the custodian of those records. See *Evertson v. City of Kimball*, 278 Neb. 1, 8, 767 N.W.2d 751, 759 (2009) [*Evertson*]. As applicable to this matter, § 84-712.05(5) provides:

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

. . .

(5) Records 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, investigation, intelligence information, complaints or inquiries from residents of this state or other interested persons, informant identification, or strategic or tactical information used in law enforcement training . . . .

This office has considered the propriety of law enforcement agencies withholding investigatory records under § 84-712.05(5) on multiple occasions through the years. Our conclusions in these dispositions have been based on both the plain text of the statute and the holdings of the Nebraska Supreme Court, which has stated:

[A] public record is an investigatory record where (1) the activity giving rise to the document sought is related to the duty of investigation or examination with which the public body is charged and (2) the relationship between the investigation or examination and that public body's duty to investigate or examine supports a colorable claim of rationality.

*State ex rel. Nebraska Health Care Ass'n v. Dept. of Health and Human Services Finance and Support*, 255 Neb. 784, 792, 587 N.W.2d 100, 106 (1998). However, § 84-712.05(5) “only appl[ies] to an investigation of a public body's employees if the investigation focuses on specifically alleged illegal acts.” *Evertson*, 278 Neb. at 16, 767 N.W.2d at 764. Since your complaint against Lt. Brown appears to be based on his purported lack of professionalism during the May 17, 2025, incident, and does not involve “specifically alleged illegal acts,” the BPD is precluded from applying this exception to withhold any records it may have developed while investigating your complaint.

While not cited by the BPD, we find the exception in Neb. Rev. Stat. § 84-712.05(8), which allows public bodies to withhold “[p]ersonal information in records regarding personnel of public bodies other than salaries and routine directory information,” pertinent here. This exception was discussed by the Nebraska Supreme Court in *Steckelberg v. Nebraska State Patrol*, 294 Neb. 842, 885 N.W.2d 44 (2016) [*“Steckelberg”*]. The plaintiff in *Steckelberg* was a State Patrol trooper who sought access to the score sheets and comments and recommendations made by a hiring board for a position Steckelberg interviewed for but did not get. The trial court concluded that the records could be withheld under § 84-712.05(7<sup>2</sup>), stating:

The documents sought contain the interviewing board's impression of the candidates concerning their appearance, mannerisms, ability to answer questions, their career and personal life experiences, whether their personal life may interfere or contribute to their ability to succeed and their scores on each response to the interview questions concerning the roles and responsibilities of the Executive Protection Division. The interview board then made its recommendations concerning the applicants. *The Court finds that the information contained in the records constitutes personal information within the meaning of § 84-712.05(7).*

*Todd Steckelberg v. Nebraska State Patrol*, Lancaster County District Court, Case No. CI15-1710, Order on Petition for Writ of Mandamus (August 25, 2015) (emphasis added).

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<sup>2</sup> Renumbered as subsection (8) as a result of the enactment of 2022 Neb. Laws LB 1246, § 5.

On appeal, Steckelberg argued, among other things, that the requested records did not fit within the parameters of § 84-712.05(7) because, by the State Patrol's own admission, they were not part of an employee's personnel file. In rejecting this argument, the Court stated:

Steckelberg's first argument . . . misses the mark. The State Patrol did produce an affidavit stating that the records were not kept with an employee's personnel record, but were kept separately by the State Patrol's human resources division. But § 84-712.05(7) exempts "[p]ersonal information in records regarding personnel." The district court found that the information in the records sought did contain personal information. And the information was about employees, otherwise known as personnel, of the State Patrol. There is no requirement in § 84-712.05(7) that in order to be exempt, the records must be kept within an employee's personnel record, as used as a term of art; *the records need only be personal information about personnel, defined as persons employed by an organization.*

*Steckelberg*, 294 Neb. at 849-850, 885 N.W.2d at 50 (internal citations omitted) (emphasis added).

The records at issue relate to a personnel matter involving Lt. Brown. The records contain personal information about personnel of a public body. Further, the requested records constitute neither salary information nor routine directory information, which must be disclosed under the exception. The requested records fall squarely within the parameters of the exception and provide an appropriate basis to withhold.

## CONCLUSION

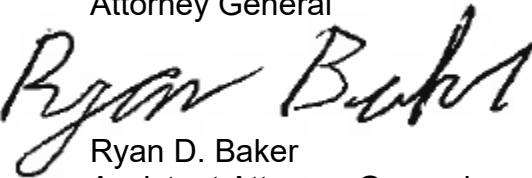
As discussed above, there is no question that the requested records constitute "public records." However, their nature as public records does not preclude the assertion of an exception in § 84-712.05 to keep the records confidential. Consequently, we conclude the BPD may withhold the requested records under the personal information exception in § 84-712.05(8).

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Since we conclude the BPD did not unlawfully deny you access to public records, no further action is warranted by this office, and we will accordingly close this records file. If you disagree with our conclusion, you may wish to discuss this matter with an attorney to determine what, if any, additional remedies may be available to you under the NPRS.

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: Daniel Willis (via email only)

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