


Dear Chairman Schauer, Vice Chairman Satrom, and the Government and Veteran's Affairs Committee:

We are writing jointly to oppose HB 1306. As the State Attorney and Auditor of Stark County, the majority of open records requests are handled by us. To begin, we would like to explain how onerous the process can be. When an open records request comes in, there is essentially a timer that starts to run. Stark County has a dedicated open records request email to try and keep the process running smoothly, but in reality, open records requests can be sent to any employee or commissioner, and many times they are sent to multiple individuals. From there, the open records request is *usually* forwarded to the State Attorney who assesses the request and alerts the individual who would likely be holding the records that are being requested. That individual is told to start gathering the requested records. Open records requests require a timely response which means other work gets put to the side so that the request can start being fulfilled.


Many of the open records requests that we receive are voluminous. It is rare that we get a request for one record. At times, records requests may ask for information that spans multiple years, or for an incredible amount of information related to elections, or a hot button item that may be occurring in the political sub. Other times, the requester may ask for any and all communication on any business or personal device to include all emails, texts, or other messages between a certain set of people – sometimes the request is for all county employees. Gathering this information is an ongoing process which includes sending out reminders and checking and double-checking that all of the information is handed over. In Stark County the States Attorney then goes through all of the information, redacts according to N.D.C.C. 44-04 and also redacts information that isn't county business. This can be incredibly time-consuming and can put on hold other time sensitive tasks that need to be accomplished.

The current law states “[a] public entity may require written clarification of the request to determine what records are being requested **but may not ask for the motive or reason for requesting the records or for the identity of the person requesting public records.**” We get numerous anonymous open record requests. HB 1306 is in direct contradiction with the statute as currently written. HB 1306 would allow for 40 free hours to a North Dakota resident. As is currently written, the political sub would have no way to determine whether the requester is a North Dakota resident, making this loophole ripe for abuse.

In conclusion, while we are committed to transparency, we believe this bill could be abused by individuals who are not ND residents. It will significantly impact time sensitive tasks that need to be completed. And, the political sub could incur costs that it is not able to recoup. Therefore, we oppose this bill.



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