

STATE OF WISCONSIN
WISCONSIN ELECTIONS
COMMISSION

In re the investigation of:

City of Madison

Investigation No. 2025 - 0001

COMMISSION REQUEST FOR INFORMATION AND OPEN RECORDS

Pursuant to Wis. Stat. § 5.06(4), and the vote of the Wisconsin Elections Commission taken on January 2, 2025, the following is the Commission’s request for information and open records:

1. The term “**person(s)**” means natural persons, private or public corporations, political subdivisions, partnerships, associations, trusts, joint ventures or any other kind of entity.

2. The term “**document(s)**”, unless otherwise specified, is used in its most broad and liberal sense and means any written, typed, printed or other graphic material of any kind or nature, all mechanical and electric sound recordings or transcripts thereof, all photographic, videotape or other visual records, all computer printouts, electronic mail and other information stored by or in computers, including computer archives, microfilm or microfiche, all other data compilation of any kind from which information can be obtained or translated and all copies of such documents (however reproduced or made) which are in the possession, custody, or control of the City, its employees, agents, representatives, or attorneys. The term includes all versions, whether an original or contemporaneously or subsequently made copy, regardless of whether such copy is not identical by reason of any notation made thereon, or otherwise. Such term includes, without limitation, all papers, notes, accounts, books, advertisements, catalogues, manuals, publications, correspondence, cablegrams, mailgrams, telegrams, memoranda, letters, documents, communications including intra-office and inter-office communications, electronic mail, faxes, reports, studies, analysis, pamphlets, calculations, projections, contracts, charts, plans, including blueprints, specifications, drawings, sketches, surveys, agreements, working papers, corporate records, minutes of meetings, books of account, ledger books, notebooks, vouchers, bank checks, cashier’s checks, receipts for cashier’s checks, canceled checks, check stubs, bills, receipts, invoices, desk calendars, appointment books, diaries, diary entries and notes, minutes, transcriptions, or sound recordings of any

- type of personal or telephone conversations or of negotiations, meetings or conferences, or things similar to any of the foregoing, and all other papers, writings or physical things containing information, including preliminary drafts of or marginal notes appearing on any document, however denominated or described by the parties.
3. For purposes of these requests, a document or thing is deemed to be in your control if you have the right to procure the document or thing or a copy thereof from another person or entity having actual possession of the document or thing.
 4. To “**identify**” or “**state the identity of**” means:
 - (i) When used in connection with a person, to state: his or her name and all other names by which he or she is referred to; his or her present or last known resident address and telephone number; his or her present or last known business address and telephone number; his or her present or last known occupation, position and business affiliation; whether he or she has ever been employed or engaged by you, and, if so, the dates of employment and a brief description of his or her job titles, capacities and responsibilities during the time of employment or engagement; and whether you, your attorney or another agent has interviewed the person in connection with this case or in connection with any other matter involving Plaintiff, and, if so, whether the person has given any statement concerning the matters involved in this case.
 - (ii) When used in connection with a document, to state with respect thereto: the nature or type of the document (*e.g.*, letter, contract, etc.) and the number of pages or units (*e.g.*, bytes) of which it consists; its date, and, if it bears no date, the date when it was prepared or received; the identity of its author, each signatory or person over whose name it is issued and each person who received, approved or commented on it; the identity of all persons to whom the document was addressed or distributed; the last known physical location and address of the original and each duplicate copy, and the identity of its custodian or custodians; the general subject matter or content of the document with sufficient particularity to enable it to be identified; if the document was, but is no longer, in your possession or subject to your control (*e.g.*, because lost, destroyed, transmitted to another person, etc.), state what disposition was made of it, the date of such disposition, and the reasons for such disposition; whether it will be voluntarily made available for inspection and copying; whether you claim the document is privileged or otherwise not subject to discovery, and, if so, the basis for such claim or privilege or other grounds for exclusion, and the reasons for such claim.
 - (iii) When used in connection with a communication, to state: a brief description of the subject matter of the communication; the date it took place; the means of communication; the place where it occurred; the identity of each document pertaining to the communication and the identity of each person who participated in the communication.
 5. The term “**describe**” means to relate in as full and complete a manner as possible the substance of any agreement, conversation, writing, or other thing requested to be so identified. Such description shall include the date and place of any conversation, as well as the identities of all individuals present. When description of a document is

requested, you shall specify the date, place and circumstances of creation of the document and give a verbatim description (or as close thereto as possible) of the contents, as well as giving its present location and in whose possession the document is. In lieu thereof, a copy of the document may be supplied.

6. The term “**communication(s)**” means any oral, written, electronic or other transfer of information, ideas, opinions or thoughts by any means, from or to any person or thing, including, but not limited to, spoken words, discussions, conferences, conversations, negotiations, agreements, understanding, inquiries, promises, complaints or correspondence.
7. The term “**rely**” or “**relied,**” when used with respect to an assessor’s action, assessment or other decision means the information or event influenced the assessor’s action, assessment or other decision related to the Properties.
8. The term “**review**” or “**reviewed**” when used with respect to an assessor’s action, assessment or other decision means the assessor was aware of, possessed or sought the information or event, but the information or event was not relied upon in making the assessor’s action, assessment or other decision related to the Properties.
9. The term “**consider**” or “**considered**” when used with respect to an assessor’s action, assessment or other decision means the assessor reviewed the information or event, investigated or studied the information or event, but the information or event was not relied upon in making the assessor’s action, assessment, or other decision related to the Properties.
10. The words “**and**” and “**or**” shall be construed both disjunctively and conjunctively, so as to bring within the scope of these discovery requests any information which might otherwise be construed to be outside their scope.
11. “**Relate to,**” “**relating to,**” or “**regarding,**” “**refer to,**” “**referring to,**” “**reflecting**” and “**in connection with**” mean directly or indirectly mentioning, describing, pertaining to, or in any way connected with a stated subject matter and includes, among others, documents and things underlying, supporting, now or previously attached or appended to or used in preparation of any document or thing called for by each request.

QUESTIONS PRESENTED

1. As to the 67 ballots for Ward 65 and 1 ballot for Ward 68:
 - a. When did those ballots arrive in your office and in what manner did they arrive (mail, in-person delivery to clerk, in-person absentee vote, dropbox, etc.)?
 - b. Upon their arrival in your office, were they entered into WisVote?
 - i. If they were entered into WisVote, when were they entered?
 - ii. If they were not entered into WisVote, why not?

- c. When did you discover that these ballots were not included in the tally?
 - i. Who discovered that?
 - ii. How was it discovered?
- d. How were the physical ballots discovered?
 - i. Who discovered them?
 - ii. Where had they been prior to their discovery?
- e. Who in your office was present when the two sealed EL-124 carrier envelopes (Seal #17142 and #29057) were opened?
- f. Did you notify the City of Madison Municipal Board of Canvassers (Madison Board) that the ballots had not been included in the tally?
 - i. When did you notify them?
 - ii. How did you notify them?
 - iii. If you did not notify them, why not?
- g. Did you notify the Dane County Board of Canvassers (Dane Board) about these uncounted ballots?
 - i. When did you notify them?
 - ii. How did you notify them?
 - iii. If you did not notify them, why not?
- h. Did you notify the Dane County Clerk or his office (collectively, the Dane county Clerk) about these uncounted ballots?
 - i. When did you notify the Dane County Clerk?
 - ii. How did you notify the Dane County Clerk?

- iii. Please detail the substance of all communications with the Dane County Clerk regarding these ballots.
- i. At any time prior to November 29, 2024, the date of completion of the state canvass, did anyone from your office contact or notify the Wisconsin Elections Commission (WEC) regarding these ballots?
 - i. If yes, please detail who contacted the WEC, who they spoke to, when the contact was made and the substance of that contact
 - ii. If no, please explain in detail why the WEC was not notified, and who made the decision not to contact the WEC, and when that determination was made.
- 2. As to the 125 ballots for Ward 56:
 - a. When did those ballots arrive in your office and in what manner did they arrive (mail, in-person delivery to clerk, in-person absentee vote, dropbox, etc.)?
 - b. Upon their arrival in your office, were they entered into WisVote?
 - i. If they were not entered into WisVote, why not?
 - c. When did you discover that these ballots were not included in the tally?
 - i. Who discovered that?
 - ii. How was it discovered?
 - d. How were the physical ballots discovered?
 - i. Who discovered them?
 - ii. Where had they been prior to their discovery?
 - e. Who in your office was present when the sealed courier bag (Seal #21183883) was opened?

- f. Did you notify the City of Madison Municipal Board of Canvassers (Madison Board) that the ballots had not been included in the tally?
 - i. When did you notify them?
 - ii. How did you notify them?
 - iii. If you did not notify them, why not?
- g. Did you notify the Dane County Board of Canvassers (Dane Board) about these uncounted ballots?
 - i. When did you notify them?
 - ii. How did you notify them?
 - iii. If you did not notify them, why not?
- h. Did you notify the Dane County Clerk about these uncounted ballots?
 - i. When did you notify the Dane County Clerk?
 - ii. How did you notify the Dane County Clerk?
 - iii. Please detail the substance of all communications with the Dane County Clerk regarding these ballots.
- i. At any time prior to November 29, 2024, the date of completion of the state canvass, did anyone from your office contact or notify the Wisconsin Elections Commission (WEC) regarding these ballots?
 - i. If yes, please detail who contacted the WEC, who they spoke to, when the contact was made and the substance of that contact
 - ii. If no, please explain in detail why the WEC was not notified, and who made the decision not to contact the WEC, and when that determination was made.

3. Please describe the existing policies and procedures in your office for each of the topics below, and provide your assessment as the City of Madison Municipal Clerk regarding whether the established policy was properly followed:
 - a. What is the policy or procedure when absentee ballots are received in the clerk's office?
 - b. Are absentee ballots entered into WisVote prior to being sent to polling places?
 - i. If the answer is no, please explain why not.
 - c. What is the policy or procedure for transporting absentee ballots to the polling places?
 - d. What is the policy or procedure for receiving absentee ballots at the polling places and ensuring they are all properly processed?
 - e. What is the policy or procedure for storing courier bags, certificate envelopes, and other containers used to transport absentee ballots after the election?
 - f. After an election does your office account for and/or examine the courier bags to ensure all have been returned to your office?
 - i. If yes, please detail that policy or procedure for doing so.
 - ii. If no, please explain why not.
 - g. After an election does your office account for and/or examine the tabulator bins to ensure all ballots have been removed?
 - i. If yes, please detail that policy or procedure for doing so.
 - ii. If no, please explain why not.
4. Please provide the mailing IDs for each of the uncounted ballots.

OPEN RECORDS REQUEST FOR DOCUMENTS

Pursuant to the Open Records Law, Wis. Stat. § 19.35, we are hereby making an Open Records request for copies of the following documents as to the November 4, 2024 election:

1. Records, logs, or documents used by the City of Madison Clerk's Office to track or log carrier envelopes (green or red), courier bags, "secure red cages," or any other object utilized to store or transport sealed absentee certificate envelopes. This request excludes the actual carrier envelopes or bags themselves and is specific to any record used to track or log the movement of absentee ballots from the voter to the ultimate destination of the polling place.
2. Internal communications, including email, text messages, or instant messaging (such as Teams or Skype) between City of Madison Clerk's Office staff between November 12, 2024, and December 26, 2024. This request is specific to any record containing information regarding the 193 uncounted absentee ballots from Wards 56, 65, and 68.
3. Internal communications, including email, text messages, or instant messaging (such as Teams or Skype) between City of Madison Clerk's Office and any member of the City of Madison Municipal Board of Canvassers or Dane County Board of Canvassers between November 12, 2024, and December 26, 2024. This request is specific to any record containing information regarding the 193 uncounted absentee ballots from Wards 56, 65, and 68.
4. Internal communications, including email, text messages, or instant messaging (such as Teams or Skype) between the City of Madison Clerk's Office and the Dane County Clerk between November 12, 2024, and December 26, 2024. This request is

specific to any record containing information regarding the 193 uncounted absentee ballots from Wards 56, 65, and 68, as well as any information regarding the city, county, or state canvass or certification deadlines.

5. All documentation, data, files, paperwork, or other substantive results materials provided by your office to the City of Madison Municipal Board of Canvassers and the Dane County Board of Canvassers.
6. Training materials, including email, PowerPoint slides, or webinar recordings, given to the election officials who were ultimately scheduled to work at Wards 56, 65, and 68. This request is specific to any record containing instruction on the processing, handling, and tabulating of absentee ballots. This request specifically excludes any training material or guidance document prepared by or issued by the Commission.

Dated at Milwaukee, Wisconsin this 2nd day of January, 2025.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ann Jacobs", with a stylized flourish at the end.

Ann S. Jacobs
Chair, Wisconsin Elections Commission