



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

BRAD D. SCHIMEL
ATTORNEY GENERAL

Paul W. Connell
Deputy Attorney General

Delanie M. Breuer
Chief of Staff

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Paul M. Ferguson
Assistant Attorney General
fergusonpm@doj.state.wi.us
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

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Keegan Kyle
Gannett Wisconsin Media
keegan.kyle@gannettwisconsin.com

Dear Mr. Kyle:

This is in response to your email correspondence, received on December 5, 2017, in which you requested the Wisconsin Department of Justice (DOJ) "produce digital copies of all emails sent by Attorney General Brad Schimel that contain at least one of the following words: 'kit', 'kits', 'unsubmitted', 'un-submitted', and 'SAKI.' Please narrow the responsive records to emails sent from January 1, 2015 to the present." DOJ construes your correspondence as a public records request pursuant to the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39.

A search using all of the search terms you provided resulted in approximately 814 emails that would require review to identify any possible redactions prior to release. Therefore, we must deny your request as insufficient pursuant to Wis. Stat. § 19.35(1)(h). This request is excessively burdensome and not reasonably limited as to subject matter and time. The public records law does not impose such heavy burdens on a record custodian that normal functioning of the office would be severely impaired, and does not require expenditure of excessive amounts of time and resources to respond to a public records request. *Schopper v. Gehring*, 210 Wis. 2d 208, 213, 565 N.W.2d 187 (Ct. App. 1997); *State ex rel. Gehl v. Connors*, 2007 WI App 238, ¶ 17, 306 Wis. 2d 247, 742 N.W.2d 530.

However, in an attempt to locate records responsive to your request, we searched for email correspondence sent by Attorney General Brad Schimel between January 1, 2015 and December 5, 2017 using the search term SAKI. If you wish to narrow the scope of your request to more specific search terms, specific names of individuals within DOJ, or by timeframe, 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.

Home addresses were redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. In performing the balancing test, I determined that the public interest in disclosure of this information is outweighed by the public interest in the expectation of privacy on the part of individuals in their personal lives. Additionally, well-established public policy recognizing the confidentiality and privacy of the personal contact information of an authority's employees is expressed in Wis. Stat. § 19.36(10)(a). Although that statute does not directly govern the redacted information, I find that the same underlying public policy of protecting the confidentiality and privacy of personal contact information outweighs any public interest in disclosure of this information.

Pursuant to Wis. Stat. § 19.36(10)(d), I redacted certain information related to staff management planning.

Drafts of documents are not being produced because drafts are not records as defined in Wis. Stat. § 19.32(2). See *Schill v. Wis. Rapids Sch. Dist.*, 2010 WI 86, ¶ 71, 327 Wis. 2d 572, 786 N.W.2d 177; *Journal/Sentinel, Inc. v. Sch. Bd. of Sch. Dist. of Shorewood*, 186 Wis. 2d 443, 456, 521 N.W.2d 165 (Ct. App. 1994). Final documents are being produced.

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