



## Wisconsin Department of Justice Office of the Attorney General Office of Open Government

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### Structure

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Four dedicated positions:

1. Open Government Ombudsman (Attorney- team lead & records custodian)  
The premier state expert on open government issues; supervises the other team members and responsible for in-depth understanding of open government law. This is also the official records custodian of the agency.
2. Deputy Records Custodian (Paralegal)  
Responsible for review of records to determine responsiveness and whether redaction is necessary; performs email vault searches; assists in drafting response letters; conducts legal research; assists in drafting correspondence; responsible for updating and maintaining the accuracy of online resources.
3. Open Government Coordinator (Legal Associate – administrative support)  
Manages Time Matters tracking system; responsible for correspondence with requestors; answers PROM hotline calls and maintains PROM database; general administrative duties.
4. Open Government Paralegal (may be less than full time position)  
Responsible for review of records to determine responsiveness and whether redaction is necessary; performs email vault searches; assists in drafting response letters.

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### Responsibilities of Team

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1. Public Records Requests (PRR)
  - a. Responsible for the timely response to all PRRs
  - b. Responsible for coordinating with the executive team on policy issues related to PRRs
2. Coordination with executive team
  - a. Responsible for coordinating with executive team on policy matters, and providing updates at least weekly to the designated executive staff member.
3. Legal interpretation of open government laws
  - a. Authors, approves, signs letters responding to requests or legal interpretation
  - b. Collects responses to send to FOIC quarterly
4. PROM

- a. Responsible for assisting with responses, monitoring the notes, and collecting the records to provide to FOIC if we determine they should be included in the quarterly updates.
5. Agency Consultations
  - a. If a PROM question or other inquiry turns into an agency consultation, will lead meeting along with DLS administrator.
6. Agency Defense Cases
  - a. Leads cases or works with other assigned DLS attorneys if an agency is sued for violation of open government laws
7. Open Records Guidance
  - a. Responsible for state-wide educational seminars/webinars on open government
  - b. Assist with and present at other summits/conferences on open government
  - c. Responsible for updating the open government resources available online
8. Complaints on open records violations
  - a. Responsible for evaluating citizen complaints on open records and open meeting violations and providing a recommendation to the executive team on resolution of those complaints.
9. Assist with Amicus Briefs related to open government issues
10. Updates Office of Open Government (OOG) website as necessary to include information concerning OOG policies, procedures, performance, and other materials in the interest of transparency and accountability

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### **PRR Response Protocol**

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Open Government Ombudsman – **OGO** (AAG)  
Deputy Records Custodian – **DRC** (Paralegal)  
Open Government Coordinator – **OGC** (Legal Associate)  
Open Government Paralegal – **OGP**

1. Requests for “records” as defined in Wis. Stat. § 19.32(2), generally should be processed pursuant to this protocol. All DOJ employees will cooperate with responding to a request for records if requested by DOJ open government personnel.
2. **LIMITED EXCEPTION:** General requests for small amounts of materials already publicly available may continue to be handled informally by simply providing a copy to the requester. Examples of requests that may be handled informally include:
  - a. Requests to DOJ librarians or media staff for discrete and easily identifiable documents such as attorney general opinions, DOJ publications, or copies of correspondence from the Office of Attorney General (OAG) database
  - b. After notice to and consent from either the OGO or the Communications Officer, requests to DOJ attorneys or media staff for copies of press releases, publicly filed pleadings or briefs, or case decisions.
  - c. Media requests that the Communications Officer determined can be treated as requests for information rather than PRRs.

3. Any DOJ employee receiving a written (including email) public records request will immediately forward a copy of the request to the OGC and OGO, with a notation of the date received.
  - a. Requests received at DOJ office locations, including DCI and Crime Laboratory offices, outside of the Risser Justice Center building in Madison will be scanned and emailed to the OGC and OGO immediately. Subsequently, the original copy of the request can be forwarded to the OGC to be added to Time Matters.
4. If a verbal PRR is received, the DOJ employee receiving the request may encourage the requester to reduce the request to writing and submit to the OGC.
  - a. If the requester does not wish to reduce the request to writing, a verbal request is permitted under the law. Any DOJ employee receiving a verbal request will e-mail a summary of the request, the time and date received, the requester's name, contact information, and any other relevant information to the OGO.
  - b. The details of the request should be confirmed with the requester in writing either by email or U.S. mail. This can be done in the acknowledgement letter (see 7 below), or as a separate correspondence.
5. OGC will log requests into Time Matters and check that database for any related entries.
6. OGC will provide a copy of the request to the communications officer if:
  - a. A request was submitted directly to the OOG by a member of the media. The Communications Officer shall receive a copy of all substantive correspondence sent regarding such requests and be provided an opportunity to review all responsive records to be provided to the media prior to release. For all requests not involving the media, the Communications Officer shall inform the OGO whether (i) review of records prior to dissemination is required; and/or (ii) a copy of records produced is desired; and/or (iii) a copy of the response letter is desired.
7. A letter will be sent to the requestor within two business days of receiving the request.
  - a. If the PRR is being processed, an acknowledgement letter is sent.
  - b. If OGO determines request is insufficient, he/she may seek clarification or deny the request and invite the requester to resubmit a clarified request.
    - i. If the request is from media, OGO will discuss the matter with the Communications Officer to determine whether clarification is necessary.
    - ii. If clarification is received immediately via email or a phone call, an acknowledgment letter can be sent.
      1. If clarification is received via the phone, the conversation should be documented and the clarification should be included in the acknowledgment letter.
    - iii. If clarification cannot be obtained immediately, a letter seeking clarification may be sent within two days of receiving the original request.
  - c. If the request is for documents from an open investigation, and a balancing test determination is made that the documents cannot be provided, a letter denying the request will be sent within two days.

- i. This letter must contain language explaining that the request is not being held open, and a new request may be made when the investigation is closed.
  - d. If the PRR is denied for other reasons, a letter explaining the circumstances should be sent.
    - i. If a request is denied in whole or in part, the reasons for the denial must be stated with enough specificity to explain the basis for the denial.
    - ii. Every written denial of a public records request must include the following language:
 

*Pursuant to Wis. Stat. § 19.35(4)(b), this determination is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to a district attorney or the Attorney General.*
- 8. OGO will determine whether the request will require more than \$50 of location costs. If so, OGO will consider whether prepayment is necessary and whether assigned staff will document time spent on location costs.
- 9. OGO will determine whether an email vault search must be completed.
  - a. If a vault search is required, OGO will determine appropriate search parameters for DRC or OGP to run the vault search within two days of the PRR being opened in Time Matters, or as soon thereafter as practicable.
  - b. Vault search must be completed within three days of PRR being opened in Time Matters, or as soon thereafter as practicable.
- 10. DRC will review vault search results for responsive documents
  - a. Review must be completed within four days of receiving the results (within seven days of the PRR being opened in Time Matters), or as soon thereafter as practicable.
- 11. If necessary, OGO will assign the PRR to another unit for collection of records.
  - a. If the PRR is assigned to DMS:
    - i. OGC forwards to the administrator of DMS and, if directed, the specific bureau head.
      - 1. If request is for employment, human resources, or payroll records, they are forwarded to HR lead.
      - 2. If request is for fiscal records, unit director forwards to budget team lead
      - 3. If request is related to IT, unit director forwards to IT lead
    - ii. When records are collected by DMS, they are forwarded back to OGC.
  - b. If the PRR is assigned to DCI:
    - i. OGC forwards it to the DCI records custodian and, if directed, to a lead staffer of the DCI public records team.
  - c. If the PRR is assigned to DLES:
    - i. The OGC will forward the request to the DLES records custodian and, if directed, to the specific bureau lead.
  - d. If the PRR is assigned to DLS:

- i. The OGC will forward the request to the specific unit director.
  - ii. The unit director will assign records collection within the unit with due dates.
  - iii. The administrator or unit director will be responsible for the timeliness of the records collection.
12. When all records have been collected from the vault search and the departmental searches, they should be forwarded OGC who will update the matter in TM accordingly.
  - a. All records should be returned to OGO within four days of being assigned (seven days of the PRR being opened in Time Matters).
  - b. OGO will determine if redaction is necessary.
    - i. If a minimal amount of redaction is required, OGO and DRC can complete the redactions themselves.
  - c. If more than a minimal amount of redaction is required, OGO may assign the redactions to designated attorneys in the civil litigation unit.
  - d. OGO will be responsible for making sure the redactions are completed in a timely manner.
  - e. In no event will a requester be charged for costs incurred because of redaction.
  - f. OGC will send out statutorily required notices (pursuant to Wis. Stat. § 19.356) within one day following completion of review and redaction of records, or as soon thereafter as practicable, if necessary.
13. Redactions must be complete within three days of receiving the records (10 days from the time the PRR is opened in Time Matters), or as soon thereafter as practicable. When redaction is complete, OGC will determine the invoice amount and send a letter requesting payment, if necessary.
  - a. The response, including the request for prepayment of copying, mailing, location, or other allowable fees, will be mailed to the requester within one day of the redactions being completed.
  - b. The requester will have 30 days to provide payment of the invoice or the matter will be considered closed.
14. If timely payment is received, OGC will provide the records.
15. The OGC will maintain copies of the following for the file:
  - a. Correspondence, including the initial request, any acknowledgement, responses, or clarifications, and internal DOJ communications provided to the OGO.
  - b. Any records provided to the requester, both in their redacted form as well as in their unredacted form.
16. Because of workload or other extenuating circumstances, OGO may adjust the recommended timeframes above.

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### **Vault Searches**

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1. Vault searches for PRRs can only be performed by the PRR team. Attorneys outside of the PRR team should not have access to the search function.

2. Vault search results can be reviewed by any attorney assisting. All participants will have access to the review function.
3. OGO will prescribe the search parameters for any given PRR search.
  - a. If the search returns more than 500 emails, OOG staff may request clarification from the requester after consulting with the OGO.
4. If, after narrowing the search, the number of email returned still exceeds 500, OGO may again seek clarification from the requestor as laid out in the PRR response protocol (7.b).
  - a. OGO may use staff resources, cost, and response time to explain why clarifications are needed.
  - b. If the PRR team is unable to narrow the request and the request remains insufficient, it may be denied on those grounds.

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### **Coordination with DCI**

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1. Cases of significant public interest
  - a. Including officer involved critical incidents
2. Audio/video expert resources are limited

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### **Requests for Legal Interpretation**

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1. All requests for legal interpretation should be documented.
2. PROM calls
  - a. All PROM calls will go to OGC. If OGC is unavailable, a designated staff member can assist (DRC, or OGO can also answer calls)
  - b. All calls must be logged when received
    - i. Log includes caller, subject matter, date, time, person taking the call, and attorney to whom the call is being forwarded.
  - c. OGO should respond to calls within 24 hours, or as soon thereafter as practicable.
    - i. OGO may seek assistance from other attorneys if unable or unavailable to respond.
    - ii. If the request requires a formal response, OGO will ask the requestor to submit his/her detailed request in writing (see below, 4).
    - iii. If request is made by an agency, OGO may set up an agency consultation if necessary (see below, 3).
  - d. Details of the response should be logged into Time Matters.
    - i. Details must include date and time of the response, whether the response was in writing or verbal, and to whom the response was made.
3. An agency consultation can be set up if requested by a represented state agency or if prompted by a PROM call from an agency.
  - a. Executive team should be informed of all agency consultations before they occur.
  - b. OGO may seek assistance from other knowledgeable DOJ attorneys and staff when setting up agency consultations.

4. Formal requests for legal interpretation
  - a. Requests should be forwarded to the designated DOJ staff person and logged into Time Matters following the PRR response protocol above.
  - b. The team should draft a response to be sent within 30 working days, or as soon thereafter as practicable.
    - i. OGO may seek assistance from other attorneys if unable or unavailable to respond.