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**RE:** *Karen Christoffersen v. Paulina Gutiérrez*  
Case No. EL 25-21 (Filed March 4, 2025)

Dear Attorney Hunzicker:

Pursuant to Wis. Stat. § 5.06 and Wis. Admin. Code § EL 20.04(3), please consider this to be the Verified Response of Paulina Gutiérrez, Executive Director for the City of Milwaukee Election Commission, to Karen Christoffersen's ("Christoffersen") March 4, 2025 complaint ("Complaint"). For the reasons stated herein, the Complaint should be dismissed.

### **CHRISTOFFERSEN'S COMPLAINT**

Christoffersen alleges that while serving as an election observer during the November 2024 General Election, an unknown third-party told Christoffersen that the access doors on tabulators machines "were not locked." *See* Christoffersen Complaint, pg. 2. Christoffersen further alleges they were informed that the issue had been addressed and that "everything went back to normal." *Id.* Four months later, Christoffersen filed this Complaint with the Wisconsin Election Commission ("WEC"), arguing that "[t]he security of the tabulator door is significant in the operation and integrity of voting equipment." *Id.* To Christoffersen, the unlocked tabulator doors were an oversight by Ms. Gutiérrez that rises to a violation of Wis. Stat. § 7.37(8), which requires voting equipment to be in "proper working order." However, Christoffersen's argument lacks merit and Ms. Gutiérrez denies that a violation of Wisconsin law has occurred.



## **FACTUAL BACKGROUND**

At the onset, Ms. Gutiérrez acknowledges that during the November 2024 General Election, an election observer informed her that machine tabulator access doors were not properly locked prior to the tabulation of roughly 31,000 absentee ballots. Bonnie Chang, the former Deputy Director of the Milwaukee Election Commission, had the responsibility of locking and affixing seals to the tabulator machines' access doors, in accordance with the Milwaukee Election Commission's ("MEC's") Central Count Tabulator Results Procedure. *See* Exhibit 1 at pg. 1, attached. However, Ms. Gutiérrez learned from Ms. Chang that Ms. Chang did not properly lock all of the tabulator machines' access doors after applying the seals. As a result, the access door seals of some machines became loose due to the vibration of the machines while processing absentee ballots.

Upon becoming aware of Ms. Chang's error, Ms. Gutiérrez and her team responded immediately. With a representative each from the Republican Party and the Democratic Party, Ms. Gutiérrez inspected, locked, and resealed all tabulator machines. Afterwards, out of an overabundance of caution and in consultation with both Democratic and Republican officials and the City of Milwaukee's City Attorney's Office, Ms. Gutiérrez ordered all tabulating machines be reset to eliminate any doubt in the accuracy and security of the ballot counts. This involved engaging individually with each tabulating team, halting the counting process, accessing password protected screens to reset the machines, and moving counted ballots from the counted table to the uncounted table. Specially trained tabulator operators, in teams of two, then restarted the tabulation process in accordance with the Central Count Tabulator Results Procedure. Other election staff members and observers from political parties monitored all of these actions taken by Ms. Gutiérrez and the senior management of MEC.

Regarding the tabulator machines, all tabulator machines used by MEC during the November 2024 General Election were certified by WEC and passed public testing standards on October 26, 2024. *See* Gutiérrez Aff. ¶¶ 2-4; *see also* Exhibit 2 attached; *see generally* Wis. Stat. § 5.84.

## **RESPONSE TO ALLEGATION**

Christoffersen's Complaint unfoundedly alleges that Ms. Gutiérrez violated Wisconsin law. Specifically, Christoffersen incorrectly asserts that Ms. Chang's failure (and therefore Ms. Gutiérrez's failure) to properly seal and lock the tabulator access doors *must* mean that the tabulator machines were operating in violation of Wis. Stat. § 7.37(8). However, Christoffersen's argument lacks merit and evidence.

Wis. Stat. § 7.37(8) codifies an election inspector's duties as it relates to "Electronic Voting Systems." In particular, Wisconsin law requires the following:

Prior to the opening of the polling place, wherever electronic voting systems employing voting devices are

used, the inspectors shall place the voting devices in position for voting and examine them to see that they are in *proper working order*. (emphasis added)

See Wis. Stat. § 7.37(8). The key term here is “proper working order,” which means a machine that functions correctly without defect. Christoffersen asserts that if the doors of the tabulator machines were unlocked, then the machines were not in “proper working order.” See Christoffersen Complaint, pg. 2 (“[t]he security of the tabulator door is significant in the operation and integrity of voting equipment and...were to be examined to see if they were in proper working order. This clearly did not happen”). In support of this assertion, Christoffersen offers no real evidence of software or hardware defects of the tabulator machines. Rather, Christoffersen relies upon hearsay to generally argue that Ms. Chang’s human-error (which was a procedural mishap and not a technical defect of a machine) constitutes a violation of Wis. Stat. § 7.37(8).

In reality, the tabulator machines referenced in Christoffersen’s Complaint were all functioning correctly for the November 2024 General Election. The machines were publicly tested on October 26, 2024, with all thirteen (13) tabulators passing inspection. See Gutiérrez Aff. ¶ 4; see also Exhibit 2 attached. Moreover, Ms. Gutiérrez received no reports of tabulator machines defecting during the November 2024 General Election. In addition, WEC’s 2024 General Election Audit indicates that MEC’s tabulator machines were utilized without fault and in compliance with Wisconsin law. See generally Exhibit 3 attached. Since all tabulator machines utilized by MEC for the November 2024 General Election were in “proper working order,” as evidenced by the attached exhibits, it is clear that Ms. Gutiérrez did not violate Wis. Stat. § 7.37(8).

As stated above, Ms. Gutiérrez does not deny that human-error occurred during the administration of the November 2024 General Election. However, when this error was discovered, Ms. Gutiérrez took the proper procedural and legal steps with her team to rectify Ms. Chang’s error and recount more than 31,000 absentee ballots. At no point did Ms. Gutiérrez or MEC authorize the use of tabulator machines that were not in “proper working order.” All the machines used were approved by WEC and publicly tested prior to the November 2024 General Election. The only error that occurred on election day was procedural human-error, but procedural human-error alone in this case does not rise to a violation of Wis. Stat. § 7.37(8). As such, Christoffersen’s Complaint should be dismissed.

### **CONCLUSION**

Ms. Gutiérrez denies Christoffersen’s allegation that a violation of Wis. Stat. §7.37(8) occurred. For the foregoing reasons, Christoffersen’s Complaint should be dismissed. Please note that the electronic signature of legal counsel follows regarding all legal arguments raised herein, as does the verification by affidavit of Ms. Gutiérrez regarding all factual assertions.

Dated and signed at Milwaukee, Wisconsin this 24th day of March, 2025.

Respectfully submitted,

*Electronically signed by Jordan M. Schettle*

Jordan M. Schettle (State Bar No. 1104571)  
*Attorney for Respondent Paulina Gutiérrez*  
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Attachments:

- Affidavit of Paulina Gutiérrez
- Exhibit 1 — Milwaukee Election Commission’s Central Count Tabulator Results Procedure
- Exhibit 2 — October 26, 2024 Equipment Public Testing Summary
- Exhibit 3 — Wisconsin Election Commission’s March 7, 2025 Press Release, titled “Audit Finds No Election Machine Errors”

# **Affidavit of Paulina Gutiérrez**

**STATE OF WISCONSIN  
BEFORE THE WISCONSIN ELECTIONS COMMISSION**

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KAREN CHRISTOFFERSEN,

Complainant,

v.

Case No. EL 25-21

PAULINA GUTIÉRREZ,

Respondent.

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**AFFIDAVIT OF PAULINA GUTIÉRREZ**

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STATE OF WISCONSIN            )  
  )  
COUNTY OF MILWAUKEE        )

I, Paulina Gutiérrez, being first duly sworn on oath, depose and state as follows:

1. I am the Executive Director of the City of Milwaukee Election Commission (“MEC”). I was confirmed for this role on June 11, 2024, and serve as an election official pursuant to Wis. Stat. § 5.02(4e). I served as Executive Director at all times relevant for purposes of this action. I have personal knowledge and belief as to the matters set forth below.

2. MEC uses voting machines that comply with the requirements of Wis. Stat. § 5.37.

3. At all times relevant, MEC’s ES&S tabulators have been certified by the Wisconsin Elections Commission (“WEC”) for use in Wisconsin Elections in accordance with the requirements of Wis. Stat. § 5.91.

4. MEC used thirteen (13) certified ES&S automated tabulators at its Central Count location on November 5, 2024 to tabulate ballots for the November 2024 General Election. On

October 26, 2024, all thirteen (13) tabulators passed public testing standards pursuant to Wis. Stat. § 5.84.

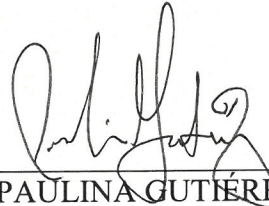
5. Attached as Exhibit 1 is a true and correct copy of the City of Milwaukee Election Commission's Central Count Tabulator Results Procedure.

6. Attached as Exhibit 2 is a true and correct copy of the October 26, 2024 Public Testing Summary for the ES&S tabulators used during the November 2024 General Election.

7. I personally read the above Verified Response and that it is true and correct based upon my personal knowledge.

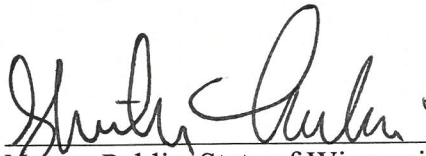
I declare under the penalty of false swearing under the law of Wisconsin that the foregoing is true and correct.

Dated and signed at Milwaukee, Wisconsin this 24th day of March, 2025.

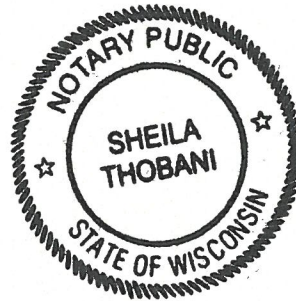


PAULINA GUTIÉRREZ  
Executive Director, Milwaukee Election  
Commission

Subscribed and sworn to before me this  
24th day of March, 2025



Notary Public, State of Wisconsin  
My commission expired Never



# **Exhibit 1**

## **Milwaukee Election Commission's Central Count Tabulator Results Procedure**



## **Central Count Tabulator Results Procedure GENERAL ELECTION**

*The following procedures have been approved by the City of Milwaukee Board of Election Commissioners (BOEC), and should be followed as written to ensure a fair, secure, and transparent election.*

### **Start of Day**

On Election Day, and prior to the start of Central Count, the following procedure will be completed:

- ☐ Tabulator machines are powered on by two members of the Board of Absentee Canvassers (BAC) and confirm that the ballot processed count in the system is at 0.
- ☐ The door that houses the power button is locked and sealed. All other openings are locked and sealed.
- ☐ The Zero report is printed and signed by the Chief Inspector and another member of the BAC.
- ☐ All serial numbers are recorded on the tabulator EL-104, and the Chief Inspector and a BAC member initial the tabulator EL-104 to confirm.
- ☐ The printing of the Zero report is noted on the tabulator EL-104's incident log.
- ☐ The Zero report and the tabulator EL-104 are placed together in the black binder located at each machine.

### **Pre-Processing**

Before processing any ballots, the two assigned tabulating staff will complete the following procedure:

- ☐ Tabulators confirm that the ballot processed count in the system is at 0.
- ☐ Tabulators review and sign, under the signatures of the BAC, the Zero report confirming the system is at 0.
- ☐ Tabulators confirm that all seals are intact, as well as confirm that the serial numbers match the EL-104. They will then initial the EL-104.
- ☐ The signed Zero Report and tabulator EL-104 are placed on the table for public viewing.

## **Central Count Tabulator Results Procedure GENERAL ELECTION**

### **Pre-Exporting**

For the General Election, two Central Count Chain of Custody forms will be used to track work, as two bipartisan teams will export results simultaneously. The Chief Inspector will collect supplies: flash drives, memory pack transfer bags, ballot bag seal locks, central count lock box, the two chain of custody forms, these procedures, and a laptop. Upon public announcement during Central Count, the following procedure will be completed:

- ☐ The Chief Inspector, in the public view, will clear and reformat all of the flash drives assigned to each tabulator that will be used to export results from all of the machines.
- ☐ Each flash drive will be labeled with its assigned tabulator ID.
- ☐ The reformatting and clearing of each labeled flash drive will be noted on its respective Central Count chain of custody incident log and initialed by the Chief Inspector and members of BOEC.
- ☐ Once all flash drives are cleared and actions noted on the two chain of custody forms, they will be placed in their designated RED memory pack transfer bags and each will be sealed with a ballot bag lock.
- ☐ The Chief Inspector notes the flash drive labels on the outside of the bags.
- ☐ The Chief Inspector then records the serial number on the ballot bag locks on their respective Central Count Chain of Custody forms.
- ☐ A member from each party and a member of the BAC will verify that the serial numbers are correct and will sign the pre-export certification on both Central Count Chain of Custody forms.
- ☐ In view of the public, the now secure memory pack transfer bags and the Chain of Custody form 1 and 2 will be placed inside of a secure box that will be locked with a secure ballot bag lock and remain in the public view in a secured area for the duration of the day.

## **Central Count Tabulator Results Procedure GENERAL ELECTION**

### **Exporting**

The Chief Inspector will collect all supplies: two black carts, two plastic secure ballot bags, a ballot canvas bags, ballot bag locks, pens, the green memory pack transfer bags. After polls are closed, all eligible ballots have been processed for all designated wards on a machine, the “Precincts Processed” report has been printed, and election workers have confirmed that each ward reconciles, then the following procedure will be completed:

- ☐ A public announcement is made to report that the exporting process is set to begin.
- ☐ The members of the BOEC (or their designated witness, if not available) will meet at the locked box containing the cleared flash drives.
- ☐ The Executive Director and Deputy Director will break the locked box seal and retrieve the red secured transfer bags that contain the cleared flash drives, along with the respective chain of custody forms.
- ☐ Designated witnesses will confirm that the serial numbers on the chain of custody forms matches the serial numbers on the transfer bags.
- ☐ The time of the broken seal will be noted on each Chain of Custody Incident Log.
- ☐ Members of the BOEC (or their designated witness, if not available), with the Executive Director and Deputy Director will head to their assigned tabulators to begin the export process.

**Both teams will export results for their assigned tabulators simultaneously, and will complete the following procedure:**

- ☐ Both the Executive Director and Deputy Director will collect their supplies and head to their assigned tabulators.
- ☐ The Chief will print a final “Precincts Processed” report to be included with the flash drive.
- ☐ The final “Precincts Processed” will be made available to observers on the table near the Tabulator for viewing and pictures, before it is placed inside of the secure plastic ballot bag.
- ☐ The red transfer bag’s ballot bag lock will be cut at the first tabulator to retrieve the cleared flash drive assigned to that tabulator.
- ☐ The seal is broken on the door to the USB port on the machine. The Chief Inspector records the time the seal was broken on the Tabulator’s EL-104.
- ☐ The Chief Inspector will retrieve the reformatted and cleared flash drive that is assigned to the Tabulator from the green transfer bag and insert it into the tabulator and unofficial Election Night results will be exported.
- ☐ When the data transfer is complete, the flash-drive is removed from the machine and placed inside of the empty GREEN memory pack transfer bag.

## **Central Count Tabulator Results Procedure GENERAL ELECTION**

- ☐ The final Precinct Processed Report is placed inside of a secure plastic ballot bag. Both the secure plastic ballot bag and the GREEN transfer bag will remain in the public view at all times as each machine's results are exported.
- ☐ This process will be repeated at each machine as results are exported.
- ☐ Once all machines have printed a "Precincts Processed" report and results have been exported, the GREEN transfer bag will be secured with a ballot bag lock that is noted on the chain of custody form. The now secured green transfer bag is placed inside of the clear ballot bag with the final printed reports. The clear secure ballot bags will be sealed and signed by a member of each party and a member of the BAC. The serial number of the clear ballot bag is recorded on the Chain of Custody form.
- ☐ When both teams are finished with their respective exports and have secured the precinct process reports and exported results, they will take the two now secured plastic ballot bags and place both inside of one canvas ballot bag.
- ☐ The canvas ballot bag will be secured with a seal for transport to the county. The canvas ballot bag's serial number is recorded on both of the Central Count Chain of Custody forms.

### **Transporting & Chain of Custody Exchange**

- ☐ The Executive Director and Deputy Director, along with the members of the BOEC (or their designated witness, if not available) will escort the secured ballot bag to the Milwaukee County Election Commission inside of a Milwaukee Police Department vehicle.
- ☐ The Executive Director and Deputy Director and members of the BOEC (or their designated witness, if not available) will witness the exchange of flash drives in the sealed, tamper-proof ballot bag to the designated staff member of the Milwaukee County Election Commission
- ☐ The designated County staff member will review the Central Count Chain of Custody form confirming serial numbers match and nothing has been tampered with.
- ☐ Upon this review, the Milwaukee County Election Commission staff member will complete and sign the chain of custody form. A copy will be provided to the City of Milwaukee Election Commission staff upon completion of the form.
- ☐ The City of Milwaukee will confirm the transfer on Milwaukee County's Chain of Custody form.
- ☐ All paperwork, bags, seals, and envelopes related to this process will be held for the respective retention period associated with the election.

# **Exhibit 2**

**October 26, 2024**  
**Equipment Public Testing Summary**



10/26/2024

## CENTRAL COUNT HIGH-SPEED TABULATORS

## Public Testing Summary

Tabulator Type	Serial Number	PASS	FAIL	INITIALS	
DS450	DS45020083566	X		SL	SL
DS450	DS45020083567	X		SL	SL
DS850	DS8510090022	X		SL	SL
DS850	DS8514080143	X		SL	SL
DS850	DS8514080144	X		SL	SL
DS850	DS8515070187	X		SL	SL
DS850	DS8516080260	X		SL	SL
DS850	DS8516080262	X		SL	SL
DS850	DS8516100271	X		SL	SL
DS850 (rental)	DS8518090374	X		SL	SL
DS850 (rental)	DS8520070463	X		SL	SL
DS950	DS9523090674	X		SL	SL
DS950	DS9523090675	X		SL	SL

# **Exhibit 3**

**Wisconsin Election Commission's  
March 7, 2025 Press Release, titled  
“Audit Finds No Election Machine  
Errors”**



# Wisconsin Elections Commission

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FOR IMMEDIATE RELEASE:  
March 7, 2025

FOR MORE INFORMATION, CONTACT:  
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## Audit Finds No Election Machine Errors

MADISON, Wis. — The largest and most comprehensive post-election audit of voting equipment in Wisconsin history took place following the 2024 General Election. The hand count of the paper ballots audited found **no errors** that would be attributable to the electronic voting system. Consequently, Wisconsin Elections Commission (WEC) members, at their March 7 quarterly meeting, unanimously determined the error rate of the 2024 post-election voting equipment audit as 0.0%. Commissioners determined electronic voting equipment, utilized statewide, performed in accordance with certification standards and tabulated votes accurately.

A total of 327,230 ballots, approximately 10 % of all ballots cast statewide, were counted by hand during the 2024 post-election voting equipment audit. Audits are also conducted as a public meeting in each community selected. For context, 145,000 ballots were audited as part of the 2020 post-election audit and 222,075 were audited in 2022.

Local election officials have many responsibilities and, after having just administered a General Election, they were then required to immediately pivot to conduct these audits. “The municipal clerks, county clerks, election inspectors, and volunteers who completed these audits should be commended for their work and for their continued dedication to secure and accurate elections,” said WEC Administrator Meagan Wolfe.

Their audit summaries include a comparison between the total votes recorded by the voting equipment and the total votes hand counted on the paper ballots during the audit. WEC staff reviewed every submission and followed up for additional information when necessary. They found no election equipment changed votes from one candidate to another, incorrectly tabulated votes, or altered the outcome of any audited contest. Additionally, there was no evidence of programming errors, unauthorized alterations or hacking of voting equipment software, or malfunctions of voting equipment that altered the outcome of any races on the ballot.

Conducting the voting equipment audit did uncover a small number of human errors that take place during every election. WEC uses information from the audits to educate clerks regarding best practices through additional training and procedural changes.

Details of the audit’s findings can be found in posted Commission meeting materials starting on page 51: [https://elections.wi.gov/sites/default/files/documents/OPEN%20Session%20Materials%20-March%207\\_FINAL%20for%20Web%20Posting\\_0.pdf](https://elections.wi.gov/sites/default/files/documents/OPEN%20Session%20Materials%20-March%207_FINAL%20for%20Web%20Posting_0.pdf).

*Wisconsin Elections Commissioners*

Ann S. Jacobs, chair | Marge Bostelmann | Don M. Millis | Carrie Riepl | Robert Spindell | Mark L. Thomsen

*Administrator*  
Meagan Wolfe