



Open Records and Open Meetings Training

Thursday, June 25, 2026, at 11:00 AM

City Council Chambers, City Hall (10 3rd Ave SW)

Any person needing special accommodation for the meeting is requested to notify the City Clerk's office at 857-4752.

A quorum of the City Council may be in attendance at the Open Records and Open Meetings Training.

A vertical graphic on the left side of the banner features a background of blue silhouettes of various people's heads and shoulders, arranged in a dense, overlapping pattern. The background of the entire banner is a solid blue color with a subtle geometric pattern of triangles.

Stephen Hanson
North Dakota Attorney General Office

In-person, informational course:
**Open Records
+ Open Meetings**

Minot City Hall - Council Chambers
Thursday, June 25 at 11:00 a.m.

Open Records and Open Meetings



Stephen Hanson
Assistant Attorney General
North Dakota Attorney General's Office

Disclaimer

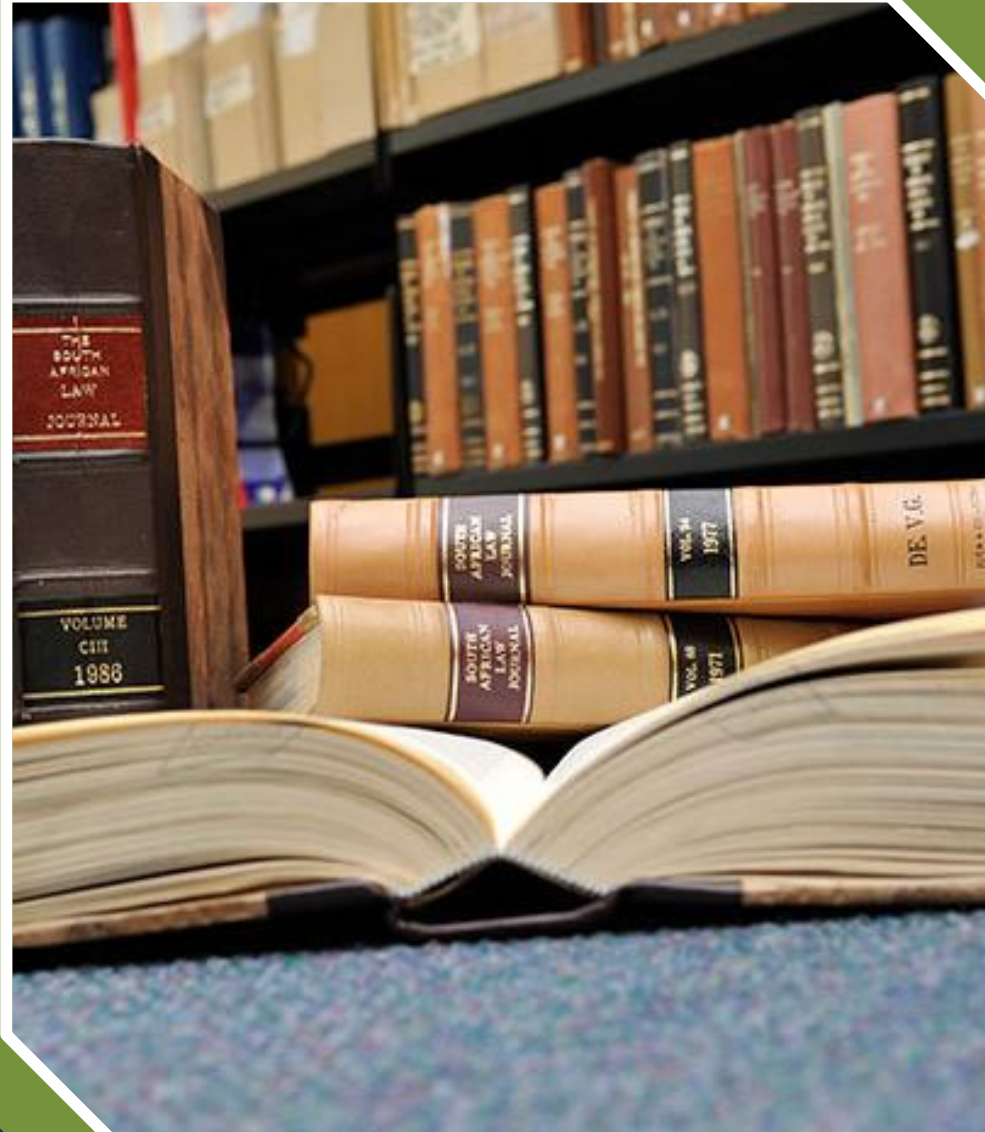
This presentation is not intended as legal advice.

The information and commentary provided in this presentation and any comments or materials provided are for educational purposes only and should not be considered legal advice.

Please consult with your public entity's attorney for legal counsel as needed.

Presentation Goals

- Identify key definitions applicable to open record and open meeting laws.
- Describe how to properly post notice of regular and special meetings.
- Explain the reasons for, and how to properly enter, an executive session.
- Explain the proper protocol for responding to open record requests.
- Review the Attorney General's opinion process and potential penalties for open record and open meeting violations.
- Identify law enforcement exemptions to open record laws.



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Open Records & Open Meetings

Primary Sources

- ND Constitution Article 11
- N.D.C.C. Chapter 44-04

Secondary Sources

- North Dakota Attorney General Opinions
- North Dakota Supreme Court Cases



Open Meetings

What is a meeting?

A **quorum** of
a **governing body**
of a **public entity**
discussing **public business**
is an Open Meeting.

What is a quorum?

One-half or more of the members of the governing body, or any smaller number if sufficient for a governing body to transact business on behalf of the public entity.

Reminder

Meetings can happen...

- By conference call;
- On very short notice;
- Over video conference; or
- At a restaurant

anywhere a quorum is present.

Open Meeting Exceptions

- Chance or social gatherings where no public business is considered or discussed.
- Emergency operations during a disaster or emergency declared under section 37-17.1-10 or an equivalent ordinance if a quorum of the members of the governing body are present but are not discussing public business as the full governing body or as a task force or working group.
- Attendance at meetings of national, regional, or state associations.
- Training seminars where no public business is discussed.

Meetings includes Committees

- Committee: **Two or more people** acting collectively pursuant to authority delegated to that group by the governing body.
 - *Includes delegation of any public business, including information gathering.*

Key questions:

- Did the governing body delegate any sort of authority?
- Is the committee doing something the governing body could do itself?

Reminder

It does not matter...

- If the committee does not have final authority;
- If the committee is just “brainstorming” or “fact-finding;”
- If the committee is only intended to recommend something to the governing body;
- If the subject being discussed is not a subject within the authority delegated to the committee.

...a quorum of a committee is still a meeting.

Two Kinds of Meetings

Regular Meetings

- Set by filing yearly schedule.
 - *Must still create agenda for each meeting.*
- May discuss items not on the agenda at the meeting.
- Agenda should contain all topics known at the time the agenda is drafted but may contain some boilerplate or catch-all items (i.e. “Committee Reports”).

Special Meetings

- Can **only discuss the items on the published agenda.**
- Agenda must be specific (no “catch-all” entries such as “old business”).

Access to Meetings

- If a meeting is held in-person, the meeting room must be accessible to, and the size of the room must accommodate, the number of persons reasonably expected to attend the meeting.
- If the meeting is held by electronic means, the electronic capacity must accommodate the number of persons reasonably expected to attend the meeting remotely.

2025 Legislative Open Meetings Changes

- **SB 2180 (N.D.C.C. 44-04-20.1)**
 - Public Comment at meetings
 - Applies to every regular meeting of a governing body of a city, county, township, school district, park district, or water resource district
 - Must include an opportunity for an individual to provide public comment
 - May limit public comment only as follows:
 - By time per speaker, total time for public comment, or both
 - By agenda topic, to the agendas of the current and at least one preceding meeting

2025 Legislative Open Meetings Changes

- **SB 2180 (N.D.C.C. 44-04-20.1)**
 - Shall develop a policy regarding public comment. Policy may provide that a public comment:
 - Must be pertinent to the public entity
 - May not interfere with the orderly conduct of the regular meeting
 - May not be defamatory, abusive, harassing, or unlawful
 - May be prohibited if an alternative procedure exists to bring that particular type of public comment before the public entity, the public comment includes confidential or exempt information, or the public comment is otherwise prohibited by law

What must the notice include?

- Time, date, and location of the meeting;
- Topics to be discussed;
- Notice of any executive session.
- If a meeting is held electronically, **the information necessary to join the meeting must be in the notice.** (i.e. Zoom/Teams link)

Remember: The public should be able to read the notice and understand what the governing body is planning to discuss.

Do not be vague.

When should the Notice be provided?

- Notice should be posted “**at the same time as such governing body’s members are notified.**”
 - *Remember: When governing body receives the agenda, the public should see the agenda.*

If it’s a special meeting, and the members know the date of the meeting, but no agenda has been prepared?

- Post notice of date at the same time members know of the date.
- Once agenda is prepared, it should also be posted at the required locations.

Where must the notice go?

- Posted at the main office and
- Location of the meeting on the day of the meeting;
- Appropriate central location: City/County Auditor AND posted on public entity's website (if you have a website);
- Given to anyone who has requested it.

Special meetings – notification must be given to official newspaper. (*Committee meetings are probably special meetings*)

- Remember: **This does not mean it needs to be published.**

What must meeting minutes contain?

- Names of members attending;
- Date and time meeting was called to order and adjourned;
- List of topics discussed;
- Description of each motion made and whether it was seconded (and by whom);
- Results of every vote taken; and
- The vote of each member on every roll call vote (required for all *nonprocedural* votes).

Common Meeting Violations

Using emails or other communication methods where a quorum is involved to discuss public business.

- Permissible
 - *To provide information for members to review before a meeting;*
 - *To set a meeting date.*
- Violations
 - *Hitting “**reply all**” to a permissible communication to hold a discussion or provide an opinion.*
 - *A member sharing thoughts, ideas, or opinions to a quorum of a public entity or a committee, even if no one responds.*

Common Meeting Violations

- Straw polling (no matter who does the polling)
 - *Calling members prior to the meeting and polling their votes*
- Serial meetings
 - *A series of smaller gatherings, where public business is discussed, which collectively constitute a quorum*



Executive Session

N.D.C.C. § 44-04-19.2



Executive Sessions

Must be specifically authorized by law

- Most common reasons:
 - *Discussing exempt/confidential records;*
 - *Attorney consultation; and*
 - *Negotiation strategy.*

Executive Sessions

Common violations:

- *Closing meeting to discuss personnel matters!*
 - *Contractual terms and negotiation strategy may be discussed in executive session, but personnel issues cannot.*
- *Procedural discussion within the executive session.*
 - *Roll call*
 - *Motions*

Attorney Consultation

2 Ways

1. Advice regarding and in anticipation of reasonably predictable or pending litigation or adversarial administrative proceedings **OR**
2. To receive attorney's advice and guidance on the legal risks, strengths, and weaknesses of an action of a public entity, which, if held in public, **would have an adverse fiscal effect.**

Attorney Consultation

- All statements made by a participant or between participants during an executive session held for the purpose of attorney consultation are exempt if the statements relate to the subject for which attorney consultation was established
- Remember: Just because attorney is sitting in does not automatically make it an attorney consultation!

Negotiation Strategy

- Must relate to strategy or provide instructions to an attorney or other negotiator,
- Regarding a pending claim, litigation, adversarial administrative proceedings, or contracts,
- Which is currently being negotiated or for which negotiation is reasonably likely to occur in the immediate future,
- **AND** must have adverse fiscal effect if the discussion would be held in public.

How to Hold an Executive Session

- Convene in open meeting;
- Announce in open meeting the topics to be discussed and legal authority;
 - *Note: **To discuss confidential information – no motion necessary.** To discuss exempt/closed information - motion to enter executive session.*
- Record the session on audio or video (**keep for 6 months**);
- Note time of executive session and who attended in minutes;
- Only discuss topics in announcement;
- (usually) Final action in open meeting.



Open Records

What is subject to open record laws?

All **records**
in the possession of a **public entity**
regarding **public business**
are OPEN RECORDS.

What is a record?

Recorded information of any kind, regardless of the physical form or characteristic by which the information is stored, recorded, or reproduced . . .

What is a public entity?

- Public or governmental bodies, boards, bureaus, commissions, or state agencies,
- Entities created or recognized by the Constitution of North Dakota, state statute, or executive order of the governor,
- Task forces or working groups created by the individual in charge of a state agency or institution, to exercise public authority or perform a governmental function;
- Public or governmental bodies, boards, bureaus, commissions, or agencies of any political subdivision of the state,
- Entities created or recognized by resolution, ordinance, rule, bylaw, or executive order of the chief executive authority of a political subdivision of the state to exercise public authority or perform a governmental function; and
- Organizations or agencies supported in whole or in part by public funds or expending public funds.

What is public business?

- **All matters** that relate or may foreseeably relate in any way to . . . The performance of the public entity's governmental functions, including any matter over which the public entity has **supervision**, control, jurisdiction, or **advisory power**; or...the public entity's **use of public funds**.

Best Practice

- Generally, what is the best way to approach an open records request?
 - Assume the records requested are open unless a law protects them from disclosure.
 - *“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.”*
N.D.C.C. § 44-04-18(1).

What law protects this record?

There must be a law that specifically says the record is protected.

- The law will typically say the record is:
 - “*not subject to Article XI of the North Dakota Constitution,*”
 - “*not an open record,*”
 - “**exempt,**” or
 - “**confidential.**”

Reminder: A public entity may not deny a request for an open record on the ground that the record also contains confidential or closed information. See N.D.C.C. § 44-04-18.10.

Exempt vs. Confidential

Exempt

- May be released.
- Public entity has discretion – needs entity action.
- May be called a “closed” record.
- Your board may have specific exemptions.
- Not against the law to release an exempt record.

Confidential

- Cannot be released.
- Public entity has no discretion.
- Can only be released pursuant to a statute or court order.
- Class C felony to knowingly release confidential records.

Exempt

- Public employee personal information, including:
 - *Month/Day of Birth;*
 - *Home Address;*
 - *Personal Phone Numbers;*
 - *Photograph;*
 - *DMV and Employee ID Numbers;*
 - *Payroll Deduction Information;*
 - *Dependent/emergency contact information;*
 - *Any credit, debit, or electronic fund transfer card number;*
 - *Any account number at a bank or other financial institution; and*
 - *Type of leave taken, and leave applied for but not yet taken.*
- Internal investigation complaints – for no more than 75 days from the date of the Complaint

Confidential

- Social Security Numbers;
- Computer Passwords; and
- Employee use of Employee Assistance Programs; and
- CHRI Checks performed by BCI.

Examples of records that are generally open

- Personnel file, including:
 - *Job performance*
 - *Evaluations*
- Business-related e-mails
- Records on personal devices, including:
 - *Cell phones (e-mail, messages, photos)*
 - *Computers (e-mail, documents, etc.)*
- Contracts with a public entity, including:
 - *Prices*
 - *Costs*

Examples of records that are generally exempt

- Medical records, or a record containing medical information, in possession of a public entity are exempt. (N.D.C.C. § 44-04-18.32)
- Employment Applications (N.D.C.C. § 44-04-18.27)
 - *Applications and any records related to the applications which contain information that could reasonably be used to identify an applicant are exempt. Finalists' information remains open.*
- Active litigation records (N.D.C.C. § 44-04-19.1(12))
 - *Records obtained, compiled, or prepared by a public entity or the attorney representing a public entity for the purpose of litigation, unless the records already have been filed publicly or the litigation is completed, are exempt.*

Examples of Vendor Records

- Trade secret, proprietary, commercial, and financial information is confidential – “if it is of a privileged nature.” N.D.C.C § 44-04-18.4(1).
- Economic development records and information may be exempt. N.D.C.C § 44-04-18.4(5).
- Bids received by a public entity in response to an invitation for bids by the public entity are exempt until all of the bids have been received and opened by the public entity. N.D.C.C § 44-04-18.4(6)(a).
- Proposals received by a public entity in response to a request for proposals are exempt records until a notice of intent to award is issued. N.D.C.C § 44-04-18.4(6)(b).

Responding to Record Requests

- Every person has the right to inspect or make a request for a public record.
- Generally, entity cannot make a requester fill out a form.
 - *Although you cannot require the initial request in writing either, you can request written (reasonable) clarification.*
 - *Exception – if you need to verify identity to release an otherwise confidential or exempt record.*
- Requester DOES NOT have to give their name or reason for the request.
 - *Exception – to verify identity for confidential or exempt records.*
- You only have to provide one copy of the record, once.

Responding to Record Requests

- You must provide **records** – not opinions or explanations.
 - *Remember: A request for information is not a request for records.*
- Requests should reasonably identify the record.
 - *Can clarify; do not intimidate.*
 - *Can suggest.*
- You only have to provide records you have in your possession.
 - *However, cannot contract with third party to “hold” your records and then claim not in your “possession.”*

Responding to Record Requests

- You do not have to create new records or put in a new format.
 - *Exceptions:*
 - If requester asks for a paper copy and you only have electronic copy, you must provide paper copy but can charge in accordance with N.D.C.C. § 44-04-18(2).
 - Text messages – you are not required to provide access to the device.
- You must give a legal reason for any denial of records.
 - *Including if records do not exist.*
- Review and redact for confidential information.
- Communicate with requester – give estimate of time, costs, etc.

Responding to Record Requests

- If records available on the internet, **may refer the requestor to the website.**
 - *If requestor does not have internet access or a computer, will need to provide a paper copy of the record.*

Reasonable Time

Several factors used to determine appropriate length of any delay, including:

- Need to consult with attorney if reasonable doubt exists on whether the record is open;
- Excising confidential information;
- Bulk of request and volume of documents reviewed;
- Accessibility of documents; and
- Office staff and availability, workload, balancing of other responsibilities.

If there will be a delay – communicate that to the requester.

Basics of Charging

- May charge up to 25¢ per copy of a size no more than 8½x14.
- May charge actual cost of postage, maps, color photos.
- Locating records – first hour free, thereafter \$25/hour.
- Redacting confidential information – first hour free, thereafter \$25/hour.
- May require payment before locating, redacting, making, or mailing the copy.
- 5 or more requests from same requestor w/in 7 days, may treat as one request when computing time to locate/excise records.

OFFICE OF ATTORNEY GENERAL

(07/2025)

PUBLIC ENTITY
RESPONSE FOR
OPEN RECORDS
REQUEST

600 E. BOULEVARD AVENUE, DEPT. 125, BISMARCK, ND 58505

TO:
Re: Your request for records

FROM:
DATE

You requested records:

- ☐ Pursuant to N.D.C.C. § 44-04-18(4), [available] records responsive to your request are online at: _____
- ☐ Attached are [the records you requested] [additional records responsive to your request].
- ☐ Some information is redacted because it is exempt and/or confidential pursuant to Marsy's Law and/or N.D.C.C. §§ _____
- ☐ To the extent [requested] [other records] may/do exist, release is prohibited by the provisions of Marsy's law and/or the records are/would be confidential or exempt in entirety, under N.D.C.C. §§ _____
- ☐ The records you requested cannot be provided because no such records exist OR the requested records are not records of this agency.
- ☐ The estimated cost for the requested records is calculated as follows:

Actual cost of technology resources \$ _____

pages @ 25¢ per page \$ _____

other copies @ \$ _____ each \$ _____

_____hours for locating records @ \$25/hr (after the 1st hour) \$ _____

_____hours for redacting records @ \$25/hr (after the 1st hour) \$ _____

TOTAL: \$ _____
- ☐ Estimated costs are payable in advance. We do not waive estimated costs. After we receive a cashier's check/money order for the estimated costs, payable to "_____", we will begin work on your request. We estimate it will take approximately _____days to complete your request.
- ☐ If we do not receive [payment] [clarification] from you within ten (10) days from today's date, we will consider your request withdrawn.
- ☐ Your request did not reasonably identify specific records. We cannot comply with your request without clarification. Please call me at (701) _____.



A public entity does not have to convert its records to another format, create or compile records that do not exist, or obtain records originating from another public entity that it does not have in its possession. A public entity has no obligation to respond to requests for information, to respond questions about its duties, functions or operations, or to explain the content of its records.

Template for Responding to Open Records Requests

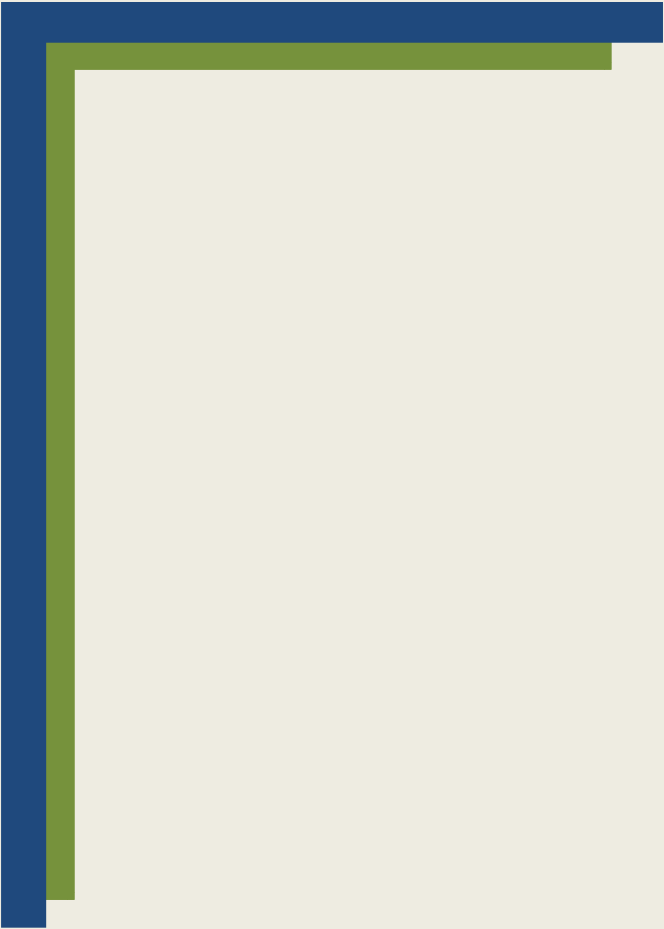
2025 Updates (Effective 8/1/25)

SB 2083 – N.D.C.C. 44-04-17.1(17); N.D.C.C. 44-04-18.7

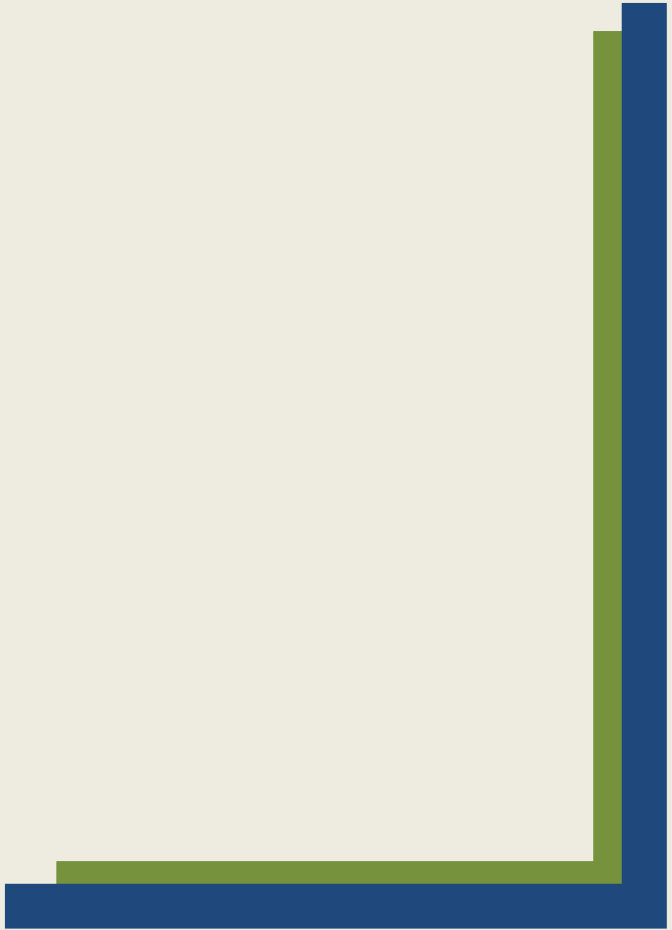
- Makes a “sensitive image” an exempt record.
- Defines “sensitive image” as “an image depicting an exposed intimate part, gruesome injury, deceased individual, or a minor.”

HB 1499 – N.D.C.C. 44-04-18.3

- Makes clear that federal judges’ phone number and home address are confidential.



Violations



Violations Basics

- Any interested person may request an attorney general's opinion to review: 1) a written denial of a request for records or 2) a denial of access to a meeting.
 - *Request must be made within 30 days of alleged records violation.*
 - *Meetings without notice must be within 90 days of alleged violation.*
- If the attorney general issues a written opinion concluding that a violation has occurred, the public entity has seven days to correct the violation.
- If the public entity fails to take the required action within the seven-day period and the person requesting the opinion prevails in a civil action the person must be awarded costs, disbursements, and reasonable attorney's fees in the action and on appeal.
- Other remedies include:
 - *Attorney General can mandate training for violations of law.*

Civil Penalties

Violations may be subject of civil action.

- Action must be commenced within 60 days of the date the person knew or should have known of the violation **or** 30 days from issuance of AG opinion – **whichever is later.**
- Court may award \$1,000 or actual damages for intentional or knowing violations – **whichever is greater.**

Criminal Penalties

Violations may be subject of criminal action.

- Attorney General can refer a public servant to the state's attorney for multiple violations.
- A public servant who knowingly violates the law is guilty of a class A misdemeanor.
- Class C felony for knowingly releasing confidential information.

Law Enforcement Exemptions

Disclaimer

The following is not intended to be an all-inclusive list of relevant statutes.

OFFICE OF ATTORNEY GENERAL

(07/2025)

LAW ENFORCEMENT RECORDS CHECKLIST

600 E. BOULEVARD AVENUE, DEPT. 125, BISMARCK, ND 58505

1. Confidential (Release is Prohibited)

- ☐ Records (whether active or inactive) which have a connection with an allegation or finding that a child is delinquent or in need of services or protection unless the child is transferred to adult court or a court orders release. N.D.C.C. § 27-20.2-23. This provision continues to apply even after the death of the child. N.D.A.G. 2000-F-09.
- ☐ The name and identifying biographical information of a living child victim or child witness of a crime, except for fires and criminal traffic offenses under N.D.C.C. title 39. N.D.C.C. § 12.1-35-03.
- ☐ The telephone number and home address of an employee of a law enforcement agency or a state or local correctional facility, and an employee of the department of corrections and rehabilitation. N.D.C.C. § 44-04-18.3(1).
- ☐ Home address of an individual in N.D.C.C. § 44-04-18.3(1) which is included in a geographic information system, a property title record, or tax parcel data is if an individual in subsection 1 or the individual's employer submits a written request to the custodian of the records. The request will remain confidential for the remainder of a calendar year and must be renewed annually. N.D.C.C. § 44-04-18.3(5).
- ☐ Information which would reveal the identity of, or provide a means of identifying, an undercover law enforcement officer or a confidential informant. N.D.C.C. § 44-04-18.3(2).
- ☐ Any record containing the work schedule of employees of a law enforcement agency. N.D.C.C. § 44-04-18.3(2). Criminal history record information, except for releases to a criminal justice agency, to a court, pursuant to a judicial, legislative, or administrative subpoena, or as otherwise required by law. N.D.C.C. §§ 12-60-16.5, 12-60-16.6. 3
- ☐ Child abuse and neglect reports and related information, unless the disclosure is specifically listed in N.D.C.C. § 50-25.1-11.
- ☐ The name of a seriously injured or deceased person, when the death or injury is being investigated by a law enforcement agency, until a member of the person's immediate family has been notified and given an opportunity to notify other immediate family members, or until 24 hours after the person has been identified, whichever occurs first. N.D.C.C. § 39-08-10.1.
- ☐ Records received from the Department of Corrections' Division of Juvenile Services. N.D.C.C. § 27-21-12(3).
- ☐ Unless otherwise provided by law, a sensitive image as defined by section 44 - 04 - 17.1 is an exempt record §44-04-18.7



The following is a non-exclusive summary of the major categories of law enforcement records for which disclosure is 1) prohibited, 2) authorized but not required, or 3) mandatory. It is intended to aid law enforcement agencies in responding to a request for records under the state open records law but is not a substitute for a case-by-case review of a requested record prior to disclosure.

Law Enforcement Records Checklist

Criminal Intelligence Information and Investigative Information

- *Active* criminal intelligence information and *active* criminal investigative information are not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.
- Once the case is inactive - the records are open.

What is “active?”

- Criminal intelligence information must be considered "active" as long as: it is related to intelligence gathering conducted with a reasonable good-faith belief it will lead to detection of ongoing **or** reasonably anticipated criminal activities.
- Criminal investigative information must be considered "active" as long as: it is related to an ongoing investigation that is continuing with a reasonable good-faith anticipation of securing an arrest **or** prosecution in the foreseeable future.

Criminal Intelligence Information

Criminal intelligence information also includes:

- Training materials and information obtained by a criminal justice agency regarding prospective criminal activities which impact officer safety until the information is publicly disclosed.

Criminal Intelligence Information and Investigative Information

Criminal intelligence and investigative information **does not include**:

- Arrestee description (name, date of birth, address, race, sex, physical description, and occupation);
- Facts concerning arrest;
- Conviction information;
- Disposition of all warrants;
- A chronological list of incidents;
- A crime summary;
- Radio log;
- General registers; and
- Arrestee photograph, if release will not adversely affect a criminal investigation.

Always OPEN!

Criminal Intelligence Information and Investigative Information

Personal information of any person contained in **an active or nonactive file** is exempt.

- A person's medical records or medical information obtained from the medical records;
- Motor vehicle operator's identification number;
- Any credit, debit, or electronic fund transfer card number;
- Month and date of birth;
- Height and weight;
- Home street address;
- Home telephone number or personal cell phone number; and
- Any financial account numbers.

Criminal Intelligence Information and Investigative Information

- A computerized index created by a criminal justice agency of names included in criminal files, whether active or inactive, is an exempt record.
- Crime scene images of a victim of a homicide or sex crime or image of minor victim of any crime is always exempt.
- Descriptions of crime scene images that include a minor or a minor victim or parts of a record containing such descriptions are exempt.
- Body camera images taken in private place are exempt.

Marsy's Law - Nutshell

- If the victim has asserted these rights, the victim's contact information (including address, work information, telephone, email) and contact information for family members, is protected.
 - *Article I, Section 25 of ND Constitution*
 - *N.D.C.C. § 12.1-34-02(1)*

Crash Reports – Exempt Info.

The following information of a party in a report is exempt - *unless* the requestor is a party to the accident, a party's legal representative, insurer of any party, agent of that insurer, or legal representative or insurer defending or investigating a party involved:

- Driver ID number;
- Phone number;
- Insurance company name and policy number;
- Day and month of birth.

Crash Reports - Minors

The following information of a party in a report is exempt - *unless* the requestor is a party to the accident, a party's legal representative, insurer of any party, agent of that insurer, or legal representative or insurer defending or investigating a party involved:

- The name of a minor;
- Driver ID number of a minor; and
- Phone number uniquely owned by a minor.

Law Enforcement Employees

- Telephone number and home address of an employee of a law enforcement agency, employee of a state or local correctional facility, and an employee of the department of corrections and rehabilitation are **confidential**.
- Personnel records of law enforcement and correctional facility employees may not be disclosed to inmates.
- Any information that would reveal identity or endanger life of undercover law enforcement officer is **confidential**.
- Work schedules of employees of a law enforcement agency are **exempt**.

Law Enforcement Employees continued

- A home address of [prosecutors, judges, law enforcement and correctional employees] which is included in a geographic information system, a property title record, or tax parcel data is **confidential** only if an individual in subsection 1 or the individual's employer submits a written request to the custodian of the records. The request will remain confidential for the remainder of a calendar year and must be renewed annually.

Confidential Informants

- Any information identifying or providing means of identifying a confidential informant, if the identity is not otherwise known, is confidential.
- See also N.D.C.C. ch. 29-29.5 – Confidential Informants chapter.

Juvenile Records

N.D.C.C. § 27-20-52 – **REPEALED – NOW N.D.C.C. § 27-20.2-23**

- Files of children alleged or found to be delinquent, or in need of services or protection are confidential.
 - *Look to this statute to see if file can be disclosed.*
 - *Applies regardless of whether record is active or inactive.*
 - *Authorizes release of general information regarding a crime so long as child is not identified.*
- Note: N.D.C.C. § 27-20-51.1 – **REPEALED – NOW N.D.C.C. § 27-20.2-22**
 - Can disclose identifying information of juvenile for purpose of apprehending a juvenile who is alleged to have committed a delinquent act involving actual or threat of serious bodily injury that would constitute a felony if committed by an adult or who has escaped or left without authorization from a secure facility.

Juvenile Records

- Names of child victims or child witnesses to a crime should not appear in public records under N.D.C.C. § 12.1-35-03.
 - *However, a title 39 traffic offense is generally open under N.D.C.C. § 12.1-35-03(3)(a) or if the child is a victim of a fire, look to N.D.C.C. § 12.1-35-03(3)(b).*
- N.D.C.C. § 12.1-35-03(2)
 - *“Interviews and statements of child victims or child witnesses obtained during an investigation of a crime of a violent or sexual nature are exempt.”*
- Juvenile Court records: limited disclosure under **N.D.C.C. § 27-20-51– REPEALED – NOW N.D.C.C. § 27-20.2-21**

Juvenile Records

- Records of juveniles who have been committed to the Division of Juvenile Services or DOCR are confidential under N.D.C.C. § 27-21-12(3).
- Child abuse and neglect records are protected under N.D.C.C. § 50-25.1-11.
 - Generally confidential with authorized disclosure to persons listed in the statute.
- Compilation of minor's names, addresses, phone numbers are exempt under N.D.C.C. § 44-04-18.13.

Notification of Serious Injury or Death

- Law enforcement responsible for notifying “immediate family.”
 - *Spouse, parent, child, sibling, or other who regularly resides in household.*
- Until you notify immediate family OR 24 hours has passed from identification of person, whichever comes first, cannot release name.

Autopsy Records

- Generally held to be confidential but look to the statutes to see what can be released.
 - *N.D.C.C. § § 44-04-18.18; 23-01-05.5; 11-19.1-11*
- “Report of Death”
 - *This is the face page of the autopsy report identifying the decedent and stating the cause and manner of death.*
 - *Becomes a public record 8 days after it is finalized.*

References & Resources

- North Dakota Constitution [Article XI General Provisions](#)
- North Dakota Century Code Chapter [44-04](#)
- Attorney General's website: www.attorneygeneral.nd.gov
 - *Open Records & Meetings Laws*
 - *Manuals & Guides*
 - [Open Records Guide](#) ("One pager")
 - [Open Records Manual](#) (More detailed resource)
 - [Template for Responding to an Open Records Request](#)
 - [Open Meetings Guide](#) ("One pager")
 - [Open Meetings Manual](#) (More detailed resource)
 - [Sample Form for Closing Executive Sessions](#)
 - [Sample Meeting Notice](#)
 - [Notice Checklist](#)

Questions?