

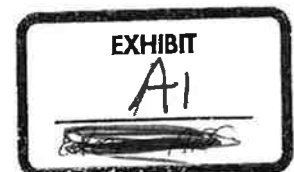
February 25, 2004

Mayor Tom Barrett  
City Hall  
200 East Wells Street  
Milwaukee, WI. 53202

Mayor Barrett:

I hereby resign from my position as Executive Director of the City of Milwaukee  
Election Commission, effective immediately.

  
Lisa A. Artison



STATE OF WISCONSIN  
COUNTY

CIRCUIT COURT

MILWAUKEE

JOHN WASHBURN,

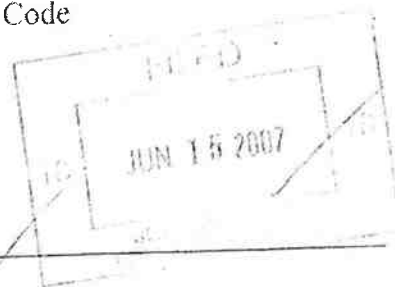
Petitioner,

v.

Case No. 07CV6131  
Case Code

SUSAN EDMAN, Executive Director of the  
City of Milwaukee Election Commission,

Respondent.



**AFFIDAVIT OF SUSAN EDMAN**

STATE OF WISCONSIN )  
                                  )SS.  
MILWAUKEE COUNTY )

1. I, Susan Edman, being first sworn under oath, deposes and states that I am the Executive Director of the Milwaukee Election Commission. In this capacity, I perform such duties under Chapters 5 through 12 of the Wisconsin Statutes, as assigned to me by the City Election Commission, pursuant to Wis. Stat. § 7.21. Among my duties, I supervise and direct the processing of appropriate responses to public records requests.

2. I make this affidavit for purposes of responding to the *mandamus* complaint of Mr. John Washburn.

3. I was appointed to the position of Executive Director on the City Election Commission on July 18, 2005.

EXHIBIT  
AZ

COPY

Lisa Artisan  
Executive Director  
City of Milwaukee Election Commission  
City Hall, Room 501  
200 E. Wells St.  
Milwaukee, WI 53202

2005 FEB 15 PM 2:22

OFFICE OF  
CITY ATTORNEY

John Washburn  
N128W12795 Highland Road  
Germantown, WI 53022  
(262) 238-8940  
[Washburn.john@infowars.net](mailto:Washburn.john@infowars.net)

This is a written open records request per Wisconsin State Statutes 19.31 through 19.39.

I would like copies of the following records:

1. Any correspondences, instructions or other documents sent to local polling places pursuant to Wisconsin state statute 7.51(1) regarding the adjournment of the local canvass to one or more central counting location(s). This request is limited to local polling places 1 through 15; inclusive and for the general election held on November 2, 2004.
2. The number and address(es) of any central counting locations (as defined by Wisconsin State statute 5.86) used during the general election held on November 2, 2004.
3. All tally sheets, inspectors' reports, and any other documents, correspondences or records generated by the canvas pursuant to Wisconsin state statute 7.51(4). This request is limited to local polling places 1 through 15; inclusive and for the general election held on November 2, 2004.

The records requested above were created pursuant to the cited statutes and as such are mandated public records. As such the requested records do not constitute any form of government work product. In particular the records requested above are not any form of *internal* work product. Because the requested records are not work product of any form neither the case of *Newspapers, Inc. v Breier*, 89 Wis. 2d 417, 438 (1979) nor of *Linzmeier v. Forcey*, 2002 WI 84, 254 Wis. 2d 306 are applicable to this request. Further, even if either or both of these cases relating to *internal* work product of an investigation were applicable, the result in both cases compelled disclosure of the records in question not denial of disclosure.

I expect a written estimate of the cost of the requested records by Thursday, February 17, 2005.

I expect a written reply as to acceptance or denial of this request by Monday, February 21, 2005.

Sincerely,



John Washburn





Board of Election Commissioners

COPY

**Commissioners**  
Allen E. Campos  
Edward J. Schultz  
Victoria L. Tolliver  
**Executive Director**  
Sharon D. Robinson

April 27, 2005

Mr. John Washburn  
N128W12795 Highland Road  
Germantown, Wisconsin 53022

Re: Public Records Request for Election Records



Dear Mr. Washburn:

This letter is a follow-up to your letter of February 15, 2005, to the Election Commission requesting access to poll records and related voting records. In previous correspondence to you from the Election Commission, you were notified that due to an on-going investigation, the records you were seeking could not be released.

The on-going investigation relates to a criminal investigation being jointly conducted by the U.S. Attorney's Office and the Milwaukee County District Attorney's Office. The investigation concerns allegations of voter fraud relating to the November 2, 2004 election. The investigation has been on-going since approximately late January of this year. On April 15, 2005, the City Attorney's Office contacted the District Attorney's Office to confirm that the investigation remains an on-going matter, and was assured that it is. We have been informed that the District Attorney is unable to give a date when they estimate the investigation will be completed. Additionally, the investigators have now taken physical custody of all November, 2004 election materials, including same-day registration cards, registration poll lists, and the electronic copy of the City voter list. Accordingly, at this time I am not the custodian of the records you have requested.

After conducting the balancing test, as I am required to do under the public records law, I have determined that the public's interest in allowing the U.S. Attorney and the District Attorney to complete their investigation without the potential compromise, which may result from release of the records you have requested, outweighs the public interest in disclosure at this time.

I have kept records of all individuals who have requested records relating to the November 2004 election and I will keep you, as well as all other requesters, updated on the progress of the criminal investigation. As soon as I am informed that the investigation is completed and the

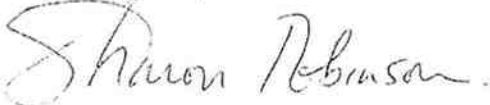
Mr. John Washburn  
April 27, 2005  
Page 2

District Attorney informs me that it would not compromise the investigation to release the requested materials, I will contact you immediately.

My decision may be subject to review pursuant to Wis. Stat. § 19.35(4), by *mandamus* action under Wis. Stat. § 19.37(1) or upon application to the Wisconsin Attorney General or the Milwaukee County Corporation Counsel.

If you have any additional questions or concerns regarding this matter, you may feel free to contact me.

Very truly yours,



Sharon D. Robinson  
Executive Director

exhibit  
c2

c: Melanie Swank  
Assistant City Attorney

From: john@WashburnResearch.org [mailto:john@WashburnResearch.org]  
Sent: Thursday, April 26, 2007 4:38 PM  
To: Edman, Susan  
Cc: kevin.kennedy@seb.state.wi.us; Owen@BootsAndSabers.com;  
gborowski@journal sentinel.com  
Subject: Election Materials For November 2, 2004 Election

EXHIBIT  
DI

Dear Ms. Edman:

This is to confirm our phone call from earlier this week.

First, you mentioned you are expecting to have the election materials from the November 2, 2004 election returned to your office by mid-May. May I assume that will be Friday, May 18, 2007?

The other matter we discussed the nature and scope of my long pending open records request.

would like to point out there are several open records requests for this material, not just mine. Three that I know of are:

My request for the following 3 things from all 312 wards: first 8 inches of the poll tape, the EB104 report, and the signed, last pages of the each poll book.

The request of Owen Robinson for the 1306 same day registration cards identified by Lisa Artison as having no address information.

Greg Borowski had several OR request cut short.

There may be other OR request pending from the Artison/Robinson tenures.

An additional note is that the return of the material means that the complaint pending before the Wisconsin State Election Board can proceed.

Thanks for your time on this matter.

John Washburn.

-----Original Message-----

From: john@WashburnResearch.org [mailto:john@WashburnResearch.org]  
Sent: Monday, April 30, 2007 10:19 AM  
To: Edman, Susan  
Subject: RE: Election Materials For November 2, 2004 Election

Dear Ms. Edman:

Just for the record, I have heard the estimated time to completion of "Just a couple of more weeks, now" since December, 2006.

I will find the original requests from my my records at home. It will have to be hard copy instead of email as the account I was using at that time expired with my change of employers.

John Washburn

Envelope-to: john@washburnresearch.org  
X-IronPort-AV: i="4.14.471.1170655200";  
d="scan'208"; a="927107:sNHT65134678"  
Subject: RE: Election Materials For November 2, 2004 Election  
Date: Mon, 30 Apr 2007 10:34:39 -0500  
X-MS-Has-Attach:  
X-MS-TNEF-Correlator:  
Thread-Topic: Election Materials For November 2, 2004 Election  
Thread-Index: AceLOuuY1y2uc2KvSNmFdpb6Mj6f7wAAWNyQ  
From: "Edman, Susan" <sedman@milwaukee.gov>  
To: <john@WashburnResearch.org>  
X-OriginalArrivalTime: 30 Apr 2007 15:34:40.0196 (UTC) FILETIME=[113F1040:01C78B3D]  
X-Antivirus-Scanner: Clean mail though you should still use an Antivirus  
X-Antivirus: AVG for E-mail 7.5.463 [269.6.0/775]

exhibit  
DZ

John:

I have no control over these records. I can only share with you what I am being told. Who knows, if something more urgent comes along, it may be even longer.

-----Original Message-----

From: john@WashburnResearch.org [mailto:john@WashburnResearch.org]  
Sent: Monday, April 30, 2007 11:59 AM  
To: Edman, Susan  
Subject: RE: Election Materials For November 2, 2004 Election

Dear Ms. Edman:

Actually on the matter of control the Supreme Court of the State of Wisconsin disagrees with you. See State ex rel. Journal Co. v. County Court, 43 Wis. 2d 297, 307, 168 N.W.2d 836 (1969).

You are the legal custodian of these "required to be kept" records. All "required to be kept" have an absolute right of access, no matter where the records are physically stored. No matter where the records are physically stored, you are legal guardian of these "required to be kept".

The reason this has come to a head is because I have had neither the inclination nor resources to sue the City, yet. The burden of proof is on me to demonstrate in court these are indeed "required to be kept" records.

After two years though, my patience on this matter has thinned considerably.

Here is a document from the Wisconsin DOJ on the matter:  
<http://www.doj.state.wi.us/dls/docs/publicrecords805.pdf>  
The section of interest is VII(C)(1).

I don't know if this is helpful. Ms. Melanie Swank of the City Attorney's office was fielding the legal aspects of this request for Ms. Robinson in 2005.

A-MIS-TITLE...  
Thread-Topic: Election Materials For November 2, 2004 Election  
Thread-Index: AceLSMus27hl22gpSyuPu9WzPGkBmQAKBxnQ  
From: "Edman, Susan" <sedman@milwaukee.gov>  
To: <john@WashburnResearch.org>  
X-OriginalArrivalTime: 30 Apr 2007 21:46:31.0352 (UTC) FILETIME=[03BB4B80:01C78B71]  
X-Antivirus-Scanner: Clean mail though you should still use an Antivirus  
X-Antivirus: AVG for E-mail 7.5.463 [269.6.0/775]

EXHIBIT  
D3

John:  
Do you want me to push this matter? I will if you want me to. Sue

From: john@WashburnResearch.org [mailto:john@WashburnResearch.org]  
Sent: Friday, May 18, 2007 2:11 PM  
To: Edman, Susan  
Cc: john@WashburnResearch.org  
Subject: Open Records request

Dear Ms. Edman:

I would like to know when the records for my open records request will be available today.

Again this is in reference to my February 15, 2007 open records request for the following 4 records for each of 312 wards of the City of Milwaukee.

- 1) Inspectors' report (EB-104 form)
- 2) The first 11 inches of each poll tape created. The 11 inches copied must contain the number of ballots cast as reported by the precinct machine(s).
- 3) The last page of each of the two signed poll books. This is the page which records, among other statistics, the number of ballots handed to electors.

I have and again stipulate there are no such records for the 2 wards which are the Ambrosia Chocolate Factory in Waukesha County and the Ward which is the waste recycling plant located in Washington County.

In Liberty,  
John Washburn

Original Message:

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From: Edman, Susan sedman@milwaukee.gov  
Date: Mon, 21 May 2007 09:57:26 -0500  
To: john@WashburnResearch.org  
Subject: RE: Open Records request

John:  
I have made several calls to the MPD for the records as well as contacted D.A. John Chisholm. I will call them again today. Sue

-----Original Message-----

-----Original Message-----

From: john@WashburnResearch.org [mailto:john@WashburnResearch.org]  
Sent: Monday, May 21, 2007 11:50 AM  
To: Edman, Susan  
Cc: john@WashburnResearch.org; jww-ei@WashburnResearch.org  
Subject: RE: Open Records request

EXHIBIT  
DH

Dear Ms. Edman:

I thank you for your diligence on this matter, but my patience is at an end.

I am sorry it has come to this. I am interpreting this email as a written refusal to produce the requested records. I must now consider my legal options regarding this refusal.

This confiscation of "must keep" election records run counter to the very essence of open records as defined in Wisconsin Statutes 19.35 and of election oversight of Wisconsin chapter 7.

John Washburn

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### Washburn, John

From: john@WashburnResearch.org  
Sent: Thursday, May 24, 2007 3:56 PM  
To: Washburn, John  
Subject: FW: RE: Open Records request

Original Message:

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From: Edman, Susan sedman@milwaukee.gov  
Date: Thu, 24 May 2007 15:33:17 -0500  
To: john@WashburnResearch.org  
Subject: RE: Open Records request

Mr. Washburn:

Because the District Attorney's Office confiscated these records in conjunction with a criminal investigation, I am not the custodian of the records.

Thank you.



Board of Election Commissioners

Commissioners  
Allen E. Campos  
Robert F. Spindell, Jr.  
Victoria L. Toliver  
Executive Director  
Susan M. Edman

July 12, 2007

John Washburn  
N128 W12795 Highland Road  
Germantown, WI 53022

Dear Mr. Washburn:

As per your public records request and Case No. 07-CV-6131, The Election Commission has concluded the process of reviewing and photocopying documents relating to the November 2004 election.

Please note that we have been unable to locate some of the documents relating to your request:

- We have been able to locate at least one certification page for every ward. However, one of the two poll books for wards 1, 2, 3, 4, 5, 7, 8, 10, 11, 12, 13, 14, 17, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 74, 147, 159, 151, 156, 157, 158, 161, 162, 192, 204, 270, and 278 cannot be located at this time. The majority of these wards fall within Aldermanic Districts 1 and 2. I have made an inquiry with the Milwaukee Police Department to determine if it is possible that they still have possession of a box of records.
- We do not have the Inspector's Statements EB-104's from approximately 50% of the wards. In this instance, I am relatively confident that the EB-104 was not completed by the Chief Inspector. Since starting in July 2005, Sue Edman and I have worked extensively with all election worker staff to ensure the completion of all required election forms. We have experienced complete compliance.

Thank you for your patience as we sorted through these records. Please do not hesitate to contact Sue Edman with any questions or concerns regarding these documents. She will be returning to the office on Monday, July 16.

Sincerely,


  
Neil Albrecht  
Assistant Director

EXHIBIT  
E

C: Susan Edman, Executive Director  
Melanie Swank, Assistant City Attorney