

**STATE OF WISCONSIN
ELECTIONS COMMISSION**

COMPLAINT FORM

Please provide the following information about yourself:

Name Karen McKim

Address 1519 Regency Ridge, Waunakee 53597

Telephone Number 608-212-5079

E-mail kmk@wisconsinelectionintegrity.org

**State of Wisconsin
Before the Elections Commission**

The Complaint of Karen McKim
_____, Complainant(s) against
City of Madison Clerk's Office, Respondent, whose
address is 210 Martin Luther King Jr Blvd, Room 103, City-County Building, Madison, WI 53703.

This complaint is under s. 5.91(15) (Insert the applicable sections of law in chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing)

I, Karen McKim, allege that:

Wisconsin Statutes 5.91(15) establishes that no voting equipment may be used in this state unless it provides voters with a way to verify their votes before casting. This requirement is not merely for the voter's emotional confidence. It is an **indispensable election-security safeguard**, because only the voter knows which votes are correct, therefore only the voter can determine whether the ballot-marking computer has correctly or incorrectly recorded the votes on the paper ballot, therefore **unless a significant proportion of voters verify their computer-generated ballots, the entire system is helpless to detect ballot-marking devices** that are misprinting while the devices are in service (that is, outside test conditions).

Further:

- The ExpressVote ballot-marking device prints ballots on which the votes are encoded in barcodes. The barcodes **are** the votes; the tabulators read nothing else. The human-readable text is inconsequential. Only the barcodes will be counted on Election Day, and Wisconsin law allows recounts to be conducted by machine—relying again on only the barcodes.
- In both recounts and post-election audits, if the barcoded data are ever observed to differ from the printed text, officials will have no way to determine which one is the correct record of the voters' selections, because the voters can no longer verify and Wisconsin law provides no basis on which to resolve the question. Officials will not be able to determine the correct outcome of the election.
- If ExpressVote ballots are to be verified at all, voters must be able to verify that the computer correctly encoded their selections on the printed ballots. But even if voters brought their own barcode readers with them, they could see only numbers, e.g., 021511, rather than the names of their selected candidates.
- When the commissioners voted to certify the ExpressVote, their discussion made it clear they correctly understood that reviewing a display on a monitor before the votes are printed is insufficient to qualify as the verification anticipated by s.5.91(15). They were assured by the vendor that the machine met Wisconsin's certification requirements by virtue of the fact that voters would be able to re-insert the printed ballots into the machines, to have the machines read the barcoded votes back to them. They certified the machine with that understanding.

Even if we accept the vendor's dubious contention that having a computer read its own output back to the voter is sufficient to provide the verification required by Wisconsin law, the mere presence of an unknown-to-the-voter feature is not sufficient. To fulfill the intent of the law and to obtain at least as much security as the barcode-reader feature is able to support, it is necessary that the voters know: a) their votes will be encoded and that only the barcode will be counted as their votes, and b) how they can get the machine to read the barcodes back to them. In addition, voters should be routinely encouraged to do so.



On October 28, I observed early voting at four locations in Madison: Sequoia Library, Goodman South Library, Goodman South Campus, and Meadowridge Library. I briefly questioned the lead poll worker at each site, plus at least two more poll workers at each site except South Campus, which had only the lead worker and one other. At each site, I listened as poll workers instructed at least four voters, sometimes more, on how to use the ExpressVote machines.

- Not a single voter at any site was instructed to review the paper ballot—not even the human-readable text. Instead, voters were instructed to review their selections on the screen; print the ballot; fold it; and put it in the envelope. At Sequoia and Goodman South Libraries, I observed poll workers actively preventing a few voters from verifying their ballots by hovering beside the machines as the ballots were printed, pulling the ballot from the machine for the voter, and folding it before handing it to the voter.

- As I observed, only about 20% of the voters even glanced at the ballots before they slid them into the absentee envelopes. I spoke with about 30 voters as they left. Of those who had glanced at their ballots, some said they had been looking only for “fold here” instructions. None knew what the barcodes were for; many had not noticed them.
- Not a single worker at any site was able to tell me the purpose of the barcodes. In fact, two of the four lead poll workers did not know there were barcodes on the ballots; one explicitly denied it.
- Not a single worker at any site was able to tell me how they would instruct a voter who asked to verify the encoded information. When I asked what they would do if a voter reported that the barcode did not match the printed text, the workers did not appear even to understand the question.
- I asked workers at three of the sites (all except South Campus) how they were trained to instruct voters on using the ExpressVote. All three said they were given no prescribed script and described the same training: they watched an online video demonstration of the ExpressVote, and each decided for themselves how to instruct the voters.

The City of Madison encouraged early voting but gave early voters at all sites other than the clerk’s office only one option: Use the ExpressVote. Having Madison’s November election rely so heavily on the ExpressVote made those computers a more attractive target for manipulation than if only a few voters had used them. At the same time, the City withheld verification instructions from both poll workers and voters, ensuring that none of those votes have been verified, effectively eliminating that safeguard.

It’s one thing when voters choose not to verify their votes—unwise and insecure, but acceptable under Wisconsin law. It’s quite another when election officials fail to provide both voters and poll workers with the information needed to make that choice.

This failure to provide adequate information and instruction to Madison early voters who used the ExpressVote prevented them from understanding their ballots and from verifying their votes in a way consistent with Wisconsin law, with prudent management of Wisconsin’s election technology, and with security for Wisconsin’s election results.

The remedy for this situation requires each of two actions. In future elections, the City of Madison needs to:

- 1) Equip each early-voting location with blank-ballot printers, to allow poll workers to print blank ballots that voters can mark by filling ovals with pens, so that their votes need no additional verification to be protected from malfunctioning or misprogrammed ballot-printing devices. ExpressVotes could remain available for voters who want accessible devices. (Another option would be to use equipment of a type, supplied by other manufacturers, that features both touchscreen accessibility and human-readable votes.) AND
- 2) Wherever ExpressVote machines are offered to voters, the City of Madison must train poll workers to deliver standardized instructions to each voter. The instructions must include the information that: 1) their votes will be encoded on the printed ballot; 2) only the encoded information will be counted as their votes; and 3) the voter may choose to have the machine read the barcodes back to the voter by re-inserting the ballot into the ExpressVote.

I, Karen McKim, being first duly sworn, on oath, state that I personally read the above complaint, and that the above allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

Complainant's Signature

Notarization
STATE OF WISCONSIN
COUNTY OF DANE

Sworn to before me this day of _____

_____ (Signature of person authorized to administer oaths)

My commission expires, or is permanent:

Notary Public or _____ (official title if not notary)