



STATE OF NORTH DAKOTA  
**OFFICE OF ATTORNEY GENERAL**

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**Drew H. Wrigley**  
ATTORNEY GENERAL

**OPEN RECORDS AND MEETINGS OPINION**  
**2026-O-10**

DATE ISSUED: June 2, 2026

ISSUED TO: Williams County Sheriff's Office

**CITIZEN'S REQUEST FOR OPINION**

Dustin Hendricks requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether the Williams County Sheriff's Office violated N.D.C.C. § 44-04-18 by improperly withholding records under N.D.C.C. § 12-44.1-28.

**FACTS PRESENTED**

The Williams County Sheriff's Office (Sheriff's Office) received a letter from Dustin Hendricks dated September 27, 2023, "requesting records of all disciplinary and protective management."<sup>1</sup> A response was provided on October 2, 2023, stating "the requested records of all disciplinary and protective management will either be exempt or confidential per N.D.C.C. §§ 12-44.1-28 (5) and 12-44.1-28 (6)."<sup>2</sup> Mr. Hendricks also requested other records in his September 27, 2023, letter which were provided to him within a reasonable time.<sup>3</sup>

On October 19, 2023, Mr. Hendricks timely requested an opinion from this office determining whether the Sheriff's Office properly denied his records request for the disciplinary and protective management records.<sup>4</sup>

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<sup>1</sup> Letter from Verlan Kvande, Sheriff, Williams Cnty. Sheriff's Off., to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen (Jan. 16, 2024).

<sup>2</sup> *Id.*

<sup>3</sup> Letter from Verlan Kvande, Sheriff, Williams Cnty. Sheriff's Off., to Dustin Hendricks (Oct. 2, 2023); Letter from Verlan Kvande, Sheriff, Williams Cnty. Sheriff's Off., to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen (Jan. 16, 2024).

<sup>4</sup> Letter from Dustin Hendricks to Off. of Att'y Gen. (Oct. 19, 2023). Mr. Hendricks specifically cited 5 U.S.C. § 552 for the basis of his request. Letter from Dustin Hendricks to Off. of Att'y Gen. (Oct. 19, 2023). That provision applies to records requests for federal agencies, not state public entities. 5 U.S.C. § 552 ("Each agency shall make available to the public as follows"); 5 U.S.C. § 551(1) ("agency" means each authority of the Government of the United States"). However, this opinion will treat the requests as having been made under N.D.C.C. § 44-04-18 because a requestor does not need to include any legal citation to properly request records under state law. *See* N.D.C.C. § 44-04-21.1(1) (requiring only a request for an opinion).

## ISSUE

Whether the Sheriff's Office violated N.D.C.C. § 44-04-18 when it withheld disciplinary and protective management records for both sentenced and all other inmates under N.D.C.C. § 12-44.1-28.

## ANALYSIS

The Sheriff's Office is a public entity and is subject to the open records law.<sup>5</sup> "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>6</sup> Confidential records are records "expressly declared confidential or [are] prohibited from being open to the public."<sup>7</sup> Exempt records are those records "that [are] neither required by law to be open to the public, nor [are] confidential, but may be open in the discretion of the public entity."<sup>8</sup>

A specific statute addresses institutional discipline and protective management records at correctional facilities.<sup>9</sup> A "sentenced inmate's institutional discipline and conduct and protective management [records] are exempt records."<sup>10</sup> The "[i]nstitutional discipline and conduct and protective management records of all other inmates are confidential records."<sup>11</sup>

In this case, Mr. Hendricks requested records that have specific limitations on their release. For the sentenced inmates whose institutional discipline and protective management records fell within Mr. Hendricks's request, the records are exempt under N.D.C.C. § 12-44.1-28(5). The

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Other records requests by Mr. Hendricks which occurred before his request for an opinion will not be addressed in this opinion because the opinion request was untimely with respect to those records. N.D.C.C. § 44-04-21.1(1) ("A request made under this section must be made within thirty days of the alleged violation . . .").

Other records requests which occurred after Mr. Hendricks's opinion request to this office also will not be addressed because Mr. Hendricks did not request an opinion from this office on the denial of those requests. Letters from Dustin Hendricks to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Jan. 2, 2024, received Jan. 8, 2024; Jan. 2, 2024, received Jan. 9, 2024; Nov. 19, 2024, received Nov. 26, 2024).

<sup>5</sup> N.D.C.C. § 44-04-17.1(13)(b).

<sup>6</sup> N.D.C.C. § 44-04-18(1).

<sup>7</sup> N.D.C.C. § 44-04-17.1(3).

<sup>8</sup> N.D.C.C. § 44-04-17.1(5).

<sup>9</sup> N.D.C.C. § 12-44.1-28.

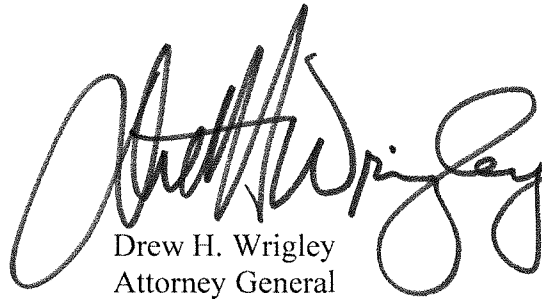
<sup>10</sup> N.D.C.C. § 12-44.1-28(5).

<sup>11</sup> N.D.C.C. § 12-44.1-28(6).

Sheriff's Office therefore had discretion whether to release the records.<sup>12</sup> As for all the other inmates, their records are confidential and cannot be released by the Sheriff's Office.<sup>13</sup>

CONCLUSION

It is my opinion that the Sheriff's Office did not violate N.D.C.C. § 44-04-18 by refusing to release records which are exempt or confidential under N.D.C.C. § 12-44.1-28.



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cc: Dustin Hendricks

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<sup>12</sup> N.D.C.C. § 44-04-17.1(5).

<sup>13</sup> N.D.C.C. § 12-44.1-28(6).