

SPECIAL REPORT ¹

DELIVERY OF ABSENTEE BALLOTS BY INTERMEDIARIES TO MILWAUKEE COUNTY AREA DROP BOXES OCTOBER 20 – NOVEMBER 3, 2020

MARCH 18, 2022

True the Vote is a non-profit organization² engaged in public interest research and education. TTV works with analysts who have extensive experience utilizing data to detect patterns in complex commercial and criminal investigations across diverse market segments, including government agencies and healthcare. Among its activities, TTV conducts non-partisan research and analysis of election administration and process integrity.

I. BALLOT HARVESTING INVESTIGATIONS

During the November 2020 election cycle, the Center for Technology and Civil Life (“CTCL”) made over \$350 million in grants to local governments for election-related activities, including drop-boxes for absentee ballots.³

In Wisconsin, CTCL distributed over \$10.3 million in grants. About 86% of the funding went to five cities, Milwaukee, Madison, Green Bay, Kenosha, and Racine,⁴ which they used to provide drop boxes for receiving absentee ballots and other voter assistance.⁵

In 2021, in response to whistleblower reports, TTV began purchasing and analyzing publicly available drop box surveillance video and commercially available geospatial (mobile device) data generated at CTCL grant-funded drop box locations during the time periods in which drop boxes were in use for the 2020 General Election.⁶

¹ This Report is sponsored by First Freedoms Foundation, Inc., a non-profit, § 501(c)(3) organization engaged in public interest law and education. <http://firstfreedomfoundation.org>

² <https://www.truethevote.org/>

³ <https://www.techandcivillife.org/grant-update-march/>

⁴ A Review of the 2020 Election, Wisconsin Institute for Law and Liberty (2021). <https://will-law.org/wp-content/uploads/2022/01/2021ReviewStudyJanuary.pdf>

⁵ Election scandal: Roots in Racine – Wisconsin Spotlight; <https://www.fox6now.com/news/racine-mobile-elections-vehicle-rolled-out-after-2020-vote>

⁶ TTV’s research is featured in the upcoming documentary, “2000 Mules,” scheduled for release in April, 2020. <http://2000mules.com/>

TTV's initial investigations were conducted in the six counties that comprise the metro-Atlanta, Georgia area and in Maricopa County, Arizona. Analysis revealed evidence of massive ballot harvesting, with ballots being delivered to drop boxes by intermediaries other than the absentee voters themselves.⁷

In the metro-Atlanta area, analysis of geospatial data confirmed that 242 intermediaries made 5,668 individual stops at drop boxes between October 12, 2020, when early voting began, and January 6, 2021, the date of the United States Senate run-off election. The timestamps in the geospatial data were then used to identify drop box visits in the surveillance video. The video confirms these intermediaries were, in fact, making repeated visits to drop boxes, depositing multiple ballots on each visit. In many instances, the videos show intermediaries attempting to deposit so many ballots that they were unable to fit into the drop box drop slot, and ballots are seen falling to the ground. The same patterns emerged in Maricopa County, where more than 202 intermediaries made 4,282 individual drop box visits during that time period.

Additionally, TTV received testimony from witnesses and informants disclosing that intermediaries were typically paid \$10 per ballot for each ballot they collected and delivered.⁸ In Arizona, these revelations have already produced multiple criminal indictments.⁹

II. WISCONSIN STUDY

Wisconsin law requires that absentee ballot envelopes be “mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.”¹⁰ It is illegal for an absentee ballot to be cast by anyone other than the elector, with a witness certifying the vote.

Critically, however, if the elector receives assistance marking the ballot, the “assistant” must certify that the elector requested the assistance, but is *not* required to certify that he or she did not *solicit* the elector’s vote.¹¹

TTV is currently investigating ballot harvesting patterns in three of the five Wisconsin cities that received CTCL funding. Specifically, TTV is conducting research and analysis to determine whether, during the two-week period prior to the 2020 election (10/20/20 – 11/3/20), there was systematic delivery of absentee ballots to drop boxes by intermediaries other than by the absentee voters themselves.

TTV has concluded its initial analysis of drop box traffic data in Milwaukee County. Its findings are summarized in this report. TTV is continuing its research and analysis of data

⁷ E.g., Appendix 1, TTV Administrative Complaint to Georgia Secretary of State, Nov. 30, 2021.

⁸ Appendix 1, p. 2.

⁹ <https://www.azag.gov/press-release/two-individuals-accused-ballot-harvesting-yuma-county>

¹⁰ Sec. 6.87(4)(b)1., Wis. Stats.

¹¹ <https://elections.wi.gov/sites/elections/files/2020-08/EL-122%20Standard%20Absentee%20Ballot%20Certificate-portrait%20%28rev.%202020-08%29.pdf>

from other areas where CTCL-funded drop boxes were located, and will be releasing those findings in the near future.

Completion of TTV’s Milwaukee County research is especially timely. On February 19, 2022, in an action brought by Wisconsin Institute for Law and Liberty,¹² the Circuit Court for Waukesha County held that use of drop boxes for absentee voting violates § 6.87(4)(b)1., Stats., and enjoined their use statewide.¹³ WILL’s action, *Teigen v. Wisconsin Elections Commission*,¹⁴ is now before the Wisconsin Supreme Court, which has permitted the injunction to remain in place for the spring general election on April 5.¹⁵

TTV’s research will inform both public discussion and legislative and policy proposals to enhance transparency, uniformity, and equal access for Wisconsin voters in future elections. Further, on March 21, TTV will be filing an *amicus* brief in the *Teigen* case in the Wisconsin Supreme Court, arguing that construing § 6.87(4)(b)1. to prohibit use of drop boxes will ensure greater equality of voting access among all Wisconsin electors regardless of their place of residence, and will also limit the ability of super-wealthy activists to influence Wisconsin elections through massive, tax-exempt spending that escapes reporting under ordinary campaign finance law but is strategically designed and administered to achieve a partisan result.

Finally, while TTV believes that construction of the law will benefit *future* elections, TTV does not opine on the legality of past activity analyzed in this report or suggest that the 2020 election results should be decertified based on its findings.

III. RESEARCH METHODS

TTV uses both video surveillance recordings and geospatial data to track and analyze drop box traffic patterns. Surveillance video is routinely used in a wide range of applications including security, highway traffic and tolls, wildlife tracking, marketing, and facility usage.

It is difficult to imagine a public function more critical than voting. Given the ubiquity of video surveillance and tracking in other applications, 24/7 video surveillance of drop box traffic would seem to be an expected rudimentary requirement of the Wisconsin Elections Commission and responsible local governments utilizing drop boxes. Visual records of box activity would provide accountability and security at least somewhat comparable to the safeguards for traditional same-day and early in person voting, which are conducted in the presence of authorized officials and observers.

For example, Georgia’s election rules required drop boxes with 24/7 video surveillance.¹⁶

¹² <https://will-law.org>

¹³ <https://will-law.org/wp-content/uploads/2022/02/142-2022-01-20-Order-granting-Pls-Summary-Judgment-signed-1-19-221.pdf>

¹⁴ *Teigen v. Wisconsin Elections Commission*, Appeal Number 2022AP000091; <https://wscca.wicourts.gov/appealHistory.xsl?caseNo=2022AP000091&cacheId=E1AD15A7F683EB361365795C64D83964&recordCount=1&offset=0&linkOnlyToForm=false&sortDirection=DESC>

¹⁵ <https://elections.wi.gov/node/7861>

¹⁶ <https://www.gpb.org/news/2021/07/12/absentee-drop-box-use-soared-in-democratic-areas-voting-law-change>

Such video files are election records mandated for retention under federal law.¹⁷ Through open records requests, TTV obtained over 4 million minutes of drop box surveillance video from Georgia.¹⁸

TTV also purchased commercially available, anonymized, geospatial mobile device information. Analysis of this cell phone data can pinpoint the specific location of a unique device at a specific time without disclosing private information about the device owner's identity.

This type of data analysis use is highly valued because of its accuracy, and is commonly used in a wide range of mainstream applications including product marketing and targeted messaging in political campaigns. In fact, virtually every cell phone user has received some type of promotional or political text.

Properly conducted, geospatial data aggregation and analysis raises no legal concerns and is routinely conducted by diverse users including government agencies, businesses, marketing firms, transportation services, political campaigns, and health, education, and social science providers and researchers.¹⁹

For example, in 2019, the New York Times published a widely read expose on cell phone tracking based on data collected in 2016 – 2017 at the New York Stock Exchange, major cities, government facilities (Pentagon and Whitehouse), and private residences.²⁰

NYT even included a series of animated graphics, tracking routes traveled by the President along with the hyperlink, “How to Track President Trump,” followed by the byline, “Read more about the national security risks found in the data.”

In its election integrity work, TTV utilizes geospatial data and analysis to detect and analyze patterns of potentially inappropriate election activities.

The accuracy of the data and methodology is beyond question. As the NYT article states:

Describing location data as anonymous is “a completely false claim” that has been debunked in multiple studies, Paul Ohm, a law professor and privacy researcher at the Georgetown University Law Center, told us. “Really precise, longitudinal geolocation information is absolutely impossible to anonymize.”

“D.N.A.,” he added, “is probably the only thing that’s harder to anonymize than precise geolocation information.”

However, even though a device’s “location data” is not “anonymous,” as Professor Ohm says, geo-spatial researchers may keep the device owner’s *identity* anonymous.

¹⁷ 52 U.S.C. § 20701 requires election officials to retain “all records and papers” for 22 months following a federal election.

¹⁸ Appendix 1, pp. 1 - 3.

¹⁹ E.g., <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3821057/>; <https://www.jstor.org/stable/42748309>; <https://insights.som.yale.edu/insights/what-can-smartphone-location-data-tell-us-about-the-pandemic>; <http://www.sehinc.com/news/cell-phone-data-makes-traffic-analysis-and-transportation-planning-easier>; <https://ij-healthgeographics.biomedcentral.com/articles/10.1186/1476-072X-7-22>; <https://www.jstor.org/stable/44134975>; <https://www.jstor.org/stable/30036682>

²⁰ <https://www.nytimes.com/interactive/2019/12/19/opinion/location-tracking-cell-phone.html>

In contrast to the NYT, which identified President Trump and published routes he traveled, TTV does not “unmask” or “de-anonymize” owner identities of the devices it tracks. Authorized government and legal agents can and do routinely obtain deanonymized information from cell phone companies, but TTV does not publish that kind of deanonymized analysis.

IV. DATA

Surveillance Video. Unlike Georgia, which requires constant video surveillance of ballot drop boxes, Wisconsin law does not require any such surveillance.²¹

TTV made open records requests to multiple Milwaukee County municipalities for drop box surveillance video. In response, only the Village of Brown Deer provided video for one of its two drop boxes located at Village Hall. Despite reported statements by the City of Milwaukee that it had maintained video surveillance,²² neither the City of Milwaukee nor any other municipality in the County provided video. Each responded that it had failed to record surveillance video, or had failed to maintain the video, or did not respond to the requests at all.²³

Geospatial Data. Because Milwaukee officials failed or refused to provide surveillance video, TTV focused our analysis on the use of geospatial data to determine whether third-party intermediaries made multiple visits to drop box locations.

TTV purchased 25 terabytes of cell phone signal data emitted by devices in the Milwaukee County area during the two-week period prior to the 2020 election, October 20 - November 3. The data was purchased from standard commercial providers and includes signals from over 27,000 cell phone apps, which data aggregators purchase and resell to public and private buyers for official and commercial uses.

Consistent with TTV policy and methods, the data was never held in any form other than “anonymized.” While the data provides exact locations of specific devices at specific times, it does not disclose the identities or other private information about the individuals registered as owners of those devices.²⁴

²¹ It should also be noted that Wisconsin election statutes do not authorize the use of drop boxes. <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-9-ballot-drop-box-definitions-design-features-location-and-number.aspx>

²² <https://www.jsonline.com/story/news/politics/elections/2020/10/19/how-milwaukee-ensures-absentee-ballots-voting-machines-secured/5937160002/>

²³ Appendix 2, log of TTV open records requests for surveillance video. Requests were sent to Bayside Village, Brown Deer Village, City of Milwaukee, Cudahy, Fox Point Village, Franklin, Glendale, Greendale, Greenfield, Hales Corner, Milwaukee County, Oak Creek, River Hills, Shorewood, South Milwaukee, St. Francis, Wauwatosa, West Allis, West Milwaukee, and Whitefish.

²⁴ The raw and unedited data purchased by TTV does not include any analysis conducted by TTV or its contractors, nor does it include any list of specific IMEI devices or identifying information regarding any individuals other than commercially available, anonymized, IMEI data in its original form.

IV. ANALYSIS

To obtain an appropriate study sample, TTV analysts followed a prescribed methodology. First, we correlated the data with the exact longitude and latitude of drop boxes located in the Milwaukee County area, extracting device identifications of only those devices “pinpointed” at drop box locations during the 10/20 - 11/3 window. Each drop box pinpoint is referred to as a visit.

“Pinpointing” is a non-technical term for plotting multiple pings emitted by a specific device within a specific time frame to determine the location of the device at a specific time. For example, plotting 200 pings from 50 different apps emitted from a device within a 10 second interval “pinpoints” exactly where the device was located during that time window. TTV’s methodologies for pinpointing device locations are highly accurate, exceeding customary industry standards and those used by NYT for its article.

In municipalities in the Milwaukee County area, 53,291 cell phones were pinpointed at ballot drop boxes three or more times during the 10/20 - 11/3 window

Within that two-week window, 107 unique devices made (1) 20 or more visits to drop boxes (averaging 26 visits each, some as many as 10-15 per day) *and* (2) multiple visits to non-governmental organizations (“NGOs”) involved in get-out-the-vote efforts (averaging 5 NGO visits each).

Those 107 “20X” devices together visited drop boxes a total of 2,824 times during the window, with a majority of visits occurring after 8:00 pm, past posted business hours at the government or other locations where the drop boxes were located.

Appendix 3 provides IMEI Device Nos. of all 107 20X devices analyzed. Appendix 4 provides maps of 8 of those devices showing routes they travelled and the drop boxes and NGO locations they visited on October 20, 2020.

The exact chronology of each device can be tracked and pinpointed from 12:00 a.m. to 11:59 p.m. on the date shown. However, to maintain device and NGO anonymity, the IMEI Device Nos. are redacted in Appendix 3, and the locations are removed from the Appendix 4 maps, with device routes intentionally overlaid as composites without time sequencing.²⁵

²⁵ Like “unmasking” or “de-anonymizing” device owners, time sequencing is a routine industry capability. TTV’s analysts are capable of producing that kind of information the same as other industry analysts. However, TTV does not produce or publish that information as part of its public interest research work.

APPENDIX 1

Administrative Complaint to Georgia Secretary of State Brad Raffensperger

Complainant:	Tue the Vote, PO Box 3109 #19128 Houston, TX 77253-3109
Complaint:	Ballot trafficking General Election November 2020 and Runoff Election January 2021 periods
Counties:	Atlanta metro area
Potential Violations	O.C.G.A. § 21-2-385 (a) Procedure for voting by absentee ballot; advance voting



November 30, 2021

Brad Raffensperger
Secretary of State
Georgia Capitol
206 Washington St SW
Atlanta, GA 30334

Complainant: True the Vote, PO Box 3109 #19128 Houston, TX 77253-3109
Complaint: Ballot trafficking General Election November 2020 and Runoff Election January 2021
periods Counties: Atlanta metro area
Potential Violations: O.C.G.A. § 21-2-385 (a) Procedure for voting by absentee ballot; advance voting

INFORMATION IN SUPPORT OF COMPLAINT

As part of True the Vote's ongoing nonpartisan election integrity research and in response to reports of ballot trafficking in Georgia and other states across the country, we undertook certain efforts to examine this issue more closely. Following a detailed account of coordinated efforts to collect and deposit ballots in drop boxes across metro Atlanta, True the Vote obtained publicly available surveillance video as well as commercially available cell phone data which revealed concerning patterns of behavior consistent with the reports made to our organization. True the Vote hereby submits this Complaint to the Georgia Secretary of State detailing the potentially improper election efforts which took place during the General Election of November 2020 and Runoff Election of January 2021.

Acting upon information provided to us, True the Vote's contracted team of researchers and investigators spoke with several individuals regarding personal knowledge, methods, and organizations involved in ballot trafficking in Georgia. One such individual, hereinafter referred to as John Doe, admitted to personally participating and provided specific information about the ballot trafficking process. This information was provided under agreement of anonymity.¹

¹ It is imperative that True the Vote maintain confidentiality agreements made with persons willing to speak openly with the organization. First and foremost, True the Vote is primarily concerned for the safety of individuals willing to come forward to speak about such sensitive topics. True the Vote is not a law enforcement agency, we do not have the resources of the State, and we are unable to provide any safety guarantees to those individuals willing to provide information other than to keep our word that their identity will not be disclosed. Furthermore, for the same reason law enforcement agencies do not disclose the identities of their confidential informants, True the Vote must also maintain such confidences. To do otherwise would greatly inhibit future efforts of the organization as individuals would no longer be willing to speak openly about such matters. Finally, to the extent an individual admits to conduct constituting a crime, True the Vote is unable to offer immunity from prosecution. Informants would not be honest in their discussions if they lacked confidence that any admissions made would be held in the strictest of confidences and would not subject them to criminal prosecution in the future.

John Doe described a network of non-governmental organizations (“NGO”s) that worked together to facilitate a ballot trafficking scheme in Georgia. John Doe claimed to have been one of many individuals paid to collect and deliver absentee ballots during the early voting periods of the November 2020 General Election and the January 2021 Runoff Election. While acknowledging that others might view his actions as inappropriate, John Doe did not seem to understand the unlawful nature of this conduct nor that it might constitute organized criminal activity. John Doe’s perception was that he had been hired to do a job and it was appropriate to be paid for the services rendered.

John Doe’s assignment included collecting ballots, both from voters in targeted neighborhoods and from NGOs that had their own ballot collection processes, delivering those ballots to other NGOs, picking up designated ballot bundles from the same group of NGOs, and depositing ballots into drop boxes spanning six counties in the metro Atlanta area. Each drop box delivery would typically include between 5 to 20 ballots. John Doe described a payment validation process which involved taking cell phone pictures of the drop box where ballots were deposited. Participants were compensated, typically at a rate of \$10 per ballot. John Doe stated he had been paid directly by one of these NGOs.²

Following this report, True the Vote submitted open records requests to obtain the surveillance video of various drop boxes across Georgia during the General Election of November 2020 and Runoff Election of January 2021. Despite a legal mandate to maintain this video, county officials were only able to produce an estimated 20% of the surveillance video requested in the counties of Fulton, DeKalb, Cobb, and Gwinnett.³ Nonetheless, in our initial review of the available 3 million minutes of surveillance video, we found compelling evidence to support the reports of absentee ballot trafficking conducted during the November 3, 2020, General Election and January 5, 2021, Runoff Election periods.

In addition to ordering surveillance video, True the Vote also purchased commercially available, anonymized, geospatial mobile device information. This cell phone data establishes what devices were at a particular location at a particular time but does not disclose any private information about a person’s identity. There are a variety of uses for this type of data including product marketing and targeted messaging in political campaigns. This type of unique device identification data is highly desirable because of its accuracy and its use is becoming more mainstream as of

While True the Vote will not directly identify the individual who made the admission, the organization is able to provide the publicly available data we used in our research. As an office possessing investigative powers and the resources of the State, the identity of any individual who may have information pertinent to your efforts is discoverable in the data set now available to you. Working in conjunction with law enforcement, the State, in their discretion, can provide the necessary and appropriate safety guarantees and immunity protections for cooperating witnesses should that become necessary.

² John Doe stated the NGOs made the payments, but it was not entirely clear from his description whether participants were paid directly by the NGOs or through an intermediary.

³ In separately filed complaints, we detail the missing video footage, including explanations afforded us by county election officials, to support further investigations and develop standards regarding critical aspects of surveillance video capture.

late. In fact, virtually every cell phone user has received some type promotional or political text. Law enforcement, defense, and intelligence agencies have been using geospatial mobile device data to generate information on possible suspects or witnesses in investigations for several years. For the purposes of our research, True the Vote purchased such data and used it to identify patterns of potentially inappropriate election activities. After reviewing this data, True the Vote was able to confirm certain patterns of activity around absentee ballot drop boxes, as initially reported by John Doe.

During the Runoff Election period, in six counties in and around Atlanta, 552,987 cell phones came within a narrowly defined distance of ballot drop boxes during our study period. However, 242 unique devices made repeat trips to drop boxes averaging 23 trips each. These same 242 devices also went repeatedly, averaging eight trips each, to specific NGOs.

These 242 individual devices went to drop boxes a total of 5,668 times with approximately 40% of the visits occurring between the unusual hours of 12:00 a.m. and 5:00 a.m.

The review of surveillance video was queued according to our geospatial data analyses and focused on the device patterns that emerged from our research. The video, though often grainy and sometimes distant, revealed numerous unusual behaviors.

Individuals were observed attempting to deposit multiple ballots into the drop box. Sometimes, the person was attempting to deposit so many ballots that they were unable to fit them all in and the video shows ballots falling to the ground.

Additionally, in our cursory review of surveillance video it was confirmed that individuals made repeat visits to drop boxes.

Cars were observed with out-of-state license plates, including rental cars identifiable because of the sticker seal rental car companies affix to the driver's side door. This in itself is not necessarily problematic; however it is notable because these out of state and rental cars were driven by individuals who were also in our targeted study group of 242 devices.

Consistent with John Doe's report regarding the proof necessary to receive payment, individuals were observed taking cell phone photos, not of themselves, but of their ballot deposits or of the drop box after the ballots had been deposited.

Curiously, a change in behavior seemed to occur on or around December 23, 2020, the day after Arizona authorities announced that fingerprints on absentee ballot envelopes helped uncover an illegal ballot harvesting scheme in that state. After that announcement, individuals depositing ballots into drop boxes in Georgia are seen wearing blue surgical gloves. They often put them on just before picking up their stack of ballots and remove them as they exit the drop box area.

In conclusion, following John Doe's personal admission to participation in a large-scale ballot harvesting effort in Georgia, True the Vote obtained publicly available video footage and

commercially available cell phone data which supports his account of these efforts. In the data we reviewed, the 242 mobile devices which repeatedly visited drop boxes also repeatedly visited locations associated with a select group of NGOs. Not only did these devices make repeat visits but a significant number of these visits, approximately 40%, were made during extremely unusual hours in the middle of the night. Additionally, surveillance footage shows numerous instances in which individuals deposited multiple ballots at a time – a practice which is prohibited under Georgia law except under very limited circumstances.⁴ Finally, consistent with John Doe’s description of how participants were paid, individuals were seen taking photos of drop boxes or of ballots as they were deposited into a drop box.

True the Vote files this Complaint and provides this information to the Secretary of State as the arbiter of election integrity for the State of Georgia.⁵ In conjunction with an investigation and formal request by the Secretary of State’s office, True the Vote will provide all publicly or commercially available information including the geospatial data and surveillance video to assist with any efforts undertaken by your office.⁶

⁴ O.C.G.A. § 21-2-385 (a) reads in pertinent part: Such envelope shall then be securely sealed and the elector shall then personally mail or personally deliver same to the board of registrars or absentee ballot clerk, provided that mailing or delivery may be made by the elector’s mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of such elector. The absentee ballot of a disabled elector may be mailed or delivered by the caregiver of such disabled elector, regardless of whether such caregiver resides in such disabled elector’s household. The absentee ballot of an elector who is in custody in a jail or other detention facility may be mailed or delivered by any employee of such jail or facility having custody of such elector. An elector who is confined to a hospital on a primary or election day to whom an absentee ballot is delivered by the registrar or absentee ballot clerk shall then and there vote the ballot, seal it properly, and return it to the registrar or absentee ballot clerk.

⁵ In filing this Complaint, True the Vote makes no assessment of the legality of any activity seen in the data or surveillance video but merely provides this information for official State use as deemed appropriate by your agency.

⁶ This raw and unedited data purchased by True the Vote does not include any analysis conducted by True the Vote or its contractors nor does it include any list of specific IMEI devices of interest. Furthermore, this data does not include any identifying information about any individuals other than commercially available, anonymized, IMEI data in its original form.

APPENDIX 2

Log of True the Vote
Open Records Requests to
Milwaukee Urban Area Municipalities

For

Dropbox Video Surveillance Records
October 20 – November 3, 2020

TRUE THE VOTE
MILWAUKEE COUNTY AREA COMMUNITIES
OPEN RECORDS REQUESTS FOR DROPBOX VIDEO SURVEILLANCE FILES
NOVEMBER 2020 ELECTION

Municipality	ORR	Submit Date	Response Date	Point of Contact	Action	Reason/Comments
Milwaukee	Dropbox Video	4/12/2021	4/21/2021	cwooda@milwaukee.gov	Undelivered	No custodian for video.
Fox Point	Dropbox Video	4/12/2021	6/30/2021	KMeyer@villageoffoxpoint.com	No Responsive Records	Did not provide.
Brown Deer	Dropbox Video	4/12/2021	4/13/2021	metzel@browndeerwi.org	Delivered Video	
Shorewood	Dropbox Video	4/12/2021	4/13/2021	sbruckman@villageofshorewood.org	No Responsive Records	ORR req. "Milwaukee."
West Milwaukee	Dropbox Video	4/12/2021	4/16/2021	susan.schupp@westmilwaukee.org	No Responsive Records	No security camera, 1 dropbox.
Wauwatosa	Dropbox Video	4/12/2021	4/16/2021	cdulaney@wauwatosa.net	No Responsive Records	No cameras directed at ballot boxes.
Bayside	Dropbox Video	4/12/2021	4/13/2021	ljalvardt@baysidewi.gov	No Responsive Records	"We do not have copies of the video recordings."
Whitefish Bay	Dropbox Video	4/12/2021	4/13/2021	J.Krueger@wfbvillage.org	No Responsive Records	No such records exist.
Greendale	Dropbox Video	4/12/2021	4/13/2021	melanie@greendale.org	No Responsive Records	Does not have the records requested.
Hales Corners	Dropbox Video	4/12/2021	4/12/2021	skulik@halescorners.org	No Responsive Records	Video only retained for 90 days.
River Hills	Dropbox Video	4/12/2021	4/12/2021	tlaborde@vil.river-hills.wi.us	No Responsive Records	Did not utilize dropboxes.
South Milwaukee	Dropbox Video	4/12/2021	4/12/2021	kkastenson@smwi.org	No Responsive Records	Oldest content on server is 44 days old.
Glendale	Dropbox Video	4/12/2021	4/12/2021	R.Safstrom@glendalewi.gov	No Responsive Records	No video from requested time frame.
Oak Creek	Dropbox Video	4/12/2021	4/12/2021	croeske@oakcreekwi.org	No Responsive Records	No video from requested time frame.
Greenfield	Dropbox Video	4/12/2021	4/12/2021	Jennifer.Goergen@greenfieldwi.us	No Responsive Records	"Do not have the records you requested."
St Francis	Dropbox Video	4/12/2021	4/12/2021	anne.uecker@stfranwi.org	No Responsive Records	"No records exist for your request."
Franklin	Dropbox Video	4/12/2021	4/28/2021		No Responsive Records	Off-premises drop boxes were used for AB.

APPENDIX 3

Redacted IMEI Device Nos. of
107 Cell Phone Devices Making 20+ Visit to
Milwaukee Urban Area Drop-boxes

October 20 – November 3, 2020

IMEI DEVICE ID NOS.

Device Identification	Drop Box Visits
6631960f-5bb8-4d77-9468-xxxxxxxxxxxx	35
407d9517-f1ad-4656-bc12-xxxxxxxxxxxx	35
94dc1108-5658-40ac-b0a1-xxxxxxxxxxxx	34
ea2bd83f-7cc2-46cf-b19e-xxxxxxxxxxxx	34
dd78342b-9734-465f-b18a-xxxxxxxxxxxx	34
398959d3-9975-4072-b01e-xxxxxxxxxxxx	33
6e4068d3-6037-4382-9c30-xxxxxxxxxxxx	32
e1c4de08-e616-4e14-989c-xxxxxxxxxxxx	32
cc7dff4b-32cc-4a77-9c68-xxxxxxxxxxxx	32
7e24a489-3578-4982-82d2-xxxxxxxxxxxx	32
26c078c0-ddc0-42d2-a9b2-xxxxxxxxxxxx	32
b19161fc-6682-41f4-b536-xxxxxxxxxxxx	32
a4681626-135a-4a62-8d1a-xxxxxxxxxxxx	32
edf17761-044c-4b66-b280-xxxxxxxxxxxx	31
891dfbb0-75e1-4294-9fbc-xxxxxxxxxxxx	31
b27d629d-fca1-45d6-9c47-xxxxxxxxxxxx	31
f0e40fe1-abcc-4b68-aae2-xxxxxxxxxxxx	31
bf9522dd-5224-44a0-bef4-xxxxxxxxxxxx	30
34611e70-d89c-4d56-a261-xxxxxxxxxxxx	30
8f4c882c-7632-4f28-b4fb-xxxxxxxxxxxx	29
32b169bb-e335-4b55-9ec5-xxxxxxxxxxxx	29
22dd4789-7af4-4cfc-b4eb-xxxxxxxxxxxx	29
6954ec0e-8113-43b2-82fe-xxxxxxxxxxxx	29
7f28dd25-26dc-4a93-ba28-xxxxxxxxxxxx	29
f6e53a37-265c-4f57-976a-xxxxxxxxxxxx	29
3f5c7b90-f98f-4049-a66a-xxxxxxxxxxxx	28
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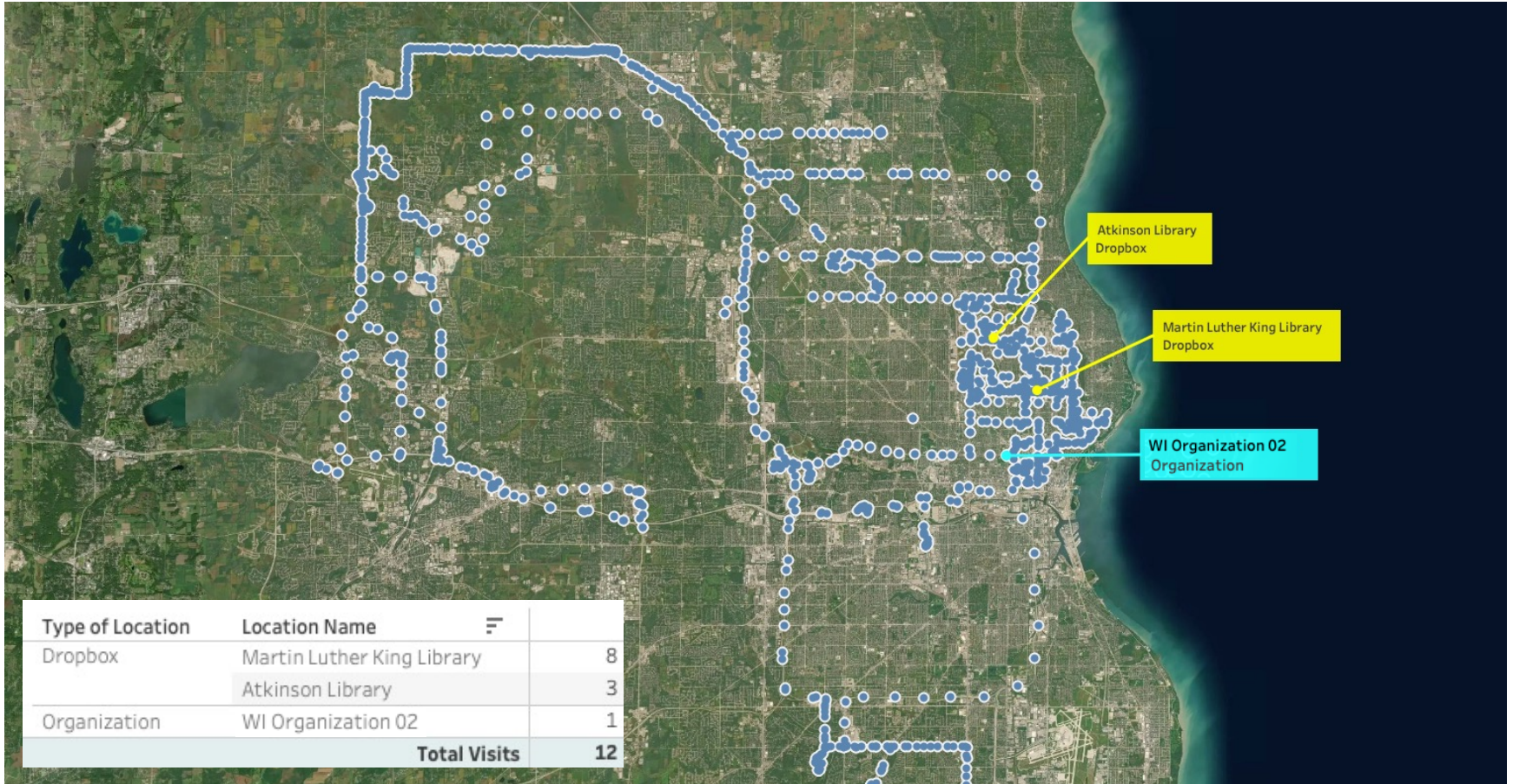
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APPENDIX 4

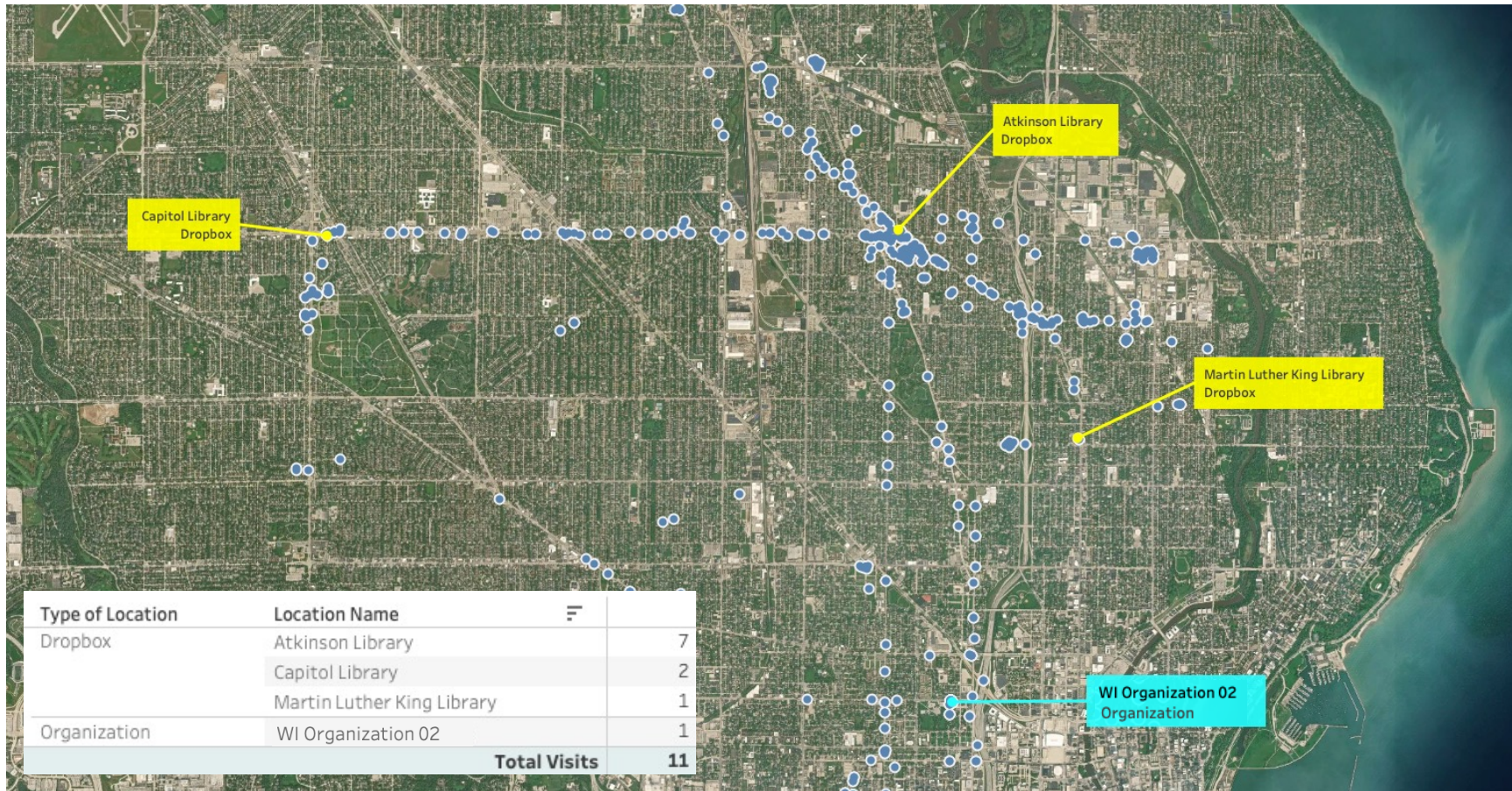
Composite Maps of
8 Cell Phone Devices Making 20+ Visits to
Milwaukee Urban Area Drop-boxes

Maps of Routes Travelled on
October 20, 2020

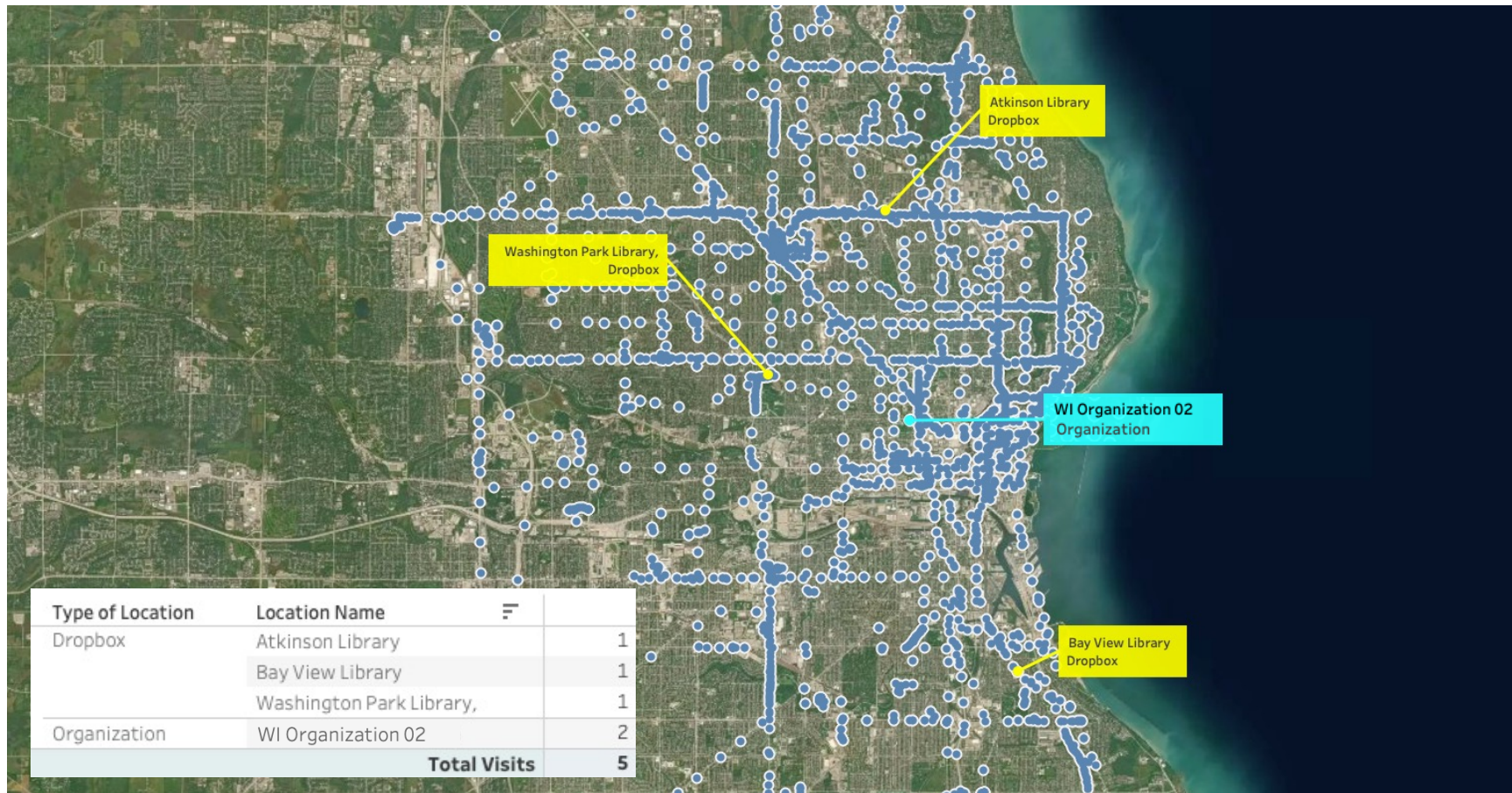
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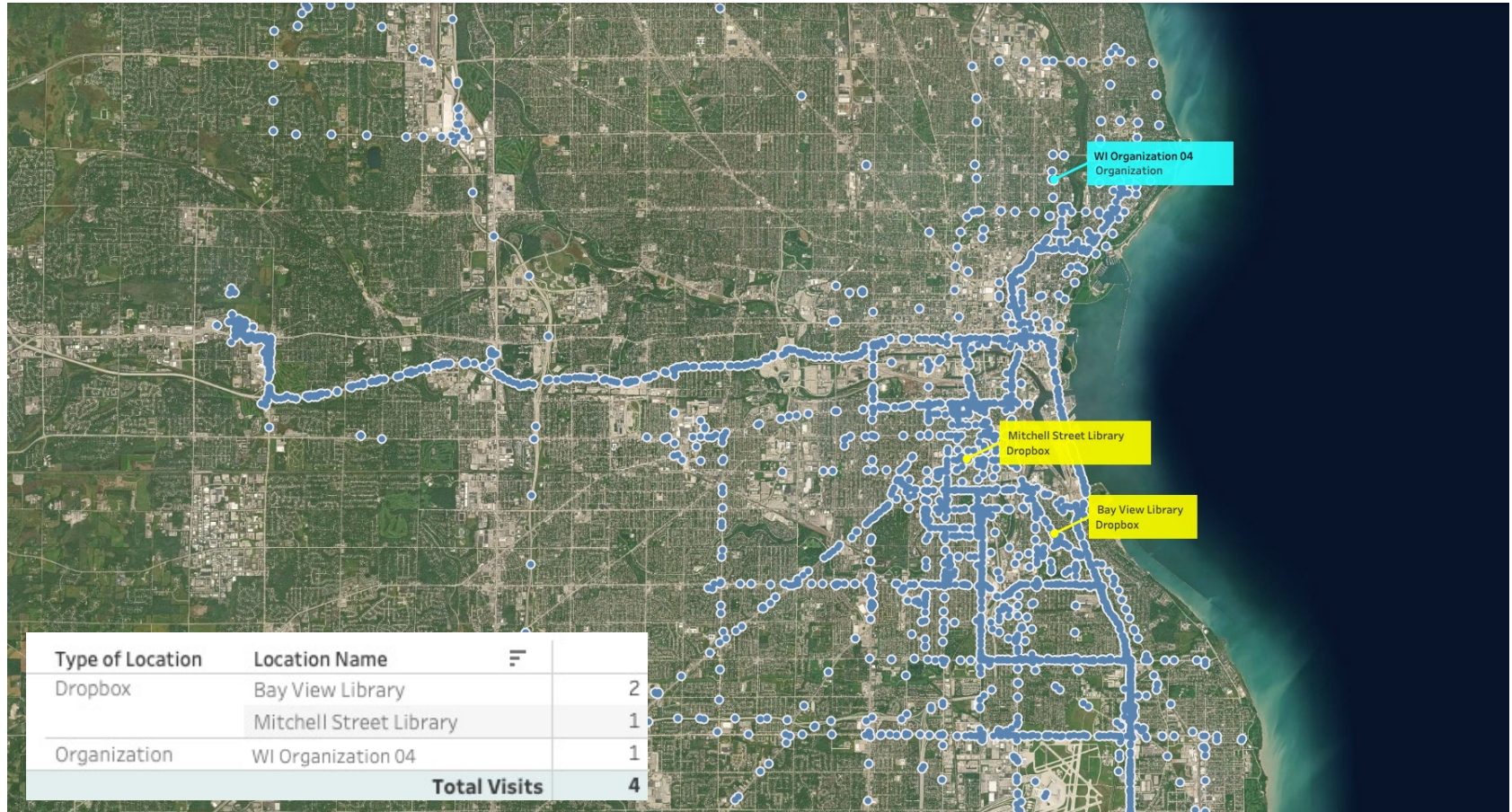
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True the Vote - Milwaukee Project: Device #4 - October 20, 2020



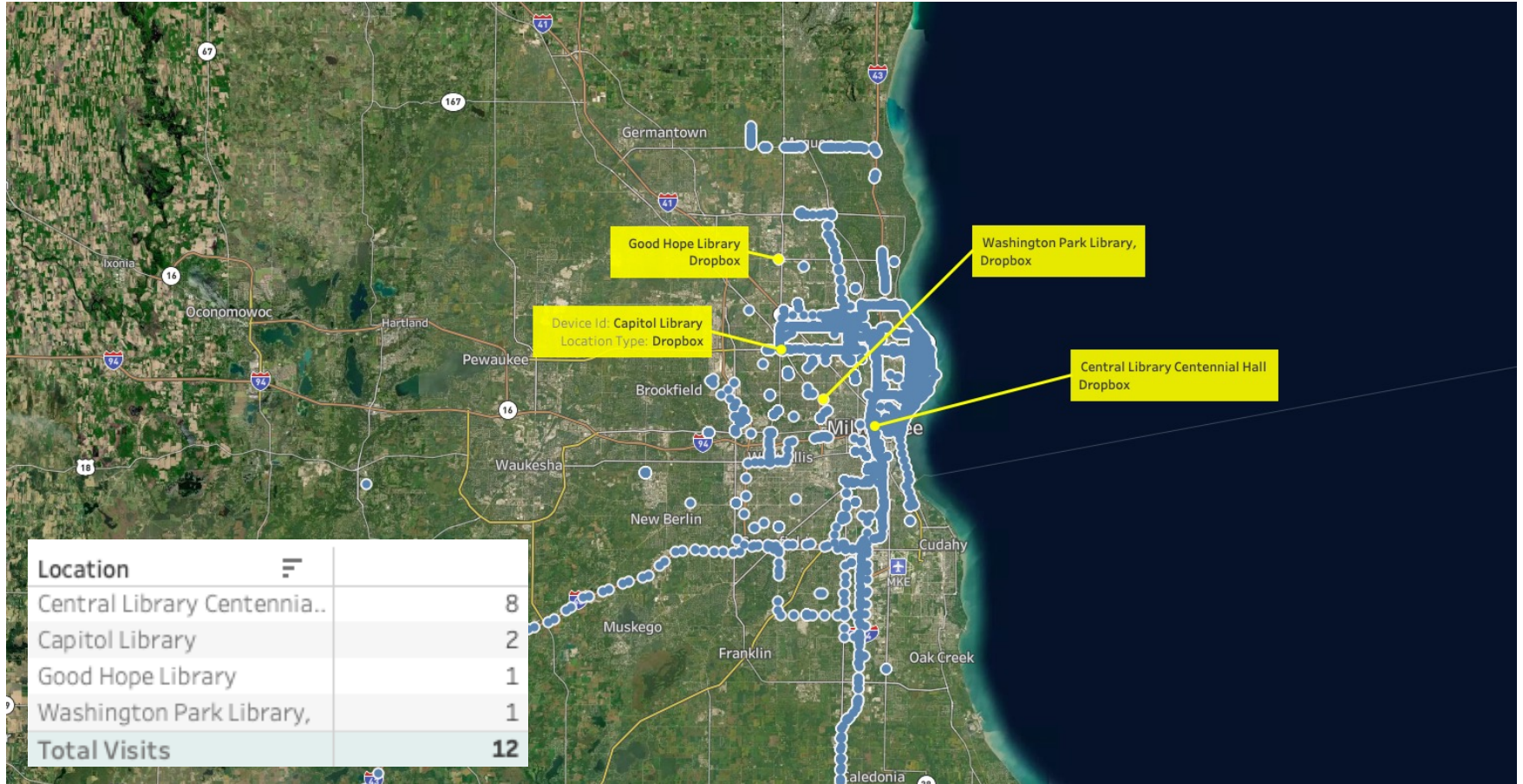
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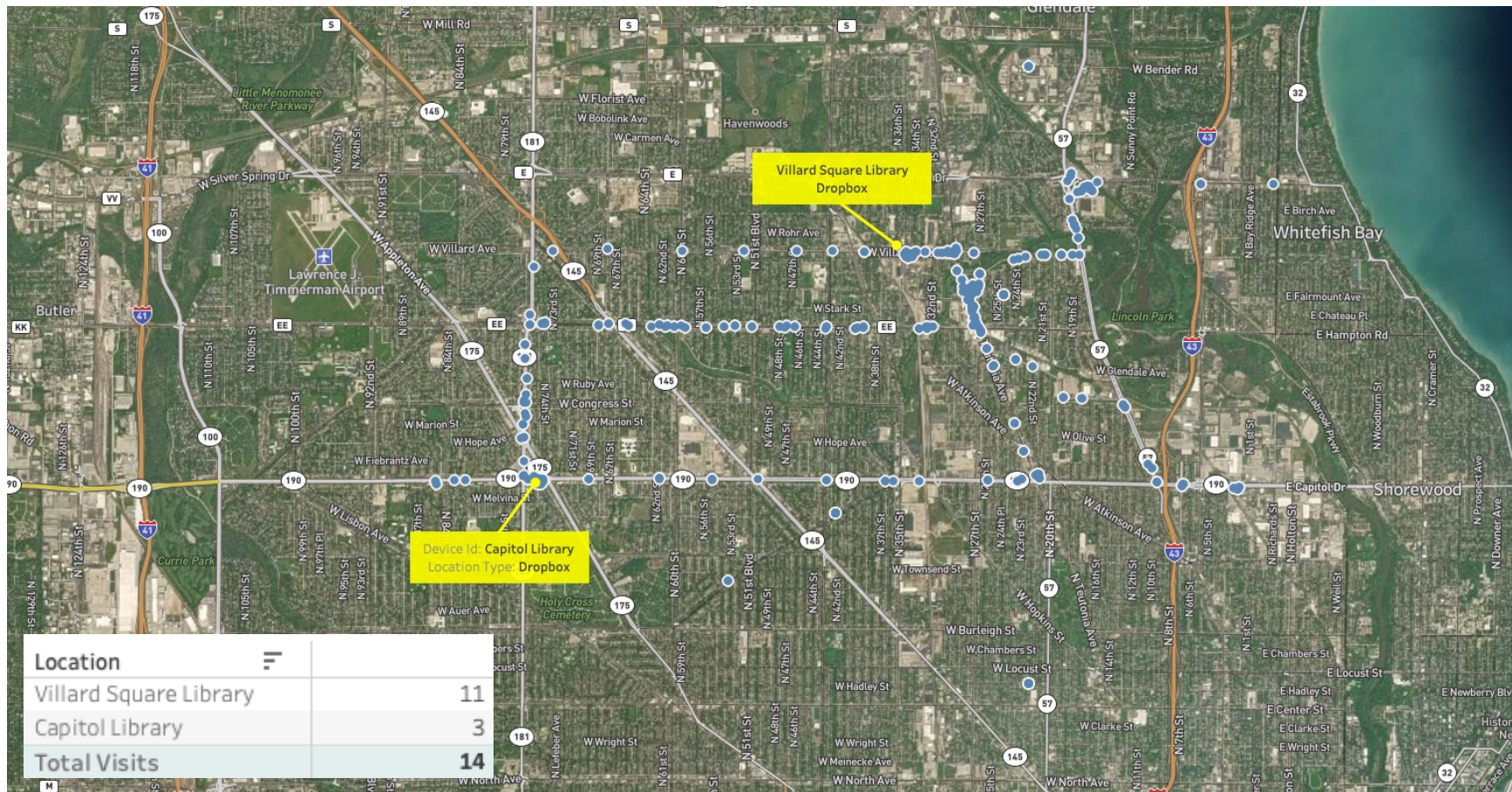
True the Vote - Milwaukee Project: Device #6 - October 20, 2020



True the Vote - Milwaukee Project: Device #7 - October 20, 2020



True the Vote - Milwaukee Project: Device #8 - October 20, 2020



**How the Zuckerberg 5 Obtained Possible Illegal Private Funding of Elections,
Engaged in Partisan Election Activity, Established Illegal Drop Boxes for
Absentee Ballots and Facilitated Unlawful Ballot-Harvesting During the 2020
General Election in Wisconsin**

Testimony of James Bopp, Jr.

**Before the Wisconsin Assembly Committee on Campaigns and Elections
March 24, 2022**

I am James Bopp, Jr., attorney at law with The Bopp Law Firm, PC, and I thank you for the opportunity to testify before this Committee.

A substantial part of my law practice involves defending clients from governmental incursions against their constitutionally-protected First Amendment freedoms of speech, association, and expression. I have defended the rights of citizens to participate in the electoral process in administrative investigations and through litigation, *amicus curiae* briefs, scholarly publications, and testimony before legislative and administrative bodies. In this regard, I have represented numerous plaintiffs in successful lawsuits challenging federal and state campaign finance laws and regulations in order to vindicate First Amendment rights that are integral to the successful continuation of our representative democracy.¹

¹I have won 9 of my 14 cases decided on the merits in the United States Supreme Court, including the landmark United State Supreme Court cases of *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), which struck down restrictions on the speech of candidates for elected judicial office on First Amendment grounds; *Wisconsin Right to Life v. Federal Election Commission*, 546 U.S. 410 (2006), which held that McCain-Feingold’s “electioneering communication” corporate prohibition could be subject to as-applied challenges for genuine issue ads; *Randall v. Sorrell*, 548 U.S. 230 (2006), which struck down Vermont’s mandatory candidate expenditure limits and candidate contribution limits; *Federal Election Comm’n v. Wisconsin Right to Life*, 551 U.S. 449 (2007), which held that McCain-Feingold’s “electioneering communication” prohibition is unconstitutional as applied to grass roots lobbying ads; *Citizens*

Furthermore, I have an extensive compliance practice where I provide legal advice to numerous non-profit advocacy groups regarding Internal Revenue Code regulation of non-profits, especially organizations exempt under Sections 501(c)(3), 501(c)(4) and 527. In connection with this representation, I have brought suit against the Internal Revenue Service challenging their statutes and regulations for infringing on the free speech of non-profits under the First Amendment.

And while I am General Counsel of True the Vote, Inc., I testify today as a practitioner of First Amendment law and not as a representative of any client.

Introduction

While I am a zealous advocate for the First Amendment right of individual and groups, the First Amendment does have limits. The story here does not involve any First Amendment speech but, rather, private money going to municipal governments to fund certain election-related activities, such as ballot drop boxes, where no free expression is involved. And it involves activity illegal under legitimate Wisconsin state election laws, which also do not violate the First Amendment. Thus, this testimony is about the integrity of our elections and the People's faith that elections will be administered fairly and lawfully. The future of Our Republic depends on this faith.

Most of this story has already been told as a result of the investigation of Special Counsel

United v. Federal Election Commission, 558 U. S. 310 (2010), which struck down McCain-Feingold's electioneering communication provision and prohibitions on corporations advocating the election or defeat of candidates; and *McCutcheon v Federal Election Commission*, 572 U.S. 185 (2014), which struck aggregate limits on the total amount that an individual may contribute to all political parties, PACs and federal candidates in an election cycle. See www.bopplaw.com.

Mike Gableman through his Interim Reports. A billionaire with a partisan agenda funded and ultimately controlled the administration of elections in the five largest cities in Wisconsin to a partisan end, which resulted in numerous potentially illegal activities. The TTV Special Report, presented here today, adds the final chapter to the story: how the illegal drop boxes, set up by the cities and funded by the billionaire, and the unlawful advice of the Wisconsin Election Board related to them, was ruthlessly exploited by a large-scale, organized and illegal ballot-harvesting effort that may have affected the results of the 2020 general election in Wisconsin.

However, this story is not about *changing* the outcome of the 2020 general election; Joe Biden was duly elected in 2020 and is President of the United States. Only his resignation, impeachment, death, or disability under the 25th Amendment can change that. Instead, this is about discovering how the administration of Wisconsin state elections was conducted in 2020, leading to whatever reforms the Wisconsin Legislature deems warranted.

I. Center for Technology and Civil Life Funded Partisan and Illegal Election Activity by Certain Democrat-Controlled Wisconsin Cities.

My testimony concerns the private funding of the administration of Wisconsin's 2020 general election, funding and facilitating illegal activities, such as ballot drop boxes and ballot-harvesting, and its partisan intent and effect.

A. Facts: Center for Technology and Civil Life Funding of the Zuckerberg 5.

During the November 2020 election cycle, the Center for Technology and Civil Life (“CTCL”) made over \$350 million in grants to local governments, primarily to urban areas in 6 swing states.² In Wisconsin, CTCL distributed over \$10.3 million in grants. About 86% of the funding went to five cities, Milwaukee, Madison, Green Bay, Kenosha, and Racine,³ which they used in part to provide drop boxes for receiving absentee ballots and other voter assistance.

Milwaukee is one of “the Zuckerberg Five,”⁴ overwhelmingly Democratic cities, that funded drop boxes, voter registration, and turnout efforts using grants from the tax-exempt CTCL funded by Mark Zuckerberg.⁵ Of the over \$10.2 million CTCL distributed in Wisconsin, about \$9.2 million (90%) went to 15 reliably Democratic cities in only 11 of Wisconsin’s 72 counties. \$8.8 million (85%) went to the Zuckerberg Five, \$4.79 million (46.5%) to Dane and Milwaukee Counties alone, which have less than 26% of the state’s population.⁶

² Election Offices that Received CTCL COVID-19 Response Grants, Center for Tech and Civic Life (March 12, 2021), <https://www.techandcivicliflife.org/grant-update-march/>.

³ A Review of the 2020 Election, Wisconsin Institute for Law and Liberty (“WILL Report”) (Dec. 2021), <https://will-law.org/wp-content/uploads/2022/01/2021ReviewStudyJanuary.pdf>

⁴ Ironically, both CTCL and the cities involved identified themselves as the “Zuckerberg 5,” including on a letterhead with the five cities’ seals. OSC Second Interim Report at 20.

⁵“The Zuckerberg Five” were Milwaukee, Green Bay, Racine, Kenosha, and Madison. See <https://empowerwisconsin.org/wp-content/uploads/2021/03/Green-Bay-email-WI-5.pdf>

⁶ David M. Drucker, Zuckerberg-funded elections group awarded more grants to GOP counties (Dec. 15, 2021), <https://www.washingtonexaminer.com/news/campaigns/zuckerberg-funded-elections-group-awarded-more-grants-to-gop-counties>; William Doyle, How a Mark Zuckerberg-Funded Nonprofit Turned Wisconsin Blue (Jan. 10, 2022), <https://amgreatness.com/2022/01/10/how-a-mark-zuckerberg-funded-nonprofit-turned->

The Wisconsin Office of Special Counsel’s Second Interim Investigative Report (“OSC Second Interim Report”) provides extensive factual information on how these grants were obtained, the terms of the agreements that were entered into, how the grants were administered, the amount of the grants, and how the funds were spent.⁷ But the critically important element of this project was the purpose of the grants and the specific activities that the grants funded.

1. The Purpose of CTCL Grants to the Zuckerberg 5.

As the OSC has explained in his Second Interim Report, the actual purpose of the grants to the Zuckerberg 5 requires some digging.

The agreement with CTCL provides that the grant money will be used for a “safe and secure election administration” in each city, which was to be “in accordance with the Wisconsin Safe Voting Plan 2020” (“WSVP”).⁸ The WSVP required the Zuckerberg 5 to “be intentional and strategic in reaching our historically disenfranchised residents and communities; and, above all, ensure the right to vote in our dense and diverse communities,” including provisions to “increase . . . in-person” and “absentee voting by mail and early” voting, in targeted areas and by targeted groups.⁹ The WSVP required that “[t]hese groups met particular demographic criteria, which, not-coincidentally, matched that of the Biden-voter profile.”¹⁰

[wisconsin-blue/](https://www.wisconsin-blue/); CTCL Annual Tax Filings, CTCL 2020 tax return, Form 990, <https://www.techandcivillife.org/key-funders-and-partners/990s/>.

⁷OSC Second Interim Report at 20-27.

⁸*Id.* at 25.

⁹*Id.* at 33.

¹⁰*Id.* at 32

2. The Specific Activities Funded by CTCL.

In order to increase in-person, absentee voting by mail and early voting, the Zuckerberg 5 engaged in numerous grant-funded activities. First, the WSVP plan required extensive get out the vote activity by the cities targeting preferred areas and groups.¹¹ Second, the WSVP plan required specific action to be taken to expand absentee voting by mail, early voting, and in-person voting.¹²

Most pertinent here, absentee voting by mail was to be facilitated by “utiliz(ing) secure drop-boxes to facilitate return of absentee ballots.”¹³ Specific grants were made to each of the Zuckerberg 5 “to purchase and place absentee drop boxes in targeted neighborhoods.”¹⁴ Each city did so, providing critical infrastructure for the ballot-harvesting that followed.

Drop boxes, however, if unattended by a municipal clerk or in an unauthorized location, are illegal under Wisconsin state law. Wis. Stat. § 6.87(4(b)1 provides that an absentee ballot envelope, in which the cast absentee ballot is placed, must be “mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.” The Circuit Court for Waukesha County, in *Teigen v. Wisconsin Elections Commission*, has agreed, holding that use of drop boxes for absentee voting violates Wisconsin law.¹⁵

¹¹*Id.* at 33-37.

¹²*Id.* at 37-40.

¹³*Id.* at 38-39.

¹⁴*Id.* at 27-28

¹⁵This case is now before the Wisconsin Supreme Court and TTV has filed an amicus brief there setting forth its findings in the True the Vote, Special Report: Delivery of Absentee

The Wisconsin Election Commission (“WEC”) also played a critical role in laying the groundwork for illegal ballot-harvesting. In a memorandum to municipal clerks, WEC said that, contrary to Wisconsin state law, a voter need not deliver the absentee ballot to the municipal clerk, “but instead could be dropped into a drop box and that the ballot drop boxes could be unstaffed, temporary, or permanently.”¹⁶ The Circuit Court of Waukesha County declared that “WEC’s interpretation of state statutes in the Memos is inconsistent with state law, to the extent [that] . . . the use of drop boxes, as described in the Memos, is not permitted under Wisconsin law unless the drop box is staffed by the clerk and located at the office of the clerk or a properly designated alternate site under Wis. Stat. § 6.855.”¹⁷

3. The Illegal Drop Boxes Were Exploited by Illegal Ballot-Harvesters.

TTV conducted a “geo-spatial” tracking analysis of cell phone data collected in Milwaukee during the two weeks prior to the 2020 general election, finding overwhelming evidence of highly organized ballot trafficking coordinated among collectors and non-governmental organizations (“NGOs”) using CTCL-funded drop-boxes.¹⁸

TTV identified 53,291 individual phone devices that visited a drop-box *three or more times* during that period, but focused specifically on 107 devices that (1) made *20 or more*

Ballots by Intermediaries to Milwaukee County Area Drop Boxes, March 18, 2022 (“**TTV Special Report**”).

¹⁶*Tiegen v. Wisconsin Elections Commission*, Case No. 21-CV-958 (Wis. Cir. Ct. For Waukesha Cnty, June 28, 2021) (Complaint).

¹⁷*Id.* (Order Granting Summary Judgment for Plaintiffs (Jan. 20, 2022)).

¹⁸TTV Special Report at 5-6

separate visits to drop boxes (averaging 26 visits each) *and* (2) visited NGOs involved in get-out-the-vote efforts (averaging 5 *visits* each).¹⁹ Several of those “20X” devices made as many as 10–15 drop box visits in a single day, with a majority of visits occurring after 8:00 p.m., long past business hours of facilities where the drop boxes were located.²⁰ Just these 107 devices visited drop boxes 2,824 *times*. If they delivered just 8 ballots each time, that is 22,592 illegally cast, and maybe fraudulent, ballots, well in excess of the 20,682 vote margin of victory for President Biden.

B. The Grant Scheme was Partisan.

Every aspect of the CTCL scheme reveals its partisan nature.

First, over 85% of grant funds went to the most heavily Democratic cities in the state.

Second, CTCL’s \$8.8 million grant was selectively spent in each city to target voters by area and group that were most likely to vote Democrat, i.e. “voters of color, low-income voters without reliable access to internet, voters with disabilities, and voters whose primary language is not English,”²¹ and did not include voters who did not live in low-income neighborhoods or who were not members of preferred groups.²²

Third, the Zuckerberg 5 partnered with NGOs, i.e., community organizations, churches and other organizations, in preferred areas and that represented preferred groups to increase their

¹⁹*Id.* at 6.

²⁰*Id.*

²¹OSC Second Interim Report at 34.

²²*Id.* at 35.

voter participation.²³ And, as TTV’s Special Report revealed, the ballot harvesters made numerous visits to NGOs involved in get-out-the-vote efforts as part of their trips to numerous drop boxes.²⁴

Fourth, the result of these grants was a partisan advantage for the Democrats. “Areas of the state that received grants saw statistically significant increases in turnout for Democrats. Increases in turnout were not seen for Donald Trump.”²⁵

C. CTCL is Prohibited by the Internal Revenue Code from Intervening in Political Campaigns.

CTCL is a tax-exempt 501(c)(3) organization that is specifically prohibited from intervening in political campaigns. 26 U.S.C. § 501(c)(3). “Political intervention” is expending tax-exempt funds for a partisan effect: “voter education or registration activities conducted in a biased manner that favors (or opposes) one or more candidates is [sic] prohibited.” Rev. Rul. 2007-41, 2007-1 C.B. 1421 (2007).²⁶ Such activities “will constitute prohibited participation or intervention,” if they are conducted with evidence of bias that they “(a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring

²³*Id.* at 35-37

²⁴TTV Special Report at 6

²⁵WILL Report at 3.

²⁶*See generally* Frequently Asked Questions About the Ban on Political Campaign Intervention by 501(c)(3) Organizations: Get-Out-the-Vote Activities, IRS, <https://www.irs.gov/charities-non-profits/charitable-organizations/frequently-asked-questions-about-the-ban-on-political-campaign-intervention-by-501c3-organizations-get-out-the-vote-activities>.

a candidate or group of candidates.”²⁷

Particularly *apropos* here, Alliance for Justice, which is made up of numerous liberal and progressive advocacy groups, states that “501(c)(3) organizations may not ... [t]arget election-protection efforts to a precinct *based on the political party or candidate the precinct is likely to support.*” Alliance for Justice, *Rules of the Game*, § 63.17 (emphasis added).²⁸

The Internal Revenue Service uses a vague and ex post facto “facts and circumstances test” to determine if “political intervention” occurred. I have been highly critical of the IRS’s “facts and circumstances” test, particularly when it is applied to speech protected by the First Amendment. However, as I have explained, there are many aspects of the CTCL- funded activities by the Zuckerberg 5, for instance establishing drop boxes, which did not involve constitutionally protected speech, and while I would always prefer bright-lines when we are talking about government regulation, those bright-lines do not exist here.

So looking at the totality of the circumstances, as the IRS would, it is my opinion that the IRS would view many of the CTCL-funded activities to be political intervention. After all, CTCL gamed the system with grant money and essentially took over major parts of the election administration in the five largest cities in Wisconsin, thereby creating a partisan advantage among local jurisdictions by selectively funding drop-boxes, voter registration, and other activities almost entirely in those cities, and parts of cities, to ensure that far more Democratic

²⁷The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations, IRS, <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations>

²⁸Available at <https://www.bolderadvocacy.org/wp-content/uploads/2012/01/Rules-of-the-Game.pdf>

voters voted than Republicans.

D. The CTCL Grants Were Funded by “Dark Money.”

Federal and state campaign finance laws require detailed disclosure of political expenditures to protect “important governmental interests by providing the public with information about ... the sources of funding for campaign-related ads.” *Wisconsin Right To Life, Inc. v. Barland*, 751 F.3d 804, 841 (7th Cir. 2014). In contrast, CTCL’s partisan allocation of over \$10 million in unreported “dark money” dwarfs in influence the \$20,000 and \$2,900 contribution limits to candidates for state and federal offices. Wis. Stat. § 11.11001; 52 U.S.C. § 30116(a)(1)(A).

While I strongly support the rights of § 501(c)(3) organizations to engage in activities protected by the First Amendment, this involves conduct, not speech, where mega-wealthy partisans gamed the system using exempt and undisclosed money to enlist, and provide the funds for, local governments to engage in partisan election activities targeting preferred groups and preferred neighborhoods and designed to turn out Democrat voters. These activities were facilitated by the use of illegal drop boxes and were exploited by unlawful ballot harvesting operations. This is funding and activities that are not protected by the First Amendment.

E. The CTCL Agreement is Alleged to Have Constituted Election Bribery.

Furthermore, the Office of The Special Counsel has found that the CTCL agreement, that the Zuckerberg 5 were required to sign, “facially violates the election bribery prohibition of Wis. Stat. § 12.11, because the participating cities and public officials received private money to

facilitate in-person or absentee voting within such city.”²⁹ Wis. Stat. § 12.11, in relevant part, prohibits a city from receiving “anything of value . . . in order to induce any elector to go to . . . the polls [or] vote. . .” The OSC argues that all these elements are met.³⁰

Conclusion

I urge the Wisconsin Legislature to take appropriate action to prevent future maladministration of your state elections and to deter illegal activities that plagued the 2020 general election.

²⁹OSC Second Interim Report at 18.

³⁰*Id.* at 17-40.

SUPREME COURT OF THE
STATE OF WISCONSIN
Appeal No. 22AP91

RICHARD TEIGEN and RICHARD THOM,
Plaintiffs-Respondents-Petitioners,
vs.
WISCONSIN ELECTIONS COMMISSION,
Defendant-Co-Appellant,
DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE,
Intervenor-Defendant-Co-Appellant, and
DISABILITY RIGHTS WISCONSIN, WISCONSIN FAITH
VOICES FOR JUSTICE and LEAGUE OF WOMEN VOTERS OF
WISCONSIN,
Intervenors-Defendants-Appellants.

On Appeal from the Circuit Court for Waukesha County
The Honorable Michael O. Bohren, Presiding
Circuit Court Case No. 2021CV958

NOTICE AND MOTION OF
TRUE THE VOTE, INC.
FOR LEAVE TO FILE BRIEF *AMICUS CURIAE*
SUPPORTING APPEAL OF PLAINTIFFS-RESPONDENTS-PETITIONERS
RICHARD TEIGEN AND RICHARD THOM

Pursuant to § 809.19(7), Wis. Stats., True the Vote, Inc., by its attorneys Madison Center for Free Speech, Inc., by General Counsel James Bopp, Jr., and First Freedoms Foundation, Inc., by General Counsel Michael D. Dean, moves the Court for leave to file its Brief of *Amicus Curiae* accompanying this Motion on or before

March 21, 2022, in support of Plaintiffs-Respondents-Petitioners Richard Teigen and Richard Thom.

In support, Movant shows the interest of *Amicus* and benefits of considering its Brief as follows.

FUNDAMENTAL ISSUE

1. The *real* substance of this appeal is not an arcane exercise in statutory construction.

2. Rather, the “elephant in the room” is whether § 6.87(4)(b)1., § 6.855, and companion provisions of Ch. 6, Subch. IV, Stats., governing absentee voting will be construed to permit massive unreported tax-exempt funding of drop-boxes and other election activity by mega-wealthy outside interests in a limited number of Wisconsin municipalities strategically selected by those interests to achieve a partisan result.

3. Those “issues are larger than their impact on the particular litigants.” Judge Neal Nettesheim & Clare Ryan, *Friend of the Court Briefs: What the Curiae Wants in an Amicus*, Wis. Law., May 2007, at 11.

4. It matters profoundly what actually happened on the ground in 2020 and will happen again, and proposed *Amicus* is uniquely qualified to “offer economic, social science, or political [and technical] data vital to an informed decision.” *Id.*

TRUE THE VOTE, INC.

5. True the Vote, Inc. (“TTV”) is a non-profit public interest research and education organization founded in 2009. <https://www.truethevote.org/>

6. TTV’s mission is to protect all voters’ rights and restore public confidence in free and fair elections.

7. Among its activities, TTV promotes election integrity and transparency, provides citizen engagement and training in election processes, and works to ensure that the voting rolls utilized by states are updated and accurate.

8. Of particular significant in this case, TTV also conducts non-partisan research and analysis of election administration and processes.

9. TTV’s resources include experts with extensive experience analyzing “geo-spatial” data emitted by cell phones to detect patterns and develop information in complex commercial and criminal investigations across diverse market segments, including government agencies and healthcare.

2020 ELECTION CYCLE AND CTCL

10. During the November 2020 election cycle, the Center for Technology and Civil Life (“CTCL”) made over \$350 Million in election-related grants to local governments across the country.

11. In response to informants’ reports of systematic ballot-harvesting (including cash payments for votes), TTV began conducting investigative research and analysis

of the use and impact of drop-boxes in CTCL-funded jurisdictions including Atlanta, Phoenix, and Detroit.

12. Analyzing geo-spatial data emitted in those areas in the weeks surrounding the elections, TTV identified hundreds of mobile devices that collectively made thousands of repeat trips to drop-boxes in regular routes from government and non-governmental organizations (“NGOs”).

13. In Atlanta, for example, the “collectors” making those trips ran regular daily routes commencing at various NGO offices, stopping at as many as 15 – 20 separate boxes around the metro area in regular sequences. Collectors typically commenced their routes after business hours, visiting the final boxes in their routes past midnight.

14. Video surveillance obtained and synchronized by TTV confirmed that collectors were depositing large batches of ballots in the boxes – the purpose of the multiple stops obviously being to avoid questions that would arise from a single collector leaving an NGO and dropping hundreds or thousands of ballots in the single closest box.

WISCONSIN

15. In Wisconsin, CTCL distributed over \$10.3 million in grants. About 86% of the funding went to five cities - Milwaukee, Madison, Green Bay, Kenosha, and Racine – which those cities used to fund drop boxes for collecting absentee ballots and other voter assistance.

16. Because CTCL funding and drop-box operations in Wisconsin were similar to those elsewhere, TTV conducted similar research and analysis of cell phone signal data emitted in metropolitan Milwaukee areas during the two weeks period prior to the election.

17. TTV has now completed and published its study of ballot harvesting in those metropolitan areas, which disclosed the same collector and drop box patterns as in Atlanta, Phoenix and Detroit.

18. During the two week period studied, 107 unique devices (1) made at least 20 or more visits to drop boxes in regular patterns seen elsewhere (averaging 26 visits each, some as many as 10-15 per day) and (2) also made multiple visits to non-governmental organizations (“NGOs”) involved in get-out-the-vote efforts (averaging 5 NGO visits each).

19. Further, it is extremely concerning that, unlike Atlanta, Phoenix and Detroit, which made at least *some* effort to provide video surveillance of drop boxes and retain the files, when TTV submitted open records requests to the City of Milwaukee and 16 other metropolitan municipalities for surveillance video of the boxes they maintained, Milwaukee and every other municipality except the Village of Brown Deer denied that they had recorded or kept video surveillance of their boxes.

20. In the coming weeks, TTV will also complete and publish additional studies of geo-spatial data emitted in Green Bay and Racine during the same two week pre-election period.

CONTRIBUTION TO CASE

21. TTV is uniquely qualified and experienced, and has conducted technical geospatial research and analysis of drop box usage in urban Milwaukee that no party or other *amicus* can provide.

22. TTV therefore moves to submit a “data-intensive” “Brandeis brief” to inform the Court of the actual circumstances and consequences of construing § 6.878(4)(b)1. and Subch. IV to approve unknown actors collecting and delivering ballots to drop-boxes unregulated and unsurveilled. Nettesheim at 11, 12.

CONCLUSION

23. TTV can provide real-world perspective and factual verification of the Supreme Court’s warning in *Brnovich v. Democratic Nat’l Comm.*, 141 S.Ct. 2321 (2021): “Absentee balloting is vulnerable to abuse,” and “States therefore should reduce the risks of fraud and abuse in absentee voting by prohibiting ‘third-party’ organizations, candidates, and political party activists from handling absentee ballots.” *Id.* at 2347–48 (quoting *Building Confidence in U.S. Elections, Report of the Commission on Federal Election Reform* (Sept. 2005) at 46, published by the bipartisan Commission on Federal Election Reform chaired by past-President Jimmy Carter and past-Secretary of State James Baker).

WHEREFORE, True the Vote, Inc. respectfully requests permission to file its Brief *Amicus Curiae* accompanying this Motion in support of Plaintiffs-Respondents-Petitioners Richard Teigen and Richard Thom on or before March 21, 2022.

Dated March 21 2022.

ATTORNEYS FOR AMICUS TRUE THE VOTE, INC.

JAMES MADISON CENTER
FOR FREE SPEECH

FIRST FREEDOMS FOUNDATION

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SUPREME COURT OF THE
STATE OF WISCONSIN
Appeal No. 22AP91

RICHARD TEIGEN and RICHARD THOM,
Plaintiffs-Respondents-Petitioners,

vs.

WISCONSIN ELECTIONS COMMISSION,
Defendant-Co-Appellant,
DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE,
Intervenor-Defendant-Co-Appellant, and
DISABILITY RIGHTS WISCONSIN,
WISCONSIN FAITH VOICES FOR JUSTICE and
LEAGUE OF WOMEN VOTERS OF WISCONSIN,
Intervenors-Defendants-Appellants.

On Appeal from the Circuit Court for Waukesha County
The Honorable Michael O. Bohren, Presiding
Circuit Court Case No. 2021CV958

BRIEF OF *AMICUS CURIAE*
TRUE THE VOTE, INC.
SUPPORTING APPEAL OF PLAINTIFFS-RESPONDENTS-PETITIONERS
RICHARD TEIGEN AND RICHARD THOM

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Dated: March 21, 2022

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STATEMENT OF THE CASE ¹

Plaintiffs allege that on March 31 and August 19, 2020, the Wisconsin Elections Commission (“WEC”) issued guidance to municipal clerks approving absentee ballot “collectors” and drop-boxes, that municipal clerks placed over 500 boxes across the state in reliance, and that following the WEC guidance violates the “in-person-delivery” and “location” requirements under §§ 6.87(4)(b)(1) and § 6.855.²

Intervenors-Defendants Disability Rights Wisconsin *et al* (“DRW”) argue the now-reflexive partisan talking point that Plaintiffs present no evidence. DRW complains:

Teigen has made no effort to substantiate anything similar as an actual practice in present-day elections; he rails against so-called “ballot harvesting” but provides rhetorical heat rather than clarifying light.

DRW Br. 48.

Intervenor-Defendant Democratic Senatorial Campaign Committee (“DCSS”) likewise argues that Plaintiffs lack “evidence of specific problems” and “have offered no evidence that municipal clerks are allowing people other than ‘election officials’ or ‘election inspectors’ to collect sealed ballots....” DSCC Br. 20, 34-35.

Amicus True the Vote (“TTV”) has developed evidence of massive ballot-harvesting in Milwaukee that DRW and DSCC complain is missing, and will present its Special Report (“Report”)³ and testimony on March 24 before the Assembly

¹ Links in this brief were last checked March 18, 2022.

² Pl.Br. 3, R.215, 218-19.

³ App. 1. TTV is also completing research in Green Bay and Racine and will publish that data as well.

Committee on Campaigns and Elections.⁴

Having complained that Plaintiffs do *not* provide evidence, Intervenors will no doubt argue that this Court should disregard TTV's Report which *does* provide evidence. But whether or not this Court considers the Report, it is nevertheless appropriate to consider the "effect of [Defendants'] interpretation on other situations" such as danger of systematic ballot harvesting that TTV investigated. *Lord v. Hubbell, Inc.*, 210 Wis. 2d 150, 168, 563 N.W.2d 913, 920 (Ct. App. 1997) (effect of construing statute of limitations in other circumstances).⁵

BACKGROUND

Milwaukee is one of "the Five" overwhelmingly Democratic cities that funded drop-boxes, voter registration, and turnout efforts using grants from the tax-exempt Center for Technology and Civil Life ("CTCL") funded by Mark Zuckerberg.⁶

Of over \$10.2 million CTCL distributed in Wisconsin, about \$9.2 million (90 %) went to 15 reliably Democratic cities in only 11 of Wisconsin's 72 counties. \$8.8 million (85%) went to "the Five," \$4.79 million (46.5%) to Dane and Milwaukee Counties alone, which have less than 26% of the state's population.⁷

⁴ <https://docs.legis.wisconsin.gov/raw/cid/1667957>

⁵ See also, e.g., *State v. Johnson*, 2007 WI 107, ¶ 68, 304 Wis. 2d 318, 348, 735 N.W.2d 505, 519 (comparing construction of statutory phrase "under other facts and circumstances").

⁶ "The Five" were Milwaukee, Green Bay, Racine, Kenosha, and Madison.
<https://empowerwisconsin.org/wp-content/uploads/2021/03/Green-Bay-email-WI-5.pdf>

⁷ <https://www.techandcivillife.org/key-funders-and-partners/990s/> (CTCL 2020 tax return); <https://www.washingtonexaminer.com/news/campaigns/zuckerberg-funded-elections-group-awarded-more-grants-to-gop-counties>; <https://amgreatness.com/2022/01/10/how-a-mark-zuckerberg-funded-nonprofit-turned-wisconsin-blue/>.

TTV conducted “geo-spatial” tracking analysis of cell phone data collected in Milwaukee during the two weeks prior to the 2020 election, finding overwhelming evidence of highly organized ballot trafficking coordinated among collectors and non-governmental organizations (“NGOs”) using CTCL-funded drop-boxes.⁸

TTV identified 53,291 individual phone devices that visited a drop-box three or more times during that period, but focused specifically on 107 devices that (1) made 20 or more separate visits to drop-boxes (averaging 26 visits each) *and* (2) visited NGOs involved in get-out-the-vote efforts (averaging 5 visits each).⁹ Several of those “20X” devices made as many as 10–15 visits in a single day, with a majority of visits occurring after 8:00 p.m., long past business hours of facilities where the boxes were located.¹⁰

Despite WEC’s direction that municipalities should collect video surveillance of drop-boxes and Milwaukee’s claim that it did so,¹¹ Milwaukee and 15 other area municipalities responded to TTV’s open records requests for video recordings that they had none.¹²

⁸ Report 5-6.

⁹ Report 6.

¹⁰ *Id.*

¹¹ <https://www.jsonline.com/story/news/politics/elections/2020/10/19/how-milwaukee-ensures-absentee-ballots-voting-machines-secured/5937160002/>

¹² Report, App. 2.

ARGUMENT

SUMMARY

Although CTCL’s \$8.8 million tax-exempt expenditures were not reported under federal and state campaign finance law, their selective allocation supporting absentee ballot-harvesting in heavily Democratic cities was strategically designed for partisan effect in violation of federal law governing tax-exempt organizations.

Sec. 6.87(4)(b)1. and the statutory scheme in Ch. 6, Subch. IV, Stats. (§§ 6.84-.89) provide a defense perimeter against such abuse of absentee voting, which the legislature and courts have found to be uniquely susceptible to fraud and undue influence. But the collectors and drop-boxes and the WEC memos giving them cover created a massive breach.

To close that breach, Subch. IV should be construed consistent with the common-sense conclusions of the Commission on Federal Election Reform chaired by past-President Jimmy Carter and past-Secretary of State James Baker. Its *Report of the Commission on Federal Election Reform – Building Confidence in U.S. Elections* (Sept. 2005) (“Comm. Report”)¹³ was quoted with approval by the Supreme Court in *Brnovich v. Democratic Nat’l Comm.*, 141 S.Ct. 2321, 2347–48 (2021):

Absentee balloting is vulnerable to abuse in several ways: ... Citizens who vote at home, at nursing homes, at the workplace, or in church are more susceptible to pressure, overt and subtle, or to intimidation.

Id. at 2347–48 (quoting Comm. Report, 46).

¹³ <https://www.legislationline.org/download/id/1472/file/3b50795b2d0374cbef5c29766256.pdf>

The Court also adopted the Commission’s warning that “[v]ote buying schemes are far more difficult to detect when citizens vote by mail” and its recommendation that “States therefore should reduce the risks of fraud and abuse in absentee voting by prohibiting ‘third-party’ organizations, candidates, and political party activists from handling absentee ballots.” *Id.* (emphasis added).

Thus, this case is not about theoretical statutory construction of Subch. IV. Rather, it presents the real-world decision whether mega-wealthy interests may continue exploiting exempt organizations, collectors and drop-boxes to evade Wisconsin’s defenses against absentee ballot abuse with decisive partisan effect.

**I. WISCONSIN’S STATUTORY SCHEME SHOULD BE
CONSTRUED TO PRESERVE THE DEFENSE PERIMETER
AGAINST ABSENTEE BALLOT ABUSE.**

A statute plain on its face needs no construction. If ambiguity exists, courts resort to “extrinsic evidence of legislative intent - such as the statute’s scope, context, history, and purpose - to resolve the ambiguity.” *State v. Fisher*, 2005 WI App 175, ¶ 9, 285 Wis. 2d 433, 441–42, 702 N.W.2d 56, 60.

Sec. 6.84 governs construction of Subch. IV. In subsec. (1), the legislature finds conclusively that absentee ballots are “wholly outside the traditional safeguards of the polling place” and are therefore particularly susceptible to “fraud or abuse,” “overzealous solicitation of absent voters,” and “undue influence.” Accordingly, subsec. (2) provides that various provisions of Subch. IV are mandatory and that ballots cast in violation shall not be counted. *Accord, Griffin v. Roupas*, 385 F.3d 1128, 1130–31 (7th Cir. 2004) (“Voting fraud is a serious problem in U.S. elections”

and “absentee voting is to voting in person as a take-home exam is to a proctored one”).

Thus, Subch. IV’s governing purpose includes reducing risk of undue influence, overzealous solicitation, and systematic abuse endemic in unreported CTCL-style grants designed by super-wealthy interests to skew Wisconsin elections through partisan deployment of massive, unreported expenditures.

**II. SUBCH. IV SHOULD BE CONSTRUED TO PROHIBIT
GAMING WISCONSIN’S DEFENSES AGAINST ABSENTEE
BALLOT ABUSE WITH UNREPORTED TAX-EXEMPT
“SOFT” MONEY ALLOCATED ON A PARTISAN BASIS.**

Where CTCL directed over 85% of grant funds to the most heavily Democratic cities in the state, it requires singular naivete to believe CTCL had no partisan intent and that the drop-boxes it funded had no partisan effect.

26 U.S.C. § 501(c)(3) and accompanying regulations are explicit that expending tax-exempt funds with such partisan effect is illegal: “voter education or registration activities *conducted in a biased manner that favors (or opposes) one or more candidates* is [sic] prohibited.” Rev. Rul. 2007-41, 2007-1 C.B. 1421 (2007) (emphasis added).”¹⁴

Such activities “will constitute prohibited participation or intervention” if they are conducted “with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a

¹⁴ See generally <https://www.irs.gov/charities-non-profits/charitable-organizations/frequently-asked-questions-about-the-ban-on-political-campaign-intervention-by-501c3-organizations-get-out-the-vote-activities>

candidate or group of candidates.”¹⁵

Particularly *apropos* here, Alliance for Justice states that “501(c)(3) organizations may not ... [t]arget election-protection efforts to a precinct *based on the political party or candidate the precinct is likely to support.*” *Rules of the Game*, 63.¹⁶

Similarly, § 6.855 prohibits “alternative” sites that create partisan advantage *within* local jurisdictions - “no site may be designated that affords an advantage to any political party.”

But CTCL gamed the system, creating partisan advantage *among* local jurisdictions by selectively funding drop-boxes, voter registration, and other activities almost entirely in locations that ensured access and assistance to far more Democratic voters than to Republican.

Federal and state campaign finance laws¹⁷ require detailed disclosure of political expenditures to protect “important governmental interests by providing the public with information about ... the sources of funding for campaign-related ads.” *Wisconsin Right To Life, Inc. v. Barland*, 751 F.3d 804, 841 (7th Cir. 2014).

In contrast, CTCL’s partisan allocation of over \$10 million in unreported “soft” money dwarfs in influence the \$20,000 and \$2,900 contribution limits to candidates

¹⁵ <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations>

¹⁶ <https://www.bolderadvocacy.org/wp-content/uploads/2012/01/Rules-of-the-Game.pdf>

¹⁷ *E.g.*, § 11.0100 is construed “consistent with the right of the public to have a full, complete, and readily understandable accounting” of election activities.

for state and federal offices. Sec., § 11.11001, Stats.; 52 U.S.C. § 30116(a)(1)(A).

While TTV strongly supports the rights of legitimate § 501(c)(3) organizations to engage in non-partisan activities consistent with federal law, §§ 6.87(4)(b)1. and 6.855 must be construed to prevent mega-wealthy partisans from gaming the system using “exempt” money to breach the Subch. IV perimeter defending Wisconsin from absentee ballot abuse.

III. SUBCH. IV PROHIBITS UNCERTIFIED INTERMEDIARIES FROM COLLECTING ABSENTEE BALLOTS.

In *Brnovich*, the Supreme Court strongly endorsed statutory schemes like Wisconsin’s that prevent influence of mega-wealthy partisans. Approving the Commission’s Report, the Court noted that “[r]estrictions on ballot collection are also common in other States.” 141 S. Ct. at 2348 (citing Bybee, J., dissenting below, *Democratic Nat. Committee v. Hobbs*, 948 F.3d 989, 1068–1069, 1088–1143 (9th Cir., 2020)).

The personal delivery and location requirements in §§ 6.87(4)(b)1. and 6.855 should be construed exactly as the Commission recommended:

5.2.1 State and local jurisdictions should prohibit a person from handling absentee ballots *other than the voter, an acknowledged family member, the U.S. Postal Service or other legitimate shipper, or election officials*. The practice in some states of allowing candidates or party workers to pick up and deliver absentee ballots *should be eliminated*.

Comm. Report, 47 (emphases added).

DRW relies heavily on *Sommerfeld v. Bd. of Canvassers of City of St. Francis*, 269 Wis. 299, 69 N.W.2d 235 (1955), where a third party collected 18 absentee

ballots (apparently at the Sisters of St. Francis of Assisi convent¹⁸) and filed them with the clerk. Sec. 11.59 of the 1953 statute¹⁹ at issue provided that an absentee ballot “envelope shall be mailed by such voter, or if more convenient it may be delivered in person.”

Sommerfeld is inapt. First, the anti-fraud protections in the 1953 statute were extra-ordinarily strict.²⁰ They required absentee voters to execute notarized affidavits, required notaries to include non-solicitation representations in their recitals, and subjected both voters and notaries to severe criminal penalties for violation.

Thus, under the *Sommerfeld* statute, absentee voters had already marked secret ballots and both voters and notaries had already sworn non-solicitation *before* “collectors” ever picked up the ballots. It was illegal for the collectors to solicit or influence absentee voters or know how they voted, and the voters, notaries and collectors were all subject to severe penalties if collectors did so.

Further, while a non-solicitation oath and criminal penalties similar to the 1953 law remain in current § 6.87(2), § 6.87(5) adopted in response to the 1965 Voting Rights Act²¹ allows an “individual” or “assistant” to actually mark an absentee ballot for a disabled voter. Critically, the 1953 non-solicitation oath, notary requirements,

¹⁸ <https://www.lakeosfs.org/who-we-are/convent-grounds/>

¹⁹ App. 2.

²⁰ Notarial requirements are themselves exceptionally restrictive, including detailed identification and verification protocols. Ch. 140, Stats.

²¹ 52 U.S.C. § 10301 *et seq.*

and criminal penalties are *absent* from § 6.87(5), which does *not* prohibit an “individual” or “assistant” from soliciting a voter or impose criminal penalties for doing so.

Thus, in contrast to the strict anti-fraud protections under the *Sommerfeld* statute, the WEC memos, collectors and drop-boxes created a perfect partisan storm in 2020, giving “individuals” and “assistants” cover to *solicit* electors’ votes, *vote* those electors’ ballots, *collect* the ballots, then *deliver* the ballots to unmanned drop-boxes with no video or other surveillance – all *en masse* without certification or threat of prosecution.²²

Consequently, even if this Court were to accept Defendants’ invitation to write *Sommerfeld* “collector” language into §§ 6.87(4)(b)1., it would be duty bound to write *Sommerfeld*’s strict anti-fraud protections into § 6.87(5) as well.²³

Intervenors argue that where § 6.87(5) provides assistants for disabled persons unable to mark a ballot, § 6.87(4)(b)1. can not be read to prohibit collectors because those same disabled persons are also unable to mail or deliver the ballot in person. DRW Br. 44-45.

²² <https://elections.wi.gov/forms/EL-121-english>; <https://elections.wi.gov/forms/el-122>. Absentee ballot request and certification forms do *not* require “assistants” to certify or swear they have not solicited the elector’s vote and do *not* threaten criminal penalties for doing so.

²³ Conceivably, § 6.87(5) might be construed with § 6.87(4)(b)1. to imply the *assistant* has authority to mail or deliver the marked ballot. They can *not* be read to imply blanket authorization for tax-exempt organizations expending millions of unreported dollars to fund partisan-designed operations where complete strangers collect and deposit absentee ballots in drop-boxes *en masse* unregulated and un surveilled.

DRW misses the point for two reasons. First, in virtually all instances, disabled persons competent to vote request trusted caregivers to “assist” marking their ballots. The issue therefore is not whether caregivers commit incidental *de minimis* violations when they mail or deliver ballots to clerks for those disabled persons.²⁴ Rather, it is whether CTCL and other partisan interests who leveraged WEC’s COVID-guidance to create industrial-scale ballot harvesting operations will be allowed to continue them. (Overlooking Grandma exceeding the speed limit by 5 m.p.h. does not require ignoring an organized mass street-race exceeding it by 50 or 60 or 100 m.p.h.)

Second, if §§ 6.87(4)(b)1. does, in fact, impose isolated hardships, the remedy is not amending the statute by *post hoc* judicial construction. Despite ample notice prior to the 2020 election,²⁵ WEC and Intervenors did not pursue legislative amendment, commence administrative rule-making, seek an injunction, or even obtain a majority vote of the WEC commissioners whose authority the WEC memos purportedly invoke. WEC and Defendants have now had well over two years to remedy statutory defects through those proper channels, but still refuse to pursue them,²⁶ asking instead that this Court re-write the law.

²⁴ Ignoring incidental *de minimis* violations by trusted caregivers is a commendable exercise of common sense. *See e.g., Kittelson v. Dettinger*, 174 Wis. 71, 182 N.W. 340, 341 (1921) (construing notice requirements in school district vote: “we are not inclined to construe them so strictly that unimportant mistakes ... will defeat ... the purpose for which the statutes were enacted”) (citations omitted).

²⁵ The COVID virus was known as early as December, 2019. Gov. Evers issued his first Emergency Executive Order on March 12, 2020. <https://evers.wi.gov/Documents/EO/EO072-DeclaringHealthEmergencyCOVID-19.pdf>

²⁶ *E.g., Priorities USA v. Nessel*, 860 F. App’x 419, 422 (6th Cir. 2021) (“whatever amount of

This Court should not countenance such gamesmanship. It should construe the statutes as written and require WEC, Intervenors, and any other parties seeking relief to pursue it by proper means.

IV. SUBCH. IV PROHIBITS DROP-BOXES.

Secs. 6.84–.89 (Subch. IV) “must be construed together, because they all appear in the same statutory scheme.” *State v. Reyes Fuerte*, 2017 WI 104, ¶ 28, 378 Wis. 2d 504, 521, 904 N.W.2d 773, 781.

Sec. § 6.87(4)(b)1. requires that absentee ballots “shall be mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.” Legislative intent that “delivered in person to the municipal clerk” refers to the *elector* and not a third party is clearly indicated in § 6.86(6) (Methods for obtaining an absentee ballot): “if an *elector* mails or personally delivers an absentee ballot to the municipal clerk....” (Emphasis added.)

Further, polling places, clerks’ offices, and alternate walk-in sites provided in §§ 5.25, 6.87(4)(b)1. and 6.855 are the *only* locations expressly authorized to receive ballots, either in person or absentee, and *all three* require on-site, authorized personnel – one of the “traditional safeguards of the polling place.” Sec. 6.84(1).

DRW argues that “Wisconsin law ... does not prohibit municipal clerks from using secure drop-boxes.” DRW Br. 52. But DRW’s “nothing says we can’t” argument tellingly concedes that there is *no* language in *any* statute authorizing

surprise befell the advocacy groups in the 2020 elections, they now are keenly aware of the voter-transportation law and can organize their future activities in compliance with it”).

drop-boxes. Further, DRW calling them “secure” is pure fantasy – there was no video surveillance or other security protocols documenting who deposited ballots in the boxes, how many ballots they deposited, how many times they deposited ballots, who voted the ballots they deposited, how they solicited or “collected” them, or whether the electors voting the ballots authorized them to do so.

Even if this Court were to imply “collector” authority from the “assistant” language in § 6.87(5) as Defendants urge, that language implies *only* authority for the *assistant* to mail or deliver the ballot – it does *not* imply authority for hundreds of complete strangers to engage in massive ballot harvesting in conjunction with strategically allocated grants from non-profits funded by super-wealthy partisans.

CONCLUSION

In the 2020 election, mega-wealthy interests evaded Wisconsin’s defenses against absentee ballot abuse, allocating \$10.2 million in unreported soft money with patently partisan design and decisive effect, funding drop-boxes used thousands of times by partisan collectors without accountability or surveillance.

Those facts more than validate the Commission on Federal Election Reform’s *Brnovich* warning that “the practice ... of allowing candidates or party workers to pick up and deliver absentee ballots should be eliminated.”

Secs. 6.87(4)(b)1. and 6.855 and the circuit court order enjoining use of drop-boxes should be so construed and affirmed.

Respectfully submitted March 21, 2022.

ATTORNEYS FOR AMICUS TRUE THE VOTE, INC.

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* Application pending for admission pro
hac vice.

CERTIFICATION OF FORM AND LENGTH

I hereby certify that this brief conforms to the rules contained in Wis. Stats. § 809.19(8)(b), (bm) and (c) for a brief. The length of this brief is 2,972 words, calculated using the word count function of Microsoft Word 2016.

March 21, 2022

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**CERTIFICATION OF COMPLIANCE
WITH RULE 809.19 (12)**

I hereby certify that:

I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of s. 809.19 (12).

I further certify that:

This electronic brief is identical in content and format to the printed form of the brief filed as of this date.

A copy of this certificate has been served with the paper copies of this brief filed with the court and served on all opposing parties.

March 21, 2022

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SUPREME COURT OF THE
STATE OF WISCONSIN
Appeal No. 22AP91

RICHARD TEIGEN and RICHARD THOM,
Plaintiffs-Respondents-Petitioners,

vs.

WISCONSIN ELECTIONS COMMISSION,
Defendant-Co-Appellant,
DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE,
Intervenor-Defendant-Co-Appellant, and
DISABILITY RIGHTS WISCONSIN,
WISCONSIN FAITH VOICES FOR JUSTICE and
LEAGUE OF WOMEN VOTERS OF WISCONSIN,
Intervenors-Defendants-Appellants.

On Appeal from the Circuit Court for Waukesha County
The Honorable Michael O. Bohren, Presiding
Circuit Court Case No. 2021CV958

APPENDIX OF *AMICUS CURIAE*
TRUE THE VOTE, INC.
SUPPORTING APPEAL OF PLAINTIFFS-RESPONDENTS-PETITIONERS
RICHARD TEIGEN AND RICHARD THOM

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pro hac vice.

Dated: March 21, 2022

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**CERTIFICATE OF COMPLIANCE
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March 21, 2022.

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SPECIAL REPORT ¹

DELIVERY OF ABSENTEE BALLOTS BY INTERMEDIARIES TO MILWAUKEE COUNTY AREA DROP BOXES OCTOBER 20 – NOVEMBER 3, 2020

MARCH 18, 2022

True the Vote is a non-profit organization² engaged in public interest research and education. TTV works with analysts who have extensive experience utilizing data to detect patterns in complex commercial and criminal investigations across diverse market segments, including government agencies and healthcare. Among its activities, TTV conducts non-partisan research and analysis of election administration and process integrity.

I. BALLOT HARVESTING INVESTIGATIONS

During the November 2020 election cycle, the Center for Technology and Civil Life (“CTCL”) made over \$350 million in grants to local governments for election-related activities, including drop-boxes for absentee ballots.³

In Wisconsin, CTCL distributed over \$10.3 million in grants. About 86% of the funding went to five cities, Milwaukee, Madison, Green Bay, Kenosha, and Racine,⁴ which they used to provide drop boxes for receiving absentee ballots and other voter assistance.⁵

In 2021, in response to whistleblower reports, TTV began purchasing and analyzing publicly available drop box surveillance video and commercially available geospatial (mobile device) data generated at CTCL grant-funded drop box locations during the time periods in which drop boxes were in use for the 2020 General Election.⁶

¹ This Report is sponsored by First Freedoms Foundation, Inc., a non-profit, § 501(c)(3) organization engaged in public interest law and education. <http://firstfreedomfoundation.org>

² <https://www.truethetvote.org/>

³ <https://www.techandcivillife.org/grant-update-march/>

⁴ A Review of the 2020 Election, Wisconsin Institute for Law and Liberty (2021). <https://will-law.org/wp-content/uploads/2022/01/2021ReviewStudyJanuary.pdf>

⁵ Election scandal: Roots in Racine – Wisconsin Spotlight; <https://www.fox6now.com/news/racine-mobile-elections-vehicle-rolled-out-after-2020-vote>

⁶ TTV’s research is featured in the upcoming documentary, “2000 Mules,” scheduled for release in April, 2020. <http://2000mules.com/>

TTV's initial investigations were conducted in the six counties that comprise the metro-Atlanta, Georgia area and in Maricopa County, Arizona. Analysis revealed evidence of massive ballot harvesting, with ballots being delivered to drop boxes by intermediaries other than the absentee voters themselves.⁷

In the metro-Atlanta area, analysis of geospatial data confirmed that 242 intermediaries made 5,668 individual stops at drop boxes between October 12, 2020, when early voting began, and January 6, 2021, the date of the United States Senate run-off election. The timestamps in the geospatial data were then used to identify drop box visits in the surveillance video. The video confirms these intermediaries were, in fact, making repeated visits to drop boxes, depositing multiple ballots on each visit. In many instances, the videos show intermediaries attempting to deposit so many ballots that they were unable to fit into the drop box drop slot, and ballots are seen falling to the ground. The same patterns emerged in Maricopa County, where more than 202 intermediaries made 4,282 individual drop box visits during that time period.

Additionally, TTV received testimony from witnesses and informants disclosing that intermediaries were typically paid \$10 per ballot for each ballot they collected and delivered.⁸ In Arizona, these revelations have already produced multiple criminal indictments.⁹

II. WISCONSIN STUDY

Wisconsin law requires that absentee ballot envelopes be “mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.”¹⁰ It is illegal for an absentee ballot to be cast by anyone other than the elector, with a witness certifying the vote.

Critically, however, if the elector receives assistance marking the ballot, the “assistant” must certify that the elector requested the assistance, but is *not* required to certify that he or she did not *solicit* the elector’s vote.¹¹

TTV is currently investigating ballot harvesting patterns in three of the five Wisconsin cities that received CTCL funding. Specifically, TTV is conducting research and analysis to determine whether, during the two-week period prior to the 2020 election (10/20/20 – 11/3/20), there was systematic delivery of absentee ballots to drop boxes by intermediaries other than by the absentee voters themselves.

TTV has concluded its initial analysis of drop box traffic data in Milwaukee County. Its findings are summarized in this report. TTV is continuing its research and analysis of data

⁷ E.g., Appendix 1, TTV Administrative Complaint to Georgia Secretary of State, Nov. 30, 2021.

⁸ Appendix 1, p. 2.

⁹ <https://www.azag.gov/press-release/two-individuals-accused-ballot-harvesting-yuma-county>

¹⁰ Sec. 6.87(4)(b)1., Wis. Stats.

¹¹ <https://elections.wi.gov/sites/elections/files/2020-08/EL-122%20Standard%20Absentee%20Ballot%20Certificate-portrait%20%28rev.%202020-08%29.pdf>

from other areas where CTCL-funded drop boxes were located, and will be releasing those findings in the near future.

Completion of TTV’s Milwaukee County research is especially timely. On February 19, 2022, in an action brought by Wisconsin Institute for Law and Liberty,¹² the Circuit Court for Waukesha County held that use of drop boxes for absentee voting violates § 6.87(4)(b)1., Stats., and enjoined their use statewide.¹³ WILL’s action, *Teigen v. Wisconsin Elections Commission*,¹⁴ is now before the Wisconsin Supreme Court, which has permitted the injunction to remain in place for the spring general election on April 5.¹⁵

TTV’s research will inform both public discussion and legislative and policy proposals to enhance transparency, uniformity, and equal access for Wisconsin voters in future elections. Further, on March 21, TTV will be filing an *amicus* brief in the *Teigen* case in the Wisconsin Supreme Court, arguing that construing § 6.87(4)(b)1. to prohibit use of drop boxes will ensure greater equality of voting access among all Wisconsin electors regardless of their place of residence, and will also limit the ability of super-wealthy activists to influence Wisconsin elections through massive, tax-exempt spending that escapes reporting under ordinary campaign finance law but is strategically designed and administered to achieve a partisan result.

Finally, while TTV believes that construction of the law will benefit *future* elections, TTV does not opine on the legality of past activity analyzed in this report or suggest that the 2020 election results should be decertified based on its findings.

III. RESEARCH METHODS

TTV uses both video surveillance recordings and geospatial data to track and analyze drop box traffic patterns. Surveillance video is routinely used in a wide range of applications including security, highway traffic and tolls, wildlife tracking, marketing, and facility usage.

It is difficult to imagine a public function more critical than voting. Given the ubiquity of video surveillance and tracking in other applications, 24/7 video surveillance of drop box traffic would seem to be an expected rudimentary requirement of the Wisconsin Elections Commission and responsible local governments utilizing drop boxes. Visual records of box activity would provide accountability and security at least somewhat comparable to the safeguards for traditional same-day and early in person voting, which are conducted in the presence of authorized officials and observers.

For example, Georgia’s election rules required drop boxes with 24/7 video surveillance.¹⁶

¹² <https://will-law.org>

¹³ <https://will-law.org/wp-content/uploads/2022/02/142-2022-01-20-Order-granting-Pls-Summary-Judgment-signed-1-19-221.pdf>

¹⁴ *Teigen v. Wisconsin Elections Commission*, Appeal Number 2022AP000091; <https://wscca.wicourts.gov/appealHistory.xsl?caseNo=2022AP000091&cacheId=E1AD15A7F683EB361365795C64D83964&recordCount=1&offset=0&linkOnlyToForm=false&sortDirection=DESC>

¹⁵ <https://elections.wi.gov/node/7861>

¹⁶ <https://www.gpb.org/news/2021/07/12/absentee-drop-box-use-soared-in-democratic-areas-voting-law-change>

Such video files are election records mandated for retention under federal law.¹⁷ Through open records requests, TTV obtained over 4 million minutes of drop box surveillance video from Georgia.¹⁸

TTV also purchased commercially available, anonymized, geospatial mobile device information. Analysis of this cell phone data can pinpoint the specific location of a unique device at a specific time without disclosing private information about the device owner's identity.

This type of data analysis use is highly valued because of its accuracy, and is commonly used in a wide range of mainstream applications including product marketing and targeted messaging in political campaigns. In fact, virtually every cell phone user has received some type of promotional or political text.

Properly conducted, geospatial data aggregation and analysis raises no legal concerns and is routinely conducted by diverse users including government agencies, businesses, marketing firms, transportation services, political campaigns, and health, education, and social science providers and researchers.¹⁹

For example, in 2019, the New York Times published a widely read expose on cell phone tracking based on data collected in 2016 – 2017 at the New York Stock Exchange, major cities, government facilities (Pentagon and Whitehouse), and private residences.²⁰

NYT even included a series of animated graphics, tracking routes traveled by the President along with the hyperlink, “How to Track President Trump,” followed by the byline, “Read more about the national security risks found in the data.”

In its election integrity work, TTV utilizes geospatial data and analysis to detect and analyze patterns of potentially inappropriate election activities.

The accuracy of the data and methodology is beyond question. As the NYT article states:

Describing location data as anonymous is “a completely false claim” that has been debunked in multiple studies, Paul Ohm, a law professor and privacy researcher at the Georgetown University Law Center, told us. “Really precise, longitudinal geolocation information is absolutely impossible to anonymize.”

“D.N.A.,” he added, “is probably the only thing that’s harder to anonymize than precise geolocation information.”

However, even though a device’s “location data” is not “anonymous,” as Professor Ohm says, geo-spatial researchers may keep the device owner’s *identity* anonymous.

¹⁷ 52 U.S.C. § 20701 requires election officials to retain “all records and papers” for 22 months following a federal election.

¹⁸ Appendix 1, pp. 1 - 3.

¹⁹ E.g., <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3821057/>; <https://www.jstor.org/stable/42748309>; <https://insights.som.yale.edu/insights/what-can-smartphone-location-data-tell-us-about-the-pandemic>; <http://www.sehinc.com/news/cell-phone-data-makes-traffic-analysis-and-transportation-planning-easier>; <https://ij-healthgeographics.biomedcentral.com/articles/10.1186/1476-072X-7-22>; <https://www.jstor.org/stable/44134975>; <https://www.jstor.org/stable/30036682>

²⁰ <https://www.nytimes.com/interactive/2019/12/19/opinion/location-tracking-cell-phone.html>

In contrast to the NYT, which identified President Trump and published routes he traveled, TTV does not “unmask” or “de-anonymize” owner identities of the devices it tracks. Authorized government and legal agents can and do routinely obtain deanonymized information from cell phone companies, but TTV does not publish that kind of deanonymized analysis.

IV. DATA

Surveillance Video. Unlike Georgia, which requires constant video surveillance of ballot drop boxes, Wisconsin law does not require any such surveillance.²¹

TTV made open records requests to multiple Milwaukee County municipalities for drop box surveillance video. In response, only the Village of Brown Deer provided video for one of its two drop boxes located at Village Hall. Despite reported statements by the City of Milwaukee that it had maintained video surveillance,²² neither the City of Milwaukee nor any other municipality in the County provided video. Each responded that it had failed to record surveillance video, or had failed to maintain the video, or did not respond to the requests at all.²³

Geospatial Data. Because Milwaukee officials failed or refused to provide surveillance video, TTV focused our analysis on the use of geospatial data to determine whether third-party intermediaries made multiple visits to drop box locations.

TTV purchased 25 terabytes of cell phone signal data emitted by devices in the Milwaukee County area during the two-week period prior to the 2020 election, October 20 - November 3. The data was purchased from standard commercial providers and includes signals from over 27,000 cell phone apps, which data aggregators purchase and resell to public and private buyers for official and commercial uses.

Consistent with TTV policy and methods, the data was never held in any form other than “anonymized.” While the data provides exact locations of specific devices at specific times, it does not disclose the identities or other private information about the individuals registered as owners of those devices.²⁴

²¹ It should also be noted that Wisconsin election statutes do not authorize the use of drop boxes. <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-9-ballot-drop-box-definitions-design-features-location-and-number.aspx>

²² <https://www.jsonline.com/story/news/politics/elections/2020/10/19/how-milwaukee-ensures-absentee-ballots-voting-machines-secured/5937160002/>

²³ Appendix 2, log of TTV open records requests for surveillance video. Requests were sent to Bayside Village, Brown Deer Village, City of Milwaukee, Cudahy, Fox Point Village, Franklin, Glendale, Greendale, Greenfield, Hales Corner, Milwaukee County, Oak Creek, River Hills, Shorewood, South Milwaukee, St. Francis, Wauwatosa, West Allis, West Milwaukee, and Whitefish.

²⁴ The raw and unedited data purchased by TTV does not include any analysis conducted by TTV or its contractors, nor does it include any list of specific IMEI devices or identifying information regarding any individuals other than commercially available, anonymized, IMEI data in its original form.

IV. ANALYSIS

To obtain an appropriate study sample, TTV analysts followed a prescribed methodology. First, we correlated the data with the exact longitude and latitude of drop boxes located in the Milwaukee County area, extracting device identifications of only those devices “pinpointed” at drop box locations during the 10/20 - 11/3 window. Each drop box pinpoint is referred to as a visit.

“Pinpointing” is a non-technical term for plotting multiple pings emitted by a specific device within a specific time frame to determine the location of the device at a specific time. For example, plotting 200 pings from 50 different apps emitted from a device within a 10 second interval “pinpoints” exactly where the device was located during that time window. TTV’s methodologies for pinpointing device locations are highly accurate, exceeding customary industry standards and those used by NYT for its article.

In municipalities in the Milwaukee County area, 53,291 cell phones were pinpointed at ballot drop boxes three or more times during the 10/20 - 11/3 window

Within that two-week window, 107 unique devices made (1) 20 or more visits to drop boxes (averaging 26 visits each, some as many as 10-15 per day) *and* (2) multiple visits to non-governmental organizations (“NGOs”) involved in get-out-the-vote efforts (averaging 5 NGO visits each).

Those 107 “20X” devices together visited drop boxes a total of 2,824 times during the window, with a majority of visits occurring after 8:00 pm, past posted business hours at the government or other locations where the drop boxes were located.

Appendix 3 provides IMEI Device Nos. of all 107 20X devices analyzed. Appendix 4 provides maps of 8 of those devices showing routes they travelled and the drop boxes and NGO locations they visited on October 20, 2020.

The exact chronology of each device can be tracked and pinpointed from 12:00 a.m. to 11:59 p.m. on the date shown. However, to maintain device and NGO anonymity, the IMEI Device Nos. are redacted in Appendix 3, and the locations are removed from the Appendix 4 maps, with device routes intentionally overlaid as composites without time sequencing.²⁵

²⁵ Like “unmasking” or “de-anonymizing” device owners, time sequencing is a routine industry capability. TTV’s analysts are capable of producing that kind of information the same as other industry analysts. However, TTV does not produce or publish that information as part of its public interest research work.

APPENDIX 1

Administrative Complaint to Georgia Secretary of State Brad Raffensperger

Complainant: Tue the Vote, PO Box 3109 #19128 Houston, TX 77253-3109
Complaint: Ballot trafficking General Election November 2020 and Runoff
Election January 2021 periods
Counties: Atlanta metro area
Potential Violations O.C.G.A. § 21-2-385 (a) Procedure for voting by absentee ballot;
advance voting

November 30, 2021

Brad Raffensperger
Secretary of State
Georgia Capitol
206 Washington St SW
Atlanta, GA 30334

Complainant: True the Vote, PO Box 3109 #19128 Houston, TX 77253-3109
Complaint: Ballot trafficking General Election November 2020 and Runoff Election January 2021
periods Counties: Atlanta metro area
Potential Violations: O.C.G.A. § 21-2-385 (a) Procedure for voting by absentee ballot; advance voting

INFORMATION IN SUPPORT OF COMPLAINT

As part of True the Vote's ongoing nonpartisan election integrity research and in response to reports of ballot trafficking in Georgia and other states across the country, we undertook certain efforts to examine this issue more closely. Following a detailed account of coordinated efforts to collect and deposit ballots in drop boxes across metro Atlanta, True the Vote obtained publicly available surveillance video as well as commercially available cell phone data which revealed concerning patterns of behavior consistent with the reports made to our organization. True the Vote hereby submits this Complaint to the Georgia Secretary of State detailing the potentially improper election efforts which took place during the General Election of November 2020 and Runoff Election of January 2021.

Acting upon information provided to us, True the Vote's contracted team of researchers and investigators spoke with several individuals regarding personal knowledge, methods, and organizations involved in ballot trafficking in Georgia. One such individual, hereinafter referred to as John Doe, admitted to personally participating and provided specific information about the ballot trafficking process. This information was provided under agreement of anonymity.¹

¹ It is imperative that True the Vote maintain confidentiality agreements made with persons willing to speak openly with the organization. First and foremost, True the Vote is primarily concerned for the safety of individuals willing to come forward to speak about such sensitive topics. True the Vote is not a law enforcement agency, we do not have the resources of the State, and we are unable to provide any safety guarantees to those individuals willing to provide information other than to keep our word that their identity will not be disclosed. Furthermore, for the same reason law enforcement agencies do not disclose the identities of their confidential informants, True the Vote must also maintain such confidences. To do otherwise would greatly inhibit future efforts of the organization as individuals would no longer be willing to speak openly about such matters. Finally, to the extent an individual admits to conduct constituting a crime, True the Vote is unable to offer immunity from prosecution. Informants would not be honest in their discussions if they lacked confidence that any admissions made would be held in the strictest of confidences and would not subject them to criminal prosecution in the future.

John Doe described a network of non-governmental organizations (“NGO”s) that worked together to facilitate a ballot trafficking scheme in Georgia. John Doe claimed to have been one of many individuals paid to collect and deliver absentee ballots during the early voting periods of the November 2020 General Election and the January 2021 Runoff Election. While acknowledging that others might view his actions as inappropriate, John Doe did not seem to understand the unlawful nature of this conduct nor that it might constitute organized criminal activity. John Doe’s perception was that he had been hired to do a job and it was appropriate to be paid for the services rendered.

John Doe’s assignment included collecting ballots, both from voters in targeted neighborhoods and from NGOs that had their own ballot collection processes, delivering those ballots to other NGOs, picking up designated ballot bundles from the same group of NGOs, and depositing ballots into drop boxes spanning six counties in the metro Atlanta area. Each drop box delivery would typically include between 5 to 20 ballots. John Doe described a payment validation process which involved taking cell phone pictures of the drop box where ballots were deposited. Participants were compensated, typically at a rate of \$10 per ballot. John Doe stated he had been paid directly by one of these NGOs.²

Following this report, True the Vote submitted open records requests to obtain the surveillance video of various drop boxes across Georgia during the General Election of November 2020 and Runoff Election of January 2021. Despite a legal mandate to maintain this video, county officials were only able to produce an estimated 20% of the surveillance video requested in the counties of Fulton, DeKalb, Cobb, and Gwinnett.³ Nonetheless, in our initial review of the available 3 million minutes of surveillance video, we found compelling evidence to support the reports of absentee ballot trafficking conducted during the November 3, 2020, General Election and January 5, 2021, Runoff Election periods.

In addition to ordering surveillance video, True the Vote also purchased commercially available, anonymized, geospatial mobile device information. This cell phone data establishes what devices were at a particular location at a particular time but does not disclose any private information about a person’s identity. There are a variety of uses for this type of data including product marketing and targeted messaging in political campaigns. This type of unique device identification data is highly desirable because of its accuracy and its use is becoming more mainstream as of

While True the Vote will not directly identify the individual who made the admission, the organization is able to provide the publicly available data we used in our research. As an office possessing investigative powers and the resources of the State, the identity of any individual who may have information pertinent to your efforts is discoverable in the data set now available to you. Working in conjunction with law enforcement, the State, in their discretion, can provide the necessary and appropriate safety guarantees and immunity protections for cooperating witnesses should that become necessary.

² John Doe stated the NGOs made the payments, but it was not entirely clear from his description whether participants were paid directly by the NGOs or through an intermediary.

³ In separately filed complaints, we detail the missing video footage, including explanations afforded us by county election officials, to support further investigations and develop standards regarding critical aspects of surveillance video capture.

late. In fact, virtually every cell phone user has received some type promotional or political text. Law enforcement, defense, and intelligence agencies have been using geospatial mobile device data to generate information on possible suspects or witnesses in investigations for several years. For the purposes of our research, True the Vote purchased such data and used it to identify patterns of potentially inappropriate election activities. After reviewing this data, True the Vote was able to confirm certain patterns of activity around absentee ballot drop boxes, as initially reported by John Doe.

During the Runoff Election period, in six counties in and around Atlanta, 552,987 cell phones came within a narrowly defined distance of ballot drop boxes during our study period. However, 242 unique devices made repeat trips to drop boxes averaging 23 trips each. These same 242 devices also went repeatedly, averaging eight trips each, to specific NGOs.

These 242 individual devices went to drop boxes a total of 5,668 times with approximately 40% of the visits occurring between the unusual hours of 12:00 a.m. and 5:00 a.m.

The review of surveillance video was queued according to our geospatial data analyses and focused on the device patterns that emerged from our research. The video, though often grainy and sometimes distant, revealed numerous unusual behaviors.

Individuals were observed attempting to deposit multiple ballots into the drop box. Sometimes, the person was attempting to deposit so many ballots that they were unable to fit them all in and the video shows ballots falling to the ground.

Additionally, in our cursory review of surveillance video it was confirmed that individuals made repeat visits to drop boxes.

Cars were observed with out-of-state license plates, including rental cars identifiable because of the sticker seal rental car companies affix to the driver's side door. This in itself is not necessarily problematic; however it is notable because these out of state and rental cars were driven by individuals who were also in our targeted study group of 242 devices.

Consistent with John Doe's report regarding the proof necessary to receive payment, individuals were observed taking cell phone photos, not of themselves, but of their ballot deposits or of the drop box after the ballots had been deposited.

Curiously, a change in behavior seemed to occur on or around December 23, 2020, the day after Arizona authorities announced that fingerprints on absentee ballot envelopes helped uncover an illegal ballot harvesting scheme in that state. After that announcement, individuals depositing ballots into drop boxes in Georgia are seen wearing blue surgical gloves. They often put them on just before picking up their stack of ballots and remove them as they exit the drop box area.

In conclusion, following John Doe's personal admission to participation in a large-scale ballot harvesting effort in Georgia, True the Vote obtained publicly available video footage and

commercially available cell phone data which supports his account of these efforts. In the data we reviewed, the 242 mobile devices which repeatedly visited drop boxes also repeatedly visited locations associated with a select group of NGOs. Not only did these devices make repeat visits but a significant number of these visits, approximately 40%, were made during extremely unusual hours in the middle of the night. Additionally, surveillance footage shows numerous instances in which individuals deposited multiple ballots at a time – a practice which is prohibited under Georgia law except under very limited circumstances.⁴ Finally, consistent with John Doe’s description of how participants were paid, individuals were seen taking photos of drop boxes or of ballots as they were deposited into a drop box.

True the Vote files this Complaint and provides this information to the Secretary of State as the arbiter of election integrity for the State of Georgia.⁵ In conjunction with an investigation and formal request by the Secretary of State’s office, True the Vote will provide all publicly or commercially available information including the geospatial data and surveillance video to assist with any efforts undertaken by your office.⁶

⁴ O.C.G.A. § 21-2-385 (a) reads in pertinent part: Such envelope shall then be securely sealed and the elector shall then personally mail or personally deliver same to the board of registrars or absentee ballot clerk, provided that mailing or delivery may be made by the elector’s mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of such elector. The absentee ballot of a disabled elector may be mailed or delivered by the caregiver of such disabled elector, regardless of whether such caregiver resides in such disabled elector’s household. The absentee ballot of an elector who is in custody in a jail or other detention facility may be mailed or delivered by any employee of such jail or facility having custody of such elector. An elector who is confined to a hospital on a primary or election day to whom an absentee ballot is delivered by the registrar or absentee ballot clerk shall then and there vote the ballot, seal it properly, and return it to the registrar or absentee ballot clerk.

⁵ In filing this Complaint, True the Vote makes no assessment of the legality of any activity seen in the data or surveillance video but merely provides this information for official State use as deemed appropriate by your agency.

⁶ This raw and unedited data purchased by True the Vote does not include any analysis conducted by True the Vote or its contractors nor does it include any list of specific IMEI devices of interest. Furthermore, this data does not include any identifying information about any individuals other than commercially available, anonymized, IMEI data in its original form.

APPENDIX 2

Log of True the Vote
Open Records Requests to
Milwaukee Urban Area Municipalities

For

Dropbox Video Surveillance Records
October 20 – November 3, 2020

TRUE THE VOTE
MILWAUKEE COUNTY AREA COMMUNITIES
OPEN RECORDS REQUESTS FOR DROPBOX VIDEO SURVEILLANCE FILES
NOVEMBER 2020 ELECTION

Municipality	ORR	Submit Date	Response Date	Point of Contact	Action	Reason/Comments
Milwaukee	Dropbox Video	4/12/2021	4/21/2021	cwooda@milwaukee.gov	Undelivered	No custodian for video.
Fox Point	Dropbox Video	4/12/2021	6/30/2021	KMeyer@villageoffoxpoint.com	No Responsive Records	Did not provide.
Brown Deer	Dropbox Video	4/12/2021	4/13/2021	metzel@browndeerwi.org	Delivered Video	
Shorewood	Dropbox Video	4/12/2021	4/13/2021	sbruckman@villageofshorewood.org	No Responsive Records	ORR req. "Milwaukee."
West Milwaukee	Dropbox Video	4/12/2021	4/16/2021	susan.schupp@westmilwaukee.org	No Responsive Records	No security camera, 1 dropbox.
Wauwatosa	Dropbox Video	4/12/2021	4/16/2021	cdulaney@wauwatosa.net	No Responsive Records	No cameras directed at ballot boxes.
Bayside	Dropbox Video	4/12/2021	4/13/2021	ljalvardt@baysidewi.gov	No Responsive Records	"We do not have copies of the video recordings."
Whitefish Bay	Dropbox Video	4/12/2021	4/13/2021	J.Krueger@wfbvillage.org	No Responsive Records	No such records exist.
Greendale	Dropbox Video	4/12/2021	4/13/2021	melanie@greendale.org	No Responsive Records	Does not have the records requested.
Hales Corners	Dropbox Video	4/12/2021	4/12/2021	skulik@halescorners.org	No Responsive Records	Video only retained for 90 days.
River Hills	Dropbox Video	4/12/2021	4/12/2021	tlaborde@vil.river-hills.wi.us	No Responsive Records	Did not utilize dropboxes.
South Milwaukee	Dropbox Video	4/12/2021	4/12/2021	Kkastenson@smwi.org	No Responsive Records	Oldest content on server is 44 days old.
Glendale	Dropbox Video	4/12/2021	4/12/2021	R.Safstrom@glendalewi.gov	No Responsive Records	No video from requested time frame.
Oak Creek	Dropbox Video	4/12/2021	4/12/2021	croeske@oakcreekwi.org	No Responsive Records	No video from requested time frame.
Greenfield	Dropbox Video	4/12/2021	4/12/2021	Jennifer.Goergen@greenfieldwi.us	No Responsive Records	"Do not have the records you requested."
St Francis	Dropbox Video	4/12/2021	4/12/2021	anne.uecker@stfranwi.org	No Responsive Records	"No records exist for your request."
Franklin	Dropbox Video	4/12/2021	4/28/2021		No Responsive Records	Off-premises drop boxes were used for AB.

APPENDIX 3

Redacted IMEI Device Nos. of
107 Cell Phone Devices Making 20+ Visit to
Milwaukee Urban Area Drop-boxes

October 20 – November 3, 2020

IMEI DEVICE ID NOS.

Device Identification	Drop Box Visits
6631960f-5bb8-4d77-9468-xxxxxxxxxxxx	35
407d9517-f1ad-4656-bc12-xxxxxxxxxxxx	35
94dc1108-5658-40ac-b0a1-xxxxxxxxxxxx	34
ea2bd83f-7cc2-46cf-b19e-xxxxxxxxxxxx	34
dd78342b-9734-465f-b18a-xxxxxxxxxxxx	34
398959d3-9975-4072-b01e-xxxxxxxxxxxx	33
6e4068d3-6037-4382-9c30-xxxxxxxxxxxx	32
e1c4de08-e616-4e14-989c-xxxxxxxxxxxx	32
cc7dff4b-32cc-4a77-9c68-xxxxxxxxxxxx	32
7e24a489-3578-4982-82d2-xxxxxxxxxxxx	32
26c078c0-ddc0-42d2-a9b2-xxxxxxxxxxxx	32
b19161fc-6682-41f4-b536-xxxxxxxxxxxx	32
a4681626-135a-4a62-8d1a-xxxxxxxxxxxx	32
edf17761-044c-4b66-b280-xxxxxxxxxxxx	31
891dfbb0-75e1-4294-9fbc-xxxxxxxxxxxx	31
b27d629d-fca1-45d6-9c47-xxxxxxxxxxxx	31
f0e40fe1-abcc-4b68-aae2-xxxxxxxxxxxx	31
bf9522dd-5224-44a0-bef4-xxxxxxxxxxxx	30
34611e70-d89c-4d56-a261-xxxxxxxxxxxx	30
8f4c882c-7632-4f28-b4fb-xxxxxxxxxxxx	29
32b169bb-e335-4b55-9ec5-xxxxxxxxxxxx	29
22dd4789-7af4-4cfc-b4eb-xxxxxxxxxxxx	29
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7f28dd25-26dc-4a93-ba28-xxxxxxxxxxxx	29
f6e53a37-265c-4f57-976a-xxxxxxxxxxxx	29
3f5c7b90-f98f-4049-a66a-xxxxxxxxxxxx	28
e10d2a2e-0c06-409e-82b9-xxxxxxxxxxxx	28
0351dd99-0241-4cc6-95c3-xxxxxxxxxxxx	28
ce86e18f-e17e-4532-bc5f-xxxxxxxxxxxx	28
ec13d068-794b-4e96-9bb3-xxxxxxxxxxxx	28
a84faea3-e833-47cc-b154-xxxxxxxxxxxx	28
38568e17-cf3e-48b7-ae14-xxxxxxxxxxxx	28
176d880d-3c5e-4a99-a8ed-xxxxxxxxxxxx	28
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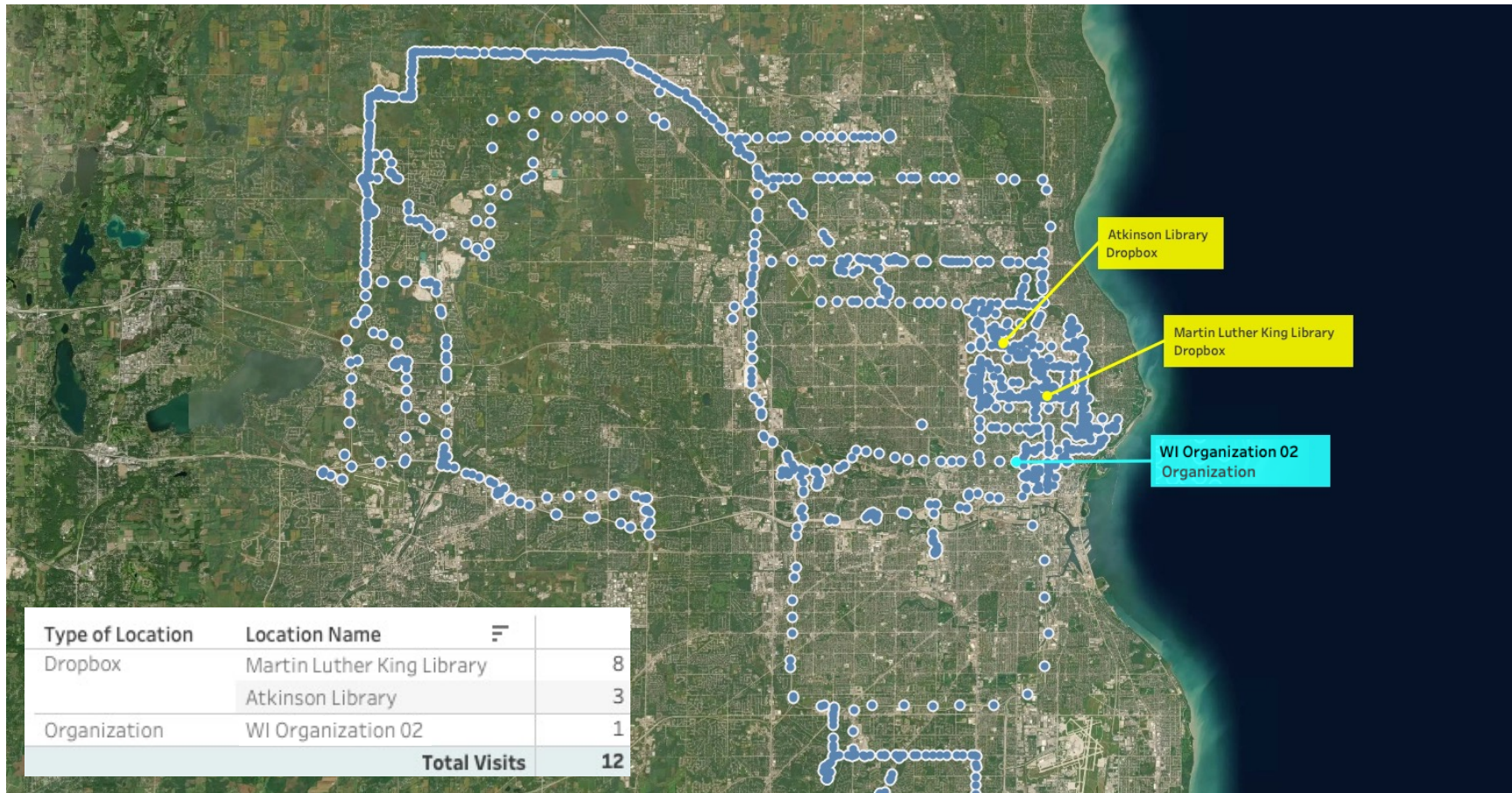
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a23a31dc-c1f8-405f-86c2-xxxxxxxxxxxx	27
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104cdf97-d67d-4274-aacb-xxxxxxxxxxxx	27
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f0f406f8-c024-47be-831a-xxxxxxxxxxxx	26
140ab1e1-0f0a-4a90-a23e-xxxxxxxxxxxx	26
926661e1-93a8-4be2-8fd1-xxxxxxxxxxxx	26
2ce31602-3215-4791-987b-xxxxxxxxxxxx	26
3cf31532-9a52-4dd9-a553-xxxxxxxxxxxx	26
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115d1544-aef0-482b-a70d-xxxxxxxxxxxx	26
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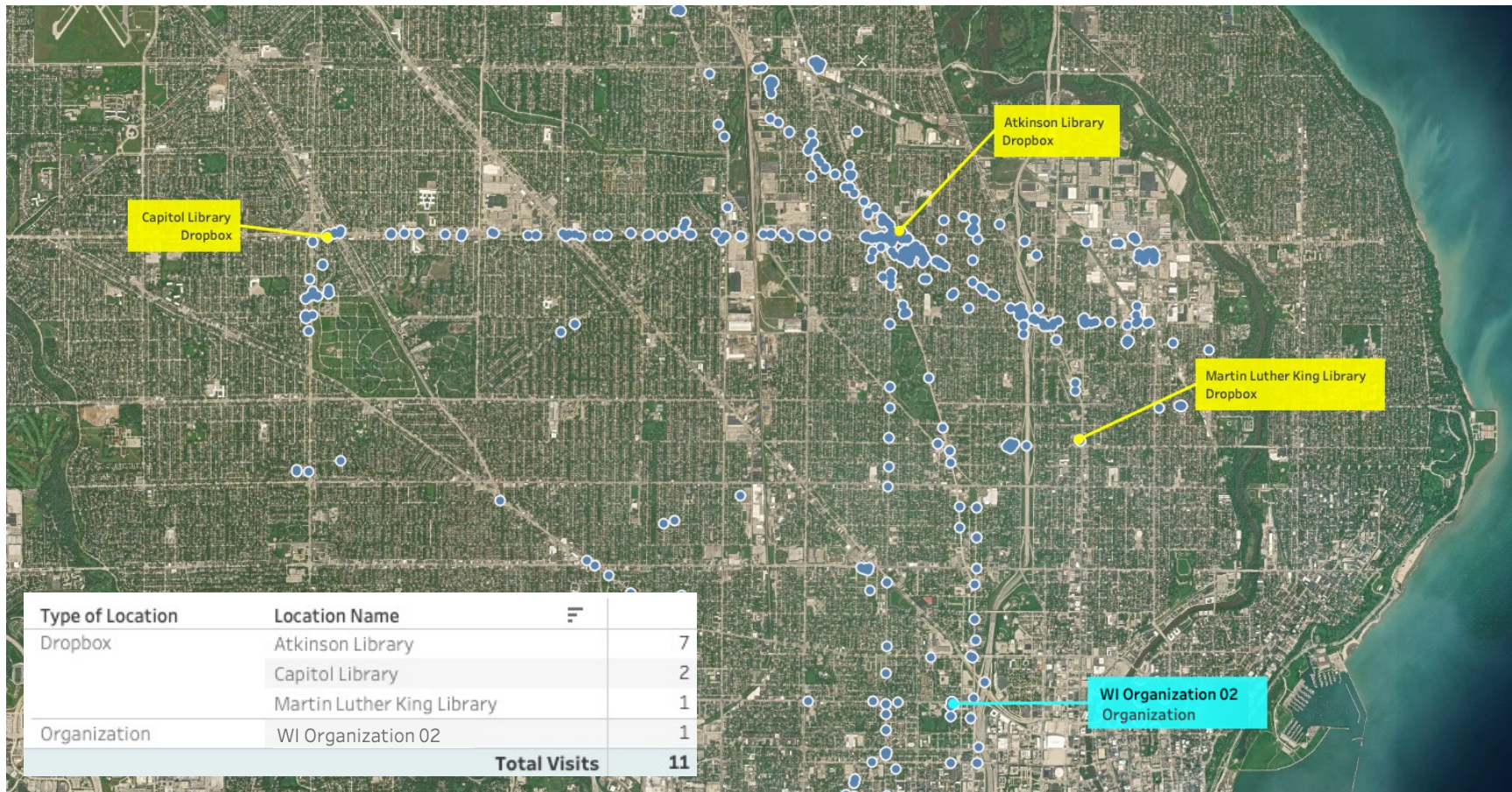
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f560338f-03e5-4a10-bc80-xxxxxxxxxxxx	25
91409260-0099-409d-ba77-xxxxxxxxxxxx	25
56e392f6-fac4-4f24-8168-xxxxxxxxxxxx	25
78af836c-f442-4387-8346-xxxxxxxxxxxx	25
8a836201-d75c-4756-9009-xxxxxxxxxxxx	25
eb329879-ca7a-45ff-aad9-xxxxxxxxxxxx	24
78771be0-120b-4db7-b997-xxxxxxxxxxxx	22
5f38176a-90a3-4bcc-9c0f-xxxxxxxxxxxx	22
0a04bf87-4c03-4fb2-ac2-xxxxxxxxxxxx	21
84ba77ce-10cf-4bb2-b8d8-xxxxxxxxxxxx	21
f83952f6-44b5-400e-a134-xxxxxxxxxxxx	21
63798a95-42da-4916-a0dd-xxxxxxxxxxxx	20
949150bb-c388-4e3e-97f5-xxxxxxxxxxxx	20
722efd84-a94f-4742-8891-xxxxxxxxxxxx	20
138fe120-31af-4752-adc7-xxxxxxxxxxxx	20
75c75ec8-6a29-439a-b441-xxxxxxxxxxxx	20
ce9856bd-a3c4-45ce-973f-xxxxxxxxxxxx	20
04f53134-96d9-4a5e-94c6-xxxxxxxxxxxx	20
699afaf0-b11a-4e0e-bb6c-xxxxxxxxxxxx	20
b1a890e3-8eec-46c6-a864-xxxxxxxxxxxx	20
4bdb8419-20dc-4068-b892-xxxxxxxxxxxx	20
201a1342-1375-452d-9267-xxxxxxxxxxxx	20
49048958-47d3-402c-8b6d-xxxxxxxxxxxx	19
ccab4515-40da-4c50-90d3-xxxxxxxxxxxx	19
dc987e64-05a8-428f-a501-xxxxxxxxxxxx	19
c8ab3f3a-544c-459b-a838-xxxxxxxxxxxx	19
341893e1-f8e6-433e-ad22-xxxxxxxxxxxx	19
TOTAL VISITS	2824

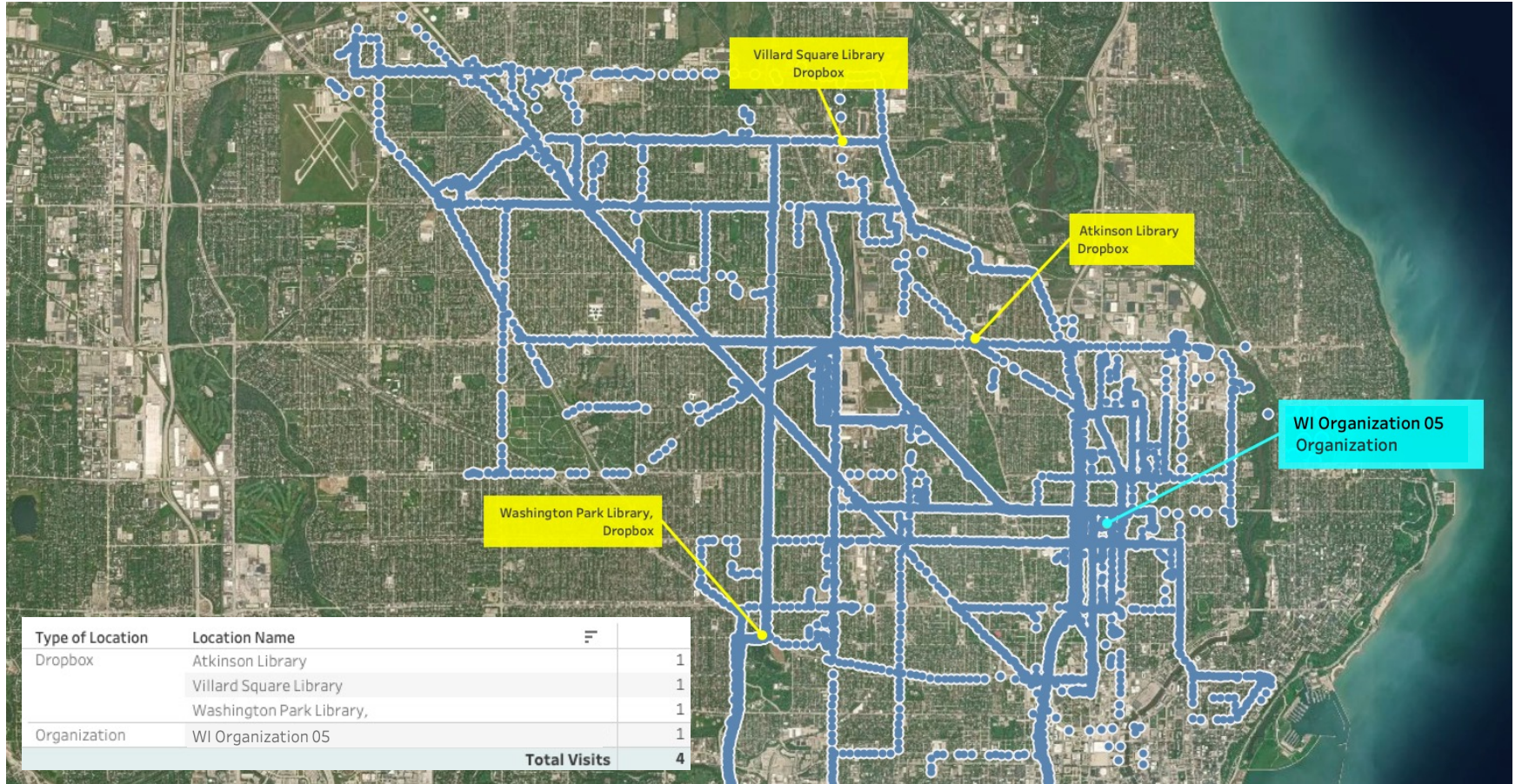
APPENDIX 4

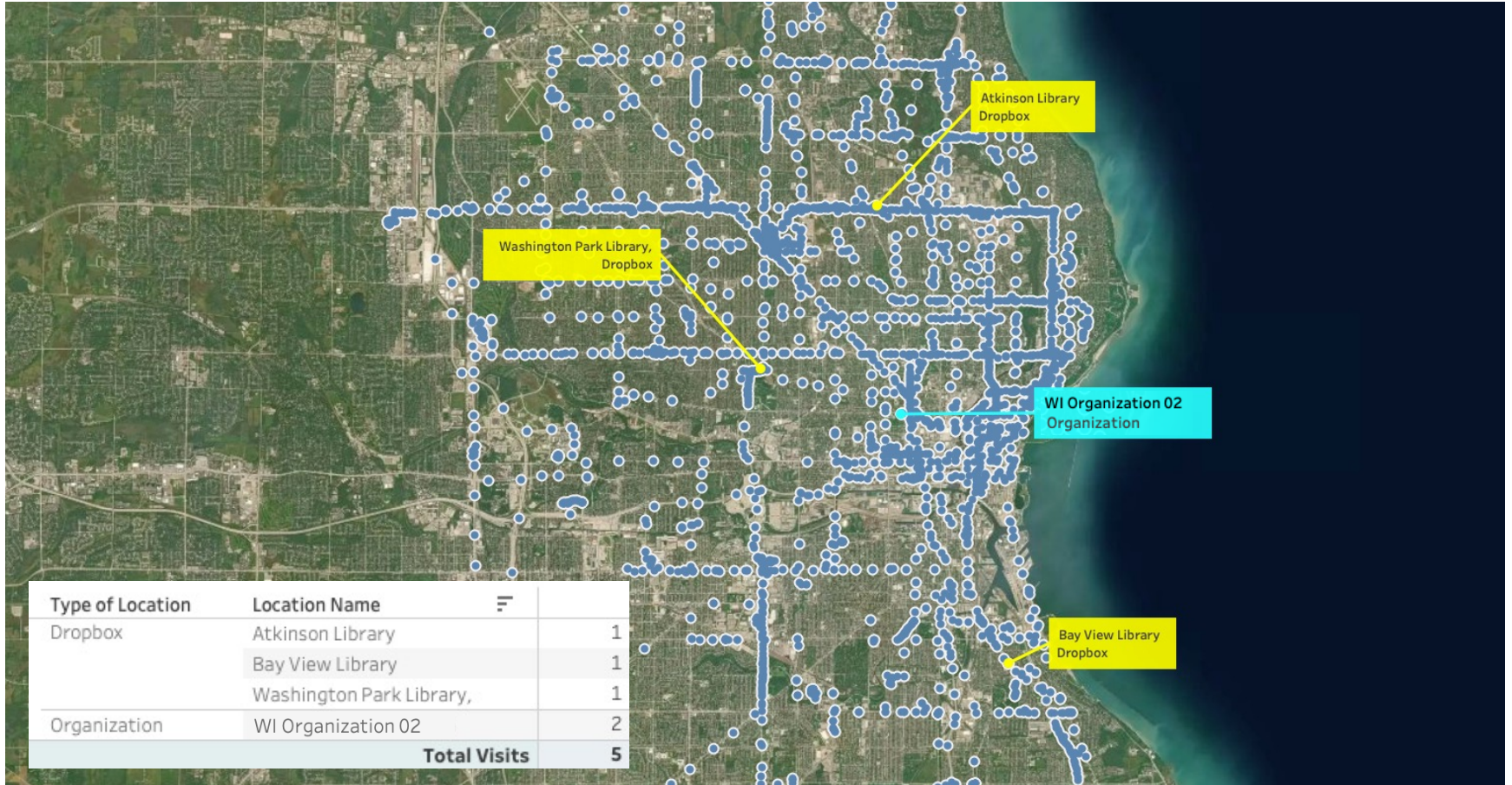
Composite Maps of
8 Cell Phone Devices Making 20+ Visits to
Milwaukee Urban Area Drop-boxes

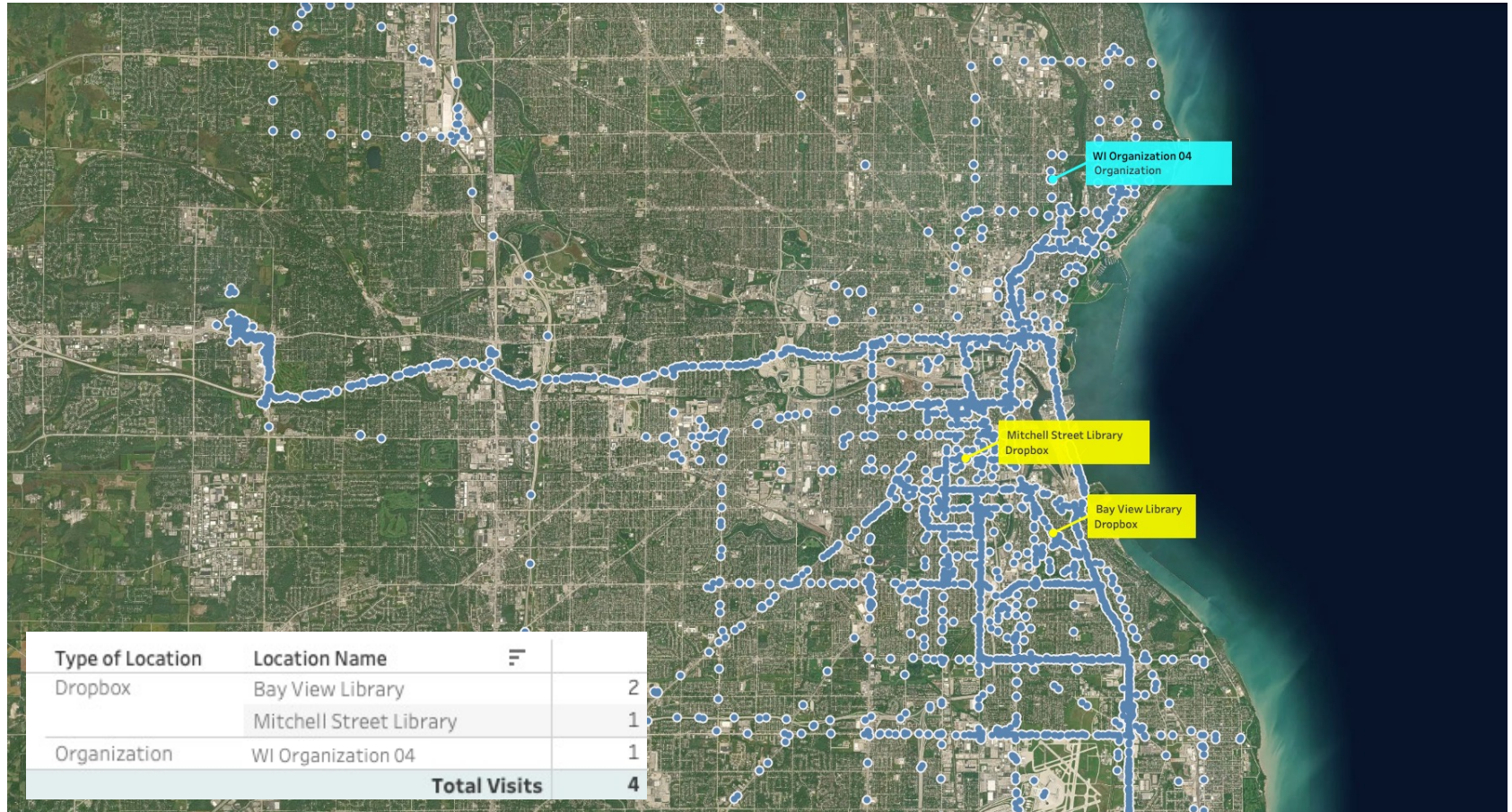
Maps of Routes Travelled on
October 20, 2020



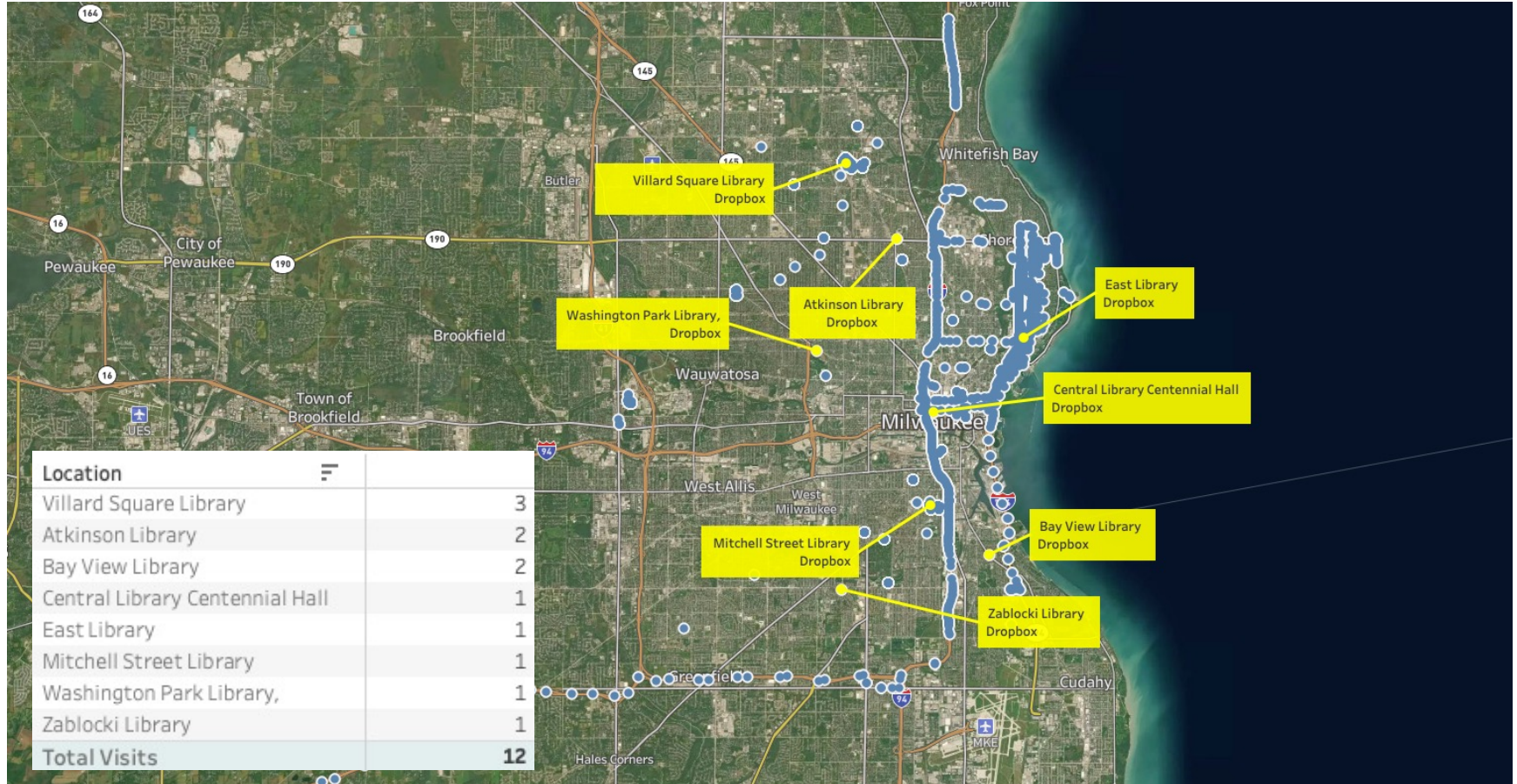


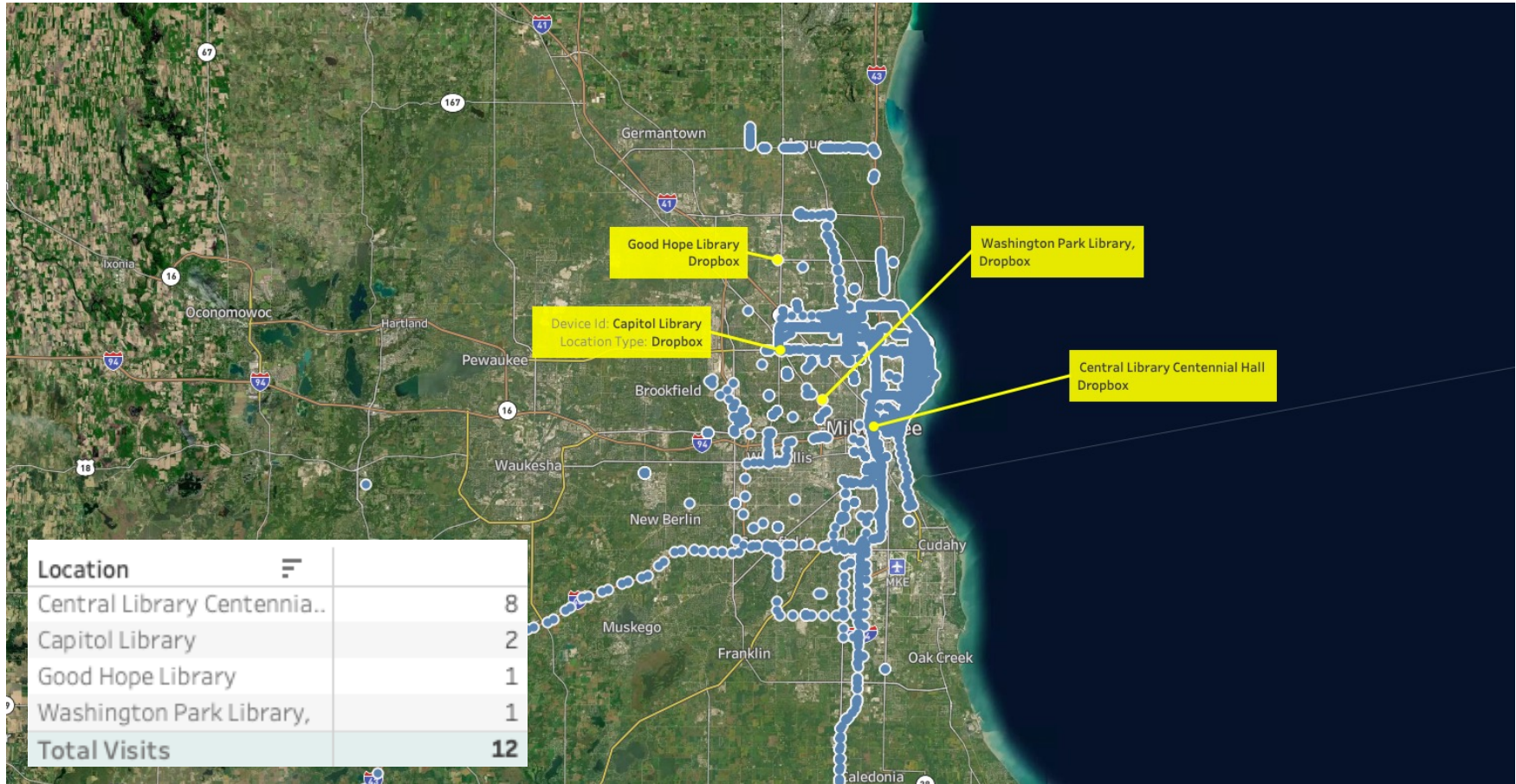




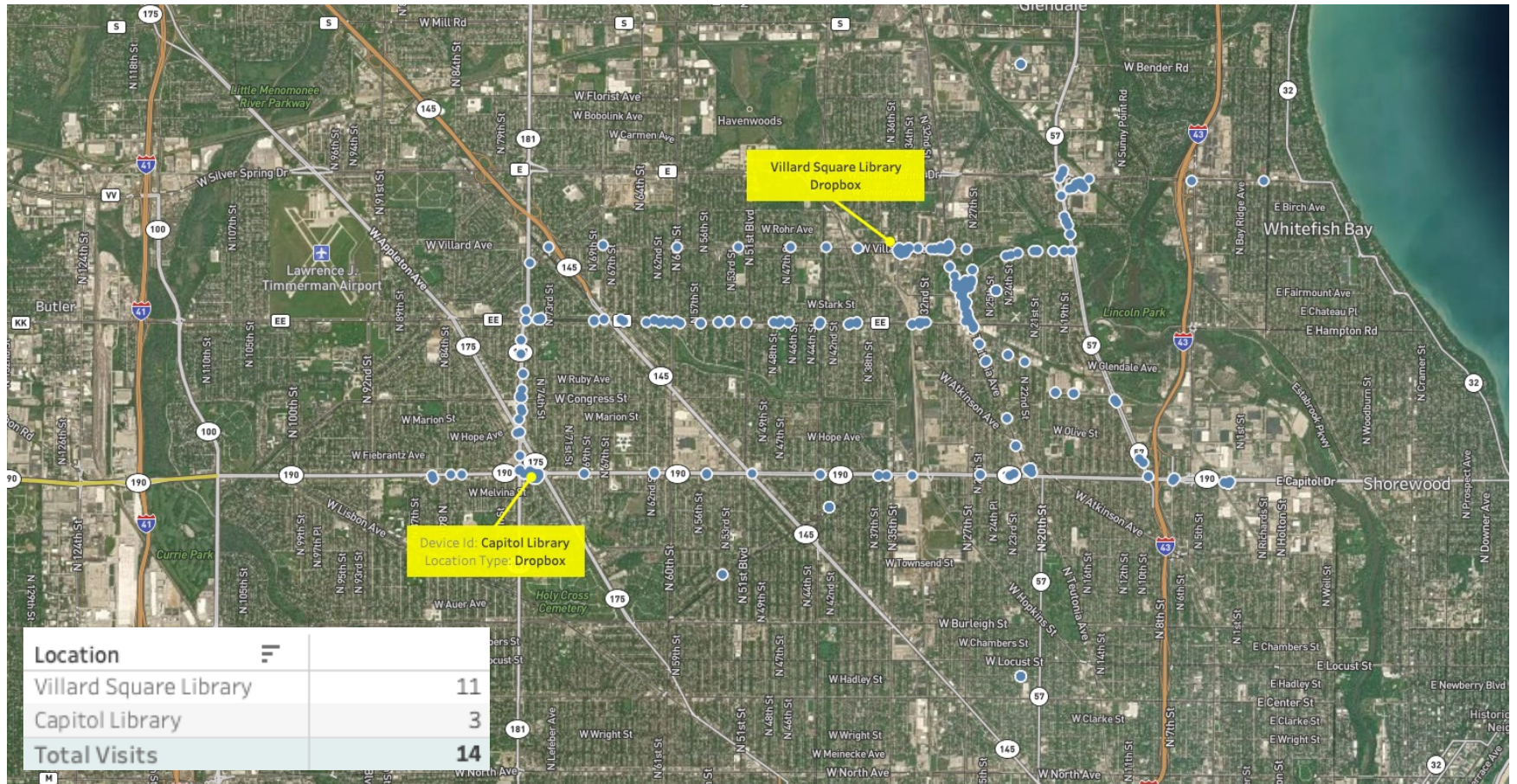


True the Vote - Milwaukee Project: Device #6 - October 20, 2020





True the Vote - Milwaukee Project: Device #8 - October 20, 2020



CHAPTER 11.

VOTING MACHINES AND ABSENT VOTING.

11.03	Structural requirements and adaptability to voting system.	11.17	Voting machine law applicable to its use at primaries.
11.04	Referendum on use of machines.	11.54	Grounds for absent voting.
11.06	Methods of using machines.	11.55	Application for ballot.
11.08	General election laws applicable where machines are used.	11.56	Application, how made.
11.09	Ballots for machine; samples, etc.	11.57	Delivery of ballot blank.
11.10	Custodians; preparation of machines; instructions; certificate of proficiency.	11.58	Form of envelope for ballot.
11.11	School of instruction of election officers.	11.59	Voting; execution of affidavit.
11.12	Irregular ballots; canvass of machine results.	11.60	Inclosing ballot.
11.13	Returns of machine ballots.	11.605	List of absent voters for public inspection.
11.14	Experimental use of voting machines.	11.61	Delivery of ballot.
11.15	Voting machines at primaries.	11.62	Deposit of ballot in ballot box.
11.16	Irregular ballots on machines at primaries.	11.63	Challenge of mail vote.
		11.64	Death of voter.
		11.65	Election laws applicable.
		11.66	In cities of first class.
		11.67	Penalties for violations.
		11.68	Construction of act.
		11.70	Absent voting by members of armed forces.

11.03 Structural requirements and adaptability to voting system. (1) No voting machine shall be used in this state unless it be so constructed as to afford every elector a reasonable opportunity to vote for any person for any office or for or against any proposition for whom, or for or against which he is by law entitled to vote and enable him to do this in secrecy; and it must be so constructed as to preclude an elector from voting for any candidate for the same office or upon any question more than once, and from voting for any person for any office for whom he is not by law entitled to vote.

(2) The machine or machine system may be provided with one lever or device by the use of which an elector may vote for all candidates of one party, if he so desires, but it must admit of his voting a split ticket as he may desire. It must also be so constructed as to register or record each and every vote cast.

(3) For presidential electors one device may be provided for voting for all the candidates of one party at one time by the use of such device, opposite or adjacent to which shall be a ballot on the machine containing the names of the candidates for president and vice president of that party, preceded by the party's name, and a vote registered or recorded by the use of such device shall be counted for each of the candidates for presidential electors of such party.

(4) The machine must be constructed so that it cannot be tampered with or manipulated for any fraudulent purposes; and the machine must be so locked, arranged or constructed that during the progress of the voting, no person can see or know the number of votes registered or recorded for any candidate.

11.04 Referendum on use of machines. The common council of any city, the trustees of any village and the town board of any town may adopt and purchase for use in the various precincts, any voting machine which complies with the requirements of section 11.03 and none other; provided, however, that no machine shall be adopted or purchased by any village or town until the question of such adoption and purchase shall have been submitted to a vote of the people of such village or town at some regular village or town election, and a majority of the votes cast on such question shall have been in favor of such adoption and purchase. If it shall be impracticable to supply each and every election district with a voting machine or voting machines at any election following the adoption of such machines in any city, village or town as many may be supplied as it is practicable to procure, and the same shall be used in such precincts of the municipality as the proper officers may order. The proper officers of any city, village or town may, not later than sixty days before any election, unite two or more precincts or wards into one election precinct for the purpose of using therein at such election a voting machine; provided, in case two or more wards shall be so united, such machine shall be so constructed that it will permit the voters of each ward to vote for any and all candidates nominated for offices in such ward, but will prevent such voters from voting for any and all candidates nominated for offices in all other wards; and a notice of such uniting shall be given in the manner prescribed by law for the change of election districts.

11.06 Methods of using machines. (1) More than one voting machine may be used in any one polling place.

(2) Where more than one voting machine shall be used in an election precinct, one additional election inspector may be appointed by the proper authorities for the additional machine; such additional inspector to be of the party casting the largest vote at the preceding general election.

(3) At any election or primary, when voting machines are used, the services of ballot clerks shall be dispensed with at such primary and election days in the election districts where voting machines are used.

(4) The room in which the election is held shall have a railing separating that part of the room to be occupied by the election officers from that part of the room occupied by the voting machine or machines. The exterior of the voting machine and every part of the polling place shall be in plain view of the inspectors. The machine shall be so placed that no person on the opposite side of the railing can see or determine how the voter casts his vote, and that no person can so see or determine from the outside of the room. After the opening of the polls the inspectors shall not allow any person to pass within the railing to that part of the room where the machine is situated, except for the purpose of voting and except as provided in section 11.08; and they shall permit only one voter at a time for each machine to be in such part of the room. They shall not themselves remain or permit any person to remain in any position that would permit him or them to see or ascertain how the voter votes or how he has voted.

(5) Each voter shall be allowed a reasonable time in which to vote, such time to be determined by a majority of the inspectors in the booth, having regard to the size of the ballot and the number of voters in line ready to vote, but in no case shall such time be less than one minute. If a voter refuses to leave the voting machine after being notified by one of the inspectors that such time has expired, he shall at once be removed by the inspectors.

11.08 General election laws applicable where machines are used. All the provisions of chapter 6 relating to general elections and all statutes declaring misconduct at or in relation to elections to be crimes or the grounds or occasions of forfeiture, shall, as far as consistent with the provisions of this chapter, be applicable to elections at which voting machines are used.

11.09 Ballots for machine; samples, etc. (1) (a) Ballots shall be provided by the respective city and county clerks, except that in cities having more than 100,000 inhabitants ballots shall be provided by the board of election commissioners, for all the candidates to be voted for at an election and of suitable size to fit the space provided for that purpose on or in the machine, and each shall be placed on or in the machine adjacent to or on the registering or recording device therefor.

(b) When such ballots are to be used at a nonpartisan primary or election at which both local as well as judicial officers are to be nominated or elected, the cost of such printing shall be prorated proportionately as to space used, between the city, town, village and county involved. Such printing may be ordered by the local clerk with the knowledge and consent of the county clerk or in counties containing more than 500,000 residents, with the knowledge and consent of the county election commission.

(2) The ballots shall be placed on or in the machine in the order of arrangement provided by section 6.23 of the statutes, except that they may be vertical or horizontal rows. Ballots for all questions must be provided in the same manner and must be arranged on or in the machine in the places provided for such purpose.

(3) The officers charged with the duty of providing ballots for any polling place, shall provide therefor two sample ballots which shall be exact copies of the official ballots which are caused to be printed by them; said sample ballots shall be arranged in the form of a diagram showing the front of the voting machine as it will appear after the ballots are arranged thereon for voting on election day. Such sample ballots shall be posted by the inspectors of the precinct, near the entrance of the election booth and shall there be open to public inspection during the whole of election day.

(4) In all cities having more than one hundred thousand inhabitants using voting machines, the officer or board charged with the duty of providing ballots shall, and in all other cities using voting machines he may, not less than ten days before each election, provide for each election precinct in which such machine is to be used at least one-half as many sample ballots as the number of votes cast in such precinct at the last preceding general election; said sample ballots to be in the form of a reduced size diagram showing the face of the machine and the names of the candidates, parties and questions thereon, together with such instructions to voters as are required by law. Fifty per cent of such sample ballots shall be on hand at the office of the city clerk or of the board of election

commissioners for distribution to such voters as shall call therefor, and fifty per cent shall be delivered to the inspectors of election for distribution to such voters as shall call therefor on the last day of registration and on election.

(5) All ballots shall be published as now provided by law. The ballots for the machines, and also sample ballots, shall be furnished the inspectors at least one day before the election.

(6) The officers charged with the duty of providing ballots shall provide for each election precinct in which a voting machine is to be used, return sheets, certificates, and other printed matter necessary for the proper conduct of the election and making up the returns thereof, according to the type of voting machine to be used therein.

11.10 Custodians; preparation of machines; instructions; certificate of proficiency.

(1) The board of election commissioners in cities having more than one hundred thousand inhabitants, the common council of every other city, board of trustees of every village, and the town board of every town in which a voting machine is to be used, shall cause the proper ballot to be put on each machine corresponding with the sample ballots herein provided for, and the machines in every way put in order, set, and adjusted, ready for use in voting when delivered at the precinct; and for the purpose of so labeling the machine, putting in order, setting and adjusting the same, they may employ one or more competent persons who shall be known as the voting machine custodians, who shall be paid for the time spent in the discharge of their duties, in the same manner as the inspectors of election are paid.

(2) The said custodians shall, under the direction of such board of election commissioners or common council, village trustees or town board, cause the machine to be so labeled, in order, set and adjusted, and to be delivered at the voting precinct together with all necessary furniture and appliances that go with the same in the rooms where the election is to be held, at least one hour before the time set for opening the polls on election day.

(3) In preparing a voting machine for an election, the custodian shall, according to the directions furnished, arrange the machine and the ballot therefor so that they will in every particular meet the requirements for voting and counting at such election in the manner provided for by the construction of such machine.

(4) When a voting machine shall have been properly prepared for the election and delivered at the election precinct, it shall be locked and sealed against any movement, and the officers, common council, village trustees or town board shall provide proper protection to prevent its being tampered with; and the custodian or custodians preparing such machine shall deliver the keys thereof to the clerk of the city, village or town in which the machine is to be used, together with a written report of the condition of the machine.

(5) Before an election at which a voting machine is to be used, the said custodian shall instruct each election officer that is to serve in an election district in which the machine is to be used, in the use of the machine and the duties of election officers in connection with it, and shall give to each election officer that has received such instruction and is fully qualified to properly conduct the election with the machine under the conditions that will exist thereat a certificate to that effect. For the purpose of giving such instruction the custodian shall call such meeting or meetings of the election officers as shall be necessary.

11.11 School of instruction of election officers. (1) The election board of each election district in which a voting machine is to be used, shall, before each election at which they are to serve, attend such meeting or meetings as shall be called by the custodian of the machine, for the purpose of receiving such instruction concerning their duties as shall be necessary for the proper conducting of the election with the machine. Each election officer that shall qualify and serve in the election shall be paid the sum of one dollar for the time spent in receiving such instruction, in the same manner and at the same time as he is paid for his services on election day. In no case, however, shall he receive any payment for receiving such instruction unless he thoroughly understands the machine, and is fully qualified to properly perform his duties in connection with its use and has received a certificate to that effect from the custodian of the machine.

(2) The members of the election board of each election precinct in which a voting machine is to be used shall meet at the polling place therein at least fifteen minutes before the time set for the opening of the polls at the election, and shall arrange the voting machine and furniture therein for the proper conduct of the election.

(3) They shall also, before the opening of the polls, compare the ballot labels on the machine with the sample ballots furnished, and see that the names, numbers and letters thereon agree. They shall also examine the seal upon the voting machine, to see that it has not been broken, and shall examine every counter therein to see that each registers 000. If any counter in the voting machine shall be found not to register 000, a notice of

such fact, stating the designating number of such counter, together with the number registered thereon, shall be written out and signed by all the members of the election board and a copy thereof posted in a conspicuous place upon the wall of the polling place, where it shall remain during the election day.

(4) The members of the election board shall then certify on each of the blanks furnished for that purpose as to the condition of the voting machine and the counters therein, which blank shall be signed by each member of the board, and after the election one delivered with each copy of the election returns.

11.12 Irregular ballots; canvass of machine results. (1) In case a voting machine may be adopted which provides for the registering or recording of votes for candidates whose names are not on the official ballot, such ballots shall be denominated irregular ballots. A person whose name appears on a ballot or on or in a machine or machine system, shall not be voted for, for the same office or on or in any irregular device for casting an irregular ticket, and any such votes shall not be counted, except for the office of presidential electors, and any elector may vote in or on such irregular device for one or more persons nominated by one party with one or more persons nominated by any or all other parties, or for one or more persons nominated by one or more parties with one or more persons not in nomination, or he may vote in such irregular device a presidential electoral ticket composed entirely of names of persons not in nomination.

(2) As soon as the polls of the election are closed, the inspectors shall immediately lock the machine, or remove the recording device so as to provide against voting, and open the registering or recording compartment in the presence of any person desiring to attend the same, and shall proceed to ascertain the number of votes cast for each person voted for at the election, and to canvass, record, announce and return the same as provided for on the return sheets and certificates furnished. In recording the votes registered on any counter that before the opening of the polls did not register 000, the inspectors shall upon the return sheets subtract the number registered on such counter before the opening of the polls from the number registered thereon at the close of the polls, and the difference between such numbers shall be taken as the correct vote for the candidate whose name is opposite such counter on the voting machine; provided, however, that if the number registered on such counter at the close of the polls shall be smaller than the number registered thereon before the opening of the polls, the number one thousand shall be added to the number registered on such counter at the close of the polls, before such subtraction shall be made.

11.13 Return of machine ballots. The inspectors, as soon as the count is completed and fully ascertained, shall seal, close, lock the machine, or remove the record so as to provide against voting or being tampered with, and in case of a machine so sealed or locked, it shall so remain for a period of at least 30 days, unless opened by order of a court of competent jurisdiction. When irregular ballots have been voted, the inspectors shall return them in a properly sealed package indorsed "Irregular Ballots," and indicating the precinct and county and file such package with the county clerk. It shall be preserved for 6 months after such election and may be opened and its contents examined only upon an order of a court of competent jurisdiction; at the end of such 6 months, unless ordered otherwise by the court, such package and its contents shall be disposed of by the county clerk. All tally sheets taken from such machine, if any, shall be returned in the same manner.

History: 1953 c. 423.

11.14 Experimental use of voting machines. The proper officers authorized to adopt voting machines, may provide for the experimental use at an election, in one or more precincts, of a machine which meets the requirements of section 11.03, without a formal adoption or purchase thereof, and its use at such election shall be as valid for all purposes as if formally adopted.

11.15 Voting machines at primaries. Voting machines may be used at primary elections, subject to the requirements of section 11.03 of the statutes, and to the following provisions: Each machine shall be constructed and arranged so that: (1) The names of all candidates entitled to appear on the ballots at the primary shall appear on the machine; (2) the voter cannot vote for the candidates of more than one party, whenever the law requires this restriction on the voter; (3) the voter can secretly select the party for which he wishes to vote; (4) the voter can vote for as many candidates for each office as he is lawfully entitled to vote for, but no more.

11.16 Irregular ballots on machines at primaries. No vote on the irregular ballot device shall be counted for any person for any party, if such person's name appears on the printed ballot labels of that party. To vote for any person as the candidate of any

party when the name of such person does not appear upon the printed ballot labels of that party, the voter shall write the name of such person in the proper place in the irregular ballot device, and designate the party for which he desires such person to be the nominee.

11.17 Voting machine law applicable to its use at primaries. (1) All statutes relating to the use of voting machines at elections, and all penalties prescribed for violations of such statutes shall apply to the use of voting machines at primary elections in so far as such laws are not in conflict with ss. 11.15 to 11.17.

(2) Any voting machine used at a primary election, which has been sealed, closed or locked, as prescribed in s. 11.13, may be opened 7 days after such sealing, closing or locking.

History: 1953 c. 540.

11.54 Grounds for absent voting. (1) Any qualified elector of this state registered, where registration is required or who swears in his vote as herein provided, who is absent or expects to be absent from the city, town or village in which he is a qualified elector, or from this state, whether by reason of active service in the United States army, navy, marine corps or coast guard or for any other reason, or who because of sickness or physical disability or religious reasons cannot appear at the polling place in his precinct, on the day of holding any election, may vote at any such election as provided in sections 11.54 to 11.68. Whenever the term "absent or sick or disabled voter" appears in said sections such terms shall be deemed to include a qualified elector unable to appear at the polling place in his precinct on the day of any such election for religious reasons.

(2) Any application or affidavit or other act required under sections 11.54 to 11.68 of a qualified voter in the armed forces of the United States, including women's auxiliary organizations created by federal authority, may be made before, and subscribed or sworn to before any duly commissioned officer of the military or naval service of the United States.

11.55 Application for ballot. Any elector, as defined in section 11.54 may, not more than 60 nor less than 3 days, or if application is made in person not later than during the regular office hours of the day, prior to such primary or election, make application for an official ballot either to the county clerk of such county, or to the clerk of his city, village or town, in the case of any state, congressional, or county primary or election, to the clerk of his city, village or town in case of any local primary or election, or to the clerk of any school district or any other municipal or quasi-corporation in case of any such primary or election, or to the clerk of any school district which elects officers under s. 40.27.

11.56 Application, how made. Application for such ballot shall be made in person or in writing to such clerk.

11.57 Delivery of ballot blank. Upon receipt of such request not less than 3 days prior to such election, such clerk, or his deputy or deputies shall write on the back and outside of the official ballot in the space for the official indorsement of the ballot clerk, his initials or name and his official title and shall mail to the applicant, postage prepaid, said official ballot or ballots if more than one are to be voted at said election, or such officer shall deliver said ballot or ballots to the applicant personally at the office of the clerk, not less than one secular day before said election. Any such ballot not mailed or delivered personally as herein stated shall not be counted.

11.58 Form of envelope for ballot. Such clerk shall inclose such ballot or ballots in an envelope unsealed to be furnished by him, which envelope shall bear upon the face thereof the name, official title and post-office address of such clerk, and upon the other side a printed affidavit in substantially the following form:

STATE OF }
County of } ss.

I,, do solemnly swear that I am a resident of the precinct of the (town) (village) of or of the ward in the city of, residing at in said city, and the county of and state of Wisconsin, and am entitled to vote in such precinct at the election to be held on That I cannot appear at the polling place in said precinct on the day of said election because (indicate one of the following reasons) I expect to be absent from the city, town or village or because of sickness or physical disability or religious reasons . I further swear that I marked the inclosed ballot in secret.

Signed

Subscribed and sworn to before me this day of, A. D.,, and I hereby certify that the affiant exhibited the inclosed ballot to me unmarked; that he then in my presence and in the presence of no other person, and in such manner that I could not

see his vote, marked such ballot and inclosed and sealed the same in this envelope; that the affiant was not solicited or advised by me to vote for or against any candidate or measure.

....
....

11.59 Voting; execution of affidavit. Such absent or sick or disabled voter shall make and subscribe to the affidavit provided for in s. 11.58 before the clerk to whom the ballot is returned before any other officer authorized by law to administer oaths or before any master of a vessel plying the Great Lakes, and such voter shall thereupon in the presence of such officer and of no other person, mark such ballot or ballots, but in such manner that such officer cannot know how such ballot is marked, and such ballot or ballots shall then in the presence of such officer be folded by such voter so that each ballot will be separate and so as to conceal the marking, and be, in the presence of such officer, deposited in such envelope. The unused ballot or ballots shall be placed in the envelope provided for unused ballots and deposited with the voted ballot in the return envelope, which shall then be sealed. Said envelope shall be mailed by such voter, postage prepaid, to the officer issuing the ballot, or if more convenient it may be delivered in person.

History: 1953 c. 12, 420, 631.

11.60 Inclosing ballot. Upon receipt of such absent or sick or disabled voter's ballot, the county, city, village or town clerk, or the school district clerk in a district which elects officers under s. 40.27, as the case may be, shall forthwith inclose the same, unopened, in a larger or carrier envelope which shall be securely sealed and indorsed with the name and official title of such clerk, and the words, "This envelope contains an absent or sick or disabled voter's ballot and must be opened only at the polls on election day while said polls are open," and such clerk shall thereafter safely keep the same in his office until delivered by him as provided in s. 11.61.

11.605 List of absent voters for public inspection. The county, city, village or town clerk, or the school district clerk in a district which elects officers under s. 40.27, as the case may be, shall keep a list of all electors who have made application for an absent voter's ballot or who have voted under the provisions of ss. 11.54 to 11.68, with the name and address and date of application of each such elector. Such list shall be open to public inspection.

11.61 Delivery of ballot. In case an absent or sick or disabled voter's ballot is received by the county, city, village, school district or town clerk, as the case may be, prior to the delivery of the official ballots to the inspectors of election of the precinct in which said elector resides, such ballot envelope, sealed in the carrier envelope, shall be inclosed in such package and therewith delivered to the inspectors of election of such precinct. In case the official ballots for such precinct have been delivered to the inspectors of election at the time of the receipt by the county, city, village, school district or town clerk of such absent or sick or disabled voter's ballot, such official shall immediately inclose said envelope containing such voter's ballot, in a larger or carrier envelope which shall be securely sealed and indorsed on the face to the inspectors of election, giving the name or number of precinct, street and number of the polling place, city, village, school district or town in which such voter is a qualified elector and the words "this envelope contains an absent or sick or disabled voter's ballot and must be opened only on election day at the polls while the polls are open," mailing the same, postage prepaid, to such inspectors of election or, if more convenient, such county, city, village, school district or town clerk may deliver such voter's ballot to the inspectors of election in person or by duly deputized agent. Such clerk or agent shall secure his receipt for delivery of such ballot or ballots. Provided that such delivery of ballots by person shall be made without expense to the county, city, village, school district or town, as the case may be.

11.62 Deposit of ballot in ballot box. At any time between the opening and closing of the polls on such election day the inspectors of election of said precinct shall open the outer or carrier envelope only, and announce the absent or sick or disabled voter's name. In case the inspectors find the affidavit executed, that the applicant is a duly qualified elector of the precinct and that the applicant has not voted in person at said election, they shall open the envelope containing such voter's ballot in such manner as not to deface or destroy the affidavit thereon and take out the ballot or ballots therein contained without unfolding or permitting the same to be unfolded or examined and, after verification that the ballot has been indorsed by the issuing county, town, city or village clerk, deposit the same in the proper ballot box or boxes and enter the absent or sick or disabled voter's name in the poll book, the same as if he had been present and voted in person. In case such affidavit is found to be insufficient, or that the applicant is not a duly quali-

fied elector in such precinct, or that the ballot envelope is open, or has been opened and resealed, or that the ballot envelope contains more than one ballot of any one kind, or if at a primary the unused portion of the ballot shall not be returned, such vote shall not be accepted or counted. Every ballot not counted shall be indorsed on the back thereof "rejected" (giving reason therefor). All rejected ballots shall be inclosed and securely sealed in an envelope on which the inspectors shall indorse "defective ballots" with a statement of the precinct in which and the date of the election at which they were cast, signed by the inspectors and returned to the same officer and in the same manner as by law provided for the return and preservation of official ballots voted at such election.

History: 1953 c. 420.

11.63 Challenge of mail vote. The vote of any absent or sick or disabled voter may be challenged for cause and the inspectors of election shall have all the power and authority given by law to hear and determine the legality of such ballot as if the ballot were cast by the voter in person.

11.64 Death of voter. Whenever it shall be made to appear by due proof to the inspectors of election that any elector, who has marked and forwarded his ballot as provided in sections 11.54 to 11.68, inclusive, of the statutes, has died, then the ballot of such deceased voter shall be returned by the inspectors of election with defective ballots to the official issuing it, but the casting of the ballot of a deceased voter shall not invalidate the election.

11.65 Election laws applicable. All the provisions of the election laws now in force and not inconsistent with the provisions of sections 11.54 to 11.68, inclusive, of the statutes, shall apply with full force and effect to all counties, cities, villages and towns in which voting machines are used, relative to the furnishing of ballot boxes; the printing and furnishing of official ballots in such number as the county, city, village or town clerk, as the case may be, may deem necessary; and the canvassing of the ballots and making the proper return of the result of the election. The absent or sick or disabled voter's ballot shall be counted and returned separately, with the returns of the ballots cast on the voting machine.

11.66 In cities of first class. In cities of the first class, application for ballots shall be made to the secretary of the board of election commissioners who shall perform all the duties required of city clerks by the provisions of sections 11.54 to 11.65, inclusive, of the statutes.

11.67 Penalties for violations. If any person shall wilfully swear falsely to any such affidavit he shall be guilty of perjury and shall upon conviction thereof be punished as in such cases by law provided. If any person who, having procured an official ballot or ballots as heretofore provided, shall wilfully neglect or refuse to cast or return same in the manner heretofore provided, or shall wilfully violate any provision of sections 11.54 to 11.67, inclusive, of the statutes, he shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not to exceed one hundred dollars, or by imprisonment in the county jail not to exceed thirty days. If any county, city, village or town clerk or any election officer shall refuse or neglect to perform any of the duties prescribed by said sections, or shall violate any of the provisions thereof, he shall upon conviction be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not to exceed ninety days.

11.68 Construction of act. The provisions of sections 11.54 to 11.67, inclusive, of the statutes, shall be deemed to provide a method of voting in addition to the method now provided by statute, and, to such extent, as amendatory of existing statutes relating to the manner and method of voting.

11.70 Absent voting by members of armed forces. (1) **DEFINITIONS.** In this section "military elector" means any elector serving in the armed forces of the United States, in the United States merchant marine, and any civilians located outside of the continental United States and attached to or serving with the armed forces; "clerk" means the clerk of any municipality; and "ballot" means the set of ballots to be voted on in any election.

(2) **EXEMPTION FROM REGISTRATION.** No military elector shall be required to register as a prerequisite to voting in any election.

(3) **LOCAL REGISTER OF ELECTORS IN ARMED FORCES.** The clerk of each village and town shall from the information obtained by him compile and maintain an up-to-date list or register of electors therein who are serving in the armed forces and the clerk of each city shall from the information obtained by him compile and maintain an up-to-date ward list or ward register of electors therein who are serving in the armed forces. Such armed force register shall contain the name of the armed force elector and his latest-known military residence and military mail address. It shall include all such armed force electors who will become of voting age on or before the primary election day, with a nota-

tion as to any who will reach that age after the primary election, if any, but on or prior to the succeeding election. Such listing of absent armed force electors on the armed force register shall constitute registration for the duration of military service during the national military emergency. The local clerk shall make and keep such armed force register complete and up to date and to that end he may request the assistance of newspapers and citizens generally and may invite local draft boards, parents, wives or husbands, relatives and friends of such absent armed force electors to furnish the names and the latest addresses of such absent members of the armed forces. Such clerk shall exercise reasonable care to avoid duplication of names and to avoid including any person who is for any reason not qualified to vote at such election. He shall distribute to each polling place in his municipality 2 copies of such armed force register for each respective voting district for use on election day.

(4) MAILING BALLOTS; INSTRUCTIONS. The county and municipal clerk shall mail a ballot, as soon as available, to each military elector by or for whom a request has been made. Instructions for marking and returning ballots shall be inclosed with each ballot. The form of such instructions shall be prescribed by the secretary of state. Supplemental instructions as to local elections shall be provided by the clerk. Election material shall be printed and prepared so as to take advantage of the federal free-postage laws.

(5) MARKING AND RETURN OF BALLOT. The ballot shall be marked and returned as provided in sections 11.54 to 11.58 except that the affidavit required by section 11.58 shall also contain a statement of the date of the elector's birth, and a statement that he has not returned another ballot. Such affidavit may be executed before a commissioned or warrant officer. The failure to return the unused ballots of a primary election shall not invalidate the marked ballot. No envelope, return envelope or explanatory note shall contain the name of any person who is a candidate at the election to which the inclosed ballot pertains.

History: 1951 c. 455.