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Office of the Attorney General

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MIKE HILGERS
ATTORNEY GENERAL

RYAN D. BAKER
ASSISTANT ATTORNEY GENERAL

November 12, 2025

Via email: [REDACTED]
Jason Thomas
[REDACTED]

RE: *Public Records Matter Involving Nebraska State Patrol*
Our File No. 20251135

Dear Mr. Thomas:

This letter is in response to your petition received by this office on October 27, 2025, in which you sought our review of your public records request submitted to the Nebraska State Patrol ("NSP") on October 20, 2025, seeking body and dash camera footage alongside other materials. We have reviewed your petition in accordance with the Nebraska Public Records Statutes ("NPRS"), Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2024), and our conclusions are set forth below.

FACTS

Our understanding of the facts in this matter is based on your petition to our office and the materials attached thereto. Per the NSP's response to your records request, you sought the "[p]olice report and/or any additional case narrative related to the stop[,] [t]he officer's body cam footage of the stop, plus any dash cam video related to the stop." You indicate a trial concerning this matter is scheduled for November 21 and you need the documentation to prepare your defense.¹ The NSP responded to your request on October 21, 2025, and denied your request on the basis that the requested records, "includ[ing]

¹ Please note the reasons underlying your request have no bearing on the resolution of your petition, as the NPRS "apply 'equally to all persons without regard to the purpose for which the information is sought.'" See *State ex rel. BH Media Group, Inc. v. Frakes*, 305 Neb. 780, 801, 943 N.W.2d 231, 247 (2020).

the CAD report and video footage from the stop,” were investigative and able to be withheld under § 84-712.05(5).

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

[a]ll 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.

Neb. Rev. Stat. § 84-712.01(1) (2024).

While the NPRS broadly authorizes 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, 7-8, 767 N.W.2d 751, 758-59 (2009). Consequently, it is the NSP’s burden to show that the investigatory exception applies. Pertinently, § 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, except that this subdivision shall not apply to records so developed or received:

(a) Relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person; or

- (b) Relating to the cause of or circumstances surrounding the death of an employee arising from or related to his or her employment

This office has considered the propriety of law enforcement agencies withholding investigatory records under § 84-712.05(5) on multiple occasions through the years and has consistently determined that law enforcement agencies may withhold records developed or received by those agencies in the course of an investigation.² 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 if (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.

Jacob v. Nebraska Bd. of Parole, 313 Neb. 109, 125, 982 N.W.2d 815, 829 (2022).

There is no question that the NSP is a law enforcement agency charged with duties of investigation of persons, institutions, and businesses. As relevant to the present matter, Neb. Rev. Stat. § 81-2004 (2024) provides that the NSP and "its subordinate officers . . . shall be used primarily for the enforcement of the traffic and motor vehicle laws of the State of Nebraska and the handling of traffic within the state" Further, Neb. Rev. Stat. § 81-2005 (2024) states in part:

[T]he Superintendent of Law Enforcement and Public Safety and all officers of the Nebraska State Patrol, except all carrier enforcement officers assigned to the carrier enforcement division, shall have the power:

- (1) Of peace officers for the purpose of enforcing the Motor Vehicle Operator's License Act, the Motor Vehicle Registration Act, the Nebraska Rules of the Road, and any other law regulating the registration or operation of vehicles or the use of the highways;
- (2) To make arrests upon view and without warrant for any violation committed in their presence of the provisions of the Motor Vehicle Operator's License

² See, e.g., *File No. 2025-1115; Omaha Police Department; Malik Stelly, Petitioner* (October 20, 2025); *File No. 2025-1063; Nebraska State Patrol; Kenneth Barrentine, Petitioner* (May 21, 2025); *File No. 2025-1060; Nebraska State Patrol; Tukrong Klengdong, Petitioner* (May 14, 2025); *File No. 2024-1218; Nebraska State Patrol; Julianne Sanner, Petitioner* (November 21, 2024); *File No. 2024-1145; Omaha Police Department; Michael McLemore, Petitioner* (August 7, 2024); *File No. 23-R-124; City of Fremont/Police Department; Jeff Forward, The Fremont Tribune, Petitioner* (July 10, 2023); and *File No. 22-R-136; Douglas County Sheriff; Kathleen Foster, Petitioner* (July 29, 2022). Copies of our disposition letters relating to these files and others may be found at <https://ago.nebraska.gov/disposition-letters>.

Act, the Motor Vehicle Registration Act, the Nebraska Rules of the Road, or any other law regulating the operation of vehicles or the use of the highways, if and when designated or called upon to do so as provided by law; [and]

- (3) To make arrests upon view and without warrant for any violation committed in their presence of any provision of the laws of the state relating to misdemeanors or felonies, if and when designated or called upon to do so as provided by law[.]

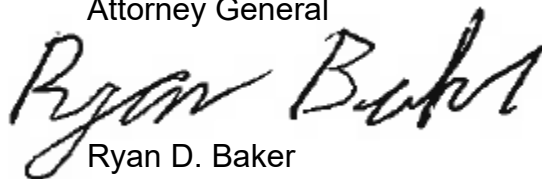
Based on our review of your petition, the requested report and video footage were clearly developed in connection with the traffic stop referenced in your petition and the NSP's duties to investigate potential violations of Nebraska's traffic laws. Consequently, they constitute investigatory records under § 84-712.05(5), and the NSP's denial of your request was permissible under the NPRS.

CONCLUSION

For the reasons set forth above, we conclude that you have not been unlawfully denied access to the requested public records. As a result, no further action by this office is warranted, and we are closing this file. If you disagree with our findings set out in this letter, you may wish to consult 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 over the printed name of Ryan D. Baker.

Ryan D. Baker
Assistant Attorney General

c: Michael Wehling (via email only)