



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-16**

DATE ISSUED: December 2, 2025

ISSUED TO: West Fargo Police Department

**CITIZEN'S REQUEST FOR OPINION**

Levi Mayo requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether the West Fargo Police Department violated N.D.C.C. § 44-04-18 by providing an excessive cost estimate of compliance with an open records request.

**FACTS PRESENTED**

On December 28, 2022, Levi Mayo submitted a records request to the West Fargo Police Department (WFPD) seeking the WFPD's policy and procedure manual and the personnel files for all police officers employed by the WFPD.<sup>1</sup>

According to the WFPD, the policy and procedure manual consists of 78 General Orders containing security plans, criminal intelligence, tactical procedures, and training materials.<sup>2</sup> The WFPD estimated that reviewing and redacting each order would take approximately one hour each.<sup>3</sup> After subtracting the first free hour of review, this portion of the estimate totaled \$1,925.<sup>4</sup>

At the time of the request, the WFPD employed 63 sworn officers.<sup>5</sup> According to the WFPD, the personnel files contain confidential personal information, including background check information and work schedules.<sup>6</sup> The WFPD estimated that reviewing and redacting each file would take approximately one hour each.<sup>7</sup> After subtracting the first hour of review, this portion of the estimate totaled \$1,550.<sup>8</sup>

The total estimated cost of \$3,475 was calculated based on the time needed to review and redact the records for exempt or confidential information.<sup>9</sup> The WFPD issued the estimate before

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<sup>1</sup> Email from Levi Mayo to Brenda K. Hieb, Recs. Specialist, West Fargo Police Dep't (Dec. 28, 2022, 9:43 AM).

<sup>2</sup> Email from Brenda K. Hieb, Recs. Specialist, West Fargo Police Dep't, to Levi Mayo (Jan. 3, 2023, 10:09 AM).

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

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

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

beginning work, and Mr. Mayo did not reduce or clarify his request to lower the anticipated charges.<sup>10</sup>

### ISSUE

Whether the West Fargo Police Department's estimate of charges they claim is necessary to respond to a records request complies with N.D.C.C. § 44-04-18.

### 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>11</sup> A public entity may charge a fee for responding to an open records request only if the charge is specifically authorized by law.<sup>12</sup> N.D.C.C. § 44-04-18(2), provides that a public entity may charge “a fee not exceeding twenty-five dollars per hour per request, excluding the initial hour, for excising confidential or closed material.”<sup>13</sup> The statute also permits a public to require payment from the requester prior to locating, redacting, making, or mailing records.<sup>14</sup>

Mr. Mayo's request included two broad categories of records: (1) the WFPD's policy and procedure manual, consisting of 78 General Orders, and (2) the personnel files for all 63 sworn officers.<sup>15</sup> The WFPD claims that the high estimate reflects the large volume of records and the need to conduct a detailed review of each document to identify and redact confidential or exempt information.<sup>16</sup> According to the WFPD, the policy documents include security plans and criminal intelligence information, such as tactical procedures and training materials related to prospective criminal activities.<sup>17</sup> The personnel files contain personal information, background check information, and work schedules that are exempt from disclosure under the open records law.<sup>18</sup>

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<sup>10</sup> *Id.*

<sup>11</sup> N.D.C.C. § 44-04-18(1).

<sup>12</sup> N.D.C.C. § 44-04-18.

<sup>13</sup> N.D.C.C. § 44-04-18(2).

<sup>14</sup> *Id.*

<sup>15</sup> Email from Levi Mayo to Brenda K. Hieb, Recs. Specialist, West Fargo Police Dep't (Dec. 28, 2022, 9:43 AM); Email from Brenda K. Hieb, Recs. Specialist, West Fargo Police Dep't, to Levi Mayo (Jan. 3, 2023, 10:09 AM); Letter from Denis E. Otterness, Chief of Police, West Fargo Police Dep't, to Annique M. Lockard, Assistant Att'y Gen., Office of Att'y Gen. (Feb. 27, 2023).

<sup>16</sup> Letter from Denis E. Otterness, Chief of Police, West Fargo Police Dep't, to Annique M. Lockard, Assistant Att'y Gen., Office of Att'y Gen. (Feb. 27, 2023).

<sup>17</sup> Letter from Denis E. Otterness, Chief of Police, West Fargo Police Dep't, to Annique M. Lockard, Assistant Att'y Gen. Off. of Atty, Gen. (Feb. 27, 2023). N.D.C.C. 44-04-18.7(3) (active criminal intelligence information is an exempt record); N.D.C.C. § 44-04-24 (exemption of security system plan); N.D.C.C. § 44-04-25 (exemption of public health and security plans).

<sup>18</sup> Letter from Denis E. Otterness, Chief of Police, West Fargo Police Dep't, to Annique M. Lockard, Assistant Att'y Gen. Off. of Atty, Gen. (Feb. 27, 2023). N.D.C.C. § 44-04-18.1(2) (exemption of public employee's personal information contained in a personnel record); N.D.C.C.

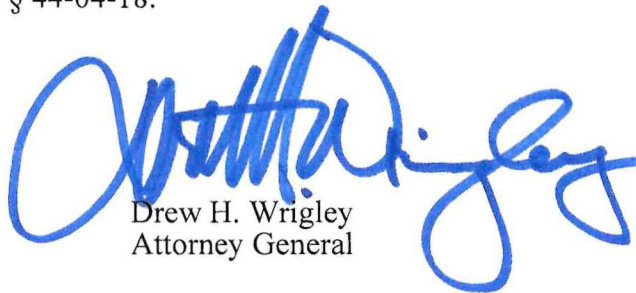
The WFPD estimated that reviewing and redacting 78 General Orders and 63 personnel files would take approximately one hour per document. After subtracting the first two free hours, the WFPD estimated it would cost \$3,475 (139 hours x \$25) to respond to the records request.<sup>19</sup>

A public entity may charge up to twenty-five dollars per hour, excluding the first hour, for time spent redacting confidential or close information, and may require advance payment.<sup>20</sup> Based on this authority, the WFPD provided Mr. Mayo with a cost estimate of \$3,475 for the anticipated time to review and redact the requested records. An entity may only assess specific charges allowed by law and an estimate provided to a requester must be based only on legally chargeable fees.<sup>21</sup> Methods of providing access or copies that are unnecessarily costly should be avoided because that can effectively deny access to public records.<sup>22</sup> Any opinion issued pursuant to N.D.C.C. § 44-04-21.1 must base the opinion on the facts provided by the public entity.<sup>23</sup> Because the estimate provided by the WFPD was based on charges authorized by law, no violation of the open records law occurred.<sup>24</sup>

Requesters retain the right to narrow or clarify their requests to reduce costs. Nevertheless, Mr. Mayo declined to narrow his request.

#### CONCLUSION

The West Fargo Police Department properly estimated the allowable charges in this matter and, therefore, did not violate N.D.C.C. § 44-04-18.



Drew H. Wrigley  
Attorney General

AMR/mjh

cc: Levi Mayo

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44-04-18.3(1), (3) (providing law enforcement personnel records containing telephone numbers and home addresses are confidential and records containing work schedules are exempt); N.D.C.C. § 44-04-18.31 (exemption of background interviews for law enforcement officers).

<sup>19</sup> Email from Brenda K. Hieb, Recs. Specialist, West Fargo Police Dep't, to Levi Mayo (Jan. 3, 2023, 10:09 AM)

<sup>20</sup> N.D.C.C. § 44-04-18(2).

<sup>21</sup> N.D.A.G. 2011-O-12.

<sup>22</sup> N.D.A.G. 2003-O-04.

<sup>23</sup> N.D.C.C. § 44-04-21.1(1).

<sup>24</sup> The estimate is just that, an estimate, so if the actual costs of providing the records is not as estimated, then the West Fargo Police Dep't should refund the difference to the requester.