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December 29, 2025

Via email: [REDACTED]
Lindsey Anetsberger

RE: *Public Records Matter Involving the City of Gering Police Department*
Our File No. 20251159

Dear Ms. Anetsberger:

This letter is in response to your public records petition received by this office on December 12, 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 the disappearance of Chance Englebert. 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, and the undersigned’s communications with counsel for the City of Gering, Matthew Turman. On November 26, 2025, you requested the following from the GPD:

Copies of any and all documents, recordings, video, autopsy report, photographs, and notes collected relating to the missing person case of Chance Leslie Englebert (case #GPD-P1900880) from July 6, 2019, to November 26, 2025.

In a letter dated December 2, 2025, the GPD denied your records request. In this letter, Mr. Turman advised that the GPD “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 of these matters.” An attached privilege log contained a list of 263 items withheld pursuant to § 84-712.05(5),

which included missing person reports, interviews, subpoenas, search warrants, supporting narratives and reports, tips received, call logs, videos, photographs, and autopsy reports.

The undersigned contacted Mr. Turman on December 22, 2025, and requested additional information concerning this matter. Per Mr. Turman's response, the records listed in the privilege log were created following initial reports of Mr. Englebert's disappearance on July 7, 2019. The GPD undertook efforts to determine Mr. Englebert's whereabouts, including contacting family members and obtaining witness interviews, subpoenas, search warrants, and relevant electronic data. The department also received numerous tips and other information from members of the public relating to Mr. Englebert's disappearance. This culminated in the discovery of remains on October 10, 2025, which were subsequently identified as Mr. Englebert's following forensic analysis. Although Mr. Englebert's remains were identified and his death determined to be accidental, Mr. Turman advised that related records and reports were "still actively being generated" as of December 23, 2025.

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 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. We have consistently determined that law enforcement agencies may withhold records developed or received by those agencies in the course of an investigation.¹ The records considered across our dispositions share similarities with those at issue in this matter.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

¹ 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>.

² See, e.g., *File No. 2025-1063; Nebraska State Patrol; Kenneth Barrentine, Petitioner* (May 21, 2025) (crime scene photographs, interrogation recordings, and related reports); *File No. 2024-1145; Omaha Police Department; Michael McLemore, Petitioner* (August 7, 2024) (recordings of police interviews and related reports); and *File No. 2024-1046; Dodge County Attorney's Office; Katherine R. Chadek, Petitioner* (March 26, 2024) (autopsy report).

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 GPD is a law enforcement agency charged with duties of investigation of persons, institutions, and businesses. See Neb. Rev. Stat. § 16-225 (2022). As discussed above, Mr. Turman advised the undersigned that the records listed in the attached privilege log were developed in connection with the GPD's efforts to locate Mr. Englebert following his disappearance on July 7, 2019. Per the privilege log, these records document several facets of the GPD's investigation, including witness interviews, subpoenas and search warrants, tip processing, and all other actions undertaken by the GPD. Based on the information provided by Mr. Turman, we conclude that these records were created in connection with the GPD's investigation into Mr. Englebert's disappearance and may therefore be withheld under § 84-712.05(5).

Finally, you raise concerns in your petition regarding the status of Mr. Englebert's missing persons case and the impact of the conclusion that his death was accidental on whether the requested records must be disclosed. The plain text of § 84-712.05(5) does not contemplate whether an investigation is ongoing or has been concluded. Also, the release of investigative records in other cases does not impact the GPD's ability to withhold records falling within the exceptions to disclosure in § 84-712.05(5). The GPD is required only to show that "(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." See *Jacob v. Nebraska Bd. of Parole*, 313 Neb. at 125, 982 N.W.2d at 829. The GPD satisfied that burden and had discretion to withhold the requested records.

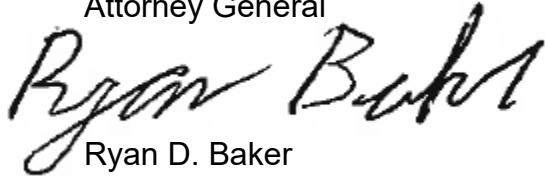
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CONCLUSION

For the reasons set forth above, we conclude that you have not been unlawfully denied access to the requested records by the GPD. 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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