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April 7, 2026

Via email: [REDACTED]
Thomas Colnot

RE: *Public Records Matter Involving the Madison County Sheriff's Office*
Our File No. 20261030

Dear Mr. Colnot:

This letter is in response to your petition received by this office on March 23, 2026, in which you sought our review of your public records request submitted to the Madison County Sheriff's Office on March 20, 2026, seeking various records relating to the Lacey Anderson case. 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 Madison County Sheriff Todd Volk. On March 20, 2026, you submitted a public records request to the Madison County Sheriff's Office seeking several categories of records relating to the investigation into the death of Lacey Anderson in 2009. Specifically, you requested the following:

1. The complete case file, including all supplemental reports, follow-up investigation reports, and case summaries.
2. The initial incident report and any amended or supplemental incident reports.
3. All witness statements, whether written or transcribed, including any audio or video recordings of witness interviews.

4. All statements taken from persons of interest or suspects, including any audio or video recordings of interrogations or interviews.
5. The autopsy report and any supplemental reports from the forensic pathologist or medical examiner, including toxicology reports. . . .
6. All scene-of-crime evidence reports, including crime scene photographs, crime scene sketches or diagrams, and evidence collection logs.
7. All forensic laboratory reports, including but not limited to DNA analysis, fingerprint analysis, ballistics analysis, blood spatter analysis, and any other forensic testing results, whether performed by the Nebraska State Patrol Crime Laboratory or other forensic service providers.
8. All dispatch records, CAD (Computer-Aided Dispatch) logs, and 911 call recordings related to the incident.
9. Any inter-agency correspondence or communications related to the case, including communications with the Madison County Attorney's Office, the Nebraska State Patrol, and any other state or federal agencies.
10. Canvass reports and neighborhood investigation records.
11. Any surveillance footage or photographic evidence obtained during the investigation.
12. All search warrants, affidavits in support of search warrants, and returns on search warrants.
13. Any arrest warrants, probable cause affidavits, or charging documents.
14. Internal memoranda, detective notes, and investigative timelines related to the case.
15. Any records reflecting the current status of the case (e.g., open/cold, closed, cleared by arrest, exceptionally cleared).

On March 23, 2026, Sheriff Volk responded to your request, stating that “[t]he Madison County Sheriff’s Office is unable to release any information, in regards to the on-going investigation, of which you requested.” Sheriff Volk’s email listed Neb. Rev. Stat. § 84-712.05(5) as the underlying justification for the denial of your records request.

You thereafter submitted a follow-up letter to Sheriff Volk on March 23, 2026, challenging the denial of your records request. You asserted that the Madison County

Sheriff's Office had not sufficiently established the applicability of the investigative exception at § 84-712.05(5) in its response to your request and noted the statute's carve out for records pertaining to the presence of drugs and/or alcohol in any person's bodily fluids. You further claimed that Sheriff Volk's characterization of the investigation as ongoing was inaccurate and could not "justif[y] blanket withholding of the entire case file." Following receipt of your letter, Sheriff Volk responded via email that same day, stating that he had "reviewed your response and come to the conclusion that all records, of the Madison County Sheriff's Office, that you requested, are exempt."

On March 26, 2026, the undersigned contacted Sheriff Volk regarding your request. He reiterated that the investigation into Lacey Anderson's death remained ongoing and maintained that the requested records for which his office was the custodian were developed in connection with his office's investigation into Ms. Anderson's death. Of the documents requested, Sheriff Volk confirmed to the undersigned that his office was not the custodian for records responsive to items 5 and 7 on the list of records in your initial request, stating that "the Madison County Sheriff's Office holds no Autopsy reports, including toxicology reports," and no forensic laboratory reports.

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). Consequently, it is the burden of the Madison County Sheriff's Office 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 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).

With respect to your record request, there is no question that the Madison County Sheriff's Office is a law enforcement agency charged with duties of investigation of persons, institutions, and businesses. See Neb. Rev. Stat. § 23-1701.02 (2022) (charging county sheriffs with the duty to "apprehend, on view or warrant, and bring to the court all felons and disturbers and violators of the criminal laws of this state . . . and generally to keep the peace in his or her proper city"). As discussed previously, Sheriff Volk indicated that the requested records of or belonging to his office were developed during the course of the investigation into the death of Ms. Anderson. Given the information provided by Sheriff Volk and our review of relevant Nebraska law, we conclude that the requested records within the custody of the Madison County Sheriff's Office may be withheld under § 84-712.05(5). For the "autopsy report," "any supplemental reports," "toxicology reports," and "forensic laboratory reports" described in items 5 and 7 of your request, Sheriff Volk stated that the likely custodian for such records is Pierce County, Nebraska.

Turning to the concerns raised in your petition to our office and in your follow-up letter to Sheriff Volk, we will take this opportunity to address them. First, we note the emphasis placed on the ongoing nature of the investigation into Ms. Anderson's death in this matter. However, as our office has recognized, the NPRS does not place any weight on the status of an investigation for the records developed therefrom to be withheld.³ We do not see cause to depart from our position that the status of an investigation is irrelevant to the question of whether records may or may not be withheld.

Second, you expressed concerns that the Madison County Sheriff's Office "has not explained why it has chosen to exercise this discretion against disclosure in a case where the substantial public interest in resolving an unsolved homicide is manifest and where the family has publicly expressed frustration with the lack of progress over sixteen years." However, the NPRS do not require that a public body justify its exercise of discretion to withhold requested records beyond establishing by clear and convincing evidence that one of the enumerated exceptions set forth in § 84-712.05 applies. See *Evertson v. City of Kimball*, 278 Neb. at 7-8, 767 N.W.2d at 758-59. Once the sheriff's office established that an exception applied, it did not need to further justify the decision to withhold the requested records.

As a final matter, we note that Sheriff Volk's denial of your records request did not contain all of the information required by the NPRS when a public body denies a records

³ See, e.g., *File No. 2026-1001; Wayne Police Department; Juston Simeon, Petitioner* (January 20, 2026), and *File No. 2025-1159; Gering Police Department; Lindsey Anetsberger, Petitioner* (December 29, 2025).

request from the public. Pursuant to § 84-712.04(1), a public body denying a records request must provide the following information to the requester:

(a) **A description of the contents of the records withheld and a statement of the specific reasons for the denial, correlating specific portions of the records to specific reasons for the denial, including citations to the particular statute and subsection thereof expressly providing the exception under section 84-712.05 relied on as authority for the denial;**

(b) The name of the public official or employee responsible for the decision to deny the request; and

(c) Notification to the requester of any administrative or judicial right of review under section 84-712.03.

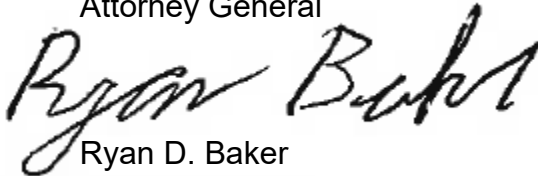
(Emphasis supplied.) We will remind the Madison County Sheriff's Office, by providing Sheriff Volk with a copy of this disposition letter, that a denial of a records request under the NPRS must contain all information required by § 84-712.04(1).

CONCLUSION

For the reasons set forth above, we conclude that the Madison County Sheriff's Office 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: Sheriff Todd Volk (via email only)