

**OPEN RECORDS AND MEETINGS SUMMARY OPINION  
2019-O-14**

DATE ISSUED: July 18, 2019

ISSUED TO: Mandan Police Department

**CITIZEN'S REQUEST FOR OPINION**

This office received a request for an opinion under N.D.C.C. § 44-04-21.1 from S. Paul Jordan asking whether the Mandan Police Department violated N.D.C.C. § 44-04-18 by failing to respond to a record request within a reasonable time.

**FACTS PRESENTED**

S. Paul Jordan sent a letter to the Mandan Police Department, dated April 27, 2019, asking for records identifying which police officer was assigned to a certain vehicle.<sup>1</sup> This request was lost within a stack of paperwork on the Mandan Police Chief's desk and the Department was unaware of the request until contacted by this office for the opinion.<sup>2</sup> It had "simply been lost within other paperwork and [the Chief] had not seen it until June 24, 2019," and was deemed an "unintentional" mistake.<sup>3</sup> The Department emailed Mr. Jordan on June 28, 2019, that no records existed responsive to the request.<sup>4</sup>

**ISSUE**

Whether the Mandan Police Department responded to a records request within a reasonable time.

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<sup>1</sup> Letter from S. Paul Jordan to Jason Ziegler, Chief, Mandan Police Dep't (Apr. 27, 2019).

<sup>2</sup> Email from Jason Bier, Deputy Chief, Mandan Police Dep't, to Att'y Gen.'s Office (June 28, 2019, 12:49 PM).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

### ANALYSIS

When a public entity receives a request for records, it must, within a reasonable time, either provide the records or explain why the records are not being provided.<sup>5</sup> Whether records have been produced within a reasonable time will depend on the facts of a given situation.<sup>6</sup> Numerous past opinions outline situations in which a delay may be appropriate.<sup>7</sup> Here, although unintentional, it took two months to respond that no records existed, which is an unreasonable delay.

### CONCLUSION

Notwithstanding the fact that it appears there was no intentional delay in this case, the Mandan Police Department failed to provide a response to a record request within a reasonable time.

### STEPS NEEDED TO REMEDY VIOLATION

Because a response that no records existed was provided to Mr. Jordan, no further action is required.

Wayne Stenehjem  
Attorney General

sld  
cc: S. Paul Jordan

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<sup>5</sup> N.D.C.C. § 44-04-18.

<sup>6</sup> N.D.A.G. 2018-O-22.

<sup>7</sup> N.D.A.G. 2019-O-02.