

**OPEN RECORDS AND MEETINGS SUMMARY OPINION
2019-O-04**

DATE ISSUED: April 12, 2019

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 October 23, 2018, Mr. S. Paul Jordan alleges he sent an email to Mandan City Commissioner Mike Braun's personal email account requesting a "copy of five recent emails you received" related to public business.

ISSUE

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

ANALYSIS

"Upon request for a copy of specific public records, any [public entity] shall furnish the requestor one copy of the public records requested" within a reasonable time.¹ In his response to questions from this office, Commissioner Braun states that his personal email account had been hacked and all of his inbound and outbound emails disappeared.² Therefore, Commissioner Braun says he never received Mr. Jordan's request for records.³

¹ N.D.C.C. § 44-04-18(2), (8).

² Letter from Michael Braun, Comm'r, City of Mandan, to Office of Att'y Gen. (Dec. 10, 2018). See also Email from Jim Neubauer, Adm'r, City of Mandan, to Att'y Gen.'s Office (Dec. 20, 2018, 4:35 PM).

³ In addition to a personal "Yahoo" account, Commissioner Braun also has an email address issued by the City of Mandan.

This office must accept the facts of the public entity for the purpose of opinions issued pursuant to N.D.C.C. § 44-04-21.1.⁴

CONCLUSION

The City of Mandan did not violate the open records law because it never received a request for records.

Wayne Stenehjem
Attorney General

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cc: S. Paul Jordan

⁴ N.D.C.C. § 44-04-21.1(1).