



ILLINOIS BALLOT INTEGRITY PROJECT

NEWS RELEASE

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STATE RECORDS COMMISSION CITES DUPAGE COUNTY BOARD OF ELECTIONS FOR ALLEGED ILLEGAL DESTRUCTION OF RECORDS

Naperville, Thursday, September 21, 2006. The DuPage County Election Commission has been allegedly illegally destroying election and other public records by failing to apply for permission from the Illinois Local Records Commission according to recent letters to Illinois State Attorney General Lisa Madigan and to DuPage State's Attorney Joe Birkett, from John Curtain, Chairman of the Illinois Local Records Commission.

The letters bring to the Attorney General's and State's Attorney's attention that the executive director of the DuPage County Election Commission, Robert T. Saar, has admitted that the Election Commission destroyed poll tapes from the November 2004 presidential election as early as 20 months prior the date permitted under Federal law. In addition, Saar has stated in response to a Freedom of Information Act (FOIA) request that memory cards and other electronic records of ballots cast in the November 2004 election were no longer available as “. . . no such document exists for this period because the document is subject to continuous modification from imputing of new data.”

The letters also cite information from the Dec. 7, 2005 minutes of the DuPage County Election Commission that state the Commission was planning to destroy voter registration documents; the Commission has never filed for a disposal certificate for these materials as required by law. In addition, the Local Records Commission wrote to the Illinois Attorney General's office on June 6, 2006, requesting a formal confirmation opinion that the DuPage County Election Commission is subject to the provisions of the Illinois Local Records Act (50 ILCS 205). The Illinois Attorney General already resolved a similar issue in 1999 on the applicability of the State Local Records Act with the DuPage County Public Safety Communications Office in opinion 99-021.

The action of the Local Records Commission in notifying the Attorney General's Office was in response to information submitted to the Commission by members of the DuPage County Chapter of the Illinois Ballot Integrity Project. Chapter co-chairs, Melisa Urda and Jean Kaczmarek, have headed an ongoing investigation into voter registration and election procedures in DuPage County for more than 18 months. Forty-eight pages of supporting documentation collected by Urda and Kaczmarek were presented to the Illinois Local Records Commission and executive members of the Illinois State Archives in Springfield on August 1st.

Kaczmarek says, "To instill confidence in our electoral process, we call for authorities to investigate the destruction of public records, seek the immediate preservation of all public records during the investigation, and conduct a comprehensive inventory of existing public records."

A division of the Illinois Secretary of State's office, the Illinois Local Records Commission regulates the preservation and destruction of public records in Illinois. Illinois State Archives serves as a liaison to all state and local governmental agencies concerning the retention, inventory and legal destruction of public records, and provides the support staff for the Local Records Commission.

According to the Records Management Section of Illinois State Archives, the DuPage County Election Commission has never filed for a disposal certificate, mandated by the Illinois Local Records Act prior to the destruction of public records. (720 ILCS 5/32-8) Sec. 32-8 states: "A person who knowingly and without lawful authority alters, destroys, defaces, removes or conceals any public record commits a Class 4 felony."

Urda and Kaczmarek first questioned the Election Commission's practice of destroying public records by the Election Commission in March 2005 regarding the Nov. 2, 2004 poll tapes. Poll tapes, also referred to as results slips, are the receipts from the voting machines at each polling place on election night tallying votes cast. Because inaccuracies and anomalies with electronic voting systems had been reported nationwide, Urda and Kaczmarek sought to determine the accuracy of the totals from Diebold machines in DuPage County.

Saar responded in a letter dated Mar. 15, 2005 to Bev Harris of Black Box Voting, that the Nov. 2, 2004 poll tapes she had requested on Nov. 3, 2004 under FOIA, "we no longer have the poll tapes being requested there, which are retained statutorily for 60 days following an election." However, Federal Election Law (Title 42, Chapter 20, Subchapter 2, Section 1974) provides that all records and papers from a federal election must be preserved for a minimum of 22 months.

Saar's letter to Harris contradicts a response he made to a FOIA request made by Urda and Kaczmarek on May 27, 2005. In the letter dated June 10, 2005, Saar wrote that the Commission possessed the poll tapes, but they were "sealed" and "exempt from disclosure." To date, Urda and Kaczmarek have been unable to determine which of Saar's responses is correct. They first contacted the Illinois Attorney General's Office with their concern in July 2005; the DuPage State's Attorney's Office was first notified in March 2006. In public statement to the DuPage County Board on July 11th, the co-chairs requested the Board's immediate oversight of the Election Commission. "In the upcoming election, we'd like to know that ballots cast on electronic voting machines truly reflect the intent of the voters," Urda says. "If there's any question regarding the outcome, all election materials must be retained for the legal retention period and be made available for public examination."

In the Dec. 7, 2005 board meeting, the Election Commission and its attorney, Patrick Bond, discussed the destruction of certain voter registration materials. The minutes read, "Executive Director Saar mentioned that the binders are obsolete since registrations are scanned and stored digitally, and the Commission had already adopted a resolution acknowledging the electronic signatures. The Board directed the staff to prepare a resolution and a method of destruction be presented at a future Board Meeting."

Correspondence between the Records Management Section of the Illinois State Archives and the Election Commission's law firm, Bond, Dickson & Assoc., took place in January and February 2006. Gloria Huston, Archival Program Administrator, explained the Local Records Act in a Feb. 15, 2006, letter and provided supporting statutes. A line-item expenditure for payment to Accurate Document Destruction was made for \$239.63 in April, 2006, according to the DuPage County Auditor's office.

The Election Commission's line-item expenditures reveal payments to Accurate Document Destruction for the disposal of large quantities of materials over the past five years. In FOIA and appeal responses, the Election Commission refused to disclose what public records have been destroyed, including the nature of the contents of eighteen 96-gallon totes disposed by Accurate Document Destruction in January 2005. An invoice of this transaction indicates that the pick-up of these materials was made at 2300 Raddant, Aurora -- the address of United Express Systems. The owner of United Express Systems is Brad Westrom, brother of Dean Westrom, who was serving as chairman of the Election Commission during this time. Dean Westrom once was sales manager for United. Jan Chase, sister of the Westrom brothers, is United's general manager. Over \$75,000 has been paid to United over the past five years for courier and storage fees by the Election Commission.

Kaczmarek says, "The illegal destruction of records is a breach of public trust. If the Election Commission has not been following the rule of law, how can we trust that they're conducting elections fairly, especially when the process is not transparent to the public?"

The Illinois Ballot Integrity Project is incorporated as a not-for-profit, non-partisan civic organization dedicated to the correction of election system deficiencies and ensuring fair, accurate, and completely transparent elections. IBIP believes that fundamental to election integrity is the inscribing of all votes (whether by hand or by machine) on durable paper ballots which are easily handled and verified by the individual voter. The voter's paper ballot should be the only official ballot for purposes of casting, tallying, counting, audit and recount.

The Mission of the Illinois Ballot Integrity Project is to inform and educate the public, media and government officials about important election integrity issues and to promote the adoption of legislation and policies designed to secure the democratic process.

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EDITOR'S NOTE: For questions and supporting documentation, contact Jean Kaczmarek: 630-469-2166.