



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

RYAN D. BAKER
ASSISTANT ATTORNEY GENERAL

March 10, 2026

Via email: [REDACTED]

James Edwards
[REDACTED]

RE: *Public Records Matter Involving the Scottsbluff Police Department*
Our File No. 20261020

Dear Mr. Edwards:

This letter is in response to your petition received by this office on February 23, 2026, in which you sought our review of your public records requests submitted to the Scottsbluff Police Department (“SPD”) on various dates in 2025 seeking body camera and audio recordings relating to an encounter with SPD officers involving a third party. 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 communications with SPD Chief of Police Krisa Brass. On September 2, 2025, you submitted a public records request to the SPD requesting “to see or hear the public servant’s body cam” in order to listen to a conversation between you and an SPD officer during an encounter on June 19, 2025. You also requested a recording of the “conversation [you] had with the communications center when [you] made the call” for assistance from law enforcement. On September 3, 2025, Chief Brass responded to your request on behalf of the SPD and withheld the requested records under § 84-712.05(5) because the “records requested constitute part of an examination or investigation by the Scottsbluff Police Department following a citizen complaint or inquiry and can contain information obtained for the investigation or examination.”

Following the SPD's denial of your first request, you submitted additional requests to the SPD. On October 22, 2025, you requested the same body camera footage and communications center recording relating to the June 19, 2025, encounter with SPD officers. In a letter dated October 27, 2025, the SPD also denied this request on the grounds that § 84-712.05(5) permitted the withholding of the requested records. You thereafter submitted a third request on December 14, 2025, seeking the same body camera recordings, and on December 19, 2025, the SPD denied this request on the same grounds.

The undersigned contacted Chief Brass on March 2, 2026, for additional information regarding your petition. Chief Brass first advised that in October 2025 she "had email and phone conversations" with you regarding your request and that the SPD "invited [you] to the police department and let [you] watch the body camera footage containing the part where [you made] the statement to the officer." Chief Brass also confirmed that the SPD remained in possession of the body camera footage but was not the custodian for any recordings of communications with the Scotts Bluff County Consolidated Communications Center.¹

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

¹ It is our understanding you received a copy of the requested recording from the communications center.

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.² These determinations have included recordings of law enforcement encounters.³ 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

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>.

³ 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).

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).

Turning to the requested body camera footage, there is no question that the SPD is a law enforcement agency charged with duties of investigation of persons, institutions, and businesses. See Neb. Rev. Stat. § 16-225 (2022) (authorizing formation of police department by cities of the first class). As discussed above, Chief Brass indicated that the encounter on June 19, 2025, occurred following the SPD's receipt of a citizen complaint. An officer was subsequently dispatched to your residence in response to this complaint, and the recording captured your statement taken by the officer at the scene. Based on the information provided by Chief Brass, we conclude that the requested body camera recordings were developed in connection with the SPD's investigation into the events occurring at your residence on June 19, 2025. Consequently, the SPD's denial of your records request was permissible under the NPRS.

Finally, we will take this opportunity to address certain statements you made in your petition. First, you indicated you would like certain criminal charges against another individual to be dropped. Our office's authority under the NPRS is limited to determining whether a record may be withheld from public inspection or whether the public body which is the custodian of the record is in compliance with the law. This office has no authority to consider matters outside of those issues. Second, you stated "since it's me on the recordings, I'd like to watch/listen to hear exactly what I said just to be clear but again No one has ever try [*sic*] to get ahold of me to speak with me." Your statement is contrary to information we received from Chief Brass, who indicated you were invited to watch a portion of the body cam footage and did, in fact, do so.

CONCLUSION

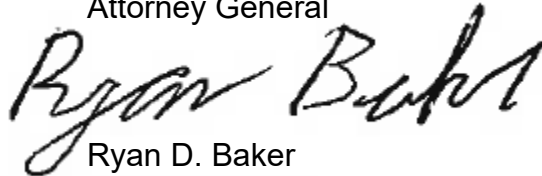
For the reasons set forth above, we conclude that the SPD did not unlawfully deny you access to the requested public records. As a result, no further action by this office is warranted, and we are closing this file. If you disagree with our findings set out in this

James Edwards
March 10, 2026
Page 5

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 that reads "Ryan Baker". The signature is written in a cursive, flowing style.

Ryan D. Baker
Assistant Attorney General

c: Chief Krisa Brass (via email only)

55-117