

# Cold case closes, multiple crash fatalities, preparations underway for county fair

**By Sarah Beth Radomsky | Reporter**  
**BALSAM LAKE** – On Tuesday, July 2, the Polk County Public Safety and Public Works committees met at the Justice Center for a team meeting.

District Attorney Jeff Kemp appeared with Assistant District Attorney Holly Webster to share about the closing of the homicide case of the 1985 love triangle shooting of Yvonne Menke, saying the day was a “good day.” He said it started with Lieutenant Andrew Vitalis’s analysis of cold cases in Polk County, and had “pulled everything together from 1985,” and said “on further investigation it was brought to trial.” After the eighth day, he said, “we got a guilty verdict,” with sentencing resulting in life imprisonment for Mary Jo Bailey, with her being eligible for parole in 20 years. He also added regarding the possibility of parole, “that doesn’t mean she’ll get out if she makes it; 81 years, yes, she’s 81 right now. If you kill somebody you can’t just wait it out.”

Thanks was given to Sheriff Waak for giving Vitalis the authority he needed to pursue the case. Waak also said that it was a great help to be able to deputize former district attorney Mark Dillard in efforts to pursue the case with agencies in Arizona. Waak stated that without support from the district attorney the recent cold case would not have gone to trial with it having been a 39 year-old case, saying, “it was a team effort, with



**Members of the Public Safety and Public Works committees examine the new “micro robot” being shown by Sheriff Brent Waak as an example of technology purchased with a new grant aimed at addressing drug trafficking.** - Photo by Sarah Beth Radomsky

the facets of the Justice Center working together well.”

## Large Drug Trafficking Grant

Recently the department was able to secure a grant for \$43,000 to address drug trafficking. It has been used for items such as trail cams and other technology, as well as safety equipment. Ballistic shields to stop bullets from a rifle for every deputy to have in their vehicle was another example of special equipment purchased with the funds. Another new technology featured was called a “micro robot,” which can be thrown through a window and allows

an operator to control it via joystick. Waak said it can travel down stairs, and be instrumental in neutralizing a situation. A new, more permanent space for dispatch has also been developed as steps are taken to implement the final installation of the NextGen911 system, which will offer more enhanced emergency reporting options.

## Multiple Fatalities

There have been five fatalities in the last month as the result of four crashes, the most recent being just the day before the meeting, when a car drifted left of center. Waak shared that the driver is still alive, but the driver of the car that was hit passed away, and the wife who was in the passenger seat of the hit car is in the hospital, with both patients having been taken by helicopter for care.

## Fair Society Update

It was reported that in June during the District Holstein Show, 150 Holstein dairy animals were exhibited alongside many educational events. Grounds were also used for many 4-H activities, including horse, sheep and rabbit training clinics. The society has been making strides to prepare for the Polk County Fair happening at the end of July, including various repairs to several structures. Through donation of materials and labor, the roof for the Eagle Eats for the Hockey Association, formerly the Sportsman’s Club Stand, was replaced.

## In Other News

Public Works reported that crews are getting caught up with mowing on the Gandy Dancer. An annual notice will go out about the intention to spray herbicide on the Gandy Dancer and Stower Seven Lakes state trails in July. Regarding ATV and UTV use, Supervisor Doug Route shared that riding this season has been down due to rainy weather. As for highways, work is being done to get ditches mowed, as well as various sealing, milling and overlay projects.

While rain has slowed renovation projects down at the recycling plant, the Clam Falls Dam project was said to be progressing nicely. A short update was also given by Administrator Norby reporting that sales tax in the county is trending down by about \$10,000 since June last year.

In an update from the Criminal Justice Coordinating Council, it was said that referrals for the Drug Court program are increasing, with another graduation coming up in August. This was when some of the “most excitement happens,” as many share about the impacts the program has had upon their lives.

The next Public Safety and Public Works committees team meeting will be held on Tuesday, Aug. 6, at 2 p.m. in the County Board Room at the Polk County Government Center.

# Questions of legality of new form raised as Wisconsin Elections Commission accused of being in contempt of court

## Potential impacts for clerks and voters

**By Sarah Beth Radomsky | Reporter**  
**WISCONSIN** – Many voters have increasingly voted by absentee ballot, and have continued to do so, especially after the COVID pandemic. Last year, after it was pointed out that existing Wisconsin state statutes required the addition of a signed original or copy of the request for the ballot to be sent with the absentee ballot itself if the ballot is requested by fax or email, new wording was added to the absentee ballot certificate envelope that the ballots are returned in. Known as Form EL-122, the envelopes were an attempt by the Wisconsin Election Commission to try to remedy the issue.

Problems began when the legality of wording of the EL-122 were questioned, and on May 15, a judge in Marinette County issued a temporary, statewide injunction pending a further decision in the case of Oldenburg vs. the Wisconsin Elections Commission, stating that the WEC was “enjoined from requiring that form EL-122 be used by the clerks of this state.”

Even after the injunction, the WEC claimed it was “temporary,” and “does nothing more than make the use of the EL-122 voluntary rather than mandatory.” Despite claims that use of the EL-122 would be voluntary, the WEC admitted it had made no efforts to provide an alternative envelope, and for a voter who votes by absentee ballot, they have no other choice but to sign the envelope as they return their ballot.

For reasoning against the envelope’s wording, in the full plaintiff’s brief of the case it shared, “Problematically, the envelopes ask persons to certify false statements in conjunction with returning absentee ballots for voting—a crime. An immediate injunction needs to be issued to stop the use of these envelopes and preserve the integrity of all upcoming elections.” It was said that the EL-122 form itself is not “the original or a copy of that request” for the absentee ballot. The request for an absentee ballot is the step prior to receiving the ballot and the EL-122. The state statutes require a true original or copy of the voter’s request to be signed and sent in the case of fax,

email, or MyVote requests, which would also count as an email request. The purpose of the EL-122 is only to certify you are who you say you are. It was further stated in the brief that “The problem above is magnified when the agency statutorily-charged with administering elections essentially requires unlawful activity on the part of voters and clerks. WEC’s promulgation is of the EL-122, which foments election fraud, is an ultra vires act. WEC does not have the authority to require that anyone make a false statement to have their vote count. Votes and clerks rely on WEC for the provision of forms and information so that they can cast votes without running afoul of laws surrounding voting. WEC has completely abdicated that duty in this instance.”

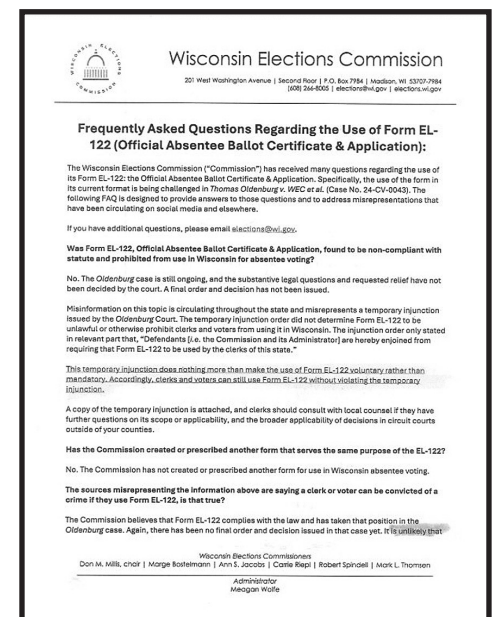
The other concern is that it does not actually remedy the issue it was originally supposed to address. WEC claims that the envelope’s new wording which says, “I requested this ballot, and this is the original or a copy of that request,” should legally suffice, saying clerks and voters could still use the form “without violating the temporary injunction.” WEC Counsel Jim Witecha also stated at a June 10 public meeting for the WEC, “We do not believe that at this time it should impact the voters or the clerks if they continue to use it.” The WEC also cited that the EL-122 had served “as a certificate and application for many years, and for recent elections it was amended last year.” The WEC added, “even a final order and decision could be subject to appeal, and this case is likely a long way from final disposition.” The WEC then referred clerks to consult with local counsel if they were still concerned about liability.

Regarding the potential for a vote to be invalidated by use of the EL-122 form, the WEC claimed that ballots cast with the EL-122 would “likely not” be invalidated, saying “the temporary injunction did not prohibit anyone from using form EL-122 in the upcoming elections, nor did it say that any ballots returned using them should be invalidated.” The WEC also said it “believed” a challenge to the validity of a ballot cast with the EL-122 would not be sustained because due to current Wisconsin statutes that “a challenge may be reviewed by a chairperson of the commission or the chairperson’s

designee,” which would “mean that the WEC chairperson would have the authority to review any sustained challenge.”

Just days before the mailing of the absentee ballots for the August Primary Election on Monday, June 24, a motion was filed by lawyers for the plaintiff accusing the WEC of being in contempt of court for violating the injunction in the Oldenburg case. The court filing said the WEC has directly violated the order by asking clerks to utilize the EL-122. The lawyers for the filing wrote, “WEC had ample time to address its impact and assist the clerks of this state—essentially WEC’s wards—to pursue an alternative plan in compliance with the Order and Wisconsin law. Instead, WEC chose to double down and try to run out the clock in violation of multiple state laws and defiance of this Court.” A scheduling hearing is set for Friday, July 26.

For some background to those who might be wondering what the WEC is, the WEC is a nonelected body that has come under scrutiny in recent years, with attempts to dissolve the commission and centralize power in the Wisconsin State Legislature instead as recently as December 2023. Attempts have also been made recently to remove WEC Administrator Meagan Wolfe, a contested issue that was also rejected by Republican Speaker of the Wisconsin State Assembly, Robin Vos. According to their website, “The WEC is governed by six commissioners, with three commissioners representing the Democratic Party and three representing the Republican Party. Two of the Democrats and two of the Republicans are selected by their respective legislative leadership. One Democrat and one Republican must be former municipal or county clerks and are appointed by the governor and confirmed by the Senate. Commissioners serve in a part-time capacity for staggered five-year terms. Commissioners elect officers every two years. Each term, the offices of chair and vice-chair switch between the members appointed by Democratic and Republican legislative leaders. The secretary is the clerk-appointee from the opposite party. The commission’s administrator, required by law to be nonpartisan, is selected by the commissioners and confirmed by the Senate. As Wisconsin’s chief election official, the administrator



**A copy of the document the WEC produced titled, “Frequently Asked Questions Regarding the Use of Form EL-122 (Official Absentee Ballot Certificate and Application.)” - Photos provided**

serves as the agency’s chief executive, leads the agency’s nonpartisan staff, and carries out the commission’s directives.”

Of immediate interest to voters who choose to vote by absentee ballot and made their request via email, fax, or using MyVote for the August Primary Election, these voters will still be mailed the ballot they requested, along with Form EL-122 to sign and return with the ballot. Under the current WEC guidelines, no newly implemented procedures have been officially added outside of use of the EL-122 form; however, it has been argued that while it has not been implemented in recent history, to be fully compliant with the old state statute, voters would need to send a signed original or copy of their ballot request in the return envelope with their ballot.

Full Wisconsin Elections Commission Ballot Access Meeting from June 10: [wiseye.org/2024/06/10/wisconsin-elections-commission-ballot-access-meeting-2](https://www.wisconsin-elections.com/wisconsin-elections-commission-ballot-access-meeting-2).

Full Plaintiff Brief: [wispolitics.com/wp-content/uploads/2024/05/240521Brief.pdf](https://www.wispolitics.com/wp-content/uploads/2024/05/240521Brief.pdf).

Full Wisconsin State Statute 6.86: [docs.legis.wisconsin.gov/statutes/statutes/6/iv/86](https://docs.legis.wisconsin.gov/statutes/statutes/6/iv/86).