



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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Mr. Byron Lichstein
University of Wisconsin-Madison
975 Bascom Mall
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Dear Mr. Lichstein:

As you know, the State Bar of Wisconsin, Marquette University Law School, Wisconsin Attorney General's Office and the University of Wisconsin Law School have created a Criminal Justice Study Commission to identify and help correct problems in the Wisconsin Criminal Justice System. The University of Wisconsin-Madison has provided funding to hire a staff attorney for the commission. The other three co-sponsors have agreed to provide funding for work group gatherings and support. Members of the commission include police, defense attorneys, prosecutors, judges and victims' advocates as well as community leaders from outside the criminal justice system. It is expected that the commission's work will take at least three years and that the commission will make reports and recommendations periodically. It is anticipated that the commission will meet between three and five times each year. A question has arisen whether Wisconsin's open meetings and public records laws apply to the commission. I conclude that they do.

The open meetings law applies to the commission if the commission is a "governmental body." Sec. 19.82(1), Wis. Stats. There is no doubt that the University of Wisconsin and the Department of Justice are governmental bodies. The Department of Justice is a state department created by statute under the direction and supervision of the Attorney General. Sec. 15.25, Wis. Stats. The University of Wisconsin is a body corporate and, by statute, meetings of the Board of Regents are open and all records of such meetings and of all proceedings of the Board are subject to the open meetings and public records laws. Sec. 36.07(6), Wis. Stats. In 66 Op. Att'y Gen. 60 (1977), the Attorney General concluded that departments or formally constituted subunits of the University of Wisconsin System or campus are governmental bodies.

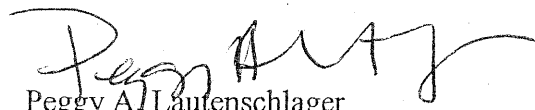
In 78 Op. Att'y Gen. 67 (1989), the Attorney General opined that the kind of order needed to create a committee or commission, although not defined in the open meetings law, must be construed according to its common and approved usage. The opinion concluded that a governmental body "would, therefore, be creating a committee by order whenever it authorizes the committee and assigns the duties and functions of the committee. Neither the statute nor the dictionary definition require that the order be formal. All that is required to create a governmental body is a directive creating the body and assigning it duties." *Id.* at 69. Because the Criminal Justice Study Commission was created, at least in part, by two state governmental

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bodies, the commission is subject to the open meetings law. The fact that the State Bar of Wisconsin and Marquette University Law School, the former exempt from the open meetings law and the latter a private entity, participate in the commission or that some of the commission's members are neither public officials nor employees, does not change the nature of the commission from a public body to a private body. *See* 78 Op. Att'y Gen. 67 (1989) (committees consisting of Department of Natural Resources employees and private citizens are subject to the open meetings law).

Similarly, the public records law applies to the commission's records because both the Department of Justice and the University of Wisconsin Law School are "authorities" under section 19.32(1) of the Wisconsin Statutes. Of course, any of the exceptions to the public records law's presumption of complete public access to public records, such as the exclusion for drafts, notes and preliminary computations, would also apply to the commission's documents.

Very truly yours,



Peggy A. Lautenschlager
Attorney General

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c: Ken Hammond