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Office of the Attorney General

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MIKE HILGERS
ATTORNEY GENERAL

RYAN D. BAKER
ASSISTANT ATTORNEY GENERAL

December 30, 2025

Via email: [REDACTED]
Robert Scott
[REDACTED]

RE: *Public Records Matter Involving the City of Scottsbluff Police Department*
Our File No. 20251160

Dear Mr. Scott:

This letter is in response to your public records petition received by this office on December 15, 2025, in which you sought our review of your public records request submitted to the City of Scottsbluff Police Department ("SPD") concerning records related to an encounter with law enforcement officers occurring 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, and the undersigned's communications with Krisa Brass, Scottsbluff's Chief of Police. On December 4, 2025, you requested certain records relating to a "law enforcement entry at [your] residence on October 20, 2025," by two SPD officers. Specifically, you requested:

- "All body-worn camera video and audio, including metadata," from the two officers and any other officers near your residence at the time of the incident;
- "Any in-car or dash camera recordings (video and audio) from vehicles assigned to these officers at that time frame";
- "Computer-aided dispatch (CAD) logs, incident logs, and event histories referencing" your residence and/or the incident on October 20, 2025;

- “All radio communications, audio recordings, and transcripts (if any) between dispatch and responding officers regarding this call or incident”;
- “Any 911 call recordings, non-emergency call recordings, or text-to-911 records that led to the dispatch of officers” to your residence;
- “Any incident reports, offense reports, field interview reports, supplementary reports, use-of-force reports, or internal summaries relating to this event”;
- “Any written or electronic statements, notes, or memoranda by any officer or supervisor regarding the entry into [your] residence and any observations, alleged exigent circumstances, or claimed consent relating to that entry”;
- “Any internal communications (emails, text messages, messages through internal systems) among officers, supervisors, or dispatch staff about this incident from October 20-21, 2025”; and
- “Policies and training material legal basis and constitutional context.”

The SPD, through Chief Brass, denied your request by letter dated December 10, 2025. With respect to your request for body camera and in-car camera recordings, written reports, and other written records, the SPD stated that it was withholding those records pursuant to § 84-712.05(5) as records “developed or received” by the SPD as part of the investigation into the incident on October 20, 2025. Chief Brass further stated that the SPD was not the custodian for the “[c]omputer-aided dispatch and radio/phone communications, incident logs, . . . event histories . . . , radio communications, audio recordings, and transcripts between dispatch and [SPD] officers.” Finally, Chief Brass stated that your request for “[p]olicies and training material legal basis and constitutional context” was “too nebulous to understand” and “unclear.”

The undersigned contacted Chief Brass regarding your petition on December 23, 2025. Chief Brass stated that on October 20, 2025, SPD officers were dispatched to your residence in response to a service call relating to an individual experiencing a mental health crisis, and “[t]he reporting party told the officers to enter through the fence and go through the back door to access” the individual’s room. With respect to the requested records, Chief Brass advised that all recordings and reports relevant to your request were generated in connection with the department’s response to the service call. Chief Brass further informed the undersigned that the Scotts Bluff County Consolidated Communications Center was the appropriate custodian for the requested dispatch records.

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).

1. Recordings, Reports, and Other Records Related to October 20 Encounter

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 SPD'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.¹ 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 SPD is a law enforcement agency charged with duties of investigation of persons, institutions, and businesses for the City of Scottsbluff. See Neb. Rev. Stat. § 16-225 (2022). Chief Brass advised the undersigned that on October 20, 2025, the SPD received a report relating to an individual experiencing a potential mental health crisis at your residence. Officers were thereafter dispatched to your residence in response to verify the status of the individual. Based on the information provided by Chief Brass as discussed above, we conclude that the requested records relating to the encounter with the SPD on October 20, 2025, including body and dash camera recordings, reports, and other internal records, were developed in connection with the SPD's investigation into the service call. Consequently, the SPD's denial of this portion of your records request was permissible under the NPRS.

2. Dispatch Records

Turning to your request for the above-described dispatch records, Chief Brass stated that such records were not of or belonging to the SPD but instead belonged to the "Scotts Bluff County Consolidated Communications Center." 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."). We do not have cause to believe that the SPD or Chief Brass has acted in bad faith in asserting that the SPD is not the custodian of these dispatch records. Consequently, we conclude that the SPD is not the proper custodian of the requested dispatch records, and

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>.

your request for those records should be directed to the Scotts Bluff County Consolidated Communications Center.

3. Request for “Policies and Training Material”

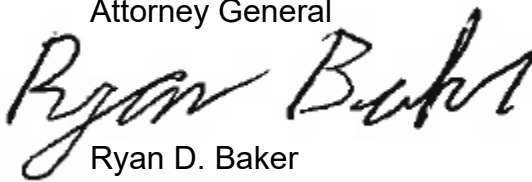
Finally, turning to your request for “policies and training material legal basis and constitutional context,” we conclude that this request was not sufficiently specific to apprise the SPD of what records were being requested. While you reference records such as “written body-worn camera policies, use-of-force policies, and training guidelines” in your petition to our office, you did not request those records from the SPD. As is plain from the SPD’s response, it did not withhold any such policy but rather indicated a lack of information to process your request. Consequently, you may choose to submit a new records request to the SPD with sufficient detail necessary for the SPD to identify the requested records.

CONCLUSION

For the reasons set forth above, you have not been unlawfully denied access to those public records that are of or belonging to the SPD. We further find that the SPD is not the custodian of the requested dispatch records. Finally, we conclude that your request for “policies and training material” was not sufficiently specific to apprise the SPD what records were being requested. As a result, no further action by this office is warranted on your petition, 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", is written over the typed name of Ryan D. Baker.

Ryan D. Baker
Assistant Attorney General

c: Chief Krisa Brass (via email only)