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January 6, 2026

Via email: [REDACTED]
Kaden Simmons
[REDACTED]
[REDACTED]

RE: *Public Records Matter Involving the Omaha Police Department*
Our File No. 20251162

Dear Mr. Simmons:

This letter is in response to your petition received by this office on December 22, 2025, in which you sought our review of your public records request submitted to the Omaha Police Department ("OPD") on August 14, 2025, seeking body and dash camera footage relating to "Puoch Thuoch Puoch." 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, the materials attached thereto, and the undersigned's communication with Omaha Deputy City Attorney Bernard in den Bosch. On August 14, 2025, you submitted a request to the OPD for the "bodycam and dashcam from the arrest of Puoch Thuoch Puoch." On August 18, 2025, OPD, through Lieutenant Neal Bonacci, issued its response letter. Lieutenant Bonacci stated in pertinent part:

As defined in Neb. Rev. Stat. 84-712.05(5), body-camera footage and dash camera footage are considered records developed by law enforcement agencies charged with duties of investigation, and as such are not considered public records. Therefore, your request is denied.

Following your petition to our office, the undersigned contacted Mr. in den Bosch on January 2, 2026, for additional information relating to your petition. Mr. in den Bosch stated that video recordings are generally “gathered as the Omaha Police Department satisfies its obligation to perform law enforcement functions” In the instant case, Mr. in den Bosch further stated that the requested recordings were created in connection with OPD’s investigation into a series of criminal incidents leading to the arrest of Mr. Puoch.

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). Based on this broad definition, there is no question that the requested recordings are public records as contemplated by the NPRS.

However, 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, 7-8,767 N.W.2d 751, 758-59 (2009) (“*Evertson*”). Consequently, it is the OPD’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 These determinations have included body camera and dash camera footage.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 OPD is a law enforcement agency charged with duties of investigation of persons, institutions, and businesses. See, Neb. Rev. Stat. §§ 14-601 and 14-606 (2022) (establishing authority for cities of the metropolitan class to create police department and providing arrest powers to police officers). Based on our review of your petition and the undersigned's communications with Mr. in den Bosch, the requested body and dash camera footage was developed in connection with OPD's investigation of Mr. Puoch in connection with several criminal incidents. Consequently, they constitute investigatory records under § 84-712.05(5).

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. 2025-1135; Nebraska State Patrol; Jason Thomas, Petitioner* (November 11, 2025); *File No. 2025-1122; Kimball Police Department; Alberto Mena, Petitioner* (October 29, 2025); and *File No. 2025-1009; Nebraska State Patrol; Jason Schwarting, Petitioner* (February 10, 2025).

You assert in your petition that the recordings at issue in this matter are not protected from disclosure under § 84-712.05(5) and “fall[] under the Nebraska Supreme Court’s holding in” *Evertson*. Specifically, you argue that body-worn camera footage “is used so routinely that it is embedded in legislation and policies around the United States, including Nebraska.” You further argue that “[a]llowing the [OPD] or any other agency to continue blatantly violating clearly established case law would be a mistake and would only bring litigation against the state of Nebraska and would sever the relationship between the citizenry and law enforcement.”

Having reviewed relevant case law, we see no reason to depart from our prior dispositions concluding that law enforcement agencies may withhold body camera and dash camera footage under § 84-712.05(5). As the Nebraska Supreme Court observed in *Evertson*, “the investigatory exception does not apply to protect material compiled ancillary to an agency’s routine administrative functions or oversight activities.” *Id.* at 15, 767 N.W.2d at 763. Based on the information provided, the body camera and dash camera footage at issue in this matter were not created as a matter of routine by OPD. Rather, they were created as part of OPD’s investigation into specific criminal incidents that ultimately led to the arrest of Mr. Puoch, which has no relation to OPD’s routine and day-to-day administrative functions. See *State ex rel. Nebraska Health Care Ass’n v. Dept. of Health*, 255 Neb. 784, 793, 587 N.W.2d 100, 107 (1998) (observing that a desk audit “departs from the routine, and becomes an investigation” when the auditor targets a specific deficiency and seeks further information as a result). In the instant matter, we conclude that OPD’s withholding of the requested camera footage was permissible under the NPRS.

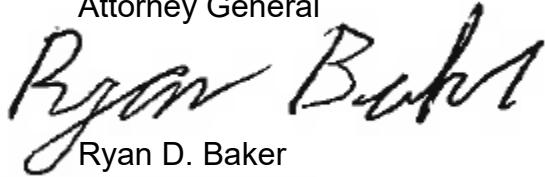
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CONCLUSION

For the reasons set forth above, we conclude that the OPD did not unlawfully deny you 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



Ryan D. Baker
Assistant Attorney General

c: Bernard in den Bosch (via email only)

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