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Office of the Attorney General

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MIKE HILGERS
ATTORNEY GENERAL

RYAN D. BAKER
ASSISTANT ATTORNEY GENERAL

June 4, 2026

Via email: [REDACTED]
Abdibasid Abukar

RE: *Public Records Matter Involving the Columbus Police Department*
Our File No. 20261050

Dear Mr. Abukar:

This letter is in response to your petition received by this office on May 20, 2026, in which you sought our review of your public records request submitted to the City of Columbus Police Department ("CPD") on May 13, 2026, seeking records relating to "the May 27, 2025, homicide of Anhil David Mirabal Hernandez involving Manuel Mesa Cabrera in Columbus, Nebraska." 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 CPD Captain Douglas Molczyk. On May 13, 2026, you submitted a public records request to the CPD seeking various records relating to the homicide of Mr. Hernandez, including:

- Interrogation recordings and transcripts
- Body-worn camera footage from all officers present
- All photographs related to the incident
- All incident reports, supplemental reports, and investigative reports
- Surveillance/CCTV footage from all cameras in the vicinity
- 911 call recordings and transcripts

You also requested the response include the corresponding identifiers “[i]f any responsive material is indexed under a specific case number, CAD number, property/evidence number, or supplemental report.”

The CPD denied your request via letter on May 13, 2026. In pertinent part, the CPD denied your request on the basis that the requested records were “exempt material[s] under Neb. Rev. Stat. 84-712.05,” relying on the exception set forth in § 84-712.05(5). Per the CPD’s letter, this denial came at the direction of Captain Molczyk.

On May 18, 2026, you submitted a second letter to the CPD seeking additional information and clarification regarding the CPD’s denial of your public records request. You stated that the CPD’s response did not “explain which specific requested records you contend fall within” § 84-712.05(5), “whether the asserted basis applies equally to every category requested, or whether any non-exempt portions can be produced.” You also requested clarification regarding the categorical applicability of the investigative records exception when “public reporting indicates Manuel Mesa Cabrera pleaded guilty in February 2026 and was sentenced in Platte County District Court on April 30, 2026 to 95 years to life.” You further asked the CPD:

Please provide a more particularized response identifying, category by category, what is being withheld and why. At a minimum, please address separately whether the [CPD] is withholding or can release, in full or in redacted form, the following: incident and supplemental reports, photographs, Walmart surveillance footage, 911 recordings and CAD/dispatch materials, and interrogation recordings or transcripts.

Please also produce any reasonably segregable non-exempt material, including any portions that have already been described in open court or otherwise publicly disclosed, and any records that can be released with redactions instead of withheld in full.

The CPD provided a second response via letter dated May 19, 2026, in which it “affirm[ed] its original denial in full” pursuant to § 84-712.05(5). With respect to the specific categories of records denied, the letter stated:

1. Incident and Supplemental Reports: These records contain the detailed investigative findings, witness identifications, and evidentiary analysis compiled by officers during the investigation. Disclosure would reveal investigative techniques and source information.
2. Photographs: Photographs taken during the investigation constitute part of the evidentiary record and contain graphic depictions of crime scene conditions. They are exempt as investigative records and their release could implicate the dignity interests of victims.

3. Wal-Mart Surveillance Footage: This footage was obtained during the course of the investigation and forms part of the evidentiary record presented in the criminal proceedings. Notwithstanding the public nature of those proceedings, the footage itself remains an investigative record in the custody of this Department and is exempt under § 84-712.05(5).
4. 911 Recordings and CAD/Dispatch Materials: These records reflect the real-time law enforcement response to the incident, including officer deployment details, tactical communications, and information about complainants and witnesses. They are exempt as investigative and operational records.
5. Interrogation Recordings or Transcripts: These records capture custodial interviews conducted as part of the investigation and prosecution. Their disclosure could affect the integrity of any remaining proceedings, appellate review, or collateral matters, and they remain exempt under § 84-712.05(5).

The CPD further asserted that “the conclusion of criminal proceedings at the trial court level does not automatically render investigative records subject to public disclosure,” indicating that “Mr. Mesa Cabrera entered a guilty plea and none of these items were disclosed in open court.” The CPD finally advised that “[r]egarding your reference to information described in open court[,] statements made in open court proceedings are part of the court record and may be obtained through the Platte County District Court” and that the CPD “is not the custodian of court records and is not in a position to reproduce or authenticate representations made in judicial proceedings.”

Following our office’s receipt of your petition, the undersigned contacted Captain Molczyk for additional information regarding this matter. Captain Molczyk stated that the CPD maintains its position that the records withheld were properly withheld pursuant to § 84-712.05(5). Captain Molczyk further advised that the CPD did not disclose any records in open court.

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 categories of records are properly considered public records under 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 CPD'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

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>.

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 CPD 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 departments by cities of the first class). As described above, Captain Molczyk advised that the records responsive to your request were developed in connection with the CPD's investigation into the shooting and death of Mr. Hernandez occurring in May 2025. Per the descriptions provided by Captain Molczyk, these records document several facets of the CPD's investigation and gathering of evidence relating to this matter. Given the information provided to us, we conclude that the CPD adequately established that these public records constitute investigative records able to be withheld pursuant to § 84-712.05(5).

While not directly included in your petition, you raised concerns in your correspondence with Captain Molczyk regarding the status of the CPD's investigation and the criminal case against Mr. Mesa Cabrera at the time of your request. The plain text of § 84-712.05(5) does not contemplate whether an investigation or any corresponding court case is ongoing or completed at the time of the request. The CPD must only show that "(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." See *Jacob v. Nebraska Bd. of Parole*, 313 Neb. at 125, 982 N.W.2d at 829. We conclude that the CPD has satisfied this burden and established that the requested records may be withheld under § 84-712.05(5).

CONCLUSION

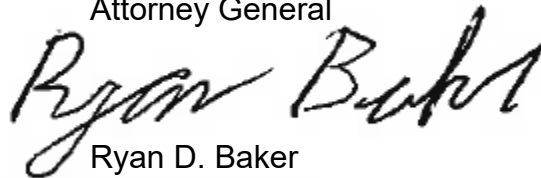
For the reasons set forth above, we conclude that the CPD did not unlawfully deny you access to the requested public records. As a result, no further action by this office is warranted, and we are closing this file. If you disagree with our findings set out in this

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June 4, 2026
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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 style with a large, prominent "R" and "B".

Ryan D. Baker
Assistant Attorney General

c: Captain Douglas Molczyk (via email only)

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