

2025 2nd Quarter Correspondence

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**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

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April 3, 2025

Michael Pitsch
mpitsch@tcw.org

Dear Michael Pitsch:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 31 and April 2, 2025, regarding your public records request to the Department of Agriculture, Trade and Consumer Protection (DATCP), DATCP's response to your request, and DOJ's response to your original March 25, 2025, correspondence. We write today to provide additional information about the enforcement of rights pursuant to the public records law.

As previously stated in our March 31 response, DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the DATCP. DOJ strives to provide the public with guidance on the interpretation of our State's public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

Although DOJ is unable to provide you with advice, the public records law does provide several other remedies for a requester dissatisfied with an authority's response, or lack of response, to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b).

Therefore, while DOJ has a conflict in providing advice or assisting with this matter, two of the three enforcement options described above are available to you pursuant to the public records law.

You may wish to contact a private attorney regarding your matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a

private attorney may charge attorney's fees. You may reach the service using the contact information below:

Lawyer Referral and Information Service
State Bar of Wisconsin
P.O. Box 7158
Madison, WI 53707-7158
(800) 362-9082
(608) 257-4666

<http://www.wisbar.org/forpublic/ineedalawyer/pages/lris.aspx>

The Attorney General and the Office of Open Government are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, slightly slanted style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:s



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May 1, 2025

Joel Straub
joestraub556@gmail.com

Dear Joel Straub:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated September 3, 2024, in which you wrote, "I have made two attempts in writing to the Lincoln County DA's Office, in particular to District Attorney Kristopher Ellis, inquiring as to whether or not the criminal investigation case file involving Fifrick/Downey is open or closed. ... Thank you in advance for any information that you can share on this topic."

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the Lincoln County District Attorney (DA). DOJ strives to provide the public with guidance on the interpretation of our State's public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

However, I did contact the DA's office to make them aware of your concerns, and I am also copying them on this letter.

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ's Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.doj.state.wi.us/office-open-government/office-open-government>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

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Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The script is cursive and fluid, with the first name "Lili" and last name "Behm" clearly distinguishable.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah

cc: Lincoln County District Attorney's Office



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May 7, 2025

William Poor
william.c.poor@gmail.com

Dear William Poor:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 21, 2025, regarding the School District of Mauston's response to your public records request. You specifically raised concerns about the fees charged to you and the format of records provided.

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. The public records law authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

In your correspondence, you wrote, "I had also requested the documents requested be emailed to me or me being able to inspect the documents both of which were denied by Superintendent Heesch." The Wisconsin Court of Appeals provided some guidance in *Lueders v. Krug*, 2019 WI App 36, ¶ 15, 388 Wis. 2d 147, 931 N.W.2d 898, on whether an authority needs to provide records in a format specified by the requester, holding that the requester in that case was "entitled to the e-mails in electronic form" when the request was for emails "in electronic form." *Id.* The court also stated that the authority must provide "electronic copies," not paper copies of records, to a requester who asks for records in electronic format. *Id.* As to your statement that you requested "being able to inspect the documents," the public records law does provide requesters with the right to inspect records, as well. Wis. Stat. §§ 19.34(2), 19.35(1)(a).

The School District of Mauston (School District) informed us that they did not deny a request from you to inspect records in person, and that you specifically requested paper copies. If those points are accurate, a court considering your request would likely not conclude that the School District violated the public records law by failing to provide electronic copies or an opportunity to inspect records. However, if the School District had denied requests to inspect records in person and to receive electronic records copies, a reviewing court might

conclude that the public records law was violated. Because of the disparate accounts of the facts provided by you and the School District, the OOG is unable to determine that violations of the public records law occurred. Ultimately, it is a fact-specific question that could only be answered by a court in an enforcement action in which all parties would have an opportunity to develop a complete record of all the relevant factual circumstances. In the absence of such a complete factual record, DOJ generally cannot offer a definite opinion, but rather is limited to indicating conclusions that a court could reach based only on the limited facts that made available to OOG.

In your correspondence, you wrote, “The School District of Mauston has a fee of \$0.15 per page for open records requests. ... I have asked how the labor charge is calculated as \$300 per hour seems extremely unreasonable to me.” Under the public records law, “[A]n authority may charge a fee not exceeding the actual, necessary, and direct costs of *four specific tasks*: (1) ‘reproduction and transcription’; (2) ‘photographing and photographic processing’; (3) ‘locating’; and (4) ‘mailing or shipping.’” *Milwaukee Journal Sentinel v. City of Milwaukee*, 2012 WI 65, ¶ 54, 341 Wis. 2d 607, 815 N.W.2d 367 (citation omitted) (emphasis in original). (In certain circumstances, an authority that is a law enforcement agency may also charge for redaction of audio and video recordings. See Wis. Stat. § 19.35(3)(h).)

The amount of such fees may vary depending on the authority. However, an authority may not profit from complying with public records requests. *WIREdata, Inc. v. Vill. of Sussex*, 2008 WI 69, ¶¶ 103, 107, 310 Wis. 2d 397, 751 N.W.2d 736 (concluding an authority may not profit from its response to a public records request but may recoup all its actual costs). An authority may choose to provide copies of a requested record without charging fees or by reducing fees where an authority determines that waiver or reduction of the fee is in the public interest. Wis. Stat. § 19.35(3)(e). An authority may not charge for the time it takes to redact records (except as provided in Wis. Stat. § 19.35(3)(h)). *Milwaukee Journal Sentinel*, 2012 WI 65, ¶¶ 1 & n.4, 6, 58 (Abrahamson, C.J., lead opinion); *Id.* ¶ 76 (Roggensack, J., concurring.)

When we contacted the School District, they informed us that while you were charged a copying fee of \$0.15 per page, you were charged only about \$31.35 in total costs (and not \$300.00 as a “labor charge”). Based on the differing factual information we received from you and the School District, we are unable to conclude with certainty whether the fee charged by the School District of Mauston reflects only the “actual, necessary, and direct costs” of record reproduction. In any event, we discussed your concerns with the School District. The School District will evaluate the costs and fees it charged, and will follow up with you directly for any correction or remuneration that may be appropriate.

For more information on permissible fees, please see the Office of Open Government Advisory: Charging Fees under the Wisconsin Public Records Law, which was issued on August 8, 2018, and can be found on DOJ’s Website, at https://www.wisdoj.gov/Documents/8.8.18_OOG_Advisory_Fees_0.pdf.

For your information, the public records law provides several remedies for a requester dissatisfied with an authority’s response, or lack of response, to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. Although you did not specifically request the Attorney General to file an action for mandamus, nonetheless, we respectfully decline to pursue an action for mandamus on your behalf.

You may wish to contact a private attorney regarding your matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney's fees. You may reach the service using the contact information below:

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DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

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Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, flowing style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



**STATE OF WISCONSIN
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May 12, 2025

Chris Rozek
christopherozek@gmail.com

Dear Chris Rozek:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated May 2, 2025, regarding your public records request to the University of Wisconsin – Stevens Point (UWSP).

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent UWSP. DOJ strives to provide the public with guidance on the interpretation of our State's public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic. For these same reasons, DOJ must decline your request for a writ of mandamus.

However, I contacted UWSP and discussed your concerns. I am also copying them on this letter.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ's Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.doj.state.wi.us/office-open-government/office-open-government>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

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Sincerely,

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Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah

cc: University of Wisconsin System, Office of General Counsel
Rob Manzke, Records Custodian, University of Wisconsin-Stevens Point



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June 25, 2025

Clayton Hemphill
chemphill22@gmail.com

Dear Clayton Hemphill:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated May 27, 2025, regarding your public records request to the Office of Lawyer Regulation (OLR) for case records regarding a complaint you filed. You requested DOJ “to review [your] denied open records request.”

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. While a portion of your correspondence pertained to the public records law, it also discussed matters outside the scope of the OOG’s responsibilities. As a result, we are unable to offer you assistance or insight regarding the processes undertaken by OLR in responding to complaints, or your “questioning [of] whether the OLR did a sufficient job reviewing [your] case matter.”

Additionally, DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the OLR. DOJ strives to provide the public with guidance on the interpretation of our State’s public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ’s Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website

(<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

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Sincerely,

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Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



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FAX 608/266-2779

June 25, 2025

Nehemiah Randle, #2024021170
Milwaukee County Jail
949 N. 9th Street
Milwaukee, WI 53233

Dear Nehemiah Randle:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 28, 2024, in which you wrote, "I'm writing you and the Brown County District Attorney David Lasee to place an action for mandamus under Wis. Stat. 19.37(1)(b)" regarding the Brown County Sheriff's Office denial of your request. You asked DOJ to contact you "on this matter about how [DOJ] and/or the DA David L. Lasee will be moving forward."

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

First, please note that as an individual who is currently incarcerated, your right to request records under the public records law is limited to records that contain specific references to yourself or your minor children and are otherwise accessible to you by law. See Wis. Stat. § 19.32(1c) and (3). If the records you requested pertain to you or your minor children, you may request them pursuant to the public records law. Based on the information provided in your correspondence, it appears that, under the public records law, you may not be entitled to request the records you seek at this time.

DOJ has insufficient information to evaluate your matter and therefore respectfully denies your request for a mandamus action. If you would like to learn more about the public records law, DOJ's Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

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Assistant Attorney General
Office of Open Government

LCB:lah



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June 25, 2025

Kyle Vlosich, #694508
Racine Correctional Institution
Post Office Box 900
Sturtevant, WI 53177-0900

Dear Kyle Vlosich:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated April 12, 2025, in which you wrote, "I am contacting you (again) because MATC is continuing to violate the State's Open Records Law by ignoring my public records requests."

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. While a portion of your correspondence pertained to the public records law, it also concerned matters outside the scope of the OOG's responsibilities. As a result, we are unable to offer you assistance or insight regarding "Wis. Stat. § 942.09, distributing an intimate representation w/out consent."

Additionally, DOJ cannot offer you legal advice or counsel concerning your public records requests as DOJ may be called upon to represent the Milwaukee Area Technical College (MATC), which is part of the Wisconsin Technical College System. DOJ strives to provide the public with guidance on the interpretation of our State's public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

The public records law authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

Please note that as an individual who is currently incarcerated, your right to request records under the public records law is limited to records that contain specific references to yourself or your minor children and are otherwise accessible to you by law. See Wis. Stat.

§ 19.32(1c) and (3). If the records you requested pertain to you or your minor children, you may request them pursuant to the public records law.

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ's Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

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Sincerely,

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Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



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June 26, 2025

Mark Anderson
markaw1800@gmail.com

Dear Mark Anderson:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated April 3, 2024, regarding your public records requests to the City Point Town Board. You wrote, "I will attach my FOIA timeline paper for you to review, we need help, this new town clerk does what she wants to when she wants to." In the FOIA timeline attachment you provided you wrote, "I plan to submit an update every other week as the response to a FOIA request should be around ten days, if denied or a response is returned."

Your correspondence references the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. FOIA applies to federal agencies and helps ensure public access to records of federal agencies. In Wisconsin, the state counterpart to FOIA is the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998). The public records law authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority."

The public records law does not require a response to a public records request within a specific timeframe. In other words, after a request is received, there is no set deadline by which the authority must respond. However, the law states that upon receipt of a public records request, the authority "shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor." Wis. Stat. § 19.35(4)(a). A reasonable amount of time for a response "depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations." *WIREdata, Inc. v. Vill. of Sussex*, 2008 WI 69, ¶ 56, 310 Wis. 2d 397, 751 N.W.2d 736; see *Journal Times v. Police & Fire Comm'rs Bd.*, 2015 WI 56, ¶ 85, 362 Wis. 2d 577, 866 N.W.2d 563 (an authority "can be swamped with public records requests and may need a substantial period of time to respond to any given request").

Wisconsin DOJ has stated that, generally, 10 working days is a reasonable time for an authority to respond to a simple request for a limited number of easily identifiable records. For requests that are not simple and those that are broader in scope, or that require location, review, or redaction of multiple records, a reasonable time for responding may be longer. The 10 day figure is, therefore, not a binding or enforceable deadline.

If you would like to learn more about the public records law, DOJ's Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, flowing style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

Josh Kaul
Attorney General

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June 26, 2025

Helen Beltezore
1956hislas@gmail.com

Dear Helen Beltezore:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated May 2, 2024, in which you wrote, "I have inquired to receive my son's . . . police report and it has been a year and 3 months. The death is very suspicious as it happened 28 years ago in Sawyer County, WI . . . I have not been reached by the Sheriff's Dept who would have it nor is it at the County Clerk's office. My copy was damaged by flood."

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

In your correspondence, you stated that you "inquired" about receiving a copy of the relevant police report, but it is not clear whether you made a public records request. When submitting a public records request, a requester should take care to ask for records containing the information they seek, as opposed to simply asking a question or asking for information. This is important because the public records law "does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester." *Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, ¶ 55, 362 Wis. 2d 577, 866 N.W.2d 563; see also *State ex rel. Zinngrabe v. Sch. Dist. of Sevastopol*, 146 Wis. 2d 629, 431 N.W.2d 734 (Ct. App. 1988). An authority is not required to create a new record by extracting and compiling information from existing records in a new format. See Wis. Stat. § 19.35(1)(L). See also *George v. Record Custodian*, 169 Wis. 2d 573, 579, 485 N.W.2d 460 (Ct. App. 1992). If you have made a public records request, information about your enforcement options pursuant to the public records law appears below.

Records are presumed to be open to public inspection and copying, but there are exceptions. Wis. Stat. § 19.31. Requested records fall into one of three categories: (1) absolute right of access; (2) absolute denial of access; and (3) right of access determined by the balancing test. *Hathaway v. Joint Sch. Dist. No. 1 of Green Bay*, 116 Wis. 2d 388, 397, 342

N.W.2d 682 (1984). If neither a statute nor the common law requires disclosure or creates a general exception to disclosure, the records custodian must decide whether the strong public policy favoring disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure. This balancing test determines whether the presumption of openness is overcome by another public policy concern. *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 4, 284 Wis. 2d 162, 699 N.W.2d 551. If a records custodian determines that a record or part of a record cannot be disclosed, the custodian must redact that record or part of that record. *See* Wis. Stat. § 19.36(6).

The public records law does not require a response to a public records request within a specific timeframe. In other words, after a request is received, there is no set deadline by which the authority must respond. However, the law states that upon receipt of a public records request, the authority “shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority’s determination to deny the request in whole or in part and the reasons therefor.” Wis. Stat. § 19.35(4)(a). A reasonable amount of time for a response “depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations.” *WIREDATA, Inc. v. Vill. of Sussex*, 2008 WI 69, ¶ 56, 310 Wis. 2d 397, 751 N.W.2d 736; *see Journal Times v. Police & Fire Comm’rs Bd.*, 2015 WI 56, ¶ 85, 362 Wis. 2d 577, 866 N.W.2d 563 (an authority “can be swamped with public records requests and may need a substantial period of time to respond to any given request”).

If an authority denies a written request, in whole or in part, the authority must provide a written statement of the reasons for such a denial and inform the requester that the determination is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to the attorney general or a district attorney. *See* Wis. Stat. § 19.35(4)(b).

The public records law provides several remedies for a requester dissatisfied with an authority’s response, or lack of response, to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. Although you did not specifically request the Attorney General to file an action for mandamus, nonetheless, we respectfully decline to pursue an action for mandamus on your behalf.

You may wish to contact a private attorney regarding your matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney’s fees. You may reach the service using the contact information below:

Lawyer Referral and Information Service
State Bar of Wisconsin

P.O. Box 7158
Madison, WI 53707-7158
(800) 362-9082
(608) 257-4666

<http://www.wisbar.org/forpublic/ineedalawyer/pages/lris.aspx>

The Attorney General and the Office of Open Government are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, flowing style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

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FAX 608/267-2779

June 26, 2025

Melissa Diestler
melissadiestler@gmail.com

Dear Melissa Diestler:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated May 13, 2024, and June 12, 2024, regarding issues with the Village of Scandinavia board members. You wrote, "The board members['] actions are questionable in that official business of the board is being conducted between non-elected board members and not open to the public."

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. While a portion of your correspondence pertained to the open meetings law, it also discussed matters outside the scope of the OOG's responsibilities. As a result, we are unable to offer you assistance or insight regarding the Village of Scandinavia's restrictive covenants process. However, we have routed that portion of correspondence elsewhere within DOJ for review.

The open meetings law acknowledges that the public is entitled to the fullest and most complete information regarding government affairs as is compatible with the conduct of governmental business. Wis. Stat. § 19.81(1). All meetings of governmental bodies shall be held publicly and be open to all citizens at all times unless otherwise expressly provided by law. Wis. Stat. § 19.81(2). The provisions of the open meetings law are to be construed liberally to achieve that purpose. Wis. Stat. § 19.81(4).

A meeting occurs when a convening of members of a governmental body satisfies two requirements. *See State ex rel. Newspapers, Inc. v. Showers*, 135 Wis. 2d 77, 398 N.W.2d 154 (1987). The first requirement under the so-called *Showers* test is that there must be a purpose to engage in governmental business (the purpose requirement). Second, the number of members present must be sufficient to determine the governmental body's course of action (the numbers requirement). A meeting does not include any social or chance gathering or conference that is not intended to avoid the requirements of the open meetings law.

Wisconsin Stat. § 19.85 lists exemptions in which meetings may be convened in closed session. Any exemptions to open meetings are to be viewed with the presumption of openness in mind. Such exemptions should be strictly construed. *State ex rel. Hodge v. Turtle Lake*, 180 Wis. 2d 62, 71, 508 N.W.2d 603 (1993). The exemptions should be invoked sparingly and only where necessary to protect the public interest and when holding an open session would be incompatible with the conduct of governmental affairs. “Mere government inconvenience is . . . no bar to the requirements of the law.” *State ex rel. Lynch v. Conta*, 71 Wis. 2d 662, 678, 239 N.W.2d 313 (1976).

Every meeting must be initially convened in open session. At an open meeting, a motion to enter into closed session must be carried by a majority vote. No motion to convene in closed session may be adopted unless an announcement is made, to those present, of the nature of the business to be considered at the proposed closed session and the specific exemption or exemptions by which the closed session is claimed to be authorized. Wis. Stat. § 19.85(1).

Notice of a contemplated closed session (and any motion to enter into closed session) must contain the subject matter to be considered in closed session. Merely identifying and quoting a statutory exemption is not sufficient. The notice or motion must contain enough information for the public to discern whether the subject matter is authorized for closed session. If a body intends to enter into closed session under more than one exemption, the notice or motion should make clear which exemptions correspond to which subject matter.

Furthermore, some specificity is required since many exemptions contain more than one reason for authorizing a closed session. For example, Wis. Stat. § 19.85(1)(c) provides an exemption for the following: “Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.” Merely quoting the entire exemption, without specifying the portion of the exemption under which the body intends to enter into closed session, may not be sufficient. Only aspects of a matter that fall within a specific exemption may be discussed in a closed session. If aspects of a matter do not properly fall within an exemption, those aspects must be discussed in an open meeting.

Based on your correspondence, our office lacks sufficient information to determine if the Village of Scandinavia’s board members violated the open meetings law in any regard. The open meetings law does not govern all aspects of meeting procedure, nor does it regulate all board conduct. For example, there may be numerous aspects of day-to-day board activity that are unrelated to the open meetings law.

If you would like to learn more about the open meetings law, DOJ’s Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin open meetings law and maintains an Open Meetings Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin’s proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. §§ 19.98 and 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, slightly slanted style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

Josh Kaul
Attorney General

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June 26, 2025

Victoria Dietel-Bargender
Victoria.DietelBargender@milwaukeecountywi.gov

Dear Victoria Dietel-Bargender:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated April 8, 2024, in which you asked, “Are a jail occupant’s individual jail records such as disciplinary records and grievances filed by the occupant subject to the Public Records law in Wisconsin? Phrased another way, are those records required to be provided to a requestor that is not the occupant?”

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

The answer to your question would depend on the contents of a jail occupant’s records; a jail’s records custodian may need to withhold, or redact information from, certain records, while the custodian may be able to release other records in unredacted form. In general, the same guidelines and procedure applicable to other public records requests would apply to requests for jail occupants’ jail records. For example, if the requesters are other incarcerated individuals, they would only be able to receive records about themselves or their minor children. *See* Wis. Stat. §§ 19.32(1c) and (3). Additionally, if the requesters are other members of the public, personal identifying information, health and medical information, and potentially economically valuable information may need to be redacted from an individual’s jail records before those records can be produced. Records specifically exempt from disclosure are listed in Wis. Stat. § 19.36(2)-(11), (13).

The law defines a “record” as any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. Wis. Stat. § 19.32(2). A record includes handwritten, typed, or printed documents; maps and charts; photographs, films, and tape recordings; tapes, optical disks, and any other medium on which electronically generated or stored data is recorded or preserved; and electronic records and communications.

Records are presumed to be open to public inspection and copying, but there are exceptions. Wis. Stat. § 19.31. Requested records fall into one of three categories: (1) absolute right of access; (2) absolute denial of access; and (3) right of access determined by the balancing test. *Hathaway v. Joint Sch. Dist. No. 1 of Green Bay*, 116 Wis. 2d 388, 397, 342 N.W.2d 682 (1984). If neither a statute nor the common law requires disclosure or creates a general exception to disclosure, the records custodian must decide whether the strong public policy favoring disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure. This balancing test determines whether the presumption of openness is overcome by another public policy concern. *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 4, 284 Wis. 2d 162, 699 N.W.2d 551. If a records custodian determines that a record or part of a record cannot be disclosed, the custodian must redact that record or part of that record. See Wis. Stat. § 19.36(6).

If you would like to learn more about the public records law, DOJ's Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website. The compliance guide includes robust discussions of, in relevant part, the balancing test and various categories of information that may need to be redacted before records are produced.

DOJ appreciates your question. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, flowing style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

Josh Kaul
Attorney General

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FAX 608/267-2779

June 26, 2025

Ann Lewandowski
lewandowskiannm@gmail.com

Dear Ann Lewandowski:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated June 9, 2025, regarding your public records request to the Wisconsin Department of Administration (DOA) for “a copy of the Navitus contracts (2020 and forward) and the current employee health plan summary plan document (2024 or 2025).” You asked, “Can anyone please assist me or provide a timeline for when the document request might be processed?”

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the DOA. DOJ strives to provide the public with guidance on the interpretation of our State’s public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

However, I did contact the DOA to ensure that their legal counsel is aware of your concerns, and I am also copying DOA legal counsel on this letter.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ’s Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

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Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, flowing style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah

cc: Wisconsin Department of Administration



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

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June 26, 2025

Wyatt Walters
wrw.gotgrout@gmail.com
ww.gotgrout@icloud.com

Dear Wyatt Walters:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated April 25, 2024, in which you wrote, "I am seeking police body cam videos from two dates involving only myself and officers detaining me into custody. The department sent me a letter stating I would need a writ of mandamus in order to receive the information. . . . [I] am representing myself pro se so I am asking for some help." In your additional correspondence dated May 23, 2024, you stated, "I hereby petition for your services in the issuance of a Writ of Mandamus to demand the release of all records pertaining to [my] defense against criminal prosecution and civil proceedings."

As an initial matter, regarding the request you made in your May 23, 2024, correspondence, The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, provides several remedies for a requester dissatisfied with an authority's response, or lack of response, to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a). Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. As your matter does not appear to present novel issues of law that coincide with matters of statewide concern, we respectfully decline to pursue an action for mandamus on your behalf at this time.

The remainder of this letter discusses the issues raised in your April 25, 2024, correspondence. These issues are also related to the request you made in your follow-up correspondence in May 2024. The public records law authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

Records are presumed to be open to public inspection and copying, but there are exceptions. Wis. Stat. § 19.31. Requested records fall into one of three categories: (1) absolute right of access; (2) absolute denial of access; and (3) right of access determined by the balancing test. *Hathaway v. Joint Sch. Dist. No. 1 of Green Bay*, 116 Wis. 2d 388, 397, 342 N.W.2d 682 (1984). If neither a statute nor the common law requires disclosure or creates a general exception to disclosure, the records custodian must decide whether the strong public policy favoring disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure. This balancing test determines whether the presumption of openness is overcome by another public policy concern. *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 4, 284 Wis. 2d 162, 699 N.W.2d 551. If a records custodian determines that a record or part of a record cannot be disclosed, the custodian must redact that record or part of that record. See Wis. Stat. § 19.36(6).

You provided part of the La Crosse Police Department's response to your public records request. In its response, the La Crosse Police Department stated, "Information in police reports or recordings regarding an individual's medical condition is not being disclosed." Well-established public policy recognizing the confidentiality and privacy of personal medical information is expressed in Wis. Stat. §§ 146.82 and 51.30 and the federal Health Insurance Portability and Accountability Act (HIPAA). The public policy of protecting the confidentiality and privacy of personal medical information outweighs any public interest in disclosure of this information. See also *John K. MacIver Inst. for Pub. Policy, Inc. v. Erpenbach*, 2014 WI App 49, ¶ 19 & n.4, 354 Wis. 2d 591, 849 N.W.2d 888 (observing that "[p]ersonal finance or health information" may be subject to redaction as "purely personal" in an email that otherwise is subject to disclosure). In light of this, it seems likely that the La Crosse Police Department would not have violated the public records law by failing to disclose information about an individual's medical condition. Based on your correspondence, we lack sufficient information to determine with certainty whether this is the case.

The La Crosse Police Department's response to your request also stated, "This case involved the reporting of an incident involving domestic violence. Information that could jeopardize the victim's safety is not subject to disclosure and accordingly will not be released." Wisconsin Const. art. I, § 9m requires that crime victims be treated with "fairness, dignity and respect for their privacy." Related Wisconsin statutes recognize that this state constitutional right must be vigorously honored by law enforcement agencies, and that crime victims include both persons against whom crimes have been committed and the family members of those persons. Wis. Stat. §§ 950.01 and 950.02(4)(a). Chapter 950 of the Wisconsin Statutes also protects the rights of witnesses to crimes, including protecting them from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts. Wis. Stat. §§ 950.02(5) and 950.04(2w). The Wisconsin Supreme Court, speaking about both Wis. Const. art. I, § 9m, and related victim rights statutes, has instructed that "justice requires that all who are engaged in the prosecution of crimes make every effort to minimize further suffering by crime victims." *Schilling v. Crime Victim Rights Bd.*, 2005 WI 17, ¶ 26, 278 Wis. 2d 216, 692 N.W.2d 623. In light of this, it is possible that the La Crosse Police Department did not violate the public records law by failing to release some information relating to "an incident involving domestic violence." Based on your

correspondence, we lack sufficient information to determine with certainty whether this is the case.

If an authority denies a written request, in whole or in part, the authority must provide a written statement of the reasons for such a denial and inform the requester that the determination is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to the attorney general or a district attorney. *See* Wis. Stat. § 19.35(4)(b).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. As your matter does not appear to present novel issues of law that coincide with matters of statewide concern, we respectfully decline to pursue an action for mandamus on your behalf at this time.

In your correspondence you stated that you were representing yourself. However, if you wish to contact a private attorney regarding your matter, the State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney's fees. You may reach the service using the contact information below:

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DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, flowing style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



STATE OF WISCONSIN
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June 27, 2025

Beth Good
bethmgood@comcast.net

Dear Beth Good:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated April 29, 2024, in which you wrote, "The Iron River Public Library Board voted to allow patrons who challenge library materials to be kept anonymous. However, information for Wisconsin's Public Libraries and Public Library Systems and Related Records that was approved by the Public Records Board June 12, 2017, indicates that requests for library materials to be reconsidered are not confidential and are under the regulations of the open records law . . . Could you please clarify?"

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998). A public library is an "authority" within the meaning of the public records law, which defines "authority" as, in relevant part, "a state or local office, elective official, agency, board, commission, committee, council, department or public body corporate and politic created by the constitution or by any law, ordinance, rule or order" Wis. Stat. § 19.32(1). Chapter 43, Wis. Stats., provides for the development and improvement of public libraries across the states, and explicates obligations and standards for those libraries.

The law defines a "record" as any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. Wis. Stat. § 19.32(2). A record includes handwritten, typed, or printed documents; maps and charts; photographs, films, and tape recordings; tapes, optical disks, and any other medium on which electronically generated or stored data is recorded or preserved; and electronic records and communications.

Records are presumed to be open to public inspection and copying, but there are exceptions. Wis. Stat. § 19.31. Requested records fall into one of three categories: (1) absolute right of access; (2) absolute denial of access; and (3) right of access determined by the

balancing test. *Hathaway v. Joint Sch. Dist. No. 1 of Green Bay*, 116 Wis. 2d 388, 397, 342 N.W.2d 682 (1984). If neither a statute nor the common law requires disclosure or creates a general exception to disclosure, the records custodian must decide whether the strong public policy favoring disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure. This balancing test determines whether the presumption of openness is overcome by another public policy concern. *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 4, 284 Wis. 2d 162, 699 N.W.2d 551. If a records custodian determines that a record or part of a record cannot be disclosed, the custodian must redact that record or part of that record. See Wis. Stat. § 19.36(6).

In light of the above, records related to challenges to library materials would be presumed to be open to public inspection and copying pursuant to the public records law. Each such record would be subject to the above analysis by the records custodian prior to release in response to public records requests.

It is unclear from your correspondence whether the action by the library board permitted individuals to submit complaints anonymously or directed that the names of complainants should be redacted from records released in response to public records requests. The former is a policy decision outside the scope of the public records law. The latter could be a potential violation of the public records law unless such redaction is authorized by statute or the common law. An authority or a records custodian cannot unilaterally implement a policy creating a blanket exemption from the public records law. *Hempel*, 284 Wis. 2d 162, ¶ 71.

The “Wisconsin’s Public Libraries and Public Library Systems and Related Records” document you reference in your correspondence relates to records retention. Records retention is a subject that is generally related to, but different from, the access requirements imposed by the public records law. The public records law only addresses how long an authority must keep its records once an authority receives a public records request. A requester cannot seek relief under the public records law for alleged violations of records retention statutes when the non-retention or destruction predates submission of the public records request. Cf. Wis. Stat. § 19.35(5); *State ex rel. Gehl v. Connors*, 2007 WI App 238, ¶¶ 13–15, 306 Wis. 2d 247, 742 N.W.2d 530.

Although the public records law addresses the duty to *disclose* records, it is not a means of enforcing the duty to *retain* records, except for the period after a request for particular records is submitted. See *State ex rel. Gehl v. Connors*, 2007 WI App 238, ¶ 15 n.4 (citing Wis. Stat. § 19.35(5)) (citation omitted). When a requester submits a public records request, the authority is obligated to preserve the requested records until after the request is granted or until at least 60 days after the request is denied (90 days if the requester is a committed or incarcerated person). Other retention periods apply if an authority receives written notice that the requester has commenced a mandamus action (an action to enforce the public records law).

Other than this, the public records law does not address how long an authority must keep its records, and the public records law cannot be used to address an authority’s alleged failure to retain records required to be kept under other laws. Instead, records retention is governed by other statutes. Specifically, Wisconsin Stat. § 16.61 addresses the

retention of records for state agencies, and Wisconsin Stat. § 19.21 deals with records retention for local government entities. The general statutory requirements for records retention apply equally to electronic records. Most often, records retention schedules, created in accordance with these statutes, govern how long an authority must keep its records and what it must do with them after the retention period ends. The Wisconsin Public Records Board's website, <http://publicrecordsboard.wi.gov/>, has additional information on records retention.

If you would like to learn more about the public records law, DOJ's Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, flowing style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



STATE OF WISCONSIN
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June 27, 2025

Randy Morgan
rajomo54@yahoo.com

Dear Randy Morgan:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 19, 2024, in which you wrote, "I have a question about personal information given to a library. Can personal information given to a library on a form be given out in an open meeting? If I fill out a complaint form with my name, address, phone number and email address on it, can that information be made public? My understanding is that it can not [sic] be made public as it involves a library."

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998). In your correspondence, you asked whether the library could give out personal information during an "open meeting," rather than in response to a specific public records request. However, because the public records law and the Wisconsin Open Meetings Law, Wis. Stat. § 19.81 to 19.98, may interrelate in situations like this, the following discussion considers your question using the public records law.

The Wisconsin public records law defines an "authority" as any of the following having custody of a record:

a state or local office, elective official, agency, board, commission, committee, council, department or public body corporate and politic created by the constitution or by any law, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a special purpose district; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50 percent of its funds from a county or a municipality, as defined in s. 59.001(3), and which provides services related to public health or safety to the county or municipality; a university police department under s. 175.42; or a formally constituted subunit of any of the foregoing.

Wis. Stat. § 19.32(1). Only an entity that falls within this definition of “authority” is subject to the provisions of the public records law. Generally, a public library would fit within this definition and would therefore be subject to the public records law. *See* Chapter 43, Wis. Stats., which provides for the development of public libraries and imposes standards and obligations upon the public libraries.

Records are presumed to be open to public inspection and copying, but there are exceptions. Wis. Stat. § 19.31. Requested records fall into one of three categories: (1) absolute right of access; (2) absolute denial of access; and (3) right of access determined by the balancing test. *Hathaway v. Joint Sch. Dist. No. 1 of Green Bay*, 116 Wis. 2d 388, 397, 342 N.W.2d 682 (1984). If neither a statute nor the common law requires disclosure or creates a general exception to disclosure, the records custodian must decide whether the strong public policy favoring disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure. This balancing test determines whether the presumption of openness is overcome by another public policy concern. *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 4, 284 Wis. 2d 162, 699 N.W.2d 551. If a records custodian determines that a record or part of a record cannot be disclosed, the custodian must redact that record or part of that record. *See* Wis. Stat. § 19.36(6).

One Wisconsin statute, Wis. Stat. § 43.30, which is not part of the public records law and therefore outside of our office’s scope, may address the kind of record that you created by completing a “complaint form.” At subsection (1m), that statute states:

Records of any library which is in whole or in part supported by public funds, including the records of a public library system, indicating the identity of any individual who borrows or uses the library’s documents or other materials, resources, or services may not be disclosed except by court order or to persons acting within the scope of their duties in the administration of the library or library system, to persons authorized by the individual to inspect such records, to custodial parents or guardians of children under the age of 16 under sub. (4), to libraries under subs. (2) and (3), or to law enforcement officers under sub. (5).

Based on your correspondence, we lack sufficient information to determine whether a library’s potential disclosure of personal information from a “complaint form” would be a violation of law. You may wish to contact the public library in question to discuss your concerns.

If you would like to learn more about the public records law, DOJ’s Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ is dedicated to the work necessary to preserve Wisconsin’s proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, flowing style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah



**STATE OF WISCONSIN
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June 30, 2025

Amy Thomas
amythomas@minocquabrewingcompany.com

Dear Amy Thomas:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated June 12, 2025, in which you wrote, "I am submitting this formal complaint regarding a potential violation of Wisconsin's Public Records Law by Representative Ron Tusler (Assembly District 3). . . . I submitted a records request [for] all text messages sent or received by Rep. Tusler between 1:00 p.m. and 3:30 p.m. on May 7, 2025, during the public hearing on Assembly Bill 88. . . . the specific message visible on camera was not included in the records he provided." You requested DOJ "investigate this situation for possible legal violations."

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. While your correspondence largely pertained to the public records law, it also discussed matters outside the scope of the OOG's responsibilities. As a result, we are unable to offer you assistance or insight regarding your allegations of "potential misconduct in public office under Wis. Stat. § 946.12."

Additionally, DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the Wisconsin legislature. DOJ strives to provide the public with guidance on the interpretation of our State's public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

However, I did contact Representative Ron Tusler's office to make them aware of your concerns, and I am also copying them on this letter.

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ's Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the

full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in dark ink that reads "Lili Behm". The signature is written in a cursive, flowing style.

Lili C. Behm
Assistant Attorney General
Office of Open Government

LCB:lah

cc: Office of Representative Ron Tusler