

**OPEN RECORDS AND MEETINGS SUMMARY OPINION  
2018-O-27**

DATE ISSUED: December 10, 2018

ISSUED TO: City of Mandan

**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 City of Mandan violated N.D.C.C. § 44-04-18 by failing to respond to a record request.

**FACTS PRESENTED**

On September 24, 2018, Mr. S. Paul Jordan sent an email to Mr. Daniel Nagle, Prosecutor for the City of Mandan, requesting a copy of all citations and any complaint against a Mandan citizen for “violations of MCO Section 6-1-3 and/or Section 6-2-2.”<sup>1</sup>

Mr. Nagle did not initially receive Mr. Jordan’s email.<sup>2</sup> Mr. Nagle explains that he has received numerous emails from Mr. Jordan over the years without issue but for some reason this email was routed to his spam folder.<sup>3</sup> After being contacted by this office, Mr. Nagle immediately replied to Mr. Jordan that no records existed.<sup>4</sup>

**ISSUE**

Whether the City of Mandan violated open records law by failing to respond to a record request.

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<sup>1</sup> Email from S. Paul Jordan to Daniel Nagle, Prosecutor, City of Mandan (Sept. 24, 2018, 4:51 p.m.).

<sup>2</sup> Letter from Daniel Nagle, Prosecutor, City of Manda, to Att’y Gen. Office (Nov. 14, 2018).

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

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

### ANALYSIS

“Except as otherwise specifically provided by law, all records of a public entity are public records, open and accessible for inspection during reasonable office hours.”<sup>5</sup> “Upon request for a copy of specific public records, [public entities] shall furnish the requestor one copy of the public records requested” within a reasonable time.<sup>6</sup> Here, the City of Mandan did not receive a copy of the request as it was unintentionally routed by a spam filter.<sup>7</sup> Upon receiving notification from this office about Mr. Jordan’s request, Mr. Nagle immediately provided a response to the record request. Opinions issued under N.D.C.C. § 44-04-21.1 must be based on the facts given by the public entity.<sup>8</sup> I therefore find the City of Mandan did not violate open records law.

### CONCLUSION

The City of Mandan did not violate open records law because it promptly responded to the open records request when it was received.

Wayne Stenehjem  
Attorney General

sld  
cc: S. Paul Jordan

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<sup>5</sup> N.D.C.C. § 44-04-18(1).

<sup>6</sup> N.D.C.C. § 44-04-18(2), (8).

<sup>7</sup> Letter from Daniel Nagle, Prosecutor, City of Mandan, to Att’y Gen. Office (Nov. 14, 2018).

<sup>8</sup> N.D.C.C. § 44-04.21.1.