

(Revised August 2013)

Wisconsin's Open Records Law begins with a declaration: "In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them."

Note what it says: "All persons." Not just the news media. Not just professionals with a need for public records. Not just lawmakers and litigants.

In fact, some of the law's most prolific users are ordinary citizens tracking particular areas of public policy or checking up on officials and institutions. That's why the law exists, and why groups like the Wisconsin Freedom of Information Council work to protect it.

Here is a Top Ten list of things to keep in mind when making records requests:

- 1. Look for the posted policy.** Under Wisconsin statute 19.34, all state and local public offices must "prominently display" a notice explaining their records policy. It should include hours of availability, official custodians, and costs. While not every public office is in compliance with this law, it's often a good place to start.
- 2. It never hurts to just ask.** The law says record requests can be made orally, and for many records – meeting minutes, proposed legislation, official correspondence – an oral request is all it takes. But for more complex requests or if an oral request doesn't work ...
- 3. Put it in writing.** Under the law, records custodians must reply in writing to written requests. They must either provide the record or state their reasons for withholding it. This is their only chance to cite arguments against release. They can't add new ones later if the denial is challenged.
- 4. Invite a dialog.** It's a good idea for requesters to contact custodians for direction before making complicated requests and offer to engage in further dialog to clarify or narrow a given request. Requesters should assume that custodians are trying to help get the information they seek, and offer to cooperate in this process.
- 5. You can remain anonymous.** Under the law, requesters do not have to identify themselves or say why they want to see a record. But not giving a name can create logistical problems, especially for written requests. Requesters may have to arrange to pick these records up or have them sent to a neutral location.
- 6. Be polite.** Usually, the person on the other side of the counter is a conscientious public employee. Some don't have much experience with records requests, and may be reluctant to do what the law requires. But it never makes sense to be belligerent. Hold your ground, but hold

your tongue, too. The way you behave may have implications for other requesters.

7. Be specific. Always be as precise as possible about what records you seek, and include a date range. Asking for “all traffic citations issued in the city of Milwaukee” during an unspecified time frame is much too unwieldy, especially if you really just want speeding tickets in the 3800 block of North Avenue during the first week of June.

8. Don't pay a lot for this record. Custodians may charge the “actual, necessary and direct cost” of making copies, and in some cases (when over \$50) of locating records. Except for a few exceptions – like circuit court records, which go for \$1.25 per page – you should generally pay no more than a quarter per page. Plus you can always ask to review records without getting copies.

9. You don't have to be an expert. The law says decisions on records access “shall be construed in every instance with a presumption of complete public access.” Yes, there are statutory and case-law exemptions, and legitimate reasons for withholding some records. But the requester doesn't have to know what these are; it's the burden of the custodian to either release the record, or give a good reason not to.

10. Help is available. The Wisconsin Freedom of Information Council's website (wisfoic.org) contains useful resources, including a fill-in-the-blank open records request letter. The Wisconsin Attorney General's open records page, at <http://www.doj.state.wi.us/dls/open-government>, has a helpful and detailed “compliance outline” for records requests.

The Open Records Law is like a muscle: The more it is used, the stronger it becomes. The law belongs to all of us, and we have a collective responsibility to make sure it stays strong.

Your Right to Know is produced by the Wisconsin Freedom of Information Council, devoted to protecting public access to meeting and records. Bill Lueders is the group's president.