



June 19, 2019

Alec Ferretti
242 E. 38th Street Apt 2F
New York, NY 10016

RE: Public Records Request – Death Records Index

Dear Mr. Ferretti:

On June 3, 2019, the Department of Health and Human Services (DHHS) received a public records request from you seeking “a copy of the Nebraska Death Index and/or finding aid to deaths, from its onset... to 1968”. The request went on to state that you would like a database extract of death data for all years and for the years that there is not a database, you would like scans and copies of images of the index. The request was for all fields on the death records. The agency originally responded that we do not have an index for death records and that we were withholding access to our database and copies of the information pursuant to Neb. Rev. Stat. § 71-612(1). The agency would like to amend the response to this public records as follows:

1904-1955 index records. We do have an index for the time period from 1904-1955, however, the index does not contain the fields that you have requested. For the time period from 1904-1955, we have a paper copy of our ledger, which we use as an index. The ledger is essentially an oversized book with typed or handwritten entries. The fields on this ledger are: surname, given name, title, soundex code, certificate number, county (which is the county number), and date of death. The ledger does not contain the specific location of death (town), date of birth, or age at death. An image of our index is included for your reference. There are 11 books containing the index and each book is 1000 pages. To the extent that you only want a photocopy or a scan of the index as they currently exist, the cost estimate information is included below.

To the extent that you are wanting an index with specific fields beyond what our records contain, the agency would have to create the document by manually going through each death record and creating an index. Under Nebraska public records laws, we are not required to create a document that doesn't already exist for the sole purpose of complying with a public records request (see Op. Att'y Gen. No. 94092 (November 22, 1994); Op. Att'y Gen. No. 94035 (May 11, 1994); Op. Att'y Gen. No. 87104 (October 27, 1987). As such, DHHS has no responsive records, if you are wanting an index beyond what our records contain.

- **1956-1968 index records.** For the records from 1956-1968, we have an electronic index. However, our index, is essentially a computer screen with fields that can be completed to pull up applicable records. We do not have the same type of index as we do for the records from 1904-1955, nor do we have an index as you described in your public records request. I have attached a screen print of the index from our database.

The agency is able to create an index from the database. However, that index would only contain name, date of death, and county of death. In order to create this index, we would need to modify our computer program to pull these fields. One caveat with this option is that, at the time our electronic index computer system was created, it did not capture nor was there functionality to capture all of the information. Therefore the records entered had character limitations on the first and last name, thus, the index may not reflect the full name, and the only fields that may have been entered were name (character limits), date of death, and county of death. The index that we generate, may have names cut off and may not contain all of those fields. For example, location of death may not have been entered in to the database. This could be because of data entry error or because we did not have the information on the original records. Thus, the record may be incomplete. This option would be the most cost effective for you (see cost estimate below).

If you want agency personnel to verify the accuracy of the electronically generated database (ie: verify or add complete name), or if you want to include any additional fields, such as date of birth, agency staff can do this, however, this will require staff to go manually through each death certificate from that timeframe and manually update the index. The total number of deaths during this time period range from 13,161 in 1956 to 15,107 in 1968. As such, for our cost estimate below, we used 14,000 deaths per year for 13 death years (182,000 deaths). Given the amount of records, we anticipate that a full-time employee could verify 15 deaths per hour, which equates to 933.33 hours per death year (13 death years). If we take that 933.33 hours per death year times the 13 death years, we anticipate that it will take 12,133.33 hours to verify the information. If we hire one temporary employee to complete this task, we anticipate that it will take that employee six years to complete this. If we hire six temporary employees, it would be completed in one year.

The cost estimate for this option is included below.

- **1904-1968 access to death records.** It is my understanding that your request was only for the death index and not for the actual death records. However, to the extent that you are wanting access to the actual death records, DHHS is withholding access to our database and copies of this information pursuant to Neb. Rev. Stat. § 71-612(1), which only permits the release of a certified copy of the record for a proper purpose upon payment of the statutory fee.

Neb. Rev. Stat. § 84-712 expressly qualifies access to public records in its opening sentence: "(1) *Except as otherwise expressly provided by statute ... persons interested in the examination of the public records as defined in section NEB. REV. STAT. § 84-712.01 are hereby fully empowered and authorized to (a) examine such records ... and ... obtain copies of public records*" (Emphasis added). NEB. REV. STAT. § 84-712.01 provides: "(1) *Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state ... or any ... department ... of the foregoing....*" (Emphasis added).

Neb. Rev. Stat. § 71-612(1), governs the release of death records and requires DHHS to release a *certified copy* of any death record to an applicant with a proper purpose as defined by our regulations (173 NAC 3-004) or to provide a copy of a death record for viewing at our office. The fee to obtain a certified copy of a death record or to perform any search for a death record is \$16. Neb. Rev. Stat. § 71-612(6) allows for the use of our death records for statistical or research purposes or permit disclosure of data or records to governmental agencies for their official use. In order to release copies or scans of the death records, you must first provide sufficient proof of meeting the proper purpose threshold required in statute. Documents can be reviewed, but a fee must be paid for each record reviewed and the documents cannot be removed from the premises and copies cannot be made. If you would like to review a document(s), you may do so at our office located at 1033 O Street, Suite 130, Lincoln, NE 68508.

PAPER LEDGER COST ESTIMATE – SCANNING ONLY

Employee Job Title	Hours	Description of Work	Unit Cost	Total Cost
Vital Records Clerk	366.63 total hours; first 4 hours free; TOTAL HOURS: 362.63 hours	Scanning the ledgers (11 books x 1000 pages/book). The ledgers will require two scans per page given the size of the ledger. 11 books x 1,000 pages per book = 11,000 scans x 2 scans per book (due to size; see photo) = 22,000 scans	\$15.98 per hour	\$5,794.83
			TOTAL	\$5,794.83

PAPER LEDGER COST ESTIMATE – PHOTOCOPIES

Employee Job Title	Hours	Description of Work	Unit Cost	Total Cost
Vital Records Clerk	366.63 total hours; first 4 hours free; TOTAL HOURS: 362.63 hours	Photocopying the ledgers (11 books x 1000 pages/book). The ledgers will require two photo copies per page given the size of the ledger.	\$15.98 per hour	\$5,794.83
Photo copies of ledger		11 books x 1,000 pages per book = 11,000 copies x 2 copies per book (due to size; see photo) =22,000 copies x \$.25/copy	\$.25/copy	\$5500
			TOTAL	\$11,294.83

ELECTRONIC INDEX W/O VERIFICATION

Employee Job Title	Hours	Description of Work	Unit Cost	Total Cost
IT staff	5 hours first 4 hours free (1 hour)	Updating computer database to pull digital index	\$32.64/hr	\$32.64
			TOTAL	\$32.64

ELECTRONIC INDEX AND VERIFICATION

Employee Job Title	Hours	Description of Work	Unit Cost	Total Cost
Vital Records Clerk	12,133.33 to verify the 13 death years; first four hours are free	Manually going through each death record (on average 14,00/year) for 13 death years (1956-1968) to verify index information	\$15.98/hr	\$193,890.61
IT staff	5 hours first 4 hours free (1 hour)	Updating computer database to pull digital index	\$32.64/hr	\$32.64
			TOTAL	\$193,923.25

Please note that under public records laws, only first four hours are free. The cost estimates provided are assuming that you only select one option and not multiple options. Depending on the selection(s) that you make, additional costs may be added in for the four hours that has been removed from the options.

Please know that you have ten business days to review the estimated cost, and request that the agency fulfill your request, negotiate with the agency to narrow or simplify your request, or withdraw your request. If you do not respond within ten business days, the agency shall not proceed to fulfill your request.

I would be happy to discuss this with you or answer any questions that you may have. My contact information is included in the email.

Sincerely,

Jaime L. Hegr
Jaime L. Hegr
Attorney, DHHS