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December 19, 2025

Via email: [REDACTED]

Robert Scott
[REDACTED]
[REDACTED]

RE: *Public Records Matter Involving City of Gering Police Department*
Our File No. 20251156

Dear Mr. Scott:

This letter is in response to your public records petition received by this office on December 5, 2025, in which you sought our review of your public records request submitted to the City of Gering Police Department ("GPD") concerning records related to an incident on October 20, 2025. We have considered your petition under 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, the materials attached thereto,¹ and the undersigned's communications with counsel for the City of Gering, Matthew Turman. On November 17, 2025, you requested certain records relating to an "incident that occurred on October 20, 2025," in Scottsbluff, Nebraska, involving GPD officers. Per your letter, you sought the following records relating to two GPD officers:

¹ We note you provided us a completed GPD "Allegation of Employee Misconduct" form, in which you allege violations of your civil rights by certain GPD officers. Please note that reasons underlying an individual's records request have no bearing on our resolution of a 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). Accordingly, we did not consider such documentation when making our determination.

- Body camera footage from both officers documenting the call for service and their location upon initial dispatch.
- Dispatch communications that pertain to both officers regarding the call, including the stenographic transcript of the relevant exchange.
- Detailed records of the patrol vehicles' locations and movements associated with this response before and after 9:58 p.m.

The GPD, through Mr. Turman, denied your request in a letter dated November 19, 2025, stating that it "possesses investigative materials that may be responsive to your request. However, pursuant to Neb. Rev. Stat. § 84-712.05(5), these records will not be disclosed" as the requested records "were developed by this law enforcement agency as part of its law enforcement investigation into these matters."

The undersigned contacted Mr. Turman on December 9, 2025, and requested additional information concerning this matter. Mr. Turman stated that the GPD possessed the requested body camera footage, which was recorded as part of the two officers' investigation into a service call regarding a potential mental health crisis and was withheld pursuant to § 84-712.05(5). With respect to the request for "records of the patrol vehicles' locations and movements," Mr. Turman advised that no such records existed. Mr. Turman thereafter stated that the requested dispatch records did not belong to the GPD but instead belonged to Scotts Bluff County.

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) (emphasis added).

1. Body Camera Footage

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 GPD'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.

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>.

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

There is no question that the GPD is a law enforcement agency charged with duties of investigation of persons, institutions, and businesses. See Neb. Rev. Stat. § 16-225 (2022). Mr. Turman advised the undersigned that on October 20, 2025, the Scottsbluff Police Department received a call for service regarding a potential mental health crisis and requested the assistance of the two GPD officers to check two locations in Gering, Nebraska, where the individual could potentially be found. Based on the information provided by Mr. Turman, we conclude that the body camera footage was developed in connection with the GPD's investigation into that incident and may be withheld under § 84-712.05(5). Consequently, the GPD's denial of your request was permissible under the NPRS.

2. Records Relating to Patrol Vehicle Locations

With respect to your request for records relating to the location of certain patrol vehicles, Mr. Turman advised that no such records exist. 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”). We do not have cause to believe that the GPD or Mr. Turman have acted in bad faith in advising the undersigned that the requested records do not exist.

3. Dispatch Records

Finally, with respect to your request for “[d]ispatch communications that pertain to both officers regarding the call, including the stenographic transcript of the relevant exchange,” Mr. Turman stated that such records were not of or belonging to the GPD but instead belonged to Scotts Bluff County. Requests for public records must be directed to the custodian of such records. See *Huff v. Brown*, 305 Neb. 648, 666, 941 N.W.2d 515, 527 (2020) (“The public records statutes are directed to ‘the custodian’ of a requested public record, . . . and . . . [i]t is the obligation of the person requesting a record to determine the proper custodian and to make a request of that person or office.”) As discussed above, we do not have cause to believe that the GPD or Mr. Turman has acted in bad faith in this matter. See *Wolf v. Grubbs*, 17 Neb. App. at 310, 759 N.W.2d at 518. We therefore conclude that the GPD is not the proper custodian of the requested dispatch records, and your request for those records should be directed to Scotts Bluff County.

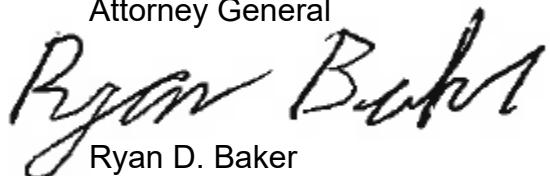
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CONCLUSION

For the reasons set forth above, we conclude that you have not been unlawfully denied access to those public records that exist and are of or belonging to the GPD. We further conclude that the GPD is not the custodian of the requested dispatch 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



Ryan D. Baker
Assistant Attorney General

c: Matthew Turman (via email only)

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