

Conditions for Diversion of Election Authority in Milwaukee

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Preliminary Investigation Highlights

- ▶ State law commands city clerks administer local elections.
- ▶ Our investigation revealed the Mayors of five Wisconsin cities (Milwaukee, Madison, Green Bay, Racine, and Kenosha) met in May and June 2020 to discuss potential private corporate grants to their cities.
- ▶ These Mayors would eventually form the “Wisconsin 5” that would submit a combined grant request to the Center for Tech and Civic Life (“CTCL”).
- ▶ The Milwaukee Election Commission allowed private corporations and private corporate employees to assume control of election administration to accomplish grant conditions set by the Center for Tech and Civic Life (“CTCL”).
- ▶ The Election Commission and Executive Director Claire Woodall-Vogg granted private corporate employees access to election administration as part of the CTCL grant conditions.
- ▶ The city allowed grant conditions on the election process without the legal authority to do so.

Wisconsin 5 Mayors Meet in May to Discuss CTCL Planning Grant

- ▶ “Mayor Mason [Racine] would like to host another virtual meeting with Mayors Genrich [Green Bay], Antaramian [Kenosha], Rhodes-Conway [Madison], and Barrett [Milwaukee] this Saturday...” “The Elections Administration Planning Grant will be discussed.” Ellen Nuechterlein, Executive Assistant, Office of the Mayor, City of Racine, May 13, June 9, 2020.

Wisconsin 5 Mayors Meet in May to Discuss CTCL Planning Grant

- ▶ Mayors met at least twice in May and one in June and August
- ▶ Meetings were to discuss the acceptance of Election Grants from CTCL

The City of Racine Obtained Grant to Organize Multi-Party Plan for Fall 2020 Primary and General State and Federal Election

- ▶ “Acceptance of this planning grant was approved by the Racine Common Council last night. Great news. We now have only until June 15th to develop a robust plan for election administration for all five of our communities, and we of course need to build in time for all Mayors and relevant staff to review and edit the plan...” Vicky Selkove, City of Racine, June 3, 2020.

The City of Racine Obtained Grant to Organize Multi-Party Plan for Fall 2020 Primary and General State and Federal Election

- ▶ First Phase approved ONLY by City of Racine Common Council, not rest of Wisconsin 5.
- ▶ \$10,000 was sent to the other 4 Wisconsin 5 cities to encourage participation in grant request to CTCL.

The Safe Cities Plan Imposed Private Corporate Conditions Upon Existing State and Federal Laws.

- ▶ As part of Safe Cities Plan, the City of Milwaukee received over \$2.1 million from CTCL for election administration
- ▶ As part of receiving grant, the City of Milwaukee adopted private corporate conditions on top of state and federal law regarding elections.
- ▶ To accomplish grant conditions, the City of Milwaukee involved private corporations and employees in City's state and federal election administration.

The Safe Cities Plan Imposed Private Corporate Conditions Upon Existing State and Federal Laws.

- ▶ Exclusive for the public purpose of planning and operationalizing safe and secure election administration;
- ▶ Each city or county receiving the funds was required to report use of the grant back to CTCL by January 31, 2021;
- ▶ The City of Milwaukee shall not reduce or otherwise modify planned municipal spending on 2020 elections. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant.
- ▶ The City of Milwaukee “shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing.”
- ▶ CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

The City of Milwaukee possesses no authority to impose conditions on election administration

- ▶ The Wisconsin state legislature delegates limited authority to municipalities.
 - ▶ No Wisconsin election law authorizes a municipality to adopt nongovernmental corporate conditions of any kind for any kind of election—particularly federal election contests.
 - ▶ That election authority is within the sole purview of the Wisconsin Legislature through the Elections Clause.
- ▶ Milwaukee is required to *report back* to a nongovernmental corporate entity regarding the conduct of the federal election. These legally-required reporting back actions are traceable to the Cities accepting the private federal election grants in the first place.

City of Milwaukee Partnered with Wisconsin 5 to Take Additional Action with CTCL

- ▶ “Center for Tech and Civic Life, has one additional area they’d like answered: What steps can you take to update registered voters’ addresses before November? What steps can you take to register new voters? How much would each cost? Vicky Selkove, June 10, 2020.

Non-Governmental Persons Allowed Access to Election Administration Processes

- ▶ The Milwaukee Election Commission, through its Executive Director Claire Woodall-Vogg, began to allow access to private corporate partners, and the Executive Director began relying on the private sector employees for election administration guidance.
- ▶ CTCL offered the Milwaukee Elections Commission, “an experienced elections staffer that could potentially embed with your staff in Milwaukee in a matter of days and fill that kind of role.” Josh Goldman, CTCL to Claire Woodall-Vogg, July 28,2020.

Preliminary Investigation Suggests Actions Sanctioned by Elections Commission Executive Director

- ▶ Attempts to Cure Ballots
- ▶ Replace nonpartisan workers in organizing ballot counting stations
- ▶ Partner in Poll Worker recruitment and Voter Outreach
- ▶ Recommend Placement of Ballot Drop Boxes
- ▶ Guidance on Ballot Challenges

Private Corporate Employees in Milwaukee Ballot Chain of Custody

- ▶ If you could send the procedures manual and any instructions for *ballot reconstruction*, I'd appreciate that.
- ▶ On my end:
 - By Monday, I'll have our edits on the absentee voter instructions.
 - We're pushing Quickbase to get their system up and running and I'll keep you updated.
 - I'll revise the planning tool to accurately reflect the process. Michael Spitzer-Rubenstein, Fellow, National Vote at Home Institute (Partner Org. of CTCL), emailing to Claire Woodall-Vogg, August 28, 2020.

Private Corporate Employees in Milwaukee Ballot Chain of Custody

- I'll create a flowchart for the VBM processing that we will be able to share with both inspectors and also observers.
- I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. Michael Spitzer-Rubenstein, National Vote at Home Institute (Partner Org. of CTCL), emailing to Claire Woodall-Vogg, August 28, 2020.

Private Corporate Employees in Milwaukee Ballot Chain of Custody

- ▶ “That sounds like a real pain. It would be helpful to just understand the system and maybe the USDR folks can figure out a way to simplify something for you. ... if it's okay with you, they'd also like to record the screen-share to refer back to, if needed.”
- ▶ We're hoping there's an easier way to get the data out of WisVote than you having to manually export it every day or week. To that end, we have two questions: 1. Would you or someone else on your team be able to do a screen-share so we can see the process for an export? 2. Do you know if WisVote has an API or anything similar so that it can connect with other software apps? That would be the holy grail (but I'm not expecting it to be that easy). Michael Spitzer-Rubenstein, National Vote at Home Institute (Partner Org. of CTCL), to Claire Woodall-Vogg, September 16, 2020.

Private Corporate Employees in Milwaukee Ballot Chain of Custody

- ▶ I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of returned ballots per ward 3) Number of outstanding ballots per ward. Michael Spitzer-Rubenstein, National Vote at Home Institute (Partner Org. of CTCL), to Claire Woodall-Vogg, October 26, 2020.

Private Corporate Employees in Milwaukee Ballot Chain of Custody

- ▶ “In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Vote at home answers to questions like “How many of age residents are also registered to vote?” or “what percentage of ballots are unreturned in areas with predominantly minorities?”...To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution “works”, but is far too slow.” Harrison Hirsch, Director, Product Operations, QuickBase, to Claire Woodall-Vogg, September 15, 2020.

Elections Commission Executive Director Eventually Thought Private Corporate Actors Went Too Far

- ▶ “While I completely understand and appreciate the assistance that is trying to be provided, *I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don’t have the capacity or interest in right now, I don’t think I’m comfortable having USDR get involved when it comes to our voter database.” Claire Woodall-Vogg to Michael Spitzer-Rubenstein, National Vote at Home Institute (Partner Org. of CTCL), September 16, 2020.

Private Corporate Employees in Milwaukee Ballot Chain of Custody

- ▶ It appears Milwaukee Staff received guidance on election funding from private sector employees.
- ▶ “Below is some language I drafted along with 2 links that may help you frame the need for more staff. And have you asked Kris in Green Bay or Tara in Racine about their staffing levels? If they have similar numbers of registered voters as Kenosha, but more staff than Kenosha, then I think that’s also a way to make your case to Admin.” Whitney May, Director of Government Services, CTCL to Michelle Nelson, August 19, 2020.

Wisconsin Standard for Absentee Ballots

- ▶ The “Wisconsin Safe Voting Report” specifically provided the Wisconsin Five would promote and “encourage higher percentages of our electors to vote absentee.”
- ▶ This condition violates Wisconsin Statutes 6.84 (1) in which the State Legislature states:
 - ▶ “The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for fraud or abuse; to prevent *overzealous solicitation of absent electors who may prefer not to participate in an election.*”

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