

**STATE OF WISCONSIN
BEFORE THE ELECTIONS COMMISSION**

Glen Hogan
2740 Englewood Rd.
Green Bay, WI 54311,

Joanne Lensing
2140 King James Dr.
Green Bay, WI 54304,

and

David A. VanderLeest
146 Alpine Dr.
Green Bay, WI 54302

Complainants,

v.

Celestine Jeffreys,
Clerk for the City of Green Bay
100 N. Jefferson St.
Room 106
Green Bay, WI 54301

Respondent.

VERIFIED COMPLAINT

The Complainants alleges the following:

1. Complainants are registered Wisconsin voters, and each qualifies as an “elector” within the meaning of Chapters 5 and 6 of the Wisconsin Statutes. Complainants reside in the City of Green Bay, Wisconsin.

2. Respondent, Celestine Jeffreys, is the City Clerk for the City of Green Bay. Clerk Jeffreys is an “election official” within the meaning of Chapters 5 and 6 of the Wisconsin Statutes and is sued in that capacity. Clerk Jeffreys was appointed to the office by Mayor Eric Genrich in

January 2021. <https://www.greenbaypressgazette.com/story/news/2021/01/13/green-bay-mayor-eric-genrich-appoints-celestine-jeffreys-city-clerk/6641714002/>.

JURISDICTION

3. This Complaint is brought against Clerk Jeffreys under Wisconsin Statute § 5.06, which provides:

Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act with respect to any matter concerning nominations, qualifications of candidates, voting qualifications, including residence, ward division and numbering, recall, ballot preparation, election administration or conduct of elections is contrary to law, or the official has abused the discretion vested in him or her by law with respect to any such matter, the elector may file a written sworn complaint with the commission requesting that the official be required to conform his or her conduct to the law, be restrained from taking any action inconsistent with the law or be required to correct any action or decision inconsistent with the law or any abuse of the discretion vested in him or her by law. The complaint shall set forth such facts as are within the knowledge of the complainant to show probable cause to believe that a violation of law or abuse of discretion has occurred or will occur. The complaint may be accompanied by relevant supporting documents. The commission may conduct a hearing on the matter in the manner prescribed for treatment of contested cases under ch. 227 if it believes such action to be appropriate.

COMPLAINT

4. Wisconsin allows residents to register and vote on Election Day at their polling place. *See* Wis. Stat. § 6.55(2)(a) (“Election Day Registration”).

5. Residents using Election Day Registration must provide documentary proof of residence, Wis. Stat. § 6.55(2)(b), and must affirm in writing that they have resided at their residence “for at least 28 consecutive days immediately preceding this election,” Wis. Stat. § 6.55(2)(a).

6. Wisconsin requires a post-election “audit” of all electors who registered to vote using Election Day Registration. Wis. Stat. § 6.56(3).

7. The audit’s requirements are provided in Wis. Stat. 6.56(3) and are the following:

The audit shall be made by 1st class postcard. The postcard shall be marked in accordance with postal regulations to ensure that it will be returned to the clerk, board of election commissioners, or elections commission if the elector does not reside at the address given on the postcard. If any postcard is returned undelivered, or if the clerk, board of election commissioners, or elections commission is informed of a different address than the one specified by the elector which was apparently improper on the day of the election, the clerk, board of election commissioners, or elections commission shall change the status of the elector from eligible to ineligible on the registration list, mail the elector a notice of the change in status, and provide the name of the elector to the district attorney for the county where the polling place is located and the elections commission.

Wis. Stat. § 6.56(3).

8. The “postcard” described in Wis. Stat. § 6.56(3) is mailed by the Wisconsin Election Commission (“WEC”).

9. If the “postcard” is undeliverable as addressed, it is returned to the clerk’s office in the jurisdiction where the elector registered to vote. *See, e.g.,* <https://elections.wi.gov/resources/newsletters/wec-newsletter-volume-iii-issue-viii> (last accessed April 5, 2024) (“As clerks enter their Election Day Registrations from the 2023 Spring Election, the WEC sends postcards to these voters informing them of their district information and their polling place. If the postal service is unable to deliver these postcards they are returned to the clerk’s mailing address that the WEC has on file for that jurisdiction.”).

10. The duty to “change the status of the elector from eligible to ineligible on the registration list, mail the elector a notice of the change in status, and provide the name of the elector to the district attorney for the county where the polling place is located and the elections

commission” is performed by the clerk of each jurisdiction. Wis. Stat. § 6.56(3). This duty is mandatory (“shall”). *See* Wis. Stat. § 6.56(3).

11. On February 9, 2023, WEC issued “updated guidance regarding the handling and processing of Election Day Registration postcards returned to a clerk’s office after an election.”

<https://elections.wi.gov/sites/default/files/documents/Updated%20EDR%20Postcard%20Guidance%20clerk%20memo.pdf> (clerk memo);

<https://elections.wi.gov/sites/default/files/documents/EDR%20Postcard%20Instructions%20Final%20Revision.pdf> (instructions) (together, “EDR Guidance”) (last accessed April 5, 2024).

12. The EDR Guidance confirmed that the Wis. Stat. § 6.56(3)’s requirements are mandatory and are performed by municipal clerks. *See* EDR Guidance ¶ 3 (“If an EDR audit postcard is returned as undeliverable, Wisconsin Statute § 6.56(3) requires municipal clerks to inactivate the voter record, mail the voter a notice of change of status, and notify the District Attorney and the Elections Commission.”).

13. The EDR Guidance further explained that Wis. Stat. 6.56(3) incorporates the standard found in Wis. Stat. § 6.325, which “requires a ‘beyond a reasonable doubt’ standard to be met that ‘the person does not qualify as an elector or is not properly registered’ before the person can be disqualified as an elector.” EDR Guidance ¶ 3 (quoting Wis. Stat. § 6.325).

14. The EDR Guidance provides ways for clerks to comply with Wis. Stat. 6.56(3)’s requirements.

15. First, the EDR Guidance instructs clerks to “[r]eview the address on the undeliverable audit postcard for any missing information or other obvious error of an election official or the post office.” EDR Guidance ¶ 1 (hereafter “Address Review”).

16. Second, if the Address Review reveals no errors, the EDR Guidance instructs clerks to “investigate if the elector deliberately gave an invalid address, or if some other circumstances apply, such as the elector moving between Election Day and when the postcard was delivered, the elector being homeless, the elector making a minor error when filling out the registration, or another circumstance leading to a legitimate address being undeliverable.” EDR Guidance ¶ 3 (“Investigation”).

17. If the Investigation provides “reason to believe that an elector moved between Election Day and when the postcard was delivered,” the EDR Guidance instructs clerks to “mail the voter a 30-day notice letter under Wis. Stat. § 6.50(3) to confirm the registration or update the registration if the elector moved within the municipality.” EDR Guidance ¶ 3 (“Address Confirmation”).

18. If the Investigation causes “belie[f] beyond a reasonable doubt that that the individual does not qualify as an elector or is not properly registered, the postcard and any other materials related to the clerk’s investigation should be forwarded to the District Attorney” and the record’s inactivation should be recorded in WisVote. EDR Guidance ¶ 3 (“DA Referral”).

19. Wis. Stat. § 6.275(1)(f) requires municipal clerks to submit to WEC a report of actions taken pursuant to Wis. Stat. § 6.56(3) no later than ninety (90) days after each election. *See also, e.g.,* <https://elections.wi.gov/event/deadline-clerks-submit-election-day-registration-postcard-data> (providing deadline for clerk’s to submit EDR postcard data for the 2023 Spring Primary) (last accessed April 5, 2024).

20. Wis. Stat. § 6.275(2) requires WEC to publish and update the EDR postcard data received from municipal clerks under Wis. Stat. § 6.275(1)(f) (hereafter, “WEC EDR Report”).

21. According to the most recent WEC EDR Report for the 2020 Partisan Primary Election (dated August 13, 2021), the City of Green Bay reported 153 Election Day Registrations.

<https://elections.wi.gov/resources/statistics/2020-partisan-primary-election-voting-and-registrations-statistics-report> (last accessed April 5, 2024).

22. Of the postcards WEC mailed to those 153 electors pursuant to Wis. Stat. § 6.56(3), fourteen (14) were returned “undeliverable” to the City of Green Bay Clerk’s office. *See id.*

23. According to the WEC EDR Report, the City of Green Bay Clerk’s office inactivated zero registrants and referred zero registrants to the district attorney. *See id.*

24. According to the most recent WEC EDR Report for the 2020 General Election (dated January 24, 2022), the City of Green Bay reported 3,497 Election Day Registrations.

<https://elections.wi.gov/resources/statistics/2020-general-election-voting-and-registration-statistics-report-formerly-el> (last accessed April 5, 2024).

25. Of the postcards WEC mailed to those 3,497 electors pursuant to Wis. Stat. § 6.56(3), one-hundred and seventy (170) were returned “undeliverable” to the City of Green Bay Clerk’s office. *See id.*

26. According to the WEC EDR Report, the City of Green Bay Clerk’s office inactivated zero registrants and referred zero registrants to the district attorney. *See id.*

27. According to the most recent WEC EDR Report for the 2021 Spring Primary (dated February 24, 2022), the City of Green Bay reported 22 Election Day Registrations.

<https://elections.wi.gov/resources/statistics/2021-spring-primary-voting-and-registration-statistics-report-formerly-el> (last accessed April 5, 2024).

28. Of the postcards WEC mailed to those 22 electors pursuant to Wis. Stat. § 6.56(3), one (1) was returned “undeliverable” to Clerk Jeffrey’s office. *See id.*

29. According to the WEC EDR Report, Clerk Jeffreys inactivated zero registrants and referred zero registrants to the district attorney. *See id.*

30. According to the most recent WEC EDR Report for the 2021 Spring Election (dated February 24, 2022), the City of Green Bay reported 89 Election Day Registrations. <https://elections.wi.gov/resources/statistics/2021-spring-election-voting-and-registration-statistics-report-formerly-el> (last accessed April 5, 2024).

31. Of the postcards WEC mailed to those 89 electors pursuant to Wis. Stat. § 6.56(3), one (1) was returned “undeliverable” to Clerk Jeffreys’ office. *See id.*

32. According to the WEC EDR Report, Clerk Jeffreys inactivated zero registrants and referred zero registrants to the district attorney. *See id.*

33. According to the most recent WEC EDR Report for the 2022 Spring Election (dated March 27, 2023), the City of Green Bay reported 329 Election Day Registrations. <https://elections.wi.gov/resources/statistics/2022-spring-election-voting-and-registration-statistics-report-0> (last accessed April 5, 2024).

34. Of the postcards WEC mailed to those 329 electors pursuant to Wis. Stat. § 6.56(3), five (5) were returned “undeliverable” to Clerk Jeffreys’ office. *See id.*

35. According to the WEC EDR Report, Clerk Jeffreys inactivated two (2) registrants and referred zero registrants to the district attorney. *See id.*

36. According to the most recent WEC EDR Report for the 2022 Partisan Primary (dated August 2, 2023), the City of Green Bay reported 477 Election Day Registrations. <https://elections.wi.gov/resources/statistics/2022-partisan-primary-voting-and-registration-statistics-report> (last accessed April 5, 2024).

37. Of the postcards WEC mailed to those 477 electors pursuant to Wis. Stat. § 6.56(3), five (5) were returned “undeliverable” to Clerk Jeffreys’ office. *See id.*

38. According to the WEC EDR Report, Clerk Jeffreys inactivated zero registrants and referred zero registrants to the district attorney. *See id.*

39. According to the most recent WEC EDR Report for the 2022 General Election (dated January 2, 2024), the City of Green Bay reported 3,433 Election Day Registrations. <https://elections.wi.gov/resources/statistics/2022-general-election-voting-and-registration-statistics-report> (last accessed April 5, 2024).

40. Of the postcards WEC mailed to those 3,433 electors pursuant to Wis. Stat. § 6.56(3), forty-nine (49) were returned “undeliverable” to Clerk Jeffreys’ office. *See id.*

41. According to records produced by Clerk Jeffreys, the number of undeliverable EDR postcards is seventy-six (76). *See* Affidavit of Logan Churchwell ¶¶ 25-27.

42. According to the WEC EDR Report, Clerk Jeffreys inactivated zero registrants and referred zero registrants to the district attorney. *See id.*

43. According to the most recent WEC EDR Report for the 2023 Spring Primary Election (dated April 1, 2024), the City of Green Bay reported 146 Election Day Registrations. <https://elections.wi.gov/resources/statistics/2023-spring-primary-election-voting-and-registration-statistics-report> (last accessed April 5, 2024).

44. Of the postcards WEC mailed to those 146 electors pursuant to Wis. Stat. § 6.56(3), one (1) was returned “undeliverable” to Clerk Jeffreys’ office. *See id.*

45. According to the WEC EDR Report, Clerk Jeffreys inactivated zero registrants and referred zero registrants to the district attorney. *See id.*

46. According to the most recent WEC EDR Report for the 2023 Spring Election (dated April 1, 2024), the City of Green Bay reported 672 Election Day Registrations. <https://elections.wi.gov/resources/statistics/2023-spring-election-voting-and-registration-statistics-report> (last accessed April 5, 2024).

47. Of the postcards WEC mailed to those 672 electors pursuant to Wis. Stat. § 6.56(3), twenty-four (24) were returned “undeliverable” to Clerk Jeffreys’ office. *See id.*

48. According to records produced by Clerk Jeffreys, the number of undeliverable EDR postcards is five (5). *See* Affidavit of Logan Churchwell ¶¶ 25-26, 28, Exhibit 5.

49. According to the WEC EDR Report, Clerk Jeffreys inactivated zero registrants and referred one registrant to the district attorney. *See id.*

50. When Clerk Jeffreys receives undeliverable Election Day Registration postcards, her current procedure is to record the postcards as undeliverable in WisVote and take no further action. *See also* Affidavit of Logan Churchwell ¶ 21-23.

51. When Clerk Jeffreys receives undeliverable Election Day Registration postcards, she currently does not comply with Wis. Stat. § 6.56(3)’s mandatory requirement to “change the status of the elector from eligible to ineligible on the registration list, mail the elector a notice of the change in status, and provide the name of the elector to the district attorney for the county where the polling place is located and the elections commission.” *See also* Affidavit of Logan Churchwell ¶ 21-23.

52. When Clerk Jeffreys receives undeliverable Election Day Registration postcards, Clerk Jeffreys currently does not perform Address Review, Investigation, Address Confirmation, or DA Referral, as instructed by WEC’s EDR Guidance, or take any other similar action. *See also* Affidavit of Logan Churchwell ¶ 21-23.

53. Clerk Jeffreys is thus currently failing to act in accordance with Wisconsin law.

PRAYER FOR RELIEF

WHEREFORE, the Complainants requests the following relief:

- A. That Clerk Jeffreys be directed to conform her conduct to the law as described in Wis. Stat. § 6.56(3) and the EDR Guidance.
- B. An award of all costs and fees incurred in bringing this matter.
- C. Such equitable or other relief as is just and appropriate.

For the Complainants:

Dated this 8th day of April, 2024.

CRAMER MULTHAUF LLP
Attorneys for Complainants,

BY: Electronically signed by Matthew M. Fernholz
MATTHEW M. FERNHOLZ
(State Bar No. 1065765)

CRAMER MULTHAUF LLP
1601 East Racine Avenue • Suite 200
P.O. Box 558
Waukesha, WI 53187-0558
(262) 542-4278
mmf@cmlawgroup.com

PUBLIC INTEREST LEGAL FOUNDATION, INC.
Attorneys for Complainants,

BY: Electronically signed by Noel H. Johnson
NOEL H. JOHNSON
(State Bar No. 1068004)

Public Interest Legal Foundation, Inc.
107 S. West Street, Suite 700
Alexandria, VA 22314
Tel. (703) 745-5870
njohnson@PublicInterestLegal.org

The Complainant, GLEN HOGAN, being first duly sworn, states that he has personally read the above complaint, and that the above allegations are based on information and belief and the complainant believes them to be true to the best of his knowledge.

Glen J Hogan
Complainant

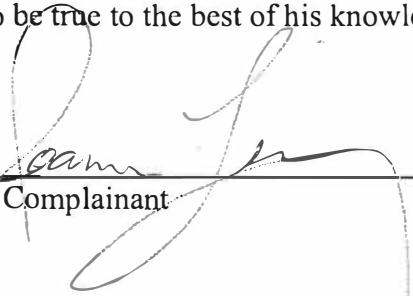
Subscribed and sworn to before me
this 15th day of March, 2024.

Kelly J Samples
Notary Public, State of Wisconsin
My commission expires 12/12/2026



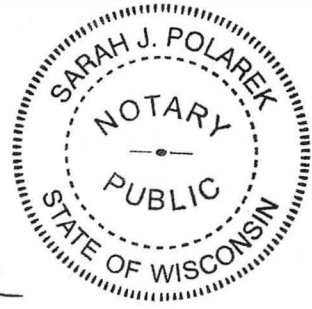
State of Wisconsin
County of Brown
My Commission Expires
12/12/2026

The Complainant, Joanne Lensing, being first duly sworn, states that he has personally read the above complaint, and that the above allegations are based on information and belief and the complainant believes them to be true to the best of his knowledge.


Complainant

Subscribed and sworn to before me
this 18th day of March, 2024.


Notary Public, State of Wisconsin



My commission expires 09/16/2027

The Complainant, David A. VanderLeest, being first duly sworn, states that he has personally read the above complaint, and that the above allegations are based on information and belief and the complainant believes them to be true to the best of his knowledge.

David VanderLeest
Complainant

Subscribed and sworn to before me

this 15 day of March, 2024.

MEENAKSHI AGARWAL
NOTARY PUBLIC
STATE OF WISCONSIN

Meenakshi Agarwal
Notary Public, State of Wisconsin

My commission expires 03-17-2025

request on EDRs

Celestine Jeffreys <Celestine.Jeffreys@greenbaywi.gov>

Fri 11/3/2023 1:46 PM

To: Logan Churchwell <LChurchwell@publicInterestLegal.org>;

Mr. Churchwell,

I've forwarded your request to our Law Department. They will be in touch.

Celestine Jeffreys

Clerk, City of Green Bay

920.448.3010

greenbaywi.gov/clerk

Statewide election dates

February 20, 2024: Spring primary

April 2, 2024: Spring general election and Presidential preference primary

August 13, 2024: Fall primary

November 5, 2024: Fall general election

EXHIBIT 1

Re: Response from Green Bay

Celestine Jeffreys <Celestine.Jeffreys@greenbaywi.gov>

Thu 11/9/2023 2:09 PM

Inbox Rescue

To: Logan Churchwell <LChurchwell@publicInterestLegal.org>;

Mr. Churchwell,

I can no longer view those elections in the state database, where that information is housed.

Celestine Jeffreys

Clerk, City of Green Bay

920.448.3010

greenbaywi.gov/clerk

Statewide election dates

February 20, 2024: Spring primary

April 2, 2024: Spring general election and Presidential preference primary

August 13, 2024: Fall primary

November 5, 2024: Fall general election

From: Logan Churchwell <LChurchwell@publicInterestLegal.org>

Sent: Thursday, November 9, 2023 9:29 AM

To: Celestine Jeffreys <Celestine.Jeffreys@greenbaywi.gov>

Subject: Re: Response from Green Bay

Alright, setting the WEC reports aside, can you confirm from your offices records that the following is correct?

For the 2022 General, your office handled 3,433 EDRs, of which 49 were returned undeliverable. Of those, 0 were set to inactive status and 0 were referred to the appropriate district attorney for further review.

For the 2020 General, your office handled 3,497 EDRs, of which 170 were returned undeliverable. Of those, 0 were set to inactive status and 0 were referred to the appropriate district attorney for further review.

Thank you for your help.

From: Celestine Jeffreys <Celestine.Jeffreys@greenbaywi.gov>

Sent: Tuesday, November 7, 2023 12:37 PM

To: Logan Churchwell

Subject: RE: Response from Green Bay

EXHIBIT 2

Mr. Churchwell,

We are still unable to verify information from another entity.

Thank you,

Celestine Jeffreys

Clerk, City of Green Bay

920.448.3010

greenbaywi.gov/clerk

Statewide election dates

February 20, 2024: Spring primary

April 2, 2024: Spring general election and Presidential preference primary

August 13, 2024: Fall primary

November 5, 2024: Fall general election

From: Logan Churchwell <LChurchwell@publicInterestLegal.org>

Sent: Tuesday, November 7, 2023 11:34 AM

To: Celestine Jeffreys <Celestine.Jeffreys@greenbaywi.gov>

Subject: Re: Response from Green Bay

Ms. Jeffreys: Thank you for your response. This ought to clear matters up. Published on the WEC website (linked below) are the reports I referenced.

<https://elections.wi.gov/resources/statistics/2022-general-election-voting-and-registration-statistics-report>

<https://elections.wi.gov/resources/statistics/2020-general-election-voting-and-registration-statistics-report-formerly-el>

From: Celestine Jeffreys <Celestine.Jeffreys@greenbaywi.gov>

Sent: Tuesday, November 7, 2023 12:16:53 PM

To: Logan Churchwell

Subject: Response from Green Bay

Dear Mr. Churchwell,

This email is our response to your request for "Election Day Registration Report Question."

Dear Clerk:

I'm writing to confirm the accuracy of recent Election Day Registration Postcard Reports published by WEC.

For the 2022 General, WEC shows that your office handled 3,433 EDRs, of which 49 were returned undeliverable. Of those, 0 were set to inactive status and 0 were referred to the appropriate district attorney for further review. These figures were taken from the "2022 General Election EDR Postcard Report 2023-10-02" edition of that election's postcard report.

For the 2020 General, WEC shows that your office handled 3,497 EDRs, of which 170 were returned undeliverable. Of those, 0 were set to inactive status and 0 were referred to the appropriate district attorney for further review. These figures were taken from the "2020_20General_20Election_20EDR_20Postcard_20Report_202022-01-24" edition of that election's postcard

report.

Can you confirm the accuracy of these figures published by WEC?

Logan Churchwell

Research Director

Public Interest Legal Foundation

lchurchwell@publicinterestlegal.org

107 S. West Street, Suite 700

Alexandria, VA 22314

This is a request for information, and we cannot provide confirmation regarding records you received from another entity.

If you have other questions, please reach out.

Celestine Jeffreys

Clerk, City of Green Bay

920.448.3010

greenbaywi.gov/clerk

Statewide election dates

February 20, 2024: Spring primary

April 2, 2024: Spring general election and Presidential preference primary

August 13, 2024: Fall primary

November 5, 2024: Fall general election



VIA EMAIL

November 29, 2023

ATTN: Elections
Celestine Jeffreys
Green Bay City Clerk
100 N Jefferson Street, Room 106
Green Bay, WI 54301
Email: Celestine.Jeffreys@greenbaywi.gov

EXHIBIT 3

RE: WisVote query, procedures request

Dear Ms. Jeffreys:

I write today seeking records related to your office's handling of election day registration in relation to Wis. Stat. § 6.56. The Public Interest Legal Foundation is a nonpartisan, nonprofit, public-interest law firm that studies voter list maintenance procedures throughout the nation. Pursuant to the Wisconsin Open Records Law, I request that your office provide the following:

1. A WisVote query report covering your jurisdiction which shows the total number of registered voters using EDR for the April 4, 2023, election whose confirmation postcards were returned undeliverable and therefore marked inactive and logged "Undeliverable Mailing" in WisVote (an example query screenshot is provided below); and finally,

The screenshot shows a search interface for WisVote. At the top, there is a 'Look for:' dropdown menu set to 'Voters' and a 'Use Saved View:' dropdown menu set to '[new]'. Below this, there are four search criteria, each with a dropdown arrow on the left and a text input field on the right:

- Owner:** Equals Current User Or User...
- Status:** Equals Inactive
- Registration Date:** On 4/4/2023
- Voter Status Reason:** Equals Undeliverable Mailing

At the bottom of the search criteria, there is a 'Select' button.

2. A copy of any written procedure your office follows to comply with the requirements set forth under Wis. Stat. § 6.56.

Informational Interests

The Public Interest Legal Foundation is a non-profit organization that specializes, in part, in voting and election related research. The Foundation regularly utilizes state and federal open records laws that require government records be made available to the public. Using records and data compiled through these open records laws, the Foundation produces and disseminates reports, press releases, newspaper opinion articles, blog and social media posts, podcasts, and newsletters to advance the public education aspect of its organizational mission. This request is made in furtherance of the Foundation's newsgathering and educational purposes.

Accordingly, I would like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of matters touching on the right to vote and the government's responsiveness to inquiries regarding the same.

If there are any copying expenses, please let me know in advance. Otherwise, please send responsive records to: lchurchwell@publicinterestlegal.org.

Thank you for your attention to this matter.

Sincerely,



Logan Churchwell
Research Director
Public Interest Legal Foundation

RE: ORR 289-2023 Churchwell, Logan

Deanna Debruler <Deanna.Debruler@greenbaywi.gov>

Thu 12/14/2023 1:36 PM

Inbox Rescue

To: Logan Churchwell <LChurchwell@publicInterestLegal.org>;

EXHIBIT 4

Dear Mr. Churchwell,

The response covered both parts of the request. The Clerk's Office does not have a separate procedure other than what is in the WisVote manual.

Thank you,

Deanna K. DeBruler

Legal Assistant

City of Green Bay

Law Department

920.448.3122

deanna.debruler@greenbaywi.gov

LEGAL DISCLAIMER: This message and all attachments may be confidential or protected by privilege. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of the information contained in or attached to this message is strictly prohibited. Please notify the sender of the delivery error by replying to this message, and then delete it from your system. Thank you.

From: Logan Churchwell <LChurchwell@publicInterestLegal.org>

Sent: Thursday, December 14, 2023 11:38 AM

To: Deanna Debruler <Deanna.Debruler@greenbaywi.gov>

Subject: Re: ORR 289-2023 Churchwell, Logan

Thank you, what is your response to Request 2 in the letter?

From: Deanna Debruler <Deanna.Debruler@greenbaywi.gov>

Sent: Monday, December 11, 2023 4:56:53 PM

To: Logan Churchwell

Subject: ORR 289-2023 Churchwell, Logan

Dear Mr. Churchwell:

This email is in response to your open records request received November 29, 2023 (see attached). Pursuant to a review of our available records, there are no records responsive for your request. The records custodian for such records would be WisVote or BadgerVote.

Please note, open records law does not require for a record to be created to respond to a records request.

The determination not to release certain records is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to the Attorney General or District Attorney.

Thank you for your cooperation in this matter.

Deanna K. DeBruler

Legal Assistant

City of Green Bay

Law Department

920.448.3122

deanna.debruler@greenbaywi.gov

LEGAL DISCLAIMER: This message and all attachments may be confidential or protected by privilege. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of the information contained in or attached to this message is strictly prohibited. Please notify the sender of the delivery error by replying to this message, and then delete it from your system. Thank you.

From: Logan Churchwell <LChurchwell@publicInterestLegal.org>

Sent: Wednesday, November 29, 2023 2:11 PM

To: Celestine Jeffreys <Celestine.Jeffreys@greenbaywi.gov>

Subject: Records Request - PILF

Dear Disclosure Officer: Please review the attached request letter and advise on next steps. Thank you.

Logan Churchwell

Research Director

Public Interest Legal Foundation

lchurchwell@publicinterestlegal.org

107 S. West Street, Suite 700

Alexandria, VA 22314



ARR 50-2024

RECEIVED
2/26/24
enj

February 26, 2024

Celestine Jeffreys
City of Green Bay Clerk
100 N Jefferson, Room 106
Green Bay, WI 54301

Dear Disclosure Officer:

I write today seeking clarification about data published by the Wisconsin Elections Commission ("WEC") referencing your jurisdiction.

For the 2022 General Election, WEC shows that your office handled 3,433 EDRs, of which 49 were returned undeliverable. Of those, 0 were set to inactive status and 0 were referred to the appropriate district attorney for further review. These figures were taken from the January 2024 edition of that election's postcard report.

For the 2023 Spring General Election, WEC shows that your office handled 672 EDRs, of which 24 were returned undeliverable. Of those, 0 were set to inactive status and 0 were referred to the appropriate district attorney for further review. These figures were taken from the January 2024 edition of that election's postcard report. Therefore, please provide:

1. Documents confirming or denying the accuracy of these figures published by WEC; and
2. A copy of any written procedure your office follows to comply with the requirements set forth under Wis. Stat. § 6.56.

If there are any copying expenses, please let me know in advance. Otherwise, please send responsive records to: churchwell@publicinterestlegal.org.

Thank you for your attention to this matter.

Sincerely,

Logan Churchwell
Research Director
Public Interest Legal Foundation

EXHIBIT 5

**STATE OF WISCONSIN
BEFORE THE ELECTIONS COMMISSION**

Glen Hogan
2740 Englewood Rd.
Green Bay, WI 54311,

Joanne Lensing
2140 King James Dr.
Green Bay, WI 54304,

and

David A. VanderLeest
146 Alpine Dr.
Green Bay, WI 54302

Complainants,

v.

Celestine Jeffreys,
Clerk for the City of Green Bay
100 N. Jefferson St.
Room 106
Green Bay, WI 54301

Respondent.

AFFIDAVIT OF LOGAN CHURCHWELL

I, Logan Churchwell, state the following based on personal knowledge:

1. I am over the age of 18 and reside in Edmond, Oklahoma.
2. I have personal knowledge of the matters in this affidavit and if called upon to

testify, I can testify as to these statements.

3. I am the Research Director for Public Interest Legal Foundation, Inc.

4. As part of my job duties, I review and analyze publicly available data concerning voter registration, voting, and voter list maintenance.

5. I have reviewed various Wisconsin Election Commission (“WEC”) reports concerning Election Day registration and undeliverable Election Day registration postcards.

6. During my reviews in late 2023, I worked to confirm the accuracy of the published WEC reports by first communicating via phone with appropriate WEC staff in October 2023. During that time, WEC instructed me to perform any desired due diligence by speaking with local clerks, given that WEC only published figures provided to the office by the local clerks.

7. The City of Green Bay was one jurisdiction in which I intended to seek clarification on the accuracy of the WEC data.

8. On November 3, 2023, I wrote to City of Green Bay Clerk Celestine Jeffreys to “confirm the accuracy of recent Election Day Registration Postcard Reports published by WEC.” Exhibit 2 at 2.

9. Specifically, I asked Clerk Jeffreys to confirm that for the 2022 General Election, her office “handled 3,433 EDRs, of which 49 were returned undeliverable” and that “[o]f those, 0 were set to inactive status and 0 were referred to the appropriate district attorney for further review.” These figures were taken from the “2022 General Election EDR Postcard Report 2023-10-02” published on WEC’s website. Exhibit 2 at 2.

10. Additionally, I asked Clerk Jeffreys to confirm that for the 2020 General Election, her office “handled 3,497 EDRs, of which 170 were returned undeliverable” and that “[o]f those, 0 were set to inactive status and 0 were referred to the appropriate district attorney for further review.” These figures were taken from the “2020_20General_20Election_20EDR_20Postcard_20Report_202022-01-24” published on WEC’s website. Exhibit 2 at 2.

11. I asked that Clerk Jeffreys to “confirm the accuracy of these figures published by WEC[.]” Exhibit 2 at 3.

12. On November 3, 2023, Clerk Jeffreys acknowledged the request and informed me that the Law Department would be in touch with me. Exhibit 1.

13. On November 7, 2023, Clerk Jeffreys responded to my request and informed me that her office could not “provide confirmation regarding records you received from another entity.” Exhibit 2 at 3.

14. Later on November 7, 2023, I attempted to clarify the matter via email by sending the public hyperlinks to the specific WEC reports in question. Exhibit 2 at 2.

15. Later on November 7, 2023, Clerk Jeffreys responded, reasserting that she is “still unable to verify information from another entity.” Exhibit 2 at 2.

16. Later on November 7, 2023, I reframed the inquiry in the following way: “[S]etting the WEC reports aside, can you confirm from your office’s records that the following is correct?” and re-stated the figures described in paragraphs 9 and 10. Exhibit 2 at 1.

17. On November 9, 2023, Clerk Jeffreys claimed “I can no longer view those elections in the state database, where that information is housed.” Exhibit 2 at 1.

18. On November 29, 2023, I submitted a new request to Clerk Jeffreys, in part, seeking “a WisVote query report covering your jurisdiction which shows the total number of registered voters using EDR for the April 4, 2023, election whose confirmation postcards were returned undeliverable and therefore marked inactive and logged ‘Undeliverable Mailing’ in WisVote... .” The request letter included the following WisVote screenshot to provide a visual guide. Exhibit 3.



19. On December 11, 2023, the City of Green Bay’s Legal Department responded, stating that it had no responsive records and added that Wisconsin law “does not require for a record to be created to respond to a records request.” Exhibit 4 at 1-2.

20. On February 26, 2024, I visited Clerk Jeffreys’ office with the hope of finally answering my due diligence concerns via personal conversation. I was able to get clarity on why more recent WEC reports regarding EDR verification mailing reports showed zeroes for Inactivations in the City of Green Bay.

21. Clerk Jeffreys verbally explained her process for what happens when an EDR verification card initially mailed by WEC arrives undeliverable at her office: Jeffreys looks up the elector in question in WisVote and marks the undeliverable EDR mailing in the elector’s profile.

22. When I asked if she inactivates registrants after undeliverable postcards arrive at her office, Jeffreys claimed that it was not her responsibility to do so—explaining that it was WEC’s responsibility and “I should talk to WEC about it.”

23. I then explained what other Wisconsin jurisdictions explained to me about the steps they take to determine why a postcard failed delivery before they would decide to inactive an elector. Clerk Jeffreys was resolute: it was not her responsibility to investigate or inactivate – only record the undeliverable mailing in WisVote.

24. I then asked how we could best determine the actual numbers of EDRs, undeliverable postcards, inactivations, and district attorney referrals for the 2022 General and 2023 Spring General Elections. Clerk Jeffreys said she did not have the records necessary to resolve those questions at the moment.

25. I then submitted to Clerk Jeffreys a written records request for the following records:

1. Documents confirming or denying the accuracy of these figures published by WEC; and,
2. A copy of any written procedure your office follows to comply with the requirements set forth under Wis. Stat. § 6.56.

Exhibit 5.

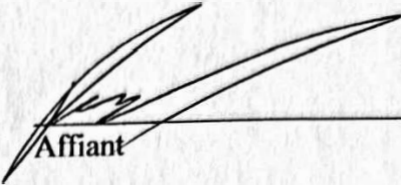
26. Thereafter, Clerk Jeffreys' office produced responsive records.

27. For the 2022 General Election, Clerk Jeffreys produced copies of 76 purportedly undeliverable EDR postcards.

28. For the 2023 Spring Election, Clerk Jeffreys produced copies of 5 purportedly undeliverable EDR postcards.

29. Clerk Jeffreys produced no additional records.

The affiant, LOGAN CHURCHWELL, being first duly sworn, states that he has personally read the above affidavit, and that the above allegations are based on information and belief and the affiant believes them to be true to the best of his knowledge.


Affiant

Subscribed and sworn to before me
this 3 day of April, 2024.

K. D. Donoghue
Notary Public, State of Oklahoma



My commission expires 10 | 4 | 2026

**STATE OF WISCONSIN
BEFORE THE ELECTIONS COMMISSION**

Glen Hogan,
Joanne Lensing, and
David A. VanderLeest,

Complainants,

v.

Celestine Jeffreys,
Clerk for the City of Green Bay,


Respondent.

AFFIDAVIT OF MAILING

STATE OF WISCONSIN)
) ss.
COUNTY OF WAUKESHA)

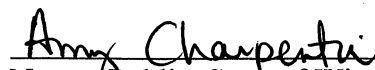
The undersigned, being first duly sworn on oath, deposes and says that on April 8, 2024, he sent via U.S. Mail, a true and correct copy of correspondence from Attorney Matthew M. Fernholz to the Wisconsin Elections Commission, Complainants' Verified Complaint, and the Affidavit of Logan Churchwell with exhibits 1 through 5 to:

Celestine Jeffreys
Clerk for the City of Green Bay
100 N. Jefferson St., Room 106
Green Bay, WI 54301



Ty Mrioued

Subscribed and sworn to before
me this 8th day of April, 2024.



Notary Public, State of Wisconsin
My Commission Expires 11/16/2024

