



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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December 12, 2017

Joanna Beilman-Dulin
Research Director
One Wisconsin Now
own@onewisconsinnow.org

Dear Ms. Beilman-Dulin:

This is in response to your correspondence, received on November 24, 2017, in which you requested the following:

- any and all communications between you [Attorney General Brad Schimel] or your executive staff, and the Wisconsin Institute for Law and Liberty;
- any and all communications between the Wisconsin Solicitor General or the members of the Solicitor General's office, and the Wisconsin Institute for Law and Liberty.

You specifically requested "records from September 1, 2017 through the date this request is fulfilled." The Department of Justice (DOJ) construes your correspondence as a public records request pursuant to the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39.

In your request you specified "I request these records from September 1, 2017 through the date this request is filled." The public records law does not envision forward looking requests. "The right of access applies only to records that exist at the time the request is made, and the law contemplates custodial decisions being made with respect to a specific request at the time the request is made." 73 Op. Att'y Gen. 37, 44 (1984).

Therefore, we searched for records from September 1, 2017 through November 22, 2017 (date of your request). Our search for responsive records included a search of emails to or from Attorney General Brad Schimel, Deputy Attorney General Paul Connell, Chief of Staff Delanie Breuer, Senior Counsel Daniel Lennington, Policy Advisor Mike Austin, Government Affairs Director Lane Ruhland, Director of Communications and Public Affairs Johnny Koremenos, Solicitor General Misha Tseytlin, Chief Deputy Solicitor General Ryan Walsh, and @will-law.org. If you wish to narrow the scope of your request to more specific search terms and specific names of individuals within DOJ, you may do so at any time.

We reviewed our files and identified records responsive to your request. We are providing them to you as explained below.

An employee's personal cell telephone number was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Well-established public policy recognizing the confidentiality and privacy of employees' personal information is expressed in Wis. Stat. § 19.36(10)(a). I find that the same underlying public policy of protecting the confidentiality and privacy of employees' personal information outweighs any public interest in disclosure of the employee's personal cell telephone number.

Where possible, only one copy of records for which duplicate copies exist has been included with the records prepared for release. *Stone v. Bd. of Regents*, 2007 WI App 223, ¶ 20, 305 Wis. 2d 679, 741 N.W.2d 774. Duplicate copies of records are not included when attached to emails when copies of these records are included as attachments within the responsive records. Where possible, email chains, where the last email of the chain is being produced, were omitted.

The law permits DOJ to impose fees for certain "actual, necessary and direct" costs associated with responding to public records requests. Wis. Stat. § 19.35(3). Pursuant to Wis. Stat. § 19.35(3)(f), DOJ may require prepayment for the costs of locating (if applicable), copying, and mailing the requested records if the total amount exceeds \$5.00. Pursuant to Wis. Stat. § 19.35(3)(e), in this instance, DOJ is waiving its fees associated with responding to your request. Enclosed, please find the records responsive to your request.

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.

Sincerely,



Paul M. Ferguson
Assistant Attorney General
Office of Open Government

PMF:cks

Enclosure