



3. Respondent was reminded in the requests of his statutory obligations as custodian of the public documents under Wisconsin Statute §19.35(4)(a)&(b), which mandates that he either provide the requested public documents promptly, or that he provide requestor with detailed reasons for refusal and advise requestor of mandamus option. Respondent failed to answer petitioner's repeated requests in any fashion, completely ignoring repeated lawful demands for documents that the Respondent is required to provide under the Open Records Law.

4. Petitioner, as an inmate in a correctional institution, is not exempted from the almost absolute rights conferred upon individuals by The Open Records Law. §19.31, 19.32, 19.34, 19.35 "Inmates in correctional institutions are entitled to access to public records under law, and therefore to benefits of presumption that public record is open to all unless clear statutory exception or limitation under common law or overriding public interest exists in keeping record confidential." Tratz v. Zunker (App. 1996) 550 N.W.2d 141, 201 Wis.2d 774. No statutory limits apply.

5. Petitioner suffers harm if copies of requested public records are not provided where the specific requested records are required for evidentiary purposes in seeking post-conviction relief and are needed for evidentiary purposes regarding a pending John Doe inquest action filed by petitioner in Iron County in September of 2002, concerning commission of the crime of perjury at petitioner's trial, which perjury has caused petitioner's conviction and incarceration.

6. Petitioner has no other recourse under law by which to compel respondent to provide the public documents that petitioner requires and that he is entitled to receive under the law.

7. Petitioner's requested documents are public documents within the scope of The Open Records Law. "Sheriff's radio log, intradepartmental documents kept by sheriff and blood test records of deceased automobile drivers in hands of sheriff are public records subject to inspection and copying under sec. 19.21(2), Stats." 67 Wis. Op. Atty. Gen. 12.

8. Petitioner's only remedy is this mandamus action. "Mandamus was an appropriate remedy for compelling chief of police to disclose police records which reflected charges upon which arrests were made." Newspapers, Inc. v. Breier (1979) 279 N.W.2d 179, 89 Wis.2d 417.

9. Respondent completely ignored petitioner's requests and failed to provide any reason for denial of requests or to advise requestor of his right to seek mandamus action. Therefore, writ of mandamus must issue: "If custodian gives no reasons or gives insufficient reasons for withholding public record, writ of mandamus compelling production of records must issue." Chvala v. Bubolz (App. 1996) 552 N.W.2d 892, 204 Wis.2d 82; WSA 19.35(b).

10. Respondent has clear duty to comply with petitioner's records requests: "Every sheriff...shall open to the examination of any person all books and papers required to be kept in his or her office and permit any person so examining to take notes and copies of such books, records, papers or minutes therefrom..." WSA 59.20(3)(a); s.59.23.

11. Respondent has the duty as custodian to keep the requested records in his possession. "The sheriff is authorized to destroy all sheriff's dockets, daily jail records and cash books dated prior to 1901. It shall be the duty of the sheriff to retain and safely keep all such records for a period of 8 years." WSA 9.27(8)  
(The requested records are less than 6-years old)

12. Respondent is subject to forfeiture fines of \$5.00 per day of non-compliance, and to punitive sanctions payable to petitioner, and petitioner requests same from the court. "Punitive damages. If a court finds that an authority or legal custodian under s.19.33 has arbitrarily and capriciously denied or delayed response to a request or charged excessive fees, the court may award punitive damages to the requester," s.19.37(3); 783.04; s.59.20 (3)(b).

13. Respondent has acted capriciously and arbitrarily as evidenced by his complete lack of response to requests that included reference to his statutory duties to comply or respond.

14. Respondent's failure to comply is contrary to public interests. "Denial of public access to public records is contrary to public interest and is to be allowed only in exceptional case and exceptions to general rule of disclosure must be narrowly construed," Oshkosh Northwestern Co. v. Oshkosh Library Bd. (App. 1985) 373 N.W.2d 459, 125 Wis.2d 480.

15. Petitioner has absolute right to requested records. "Court may not in its discretion deny writ of mandamus where plaintiff has an absolute legal right to the remedy sought to be compelled." International Union, UnAuto., Aircraft and Agr. Implement Workers v. Goodin, (1947) 29 N.W.2d 730, 251 Wis. 362.

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**WHEREFORE:** BASED UPON THE ABOVE FACTS AND LAW, PETITIONER RESPECTFULLY MOVES THIS COURT FOR AN ORDER COMMANDING THAT:

1. THE RESPONDENT ROBERT BRUNEAU PERFORM THE DUTIES OF HIS OFFICE BY PROVIDING PETITIONER WITH TRUE, ACCURATE, AND COMPLETE COPIES OF SAID REQUESTED DOCUMENTS, BRINGING HIM INTO COMPLIANCE WITH THE WISCONSIN OPEN RECORDS LAW, AND;
2. THE RESPONDENT ROBERT BRUNEAU PAY COSTS IN THE AMOUNT OF \$30.00 TO PETITIONER FOR POSTAGE, PRODUCTION, AND COPYING COSTS, AND;
3. THE RESPONDENT ROBERT BRUNEAU PAY APPROPRIATE FORFEITURE FINES, AND;
4. THE RESPONDENT ROBERT BRUNEAU PAY PUNITIVE SANCTIONS FOR DISREGARDING WISCONSIN LAW AND BREECH OF SHERIFF'S DUTY WHERE RESPONDENT HAS ACTED IN CAPRICIOUS AND ARBITRARY MANNER DEMONSTRATED BY COMPLETE AND TOTAL DISREGARD OF LAWFUL REQUESTS.

STATE OF WISCONSIN  
CIRCUIT COURT FOR IRON COUNTY

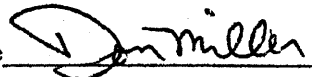
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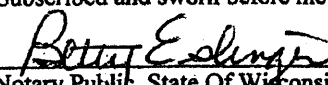
AFFIDAVIT IN SUPPORT OF PETITION

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State of Wisconsin,    )  
                                  ) ss.  
County of Chippewa    )

I, DONALD R. MILLER, hereby depose and say under oath, that after reading the attached petition for writ of mandamus, the information contained in the petition for writ of mandamus is a true and accurate depiction of facts within my first hand and personal knowledge.

Signature   
Date Signed July 21, 2003

Subscribed and sworn before me this 21<sup>st</sup> day of July, 2003:  
  
Notary Public, State Of Wisconsin.  
My Commission Expires on: 6-3-2007