



STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
FAX (402) 471-3297 or (402) 471-4725

MIKE HILGERS
ATTORNEY GENERAL

BEN KINNISON
ASSISTANT ATTORNEY GENERAL

February 17, 2026

Via email at: [REDACTED]
Josiah Warwick

RE: *Public Records Matter Involving Nebraska State Patrol*
Our File No. 20261003

Dear Mr. Warwick:

This letter is in response to your public records petition received by this office on February 2, 2026. You asked us to review the Nebraska State Patrol's (NSP) denial of your December 24, 2025, public records request, in which you sought records related to a traffic stop. Our review of this matter is strictly limited to the denial of your public records request, which we have examined in accordance with the Nebraska Public Record Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2024). Our conclusions are detailed below.

RELEVANT FACTS

Our understanding of the facts comes from your January 10, 2026, complaint to our office, the documents provided with your February 2, 2026, petition, and information we received from NSP Agency Legal Counsel Mark L. Boyer, regarding your request.

On December 22, 2025, you were stopped by Trooper Sauser for driving without a functioning headlight during the evening hours. You state the traffic stop lasted approximately thirty-five minutes, during which you were issued a warning ticket. On December 24, 2025, you submitted a public records request to the NSP seeking body camera footage, dash camera footage, dispatch audio recordings, radio communications, CAD logs, reports, timing records, and K-9 deployment records associated with this traffic stop. NSP Attorney Michael Wehling responded to your request on January 5, 2026. He identified that the NSP had some responsive records, including the warning ticket, a CAD report, dispatch audio, and video footage connected to the event. However, the NSP denied your request under Neb Rev. Stat. 84-712.05(5) because the responsive records are investigatory.

You are concerned that the NSP's response may have improperly denied you access to public records that are necessary to evaluate the legality of the stop and detention. You requested that our office review the matter to determine whether the NSP properly withheld the requested records.

DISCUSSION

Neb. Rev. Stat. § 84-712 sets out the basic rule for access to public records in Nebraska. That statute provides, in pertinent part:

Except as otherwise expressly provided by statute, all residents of this state and all other persons interested in the examination of the public records as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

Public records, "include all records and documents, regardless of physical form, of or belonging to this state..." or any state agency "[e]xcept when any other statute expressly provides that particular information or records shall not be made public..." Neb. Rev. Stat. § 84-712.01(1). In Nebraska, access to public records is broad, but not absolute. Neb. Rev. Stat. § 84-712.05 currently contains twenty-nine categories of records that may be withheld at the discretion of the records custodian. The burden of showing that a statutory exception applies to the disclosure of records rests upon the custodian of these records. *State ex rel. BH Media Grp., Inc. v. Frakes*, 305 Neb. 780, 788, 943 N.W.2d 231, 240 (2020); *Aksamit Res. Mgmt. LLC v. Nebraska Pub. Power Dist.*, 299 Neb. 114, 123, 907 N.W.2d 301, 308 (2018).

In this case, the NSP relied on § 84-712.05(5) to withhold responsive records. This exception allows a public body to lawfully withhold

[r]ecords 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....

“Statutory language is to be given its plain and ordinary meaning, and an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous.” *Aksamit Res. Mgmt. LLC*, 299 Neb. at 123, 907 N.W.2d at 308. Further, the Nebraska Supreme Court has clarified that

[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).

Based on the plain language of the exception, the relevant precedent, and in line with past determinations made by this office,¹ the requested records fall squarely within § 84-712.05(5). The NSP is a law enforcement agency whose primary duty is “the enforcement of the traffic and motor vehicle laws of the State of Nebraska and the handling of traffic within the state” Neb. Rev. Stat. § 81-2004 (2024). NSP officers have the duties “[o]f peace officers for the purpose of enforcing . . . the Nebraska Rules of the Road” Neb. Rev. Stat. § 81-2005(1). The withheld records were developed by the NSP during its investigation into a violation of the Nebraska Rules of the Road, specifically a non-functioning headlight violation.

¹ See *File No. 2025-1009; Nebraska State Patrol, Jason Schwarting, Petitioner* (February 10, 2025); *File No. 2024-1201; Omaha Police Department, Drake Brown, Petitioner* (November 1, 2024); *File No. 2024-1105; Lincoln Police Department, Joel Feistner, Petitioner* (June 14, 2024).

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CONCLUSION

For the reasons discussed above, we conclude that the NSP's denial of your public records request was lawful. As a result, no further action by this office is necessary, and we are closing this file. If you disagree with our analysis, you may wish to discuss this matter with a private attorney to determine what additional remedies, if any, are available to you under these statutes.

Sincerely,

MIKE HILGERS
Attorney General



Ben Kinnison
Assistant Attorney General

c: Mark L. Boyer (via email only)

37-049