

STATE OF NEBRASKA  
**Office of the Attorney General**

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**DOUGLAS J. PETERSON**  
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December 18, 2018

Via email at [Ian.MacDougall@propublica.org](mailto:Ian.MacDougall@propublica.org)  
Ian MacDougall  
ProPublica  
155 Avenue of the Americas  
New York, NY 10013

RE: *File No.18-R-136; Douglas County Sheriff's Office; Ian MacDougall, Petitioner*

Dear Mr. MacDougall:

This letter is in response to your email correspondence received by this office on December 3, 2018, in which you sought our review of the denial of your public records request by the Douglas County Sheriff's Office ("Sheriff's Office"). When we receive petitions of this nature, our normal practice is to contact the entity involved and advise it of the opportunity to provide a response to this office. In the present case, we contacted Deputy Douglas County Attorney Shane Strong, and on December 17, 2018, we received Mr. Strong's response. We reviewed this matter under Neb. Rev. Stat. § 84-712.03 of the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2014, Cum. Supp. 2016<sup>1</sup>) ("NPRS"), and our findings in this matter are set forth below.

On November 5, 2018, you emailed your records request to Chief Deputy Wheeler of the Sheriff's Office seeking generally records relating "to the traffic stop of Brittany Burton-Hipps on May 2, 2018, by Deputy Andrew Woodward." In response to your request, Mr. Strong indicated that "no public records exist; therefore, your records request is denied. See Neb. Rev. Stat. § 84-712.04(1)(a)." In accordance with that statute, Mr. Strong further advised that Chief Deputy Wheeler denied your request and that you had a right to seek administrative or judicial review under Neb. Rev. Stat. § 84-712.03.

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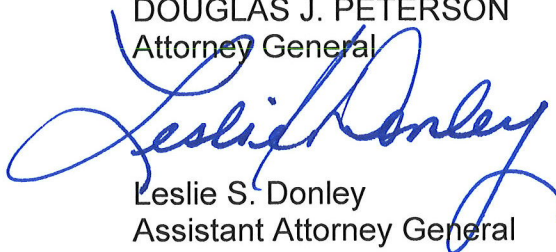
<sup>1</sup> See also 2018 Neb. Laws LB 193; 2018 Neb. Laws LB 859; and 2018 Neb. Laws LB 902.

The requirements in Neb. Rev. Stat. § 84-712.04(1)(a)-(c)<sup>2</sup> apply in those instances when “[a]ny person [is] denied any rights granted by sections 84-712 to 84-712.03” of the NPRS. A representation that no records exist does not constitute a denial, and it was unnecessary for Mr. Strong to provide some of the information required under § 84-712.04 in his response. In any event, we have confirmed that there are no records responsive to your request, and Mr. Strong’s response to you in that regard was appropriate.

Under Neb. Rev. Stat. § 84-712.03(1)(b) of the NPRS, this office is required “to determine whether a record may be withheld from public inspection or whether the public body that is the custodian of such record has otherwise failed to comply with [§§ 84-712 to 84-712.03] . . . .” In the present case, you have not been *denied* access to public records and, consequently, no duty exists to comply with § 84-712.04. Since no further review by this office is warranted, we are closing our file.

Sincerely,

DOUGLAS J. PETERSON  
Attorney General



Leslie S. Donley  
Assistant Attorney General

c: Dep. CA Shane Strong

49-2131-29

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<sup>2</sup> Those provisions require the public body to provide the requester at least the following information in writing:

1. A description of the contents of the records withheld and a statement of the specific reasons for the denial including citations to particular statutes and subsections relied upon as authority for the denial correlated to specific portions of the records at issue.
2. The name of the public employee or official who made the decision to deny the request.
3. Notification to the requester of any administrative or judicial right of review under § 84-712.03.