Your Right to Know / Bill Lueders

State must do more to promote openness

Last January, a person involved in local emergency management asked the Office of Open Government, part of the state Justice Department, whether emergency preparedness coalitions run by the Wisconsin Department of Health Services (DHS) are subject to the state’s open meetings and open records laws.

The answer to this question, it turns out, is yes. These laws apply to the state’s seven [Wisconsin Regional Healthcare Emergency Readiness Coalitions](https://www.dhs.wisconsin.gov/preparedness/healthcare/index.htm), critical entities in the age of COVID-19, meaning their meetings must be noticed and open to the public.

But arriving at this answer took nearly a year, which should not have happened.

The Office of Open Government replied to that Jan. 9 query nearly nine months later, on Sept. 29. Its response letter, one of 19 [issued](https://www.doj.state.wi.us/sites/default/files/office-open-government/Ask%20the%20OOG%20-%20Correspondence/2020%203rd%20quarter%20with%20Index.pdf) during the third quarter of 2020, was posted online in late October.

These long waits for [response letters](https://www.doj.state.wi.us/office-open-government/doj-responses-open-government-correspondence) have been the norm for at least the last decade, even though they average only about two per week and consist largely of boilerplate used in previous letters. But eliminating this backlog has not been a priority under Attorney General Josh Kaul or his two predecessors, J.B. Van Hollen and Brad Schimel.

Moreover, these responses often fall short of providing clear answers. In the case at hand, the Office of Open Government laid out a complex analysis of operative court rulings, then said it “cannot make a definitive determination” as to whether the laws apply to these coalitions.

And so on October 28, I emailed Jeff Phillips, director of DHS’s Office of Preparedness and Emergency Health Care, asking whether the state’s openness laws applied to these coalitions. My subject line was “Quick question.” If only.

Phillips contacted other DHS officials, prompting an exchange of emails that carefully avoided discussing the matter in any detail. This is an increasingly common strategy employed to keep useful information away from someone like me who might ask for email records (which I did). Rather, the officials arranged to meet online to arrive at a response.

After a number of these meetings took place without resolution, Phillips, who handled the matter with professionalism and cheer, emailed me on Nov. 25 to affirm that, yes, the state’s openness laws do apply to these coalitions. He said the DHS’s legal eagles will be providing the coalitions with “guidance as necessary.”

That’s good, because earlier that same day, the head of one of these coalitions responded to my request to attend its upcoming meeting by asking, “What healthcare preparedness organization are you with?” When I said I was just a member of the public hoping to observe a government meeting, there was no reply.

In my opinion, it should always have been clear that these meetings (where, truly, nothing nefarious happens) are open; public officials, in parsing these matters, should err on the side of openness, if they err at all.

That’s the message that Attorney General Kaul and Gov. Tony Evers should be sending to state and local officials. But, in truth, both of them could do better in terms of providing leadership on issues related to open government.

The state’s openness laws should not be seen as a burden, but as a way for public officials to build trust with the people they represent. Wisconsin needs a stronger commitment to transparency, from the top on down.

*Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council (*[*wisfoic.org*](http://www.wisfoic.org/)*), a group dedicated to open government. Bill Lueders, the editor of The Progressive, is the group’s president.*

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