



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL
www.attorneygeneral.nd.gov
(701) 328-2210

Drew H. Wrigley
ATTORNEY GENERAL

OPEN RECORDS AND MEETINGS OPINION
2025-O-14

DATE ISSUED: September 25, 2025

ISSUED TO: City of Parshall

CITIZEN'S REQUEST FOR OPINION

Toefishing@hotmail.com requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether the City of Parshall violated N.D.C.C. § 44-04-18(2) by not responding to a request for records.

FACTS PRESENTED

On February 2, 2024, an email was sent to cityauditor@restel.com asking the City Auditor of the City of Parshall (City) to provide the City's commercial blanket bond information for public employees and public officials.¹ On February 23, 2024, this office received a request for an opinion claiming there had been no response to the request for bond records.² In response to an inquiry from this office, the City explained that, "[t]he city has not received any emails regarding this request."³ The City Auditor was out of the office from February 2, 2024, to February 12, 2024, and during that time she had an "out of office" message activated. When she returned, she noticed she did not have many emails, and, when she turned off the "out of office" feature, she started to receive new emails but was unable to find any emails from the dates she was not at work.⁴

ISSUE

Whether the City violated the open records law by failing to respond to an unreceived request for records.

¹ Email from j d <toefishing@hotmail.com>, to Kelly Woessner, City Auditor, City of Parshall (Feb. 2, 2024, 11:02 AM).

² Email from j d <toefishing@hotmail.com>, to Mary Kae Kelsch, Gen. Couns. Div. Dir., Off. of Att'y Gen. (Feb. 23, 2024, 4:26 PM).

³ Letter from Kelly Woessner, City Auditor, City of Parshall, to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Mar. 7, 2024).

⁴ Email from Alex Quale, Data Network Tech I, to GWIS Operations, Golden West Techn. (Feb. 15, 2024, 10:51 AM).

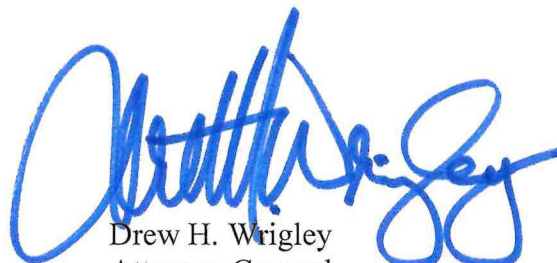
ANALYSIS

“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.”⁵ Additionally, a public entity, “shall furnish the requester one copy of the public records requested.”⁶ Opinions issued by this office must be based on the facts provided by the entity.⁷

Here, the City informed this office that they never received the request for records because of an issue with their email service provider. The City provided this office documentation establishing that they had worked with their email service provider to find the missing emails. As explained in a 2023 opinion, every mode of communication has vulnerabilities,⁸ and, public entities cannot respond to requests they did not receive. This record establishes that the City did not ignore a request for records.

CONCLUSION

An unreceived open records request creates no more of an obligation to respond than does a request that is never sent or communicated. As such, the City of Parshall did not violate the open records law in this instance.



Drew H. Wrigley
Attorney General

MEO

cc: j d <toefishing@hotmail.com>

⁵ N.D.C.C. § 44-04-18(1).

⁶ N.D.C.C. § 44-04-18(2).

⁷ N.D.C.C. § 44-04-21.1.

⁸ N.D.A.G. 2023-O-08 (finding that no violation of the open records laws when the entity did not violate the open records law when they failed to respond to a request for records they did not receive).