

Meeting of the Board
Tuesday, February 7, 2012
9:00 A.M.

Agenda
Open Session

G.A.B. Conference Room
212 East Washington Avenue, Third Floor
Madison, Wisconsin

Tuesday, February 7, 2012

9:00 A.M.

A. Call to Order	<u>Page #</u>
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- 5.05 (6a) and 19.85 (1) (h) The Board’s deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.
- 19.85 (1) (g) The Board may confer with legal counsel concerning litigation strategy.
- 19.851 The Board’s deliberations concerning investigations of any violation of the ethics code, lobbying law, and campaign finance law shall be in closed session.
- 19.85 (1) (c) The Board may consider performance evaluation data of a public employee over which it exercises responsibility.

The Government Accountability Board has scheduled its next meeting for Tuesday, March 20 and Wednesday March 21; 2012 at the Government Accountability Board offices, 212 East Washington Avenue, Third Floor in Madison, Wisconsin beginning at 9:00 a.m. each day.

The Government Accountability Board may conduct a roll call vote, a voice vote, or otherwise decide to approve, reject, or modify any item on this agenda.

State of Wisconsin\Government Accountability Board

Post Office Box 7984
212 East Washington Avenue, Third Floor
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

Date: For the February 7, 2012 Meeting

To: Government Accountability Board Members

From: Kevin J. Kennedy, Director and General Counsel

Subject: Approve Proposed Rule Permitting Use of
Technical College Student Identification Cards for Voting

At the November 9, 2011 meeting, the Government Accountability Board specifically approved the use of technical college identification cards to meet the photo identification requirements of Act 23, reversing a previous Board action. Following the Board's actions on November 9, 2011, the Joint Committee for Review of Administrative Rules immediately scheduled a public hearing and an executive session for November 15, 2011 to discuss the Board's actions. In executive session, JCRAR adopted a motion requiring the G.A.B. to promulgate an emergency rule on the use of technical college student identification cards to meet the voter identification requirements of 2011 Wisconsin Act 23.

On November 22, 2011 the G.A.B. staff submitted a proposed scope statement for the proposed rule to the Governor for approval. The Governor approved the scope statement on December 2, 2011 and it was published in the December 30, 2011 edition of the Administrative Register. The statement of scope must appear in the Administrative Register for 10 days before the Board can affirmatively approve it. On January 12, 2012 the Board approved the statement of scope. Following approval of the statement of scope by the Board, staff began drafting the emergency rule and permanent rule.

The proposed rule is set out below. Once the Board approves the proposed emergency rule, we will have to submit it to the Governor for approval and conduct a public hearing.

Assuming the Governor approves the emergency rule, we can then publish the rule in the newspaper and file it with the Legislative Reference Bureau. Usually, it takes a minimum of a couple of weeks to accomplish publication of a rule and the emergency rule would not take effect until it is published (and on file with the LRB.) On this schedule, the earliest this emergency rule could be effective is likely the end of February. Both the Governor and the Legislature have an opportunity to block the emergency rule and this schedule presumes that neither will do so.

As this schedule shows, even with the approval of the statement of scope regarding the technical college identification card emergency rule, it is unlikely that an emergency rule would be effective prior to the February 2012 primary, even if the Governor and the Legislature do not object to the rule. However, the Board staff has instructed local election

officials to accept Technical College student identification cards for voter identification based on the Board's action in November, 2011.

Proposed Rule

GAB 10.05 Wisconsin Technical College Student Identification Cards

1. A student identification card issued by a Wisconsin Technical College System institution is an acceptable form of identification for voting pursuant to s. 5.02 (6m)(f).
2. The Wisconsin Technical College System student identification card may be presented to an election official to receive a ballot if it meets the following criteria:
 - a. Is unexpired;
 - b. Contains the date of issuance;
 - c. Contains a photograph that reasonably resembles the individual to whom it is issued;
 - d. Contains the signature of the individual to whom it is issued;
 - e. Contains an expiration date indicating that the card expires no later than 2 years after the date of issuance;
 - f. The voter establishes that he or she is enrolled as a student at the technical college on the date that the card is presented.
3. A student identification card issued by a private trade, correspondence, business or technical school doing business in this state is not an acceptable form of identification for voting.

Proposed Motion:

The Government Accountability Board approves the attached proposed emergency and permanent rule permitting the use of Technical College student identification cards for voting and directs staff to submit the proposed rule for approval by the Governor. The Board further directs staff to set a time for a public hearing on the proposed emergency rule once approval is received from the Governor.

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KEVIN J. KENNEDY
Director and General Counsel

Date: For the February 7, 2012 Meeting
To: Government Accountability Board Members
From: Kevin J. Kennedy, Director and General Counsel
Subject: Report on Recall Petition Review Preparations

This report provides the Board with additional information on the staff preparation for the review of the six recall petitions offered for filing containing an estimated 1.931 million signatures. Since the Board's last meeting on January 12, 2012, the agency filed a motion for an extension of time to review the recall petitions. Judge Niess issued an order extending the time for the G.A.B. to complete its careful examination of the petitions until Monday, March 19, 2012. The court left open the opportunity for the agency and other parties to return for further extension with the caveat that the reasons presented to meet the "good cause" standard for further extension would need to be more substantial than presented in the initial request for an extension.

The court also established deadlines for the officeholders to submit challenges, for the recall petitioners to respond to the challenges and for the officeholders to reply to the petitioners' response. A copy of the order accompanies this memorandum.

There are three additional items to present to the Board for information purposes. These are posting recall petitions on the agency website, requests to submit information from non-parties for the Board's consideration in determining the sufficiency of recall petitions, and the status of the implementation of a process for review of duplicate signatures on recall petitions.

Posting Recall Petitions on the Agency Website

The Board established this practice with the nine recall petitions offered for filing in 2011. This practice was clearly communicated in the various presentations to the Board at public meetings and was discussed with the groups initiating the recall. The agency staff posted the petitions for the four 2012 senate recalls once the petitions had been scanned, the scanning verified by a separate staff review and a copy of the scanned petitions had been delivered to the officeholder. The staff completed scanning the recall petitions for the Governor and delivered a copy to the officeholder late Friday afternoon, January 27, 2012. However, given the size of the petitions, the staff took extra time to ensure what was to be posted on the website was complete and accessible.

The plan was to make the recall petitions for the Governor accessible on the website on Monday, January 30, 2012, after completing the preparations for posting. However, the staff was inundated with several requests from petition signers and some legislators to consider

redacting information for victims of domestic abuse, sexual assault and stalking, or not posting the petitions at all. Staff was reluctant to deviate from its past practice, but recognized the necessity to carefully balance those objections with the fundamental principle of openness of public records along with the Board's commitment to keep all aspects of the recall process transparent. Staff developed a thorough analysis of the public records balancing test which was vetted with our Department of Justice attorneys. A copy of that analysis accompanies this memorandum.

The analysis was included in a written response to the initial person who requested a copy of the gubernatorial recall petitions. Once that analysis was complete and a determination that the Board's stated practice would be followed, the petitions were posted.

Given the heightened tensions and political polarization surrounding the recall process from its inception it is not surprising that several communications were received by staff on this issue. The communications included pleas to refrain from posting the petitions, demands to not delay the posting and requests for reconsideration of the decision. Staff has advised individuals requesting reconsideration that it believes the matter is closed.

Absent a court challenge, staff believes that the furor over posting recall petitions provides information for consideration with respect to any proposed future changes to the recall process. No further action is recommended on this matter.

Treatment of Information Provided by Non-Parties with Respect to the Sufficiency of the Recall Petitions

Discussion of this issue was the primary reason for proposing this special meeting. Staff just received a formal request on behalf of *Verify the Recall* which consists of two organizations offering to share the results of their review and evaluation of the petitions using a software program provided by *True the Vote*. A copy of the request accompanies this memorandum. The two organizations, *Wisconsin Grandsons of Liberty* and *We the People of the Republic*, contacted staff in late December with a request to participate in the recall petition review by submitting information for the Board's consideration based on its independent evaluation of the petitions. We listened to the overtures and viewed a demonstration of the software based on an analysis the groups did on the 2011 Kapanke recall petitions. We asked the groups to provide a written request along with an analysis of the basis for the Board taking this information into consideration in evaluating the sufficiency of the recall petitions. We received the attached request at the time this memorandum was being prepared.

Verify the Recall requests the G.A.B. to enter into an agreement with them to accept their data to use in determining the sufficiency of the recall petitions. For \$1 they will take our scanned copies, review them for readability, completeness and format. Once they are comfortable with the quality of the petition copies, they will have a large number of volunteers enter the data into their proprietary software and conduct an analysis of the validity of the petition signatures. Verify the Vote would submit its data to the G.A.B. for its use.

Their proposed signature analysis would address six categories:

- The signature is not dated
- The signature is outside the circulation period
- The residency of the signer of the petition sheet cannot be determined by the address given

- The signature is of an individual who is not a resident of the jurisdiction or district from which the elected official named in the petition was elected
- The signature is of an individual who is known to be deceased
- The signature is of an individual who is known to be fictitious

The proposal does not address duplicate signatures which is a category the G.A.B. must make reasonable efforts to detect. The proposal also goes beyond the statutory requirements for petition review by the G.A.B. The agency is required to conduct a careful examination of the face of the petition. Wis. Stat. §9.10 (3) Our procedures do not include an active search for deceased petition signers. In addition our review of fictitious names is a “reasonable person” standard. In other words, does the name look like the name of a cartoon character, celebrity or historical figure that was conjured up by the signer? The judgment is made and reviewed by human beings.

The agency review does not rely on entering names into a data base and doing a comparison with other data bases. This is beyond the statutorily required scope of review. However, introducing a data base of signature information raises expectations of the ability and responsibility to detect invalid signatures. In the past officeholders subject to recall have developed database tools to buttress their permitted challenges. It would be a significant and unwise departure to change our standards of review absent a court order.

It is our understanding the Verify the Recall process will go forward whether or not the Board utilizes any of the data generated by the process. This means a searchable database will likely be available to the public based on the work of Verify the Recall. Examples of recall related data collection and searchable databases already exist on a number of websites hosted by the officeholders targeted by the recall initiatives, the Republican Party of Wisconsin and the two groups putting together the Verify the Recall process.

Wisconsin Grandsons of Liberty and We the People of the Republic have a website to solicit volunteers to assist them in entering recall petition data: <http://www.verifytherecall.com/>. The site also includes a link to a page for citizens who did not sign a recall petition to enter their name and address, so it can be checked as part of their independent verification process: <http://www.verifytherecall.com/NoSignRegistration.html>

Senate officeholders subject to recall also have posted searchable lists of recall petition signers on their websites:

<http://votefitzgerald.com/>
<http://www.vanwangaard.com/>
<http://pamgalloway.com/>

Staff anticipates the officeholders will use this information in preparing challenges to the recall petitions.

In addition to this request, the Board has received a number of emails from individuals advising the Board they did not sign the petitions and requesting us to search for their name and strike it.

The question presented for the Board is what, if anything, should the Board do with unsolicited information that is presented for consideration in determining the sufficiency of the recall petitions. Staff believes the Board should only rely on information that is developed by the staff in its petition review, submitted by the officeholders in a challenge or the petitioners in a response to determine the sufficiency of recall petitions. The agency challenge rules require

sworn submissions from the parties. There is no recognized process for intervention by non-parties. Given the unprecedented nature of these recall efforts, it would be improper to change procedures in the midst of our review. The Board should limit its review to its established statutory and administrative procedures subject to a court order. As discussed below, the court ordered requirement to make reasonable efforts to search for duplicates expands our statutory duty with respect to our standard of review.

The information gathered through these outside efforts should also provide valuable information for evaluating the agency review process and developing recommended changes to the recall process.

Review of Duplicate Signatures

On January 5, 2012, Judge Davis issued an order directing the G.A.B. to make reasonable efforts to identify duplicate signatures on recall petitions. A copy of Judge Davis' order accompanies this memorandum. Since that time, staff has been evaluating efficient and effective methods of identifying duplicate signatures among the six separate recall petitions containing signatures ranging from 20,000+ for each of the four senate recalls to 845,000+ for the Lieutenant Governor recall and more than 1 million for the recall of the Governor.

We have been testing software that reads printed names on petitions and converts the image into a data base using optical character recognition (OCR). We have also been evaluating data entry options and data sampling options. The goal is to settle on a cost effective process that does not significantly extend the review time. Given the efforts of the officeholders to build their own searchable databases with volunteer efforts, our process must also be able to validate any duplicate challenges that are submitted.

At the time this memorandum was prepared, we were still evaluating our alternatives. Data sampling is recognized in several states to verify election-related petitions. In those states the methodology is generally built into the statutes or administrative code. We do not know if we gain any advantage from a review processing time standpoint with this approach, particularly if it is challenged as a basis for determining the sufficiency of the petitions. We have discussed the issues in a preliminary way with a number of statisticians. We are still developing recommendations regarding data sampling at this point. Our discussion continues with state and out of state experts.

We have committed to entering all of the Governor recall petition information into a data base. The drawbacks to both the OCR software and the data entry are the cost and time of completion. Unlike the officeholders or the Wisconsin Grandsons of Liberty, we cannot rely on a large army of volunteers to enter a huge amount of data to analyze. We have to pay staff to complete the data entry and our resources are very limited. Our goal is to finalize our approach by Friday, February 10, 2012.

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 9

DANE COUNTY

IN RE: PETITIONS TO
RECALL GOVERNOR SCOTT
WALKER, LIEUTENANT
GOVERNOR REBECCA
KLEEFISCH, SENATOR SCOTT
FITZGERALD, SENATOR PAM
GALLOWAY, SENATOR TERRY
MOULTON, SENATOR VAN
WANGGAARD,

Case No. 2012 CV 0295

GOVERNOR SCOTT WALKER,
LIEUTENANT GOVERNOR REBECCA KLEEFISCH,
SENATOR SCOTT FITZGERALD,
SENATOR PAM GALLOWAY,
SENATOR TERRY MOULTON,
SENATOR VAN WANGGAARD,

COMMITTEE TO RECALL WALKER,
COMMITTEE TO RECALL KLEEFISCH,
COMMITTEE TO RECALL SCOTT FITZGERALD
RECALL SENATOR PAM GALLOWAY,
COMMITTEE TO RECALL MOULTON,
COMMITTEE TO RECALL WANGGAARD,

and

GOVERNMENT ACCOUNTABILITY
BOARD,

Interested Parties.

ORDER

The Court held a hearing on January 25, 2012, to consider the Government Accountability Board's ("GAB's") Motion for Extension of Time to Meet Deadlines For Good Cause Shown, Governor Walker's Request for Extension of Time to Challenge Recall Petition, the Request of Senators Fitzgerald, Wanggaard, Moulton and Galloway for Extension of Time to Challenge Recall Petitions, Lieutenant Governor Kleefisch's Request for Extension of Time to Challenge Recall Petition, and the recall petitioners' joint Motion for Declaratory and Injunctive Relief, or Alternatively, For a Supervisory Writ.

Having considered the requests of the parties, all supporting papers in the record and the oral arguments of legal counsel, and for good cause shown pursuant to Wis. Stat. § 9.10(3)(b) as set forth on the record of the January 25, 2012, hearing,

IT IS HEREBY ORDERED:

(1) GAB has 61 calendar days or until March 19, 2012, to complete its careful examination of the recall petitions offered for filing on January 17, 2012, and to certify their sufficiency or insufficiency.

(2) The time periods set forth in Wis. Stat. § 9.10(3)(b) within which officers against whom recall petitions were offered for filing on January 17, 2012 may file a written challenge with GAB shall not begin to run until the date on which GAB provides each respective officer a copy of the entire petition offered for filing against such officer, and are hereby extended from 10 calendar days to:

- a. 20 calendar days with respect to Senators Fitzgerald, Galloway, Moulton and Wanggaard, which 20-day period shall end on February 9, 2012;
- b. 30 calendar days with respect to Governor Walker and Lieutenant Governor Kleefisch. :

(3) Should any deadline set by this order fall on a weekend or legal holiday, the deadline shall occur on the next business day per Wis. Stat. § 990.001(4).

(4) Each officeholder who files a challenge with GAB shall coordinate with GAB to provide certain challenge data in an electronic format, including using an electronic template developed by GAB staff, as long as the use of such template does not impose an unreasonable burden on the officeholder. Each officeholder who files a challenge with GAB shall serve a copy of its challenge on the recall petitioner in the same format as it is filed with GAB.

(5) The recall petitioners' Motion for Declaratory and Injunctive Relief, or Alternatively, For a Supervisory Writ is denied.

(6) The Court retains jurisdiction over this matter.

Dated this 30 day of January, 2012.

BY THE COURT:



Hon. Richard G. Niess
Circuit Court Judge, Branch 9

State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
http://gab.wi.gov



JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

January 31, 2012

Attorney Monica Riederer
Hansen Riederer Dickinson Crueger LLC
316 N. Milwaukee St. Ste 200
Milwaukee, WI 53202-5885

Dear Attorney Riederer:

You have requested a copy of the petition which has been submitted to our agency seeking the recall of Governor Scott Walker, in an electronic format. We are prepared to provide four disks containing the entire contents of the petition filed with the Government Accountability Board. Given that we have received numerous objections to releasing the names and/or addresses of individuals who have signed the petition, we must carefully consider your request in light of Wisconsin's Public Records Law. After doing so, we have determined that the G.A.B. will provide you with the entire contents of the recall petition as you requested, without redacting information identifying the name and address of specific individuals who signed the petition.

There is no question that the recall petitions submitted to our office are records which are subject to the Public Records Law, as defined by Wis. Stat. §19.32(2). Consistent with the Legislature's declaration of policy in Wis. Stat. §19.31, Wisconsin law presumes that governmental records shall be open to public inspection. "Except as otherwise provided by law, any requester has a right to inspect any record." Wis. Stat. §19.35.

No statute specifically states that recall petitions are either subject to public release or are exempt from public release, except to the extent that officeholders are entitled to the petition in order to assess the validity of signatures and determine whether petition signatures should be challenged. Wis. Stat. §9.10(3)(b). Also, no statutory provision specifically authorizes the G.A.B. to redact information from the petition prior to release to the officeholder, or prevents the officeholder from subsequently distributing the petition to others to assist with the challenge process.

With regard to the requests that the Board has received to redact individual names and addresses of petition signers, the Board must balance the strong public interest in disclosure of the entire recall petition against any public interest favoring nondisclosure of the individuals' names and addresses. *State ex rel. Journal Co. v. County Court*, 43 Wis.2d 297, 305 (1969). We must consider all relevant factors to determine whether permitting access to the entire petition would result in harm to the public interest that outweighs the legislative policy recognizing the strong public interest in allowing access. Wis. Stat. §19.35(1)(a). The Wisconsin Supreme Court has held that a records custodian must determine whether the particular circumstances surrounding a records request create an "exceptional case" not governed by the strong presumption of openness. *Hempel v. City of Baraboo*, 2005 WI 120, ¶63. An exceptional case exists when the circumstances are such that the public policy interests favoring nondisclosure outweigh the public policy interests favoring disclosure, *notwithstanding the strong presumption favoring disclosure*. *Hempel* at ¶63.

The Wisconsin Supreme Court has also noted that the private interest of a person identified in a record is only indirectly related to the balancing test; it is the public interest in redacting information which is directly relevant in the balancing test. If there is a public interest in protecting an individual's privacy as a general matter, there is a public interest favoring the protection of the individual's privacy interest. *Linzmeier v. Forcey*, 2002 WI 84, ¶31. Therefore, as part of the balancing test, the Board must weigh public policies that can be identified through their expression in other areas of the law or that may be practical or common sense reasons applicable in the totality of the circumstances. Because the requests from individuals requesting redaction of their names and addresses affect our response to your records request, we must evaluate any relevant public policies and practical or common sense reasons that apply to the circumstances of those individuals.

The redaction requests we have received fall into three general categories:

1. Individuals who are concerned that public release of their names and addresses will subject them to harassment and threats from people who disagree with the political position expressed in the recall petition.
2. Individuals who are concerned that public release of their name, address, and signature will subject them to greater potential for identity theft.
3. Individuals who have indicated they are victims of past domestic abuse or violence and fear for their personal safety if their address location is disclosed to the public. They have expressed concern that disclosure of their address will undo all of their efforts to protect themselves and their children from prior abusers and will result in additional harassment, threats, abuse, and physical harm.

In the Board's opinion the greatest claim to privacy can be made by the last category – individuals who have been victims of domestic abuse or violence, and that claim will be addressed below. A recent U.S. Supreme Court decision more directly addressed the first category of individuals, and that decision is also relevant to our analysis of the other two categories.

In *Doe v. Reed*, 130 S. Ct. 2811 (2010), the U.S. Supreme Court held that public disclosure of referendum petitions does not as a general matter violate the First Amendment. In that case the plaintiffs had circulated a petition seeking the repeal of a law which expanded the rights and responsibilities of state-registered domestic partners, including same-sex domestic partners. After the State certified the petition as sufficient, several petition signers sought a court injunction to enjoin the public release of the petition, arguing that there is a reasonable probability that the signatories would be subjected to threats, harassment, and reprisals due to the political position expressed in the petition.

Without outlining a detailed analysis of the factual and legal issues involved in the *Doe* case, the Board believes that the Court's decision governs our actions regarding release of names and addresses of individuals in the first category described above. In addressing the plaintiffs' argument that Washington's Public Records Act violated the First Amendment, the Supreme Court noted that the law was not a prohibition on free speech, but a disclosure requirement. As such, proceeding under the law's mandate to publicly disclose the referendum petition required the government to document a substantial relationship between the disclosure requirement and a

sufficiently important governmental interest. *Doe* at 7. By way of comparison, the Court noted the constitutionality and significance of disclosure requirements in the context of campaign finance laws. *Doe* at 6-7.

For several reasons, the Court found that the State's interest in preserving the integrity of the electoral process was sufficient to defeat the plaintiffs' argument that Washington's Public Records Act was unconstitutional with respect to referendum petitions in general. Those reasons included not only detecting potential fraud but also detecting simple mistakes in the petition-gathering or in the State's review of the petition, such as detecting duplicate signatures or signatures of individuals who claim to have been deceived by the petition circulator. *Doe* at 8-9. Significantly, the Court stated that the State's interest also extends more generally to promoting transparency and accountability in the electoral process in ways that other measures cannot. *Doe* at 10.

The plaintiffs in the *Doe* case argued that, once the State posted the petitions on the Internet, the petition signers' names and addresses could be combined with publicly available phone numbers and maps to effectively create "a blueprint for harassment and intimidation." *Doe* at 11. The Court held that in general the public release of a referendum petition does not violate the First Amendment, and that the plaintiffs would need to demonstrate a reasonable probability that the government's disclosure would result in threats, harassment, or reprisals from government officials or private parties. *Doe* at 11. The facts necessary to support such a conclusion had not been established at that stage of the lawsuit but the Court noted that the plaintiffs would have the opportunity to present such evidence before the trial court.

Regarding the first category of petitioners listed above and applying the balancing test of the Public Records Law, it is the Board's opinion that the Supreme Court's decision in *Doe v. Reed* requires a release of the full petition contents pursuant to Wisconsin's Public Records Law. The petition contains the signer's printed name, signature, and address as well as the date of the signature. Most, but not all, of the petition pages omit other personal information such as telephone numbers or email addresses, because the petitioning committee attempted to cut it off from the petition pages prior to their submission to our office.

Wis. Stat. §19.35(1)(a) states that "Except as otherwise provided by law, any requester has a right to inspect any record." There is a strong public interest in releasing all of the information contained on the recall petition in that it may assist in detecting potential fraud and mistakes in the petition or the Board's review of the petition. It will also promote transparency and accountability in the electoral process by permitting individuals from both sides of the recall debate to assess the sufficiency of the petition for themselves and therefore evaluate the Board's determination of whether a recall election must be called.

In reviewing the requests of those petition signers concerned about harassment or retaliation due to their political views, we have not identified or received information that meets the "reasonable probability" standard described in the *Doe* decision, to the extent that such concerns outweigh the substantial public interests in releasing the entire contents of the recall petition submitted against Governor Walker. We have also not identified any State public policies expressed in other areas of Wisconsin law or based upon common or practical sense which elevate the harassment concerns of the individual petition signers above the public interest in disclosure. Petition signers have voluntarily chosen to participate in the political process in a public manner. No expectation of privacy is implied or justified under the Statutes when an individual chooses

to sign a public recall petition rather than simply expressing that conviction in the privacy of the voting booth.

The second category of petition signers who have contacted our office have expressed concerns regarding increased potential for identity theft due to their names, addresses and signatures being made public by the G.A.B. It is again worth noting that these individuals made the deliberate choice to engage in the recall process and the face of the petition makes clear that to do so requires submitting their name, address and signature to a governmental agency. Neither the petitions nor any pronouncement of the Board provide an indication that the signers' information would remain confidential once submitted to the Board. To the contrary, the Board's practice during the 2011 recalls established the Board's policy of making the petitions available to the public and posting them online. In addition, information disseminated by the Board as well as reported by the media described the process by which petition information would be reviewed by the officeholder to determine whether and which challenges to file.

The fact that the officeholder has a right to the information and may make it publicly available as part of the challenge process also weakens the argument for the G.A.B. to withhold the same information. *Milwaukee Journal Sentinel v. Wisconsin Dep't. of Admin.*, 2009 WI 79, ¶61. Because names and addresses of individuals are also widely available through other public sources such as government databases or telephone directories, the main concern of this group of signers appears to be the public release of signatures as a way to enable identity theft.

We acknowledge that other areas of Wisconsin law illustrate some concern that the government should minimize the risk that its information might be used to commit identity theft, or to generally protect the privacy of citizens. For instance, individuals may opt out of having their personal information disclosed by the Department of Motor Vehicles in information containing personal identifiers of ten or more individuals. Wis. Stat. §85.103. Residents may also register for the State's "Do Not Call" list to avoid receiving unsolicited telemarketing calls from businesses (although calls for political purposes are exempt from this restriction). Wis. Stat. §100.52.

The existence of these statutory provisions, however, contrasts with the Statutes' silence regarding the ability of the G.A.B. to withhold the name, address, or signature of an individual who signed a recall petition. In addition, the focus of the petition review process is centered on the signature of the petitioners. Therefore the generalized concerns of individuals who have voluntarily signed a recall petition regarding identity theft cannot outweigh the public interest in evaluating the Board's review of the recall petition, permitting a proper opportunity for officeholder challenges, and promoting transparency and accountability in the electoral process.

Finally, we analyze the category with arguably the most legitimate plea for privacy received by the Board, from individuals who have previously endured domestic abuse or violence and who have taken steps to shield their current location from their perpetrators. Board staff has heard from a number of individuals who have described the extent to which they have tried to protect themselves and their children from harm, which they fear will be undone by the G.A.B.'s release of the petition which does not redact their names, or at least their addresses. Hearing a petition signer state that a past abuser is subject to a court restraining order but would not hesitate to comb through one million signatures to find one address and cause serious injury or even death creates a legitimate concern, to say the least. No agency would desire to be connected to such an

outcome, however inadvertently, and we trust that Wisconsinites as a whole would not wish that result on any individual, regardless of political persuasion.

In conducting the balancing test under the Public Records Law, the Board recognizes other provisions of Wisconsin law as well as practical and common sense reasons which might justify the G.A.B. redacting the names and/or addresses of such individuals. For example, Article I, §9m of the Wisconsin Constitution states that crime victims should be treated with "fairness, dignity, and respect for their privacy." The election laws themselves create the closest parallel, in that Wis. Stat. §6.47 provides certain privacy rights to victims of domestic abuse, sexual assault, or stalking. Such individuals may file documentation with a municipal clerk verifying that another person has been charged with or convicted of such an offense in which the individual was a victim and reasonably continues to be threatened by the other person. In such cases the municipal clerk must withhold the name and address of the individual from public inspection of the poll list or voter registration list. Wis. Stat. §6.47(2).

Significantly, however, the Statutes do not extend a similar right with regard to names and addresses contained on a recall petition. Whether due to oversight or a recognition that the choice to sign a recall petition is different in nature than the private act of voting, the fact remains that the Legislature did not establish a specific right to protect information on a recall petition pertaining to a confidential voter.

More generally, Wis. Stat. §995.50 recognizes the right of privacy in Wisconsin, including the right to recover compensatory damages and seek equitable relief to prevent an unreasonable invasion of privacy. But that statute specifically states that "It is not an invasion of privacy to communicate any information available to the public as a matter of public record." Wis. Stat. §995.50(c). The Attorney General has also opined that the right to privacy does not affect the duties of custodians of public records to maintain and deliver official records. 68 Atty. Gen. 68.

Wis. Stat. §19.35(1)(am)3. also provides that the right to inspect or copy a record under that paragraph does not apply to any record containing personally identifiable information that, if disclosed, would endanger an individual's life or safety. That provision, however, applies only when a requester seeks to inspect a record containing personally identifiable information pertaining to the requester as well as information which would endanger another person's life or safety. It does not appear to apply to your request on behalf of an organization which does not have personally identifiable information contained in the record which is sought.

It is not difficult, therefore, to find indications where Wisconsin statutes and case law express some public policy in favor of privacy and redacting information that might endanger an individual identified in the record. Common sense also indicates that individuals with hostile or criminal motives would have an easier time locating a prior victim if the G.A.B. allows the public release of an entire recall petition rather than redacting specific information as requested by victims of domestic abuse or sexual assault. The Supreme Court decision in *Doe v. Reed* did not specifically address this circumstance where the anticipated harassment or threats arose from the personal circumstance of the petition signer rather than from the political position expressed by the petition.

The difficult question is whether the public interest favoring nondisclosure of such information outweighs the strong public interest in disclosure of the entire recall petition. We believe it is relevant that our release of the entire petition in response to public records requests, as well as our posting of it on the Internet, would be in the form of pdf files which are not automatically or

electronically searchable. Unless the individual requesting redaction of information is able to pinpoint the page number and line number of the petition containing their name, it would be a difficult chore for the G.A.B. staff to locate that information. At this time it is not a practical possibility to locate individual signatures on the petition.

We also note that the Board may create and post a database which is searchable electronically further along into our process, but that database would contain only the signer's name, without the address or any other contact information. Therefore, no contemplated action of the G.A.B. would permit an individual to easily or electronically search for a petition signer's name and obtain that person's address.

We are aware that other organizations, possibly including your clients, may wish to create their own searchable databases to be made available to the public, and the G.A.B. cannot control the dissemination of that information unless it firsts redacts names or addresses pursuant to individual requests. There are no statutes which contemplate the Board entertaining such requests or providing a time period that they may be submitted prior to fulfilling a public records request or making the information available on the Internet. To the contrary, Wis. Stat. §9.10(2)(d) states that "After the recall petition has been offered for filing, no name may be added or removed."

Based upon the information that has been submitted to our agency to date, in light of the public's right to timely access to public records, and especially given the short statutory timeline for the G.A.B. to review the recall petition, we do not believe it is a practical or prudent option to delay release of the petition in order to locate and possibly redact individual names or addresses

Weighing all of these concerns and public interests, we have concluded that the balancing test of the Public Records Law favors disclosure of the entire recall petition without redaction of information on a recall petition, even when individual signers have expressed a concern arising from prior abuse or violence committed against them by a person who is now subject to a restraining order. During recall elections in 2011, the Board posted the entire petitions in pdf format on its website, and has followed the same practice with the recall petitions currently pending against four State Senators.

Few processes in the electoral system or elsewhere are more public than the signing of recall petitions against state elected officials. Petition signers chose to participate in the public process of initiating a recall election of the Governor as well as other officeholders, and any concerns regarding their personal safety and privacy may not have been considered when signing a petition. In addition, officeholders and the public have a right to view the petitions, not only for the legal process of filing challenges to signatures, but to help ensure the transparency and accountability of the petition review process, and of Wisconsin's electoral system. Absent a court order requiring redaction of specific information, therefore, the G.A.B. intends to respond to your request by providing the entirety of the recall petition filed against the Governor.

Attorney Monica Reiderer
January 31, 2012
Page 7

The petition is contained on four disks and the cost is \$10 per disk. Please contact Michael Haas at 608-266-0136 or michael.haas@wi.gov to discuss arrangements for delivery of this record.

Government Accountability Board

A handwritten signature in cursive script that reads "Kevin J. Kennedy".

Kevin J. Kennedy
Director and General Counsel



TROUPIS
LAW OFFICE LLC

Attorneys & Counselors
8500 Greenway Blvd.
Suite 200
Middleton, WI 53562
Phone: 608-807-4096

February 2, 2012

Government Accountability Board
Attn: Kevin Kennedy
Michael Haas
212 E. Washington Avenue, 3rd Fl.
P.O. Box 7984
Madison, WI 53707

Re: Verify the Recall Signature Verification Project

Dear Kevin and Michael:

I am writing to you on behalf of Verify the Recall, a joint effort by Wisconsin GrandSons of Liberty ("WiGOL") and We the People of the Republic ("WTPOTR") (collectively, "Verify the Recall"), with regard to their proposal to work collaboratively to verify signatures on the current petition to recall Governor Scott Walker, which has been submitted to the Government Accountability Board ("GAB") for review and approval. Each of these organizations is a non-partisan, non-profit organization that seeks to encourage citizens to participate in our electoral process and preserve and ensure the integrity of that process.

Who is Verify the Recall?

Verify the Recall is a collaborative effort by WiGOL and WTPOTR to verify signatures on the petition to recall Governor Scott Walker, which has been filed with the GAB. The goal of Verify the Recall is to ensure the integrity of the electoral process and citizens' faith in that process.

As background, WiGOL formed in 2009 as a non-partisan, all-inclusive, pro-Constitution Patriot group. WiGOL has grown into a statewide organization with members in nearly every Wisconsin county and recently began launching sister organizations in other states. Self-identified members in Wisconsin number in the thousands of persons. Despite the name, women constitute roughly half of the organization's membership.

The organization is governed by a Board of Directors composed of Wisconsin residents who are bound by certain rules including a prohibition of membership in any political party. As a 501(c)(4) entity, WiGOL works diligently to protect its non-partisan status and regularly declines requests to participate in partisan events and projects.

MADISON | MIDDLETON

trouplawoffice.com

WTPOTR is a non-profit, non-partisan, independently-run organization located in Dane County, Wisconsin. WTPOTR was founded in 2009, and was originally organized as a simple network of individuals. In October of 2010, it became apparent that WTPOTR needed to incorporate in order to maximize its impact, so the organization incorporated as a 501(c)4.

WTPOTR has successfully united like-minded individuals on five topics: uphold the Constitution, support free-market principles, promote a conservative fiscal policy, maximize personal liberty, and minimize the size and scope of government. WTPOTR primarily promotes these five topics in Dane County, but the scope of the organization's goals expands beyond county lines from time to time.

WiGOL and WTPOTR will work collaboratively with True the Vote ("TTV"), a nonpartisan, non-profit, citizen-led initiative, which has developed a comprehensive program to review election related records for the purposes of assuring accuracy and authenticity of data used in the electoral processes. For a detailed description of TTV and the scope of TTV's involvement in this project, please see the Recall Petition Verification Project Proposal (the "Proposal"), which is included herewith.

Each of these respective organizations is non-partisan, grassroots organization that seeks to use its resources to ensure fairness and integrity – not to encourage any partisan-based outcome.

What Will Verify the Recall Do?

As outlined in the Proposal, Verify the Recall will work collaboratively with volunteers from across the State to independently verify signatures on the petition to recall Governor Scott Walker, which was filed with the GAB.

How Will Verify the Recall Do It?

In order to undertake the independent verification process, Verify the Recall has obtained scanned copies of the petition in Adobe PDF format from GAB. Verify the Recall requests a predetermined amount of time, as agreed upon by all parties involved, to examine the scanned pages for readability, completeness and format. Once Verify the Recall has approved the scanned files needed for review, it will request an additional period of time, as provided for by the GAB, to complete its analysis of the signatures and produce its findings.

Verify the Recall volunteers will then transcribe each of the petition's signature lines into a proprietary database designed by TTV, in a secure web-based environment, using tested procedures designed by TTV, to assure the highest degree of accuracy possible. Once entered, Verify the Recall will use TTV's proprietary software program to examine each signature for eligibility.

Pursuant to Wisconsin Statute Section 9.10(2), each signature will be examined and deemed ineligible if any of the following conditions are present:

- The signature is not dated
- The signature is dated outside the circulation period
- The residency of the signer of the petition sheet cannot be determined by the address given
- The signature is that of an individual who is not a resident of the jurisdiction or district from which the elected official being recalled was elected
- The signature is that of an individual who is known to be deceased
- The signature is that of an individual who is known to be fictitious

For a detailed description of TTV's proprietary process, please see the Proposal.

What Legal Basis Does Verify the Recall Have For Its Proposal?

Verify the Recall and its constituents read Wisconsin Statute Section 9.10(3), which provides that "[w]ithin 10 days after the petition is offered for filing, the officer against whom the petition is filed may file a written challenge with the official, specifying any alleged insufficiency," to be a non-exclusive grant of the right to challenge the sufficiency of a petition to the official who is the subject of the petition.

Put simply, just because the statute provides that the elected official may challenge the sufficiency of the petition that does not mean that no other person or entity may initiate a challenge – or at the very least participate in the verification process. Moreover, the GAB's goal should be to utilize all of the tools at its disposal in ensuring the integrity of the recall process – not to exclude, and thereby ignore, information that would support a challenge of the eligibility of signatures on the petition.

This is particularly true in light of Judge Mac Davis' order of January 20, 2012, in *Friends of Scott Walker v. Gov't Accountability Board*, 11-cv-04195, in which the court ordered (from the docket entry, available electronically on CCAP at <http://wcca.wicourts.gov/courtRecordEvents.xsl?jsessionid=35F56E6739130C14A479A515038776A6.render6?caseNo=2011CV004195&countyNo=67&cacheId=D821AADD35A30936B053661801FE7802&recordCount=1&offset=0&linkOnlyToForm=false&sortDirection=ASC>):

Court presents oral ruling...on statutory grounds on the three categories: 1. duplicate signatures, 2. fictitious names, 3. ineligible signers/addresses, etc. Court rules that the GAB is obligated to honor the rules under statutes and presents further ruling as to the Defendants' obligations. Court orders the Defendants' (GAB) *is obligated to take such reasonable steps to strike duplicate signatures, ineligible signers/addresses and fictitious names.* Court leaves to the GAB to meet it's [sic] obligations and properly

overseeing and supervising their staff and with respect to resources they are obligated to use what they have. *They are obligated to seek additional resources if needed.* GAB to apply sound judgment and discretion. Court is not requiring unlimited investigation, the Court's order were reasonable. The court is not preventing the GAB from setting priorities.

In other words, the Court ordered the GAB to take “reasonable steps” to determine the eligibility of the signatures on the petition, including seeking and using additional “resources” available to it – such as the data that Verify the Recall seeks to provide.

In any event, however, even if the GAB, or a court, were to find that grant of authority to be exclusive to the elected official, in order to avoid the formal resolution of that issue, we would suggest that Verify the Recall be allowed to participate in the process and submit its findings as an *amicus curiae*, or “friend” of the process. There is considerable support for such participation both in the law and the policies articulated recently articulated by members of the Wisconsin Supreme Court, and in the fundamental purpose of the GAB itself.

For example, Justice Shirley Abrahamson explicitly recognized the importance of the right – and the need – for “open government” and preserving public trust and confidence in the integrity of the system in the recent litigation involving the Budget Repair Bill. As she aptly noted,

Playing by the rules and playing fair are integral to public trust and confidence in our government officials—legislative, executive, and judicial. Public trust and confidence in the integrity of the judicial branch is engendered by a court's issuing a reasoned public decision based on public records after public arguments. The judicial branch claims legitimacy by the reasoning of its decisions. Any step that withdraws an element of the judicial process from public view makes the ensuing decision look more like fiat and requires rigorous justification.

Trust and confidence in the integrity of the judicial branch as an institution is critical at all times but especially when a case has high public visibility, is mired in partisan politics, and is emotionally charged.

Ozanne v. Fitzgerald, 2011 WI 43, ¶¶ 91-92. Allowing the public access to – and the ability to participate in – the petition review process is critical to maintaining the trust and integrity in the electoral process.

This is entirely consistent with past practices of the GAB, which has allowed submissions by third parties that have an interest in the electoral process on a wide variety of topics. And, indeed, this is entirely consistent with the overarching purpose of the GAB, which is to ensure open and fair elections.

Allowing third-party or *amicus* participation is also consistent with Chapter 227 of the Wisconsin Statutes, which regulates administrative procedures and review. Wisconsin Statute Section 227.53(1) provides that “any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review of the decision.” Under Section 227.01(9), a “Person aggrieved” means a person or agency whose substantial interests are adversely affected by a determination of an agency.” The administrative review process seeks to be inclusive of all who have a substantial interest that is affected by an agency determination. That is certainly the case for Verify the Recall and its constituents, who are committed to a fair, open and honest recall verification process.

In short, there is nothing in Wisconsin Statute Section 9.10 or the administrative rules in Chapter 227 that would prohibit Verify the Recall’s participation in the signature verification process. In fact, allowing them to participate would seem only to further the directives to the GAB by Judge Davis in the pending litigation regarding this recall process and the public policies set forth by the Wisconsin Supreme Court, particularly in Justice Abrahamson’s dissent in the recent Budget Repair Bill case.

Verify the Recall’s Proposal is Consistent with Amicus Curiae Procedures at the State and Federal Level.

The procedures for allowing *amicus curiae* participants in Wisconsin appellate cases are relatively few, reflecting Wisconsin courts’ receptiveness to *amici*. The statutes provide that “[a] person not a party may by motion request permission to file a brief. The motion shall identify the interest of the person and state why a brief filed by that person is desirable.” Wis. Stat. § 809.19(7)(a).

The Federal Rules of Appellate Procedures are similar, providing for the submission of *amicus* briefs with leave of the Court or consent of the parties. Fed. R. App. P. 29(a). Movants must state in their motion their “interest; and the reason why an *amicus* brief is desirable and why the matters asserted are relevant to the disposition of the case.” Fed. R. App. P. 29(b)(1)-(2).

Likewise, United States Supreme Court Rule 37.1 provides that “[a]n *amicus curiae* brief that brings to the attention of the Court relevant matter not already brought to its attention by the parties may be of considerable help to the Court.”

These seemingly low hurdles encourage third-party participation in the process – but only where the party seeking to participate has more than just a desire to do so. Each of the courts’ rules requires that the party identify their interest in the matter, why an *amicus* brief would be desirable and relevant to the disposition of the case. Using these as a guideline for *amicus* participation in this process, Verify the Recall and its constituents certainly has a discernible interest and, assuming that the GAB wishes to use all of the resources at its disposal to evaluate the eligibility of the hundreds of thousands of signatures it has received, Verify the Recall’s involvement in the verification process would certainly be of considerable help to the GAB in flagging problematic signatures.

What Does Verify the Recall Want?

As indicated above, Verify the Recall seeks access to the pdf files containing the petitions in order to utilize its technological and human resources to undertake a process of verifying the eligibility of those signatures. Verify the Recall further seeks adequate time to complete its verification process, and provide the GAB with sufficient time for consideration of the data that Verify the Recall will provide.

Verify the Recall seeks the GAB's consent to submit its data, in writing, to the GAB, and to whomever else the GAB deems necessary, in order to give all involved the opportunity to consider and evaluate it. In short, Verify the Recall seeks to assist in maintaining the integrity of the electoral process and to ensure that the rules are followed in a clear, transparent manner.

We look forward to working with the GAB.

Very truly yours,

TROUPIS LAW OFFICE LLC

James R. Troupis



Recall Petition Verification Project Proposal

What is True the Vote?

True the Vote is a nonpartisan, non-profit, citizen led initiative to inspire and equip fellow citizens to participate in our electoral process. Our comprehensive program includes public outreach and education efforts, training and support of election workers, and research of election related records.

Research Experience

True the Vote research is dedicated to the review of election related records including audits of petition signatures, voter registration applications, voter registries, and other publicly available documents, for the purposes of assuring accuracy and authenticity of data used in electoral processes. Our work is supported by volunteer True the Vote trained researchers from across the country. True the Vote research projects range in size and scope; from narrow, county specific projects involving single datapoint analysis to national projects involving multipoint analysis and research teams that span nationwide.

Past True the Vote research projects include:

- Development and management of a voter registration application review project in Harris County, Texas that led to the discovery of over 14,000 problematic voter registrations
- Development and management of a voter registry review project in Harris County, Texas that evaluated the veracity of approximately 3,800 voter registrations. True the Vote identified 1,044 records as having one or more critical inaccuracies, 25% of the total number reviewed. These inaccuracies were reported to the Harris County Tax Assessor Collector's office resulting in a registration suspension rate of 94%.
- Development and management of various voter registration analyses related to the identification of interstate voting patterns
- Development and management of numerous comparative studies to review key data points across select counties and states

Scope of Service for the Wisconsin Recall Petition Audit Project

True the Vote (TTV), at the request of Wisconsin GrandSons of Liberty (WiGOL) and We the People of the Republic (WTPOTR), will work collaboratively to verify signatures on the current petition to recall Governor Scott Walker, being circulated statewide in Wisconsin. True the Vote will:

- Examine each signer for eligibility as stated in WI election code Chapter 9.10.2
- Assess the eligibility of each circulator as stated in WI election code Chapter 9.10.2
- Quantify the number of eligible signatories collected in total for the Recall Petition effort with the highest degree of accuracy possible using the prescribed methodology, as described below
- Present a comprehensive analysis of our findings to the Wisconsin Government Accountability Board (GAB), within the allotted review period

Methodology

Working with WiGOL and WTPOTR, TTV will transcribe each of the petition's signature lines into a proprietary database, in a secure web-based environment, using tested TTV procedures to assure the highest degree of accuracy possible. Once entered, TTV will use its proprietary software program to examine each signature for eligibility. The program will compare, in real time, each record against all other records entered and against other publicly available data sources obtained by TTV. The program

True the Vote 7232 Wynnwood Lane Houston, Texas 77008 www.truehevote.org

will systematically check for duplicates, valid addresses, whether the signatory is deceased, and if the signature collected is complete and accurate.

Appropriate notations will be made as each signature eligibility is determined. If there is any doubt as to the veracity of this determination, the record will be examined by senior TTV researchers and eligibility determinations will be made on a case by case basis. Any signature that is determined to be ineligible will be appropriately notated.

Progress and associated statistics will be viewable in real time, allowing for constant monitoring by TTV, WIGOL and WTPOTR.

Determining Eligibility

Pursuant to Wisconsin Election Code Chapter 9.10.2, each signature will be examined and deemed ineligible if any of the following conditions are present:

- The signature is not dated
- The signature is dated outside the circulation period
- The residency of the signer of the petition sheet cannot be determined by the address given
- The signature is that of an individual who is not a resident of the jurisdiction or district from which the elective official being recalled is elected
- The signature is that of an individual who is known to be deceased
- The signature is that of an individual who is known to be fictitious

Requirements

The Wisconsin GAB will provide scanned copies of the petition in Adobe PDF format to TTV or its representatives, copying all scanned files to an external portable hard drive provided by TTV or its representatives. Each page of the petition will need to be scanned at a minimum of 100dpi to ensure readability, greyscale, and uniformity of orientation (i.e., all landscape, top up, straight, and identically scaled/sized).

Once received, TTV will have a predetermined amount of time, as agreed upon by all parties involved, to examine the scanned pages for readability, completeness and format. Once TTV has approved the scanned files needed for review, TTV will then have an additional period of time, as provided for by the GAB, to complete its analysis of the signatures and produce its findings.

Deliverables

TTV will provide to WIGOL, WTPOTR, and the GAB, in the format requested, a comprehensive report, classifying each signature as either eligible or ineligible. TTV will provide separate lists of those signatures it has deemed to be eligible, those signatures it has deemed to be ineligible, with notation as to condition of ineligibility, and total counts for each. To ensure traceability, each signature will be referenced by the page number of the petition, as assigned by the GAB, and by the line number corresponding to the line number of the petition page. Additional data can be provided at the request of the GAB, if approved by all parties.

Security of Data

TTV will take every precaution to ensure the security and safety of the data by using state of the art data handling techniques and accepted best practices during analysis.

Compensation

TTV will provide the proposed scope of service for \$1.00.

GAB will be responsible for all costs associated with the collection, scanning, and electronic transfer of petition documents to TTV or its representatives.

TTV will be solely responsible for all additional expenses associated with the Wisconsin Petition Verification Project, as described herein.



STAN STANART

COUNTY CLERK

April 14, 2011

True the Vote
Catherine Engelbrecht
7232 Wynnwood Lane
Houston, TX 77008

Dear Catherine:

I am pleased to offer this letter of recommendation for True the Vote. Through your efforts citizen awareness of the election process has been enhanced and, ultimately, we have seen a measurable increase in voter participation in our elections.

Your election training complements our continuous education efforts and provides another opportunity to inform the public.

We value all groups that contribute to voter awareness; we are encouraged with your results and appreciate your dedication on behalf of all citizens. It has been a pleasure to work with True the Vote and your efforts have truly made a difference.

Sincerely,

Stan Stanart
County Clerk, Harris County, Texas

SS/lkn

M

Metropolitan Milwaukee
Association of Commerce

June 20, 2011

Ms. Catherine Engelbrecht
President
King Street Patriots
P.O. Box 27368
Houston, TX 77227

Dear Ms. Engelbrecht:

I write to thank you for the outstanding and timely True the Vote presentation you gave us here in Wisconsin on June 11th.

As you know, Wisconsin has become Ground Zero for political activism on the left in the wake of Governor Scott Walker's collective bargaining reforms this year. We have already seen a nationally-organized effort by Big Labor to manipulate the judiciary branch of government here in an attempt to thwart the will of the Governor and Legislature. This summer this same coalition will be attempting to manipulate Wisconsin's recall election process in order to undo the results of last November's general elections. In this context, the need for a program like True the Vote, with its non-partisan emphasis on defending the integrity of the ballot box, has never been greater than here and now in Wisconsin. Your vision of equipping polling places with well-trained poll watchers to ensure that no voters are disenfranchised through voter fraud is one with the potential to make a real difference.

In addition to applauding the nature of the True the Vote program itself, I also want to compliment you, Alan Vera, and Bill Ouren on the tremendous quality of the training session you provided. You were dealing with highly technical information, but the format of the presentation, the expertise of the team, and the organization of their presentations made the training both interesting and understandable. Your presenters' ability to organize and present their content so well will no doubt result in more attendees being willing to actually become True the Vote poll workers.

In a position like mine I sit in on a lot of campaign and legal training seminars. I can honestly say there have been very few with as effective a combination of worthwhile content and effective presentation as your True the Vote program. Thank you for an excellent, educational day and for all the great work you are doing.

Sincerely,

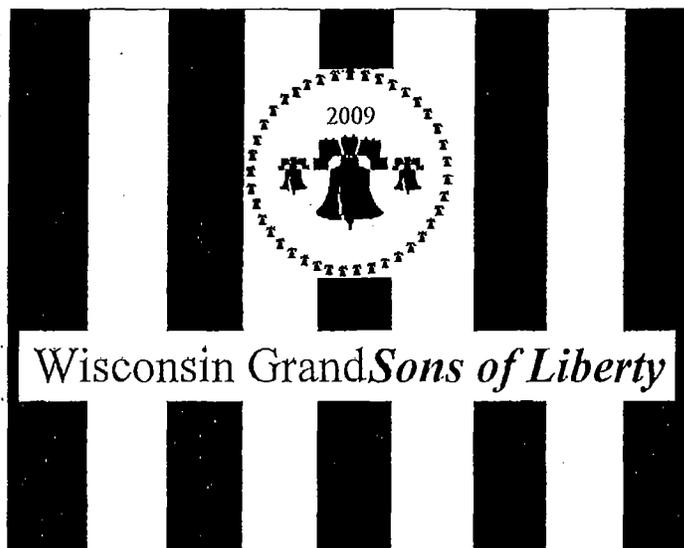


Steve Baas
Vice President for Government Affairs
Metropolitan Milwaukee Association of Commerce

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Phone: (414) 287.4100 | mmac.org



Wisconsin GrandSons of Liberty

Overview of Organizational History and Philosophy

The Wisconsin GrandSons of Liberty (WIGOL) formed in 2009 as a non-partisan, all-inclusive, pro-Constitution Patriot group. WIGOL has grown into a statewide organization with members in nearly every Wisconsin county and recently began launching sister organizations in other states. Self identified members in Wisconsin number in the thousands of persons. Despite the name, women constitute roughly half of the organization's membership.

The organization is governed by a Board Of Directors composed of Wisconsin residents who are bound by certain rules including a prohibition of membership in any political party. As a 501C4 entity, WIGOL works diligently to protect its non-partisan status and regularly declines requests to participate in partisan events and projects.

Initially, WIGOL worked with national conservative organizations. The interactions were not mutually beneficial and WIGOL terminated any further collaborations. At this point in time, WIGOL has no partnership, alignment or collaborative effort with any national organization, nor is it seeking one. Since early 2011, WIGOL has chosen to limit its collaborative effort to those groups that share a similar philosophy of non-partisanship and a focus on achieving specific goals such as election integrity and the passage of particular legislation in the state legislature.

Election Related Activities and Experience

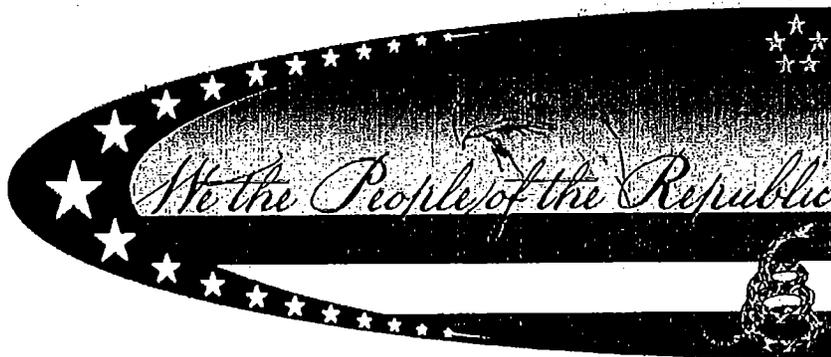
In support of WIGOL's mission statement, which can be found in its entirety on the group's website at www.wisconsingrandsonsofliberty.com, WIGOL conducts numerous electoral and watchdog activities.

- In mid-2010, one of the members of WIGOL, working in conjunction with Americans For Prosperity (AFP), devised a project to induce the Tea Party groups across Wisconsin to convince their membership to become trained as poll watchers, Special Registration Deputies and to participate in a program to assist the municipal and county clerks with address verification for voter registrations. A meeting of the leadership of the Wisconsin Tea Party groups was held in Marshfield in June, where a presentation was made on the proposed project. The presentation, given by WIGOL's organizer, Tim Dake, was illegally audio recorded and unbeknownst to WIGOL, then given to One Wisconsin Now (OWN). The recording was used to falsely portray WIGOL as acting in collusion with AFP and the Republican Party of Wisconsin to perpetrate voter caging or suppression. The subsequent investigation conducted by the GAB in response to OWN's complaint found no evidence to support the allegation and the GAB dismissed the complaint on December 14, 2010.
- On August 15, 2010, WIGOL hosted a gubernatorial debate which included as participants, candidates Mark Neumann and Scott Walker. Tom Barrett was invited but declined at the last minute. A similar senatorial debate was scheduled but Sen. Russ Feingold's campaign chose not to participate a couple of weeks prior to the scheduled date.
- In late 2010 and early 2011, members of WIGOL took part in address verification in Waukesha, Washington and Milwaukee Counties. Findings included dozens of people registering in Oconomowoc, Muskego, New Berlin, Greenfield and Germantown at farm fields, industrial and commercial buildings, underpasses and vacant lots.
- In mid-2011, WIGOL conducted a thorough analysis of all 11,017 Election Day Registrations (EDRs) made at the polls on April 5th, for the 19 municipalities in Milwaukee County. Although the registrations comprised just over 1% of the registrations for Milwaukee County, the findings showed that there are a plethora of problems present and that the process is flawed. Among the issues encountered were: multiple voting, vouching chains, out of state voting, failure to provide the requisite identification, failure to provide proof of residency, felon voting, and abuse of the process by poll workers. The results of this study will be published in late December 2011.
- A current project underway is to repeat the EDR analysis of April 5th for the August recall elections. Initial observations show that there are anomalous patterns including a spike in registrations that fall outside the traditional voting patterns. To demonstrate, Whitefish Bay recorded an average EDR of just over 1% of registered voters in all elections for the five previous years and 2.6% of registrations for the August recall election. The project is scheduled for completion and publication of results in spring of 2012.
- Many WIGOL members are poll watchers, and in some cases, have filed complaints regarding the activities that they have observed. For example, on August 16, 2011, one member who was working at a polling station in the city of Kenosha, observed poll workers completing ballots for voters and advising voters for whom to vote.

The Wisconsin GrandSons of Liberty recognize that without election integrity, the public's confidence in government and our elected officials is eroded from the outset of any administration or term. It is for this reason that WiGOL has made analysis of elections and election processes one of our foremost watchdog missions.

WiGOL's Role In The Project

The WiGOL IT team has been charged with creation of some of the components of the computer based system to validate signers. The WiGOL components include conversion of the pdf copies of the petitions into a readable form and the creation of an interface by which the public can ascertain if their name appears on a petition form. WiGOL also has been conducting informational seminars and volunteer recruitment across the state; WiGOL is using its nationwide relationships to reach out to other Tea Party groups around the nation for volunteers to perform data entry.



We the People of the Republic

Overview of Organizational History and Philosophy

We the People of the Republic (WTPOTR) is a nonprofit, nonpartisan, independently-run Tea Party organization located in Dane County, Wisconsin. WTPOTR was founded in 2009, and was originally organized as a simple network of individuals. In October of 2010, it became apparent that WTPOTR needed to incorporate in order to maximize its impact, so the organization incorporated as a 501(c)4. Throughout 2011, the initial Board of Directors developed organizational bylaws, which were finally adopted in September of 2011. As the organization heads into 2012, it continues to make progress in its transition from a network of individuals to an organized legal entity.

WTPOTR has successfully united like-minded individuals on five topics: uphold the Constitution, support free-market principles, promote a conservative fiscal policy, maximize personal liberty, and minimize the size and scope of government. WTPOTR primarily promotes these five topics in Dane County, but the scope of the organization's goals expands beyond county lines from time to time.

WTPOTR has met at least twice per month since its founding, and now welcomes an average of 40 people to its regularly held meetings. The organization's associate membership totals in the thousands.

WTPOTR maintains a strong focus on educating its members and the general public about issues relating to the five topics as previously listed. WTPOTR has organized many educational events since 2009, such as hosting a speaker to discuss the U.S. Constitution in an open-to-the-public event, a showing of *The Cartel*, and welcoming many guest speakers to our organizational meetings. Future plans to educate the general public are currently in the works. WTPOTR plans to use multiple forms of media in 2012 to educate the general public on many topics, such as economics, the Constitution, and the principles of freedom.

WTPOTR also maintains a strong focus on fiscally-conservative community organizing and membership empowerment. The organization serves as a conduit to harness its members' energies and put them to good use. WTPOTR members are empowered to work *outside* of partisan politics to affect change on a local, state, and national level.

Election Related Activities and Experience

WTPOTR is co-organizer of Verify The Recall, an effort to ensure the integrity of Wisconsin's gubernatorial recall. WTPOTR believes that Wisconsinites have the right to recall their elected officials – including the governor – if the people desire to do so. WTPOTR has co-organized Verify The Recall to help ensure that any decision that is made to recall the Governor is made by the *people* of Wisconsin, and that the decision is *not* made through fraudulent practices. WTPOTR recognizes that honest elections are the cornerstone of America's political process, so the organization is eager to help ensure the integrity of the recall process.

WTPOTR has hosted many vetting sessions for candidates running for elected office, including:

- Mark Neumann (Candidate for Governor)
- Rebecca Kleefisch, David Ross, Robert Gerald Lorge (Candidates for Lieutenant Governor)
- David Westlake (Candidate for U.S. Senate)
- Chad Lee (Candidate for U.S. Congress)
- David Olsen, Tom Clauder (Candidates for State Assembly)
- Tom Lamberson, Kurt Schlicht (Candidates for State Senate)
- Eileen Bruskwitz (Candidate for Dane County Executive)
- Shawn Haney (Candidate for Dane County Sheriff)
- Brian Raemisch (Candidate for Dane County Board)

WTPOTR encourages individuals to educate themselves and to participate in elections by casting a vote. Prior to the November, 2010 elections, WTPOTR created an informational flyer and organized literature drops throughout Dane County. Items on the flyer included the election date; information about a State of Wisconsin website that allows individuals to find out where to vote, what is needed to register to vote, and which candidates would be seen on the ballot; and candidates' stances on fiscal issues facing Wisconsin and America. An estimated 30,000 of these flyers were distributed throughout Dane County.

WTPOTR's Role in the Project

WTPOTR focuses on volunteer recruitment, marketing, and process establishment for Verify The Recall. The organization has created a website for volunteers to submit their information, manages a database of volunteers, manages Verify The Recall's Facebook page, writes press releases/statements, and discusses the project as invited guests onto radio talk shows. WTPOTR has also played a significant role in establishing project processes, ensuring project security, coordinating volunteer efforts.

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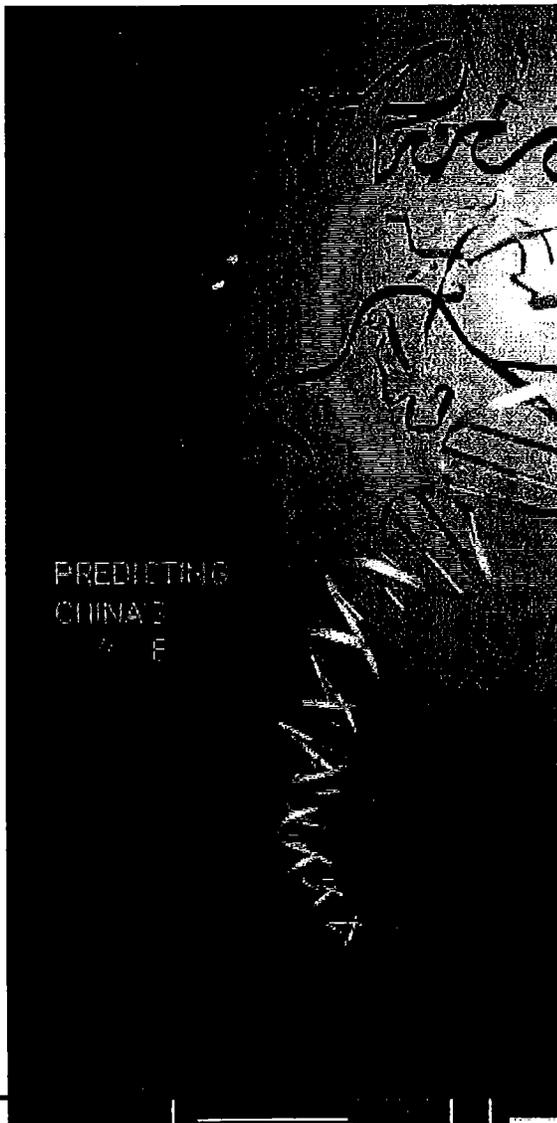
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"Verify the Recall" Inspires Unprecedented Recall Petition Audit Effort

>PRWEB.COM Newswire



Houston, TX (PRWEB) January 20, 2012

The integrity of Wisconsin elections is on the verge of implosion, as United Wisconsin's coordinated effort to recall Gov. Scott Walker has purportedly led to the submission of more than 1,000,000 petition signatures; leaving the overseer of Wisconsin elections, the Government Accountability Board, with a mountain of data in need of verification and no clear capability to conduct an audit of such scale. Unwilling to allow the abandonment of due process, True the Vote, together with Wisconsin GrandSons of Liberty and We the People of the Republic, launched Verify the Recall, an effort to engage citizens in an independent, comprehensive audit of recall petition signatures. To date, this unprecedented effort has inspired more than 9,000 citizens to sign on, all ready to serve as the nation's largest all-volunteer data entry army.

True the Vote, a nonpartisan election integrity organization based in Houston, Texas, is providing the technology required to process

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to examine the approximately 1,000,000 names. "Americans intuitively understand what the implications are if government can not or

will not uphold its responsibility of election oversight,” said True the Vote founder Catherine Engelbrecht. “True the Vote was founded to provide a coordinated program through which American citizens can participate in the support of free and fair elections. The response to the Verify the Recall effort is a clear indication of our citizenry’s willingness to support the rights of legitimate voters.”

Currently, the Wisconsin GAB is planning to undertake an audit of very limited scope, relying on optical scanning software to identify signature abnormalities. This plan stands in stark contrast to Verify the Recall’s effort, which will engage volunteers in entering all signature data, submit each line to a triple blind accuracy check, and inspect for duplicates, omissions, ineligibilities, forgery, and fraud. Tim Dake, co-founder of Wisconsin GrandSons of Liberty, said “We’ve recently learned that the GAB will attempt to use automated scanners. We applaud their efforts, but make no mistake, their process will not produce anywhere near the results ours will. There is no comparison between a scanner and thousands of Americans working to uphold our most sacred of processes.”

Last week, Verify the Recall revved its engine with a trial run, undertaking an audit of the 2011 recall petition effort involving Wisconsin State Senator Dan Kapanke. Within a few days, Verify volunteers had entered over 125,000 records, the results of which proved very telling. Nearly 500 signatures were accepted by the GAB that, upon closer inspection, should have been omitted because they were outside of the acceptable date range for the petition. More disturbing however, was that of the approximately 21,000 names in the petition, over 9,000 should have been challenged based on everything from illegibility to non-existent addresses. These types of errors would likely never be caught by a scanning system alone.

Recently, speculation has swirled regarding the standing of Verify the Recall and the permissibility of their findings for purposes of challenge. “It is unconscionable to think that legitimate citizen challenges would not be accepted by the Wisconsin GAB”, said We the People of the Republic founder Ross Brown, “Our legal counsel is examining all options, but regardless of what is determined, we are proceeding with the audit. If the GAB will not accept our findings, we believe the public will still be very interested to learn what we uncover. We encourage people to get involved with Verify the Recall. This is our republic in action.”

The leaders of the Verify the Recall effort are planning a press conference for next Tuesday, January 24th, in the rotunda of Wisconsin’s capitol, where they will announce in greater detail the full scope of their historic effort.

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Read the full story at <http://www.prweb.com/releases/2012/1/prweb9125443.htm>

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STATE OF WISCONSIN : CIRCUIT COURT BRANCH 7 : WAUKESHA COUNTY

Friends of Scott Walker and
Stephan Thompson,

FILED
IN CIRCUIT COURT ORDER AND DECLARATION
Plaintiffs,

-vs-

JAN 20 2012

Case(s): 11CV4195

Wisconsin Government
Accountability Board, et al,
Defendant.

WAUKESHA CO. WI
CIVIL DIVISION

Case Code: 30701

The above captioned matter came before this Court on January 5, 2012, Judge J. Mac Davis presiding, for a hearing on Plaintiffs' Motion for Temporary Injunction, Defendants' Motion to Dismiss and upon the stipulation of the Parties that the Court should decide the ultimate merits of the claims. Plaintiffs appeared by Michael Best & Friedrich LLP, by Steven M. Biskupic, Joseph Louis Olson and Adam E. Witkov; Defendants appeared by Assistant Attorney General Lewis W. Beilin. The Court having considered the argument of counsel, the written submissions of the Parties, testimony received in-person and by affidavit, and for the reasons stated on the record, the Court hereby declares and orders the following:

EVIDENTIARY BASIS

1. Upon the stipulation of the parties, the Court accepts and enters into evidence all testimony and evidence submitted to the Court by the Parties in the form of affidavits (Affidavit of Stephan Thompson, Affidavit of Steven M. Biskupic, Affidavit of Michael P. Screnock, Affidavit of Adam E. Witkov, and Affidavit of Lewis W. Beilin);
2. The Court accepts and enters into evidence the entire testimony of Kevin J. Kennedy as reflected in the transcript of the January 5, 2012 hearing; and
3. The Court accepts and enters into evidence Plaintiffs' Exhibit 1, offered at the January 5, 2012 hearing.

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ORDER

For the reasons explained on the record of the January 5, 2012 hearing;

1. The Court denies the Defendants' Motion to Dismiss; and
2. The Court denies the Plaintiffs' Motion for Temporary Injunction.

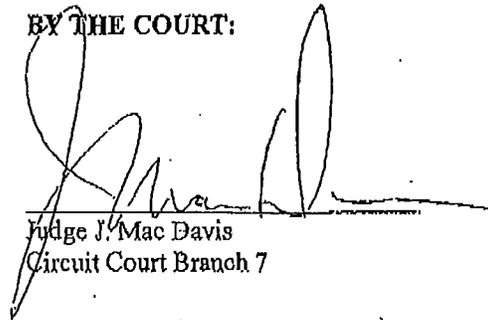
DECLARATORY JUDGMENT

For the reasons stated upon the record of the January 5, 2012 hearing, the Court hereby declares as follows:

1. The allowance of legally invalid signatures or the signatures of people who are not qualified electors on a recall petition erode the rights of those qualified electors who choose to exercise the elective franchise by not signing a recall petition, but the Court does not rely upon this in its ruling.
2. GAB must take all reasonable steps to protect the rights of qualified electors. GAB's obligation is limited by the resources and ability that GAB has or is reasonably able to obtain.
3. The current Wisconsin Government Accountability Board ("GAB") procedures with respect to: (1) identifying and striking duplicative names; (2) identifying and striking fictitious names; and (3) identifying and striking names where the GAB cannot determine that the signatory is a qualified elector are inadequate and in violation of Wis. Stat. §9.10.
4. Wis. Stat. §9.10 requires GAB take affirmative steps to: (1) identify and strike duplicative names; (2) identify and strike fictitious names; and (3) identify and strike signers that cannot be verified to be electors, largely relating to addresses and municipality.
5. GAB may apply sound judgment and discretion in applying Wis. Stat. §9.10, and is not required to conduct unlimited investigation and is not prevented from setting priorities.
6. GAB has an affirmative obligation to request from the legislature or the executive whatever resources are necessary to fulfill its legal obligations pursuant to Wis. Stat. §9.10.

Dated at Waukesha, Wisconsin this th20 day of January, 2012.

BY THE COURT:



Judge J. Mac Davis
Circuit Court Branch 7

sls