



von Briesen & Roper, s.c. | Attorneys at Law

To: Wisconsin County Officials

From: Andrew T. Phillips, von Briesen & Roper, s.c.

Date: August 20, 2018

Re: Charges for Locating and Copying Records Pursuant to Public Records Requests

The Wisconsin Department of Justice (DOJ) recently released a statement relating to the charges that an authority (i.e., a governmental entity having custody of a public record) may impose for locating and copying records pursuant to a public records request.

The DOJ's statement can be found here: <https://www.doj.state.wi.us/news-releases/office-open-government-advisory-charging-fees-under-wisconsin-public-records-law>.

As the DOJ indicates, an authority may charge a requester the "actual, necessary and direct costs" associated with copying and mailing the responsive records. In addition, if the costs associated with location of the record(s) alone is \$50 or more, those costs may be charged to the requester as well. The DOJ is encouraging all authorities (including counties) to review their current charges associated with responding to public records requests and, if necessary, modifying their fee schedule to ensure that requesters are charged only for those costs determined to be "actual, necessary and direct."

The DOJ recently undertook a study of its "actual, necessary and direct costs" associated with responding to a records request and published a new fee schedule based upon the results of the study, a copy of which can be found here: <https://www.doj.state.wi.us/sites/default/files/office-open-government/fee-schedule-final.pdf>. According to DOJ's schedule, it will charge a fee of \$0.0135/page for black and white copies and \$0.0632/page for color copies of records.

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It is important to note that DOJ's rates are not applicable to all authorities and are limited to DOJ based on DOJ's accounting to not exceed their actual, necessary and direct costs. Counties (and other authorities) may have different and higher costs than DOJ, and Counties are not required to adopt the DOJ's fee schedule, nor are Counties required to revise their current schedule.

However, the DOJ's statement suggests that greater scrutiny will be given to the fees being charged requesters and counties should take this opportunity to review their current fee schedule with corporation counsel to ensure compliance with statutory requirements and applicable guidance issued by the Attorney General.

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