

**OPEN RECORDS AND MEETINGS OPINION  
2019-O-07**

DATE ISSUED: May 3, 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 Karen Jordan asking whether the City of Mandan violated N.D.C.C. § 44-04-18 by failing to respond to a request for records within a reasonable time.

**FACTS PRESENTED**

The City of Mandan provided a copy of a complaint regarding overhanging branches/limbs to Ms. Karen Jordan on January 14, 2019.<sup>1</sup> Ms. Jordan sent an email to the City of Mandan on January 23, 2019, regarding the complaint.<sup>2</sup> Interspersed throughout the email were various record requests including a request for a copy of the complaint, records identifying the person who made the complaint, and any photographs.<sup>3</sup> The City of Mandan had already provided a copy of the complaint in its January 14, 2019, correspondence, and had no other records responsive to the request.<sup>4</sup>

**ISSUE**

Whether the City of Mandan responded to a request for records within a reasonable time.

**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>5</sup> Under

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<sup>1</sup> Jan. 14, 2019, complaint; see *also* Letter from Jim Neubauer, Adm'r, City of Mandan, to Att'y Gen.'s Office (Apr. 3, 2019); Email from Karen Jordan to Att'y Gen.'s Office (Feb. 21, 2019, 1:56 PM).

<sup>2</sup> Email from Karen Jordan to City of Mandan (Jan. 23, 2019, 2:47 PM).

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

<sup>4</sup> Letter from Jim Neubauer, Adm'r, City of Mandan, to Att'y Gen.'s Office (Apr. 3, 2019); Email from Jim Neubauer, Adm'r, City of Mandan, to Karen Jordan (Apr. 3, 2019, 8:06 AM).

<sup>5</sup> N.D.C.C. § 44-04-18(1).

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open records law, a public entity is not required to provide more than one copy of a record to the same requestor.<sup>6</sup> As such, the City of Mandan did not need to provide another copy of the complaint to Ms. Jordan.

A public entity must provide a response to a records request within a reasonable time.<sup>7</sup> “A denial of a request for records ... must describe the legal authority for the denial, or a statement that a record does not exist, and must be in writing if requested.”<sup>8</sup> According to the City of Mandan, the correspondence received from Ms. Jordan was presumed to relate to the complaint and only after closer review was the request for additional records noticed.<sup>9</sup> The City of Mandan had no other records responsive to the request, but this information was not relayed to Ms. Jordan until April 3, 2019, more than two months later.<sup>10</sup> While I appreciate the amount of correspondence received by the City of Mandan from Ms. Jordan and Mr. Jordan, the City still has a duty to review correspondence it receives for open record requests and respond accordingly. It is therefore my opinion that the City of Mandan failed to respond within a reasonable time by not informing the requester that it did not have the records.

### CONCLUSION

The City of Mandan failed to respond to a request for records within a reasonable time.

### STEPS NEEDED TO REMEDY VIOLATION

As all records were ultimately provided and a response made, no further actions is required.

Wayne Stenehjem  
Attorney General

sld

cc: Karen Jordan

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<sup>6</sup> N.D.C.C. § 44-04-18(2); N.D.A.G. 2015-O-14; N.D.A.G. 2014-O-10.

<sup>7</sup> N.D.C.C. § 44-04-18(8).

<sup>8</sup> N.D.C.C. § 44-04-18(7).

<sup>9</sup> Letter from Jim Neubauer, Adm'r, City of Mandan, to Att'y Gen.'s Office (Apr. 3, 2019).

<sup>10</sup> *Id.*; see also Email from Jim Neubauer, Adm'r, City of Mandan, to Ms. Jordan (Apr. 3, 2019, 8:06 AM).