



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

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ATTORNEY GENERAL

OPEN RECORDS AND MEETINGS OPINION
2026-O-07

DATE ISSUED: March 23, 2026

ISSUED TO: City of Mandan

CITIZEN'S REQUEST FOR OPINION

S. Paul Jordan requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether the City of Mandan failed to respond to an open records request within a reasonable time in violation of N.D.C.C. § 44-04-18.

FACTS PRESENTED

On September 11, 2023, S. Paul Jordan sent an email to "info@cityofmandan.com" seeking "a copy of all code enforcement related records on my home . . . for the month of May of 2023."¹ Mr. Jordan further requested that the City of Mandan "provide written notification if no such records exist and please provide any legal authority relied up [sic] if part or all of any records I requested will be withheld."² No response was provided to Mr. Jordan.³ On October 5, 2023, Mr. Jordan requested an opinion from this office regarding the City's failure to respond to his records request.⁴

The City did not receive the email sent by Mr. Jordan "as that account remains on our blocked list."⁵ The City intentionally blocked Mr. Jordan's email address from all of the City's email accounts due to "receiving many email requests from Mr. Jordan."⁶ The City sent a certified letter to Mr. Jordan on February 27, 2015, informing him that the City "will no longer respond to

¹ Email from S. Paul Jordan to City of Mandan (Sept. 11, 2023, 10:01 PM).

² *Id.*

³ Letter from Jim Neubauer, City Adm'r, City of Mandan, to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Dec. 22, 2023).

⁴ Email from S. Paul Jordan, to Att'y Gen. Wrigley (Oct. 6, 2023, 1:42 PM).

⁵ Letter from Jim Neubauer, City Adm'r, City of Mandan, to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Dec. 22, 2023).

⁶ Letter from Jim Neubauer, City Adm'r, City of Mandan, to William D. Woodworth, Assistant Att'y Gen., Off. of Att'y Gen. (Jan. 13, 2026).

record requests made via email.”⁷ However, the City communicated it would reply to record requests “in person or in writing.”⁸ Mr. Jordan received the letter on February 28, 2015.⁹

After this office communicated with the City regarding the request for an opinion, the City responded to Mr. Jordan on December 29, 2023, indicating that there were no records responsive to the request.¹⁰

ISSUE

Whether the City violated N.D.C.C. § 44-04-18 by failing to respond to an open records request within a reasonable time when the City provided prior notice and alternative means of communication before blocking an email address.

ANALYSIS

The City is a public entity that is subject to the open records law.¹¹ “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.”¹² Once a records request is made, the public entity “shall furnish the requester one copy of the public records requested.”¹³ But “public entities cannot respond to requests they did not receive.”¹⁴ “An unreceived open records request creates no more of an obligation to respond than does a request that is never sent or communicated.”¹⁵ Generally, “[a]n initial request need not be made in person or in writing.”¹⁶ However, a public entity is also not required to receive record requests submitted by email if it provides notice and an alternative option for making requests.¹⁷ As this office has explained regarding a prior request by Mr. Jordan:

⁷ Letter from Malcom H. Brown, City Att’y, to Mr. S. Paul Jordan (Feb. 27, 2015); Letter from Jim Neubauer, City Adm’r, City of Mandan, to William D. Woodworth, Assistant Att’y Gen., Off. of Att’y Gen. (Jan. 13, 2026).

⁸ *Id.*

⁹ Letter from Jim Neubauer, City Adm’r, City of Mandan, to William D. Woodworth, Assistant Att’y Gen., Off. of Att’y Gen. (Jan. 13, 2026).

¹⁰ Email from Jim Neubauer, City Adm’r, City of Mandan, to S. Paul Jordan (Dec. 29, 2023 5:28 PM).

¹¹ N.D.C.C. §§ 44-04-17.1(11), (13)(b).

¹² N.D.C.C. § 44-04-18(1).

¹³ N.D.C.C. § 44-04-18(2).

¹⁴ N.D.A.G. 2025-O-14.

¹⁵ N.D.A.G. 2025-O-14.

¹⁶ N.D.C.C. § 44-04-18(2).

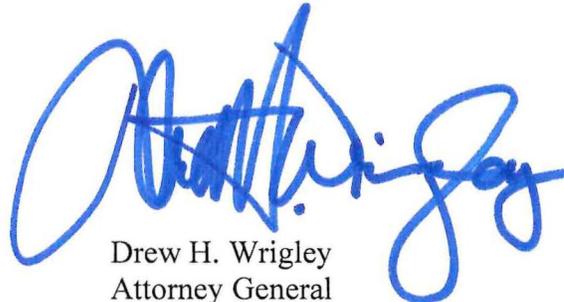
¹⁷ *See* N.D.A.G. 2016-O-08.

Mr. Jordan also alleges that because the DCIL refuses to accept email record requests from him, that it is contributing to the delay. The open records law does not require entities to accept email requests for records, as long as this is communicated to the requestor and alternative means are available to make the record requests. The DCIL informed Mr. Jordan that it would no longer be receiving his requests via email, but was accepting the record requests . . . in person or by telephonic means as allowed pursuant to N.D.C.C. § 44-04-18(2). Mr. Jordan chose to continue sending requests via mail versus in person or by telephone.¹⁸

In this case, Mr. Jordan had previously received notice from the City that it would not accept open record requests from him through email.¹⁹ Mr. Jordan then sent a records request to the City by email, which it did not receive. Because his email was blocked, and Mr. Jordan did not utilize the alternative methods that the City has provided to him for making record requests, the City did not receive his request. It is my opinion that the City did not violate the open record law when it did not reply to a request that it did not receive.

CONCLUSION

The City provided Mr. Jordan with notice and alternative means to make open records requests before blocking his email address. As such, the City did not violate N.D.C.C. § 44-04-18 in this instance because it had no obligation to respond to a request that it did not receive.



Drew H. Wrigley
Attorney General

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cc: S. Paul Jordan

¹⁸ N.D.A.G. 2018-O-23 (internal citations omitted).

¹⁹ Letter from Malcom H. Brown, City Att’y, to Mr. S. Paul Jordan (Feb. 27, 2015); Letter from Jim Neubauer, City Adm’r, City of Mandan, to William D. Woodworth, Assistant Att’y Gen., Off. of Att’y Gen. (Jan. 13, 2026).