



RACINE COUNTY
SHERIFF'S OFFICE

ELECTION INTEGRITY

Protecting Vulnerable Voters





JUDY INVESTIGATED HER MOTHER'S VOTING HISTORY

- Judy went on MyVote Wisconsin (www.myvote.wi.gov) and discovered her mother, Shirley, voted absentee for the November 3, 2020, election
- Shirley died on October 9, 2020 – Before the election
- According to My Vote Wisconsin, prior to being admitted to the Ridgewood Care Facility, Shirley last voted in 2016





JUDY CONTACTS RIDGEWOOD CARE CENTER

- Executive Director stated that the WEC gave facility staff the authority to help residents fill out their ballots
- Judy asked how Shirley could have voted without any knowledge of current events or the news
- The Executive Director stated the staff would ask the residents who they voted for in the past and following party lines that would be their choice
- Judy asked, "So if she could only recall JFK as President, Democrat would be their choice?"
- The Executive Director answered "Yes"
- Judy asked about Shirley's broken glasses and impaired vision – how can we know the staff member assisting filled in the ballot correctly
- The Executive Director stated he "hoped" the staff would be honest





ORIGINAL COMPLAINT TO THE WISCONSIN ELECTION COMMISSION

- NOVEMBER 24TH, 2020

- Judy filed a sworn affidavit with the Wisconsin Election Commission stating that she believed the Ridgewood Care Facility “took advantage” of her mother’s “diminished mental capacity and filled out ballot(s) in her name.”
- Shirley, Judy's Mother
 - Broken glasses – no interest in reading or keeping up on current events
 - Difficulty recognizing her daughter
 - Could not remember her last meal
 - Would not know what day it is
 - Saw flying objects outside of her room that were not there



Mount Pleasant Village Hall

- They received letters from the Wisconsin Election Commission (“WEC”) dated March 12, 2020, June 24, 2020, and September 25, 2020, stating that “Municipalities shall not use the Special Voting Deputy process” and should instead mail the absentee ballots
- No notice was posted at any of the facilities because of COVID-19
- 42 Ridgewood residents voted
- 38 Ridgewood residents made a fresh request for an absentee ballot during 2020
- The Voting Clerk stated during a Presidential or non-Presidential election, usually approximately 10 people will vote and 0 to 3 people will make a fresh request for an absentee ballot from the Ridgewood Care Center
- RASO received copies of the Request for Absentee Ballots and the Ballot Envelopes





Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: For the March 12, 2020 Commission Meeting
TO: Members, Wisconsin Elections Commission
FROM: Meagan Wolfe, Administrator
Wisconsin Elections Commission
SUBJECT: **Guidance Regarding Election Procedures and Public Health Emergency**

Governor Evers issued Executive Order #72 today proclaiming that a public health emergency exists in the State of Wisconsin as a result of the COVID-19 Coronavirus. The Order designates the Department of Health Services as the lead agency in responding to the public health emergency and directs all state agencies to assist in the State's ongoing response to the emergency. A copy of the Executive Order is attached.

Also today, the Department of Health Services (DHS) issued directives related to public health, vulnerable populations and large public gatherings. The DHS directives included provisions related to nursing homes and other licensed care facilities, including that all "non-essential" individuals be prohibited from visiting such facilities. The directive includes some exceptions such as a visit from one family member per day but all individuals entering care facilities must be screened for coronavirus infection and recent travel.

The Executive Order and DHS directive make it necessary to provide guidance to local election regarding specific election procedures for the Spring Election and Presidential Preference Primary as well as the May 12, 2020 Special Election in the 7th Congressional District. The two most immediate issues requiring Commission attention relate to the Special Voting Deputy process and polling places which are currently located at care facilities. WEC staff has received numerous inquiries from local election officials expressing concerns and seeking guidance regarding these issues.

Special Voting Deputy Process

Wis. Stat. § 6.875 outlines the process for voting by special voting deputy (SVD). SVD's are individuals who are deputized by the clerk of each municipality to not only bring enough ballots to each residential care facility to vote, but to assist the voters with the voting process. Beginning Monday, March 16, municipal clerks are required to begin sending two SVD's to each facility for two visits prior to the election to conduct in-person, on-site voting with the residents.

Sometimes this process happens in a common area in the facility, and sometimes the voting occurs in individual voters' rooms depending on the voter's mobility and health needs. The process also requires that public observers be allowed to watch the voting process in these

Wisconsin Elections Commissioners

Dean Knudson, chair | Marge Bostelmann | Julie M. Glancey | Ann S. Jacobs | Robert Spindell | Mark L. Thom

Administrator
Meagan Wolfe

Mount Pleasant Village Hall

1) In light of Executive Order #72 and directives of the Department of Health Services, the Commission finds that Special Voting Deputies are "non-essential" individuals who are not permitted to enter nursing homes and other care facilities without completing a screening process that is not feasible to implement prior to the Spring Election and Presidential Primary. For that election and the May 12, 2020 Special Election in the 7th Congressional District, the Commission directs that municipalities shall not use the Special Voting Deputy process to serve residents in care facilities and instead shall transmit absentee ballots to those voters by mail.



SOURCE: WISCONSIN ELECTIONS COMMISSION LETTER - MARCH 12, 2020



Review of Documents



APPLICATION FOR ABSENTEE BALLOTS

- Pre-filled out by facility staff
- The Certification of being “indefinitely confined” pre-checked by staff

OR

- The Certification of being “indefinitely confined” post-checked by the municipal clerk

VOTER ENVELOPES

- Certification of Witness – Facility staff

WEC LETTERS TO MUNICIPAL CLERKS

- Coordinate with the dates of the open meetings by the WEC
- Open meetings can be viewed on WisEye www.wiseye.org

Review of Documents



Kocake 11/2020

Wisconsin Application for Absentee Ballot		(Municipal Clerk) If expansion vote, check here <input type="checkbox"/>	
Absentee ballots may also be requested at MyVote.wi.gov			
Conditional Elector ID# <small>(Required - dependent on County Use Only)</small>		Via/Vote ID # <small>(Other Use Only)</small>	
Ward No.			
<p>Supporter</p> <p>Detailed instructions for completion are on the back of this form. Return this form to your municipal clerk when completed.</p> <p>You must be registered to vote before you can receive an absentee ballot. You can confirm your voter registration at https://myvote.wi.gov</p> <p>PHOTO ID REQUIRED, unless you qualify for an exception. See instructions on back for exceptions.</p>			
VOTER INFORMATION			
1	Municipality	County	
2	Last Name	First Name	
	Middle Name	Suffix (Jr, Sr, III, etc.)	Date of Birth
	Phone	Fax	Email
3	Residence Address: Street Number & Name		
	Apt. Number	City	State & ZIP
4	Fill in the appropriate circle - if applicable (see instructions for definitions):		
	<input type="checkbox"/> Military	<input type="checkbox"/> Permanent Overseas	<input type="checkbox"/> Temporary Overseas
I PREFER TO RECEIVE MY ABSENTEE BALLOT BY: (Ballot will be mailed to the address above if no preference is indicated. Absentee ballots may not be forwarded.)			
	<input checked="" type="checkbox"/> MAIL	Mailing Address: Street Number & Name	
	<input type="checkbox"/> VOTE IN CLERK'S OFFICE	Apt. Number	City
	<input type="checkbox"/> FAX	Care Facility Name (if applicable)	State & ZIP
	<input type="checkbox"/> EMAIL	C/O (if applicable)	
		Fax Number	Voter must have a computer and printer when receiving a ballot by fax or email. Voted ballots must be returned by mail.
		Email Address	
I REQUEST AN ABSENTEE BALLOT BE SENT TO ME FOR: (mark only one)			
	<input checked="" type="checkbox"/> The election(s) on the following date(s):		
	<input type="checkbox"/> All elections from today's date through the end of the current calendar year (ending 12/31).		
6	<input type="checkbox"/> For indefinitely-confined voters only: I certify that I am indefinitely confined because of age, illness, infirmity or disability and request absentee ballots be sent to me automatically until I am no longer confined, or I fail to return a ballot. Anyone who makes false statements in order to obtain an absentee ballot may be fined not more than \$1,000 or imprisoned not more than 6 months or both. Wis. Stats. §§ 12.13(3)(c), 12.60(1)(b).		
TEMPORARILY HOSPITALIZED VOTERS ONLY (please fill in circle)			
	<input type="checkbox"/> I certify that I cannot appear at the polling place on election day because I am hospitalized, and appoint the following person to serve as my agent, pursuant to Wis. Stat. § 6.86(3).		
	Agent Last Name	Agent First Name	Agent Middle Name
7	AGENT: I certify that I am the duly appointed agent of the hospitalized absentee elector, that the absentee ballot to be received by me is received solely for the benefit of the above named hospitalized elector, and that such ballot will be promptly transmitted by me to that elector and then returned to the municipal clerk or the proper polling place.		
	Agent Signature	X	Agent Address
ASSISTANT DECLARATION / CERTIFICATION (if required)			
I certify that the application is made on request and by authorization of the named elector, who is unable to sign the application due to physical disability.			
	Agent Signature	X	Today's Date
VOTER DECLARATION / CERTIFICATION (required for all voters)			
I certify that I am a qualified elector, a U.S. Citizen, at least 18 years old, having resided at the above residential address for at least 10 consecutive days immediately preceding this election, not currently serving a sentence including probation or parole for a felony conviction, and not otherwise disqualified from voting. Please sign below to acknowledge that you have read and understand the above.			
	Voter Signature	X	Today's Date

EL-121 | Rev 2018-10 | Wisconsin Elections Commission, P.O. Box 7064, Madison, WI 53707-7064 | 608/266-9000 | web: elections.wi.gov | email: elections@bol.wi.gov

SOURCE: WISCONSIN APPLICATION FOR ABSENTEE BALLOT - MARCH 16, 2020



6.84 WISCONSIN STATUTE

LEGISLATIVE POLICY. The legislature finds that voting is a constitutional right, the vigorous exercise of which should be strongly encouraged. In contrast, voting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place. The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for **fraud or abuse**; to prevent **overzealous solicitation** of absent electors who may prefer not to participate in an election; to prevent **undue influence** on an absent elector to vote for or against a candidate or to cast a particular vote in a referendum; or other similar abuses.



6.875 WISCONSIN STATUTE

Absentee Voting in Facilities

- This statute is the **“exclusive means”** of absentee voting in residential care facilities
- **Shall** dispatch two Special Voting Deputies (“SVDs”) to the facility
- The SVDs **shall** personally deliver the ballot
- **NO employee (or past employee of the last two years) may be an SVD**
- Notice of the SVDs visit **shall** be posted at the facility
- The SVDs **shall** witness the vote and **may assist** in marking the ballot
- The SVDs **shall NOT** accept an absentee ballot not issued by an SVD
- **No individual** other than a SVD or relative **may assist** the voter
- The SVDs **shall** seal the ballot envelope and deliver it to the clerk



6.875

WISCONSIN
STATUTE

Absentee Voting in Facilities

·§ 6.875(6)(e) – “If a qualified elector is not able to cast his or her ballot on 2 separate visits by the deputies to the home or facility, the deputies shall so inform the municipal clerk . . . Who may then send the ballot to the elector . . .”

The WEC falsely reasoned that since the Special Voting Deputies could not be allowed into any facilities, the Special Voting Deputies “program” could be “suspended”, and the municipalities could go directly to the mailing process. The WEC also improperly/illegally advised the facilities to have staff members assist the residents in voting.



UNITED STATES CONSTITUTION

Article II, Section 1, paragraph 2 – The state legislature is to determine the “Manner” in which the President is elected

Article I, Section 4, paragraph 1 – It is up to the state legislature to determine “the Times, Places and Manner of holding Elections for Senators and Representatives”



RIDGEWOOD CARE FACILITY

DECEMBER 18, 2020

- The Executive Director stated he “hoped” his staff was “honest” while marking the voting ballot for the residents
- The Director of Recreational Therapy stated that if a resident could only point to the ballot, her staff would fill in the appropriate dot
- The Director of Recreational Therapy was “confident” Shirley wanted to vote, but then admitted she did not have contact with Shirley – her staff would have contact with the residents
- The Activities Aid stated if the resident did not want to vote, she would come back later
 - The Activities Aid stated she would leave the news channel on for a few days and then come back and see if the resident wanted to vote (List of preferred channels or NBC)
 - The Activities Aid stated she would keep the ballots in her desk drawer when she was waiting for the residents to decide to vote





RIDGEWOOD CARE FACILITY

DECEMBER 18, 2020

- The procedure implemented by the facility did not comply with the instructions on the ballot envelope
- The Director of Recreational Therapy and the Activities Aids agreed that:
 - If the resident did or did not vote, the Activities Aid would place the ballot in the envelope (unsealed) and give it to the Director of Recreational Therapy
 - The Director of Recreational Therapy would seal the ballot envelope and mail it to the municipal clerk



Review of Documents

OFFICIAL ABSENTEE BALLOT APPLICATION/CERTIFICATION	
<small>(Official Use Only) The voter has met or is exempt from the photo ID requirement. Municipal or Deputy Clerk initial here.</small>	
<small>Note: With certain exceptions, an elector who mails or personally delivers an absentee ballot to the municipal clerk at an election is not permitted to vote in person at the same election on Election Day. Wis. Stat. § 6.85(5).</small>	
Voter: Please complete steps 1 through 5 below, in the presence of your witness.	
1	Place your voted ballot inside the envelope and seal it. Do not use tape or glue.
2	Complete the section below if not completed by the clerk. Provide your VOTING address.
Date:	11/3/2020 RACINE COUNTY
Municipality:	VILLAGE OF MOUNT PLEASANT - Ward 28
Division:	BS 03
Voter Name:	SHIRLEY
Phone:	3733535
Street:	INDEFINITE
City:	Ridgewood
State:	
Zip:	
Official use only:	Ward # District (if applicable) Voted in clerk's office <input type="checkbox"/>
3 Sign and date this section.	
CERTIFICATION OF VOTER (Required)	
I certify, subject to the penalties for false statements of Wis. Stat. § 12.00(1)(b), that I am a resident of the ward of the municipality in the county of the state of Wisconsin indicated hereon, and am entitled to vote in the ward at the election indicated hereon; that I am not voting at any other location in this election; that I am unable or unwilling to appear at the polling place in the ward on election day or I have changed my residence within the state from one ward to another later than 28 days before the election. I certify that I exhibited the enclosed ballot, unmarked, to the witness, that I then in the presence of the witness and in the presence of no other person marked the ballot and enclosed and sealed the ballot in this envelope in a manner that no one but myself and any person providing assistance under Wis. Stat. § 6.87(5), if I requested assistance, could know how I voted. I further certify that I requested this ballot.	
X	<u>Shirley</u> <u>07 123 12030</u>
Signature of Voter	Today's Date
REQUIRED OF MILITARY AND OVERSEAS VOTER ONLY: I further certify my birth date is: _____	
4 Have your witness sign and write their address below.	
CERTIFICATION OF WITNESS (signature and address of witness are required)	
I, the undersigned witness, subject to the penalties for false statements of Wis. Stat. § 12.00(1)(b), certify that I am an adult U.S. Citizen and that the above statements are true and the voting procedure was executed as stated. I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk). I did not solicit or advise the voter to vote for or against any candidate or _____ is correct as shown.	
1.	Signature of ONE adult U.S. citizen witness
2.	If witnesses are Special Voting Deputies, both must sign. Address of witness or addresses of both SVDs
1.	_____
2.	_____
Provide house number and street name or fire number and street name, city, state and zip code. OR If your rural address does not include a house number, fire number and street name, provide rural route number and box number, city, state and zip code.	
CERTIFICATION OF ASSISTANT (if applicable) - assistant may also be witness	
I certify that the voter named in this certificate is unable to sign his/her name or make his/her mark due to a physical disability and that he signed the voter's name at the direction and request of the voter.	
X	Signature of Assistant
5 Mail back your ballot. Allow 4-5 days for delivery to ensure your ballot is received by Election Day. Ballots received after Election Day will NOT be counted.	

EL-122 Standard Absentee Ballot Certificate Envelope | (Rev 2017-06)



SOURCE: WISCONSIN APPLICATION FOR ABSENTEE BALLOT ENVELOPE - SEPTEMBER 22, 2020

Other Concerned Families

DF was adamant that her mother, OF, would not have requested an absentee ballot. She was unable to remember what she ate for breakfast that day. DF stated, "It is so hard to get her to sign something, even things that I need, you know, to conduct business, it is very hard to get her to sign anything. So, she would not have requested a ballot and then sat there and signed it, no. I just don't believe that." **According to My Vote Wisconsin (Since 2012), there is no record of OF voting in any other election.**

RP stated that her father, NG, had difficulty recognizing his own grandchildren. He would not know that Trump was the president nor who was elected the new president, and he would not know what the candidates stood for on the issues. RP stated NG only asked about "Doritos" and "Snickers". According to My Vote Wisconsin (Since 2012), there is no record of NG voting in any other election. When asked if NG would have the mental ability to express his desire for an absentee ballot and exercise his right to vote, RP responded, "No! No, I'm sorry, no!". **According to My Vote Wisconsin (Since 2012), there is no record of RP voting in any other election.**



Other Concerned Families

LM stated her mother, RL, is confused, not sure where she is, does not recognize her own children, and is not right in her own mind. LM stated RL would not have known who the candidates were, and someone had to have taken advantage of her. **According to MyVote Wisconsin (since 2012), there is no record of RL voting in any other election.**

RS stated his mother, FP, is 102-years-old and is experiencing dementia. RS stated that FP is starting to forget to eat; that she cannot recognize her own children; that she is starting to forget to eat; and that she only remembers the past. **According to MyVote Wisconsin (since 2012), FP voted in this election and an election in 2012.**

TM stated his father, MR, did not have the desire to vote absentee. TM stated MR informed her and her mother that if he cannot vote in person, he did not want to vote. **According to MyVote Wisconsin (since 2012), there is no record of MR voting in any other election.**



Other Concerned Families

RM is the legal guardian for SL, and RM stated that SL has been determined to be incompetent by a probate court. RM stated she believed SL's right to vote had been taken away. RM stated SL is unable to make any decisions for herself and she has no ability to know what is going on. RM stated SL would not know how to request an absentee ballot. RM stated SL is not allowed to sign any legal documents because she is so impaired. RM stated SL would have no inclination to vote and she would have no idea what she was doing. AS stated, her mother, SL, was suffering from dementia and she did not have the sound mind necessary to request an absentee ballot and to exercise her right to vote. **According to MyVote Wisconsin (since 2012), SL voted in this election and an election in 2012**

GH stated his mother, BH, would ask him, "Who are you?" and GH would respond, "I'm your youngest boy." GH stated BH believed her own mother died a few weeks ago but her mother actually died in 1965. **According to My Vote Wisconsin (since 2012), BH voted in two elections in 2020 and no other elections.**



WISCONSIN ELECTIONS COMMISSION



SECRETARY

Marge Bostelmann



COMMISSIONER

Julie M. Glancey



CHAIR

Ann S. Jacobs



COMMISSIONER

Dean Knudson



COMMISSIONER

Robert F. Spindell, Jr.



VICE-CHAIR

Mark L. Thomsen

WISCONSIN ELECTIONS COMMISSION -
[HTTPS://ELECTIONS.WI.GOV/INDEX.PHP/ABOUT/MEMBERS](https://elections.wi.gov/index.php/about/members)



Timeline

MARCH 10, 2020

- The WEC sent a letter to the Governor requesting the “suspension” of “several provisions of Wisconsin election law”
 - Special Voting Deputies
 - Moving the location of polling places

- The Governor’s Office informed the WEC that **the Governor does not have the power to “suspend” parts of Wisconsin’s voting law during an emergency**

MARCH 12, 2020

- Governor Evers issued Executive Order #72
- The WEC issued a directive stating Special Voting Deputies shall not be sent to facilities
- Commissioner Knudsen, “what we are really saying here, is once again, we are saying that, despite what the law says, the election commission is saying, in this instance, we need to have some flexibility, **to not follow the law.**”



Timeline

MAY 26, 2020

- Governor's extended "Safer at Home" order expires

JUNE 24, 2020

- The WEC extended their previous March 12, 2020, orders

- Commissioner Knudson, "**We need to go back to following the law**, but for the Special Voting Deputies, following the letter of the law here would mean putting hundreds and hundreds of nursing home residents' lives at severe risk. There is got to be a way to do this without doing that."

- Commissioner Spindell was concerned **with fraud in nursing homes** and suggests PPE's



Timeline

SEPTEMBER 16, 2020

- The WEC extended their previous March 12, 2020 orders
- Commissioner Spindell stated the law stated the WEC is supposed to do something, and the WEC is not doing that task – **Spindell asked where that power came from. He also suggested use of technology to facilitate Special Voting Deputies.**
- Commissioner Knudson stated, “My thinking going back to March on this, from the time I first communicated with the Governor saying I thought that **we should not follow this law during this pandemic.**”
- Chair Jacobs stated the “state law” or “rulings of DHS” would not allow for Special Voting Deputies inside of facilities



Review of Documents

How to assist the voter in filling out their absentee ballot

If a voter requests assistance, you may read the ballot, including candidate names, party affiliations and ballot instructions, to the voter or mark the ballot as directed by the voter. If the voter asks questions about individual candidates or their political platform, you cannot answer those questions. You cannot in any way prompt the voter to vote for a particular candidate. If uncertain for whom to vote, the voter may decide to leave a contest unvoted. After assisting the voter, you will sign the ballot in the box that says, "Certification of Voter Assistance."



Absentee Voting at Care Facilities in 2020

Your Role as a Care Facility Administrator

In a typical election, Special Voting Deputies (SVDs) may be coming into your facilities and conducting absentee voting with your residents. However, due to safety concerns, SVDs will not be entering your facility for the November election. Instead ballots will be mailed out to individual voters with current requests on file. Many care facility and nursing home residents rely on family members for assistance in voting. Because most care facilities and nursing homes are not allowing guests at this time, some voters may require assistance from care facility staff to vote. We know that this may be difficult for many facilities due to competing priorities and staffing. This document will provide resources to make absentee voting and registering to vote as smooth as possible for your facility and your residents.

As a care facility administrator or staff member, you are able to:

- Assist residents in filling out their ballots or certificate envelopes.
- Assist residents in completing voter registration forms and absentee requests.
- Sign the special certificate envelope (EL-122sp) if necessary (see below for explanation).
- Witness ballots.

Absentee Voting for Residents of Your Facility

Ballots began being mailed out on September 17 for voters with current absentee requests on file for the November 3 election. Most ballots will be mailed to voters, but some clerks have indicated that they are hand delivering ballots to care facilities in a large envelope or other sealed container. After receiving ballots, you must distribute ballots individually to those voters. If a voter no longer lives in your facility or is deceased, please mark the ballot carrier envelope "moved" or "deceased" and return it to the municipal clerk as soon as possible.

Each absentee carrier envelope should contain the ballot, an instruction sheet and a certificate envelope used to return the ballot (referred to as the EL-122).

How to assist the voter in filling out their absentee ballot

If a voter requests assistance, you may read the ballot, including candidate names, party affiliations and ballot instructions, to the voter or mark the ballot as directed by the voter. If the voter asks questions about individual candidates or their political platform, you cannot answer those questions. You cannot in any way prompt the voter to vote for a particular candidate. If uncertain for whom to vote, the voter may decide to leave a contest unvoted. After assisting the voter, you will sign the ballot in the box that says, "Certification of Voter Assistance."

Wisconsin Elections Commission
212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov



SOURCE: ABSENTEE VOTING AT CARE FACILITIES IN 2020 - SEPTEMBER 25, 2020

Timeline

JANUARY 15, 2021

- The WEC extended their previous March 12, 2020, orders
- Commissioner Knudson:
 - Expressed his concern that the “policy” of the WEC was **“telling the clerks to break the law”** and he stated, “But I continue to have great discomfort with the idea that our motion is going to direct them, **that we’re the ones directing them to break the law.”**
 - Suggested **the use of technology so that all of the policies “as required by law are being followed”**.
 - The **“SVD law is a law”** and “some of the **prohibitions on visitors at nursing homes . . . was a guidance, a directive.”**



Timeline

FEBRUARY 11, 2021

- Legislative Council provided an opinion to the Joint Committee for the Review of Administrative Rules (JCRAR) that **state law does not empower the WEC to waive the Special Voting Deputies, nor does the law contain an exemption for a pandemic**
- **JCRAR notified the WEC to promulgate an emergency rule or cease issuing such directives**

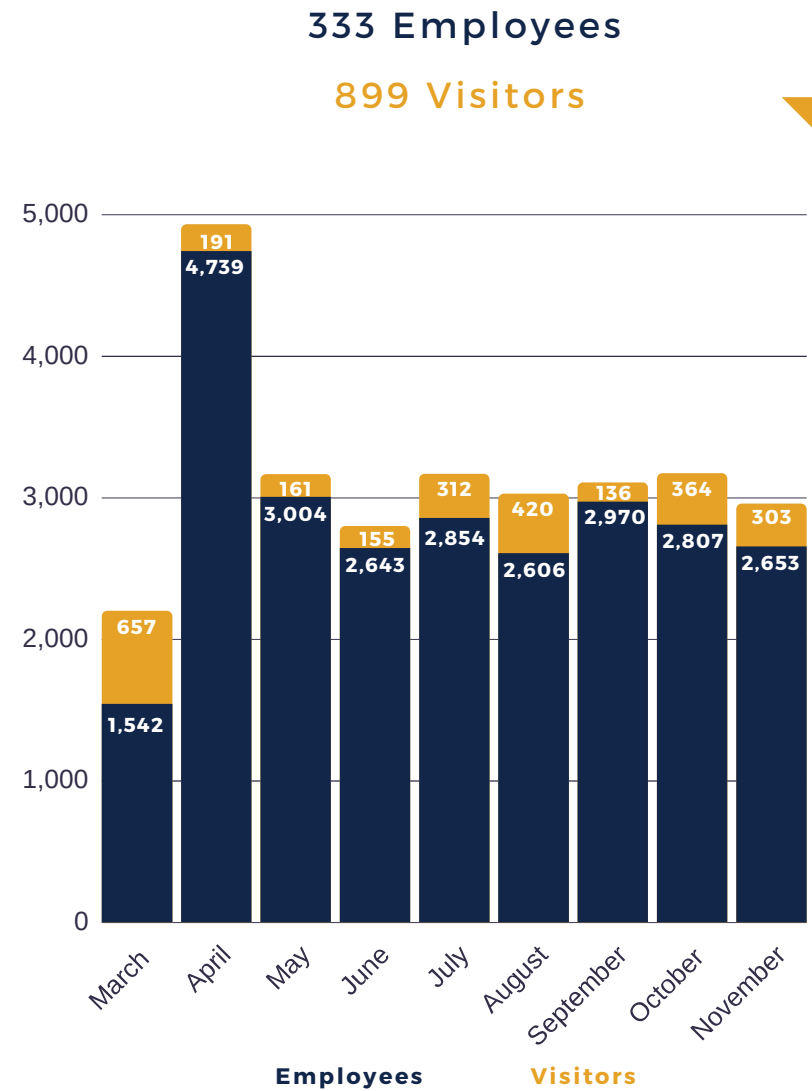
MARCH 2, 2021

- WEC amends their directive and now calls for Special Voting Deputies to be sent to facilities two times prior to mailing the ballot



Ridgewood Care Facility

Employees and Visitors



TYPES OF VISITORS

Interview or Job Interview

24 Times

Instructor

4 Times and 19 Times with Students

Orkin Service

19 Times

Vendor/Vending Machine

17 Times

Kitchen or Kitchen Repair

17 Times

Cleaning Fish Tank, Cleaning Tanks, or Tank Maintenance

11 Times

Elevator

10 Times

Laundry or Laundry Repair

8 Times



TYPES OF VISITORS

Maintenance

6 Times

Copier

4 Times

Clean Bird Cage

3 times

Inspection

2 times

Looking for a Job

DoorDash Delivery





12.13

Election Fraud

WISCONSIN STATUTE

- § 12.13(2)(b)(7) – “In the course of the person's official duties or on account of the person's official position, intentionally violate or intentionally cause any other person to violate any provision of chs. 5 to 12 for which no other penalty is expressly prescribed.”
- § 12.13(3)(n) – “Receive a ballot from or give a ballot to a person other than the election official in charge.”
 - § 12.13(3)(p) – “Receive a completed ballot from a voter unless qualified to do so.”
- § 12.13(3)(s) – “Solicit another elector to offer assistance under s. 6.82 (2) or 6.87 (5), except in the case of an elector who is blind or visually impaired to the extent that the elector cannot read a ballot.”



Madison, WI

Open Meeting

March 12, 2020

Wisconsin Elections Commission





What are you looking for?



Wisconsin Elections Commission Special Teleconference Meeting

On June 24, 2020, the Wisconsin Elections Commission held a **special teleconference meeting** to discuss Special Voting Deputies for the August Election.

Categories: [Meetings](#)

Recording



@WI_Elections

Wisconsin Elections Commission

September 16, 2020

Recording





Recording



@WI_Elections

Wisconsin Elections Commission Meeting

Robert F. Spindell, Jr.

September 16, 2020





@WI_Elections

Wisconsin Elections Commission

January 15, 2021
12:45 PM

Special Teleconference Meeting



@WI_Elections

Dean Knudson

Commissioner - Wisconsin Elections Commission

January 15, 2021
1:24 PM

Moving Forward

Wisconsin
State Legislature



WISCONSIN STATE LEGISLATURE

Governor



Tony Evers

Office of the Governor | State of Wisconsin

Attorney
General



262-636-3853



voterintegrity@racinecounty.com

ELECTION INTEGRITY: Protecting Vulnerable Voters



Wisconsin Statute 6.875
Absentee Voting in Residential Care Facilities:

- This statute is the exclusive means of absentee voting in facilities
- SVD's shall be dispatched to the facilities
- No employee of the facility may be an SVD
- The SVD's shall witness the vote and may assist in marking the ballot
- The SVD's shall not accept an absentee ballot not issued by an SVD
- No individual other than a SVD or relative may assist the voter

Absentee Voting at Care Facilities in 2020

Your Role as a Care Facility Administrator

In a typical election, Special Voting Deputies (SVDs) will be coming into your facilities and conducting absentee voting with your residents. However, due to safety concerns, SVDs will not be entering your facility for the absentee process. Instead, ballots will be mailed out to individual voters with correct requests on file. Many care facility and nursing home residents only on family members for assistance in voting. Because most care facilities and nursing homes are not allowing guests at this time, some voters may request assistance from care facility staff to vote. We know that this may be difficult for many facilities due to competing priorities and staff. This document will provide resources for absentee voting and requests to vote as exempt as possible for your facility and your residents.

As a care facility administrator or staff member, you are able to:

- Assist residents in filling out their ballots or certificate envelopes.
- Assist residents in completing voter registration forms and absentee requests.
- Sign the special certificate envelope (SCE) if necessary (see below for explanation).
- Witness ballots.

Absentee Voting for Residents of Your Facility

Ballots begin being mailed out on September 17 for voters with current absentee requests on file for the November 3 election. Most ballots will be mailed to voters, but some alerts have indicated that they are hard to deliver. If you have a resident who is a registered voter and has a current absentee request, you must distribute ballots immediately to that voter. If a voter is unable to vote at your facility or if ballots are not marked the ballot carrier envelope "received" or "delivered" and return it to the municipal clerk as soon as possible. Each absentee voter request should contain the ballot, an instruction sheet and a certificate envelope used to return the ballot (returned to the clerk by 11:00).

How to assist the voter in filling out their absentee ballot

If a voter requests assistance, you may read the ballot, including candidate names, party affiliations and ballot instructions, to the voter or mark the ballot as directed by the voter. The voter also questions about individual candidates in their certified jurisdiction, you cannot answer those questions. You cannot in any way prompt the voter to vote for a particular candidate. If a voter has a question, the voter may wish to have a voter contact. After assisting the voter, you will sign the ballot in the box that says, "Certificate of Voter Assistance".

Dec 08 2020
 Judy's complaint is referred to the Racine DA's Office who requested an investigation by RASO

How to assist the voter in filling out their absentee ballot
 If a voter requests assistance, you may read the ballot, including candidate names, party affiliations and ballot instructions, to the voter or mark the ballot as directed by the voter.

Feb 11 2021
 The Joint Committee for the Review of Administrative Rules notified the WEC to attempt to promulgate an emergency rule or cease issuing such directives

Feb 11 2021
 Legislative Council: State law does not empower the WEC to waive SVD's and there is no exemption for a pandemic

Nov 03 2020
 Fall election - Shirley's vote is counted

Sep 16 2020
 WEC extended its directive "suspending" SVD law

May 26 2020
 Safer at Home Order expires

Mar 12 2020
 Governor's Office issued Executive Order #72

The Wisconsin Elections Commission ("WEC") sent a letter to the Governor's Office asking to "suspend" the Special Voting Deputies ("SVD") law - Wis. Stat. sec. 6.875



Mar 11 2020
 Governor's Office stated they did not have the power to suspend the SVD law

Mar 12 2020
 WEC issued a directive "suspending" the SVD law

Jun 24 2020
 WEC extended its directive "suspending" SVD law

Sep 22 2020
 Judy's mother, Shirley, voted absentee while she was a resident at the Ridgewood Care Center, which is a residential care facility

Oct 09 2020
 Judy's mother, Shirley, died

Nov 24 2020
 Judy filed an affidavit with the WEC stating she believed the staff at Ridgewood Care Facility "took advantage" of Shirley's "diminished mental capacity and filled out ballot(s) in her name"

Jan 15 2021
 WEC extended its directive "suspending" the SVD law

Mar 03 2021
 WEC acknowledges an emergency rule was not going to be authorized and rescinded its directive "suspending" SVD law. The WEC claimed they did nothing wrong

Wisconsin Elections Commission
 101 East Washington Avenue | 1st Floor | Madison, WI 53703-1000
 608.248.1200 | wisclections.gov | info@wec.wisconsin.gov

DATE: For the March 11, 2020 Commission Meeting
TO: Members, Wisconsin Elections Commission
FROM: Megan Wolfe, Administrator, Wisconsin Elections Commission
SUBJECT: Guidance Regarding Election Procedures and Public Health Emergency

Governor Evers issued Executive Order #72 today proclaiming that a public health emergency exists in the State of Wisconsin as a result of the COVID-19 Coronavirus. The Order designates the Department of Health Services as the lead agency in responding to the public health emergency and directs all state agencies to assist in the State's ongoing response to the emergency. A copy of the Executive Order is attached.

Also today, the Department of Health Services (DHS) issued a directive related to public health, vulnerable populations and large public gatherings. The DHS directive includes provisions related to nursing homes and other licensed care facilities, including that all "non-essential" individuals be prohibited from visiting such facilities. The directive includes some exemptions such as a visit from one family member per day but all individuals entering care facilities must be screened for coronavirus infection and contact tracing.

The Executive Order and DHS directive make it necessary to provide guidance to local election regarding specific election procedures for the Spring Election and Presidential Primary as well as the May 12, 2020 Special Election in the 7th Congressional District. The two most immediate issues regarding Commission operations relate to the Special Voting Deputy process and polling places which are currently located at care facilities. WEC staff has received numerous inquiries from local election officials expressing concerns and seeking guidance regarding these issues.

Special Voting Deputy Process

Wis. Stat. § 6.875 outlines the process for voting by special voting deputy (SVD). SVD's are individuals who are designated by the clerk of each municipality and are only being mailed ballots to non-qualified care facility voters. We will assist in requests with the voting process. Beginning Monday, March 16, municipal clerks are required to begin mailing out SVD's to each facility for two weeks prior to the election to ensure compliance with the voting rules in the statute.

Sometimes this process happens in a common area in the facility, and sometimes the voting occurs in individual voters' rooms depending on the voter's mobility and health needs. The process also requires that public absence be allowed to assist the voting process in care facilities.

Wisconsin Elections Commission
 Chris Frazee, Chair | Maggie Borenstein | Sarah H. Evers, Governor | Robert G. Kahler | Heidi L. Hammel
 APR 15 2020
 MEGAN WOLFE

1) In light of Executive Order #72 and directives of the Department of Health Services, the Commission finds that Special Voting Deputies are "non-essential" individuals who are not permitted to enter nursing homes and other care facilities without completing a screening process that is not feasible to implement prior to the Spring Election and Presidential Primary. For that election and the May 12, 2020 Special Election in the 7th Congressional District, the Commission directs that municipalities shall not use the Special Voting Deputy process to serve residents in care facilities and instead shall transmit absentee ballots to those voters by mail.

Wisconsin Statute 12.13
Election Fraud

- § 12.13(2)(b)(7) – In the course of the person's official duties or on account of the person's position, intentionally violate or intentionally cause any other person to violate any provision of chs. 5 to 12
- § 12.13(3)(n) – Receive a ballot from or give a ballot to a person other than the election official in charge
- § 12.13(3)(p) – Receive a completed ballot from a voter unless qualified to do so
- § 12.13(3)(s) – Solicit another elector to offer assistance under s. 6.82(2) or 6.87(5), except in the case of an elector who is blind or visually impaired to the extent that the elector cannot read a ballot.



Racine County Sheriffs Office (RASO) Incident Report

Incident:
Election Laws

Incident Report Number: 20-061588	Between: Date - Time 3/16/20 00:00	And/At: Date-Time 11/3/20 23:59
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Incident Location:
1 Racine County, Racine, WI, 53403

CFS Code-1: 5999	CFS Code-2:	CFS Code-3:	Offense Code-4:
CFS Code-5:	CFS Code-6:	CFS Code-7:	CFS Code-8:

MEN	Name (Last, First, Middle) [REDACTED]	DOB: [REDACTED]	Race/Sex [REDACTED]
Address: (Address, City, State, Zip) 3205 Wood Rd, Racine, WI, 53406			Phone 1 [REDACTED]
Employer			Phone 2
Employer Address			Work Phone #

MEN	Name (Last, First, Middle) Firkus, Jill	DOB:	Race/Sex W/F
Address: (Address, City, State, Zip) 8811 Campus Dr,2, Mount Pleasant, WI, 53406			Phone 1 (262) 664-7800
Employer			Phone 2
Employer Address			Work Phone #

NAMES

Mentioned-1

[REDACTED] Racine, WI, 53406
 DOB: 02/24/1969
 Phone 1: (262) 554-2256

Mentioned-2

Kohlhagen, Stephanie W/F of 8811 Campus Dr,2, Mount Pleasant, WI, 53406
 Phone 1: (262) 664-7800

Vehicle Information: (Year, Make, Model, Style, Color)

License Number:	State:	Expiration Year:	Vin:	Insurance Company:
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Other Vehicle Information:	NCIC#
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Reporting Officer(s): Luell, Michael J.	Payroll Number : 10511	Report Date: 12/11/2020
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Time Received: 10:40:59	Time Cleared: 10:41:25	Unit(s) Assigned: 5076, 5077	Pages: 1 Of 23
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Reviewed by: Schmidt, Aaron	Payroll Number : 7688	Copy To
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Date: 12/11/2020

CFS Code-1: 5999

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Racine County Sheriffs Office (RASO)

Continuation

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12/08/2020

Other

Ridgewood Care Center of 3205 Wood Rd;MP,Racine,WI,53406

Mentioned-3

Scott, Myers L [REDACTED] of 3205 Wood Rd, Racine,WI,53406
[REDACTED]
[REDACTED]

Deceased

Westphal, Shirley M [REDACTED], 53406
[REDACTED]

Complainant

Westphal-Mitchell, Judy [REDACTED], 53142
[REDACTED]
[REDACTED]

Mentioned-4

[REDACTED] [REDACTED] 53402
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

NARRATIVE

On Tuesday, December 8, 2020, I, Investigator Michael J. Luell #10511, was assigned to investigate an election complaint that was filed by Judy A. Westphal-Mitchell [REDACTED] to the Wisconsin Election Commission ("WEC"). In a notarized statement, Judy alleged the following:

Carey Manor prior/present Ridgewood Care Center took advantage of my mothers diminished mental capacity [REDACTED] and filled out ballot(s) in her name. I

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had to file a letter of incapacitation in 2012 to become her POA for Health/Finance because she was unable to do for herself [REDACTED].

When we were permitted to visit in person early 2020 prior to covid, I noticed her that along with her teeth gone missing, her glasses were broken, and she was not interested in getting them replaced, as she told me, there was nothing she needed to read. She had lost all interest in TV or newspapers years prior and was not up to date on news or current events.

As to her mental capacity, she sometimes could not recognize me, remember what her last meal was or what day it even was. She would also tell me of helicopters and other flying objects landing either in the parking lot or just over/behind the trees out the 2nd story window where she would sit regularly and lookout/nap during the day. There is no airport or facility that a helicopter could or would land.

Prior to contacting Ridgewood directly, I contacted the Mt. Pleasant Clerk Kohlhagen, and she state that they cannot deny anyone a ballot and any determination of mental incapability would have to come from the care facility.

I contacted the manager at Ridgewood Care Center, Scott Myers (sp?) with my concerns of ethicality, legality of my mother's eligibility/ability to vote.

I inquired who had requested a ballot for her and had access to her to assist her in filling out the ballot as I have not been able to visit her personally for months. He never gave me an answer on how she even received a ballot. He told me that in the age of covid, the WEC gave facility activity director/social worker the authority to help residents fill out their ballots. I inquired how she was even able to receive a ballot in her diminished mental capacity, his reply was "that they cannot deny anyone a ballot and [REDACTED], they legally allowed her to participate". I also inquired to how they made her choice without any knowledge of current events or news? He told me "they ask the residents who they had voted for in the past, and following party lines, that would be their choice". I asked, "so if she could only recall JFK as president, Democrat would be the choice"? He replied, "yes". Asking him about the broken glasses (impaired vision), how could she be sure that whomever "assisted" would fill ballot out to her choice? He said, "he hoped that those that assisted were honest".

I am writing this, as I feel my mother was taken advantage of in her mental state. Parents and loved ones should be protected not exploited for an ink mark on a piece of paper and a questionable agenda.

I have also phoned WEC 11/11/2020 and left VM for Nathan Judnick (sp?), have

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not received any call back to date.

The Complaint Form was signed and notarized on November 24, 2020.

I was able to review an Email Judy sent to Racine County District Attorney Patricia Hanson where she relied her concerns about her mother, Shirley, voting while she was a resident at Ridgewood Care Facility. I also reviewed an Email sent by WEC Staff Attorney [REDACTED] to DA Hanson relying Judy's concerns about Shirley voting.

I researched the November 3, 2020, election. I was able to determine that voters in Racine County were able to vote in the race for President of the United States, United States Representative for the First District of Wisconsin, Racine County District Attorney, Racine County Treasurer, Racine County Clerk, and Racine County Register of Deeds.

Telephone conversation with Judy Westphal-Mitchell

I had telephone contact with Judy during the morning of December 10, 2020. Judy confirmed the allegations she swore to when she completed the WEC's Complaint Form. Judy informed me that her mother, Shirley, died on October 9, 2020, before the most recent election - an election where Shirley's vote was cast in. Shirley Emailed me copies of the documents declaring her Power of Attorney over Shirley's Finances and Property, signed December 30, 2012, and Power of Attorney for Health Care, signed February 22, 2013. Judy also sent me a Death Certificate for Shirley which confirmed her date of death to be October 9, 2020.

On December 10, 2020, at approximately 3:00 p.m., Inv. Johnson and I went to the Mount Pleasant City Hall and made contact with Village Clerk/Treasurer Stephanie Kohlhagen and Deputy Clerk/Treasurer Jill Firkus. The conversation was recorded by Inv. Johnson using the Axon Capture app on his department issued cell phone. This report is a summary of our conversation, please see the recording for exact details of the conversation.

Meeting at Mount Pleasant Village Hall

I explained to Clerk Kohlhagen and Deputy Clerk Firkus that we were investigating the complaint Judy Westphal-Mitchell made about the practices at the Ridgewood Care Center concerning voting, specifically her mother, Shirley Westphal, voting in the most recent election on November 3, 2020. I informed them that I was interested in locating Shirley's ballot to verify her signature and identify the witness to her vote. They informed me that the envelop for the ballot was being held by "the county" and they would be able to get me a copy of the ballot. They stated that the ballot would contain Shirley's signature and the signature of the witness. Clerk Kohlhagen stated to me that unless they have an order signed by a judge that an individual has been deemed

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incompetent and their voting rights have been taken away, the village has to issue that person a ballot. Clerk Kohlhagen stated that she also explained this information to Judy.

I requested a list of all the times Shirley had voted since 2012, because that was the time that Shirley suffered significant physical/mental difficulties and signed the Power of Attorney to Judy. I was provided with a list of Shirley's voting history which showed she voted two times while she lived at the Ridgewood Care Center in the Village of Mount Pleasant. The records showed that Shirley voted in the 2020 Spring Election/Presidential Preference Vote, which was held on April 7th, 2020, and the 2020 General Election, which was held on November 3, 2020. Shirley also voted in the past when she lived in Kenosha County. Shirley voted four times in 2016, one time in 2015, three times 2014, one time in 2013, and six times in 2012. In all of these elections, Shirley voted with an absentee ballot.

Clerk Kohlhagen stated that they were informed "that our special voting and registration deputies were not allowed into nursing homes because of COVID". Clerk Kohlhagen stated that they normally send two special voting deputies into nursing homes to collect the vote, but they did not follow this procedure this time. Clerk Kohlhagen stated they received this information about not being allowed into retirement homes in April of 2020. Clerk Kohlhagen stated she believed the WEC sent the clerks a notification letter. I requested a copy of that letter, but I was not provided with the copy during this meeting.

I told the clerks that I was informed that people can be signed up to be sent an absentee ballot for every election. Clerk Kohlhagen informed me that if someone is "indefinitely confined", they would be sent an absentee ballot for every election. Clerk Kohlhagen stated there is a part of the application where "you are signing under oath that you had a condition". Clerk Kohlhagen stated, "The only reason we mailed the ballots this time, those ballots, to the nursing home, was because we were on lockdown with COVID and we could not go in there; therefore, we're obligated then to mail them. Otherwise, our special registration and/or voting deputies would actually physically have the ballots on them, be in the presence of that voter while they're voting, but that obviously did not happen. They're typically not mailed to the nursing home. It's just during COVID we had that."

Clerk Kohlhagen explained to me that the special registration deputies and the special voting deputies are different functions but the same people. Clerk Kohlhagen explained that they send the two people to the nursing home first to register people and then a week, or so, later they will send the two people out with the ballots to collect the vote. Clerk Kohlhagen stated that they normally post notices at the nursing homes as to when the special voting deputies are going to be at the facility, and she provided me copies of previous notices. Clerk Kohlhagen stated the patients' family members are supposed to pay attention to the notices when they are at the facility so that

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they have notice of when the voting is going to occur. Clerk Kohlhagen confirmed that no notice of voting was posted for the two most recent elections "because of COVID".

Deputy Clerk Firkus stated that the woman who worked at Ridgewood Care Center, and would coordinate the voting, just started when the COVID-19 shutdowns of nursing homes started in the spring of 2020. Deputy Clerk Firkus believed the woman's name was "Jennifer".

I was provided with a list of all the individuals that were registered to vote at Ridgewood Care Center. I was provided with a list of 53 people, 44 of the people voted in the November 3, 2020, election. The list included Shirley's name as a person who voted. I was provided with a booklet entitled "Absentee Voting in Residential Care Facilities and Retirement Homes" that was dated October 2018. I was informed that this booklet was previously provided to the Ridgewood Care Center and other facilities in the Village of Mount Pleasant. I requested information as to who was the witness(es) to the 44 votes that were cast from the Ridgewood Care Center. I requested the application that Shirley would have filled out to get an absentee ballot and/or oath of being indefinitely confined. I was informed the clerks would never be able to identify Shirley's exact ballot, but they would be able to identify Shirley's absentee ballot envelope.

Review of documents provided by the Village of Mount Pleasant

On December 10, 2020, at 6:03 p.m., I received an Email from Clerk Kohlhagen which contained the Wisconsin Application for Absentee Ballot that was filed out for Shirley and contained a signature consistent with Shirley Westphal. The majority of the form is completed in blue ink. The person who used the blue ink, later determined to be [REDACTED], wrote down Shirley's name, date of birth, telephone number and address. [REDACTED] checked the box citing Shirley's preference to receive a ballot by mail. In the next section, which was section 6, it stated, "I REQUEST AN ABSENTEE BALLOT BE SENT TO ME FOR: (mark only one)". [REDACTED] marked the box before the statement, "The election(s) on the following date(s):" and no election date was written on the following line. A person using red ink put an "X" in the box before the fourth statement: "For indefinitely-confined voters only: I certify that I am indefinitely confined because of age, illness, infirmity or disability and request absentee ballots be sent to me automatically until I am no longer confined, or I fail to return a ballot. Anyone who makes false statements in order to obtain an absentee ballot may be fined not more than \$1,000 or imprisoned not more than 6 months or both. Wis. Stat. sec. 12.13(3)(i), 12.60(1)(b)."

[REDACTED] signed on the line entitled "Agent Signature" and dated the form "3/16/20". It should be noted that the information above the "Agent Signature" line stated, "I certify that the application is made on request and by

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authorization of the named elector, who is unable to sign the application due to physical disability." On the line entitled "Voter Signature" the apparent signature of Shirley Westphal was written in black ink. The date after Shirley's signature was written by [REDACTED] as "3/16/20". [REDACTED] wrote the last four digits of Shirley's social security number on the form. The apparent signature of Shirley was on the "Voter Signature" line certifying, amongst other things, that "all statements on this form are true and correct" with the penalty for providing false information being a "fine or imprisonment under State and Federal laws" The "Assistant Signature" line was signed by [REDACTED]. It should be noted that the sentence below the word "Assistant" stated, "If someone assisted you by signing this form, they must complete this section."

The last part of the document was entitled "This Section for Official Use Only". The section is filled out in red ink and it contains the apparent signature of "Jill M. Firkus". The red ink was used to write the date of completion as "3/16/2020". Therefore, it appears that Deputy Clerk Firkus marked the box certifying that Shirley was indefinitely confined after Shirley signed the form, and Shirley certified the document under penalty of "fine or imprisonment under State and Federal laws".

Review of applicable law

I researched some of the law surrounding elections. I observed that it stated in Wis. Stat. sec. 6.84(1) "LEGISLATIVE POLICY. The legislature finds that voting is a constitutional right, the vigorous exercise of which should be strongly encouraged. In contrast, voting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place. The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for fraud or abuse; to prevent overzealous solicitation of absent electors who may prefer not to participate in an election; to prevent undue influence on an absent elector to vote for or against a candidate or to cast a particular vote in a referendum; or other similar abuses."

I observed Wis. Stat. sec. 6.875 which is entitled, "Absentee voting in certain residential care facilities and retirement homes". Wis. Stat. sec. 6.875(2)(a) stated, in part, Absentee voting in person inside [retirement homes] shall be conducted by municipalities only in the manner prescribed in this section" and "At any [retirement home] where a municipality dispatches special voting deputies to conduct absentee voting in person under this section, the procedures prescribed in this section are the exclusive means of absentee voting in person inside that facility . . .".

I observed that in Wis. Stat. sec. 6.875(4)(a) it stated, in part, ". . . the municipal clerk . . . of each municipality . . . shall appoint at least 2 voting deputies for the municipality"; that the two voting deputies shall be

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dispatched to the retirement home "for the purpose of supervising absentee voting"; and that "The 2 deputies . . . shall be affiliated with different political parties " when available.

I observed that in Wis. Stat. sec. 6.875(4)(at) it stated, in part, that the clerk "shall give the absentee ballot to the special voting deputies who shall personally deliver the ballot to the elector . . .". I observed that in Wis. Stat. sec. 6.875(4)(b)(b) it stated, in part, "No individual who is employed or retained, or within the 2 years preceding appointment has been employed or retained, at a [retirement home] . . . may be appointed to serve as a deputy."

I observed that in Wis. Stat. sec. 6.875(5) it required that the special voting deputy take an oath. It further stated, in part, "the individual shall swear that he or she is qualified to act as a deputy . . . that he or she has read the statutes governing absentee voting, that he or she understands the proper absentee voting procedure, that he or she understands the penalties for noncompliance with the procedure under s. 12.13 [Voter Fraud], that his or her sacred obligation will be to fully and fairly implement the absentee voting law and seek to have the intent of the electors ascertained. In addition, the oath shall state that the individual realizes that any error in conducting the voting procedure may result in the invalidation of an elector's vote under s. 7.51(2)(e) and that the individual realizes that absentee voting is a privilege and not a constitutional right."

I observed that in Wis. Stat. sec. 6.875(6)(a) it required that municipal clerks post when the special deputies are going to be at the retirement homes to administer the absentee ballots. In Wis. Stat. sec. 6.875(6)(b), it is required that the municipal clerk provide the deputies with a sufficient number of ballots as it relates to the number of valid applications and it also requires the deputies to return to the clerk every ballot issued to them.

I observed that in Wis. Stat. sec. 6.875(6)(c)1. it stated, in part, "The deputies shall each witness the certification and may, upon request of the elector, assist the elector in marking the elector's ballot. The deputies shall not accept an absentee ballot submitted by an elector whose ballot was not issued to the elector by the deputies. All voting shall be conducted in the presence of the deputies. Upon request of the elector, a relative of the elector who is present in the room may assist the elector in marking the elector's ballot. No individual other than a deputy may witness the certification and no individual other than a deputy or relative of an elector may render voting assistance to the elector."

I observed that in Wis. Stat. sec. 6.875(6)(d) the deputy is required to place the ballot inside a sealed envelope, sign their name on the seal, have the elector sign the envelope, place the envelope in a ballot bag, and deliver the ballot bag to the clerk within 18 hours.

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I also reviewed the United States Constitution, specifically Article I, Section 4, paragraph 1, where it stated, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators." (Emphasis added). It is also stated in the United States Constitution, specifically, Article II, Section 1, paragraph two, (concerning how the Electoral College will select the President of the United States), "Each State shall appoint, in such Manner as the Legislature thereof may direct . . ." (Emphasis added).

Request for additional information from the Village of Mount Pleasant

On Friday, December 11, 2020, I Emailed Clerk Kohlhagen and Deputy Clerk Frikus. In the Email, I documented my previous requests of a copy of Shirley's Application for Absentee Ballot (already received), a copy of the envelope that contained Shirley's absentee ballot, and a list of the witness(es) for the other ballots that were cast absentee from the Ridgewood Care Center. I also requested any documentation provided by the WEC to the Village of Mount Pleasant notifying the municipal clerks that the numerous requirements of Wis. Stat. sec. 6.875 need not be followed.

Review of additional information provided by the Village of Mount Pleasant

On Thursday, December 17, 2020, I received multiple Emails from Clerk Kohlhagen which contained the following:

A sample voting notice for the Ridgewood Care Center from April of 2020

(1) A letter dated March 12, 2020, from the WEC to Wisconsin Municipal Clerks (et al.) ordering municipalities to not use special voting deputies in the Spring Election and Presidential Preference Primary and the Special Election in the 7th Congressional District. The municipalities were ordered to mail the ballots to the facilities. The municipalities were authorized to relocate polling places. In the letter it is stated that the WEC would be providing future training material. The basis for the WEC's orders appeared to be where it is stated in the letter: "[Governor Evers Executive Order #72] designates the Department of Health Services as the lead agency in responding to the public health emergency and directs all state agencies to assist in the State's ongoing response to the emergency. In light of Executive Order #72 and directives to the Department of Health Services, the Wisconsin Elections Commission held a special Commission meeting concerning Special Voting Deputy voting in care facilities and the relocation of polling places located in care facilities for the upcoming [elections]." The letter is from WEC Administrator Meagan Wolfe.

(2) A letter dated September 25, 2020, from the WEC to Wisconsin Municipal Clerks (Et al.) from Administrator Meagan Wolfe and Assistant Administrator

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Richard Rydecki with the subject being: "Absentee Voting at Care Facilities Information Documents". In this letter, it is stated: "The Wisconsin Elections Commission determined on June 24, 2020 and reaffirmed the decision on September 16, 2020 that Special Voting Deputies (SVDs) will not be dispatched to nursing homes and facilities to administer voting for the remaining elections in 2020. Residents of facilities normally served by SVDs will instead be mailed absentee ballots for each remaining 2020 election. Many nursing home and care facility residents rely on assistance from others to vote. Because most nursing homes and care facilities are not allowing guests at this time, some voters may require assistance from care facility staff to vote. Facility administrators and staff are able to assist residents in filling out their ballots or certificate envelopes and assist in completing voter registration forms and absentee requests, witness ballots, or sign a special certificate envelope (EL-122sp) if necessary." It is then stated that the WEC created and attached two training documents.

(3) Scans of the Certification of Voter envelope that were signed by the voter and the witness for people who resided at the Ridgewood Care Center. These people included:

(a) [REDACTED], and [REDACTED].

(b) According to the list provided by Deputy Clerk Firkus of registered voters at Ridgewood Care Center, the registered voters who did not vote included: [REDACTED], and [REDACTED].

Search warrant for the Ridgewood Care Center

I drafted a Search Warrant to be served at the Ridgewood Care Center. The

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items that I was seeking to seize included: (1) Shirley's resident/patient file and (2) the contact information for the Power of Attorney, designated family member(s), and/or other responsible party for the above stated individuals who voted in the November 3, 2020, election. The Search Warrant was reviewed by District Attorney Patricia Hanson and authorized by Judge Wynne Laufenberg.

Execution of search warrant and interview of Executive Director Scott L. Myers

On Friday, December 18, 2020, at approximately 12:30 p.m., Inv. Andersen, Inv. Srnka, and I served the search warrant on the Ridgewood Care Center. We met with Executive Director Scott L. Myers [REDACTED] and interviewed him in his office. This interview and the following interview were recorded using Inv. Anderson's body Worn Camera. Please see that recording for exact details of the interviews. This report is a summary of the interviews.

I explained to Director Myers the nature of the investigation and the Search Warrant. I requested to be allowed to make copies of Shirley's complete file and to get the contact information for the family members or responsible parties for the people who voted in the November 3, 2020, election. Director Myers stated he would arrange to provide us with that information. Inv. Srnka was taken to a records room where the requested documents were copied.

I asked Director Myers to explain the process of how a resident would request an absentee ballot and then vote absentee. Director Myers stated I could speak with the Director of Recreational Therapy, [REDACTED], to get more information about the voting process. Director Myers gave a general statement that [REDACTED] would determine who was eligible to vote and who was interested in voting. Director Myers stated absentee ballots would be requested for those residents. Director Myers stated Director Heesch was in contact with the "election committee board" several times to make sure she had what she needed.

I informed Director Myers that Judy had sent a sworn affidavit to the WEC documenting her concerns about her mother, Shirely, voting in the November 3, 2020, election. I informed Director Myers that Judy had stated in her affidavit that she asked him how the staff determined who the resident wanted to vote for and he allegedly stated that the staff would ask how the resident voted in the past, and if they stated democratic, the staff would vote party lines on the ballot for the resident. Director Myers stated that statement was "not from me". Director Myers gave an example that if a resident stated they only vote republican and that is what they wished to do, the ballot would be marked as the resident wished. I paraphrased to Director Myers Judy's statement of: Well if the only thing my mother can remember is JFK, is the person assisting her going to vote democratic and the answer was "yes". Director Myers stated he was not familiar with anyone saying that and he stated the previous statement seemed "a bit simplistic". I confirmed with Director

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Myers that he was "Scott Myers" and I informed him that Judy stated in her sworn affidavit that the person making these statements was him. Director Myers stated "that's definitely not the case". I explained to Director Myers that Judy took the time to place his alleged statement in her sworn affidavit, and that if she is lying it is a crime. Director Myers responded, "I do not recall talking with that." Director Myers stated he did discuss some examples and he did give Judy information on how to file a complaint.

I informed Director Myers that Judy was alleging that, given her mother's vision problem and broken glasses, how they could know the person assisting a resident was marking the correct vote and he stated he "hoped" they were honest. I informed Director Myers that Judy even put the statement in quotation marks. Director Myers stated he was trying to remember the conversation, but he could recall that Judy was "very upset". Director Myers stated there "were several things we discussed" and he "tried to reassure her as far as what our understanding was from our guidance and I spoke to the guidance and what we are charged with is to assist." Director Myers stated his statement was not quite like what Judy wrote. Director Myers stated, he stated, "Well I would hope that people were honest with what we are doing and that we are not doing something that we are not supposed to do." Director Myers stated, "We are charged with something we take very seriously." Director Myers stated if someone has the "desire" to vote and the "ability" to do so, then they would be given the opportunity to vote.

I explained to Director Myers that I would like to talk about a resident having the "desire" to vote, because Judy's position was that Shirley would not have had the ability, desire, or interest to vote. I explained that Judy probably knew her mother better than anyone, and Judy had concerns because Shirley had such cognitive difficulties that Shirley could not remember what she ate for lunch; she did not recognize her own daughter; and she was seeing airplanes and helicopters outside of her window that were not there. I told Director Myers that it was difficult to understand how someone like Shirley would express a desire in obtaining an absentee ballot. I explained to Director Myers that Judy was stating that Shirley did not keep up with current events; she did not care that her glasses were broken because she did not want to read anymore; and she spent most of her time gazing out the window. I explained to Director Myers that the last time Shirley voted was in 2016. I stated to Director Myers that for four years Shirley expressed no desire to vote and she was suffering from severe cognitive limitations, but Director Myers was now representing that Shirley articulated a desire to vote and who to vote for. Director Myers stated he could not attest to what Shirley said because he was not there. I explained to Director Myers that he was representing that the procedures of the facility are that Shirley would have had to express a desire to vote. I informed Director Myers that we do know that Shirley signed the request for an absentee ballot and then she voted. I stated to Director Myers that, to many people, this would seem troublesome. Director Myers responded, "Well, I can understand that".

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Director Myers explained that the staff would get "guidance" of the residents "capabilities" from social services. I asked if this information would be documented in Shirley's file, and he stated that he had not reviewed Shirley's file. Director Myers directed me to contact the Director of Social Services, "Erin Luna-Blanco".

At this point,, Director Myers took Inv. Srnka to the records department, and Inv. Andersen and I waited to see if Director Heesch would be available for an interview. Director Meyrs came back into the room and worked at his desk while we waited for Director [REDACTED]. During our conversation, I asked Director Myers if the Ridgewood Care Center had any procedure to notify the municipality or voting clerk when someone dies at the facility. Director Myers stated that they notify the "coroner" and the family, but they do not notify the municipality. I informed Myers that one of the issues with Shirley's case, is that she voted on September 22, 2020, but the election was not until November 3, 2020 - and her vote was still cast and counted. I suggested that someone at Ridgewood may want to look into this problem so that it does not happen in the future.

Execution of search warrant and interview of Director of Recreational Therapy [REDACTED], Activities Aid [REDACTED] and Activities Aid [REDACTED]

At approximately 1:45 p.m., Inv. Andersen and I began to interview Director Heesch. I began to explain that I was investigating some concerns about the absentee voting at the facility. I told Director [REDACTED] that I was contacted by a resident's daughter, and Director [REDACTED] interjected and stated, "A [REDACTED] [REDACTED]". I told Director [REDACTED] that A [REDACTED] was not the person who made the complaint that I was assigned to investigate. I told Director [REDACTED] that the complaint was from Judy Westphal-Mitchell and it was about her mother, Shirley Westphal.

Director [REDACTED] stated that she started working at Ridgewood Care Center March 2, 2020, right when the COVID-19 restrictions were going into affect. I asked Director [REDACTED] what her opinions were of Shirley's cognitive limitations. Director [REDACTED] stated that she did not know everyone at the facility. Director [REDACTED] stated that she instead wanted to talk about the "process that we take". Director [REDACTED] stated that she generates a list of residents. Director [REDACTED] stated that "we go around" and ask everyone on that list if they want to vote. Director [REDACTED] stated in Shirley's case, she could still vote because it was not specifically stated in her file that she could not vote. Director [REDACTED] stated that she had her "ladies, if they want to vote, I register them". Director [REDACTED] stated once the ballot comes to the facility, her staff will take the ballot to the resident's room. Director [REDACTED] stated if the resident cannot answer the question or they do not want to vote, "that's

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totally up to them". Director [REDACTED] stated if the resident can only point, her staff will file in the dot. Director [REDACTED] stated once the ballot is out on the floor with her staff, she does not have much to do with the voting. Director [REDACTED] stated her staff will bring the ballot and the envelope back to her and "I seal the envelope, stamp it, and send it on its way."

I informed Director [REDACTED] that Judy's concerns about Shirley casting a vote were because Shirley had such cognitive difficulties that Shirley would often times not recognize Judy; that Shirley would often times not remember what she had for lunch that day; that when Shirley's eye glasses broke prior to March of 2020, she did not have any interest in having the glasses fixed because there was nothing she wanted to read; and that Shirley had no interest in the news, watching television, or keeping up on current events. I asked Director [REDACTED] to compare and contrast the description of Shirley I just described to her with Director [REDACTED]'s position that Shirley informed staff that she wanted to vote and that she knew who she wanted to vote for. Director [REDACTED] interjected, "Or we left it blank."

Director [REDACTED] stated Shirley wanted to vote. I asked Director [REDACTED] how Shirley communicated to her that she wanted to vote. Director [REDACTED] stated Shirley did not communicate directly to her, but she communicated to the staff. I showed Director [REDACTED] Shirley's "Wisconsin Application for Absentee Ballot" which contained both of their signatures. Director [REDACTED] stated she filled out the entire form and her staff "does all the footwork". Director [REDACTED] stated her staff takes the form to the resident and has the resident sign the form. Director [REDACTED] informed me that after the list was made, she did not ask the resident if they want to vote or assist them in voting. I asked Director [REDACTED] who asked Shirley if she wanted to vote, and Director [REDACTED] stated it would have been Activities Aides [REDACTED], [REDACTED], or "[REDACTED]". I explained to Director [REDACTED] that she signed on the line entitled "ASSISTANT DECLARATION/CERTIFICATION" and on the line entitled "Assistant". Director [REDACTED] stated that she filed out the paperwork and signed everything so her staff did not have to do that extra work.

Director [REDACTED] reiterated that it does not say anywhere in Shirley's paperwork that she cannot vote. I agreed, but added that Shirley had to have the desire to vote. I stated that Director [REDACTED] signed the form stating Shirley did express a desire to vote, but Director [REDACTED] did not know if Shirley expressed that desire. Director [REDACTED] stated that she personally did not know that information, but she could ask her staff.

I asked Director [REDACTED] about the last four digits of Shirley's social security number having been written on the form, and she agreed she wrote the digits on the form. Director [REDACTED] stated she wrote the last four digits of the social security number on all of the forms. Director [REDACTED] explained, "because, of course, a lot of people are not going to remember that". Director [REDACTED]

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confirmed that she wrote all of the writing in the blue ink and that was her signature on the form. Director [REDACTED] confirmed that she checked the box on the form that Shirley was requesting an absentee ballot for the following elections and no date was filed in. Director [REDACTED] agreed neither Shirley nor herself checked the box certifying that Shirley was indefinitely confined, which was done in red ink. Director [REDACTED] agreed that the red ink was most likely written by Deputy Firkus at the Mount Pleasant Village Hall. I summarized that Shirley did not actually declare, when she signed the form, that she was indefinitely confined and that falsely making that declaration is a crime punishable by up to \$1,000, 6 months in jail, or both. Director [REDACTED] responded, "I think there is a lot more to it." and I invited her to explain it to me.

Director [REDACTED] stated Shirley had the right to vote and I agreed. I added to that statement that Shirley had to express her desire to vote and Director [REDACTED] signed the form representing that Shirley expressed the desire to vote. I stated to Director [REDACTED] that she did not actually know if Shirley expressed the desire to vote and Director [REDACTED] did not know who allegedly communicated with Shirley. I further explained to Director [REDACTED] that Shirley had not voted since 2016, which meant Shirley did not want to vote in 2017, 2018, or 2019. I told Director [REDACTED] that it appeared that her position was: when Shirley moved into the Ridgewood Care Center, while she was experiencing significant cognitive issues, was not interest in the news or current events, and was two weeks away from her death, she expressed a desire to vote and did in fact vote -- but we do not know who she communicated this desire to or what was said. Director [REDACTED] stated, "I go off what my staff says" and "they said, she can have moments of clarity."

At this point, Director [REDACTED] left the room to get Aid [REDACTED] and Aid [REDACTED] to join the meeting. I asked Aid [REDACTED] how Shirley expressed to her that Shirley wanted to vote absentee. Aid [REDACTED] stated she did almost 500 hundred voting ballots and she did not remember them all specifically. Aid [REDACTED] stated that if the resident tells her that they are a democrat or republican, she will read off all of the choices, tell them which person is a democrat or republican, and mark their response. Aid [REDACTED] stated that the residents will say things to her like: "where is my ballot" or "I didn't get anything." Aid [REDACTED] stated they will then get the resident registered to vote and assist the resident in voting.

I explained to Aid [REDACTED] that the information I had on Shirley is that she had a significant cognitive decline; she had no glasses and was uninterested in reading; and she had no interest in the news or current events. I informed Aid [REDACTED] that based upon Shirley's condition, her daughter, Judy, found it highly unlikely that Shirley would express an interest in getting an absentee ballot. Aid [REDACTED] stated she would not have done a voting ballot if Shirley had no interest in voting. I asked Aid [REDACTED] if she had a specific recollection as to her conversation with Shirley, and Aid [REDACTED] stated she

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did not because she assisted so many people. I asked Aid [REDACTED] if she had a specific recollection about when she assisted Shirley in voting, and Aid [REDACTED] could not remember the exact conversation because she would do about "50 ballots a day".

Aid [REDACTED] explained to me that if a resident wanted to vote, they would get registered (if they were not already), and an absentee ballot would be sent to the facility. Aid [REDACTED] stated that once the ballot was received, she would go to the resident's room and ask if they were still interested in voting. If the resident said yes, Aid [REDACTED] would assist the resident in voting. If the resident did not want to vote at that moment, Aid [REDACTED] stated she would come back at a later time to see if they then wanted to vote. Aid [REDACTED] stated after going back to the resident, if they still did not want to vote at all, she would return the ballot to Director [REDACTED], who would send the ballot back to the Mount Pleasant Village Hall.

I asked Aid [REDACTED] how the residents would express who they wanted to vote for, and she stated her process was pretty "uniform". Aid [REDACTED] stated she would come into the room and say "hi" and ask the resident if they vote democrat or republican. Aid [REDACTED] stated she would read off the list of the candidates. Aid [REDACTED] stated she would tell the resident which candidate was a democrat and which was a republican. Aid [REDACTED] stated the resident would make their selection and she would mark the ballot. Aid [REDACTED] stated even if a resident stated they wanted to vote democrat or republican across the ballot, she would still ask the resident about their choice for every race.

I questioned Aid [REDACTED] about the Application for Absentee Ballot that was signed by Shirley. I asked Aid [REDACTED] that would it not have been move proper for her to sign the form as the witness to Shirley requesting an absentee ballot as opposed to Director [REDACTED] signing the form. Aid [REDACTED] stated when she would execute the form with a resident, she would sign the form as the witness. Director [REDACTED] interjected and stated she would fill out the form to assist her staff. I informed Aid [REDACTED] and Director [REDACTED] that their statements were inconsistent with each other.

The two women talked it out and then agreed that Aid [REDACTED] did some of the Application for Absentee Ballot forms and Aid [REDACTED] did most of the voting ballots with the ballot envelopes. However, Aid [REDACTED] still maintained that if she executed the Application for Absentee Ballot form, she would have signed as the witness. I then asked Aid [REDACTED] if she executed the Application for Absentee Ballot with Shirley, and Aid [REDACTED] stated "no" because Director [REDACTED] signed the form. Based upon the statements of Director [REDACTED] and Aid [REDACTED], I am unable to determine who executed the form with Shirley. I informed Director [REDACTED] that her signing the form as the witness prior to the form being executed and with her having no contact with the actual voter was problematic.

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I read to Director [REDACTED], Aid [REDACTED], and Aid [REDACTED], the quotations Judy wrote in her affidavit that she was alleging was stated by Director Myers about how the voting was conducted. Aid [REDACTED] and Aid [REDACTED] stated that description was not the way they conducted the vote. I asked if they believed there were other residents at the facility that had similar cognitive issues as did Shirley. Aid [REDACTED] stated that if some people do not respond, they would return the blank ballot to Director [REDACTED]. I confirmed with everyone in the room that they were stating that the procedure would be if the resident voted or did not vote, they would return the ballot to Director [REDACTED], Director [REDACTED] would seal up the envelop, and Director [REDACTED] would then send the envelop to the Mount Pleasant Village Hall. Director [REDACTED] Aid [REDACTED] and Aid [REDACTED] all agreed that this was the procedure they followed.

I informed them that this procedure was also problematic. I informed Director [REDACTED], Aid [REDACTED], and Aid [REDACTED] that after the ballot was executed, the ballot should be placed in the envelop, the envelop should be sealed, the voter should sign the form, and the witness should sign the form - in that order. This procedure is clearly described on the Absentee Ballot Certification Envelope in five clearly marked steps that begin with the instructions "Voter: Please complete steps 1 through 5, in the presence of your witness." Aid [REDACTED] admitted that she would collect the ballots that were either completed or blank and she would not seal the envelops.

Inv. Andersen asked how it was handled if a resident did not know the difference between a Democrat and a Republican. Inv. Andersen asked if they would explain to the residents what each candidate stood for on various issues. Inv. Andersen asked if there was a sheet that the Aid's would read to explain the issues in the election. Aid [REDACTED] stated there was no sheet, but she would ask the resident if they wanted her to set up a news channel on their television and then come back the next day. Aid [REDACTED] stated that the news, at that time, was constantly covering the election. Aid [REDACTED] stated she would leave the news channel on for a day or two and then she would come back to the resident. Aid [REDACTED] stated she would ask the resident, "Hey, did you ever get a chance to research that? and if they said 'yeah, this is what I want' or 'no, I don't really feel like voting' however way. If they didn't feel like voting. If they didn't see that there was an elector that was fit for it, I wouldn't have them vote. But if they looked at it and said 'yes, this is what I want', then that is what I would do." I asked Aid [REDACTED] if she would leave the ballot with the resident while they were deciding if they wanted to vote, and she stated "no" and that she would keep the ballots in her desk until she returned.

I asked Director [REDACTED], Aid [REDACTED], and Aid [REDACTED] if they received any training information, pamphlets, or videos on how to administer the vote at the facility. All three ladies shook their heads in the negative and stated they received no training on this issue. Director [REDACTED] stated, "I kept calling the village, but we can't get through there. I leave messages, please call me,

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please call me, please!" Aid [REDACTED] stated all that she was told was what Director [REDACTED] told her, and Director [REDACTED] received that information from Director Myer.

I provided Director [REDACTED], Aid [REDACTED], and Aid [REDACTED] with my business card, and I encouraged them to contact me if they had any questions, concerns, or additional information.

Inv. Srnka, Inv. Anderson, and I left the Ridgewood Care Center.

Telephone conversation with Aid [REDACTED]

On Monday, December 21, 2020, at approximately 2:40 p.m., I made telephone contact with Aid [REDACTED]. I asked Aid [REDACTED] where she stored the ballots and envelopes when she was giving the residents more time to decide if they wanted to vote. Aid [REDACTED] stated she placed the ballots and envelopes inside the bottom drawer on the left side of her desk. Aid [REDACTED] stated she placed the ballots and envelopes in the back of the drawer. Aid [REDACTED] stated there is no lock on the drawer. Aid [REDACTED] stated her desk is in the Life Enrichment Room. Aid [REDACTED] stated the room is "locked at all times", but the following people have keys to the room: Director Myer, Director [REDACTED], Aid [REDACTED], Aid [REDACTED], and herself.

I reminded Aid [REDACTED] about her statement that if the resident did not want to vote at a specific time, she would turn on a news channel and leave the news on the television for a day or two. Aid [REDACTED] stated she remembered the statement. I asked Aid [REDACTED] what channel she would put on for the resident, and she informed me that the residents, at times, have a list of preferred channels. Aid [REDACTED] stated if the resident did not have a list, she would normally put "NBC" on the television.

Meeting with Clerk Stephanie Kohlhagen at Mount Pleasant Village Hall

On Wednesday, December 23, 2020, at approximately 9:30 a.m., Inv. Andersen and I made contact with Clerk Kohlhagen at the Mount Pleasant Village Hall. Clerk Kohlhagen provided me with copies of the Application for Absentee Ballot from the other registered voters at Ridgewood Care Center. Clerk Kohlhagen stated there were three or four names on the list that were older and would require more effort to locate. I informed Clerk Kohlhagen that she could hold off on looking for those additional applications. I added the information to the spreadsheet I had already created. It should be noted that it appeared that there were eight occasions (including Shirley Westphal) where it appeared that an employee of the Village of Mount Pleasant checked the box, after the voter signed the document, certifying, under penalty of law, that the voter was indefinitely confined.

I questioned Clerk Kohlhagen about Judy's Application for Absentee Ballot. I

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informed Clerk Kohlhagen that it appeared that Deputy Clerk Firkus checked the box certifying, under penalty of law, that Judy was indefinitely confined. I stated that this certification would have occurred after Judy signed the form and it was delivered to the Village of Mount Pleasant. I added that the original document appeared to be incomplete because the only box that was checked was the request for an absentee ballot on "The election(s) on the following date(s):" with no dates listed. Clerk Kohlhagen admitted that the correct procedure would be to have the voter check the "indefinitely confined" box, but the clerks just "corrected" the error.

I asked Clerk Kohlhagen if the WEC provided any training information for the municipalities and/or the employees at the retirement homes. Clerk Kohlhagen stated she did not believe the WEC provided any training material. Clerk Kohlhagen stated the WEC may have put out a Webinar. Clerk Kohlhagen stated the Ridgewood Care Center would have previously been provided with the booklet entitled "Absentee Voting in Residential Care Facilities and Retirement Homes" dated October of 2018.

Clerk Kohlhagen stated the rate of new people registering to vote and the number of people voting at the Ridgewood Care Center was unusually high in the November 2020 election. Clerk Kohlhagen stated for most previous elections at the Ridgewood Care Center, including presidential elections, the number of people voting would be approximately ten. Clerk Kohlhagen stated the number of people registering as a new request for an absentee ballot would be around zero to two people. Clerk Kohlhagen stated that she would usually be informed that a few people were no longer at the facility.

Clerk Kohlhagen stated that prior to the November 2020 election, Director [REDACTED] would call her and tell her that she had "80 people" who were newly requesting absentee ballots. Clerk Kohlhagen stated she would question Director [REDACTED] on why the number was so high, and Clerk Kohlhagen would only state that this was the number of people she had that wanted an absentee ballot. Clerk Kohlhagen stated that the other retirement homes in the Village of Mount Pleasant did not show any unusual increases in applications for absentee ballots nor casting of absentee ballots - she stated the other facilities averaged around zero to two applications for absentee ballots and approximately ten absentee ballots cast per facility. According to the documentation from Ridgewood Care Center, in the Spring election of 2020, nine new people submitted an application for an absentee ballot, and, for the Fall election, 27 new people submitted an application for an absentee ballot. Furthermore, 43 residents of the Ridgewood Care Facility voted in the Fall election.

Review of Shirley Westphal's resident records at the Ridgewood Care Center

On Monday, January 4, 2021, I reviewed the documents that were copied from Shirley Westphal's resident file from the Ridgewood Care Center.

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In a document dated September 23, 2020, Nurse Practitioner [REDACTED] stated she was writing a report in accordance with the federally mandated visit she performed for acute and chronic medical conditions. NP [REDACTED] summarized Shirley's history as follows:

She has a history of disability for years. [REDACTED]

In a document entitled "Hospital Admission History and Physical", which is dated December 28, 2017, Physician [REDACTED] DO summarizes Shirley's admission to the hospital as follows:

92-year-old white female [REDACTED]

[REDACTED] Patient's daughter was contacted who is her healthcare power attorney. She was updated [REDACTED] . . .

Shirley was admitted to the Ridgewood Care Center on June 13, 2019. The following information is from passages contained within the Ridgewood Care Center Progress Notes:

(1) Effective date: 12/17/2019 [REDACTED]

(2) Effective date: 12/26/2019 [REDACTED]

(3) Effective date: 3/26/2020 [REDACTED]

(4) Effective date: 6/29/2020 [REDACTED]

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[REDACTED].
(5) Effective date: 8/16/2020 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(6) Effective Date: 9/29/2020 [REDACTED]
[REDACTED].

On October 2, 2020, Shirley was transferred [REDACTED] for hospice care. Shirley died on October 9, 2020.

Explanation of the Brief Interview for Mental Status (BIMS) Test

I researched the BIMS test on the website "MDApp". I learned that the general purpose of the BIMS test is to evaluate cognitive impairment [REDACTED]. The BIMS test is scored from 0 to 15 points. The BIMS test has three parts.

Part One is the repetition of three words. The questioner is to inform the resident that the questioner is going to say three words and the resident needs to remember the words and repeat them back when requested to do so. The questioner then states the words: sock, blue, and bed. The questioner then asks the resident to reproduce the three words and the results are scored as follows:

- (1) No word repeated (0 points)
- (2) One word repeated (1 point)
- (3) Two words repeated (2 points)
- (4) All three words repeated (3 points)

Part Two is temporal orientation. The following questions are to be asked of the resident:

(1) Ask the resident what year it is right now and score their answer as follows:

- a. Missed by more than five years or no answer (0 points)
- b. Missed by two to five years (1 point)
- c. Missed by one year (2 points)
- d. Correct (3 points)

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(2) Ask the resident what month we are in at the moment and score their answer as follows:

- a. Missed by more than one month or no answer (0 points)
- b. Missed by six days to one month (1 point)
- c. Accurate within five days (2 points)

(3) Ask the resident what day of the week it is today and score their answer as follows:

- a. Incorrect or no answer (0 points)
- b. Correct (1 point)

(4) Part Three is recall. The questioner is to tell the resident they were going to go back to the earlier question and the questioner is to ask the resident to say the words they were asked to repeat earlier. If the resident is unable to remember a word, the questioner is to provide a cue to help the resident remember the word. The resident's responses are graded as follows:

- a. Able to recall "sock"
 - 1. No, could not recall (0 points)
 - 2. Yes, after cueing "something to wear" (1 point)
 - 3. yes, no cue required (2 points)
- b. Able to recall "blue"
 - 1. No, could not recall (0 points)
 - 2. Yes, after cuing "color" (1 point)
 - 3. Yes, no cue required (2 points)
- c. Able to recall "bed"
 - 1. No, could not recall (0 points)
 - 2. Yes, after cuing "a piece of furniture" (1 point)
 - 3. Yes, no cue required (2 points)

The results of the BIMS are interpreted as follows:

- (1) 0-7: Severe cognitive impact
- (2) 8-12: Moderate impairment
- (3) 13-15: Intact cognitive response

Investigation to continue.

Respectfully submitted:

Reporting Officer(s):

Luell, Michael J.

Payroll Number:

10511

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Racine County Sheriffs Office (RASO)**Continuation**

Incident Report Number

20-061588

Incident Location:

1 Racine County, Racine, WI, 53403

Incident Date:

12/08/2020

Inv. Michael J. Luell
#10511

Reporting Officer(s):

Luell, Michael J.

Payroll Number:

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Racine County Sheriffs Office (RASO)

Supplemental Report

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New Incident:	Original CFS Code - 1: 5999	New CFS Code - 1: New CFS Code - 2:

NAMES

Mentioned-1

[REDACTED], 53406
[REDACTED]
[REDACTED]
[REDACTED]

Mentioned-2

[REDACTED], 53406
[REDACTED]
[REDACTED]

Mentioned-3

[REDACTED], 53406
[REDACTED]
[REDACTED]

Mentioned-4

[REDACTED], 53406
[REDACTED]
[REDACTED]

Mentioned-5

[REDACTED], 53406
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Reporting Officer(s): Luell, Michael J.	Payroll Number : 10511	Report Date: 01/08/2021
Reviewed by: Evans, James D.	Payroll Number : 9382	Copy To: Page: 1 Of 10

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Mentioned-6

[REDACTED], 53406

[REDACTED]

Mentioned-7

[REDACTED]

[REDACTED]

Mentioned-8

[REDACTED], 53406

[REDACTED]

[REDACTED]

Mentioned-9

[REDACTED], 53406

[REDACTED]

Mentioned-10

[REDACTED], 53406

[REDACTED]

[REDACTED]

Mentioned-11

[REDACTED], 53406

[REDACTED]

Mentioned-12

[REDACTED], 53406

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Luell, Michael J.

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[REDACTED]

[REDACTED]

Mentioned-13

[REDACTED] 53105

[REDACTED]

Mentioned-14

[REDACTED] 53403

[REDACTED]

Mentioned-15

[REDACTED] 53403

[REDACTED]

Mentioned-16

[REDACTED] 53406

[REDACTED]

Mentioned-17

[REDACTED], 53406

[REDACTED]

[REDACTED]

Mentioned-18

[REDACTED] 53406

[REDACTED]

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Mentioned-19

[REDACTED], 53403

Mentioned-20

[REDACTED] 53406

NARRATIVE

On Friday, January 8, 2021, I, Investigator Michael J. Luell #10511, began to make telephone calls to the contacts on the Admission Records for the residents at the Ridgewood Care Facility that had a record of voting in the November 2020 election.

Interview of [REDACTED] about [REDACTED]

While attempting these telephone calls, I spoke to the contact for [REDACTED] who was identified as [REDACTED]'s daughter, [REDACTED]. I explained the reason for my call, and [REDACTED] was shocked that [REDACTED] voted in the election. [REDACTED] stated she is the Power of Attorney for [REDACTED]. [REDACTED] agreed to do a formal interview over the phone. The interview was recorded using the Axon Capture App on my department issued cell phone. This report is a summary of that interview. Please see the recording for exact details of the interview.

[REDACTED] informed me that [REDACTED] began to reside at the Ridgewood Care Center on August 21, 2020. [REDACTED] stated prior to that day, [REDACTED] resided at the [REDACTED] in [REDACTED]. [REDACTED] stated that the [REDACTED] is a hospice care facility where people go for end of life situations. [REDACTED] stated [REDACTED] left the [REDACTED] and then went to the Ridgewood Care Facility. [REDACTED] stated she removed [REDACTED] from the Ridgewood Care Facility on December 17, 2020. [REDACTED] stated it was a family decision to leave the Ridgewood Care Facility, and she did not want to say where [REDACTED] was currently residing.

[REDACTED] was adamant that [REDACTED] would not have requested an absentee ballot. [REDACTED] stated that [REDACTED] was usually unable to remember what she ate for breakfast that day. [REDACTED] stated that [REDACTED] was forgetful and got easily confused. [REDACTED]

[REDACTED] informed me that she is a very conscientious and concerned voter. [REDACTED] stated that she usually made sure [REDACTED]

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Luell, Michael J.

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voted in most of the elections. [REDACTED] stated [REDACTED] used to live in the City of Racine. [REDACTED] stated that she filled out a Request for an Absentee Ballot for [REDACTED] but she never mailed it in. [REDACTED] stated she was under the impression that [REDACTED] did not vote. Without seeing the signature, [REDACTED] was positive that [REDACTED] would not have signed any of the forms. [REDACTED] stated, ". . . if there's a signature, it's not her signature. It's so hard to get her to sign something, even things that I need, you know, to conduct business, it is very hard to get her to sign anything. So she would not have requested a ballot and then sat there and signed it, no. I just don't believe that."

I asked [REDACTED] what type of documents were mailed to [REDACTED] at her house. [REDACTED] stated, ". . . just trying to get people to vote, Request for Absentee ballots, umm, those kinds of things, and there were a lot of them . . . they were really trying to get people to vote." [REDACTED] stated [REDACTED] got approximately two or three Requests for Absentee Ballots mailed to [REDACTED]'s house addressed specifically to [REDACTED]

I informed [REDACTED] that I would locate [REDACTED]'s voting envelope and describe the signature. Upon locating the voting envelope, I observed that the signature was clearly written in neat block print. I asked [REDACTED] how [REDACTED] would sign her name and if it would be in cursive. [REDACTED] stated it would probably be a combination of printing and cursive. I agreed to scan and Email the ballot envelope to [REDACTED] for her inspection. At this point, the conversation was ended.

I located the ballot envelope and the Application for Absentee Ballot attributed to [REDACTED] It should be noted that the signature on the Application for Absentee Ballot was printed. It appeared that the person making the signature had an unsteady/shaky hand. The signature on the ballot envelope was neatly printed, and it did not appear that the person making the signature had an unsteady/shaky hand. It did not appear that the signatures matched. I scanned and Emailed both documents to [REDACTED]

At approximately 1:15 p.m., I received a telephone call (this call was not recorded) from [REDACTED] who stated the signature on the Application for Absentee Ballot was [REDACTED]'s signature. [REDACTED] stated that she was "positive" that the signature on the ballot envelope was not [REDACTED]'s signature. I asked [REDACTED] if it would do any good for me to ask [REDACTED] if she voted, and [REDACTED] responded, "No, she would not remember if she did or did not vote." The name written on the Certification of Witness was "[REDACTED]". I later more closely examined the ballot envelope and observed where [REDACTED] signed the bottom of the envelope declaring that she signed the name of the voter on the envelope.

[REDACTED] stated she remembered that she felt guilty about not being able to take her mom to vote or getting her mom an absentee ballot. [REDACTED] stated she talked to [REDACTED] nearly everyday when she was at the Ridgewood Care Center because [REDACTED] had a phone in her room. [REDACTED] stated the conversations would last for "ten minutes and up". [REDACTED] stated that [REDACTED] and her never discussed the election. [REDACTED] stated that [REDACTED] never mentioned that she voted. [REDACTED] stated they did not discuss these issues because [REDACTED] "didn't know what she was doing".

Ballots Envelopes not Signed by the Voters

I examined all of the signatures on the Ballot Envelopes and I compared them to the signatures on the Request for Absentee Ballot. I observed the same type of block printing on the signature line for the ballot envelopes for [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. The name on the Certification of Witness was "[REDACTED]". I was later able to determine that the signature of [REDACTED] was not

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his signature and the witness was "[REDACTED]" with the same listed address as "[REDACTED]". I was able to determine that "[REDACTED]" signed the bottom of each of the ballot envelopes designating that she signed for the voters.

Interview [REDACTED] about [REDACTED]

At approximately 3:00 p.m., I had a telephone conversation with the contact for [REDACTED], who was identified as [REDACTED]. The interview was recorded using the Axon Capture App on my department issued cell phone. This report is a summary of that interview. Please see the recording for exact details of the interview.

[REDACTED] informed me that [REDACTED] has a "cognitive disability" [REDACTED]. [REDACTED] stated [REDACTED] "can't remember, he doesn't remember things . . . understand what we are telling him." [REDACTED] stated that her family asked the Ridgewood Care Center to do a cognitive evaluation on [REDACTED], but [REDACTED] stated they would not do an evaluation because [REDACTED] "knew his name and all of that". [REDACTED] stated she tried to convince the Ridgewood Care Center that something was wrong with her father, but they would not do any of the tests.

[REDACTED] stated [REDACTED] was admitted to the Ridgewood Care Center on March 16, 2020. [REDACTED] stated [REDACTED] chose to go to the Ridgewood Care Center after he was admitted to the hospital for a period time. [REDACTED] stated she knew something was wrong with [REDACTED] because he told everyone that she chose to send him to the Ridgewood Care Center, but she does not even like the facility.

[REDACTED] stated [REDACTED] had difficulty understanding the medical treatment he had received while at the Ridgewood Care Center. [REDACTED] stated [REDACTED] has never talked to her about the election or having a desire to vote. [REDACTED] stated [REDACTED] only asks about "Doritos" and "Snickers". [REDACTED] stated [REDACTED] lived in California [REDACTED]. [REDACTED] stated [REDACTED] was then placed into a nursing home in California. [REDACTED] stated [REDACTED] voted in elections prior to going into the nursing home in California. [REDACTED] stated she did not believe [REDACTED] has voted since he moved to Wisconsin approximately four years ago.

I asked [REDACTED] if [REDACTED] is able to recognize loved ones, and [REDACTED] responded that they will ask [REDACTED], "You know who this is? and he will say 'yes', but I'm telling you, that my dad does not . . .". [REDACTED] stated that she has four children and [REDACTED] is only able to remember the names of the two older children. [REDACTED] stated [REDACTED] refers to the two young children as the "little girls".

[REDACTED] stated given [REDACTED]'s difficulties in understanding his medical treatments, it was her opinion that he should not be voting for anything. [REDACTED] stated [REDACTED] is a nice person and he will not ask questions. [REDACTED] stated if someone asked [REDACTED] to sign his name, he would just sign his name without asking what it was really about. [REDACTED] stated that [REDACTED] would not know that Trump is the President of the United States of America. [REDACTED] stated that [REDACTED] would not know who was elected as the new President. I asked a follow-up question to [REDACTED] "So he would not know who the candidates are?" and she responded, "No, he would not know anything, no." [REDACTED] stated [REDACTED] would not know what the candidates stood for on the issues.

[REDACTED] stated that she had difficulties getting information from the staff at the Ridgewood Care Center because [REDACTED] is

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unable to tell her about upcoming appointments. [REDACTED] stated that she asks the staff to inform her about [REDACTED]'s upcoming appointments, and they respond that [REDACTED] is his own person. [REDACTED] stated that [REDACTED] "is not 'his own person', he can't do these things that we can . . . he is not able, but he'll try to remember or try to tell me . . .".

I asked [REDACTED] if she thought [REDACTED] would have "the mental ability to express: I want to vote and get me an absentee ballot?" and she emphatically stated, "No! No, I'm sorry, no".

Interview of [REDACTED] about [REDACTED]

On Wednesday, January 13, 2021, at approximately 3:47 p.m., I had telephone contact with [REDACTED]. The interview was recorded using the Axon Capture App on my department issued cell phone. This report is a summary of that interview. Please see the recording for exact details of the interview.

[REDACTED] stated his mother is [REDACTED] and she is 92-years-old. [REDACTED] stated he was made [REDACTED]'s power of attorney in 2005. I asked [REDACTED] if he believed [REDACTED] would have the mental ability to express a desire to vote and then have the mental ability to choose a candidate in an election, and [REDACTED] stated [REDACTED] would not have the mental capacity to do that. [REDACTED] stated in approximately 2014, the "doctors" filled out a document stating [REDACTED] was "incapacitated" because she could not make her own decisions. [REDACTED] stated the reason she was deemed incapacitated was because of her mental decline. [REDACTED], and she forgot a lot of things. [REDACTED] stated [REDACTED] could not do her own finances or other activities.

I asked [REDACTED] if [REDACTED] has difficulty recognizing her loved ones, and he stated, "She does remember me, on occasion." [REDACTED] stated at other times he would visit [REDACTED] and she would ask, "Who are you?" and he would respond, "I'm your youngest boy." [REDACTED] stated [REDACTED] does not really remember her grandchildren anymore, and she thinks [REDACTED] has seven children, but [REDACTED] really has eight children. [REDACTED] stated [REDACTED] had difficulty with short term memory. [REDACTED] stated [REDACTED] "can't remember anything within the last month or so. She can't remember anything within the last five minutes . . .". [REDACTED] stated [REDACTED] can remember things from a long time ago, and she thinks her own mother died only a few weeks ago. [REDACTED] stated [REDACTED] mother died in 1965.

[REDACTED] gave an example of taking [REDACTED] magazines, hard candy, and jelly beans. [REDACTED] stated [REDACTED] would put the items in a drawer and then ask where her jelly beans were located. [REDACTED] stated he would tell [REDACTED] she just put the jelly beans in the drawer, and she would argue that she did not put the jelly beans in the drawer. [REDACTED] stated [REDACTED] could not remember "one thing to the next" even when they were right in front of her. [REDACTED] stated, "She is going through the motions, but she is not even thinking about what she is doing, and I don't know if she really can think about what she is doing."

[REDACTED] stated the last time he actually saw [REDACTED] was in October of 2020 when the facility allowed for a specialized visit. [REDACTED] stated [REDACTED] would talk to them a little bit and then she would drift off. [REDACTED] stated [REDACTED] would "look around and it was almost like we weren't even there."

I asked [REDACTED] when [REDACTED]'s mental decline started, and he stated that it was before his dad died in 2009. [REDACTED] stated [REDACTED] would forget things and his dad would cover for her. [REDACTED] stated [REDACTED] continued to decline after his dad's death. [REDACTED]

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[REDACTED] stated it was at this time the doctors filled out the incapacitation form. I asked [REDACTED] if he could provide me a copy of the incapacitation form which he later forwarded to me. The "Determination of Incapacitation" was signed by two doctor's and was dated September 30, 2014. The document was attached to a Power of Attorney for Health Care form which was dated October 19, 2005.

[REDACTED] agreed that [REDACTED]'s cognitive decline had been increasing for the last decade and getting worse. [REDACTED] I informed [REDACTED] that [REDACTED] exercised her right to vote on September 23, 2020, and I reminded him that he had been able to see [REDACTED] in October of 2020. I asked [REDACTED] if he believed, based upon his personal experience with [REDACTED] around the time of her voting, if she would have had the mental capacity to vote, and [REDACTED] responded, "I do not believe so."

Interview of [REDACTED] about [REDACTED]

On Tuesday, February 23, 2021, at approximately 1:00 p.m., I made telephone contact with [REDACTED] who is the appointed legal guardian for [REDACTED]. [REDACTED] stated Probate Court had already determined that [REDACTED] is incompetent. [REDACTED] stated she believed [REDACTED]'s right to vote had been revoked. [REDACTED] stated [REDACTED] is not able to make any decisions for herself and she has no ability to know what is going on. [REDACTED] stated [REDACTED] would not know how to request a ballot. [REDACTED] stated she gets all of [REDACTED]'s mail and she did not receive a Request for an Absentee Ballot. [REDACTED] stated she would not have given [REDACTED] a Request for an Absentee Ballot because [REDACTED] is so incompetent. [REDACTED] stated [REDACTED] cannot sign any legal documents because [REDACTED] had been appointed her guardian. [REDACTED]; she would have had no inclination to vote; and she would have had no idea what she was doing.

At approximately 1:15 p.m., the daughter of [REDACTED] "[REDACTED]", returned my previous telephone call. [REDACTED] informed me that [REDACTED] had passed away in February of 2021. [REDACTED] stated [REDACTED] would not have had the sound mind necessary to request an absentee ballot or to exercise her right to vote. [REDACTED]. Amy did not want to provide any further information, and she ended the telephone call.

Interview of [REDACTED] about [REDACTED]

At approximately 1:45 p.m., I made telephone contact with [REDACTED], who is the daughter of [REDACTED]. The interview was recorded using the Axon Capture App on my department issued cell phone. This report is a summary of that interview. Please see the recording for exact details of the interview.

I asked [REDACTED] if [REDACTED] would have had the mental ability to request an absentee ballot and then exercise her right to vote. [REDACTED] responded [REDACTED] would not have had the mental capacity to do those two things [REDACTED]

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[REDACTED] stated she became [REDACTED]'s Power of Attorney for Health Care approximately three years ago and that [REDACTED] has been deemed incompetent. [REDACTED] stated [REDACTED] does not follow current events nor politics. When I informed [REDACTED] that [REDACTED] had requested a ballot and voted, [REDACTED] responded that [REDACTED] would not have known what she was doing and someone took advantage of [REDACTED]. [REDACTED] stated [REDACTED] would not have known who Biden or Trump were and someone must have influenced [REDACTED].

Interview of [REDACTED] about [REDACTED]

At approximately 3:30 p.m., I made telephone contact with [REDACTED], who is the daughter of [REDACTED]. [REDACTED] stated that [REDACTED] can get confused at times [REDACTED]. At first, [REDACTED] did not believe that [REDACTED] requested a ballot and voted in the November election. [REDACTED] stated [REDACTED] would have said something to her and [REDACTED] never said anything. [REDACTED] stated [REDACTED] would have the mental ability to vote. I asked [REDACTED] if [REDACTED] had a neat signature, and she stated [REDACTED] had a sloppy signature. I sent [REDACTED] a text picture of the signature on [REDACTED] ballot envelope. [REDACTED] informed me that the signature was not [REDACTED] signature and it was not even spelled correctly. [REDACTED] noted that the signature did not have an apostrophe and the [REDACTED] was not capitalized. The witness on the ballot envelope was "[REDACTED]".

I asked [REDACTED] if it would be beneficial if I made contact with [REDACTED] and have him review the signature. [REDACTED] stated she would bring an example of [REDACTED]' signature to the Sheriff's sub station on a later date. On February 24, 2021, [REDACTED] delivered to me a document entitled "Wisconsin Medicaid for the Elderly, Blind and Disabled Application Packet" which contained [REDACTED] signature. This signature did not match the signature on [REDACTED] ballot envelope. I later more closely examined the ballot envelope and observed where [REDACTED] signed the bottom of the envelope declaring that she signed the name of the voter on the envelope.

Interview of [REDACTED] about [REDACTED]

On Thursday, February 25, 2021, at approximately 11:15 a.m., I made telephone contact with [REDACTED], who is the son and Power of Attorney for [REDACTED]. I explained to [REDACTED] the nature of my investigation, and [REDACTED] told me that he did not believe [REDACTED] had the capacity nor ability to request an absentee ballot and then exercise her right to vote. I asked [REDACTED] how [REDACTED]'s mental decline is demonstrated, and [REDACTED] stated that [REDACTED] is currently 102-years-old; [REDACTED]. I asked [REDACTED] if [REDACTED] kept up with current events or politics, and [REDACTED] stated "no". [REDACTED] sounded upset about discussing his mother's condition, and he ended the conversation.

Interview of [REDACTED] about [REDACTED]

At 12:15 p.m., I made telephone contact with [REDACTED], who is the daughter and Power of Attorney to [REDACTED]. I explained the nature of my investigation, and [REDACTED] stated she believed her father was of sound mind and had the ability to request a ballot and vote. However, [REDACTED] stated [REDACTED] did not

Racine County Sheriffs Office (RASO)**Continuation**Incident Report Number
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have the desire to vote absentee. [REDACTED] stated her mother and her had a Scype conversation with [REDACTED], and during the course of the conversation, he agreed with the statement: If I cannot vote in person, I do not want to vote. Furthermore, [REDACTED] stated [REDACTED] never stated he voted and that is something they would have discussed. [REDACTED] was surprised when I told her that I had documentation showing that [REDACTED] requested a ballot and voted. I further informed [REDACTED] that it appeared that [REDACTED]'s signature was written by someone else on the ballot envelope. [REDACTED] informed me that [REDACTED] signed his name "[REDACTED]". I texted pictures of the signatures to [REDACTED] and she stated the signatures were not from [REDACTED]. The witness on the ballot envelope was [REDACTED]. I later more closely examined the ballot envelope and observed where [REDACTED] signed the bottom of the envelope declaring that she signed the name of the voter on the envelope.

[REDACTED]
[REDACTED] stated [REDACTED] moved into the Ridgewood Care Facility on February 8, 2020. [REDACTED] stated he went to the facility for rehabilitation. [REDACTED]
[REDACTED]
[REDACTED], and he died December 29, 2020.

Results from MyVote Wisconsin Website

I utilized the MyVote Wisconsin website which I know keeps records of the voting history of voters in the state of Wisconsin. I looked myself up as a test case and observed that the MyVote Wisconsin records showed that I voted 27 times, going back to the April 3, 2012 election. I looked up the voting history of the above stated residents, and I located the following voting histories:

- (1) [REDACTED] - voted in the November 3, 2020 election and there is no other voting history
- (2) [REDACTED] - voted in the November 3, 2020 election and there is no other voting history
- (3) [REDACTED] - voted in the November 3, 2020 election and the November 6, 2012 election
- (4) [REDACTED] - voted in the November 3, 2020 election and there is no other voting history (Per Mount Pleasant)
- (5) [REDACTED] - voted in the November 3, 2020 election, the February 18, 2020 election, and there is no other voting history
- (6) [REDACTED] - voted in the November 3, 2020 election and the November 6, 2012 election
- (7) [REDACTED] - voted in the November 3, 2020 election and there is no other voting history

Conclusion

It should be noted that I spoke to other families who told me they did not have any concerns that their loved-ones requested a ballot and voted. I also left messages for families that were not returned. I constructed a spreadsheet to keep track of the information.

Investigation to continue.

Respectfully submitted:

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Luell, Michael J.Payroll Number:
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Inv. Michael J. Luell

#10511

Reporting Officer(s):

Luell, Michael J.

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Supplemental Report

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New Incident:	Original CFS Code - 1: 5999	New CFS Code - 1 : New CFS Code - 2:

NARRATIVE

On Tuesday, March 23, 2021, I, Investigator Michael J. Luell #10511, drafted an Open Records Request for the Wisconsin Election Commission. In the letter, I requested copies of any public records that contain the words "Special Voting Deputies", "SVDs", "nursing homes", "care facilities", or Wis. Stat. sec. "6.875" from January 1, 2020 through March 23, 2021. I sent the request through an attachment in an Email, and I mailed the letter via the US Mail.

Respectfully submitted:
 Inv. Michael J. Luell
 #10511

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New Incident:	Original CFS Code - 1: 5999	New CFS Code -1 : New CFS Code - 2:

NARRATIVE

On March 25, 2021, I, Investigator Michael J. Luell #10511, received an Email from Reid Magney, who is the Public Information Officer for the Wisconsin Election Commission. This Email was in response to the open records request I made to the WEC on March 23, 2021.

Attached to the Email were two documents: (1) a letter from PIO Magney and (2) a memorandum from Administrator Meagan Wolfe.

LETTER FROM PIO MAGNEY

In the letter, PIO Magney stated that there was a large amount of public information that covered the request I made for information surrounding Special Voting Deputies. PIO Magney stated that the first meeting by the WEC that addressed the Special Voting Deputies was held on March 12, 2020. PIO Magney provided links to the memorandum and recommendations for the meeting, as-well-as a link to a video of the meeting. PIO Magney stated the WEC held subsequent meetings where the guidance established at the March 12, 2020 meeting was affirmatively continued.

WEC Zoom Meeting on March 12, 2020

On March 12, 2020 the WEC and staff had a meeting via zoom - meaning they met (while in possession of the necessary documents for the meeting), talked to each other, shared information, made votes, and visually observed each other while each person was in a separate location.

In the memorandum and recommendations for the March 12, 2020 meeting, two recommended motions were listed that called for the abandonment of using Special Voting Deputies, for the use of absentee ballots by mail, and for the moving of polling places (See below). In paragraph seven of the memorandum and recommendations, it stated, "The resident may need to obtain assistance from either facility staff or another individual and must secure a witness to sign the certificate envelope." This statement may violate requirements explicitly listed in Wis. Stat. sec. 6.875. The two proposed motions were:

Motion 1:

In light of Executive Order #72 and directives of the Department of Health Services, the Commission finds that Special Voting Deputies are "non-essential" individuals who are not permitted to enter nursing homes and other care facilities without completing a screening process that is not feasible to implement prior to the Spring Election and Presidential Primary. For that election and the May 12, 2020 Special Election in the 7th Congressional District, the Commission directs that municipalities shall not use the Special Voting Deputy process to serve residents in care facilities and instead shall transmit absentee ballots to those voters by mail. (Emphasis added).

Motion 2:

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In light of Executive Order #72 and directives of the Department of Health Services, the Commission finds that it is impossible or inconvenient for municipalities to conduct Election Day voting at nursing homes and other care facilities. The Commission finds that the municipal clerk or municipal elections commission executive director may relocate such polling places without obtaining the prior approval of the local governing body or municipal elections commission. (Emphasis added)

In regards to Motion 1, it should be noted that, on March 12, 2020, this motion stated that Special Voting Deputies were non-essential because there was not enough time to implement a screening process prior to the April 7, 2020 election. This date was over six months prior to the November 3, 2020 election.

All six members of the WEC voted in favor of motion 1. These WEC members included: Secretary Marge Bostelmann, Commissioner Julie M. Glancey, Chair Ann S. Jacobs, Commissioner Dean Knudson, Commissioner Robert F. Spindell Jr., and Vice-Chair Mark L. Thomsen.

While discussing Motion 2, Commissioner Knudsen discussed the wording of "without obtaining the prior approval of the local governing body or municipal elections commissions." Commission Knudson expressed his concern about allowing "local government bodies" to relocate polling places without getting approval just because they did not have a meeting scheduled. Commissioner Knudson then stated (22:15 minute mark), "Just as this body is meeting on two hours notice after we made the call to have this meeting four hours ago, it is possible in the same fashion, for local governing bodies to meet . . . to say that they do not have a meeting scheduled for a few weeks, doesn't necessarily mean that they couldn't have a meeting. I would be more comfortable if we gave guidance that it is unadvisable to use these as polling places, you should be thinking of moving, even though the law prohibits that . . . what we are really saying here, is once again, we are saying that, despite what the law says, the election commission is saying, in this instance, we need to have some flexibility, to not follow that law." (Emphasis added).

It should be noted, according to Commissioner Knudson's above stated comments, that on March 12, 2020, the WEC was able to meet on two hours notice via a zoom call, attended by more than ten people, to discuss how it would be impossible for Special Voting Deputies to meet with voters at retirement homes on or before April 7, 2020. Furthermore, it was acknowledged that the WEC was giving advice "to not follow the law". And despite the fact that the WEC could meet within two hours on a zoom call, they could not figure out a way for Special Voting Deputies to have have "contact" with voters for the remaining elections in 2020 and the beginning of 2021.

The WEC slightly modified the language at the end of the first sentence of motion 2 (adding the words ", and other facilities as designated by the Department of Health Services or local health officials"), and five members of the WEC voted in favor of motion 2, with Commissioner Spindell not voting in favor of motion 2.

WEC Zoom Meeting on June 24, 2020

On June 24, 2020, the WEC and staff had a meeting via zoom - meaning they met (while in possession of the necessary documents for the meeting) , talked to each other, shared information, made votes, and visually observed each other while each person was in a separate location.

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The WEC met to discuss the use of Special Voting Deputies for the election to be held on August 11, 2020. During this meeting, it was acknowledged that Governor Evers' Executive Order #72 was no longer in effect. It was also acknowledged that some facilities may allow Special Voting Deputies into their facilities. Commissioner Spindell expressed concern that family members of residents were not being notified of the voting process. Assistant Administrator Richard Rydecki also stated that under the "Special Voting Deputies process" employees of a facility cannot assist in the voting process. However, the WEC members and staff did not have any apparent problem with staff members assisting residents with absentee mailed ballots. At one point, Commissioner Knudson stated that on March 11, 2020 he, along with Chair Jacobs and Administrator Wolfe, sent a letter to Governor Evers encouraging him to "suspend the Special Voting Deputy law" because of COVID-19, but Governor Evers responded that he did not have the authority to "suspend" the law. Commissioner Knudson stated that once Governor Evers declared a State of Emergency, the WEC held a special meeting the same day "to try to stop this from happening [using Special Voting Deputies in nursing homes]".

Commissioner Knudson went on to discuss the dangers of allowing people into nursing homes, and stated his opinion was that "more than anyone else in the state, nursing home residents ought to be voting by mail." Commissioner Knudson also stated that the WEC instructed local municipalities to "not follow the law" in the spring election in regards to changing polling place locations without notifying the local governing body within the proscribed time of 30 days. Commissioner Knudson stated the municipalities should now be ordered to follow the law. Commissioner Knudson acknowledged that the Governor's Emergency Order had ended. However, in regards to Special Voting Deputies, Commissioner Knudson stated, "We need to go back to following the law, but for the Special Voting Deputies, following the letter of the law here would mean putting hundreds and hundreds of nursing home residents' lives at severe risk. There is got to be a way to do this without doing that [using Special Voting Deputies]."

Chair Jacobs asked if Commissioner Knudson was stating that the WEC should continue its previous ruling that occurred on March 12, 2020. Commissioner Knudson stated it would be better if Chair Jacobs made that motion, but he stated he was in favor of continuing that order. Chair Jacobs then made a formal motion to "suspend" the use of Special Voting Deputies and use absentee mail ballots for the period of the elections through the end of 2020. Commissioner Knudson seconded the motion.

Commissioner Spindell pointed out that there were risks involved when anyone, including an air-conditioner repair man, went into these facilities. Commissioner Spindell stated that over the last several months, the care facilities have determined how to handle these risks in a much better fashion. Commissioner Spindell stated that the WEC should not take the position of telling care facilities what they can and cannot do, including allowing Special Voting Deputies into their facility. Commissioner Spindell stated the WEC did not know what was going to happen with all of the ballots floating around various care facilities. Commissioner Spindell stated he believed the local municipalities could work with their health departments to determine the appropriate safety procedures. Commissioner Spindell stated that to get into other types of facilities, including a hospital, a person has their temperature taken and they are asked several questions. Commissioner Spindell stated Special Voting Deputies could also wear a mask which would protect against transmissions. Commissioner Spindell stated that each facility should be allowed to make their own decisions. Commissioner Spindell voted against Chair Jacobs' motion to "suspend" the law concerning Special Voting Deputies.

Chair Jacobs then cited some statistics on COVID-19 deaths, and stated, "I think the facts speak for themselves".

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Commissioner Spindell responded by stating it is not the WEC's job to "mandate" to facilities that they cannot have Special Voting Deputies come into their buildings. Commissioner Spindell stated that he was also concerned about the lack of notice to the residents' families. Commissioner Spindell attempted to amend the motion to include instructions to the facilities that the families of the residents should be notified that the Special Voting Deputies were not going to be used and the families should be notified that the ballots were going to be mailed to the residents. Commissioner Jacobs would not accept that amendment stating, "These are grown adults, who have the right to cast their own ballots in the way that the law permits them to do it." Commissioner Spindell stated he was "concerned about fraud in nursing homes . . . and when you have whomever filling out these ballots . . . and I think that's a problem."

Chair Jacobs then called a vote on the motion: "To continue the order set forth on March 12, 2020 suspending the Special Voting Deputy attendance requirement that they go twice and be turned away and require that absentee ballots be sent to those registered voters who have requested them in those facilities." The following individuals voted in favor of the motion: Secretary Bostelmann, Commissioner Glancy, Chair Jacobs, Commissioner Knudson, and Vice-Chair Thomsen. Commissioner Spindell voted against the motion. The motion passed on a vote of 5 to 1.

It should be noted that Governor Evers' Emergency Order #72 had expired. During the course of the June 24, 2020 meeting, no law or authority was cited as to how the WEC had the authorization to "suspend" portions of the elections law as codified in Wis. Stat. sec. 6.875. No meaningful discussion was had on how to complete a "screening process" in a "feasible" amount of time as was stated in Motion 1 that was passed by the WEC on March 12, 2020.

WEC Zoom Meeting on September 16, 2020

On September 16, 2020 the WEC and staff had a meeting via zoom - meaning they met (while in possession of the necessary documents for the meeting), talked to each other, shared information, made votes, and visually observed each other while each person was in a separate location.

Assistant Administrator Richard Rydecki led a discussion on the WEC's June 24, 2020 decision to "suspend voting by Special Voting Deputies in nursing homes . . .". AA Rydecki's presentation was summarized in a memorandum drafted by Administrator Wolfe dated September 10, 2020. In this memorandum, Administrator Wolfe wrote, "This program [the use of Special Voting Deputies] was suspended by the commission earlier this year due to concerns over COVID-19". In the conclusion of the memorandum, Administrator Wolfe wrote, "Even if the program were reinstated, it is probable that SVD voting would not be available at all qualified facilities and that lack of uniformity would create training and messaging complications for voters who reside in those facilities, interested family members and facility staff." [Emphasis added]

During his presentation to the WEC, AA Rydecki stated, "This memo summarizes the results of this research and provides that information to the commission for their decision making discretion. As part of this research, we did what we have done numerous times throughout the 2020 election cycle, we consulted with public health officials, about the possibility of reinstating the Special Voting Deputy program." AA Rydecki stated staff had conference calls [meaning they did not meet in person, but were still able to communicate and share information] with a multitude of health officials that concluded that they did not believe that SVD voting could be conducted in a safe and effective way leading into the November election. AA Rydecki provided a number of concerns, including: the number of COVID-19 cases across the state, that group activities were still restricted at facilities, that visits to facilities were still restricted to essential people and end of life

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situations, that the Department of Health had not developed policies for indoor visits, that the Department of Health had "concerns" about Special Voting Deputies going room-to-room, and that the influenza season was approaching.

AA Rydecki reported on the possible precautions that could be implemented if the WEC "did reconsider the decision to send Special Voting Deputies into these facilities . . .", including: screening Special Voting Deputies for COVID-19 prior to going into the facilities, the use of PPE's at a level determined by the facility, and the use of a partitioned rooms with separate air flows. AA Rydecki stated that it would be difficult to have consistent procedures at all of the facilities. AA Rydecki stated they reviewed previous testimony of advocates within the disability and aging community, and the advocates believed that the WEC should be "taking the lead" from members of the public health community. AA Rydecki stated "they" encouraged the WEC to focus on "training, and partnerships for information sharing, including things such as partnering on webinars . . . and getting on their weekly calls and meetings." [meaning using technology to have "contact" between various groups that are in different locations].

AA Rydecki stated that staff had made "contact" with some local election officials who expressed concerns about using Special Voting Deputies because using Special Voting Deputies as the law requires "is not a process that can be planned overnight".

Commissioner Spindell asked AA Rydecki how many voters are usually serviced by the Special Voting Deputies, and AA Rydecki did not know that answer. Commissioner Spindell stated Wisconsin State Statutes hold the WEC is supposed to do something, the WEC is deciding they are not going to do that, and the WEC is deciding that Special Voting Deputies are not essential. Commissioner Spindell asked where the WEC received the power to do what he just stated.

At this point, Chair Jacobs stated that the WEC is only stating the two visits by the Special Voting Deputies need not be attempted. Chair Jacobs stated that "state law", at the time, would not allow for the Special Voting Deputies to get into the facilities. Chair Jacobs then corrected her-self and stated it was the "rulings of DHS". Chair Jacobs stated that the WEC interpreted the law to not require two unnecessary and potentially harmful visits by the "clerks" because according to "state law they were supposed to be turned away".

Administrator Wolfe added that there have been other times where there was a quarantine at a facility that led to the mailing of ballots.

Commissioner Knudson stated he agreed with the staff memo, and he added, "My thinking going back to March on this, from the time that I first communicated with the Governor saying I thought that we should not follow this law during this pandemic." Commissioner Knudson went on to argue the health concerns to residents at nursing homes.

Commissioner Spindell suggested the use of an Ipad so that the family could watch the process remotely. Commissioner Spindell stated that nurses use Ipads to be the "eyes and ears" of doctors. Commissioner Spindell suggested that virtual Special Voting Deputies with a smart phone or a computer could be used, and they could be connected to a conference call number. Commissioner Spindell stated that the Special Voting Deputies could be able to answer any election related questions. Commissioner Spindell stated Special Voting Deputies could use this technology to supervise the filling out of ballots. Commissioner Spindell stated the Special Voting Deputy could virtually make sure the ballot was marked correctly. Commissioner Spindell stated that his intent was to make the voting process as transparent as possible. Commissioner

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Spindell expressed concern about the perception of voter fraud at nursing homes, and he stated that the WEC could eliminate that concern through the use of technology. Commissioner Spindell asked the commission if making the process more transparent was a worth-while endeavor.

After a long pause, Chair Jacobs stated that apparently no one had an opinion on Commissioner Spindell's idea. Commissioner Spindell suggested the WEC staff look into a virtual Special Voting Deputies program. Chair Jacobs responded, "I would point out, that doesn't exist, and I would be opposed to deciding six weeks out from an election that we are going to coble together some sort of bizarre video thing." and "We are going to like hand out l pads to random nursing homes, and I do not see amongst the commission here any great eagerness."

Commissioner Spindell suggested there will be a problem if one person is simply taking a ballot to a resident who can not see the ballot or fill out the ballot.

WEC Zoom Meeting on January 15, 2021

On January 15, 2021 the WEC and staff had a meeting via zoom - meaning they met (while in possession of the necessary documents for the meeting), talked to each other, shared information, made votes, and visually observed each other while each person was in a separate location.

It should be noted that this meeting was held over ten months after the original motion was passed on March 12, 2020, which stated "the Commission finds that Special Voting Deputies are "non-essential" individuals . . . without completing a screening process that is not feasible to implement prior to the Spring [2020] Election . . .". Administrator Wolfe advised the WEC that because the ability for Special Voting Deputies to enter facilities is "restricted or significantly limited" the staff's recommendation would be the same - to not use Special Voting Deputies in the February 2021 Primary.

Commissioner Knudson expressed his concern that the "policy" of the WEC was "telling the clerks to break the law". Commissioner Knudson asked if there was some other way the WEC could take, other then "directing" the clerks not to use Special Voting Deputies. After expressing his opinion that people should not be allowed in facilities, Commissioner Knudson stated, "But I continue to have great discomfort with the idea that our motion is going to direct them, that we're the ones directing them to break the law."

Administrator Wolfe offered new language that could be used to state the position of the WEC: "Because of the prohibition on visitors in care facilities, including SVD's, clerks will be unable to accomplish the two in person visits, and should therefore proceed timely to mailing ballots to these voters so that they may timely return their ballots."

Chair Jacobs stated that she was always of the belief that the WEC was considering the requirement of two visits to be fulfilled by the fact that "it is ridiculous to send them twice, when, to somewhere that isn't going to let them in. And that forcing them to, through a charade of walking up to a door, and knocking on it, to be told to go away, was an interpretation that was absurd." Chair Jacobs stated that there are two "laws" that conflict - one "law" saying "you can't come in" and one law saying "you're supposed to go knock and ask." Chair Jacobs stated, "And my understanding on how we have approached this is to interpret the two visit rule as being fulfilled by the requirement that you're not allowed in. In other words, that we are accommodating and interpreting both laws in harmony." Chair Jacobs continued, "So we are reconciling

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two laws, rather than instructing people to break them." Chair Jacobs also stated that Administrator Wolfe's proposed language change to the motion was "reconciling two competing statutes . . .". [Chair Jacobs did not site the two laws she was referring to.]

Commissioner Spindell stated that a safe procedure could be implemented to allow Special Voting Deputies to enter facilities, such as PPE's, social distancing, etc. Commissioner Spindell also stated that the voting process could be monitored through an Ipad or other electronics. Commissioner Spindell stated the current system ordered by the WEC allows for large amounts of ballots to be dropped off at a facility to be administered by the facility staff. Commissioner Spindell stated he observed pictures of the people administering shots at retirement homes and they had a mask on and no other observable PPE's. Commissioner Spindell stated there have been allegations of voter fraud in nursing homes going back to the time of George Washington. Commissioner Spindell stated at public hearings there have been reports of irregularities in voting at retirement homes during the recent elections.

Vice-Chair Thomsen stated he agreed that COVID-19 is dangerous to nursing home residents, and he agreed with the response of the WEC concerning not using Special Voting Deputies. Vice-Chair stated the WEC had been acting consistent with the law in construing "two laws". [Vice-Chair Thomsen did not site the two laws he was referring to]. Vice-Chair Thomsen stated, "We have [not] told anyone to break the law." Vice-Chair Thomsen stated, while discussing the broad powers of the WEC, that the WEC has the power to "construe two laws that conflict, in such a way that people can vote safely and we can prevent lives." Vice-Chair Thomsen concluded by stating, "I am unaware of one allegation of fraud in a nursing home that was sustained in all the elections in 2020. And to promote a lie that says it is. I think is just a disservice to Wisconsin and it is a disservice to everybody that runs nursing homes."

Commissioner Knudson stated that there have been allegations of fraud made by the public, and he stated that voting in nursing homes could be monitored by witnesses through the use of an Ipad or other technology. Commissioner Knudsen stated the witness could be at another place monitoring that all of the policies "as required by law were being followed".

Vice-Chair Thomsen stated he was recently in a retirement home and at the entrance it stated, "'No camera's allowed' because of HIPPA concerns." He went on to state, "I'm very very concerned when someone is just flippedly throws out to the public that we are going to authorize people with cameras to go around making movies in nursing homes. As if it is all normal and it's O.K." Vice-Chair Thomsen then alleged that the WEC has received no complaints of voter fraud.

Administrator Wolfe proposed the language of the motion that the WEC voted on: "Because of the prohibition on visitors in care facilities, including special voting deputies, clerks will be unable to accomplish the two in person SVD visits and should therefore proceed directly to mailing ballots to voters who request them who reside in a care facility that would be otherwise served by SVD's for the February 16, 2021 primary. The WEC voted 5-to-1 to adopt the motion, with Commissioner Spindell voting "no" to the motion.

Commissioner Spindell made a motion to instruct the WEC staff to research an alternative method for the Special Voting Deputies to complete their duties in the event of medical issues that causes a quarantine. Chair Jacobs agreed to look into options for Special Voting Deputies for elections not in the near future, because "there are thousands of long term care facilities of all different kinds in Wisconsin. There is 4,000 assisted living facilities alone." The finale Motion was for staff to create a timeline and plan for addressing Special Voting Deputies any time people cannot get in the doors for COVID-19,

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flu, or natural disasters

Commissioner Knudson stated that earlier it was stated that we were trying to reconcile two conflicting laws and he never looked at this issue that way. Commissioner Knudson stated that the "SVD law is a law" and "some of the prohibitions on visitors at nursing homes, in the early days of the pandemic, it came down from the Centers for Medicaid and Medicare that it was a guidance, a directive, it wasn't clear whether it actually carried the force of law. Later, the Governor had 60 days, that ended. The DHS had been operating under certain emergency powers, certainly not clear that it is a law. But the law does say that SVD's should go in, and, you know, the objection was brought up about HIPPA, that's a total red herring, HIPPA applies to medical providers, it does not apply to recording by family members or third parties. There is no prohibition against a police officer with his body camera going in a nursing home and there would be a tape."

Chair Jacobs interrupted Commissioner Knudson and stated there is body cam legislation that addresses when police officers can go into hospitals, and when they have to redact the videos, and when they do not have to redact a video. [Chair Jacobs did not site any legal authority to support her statement].

Commissioner Knudson stated he would stand corrected if Chair Jacobs could show him where it stated in HIPPA that third parties cannot record in medical facilities. Commissioner Knudson stated hospitals may try to discourage recordings because they do not like recordings, but that this prohibition is not part of HIPPA.

The WEC passed the motion to have WEC staff create a plan and a timeline 5-to-1, with Vice-Chair Thomsen voting against the motion.

MEMORANDUM FROM ADMINISTRATOR MEAGAN WOLFE

Administrator Wolfe wrote a memorandum dated March 2, 2021 addressing the Special Voting Deputy procedures used in 2020 and 2021. Please see the memorandum for exact details of what Administrator Wolfe wrote in the memorandum.

Administrator Wolfe outlined the background and prior guidance that went into the WEC's decision on Special Voting Deputies. Administrator Wolfe documented the September 16, 2020 meeting where it was discussed to reinstate the Special Voting Deputies. Administrator Wolfe misquoted the conclusion of the memorandum prepared for the September 16, 2020 WEC meeting: "Even if the program were reinstated, it is probable that SVD voting would not be available at **[all]** qualified facilities and that lack of uniformity would create training and messaging complications for voters who reside in those facilities, interested family members and facility staff." [This statement acknowledges that some of the Special Voting Deputies would be allowed into facilities and would be allowed to perform their duties as is mandated in the law].

Administrator Wolfe documented that on February 11, 2021, the Joint Committee for the Review of Administrative Rules ("Committee") convened an executive session to discuss the WEC's guidance on Special Voting Deputies. The committee directed the WEC to promulgate its guidance as an emergency rule within 30 days. The WEC was informed that the Legislative Council opinion stated that the state law does not empower the WEC to waive the requirement for clerks to dispatch Special Voting Deputies to qualified care facilities, nor did it contain an exemption for clerks based upon a pandemic. The opinion further stated that state law does not permit clerks to mail absentee ballots to care facility residents prior to sending Special Voting Deputies on two separate visits.

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Administrator Wolfe next wrote about promulgating an emergency rule, per Wis. Stat. sec. 227.24. Administrator Wolfe stated that, for several reasons, staff would not recommend attempting to promulgating an emergency rule and would not recommend issuing the same type of guidance of not using Special Voting Deputies. The stated reasons were: (1) the public health guidance on the COVID-19 pandemic had changed, (2) it seemed apparent that Committee would rely on the opinion of the Legislative Council and not agree that the WEC could pass the emergency rule, and (3) the statute did not provide a clear process for clerks to follow when Special Voting Deputies were unable to make visits to a care facility.

Administrator Wolfe documented in the memorandum that on September 17, 2020, the Centers for Medicare and Medicaid Services ("CMS") provided an outline for visitation procedures. In a CMS press release dated September 17, 2020, the CMS entitled its announcement, "CMS Announces New Guidance for Safe Visitation in Nursing Homes During COVID-19 Public Health Emergency". Administrator Wolfe noted that the CMS guidelines apply only to facilities receiving Medicare and Medicaid funding. The procedures of the CMS listed by Administrator Wolfe included:

- (1) Screening of all who enter the facility for signs and symptoms of COVID-19 (e.g., temperature checks, questions or observations about signs or symptoms), and denial of those with signs or symptoms
- (2) Hand hygiene (use of alcohol-based hand rub is preferred)
- (3) Face covering or mask (covering mouth and nose)
- (4) Social distancing at least six feet between persons
- (5) instructional signage throughout the facility and proper visitor education on COVID19 signs and symptoms, infection control precautions, other applicable facility practices (e.g., use of face covering or mask, specified entries, exits and routes to designated areas, hand hygiene)
- (6) Cleaning and disinfecting high frequency touched surfaces in the facility often, and designated visitation areas after each visit
- (7) Appropriate staff use of Personal Protective Equipment (PPE)
- (8) Effective co-horting of residents (e.g., separate areas dedicated COVID-19 care)
- (9) Resident and staff testing conducted as required at 42 CFR 483.80(h).

Administrator Wolfe also drafted some proposed motions in the memorandum that were discussed at the March 2, 2021 meeting.

WEC Zoom Meeting on March 2, 2021

On March 2, 2021 the WEC and staff had a meeting via zoom - meaning they met (while in possession of the necessary documents for the meeting), talked to each other, shared information, made votes, and visually observed each other while each person was in a separate location.

During part of this meeting, Administrator Wolfe presented the information in the above described memorandum. Administrator Wolfe stated the purpose of the discussion was to decide on how Special Voting Deputies will be utilized in the April 6, 2021 election - over a year since the WEC made the decision to not send Special Voting Deputies into facilities. Administrator Wolfe emphasized that the public health guidance was currently different then it had been in the past. Administrator Wolfe cited to Wis. Stat. sec. 6.875(6)(e) as the authority to mail residents at care facilities their ballots for

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voting. Administrator Wolfe invited Staff Attorney Jim Witecha to provide a legal analysis of the advice the WEC had been providing concerning Special Voting Deputies.

Attorney Witecha began his analysis by stating staff attorneys and the WEC were not "wrong" in the actions they had previously taken. Attorney Witecha stated that the decisions that were previously made, despite the opinion of the Legislative Council and the Committee, were not wrong. Attorney Witecha stated, "The recent opinion drafted by Leg[islative] Council in many ways kinda chooses to ignore the reality of the public health situation over the past year." Specifically, that facility policies would not allow SVD voting to take place because visitors were expressly forbidden." Attorney Witecha stated that case law supports statutory interpretations that avoid an "absurd or unreasonable result". Attorney Witecha stated that Wis. Stat. sec. 6.875(6)(e) is a "safety valve" to the entire statute. Attorney Witecha stated, "It is more than reasonable in the staff opinion . . . to interpret this statute to mean that sending a ballot to residents when it is impossible to vote with an SVD conforms with the law." Attorney Witecha stated that the mandatory portion of the statute (i.e., sending the Special Voting Deputies) is not mandatory, when completing that action is "impossible".

Attorney Witecha next analogized to the interpretation of clauses in contracts as to why the WEC did not have to follow the Special Voting Deputies process, specifically "Force Majeure". Force majeure is a clause in contracts which frees both parties from liability or obligation when an extraordinary event occurs beyond the parties control, such as war, labor stoppages, or extreme weather - often referred to as an act of God.

Attorney Witecha stated "even under the worst of circumstances that is not applicable here" Wisconsin law provides for the defense of "Necessity" for a public official being "charged for failing to perform a ministerial or statutory duty of some kind."

Attorney Witecha stated that there may not have been enough time to have the Special Voting Deputies turned away two times, mail out the ballots, and then have the votes mailed back to the municipalities. Attorney Witecha stated, "The commission made its decision based upon the law and current science . . . those should be the guiding principles, the science and the facts of the day."

Attorney Witecha stated passing an administrative rule, per Wis. Stat. sec. 227.26(2)(b), as directed by the Committee, would produce an "absurd result" because the administrative rule might not be completed in time for the April 6, 2021 election and/or the administrative rule might have to be cancelled shortly after the election. Attorney Witecha spoke at length about the administrative rule making process versus "guidance documents".

Attorney Witecha answered questions from the commissioners and the commissions debated the issues surrounding [Special Voting Deputies](#). Administrator Wolfe continued to present the information from the above stated memorandum. The commissioners discussed and debated the law concerning Special Voting Deputies.

The commissioners were able to discuss issues with members of the Division of Public Health. The commission was informed that nursing homes are bound by Federal regulation and stated licensure requirements; that the Federal memo issued to nursing homes does classify individuals like Special Voting Deputies as contract workers that would be able to come into facilities with safe guards in place; that it is up to the facilities to determine if there are enough safeguards in place; and that the Federal memo did not prevent people like Special Voting Deputies from going into a facility - it is up to the individual facilities to determine if there are adequate protections in place.

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The WEC then passed the following motion: Specific to the April 6, 2021 election, Clerks shall contact all eligible facilities in their municipality no later than March 12, 2021 to determine whether Special Voting Deputies will be admitted. If SVD's are admitted, SVD's should schedule their SVD visits immediately in the allowable SVD period and consolidate such visits to the greatest extent possible, so that there are at least 14 days prior to the election for any voter who does not vote with SVD assistance may receive and return their absentee ballot. These visits should be scheduled no later than March 19, 2021. SVD's and observers must comply with any requirements of the care facility and of state and local health department to conduct the visits safely, recognizing the importance of preserving a resident's right to vote.

If the clerks is informed that SVD's will not be permitted entry to the facility, the SVD's should schedule two tele-visits with the administrator of the facility. These tele-visits should be scheduled immediately in the allowable SVD period so that if attempted visits are denied that there are at least 14 days prior to the election for the voters to receive and return an absentee ballot. SVD's should use the tele-visit to confirm that SVD's are not permitted to enter the facility. If SVD's are denied access to the facility, then Clerks must proceed to the provisions of Wis. Stat. sec. 6.875(6)(e) and send voters their ballots. The motion passed with all six commissioners voting in favor of the "policy".

Please see the recording of the meeting on "Wisconsineye" or Wiseye.org starting at the 58 minute mark and ending at the 4:02 minute mark for more information.

VISITATION LOG FOR THE REDGEWOOD CARE CENTER

On April 9, 2021, Ridgewood Care Center Director Scott Myers Emailed me the visitor logs that I had previously requested for the facility from March 2020 through November 2020. I was able to determine from March 13, 2020 [the day after the WEC's original order prohibiting Special Voting Deputies from going into facilities] through November 2020, there were approximately 26,900 visits to the Ridgewood Care facility. These individuals included approximately 330 different employees and approximately 900 different "personal" appointments. Some of the personal appointments included, but are not limited to, the following:

- (1) Cleaning fish tank, cleaning tanks, or tank maintenance (11 times)
- (2) Clean bird cage (3 times)
- (3) Copier (4 times)
- (4) Doordash delivery
- (5) Elevator (10 times)
- (6) Inspection (2 times)
- (7) Instructor (four times) with students (19 times)
- (8) Interview or job interview (24 times)
- (9) Kitchen or kitchen repair (17 times)
- (10) Laundry or laundry vendor (8 times)
- (11) Looking for job
- (12) Maintenance (6 times)
- (13) Orkin service (19 times)
- (14) Vendor or vending machine (17 times)

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During this same period in time, no Special Voting Deputies attempted to enter the Ridgewood Care Facility because of the order of the WEC.

Investigation to continue.

Respectfully submitted:

Inv. Michael J. Luell

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New Incident:	Original CFS Code - 1: 5999	New CFS Code - 1 :	New CFS Code - 2:
NARRATIVE			
<p>On April 21, 2021, I, Investigator Michael J. Luell #10511, received a response from Reid Magney, who is the Public Information Officer for the WEC, in regards to an open records request I had previously filed. I received a letter dated March 10, 2020, to Governor Tony Evers that was signed by [then] Chairmain Dean Knudson, [then] Member Ann Jacobs, and Administrator Meagan Wolfe. I also received a letter dated February 11, 2021 to Chairperson Ann Jacobs and Administrator Meagan Wolfe from the Joint Committee for the Review of Administrative Rules ("Committee").</p> <p>On April 23, 2021, I received additional documentation from PIO Magney. I received an Email dated March 11, 2020 from Chairman Knudson to Governor Evers. I also received a response to that Email sent that same day from Chief Legal Counsel for Governor Evers, Ryan Nilsestuen, back to Chairman Knudson.</p>			
Review of Open Records Request Documents			
<p>The sequence of events, as it relates to these documents, is as follows: In the letter to Governor Evers dated March 10, 2020, the WEC requested the "suspension" of "several provisions of Wisconsin election law" for the April 7 2020 and May 12, 2020 elections. The portions of the law that the WEC wanted to "suspend" were the use of Special Voting Deputies as mandated in Wis. Stat. sec. 6.875 and some of the rules surrounding the designation of polling places as mandated in Wis. Stat. sec. 5.25(2) and (3). In the letter it is stated, "Experts in infectious disease control have advised all nursing homes and residential care facilities to avoid unnecessary visits by members of the public. Based upon this guidance, it seems inadvisable for municipal clerks to be sending teams of elections workers into these facilities until the situation has stabilized and health officials issue different guidance."</p>			
The letter concluded by stating:			
<p><i>In summary, due to the need to minimize potential exposure of the CoVid-19 coronavirus to vulnerable populations, we request an executive order under the emergency powers granted to the Governor to include the following provisions:</i></p>			
<p><i>Temporarily suspending the application of Wis. Stats. §§ 5.25(2) and (3) and 6.875 during the administration of the 2020 Spring Election and Presidential Primary on April 7, 2020. Municipalities are prohibited from implementing voting through the special voting deputy process for this election.</i></p>			
<p><i>Permitting the Commission Administrator, if necessary, to temporarily suspend the application of Wis. Stats. §§ 5.25(2) and (3) and 6.875 during the administration of the May 12, 2020 Special Election in the 7th Congressional District.</i></p>			
<p><i>Permitting the Commission Administrator to suspend the applicability of additional election statutes for the 2020 Spring Election and the Special Election in the 7th Congressional District if necessary to protect the health and safety of electors and local election officials, provided that any such decisions do not affect voter eligibility requirements or the essential procedures for voting.</i></p>			
On the next day, March 11, 2020, at 3:09 p.m., Chairman Knudson wrote the following Email to the Governor entitled			
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"Emergency powers of the governor during a health emergency, related to nursing homes":

Governor Evers - I understand your staff is uncertain whether the Governor has the power to suspend a statute during an emergency. The Governor has the power to suspend laws related to statutory transportation load limits during transportation emergencies (as in 2019 Executive Order #12). It would seem to follow that the Governor could declare that a public health emergency exists, related specifically to nursing home safety, requiring a similar suspension of the law that requires in person visits prior to voting absentee by mail.

A single nursing home in Washington state, home to just over 100 residents, has suffered at least 15 deaths due to coronavirus infection.

The single most important action that state and local officials can take right now to prevent coronavirus deaths is to protect our elderly citizens in nursing homes. Please use your best judgment in considering all the ramifications of a decision on this issue. I urge you to use your emergency powers to protect our nursing home resident

On that same day, at 3:17 p.m., Chief Legal Counsel Nilsestuen Emailed Chairman Knudson back telling Chairman Knudson to give him a telephone call. According to the statements made by Chairman Knudson during the March 12, 2020 WEC meeting, Chairman Knudson was informed by the Governor's Office that they did not believe the Governor had the power to suspend parts of the Wisconsin voting law.

On March 12, 2020 Governor Evers issued Executive Order #72 which placed restrictions on the citizens of Wisconsin because of COVID-19. On that same date, the WEC met in an emergency meeting and passed Motions 1 and 2 which suspended parts of the Wisconsin voting law. The suspended law was the same law the WEC had requested the Governor's Office suspend on March 10, 2020, and it was the same law that the Governor's Office stated, on March 11, 2020, that they did not have the power to suspend.

On June 24, 2020, with Executive Order #72 no longer in existence, the WEC extended their March 12, 2020 for the rest of 2020, including the election on November 3, 2020. No legal authority was cited or discussed while the WEC made these decisions.

On January 15, 2021, the WEC extend their March 12, 2020 motions through the February 16, 2021 primary election.

On February 11, 2021, the Committee drafted a letter to Chair Jacobs and Administrator Wolfe requiring the WEC to show statutory authority for its directive relating to Special Voting Deputies and promulgate that authority as an emergency rule, or the WEC should cease issuing such directives. In the letter, it was stated that the Legislative Council provided an opinion that state law does not empower the Elections Commission to waive the requirement for Special Voting Deputies, nor does state law contain an exemption because of a pandemic.

On March 2, 2021, the WEC had a meeting where Staff Attorney Jim Witecha gave his legal opinion that the staff and the commission had done nothing "wrong" based upon: (1) the rule of statutory construction which states a statute should not be interpreted in a way that would lead to an "absurd or unreasonable result" and (2) "Force Majeure", which is a concept of contract interpretation that may free parties from obligations in a contract when there are events beyond the parties'

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control, i.e., "acts of God". Lastly, Attorney Witecha gave the opinion that even if the WEC had failed to perform a ministerial or statutory duty, they could invoke the affirmative defense of "necessity". During the meeting, the WEC did pass a new motion that would allow for the use of Special Voting Deputies.

Interview of [REDACTED]

On Friday, April 23, 2021, at approximately 1:00 p.m., I interviewed [REDACTED] in the interview room on the north side of the Law Enforcement Center. The interview was recorded using the closed circuit camera within the interview room. This report is a summary the interview. Please see the recording for exact details of the conversation.

[REDACTED] informed me that she no longer worked at the Ridgewood Care Center. I explained to [REDACTED] the duties of Special Voting Deputies as stated in Wisconsin Statute sec. 6.875 and the prohibition against facility employees acting as Special Voting Deputies while employed at the facility and for up to two years after their employment. I also explained to [REDACTED] the WEC's directive to municipalities during the COVID-19 pandemic. I told [REDACTED] that in one of the memorandums written by the WEC, it was suggested that facility staff assist the residents with the voting process. I informed [REDACTED] that it was my opinion that such assistance would be problematic, and [REDACTED] responded, "I would agree with you."

I asked [REDACTED] about her statements during the previous interview where she stated she assisted in 500 voting ballots, and up to 50 ballots per day. I asked [REDACTED] to explain those numbers to me, and she stated she felt those numbers were too high. [REDACTED] stated she did not know the exact number of people she assisted in voting, but she believed the Ridgewood Care Center had approximately 200 residents in the fall of 2000.

I informed [REDACTED] that I had spoken to some of the loved ones of residents at the Ridgewood Care Center, and they were shocked that their loved ones voted in the November 2020 election. I stated that [REDACTED]'s daughter, [REDACTED], did not believe [REDACTED] would have the ability to vote. [REDACTED] stated she did specifically remember [REDACTED] stated, "I do remember [REDACTED], and I had asked Ms. [REDACTED] multiple times, like: Hey, she does not want to vote." [REDACTED] stated that [REDACTED] would not exactly state that she did not want to vote, but she would state she needed to look into the issues a little bit more and watch T.V. [REDACTED] stated that [REDACTED] would ask her a variety of questions that [REDACTED] did not feel comfortable answering.

[REDACTED] stated that she informed Director [REDACTED] that [REDACTED] did not believe [REDACTED] knew "what she was thinking about" and Director [REDACTED] told [REDACTED] to go ask [REDACTED] if she was a Republican or Democrat. [REDACTED] stated Director [REDACTED] stated, "And then, read off the names, and if it says Democratic or Republican, fill it in." [REDACTED] stated that she asked Director [REDACTED], "Are you sure?" and Director [REDACTED] answered in the affirmative. [REDACTED] stated that she ultimately went and did what she was told.

[REDACTED] stated she did not recall the exact details of when [REDACTED] voted, but [REDACTED] stated that [REDACTED] "signed it herself". [The ballot envelope was actually signed by [REDACTED]] [REDACTED] stated [REDACTED] was "leery" about signing her name because [REDACTED] was unsure if she was voting for the right people.

I asked [REDACTED] how many times she went to Director [REDACTED] and told her [REDACTED] did not want to vote, and [REDACTED] stated she believed it was one time. [REDACTED] stated she told Director [REDACTED] that [REDACTED] was very "leery" and "questionable", and

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Director [REDACTED] told [REDACTED] to "go tell her about the election . . . look it over with her, ask her what she would identify with, Democratic or Republican."

I reminded [REDACTED] of the conversation I had with Director [REDACTED] and her while at the Ridgewood Care Facility where Director [REDACTED] kept stating that the residents have a right to vote. I reminded [REDACTED] that I agreed that the residents have a right to vote, but I also added that the residents should demonstrate a desire to request a ballot and a desire to vote. [REDACTED] stated she remembered that conversation. [REDACTED] stated Director [REDACTED] told her, a couple of weeks after our conversation at the Ridgewood Care Facility, that Director [REDACTED] watched a video on the voting process but Director [REDACTED] did not understand the video. [REDACTED] stated that she told Director [REDACTED] that she lied to the police and she should not have done that.

I directed the conversation back to [REDACTED] and stated the first time [REDACTED] tried to get [REDACTED] to vote, [REDACTED] gave a negative response and communicated that she did not want to vote. [REDACTED] stated, "Yeah, I picked up, I feel like this is going to be a pointless fight with her, like back-and-forth, so I went to [REDACTED] and I told her about it. She gave me that advice, told me what to do." I asked [REDACTED] what that advice was and she stated, "To go back in there and inform her of the election and like Presidential or state . . . remind her about the whole election, like who is running for what, about Trump, about Biden, and Democratic or Republican, jog her memory of that and see what she says."

I asked [REDACTED] if she was influencing [REDACTED]'s vote given that [REDACTED] had reservations and confusion about voting and [REDACTED] came back a second time, shared additional information, and tried to get [REDACTED] to vote. [REDACTED] stated she tried to stay away from defining the terms Republican and Democrat. [REDACTED] stated that she mainly kept asking [REDACTED], "Democrat or Republican?" [REDACTED] stated she tried to the best of her ability to not influence [REDACTED] and to "just jog her memory of what the words are". I asked [REDACTED] by jogging a person's memory, did it not make it very questionable whether they had the mental capacity to vote, and [REDACTED] agreed with that statement. I then asked [REDACTED], "So you think some of these people that you were instructed to have vote, probably did not have the mental capacity to vote?" and [REDACTED] answered, "Probably not."

I pointed out to [REDACTED] that [REDACTED] signed the Request for Absentee Ballot, but [REDACTED] did not sign the ballot envelop. I further stated that it appeared that [REDACTED] signed [REDACTED]'s name on the ballot envelop and then signed her own name on the line signifying that she signed for [REDACTED]. [REDACTED] confirmed that my statement was true and stated, "She wanted to sign the one, and she did not want to sign the other."

[REDACTED] stated there were times where Director [REDACTED] thought the resident was cognitively functioning, and [REDACTED] felt that the residents were questioning her in a way that put that opinion in doubt. [REDACTED] stated Director [REDACTED] would instruct her to "put the channel on for them . . . or go back later and see if they remember or if they are doing a little bit better mentally, later."

I explained to [REDACTED] the policy of the legislature on voting as expressed in Wis. Stat. sec. 6.84 where it states:

The legislature finds that voting is a constitutional right, the vigorous exercise of which should be strongly encouraged. In contrast, voting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place. The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for

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fraud or abuse; to prevent overzealous solicitation of absent electors who may prefer not to participate in an election; to prevent undue influence on an absent elector to vote for or against a candidate or to cast a particular vote in a referendum; or other similar abuses.

I asked [REDACTED] if the voting procedures used at the Ridgewood Care Facility were causing the overzealous solicitation of people who may not want to participate in the vote, and [REDACTED] responded, "Yeah, pretty much. I would agree. Unfortunately."

I asked [REDACTED] to estimate the number of residents where she was sent back to get their vote, and [REDACTED] estimated that it was between five and ten residents. [REDACTED] stated that each time it was on Director [REDACTED]'s instructions.

Investigation to continue.

Respectfully submitted:

Inv. Michael J. Luell

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