

Bill Lueders: When transparency is treated with contempt

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Most of the time, public officials in Wisconsin obey the state's openness laws. Sometimes, they need a little prodding from the courts. But the recent conduct of Robin Vos and Michael Gableman is something altogether new, and deeply disturbing.

Both Vos, the speaker of the state Assembly, and Gableman, whom Vos [hired](#) at taxpayer expense ([more than \\$1 million](#) and counting) to look for fraud in the 2020 election, have been cited for contempt of court regarding open records requests.

Vos, the architect of a failed [2015 attempt](#) to gut the state's open records law, was [held](#) in contempt by Dane County Circuit Judge Valerie Bailey-Rihn, for failing to produce records as [ordered](#) or explain why he couldn't. He responded by lashing out at Bailey-Rihn, calling her "a liberal judge in Dane County trying to make us look bad." Bailey-Rihn later [opted](#) not to impose penalties for contempt, but Vos (read: taxpayers) might yet have to pay associated legal costs.

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Similarly, Dane County Circuit Judge Frank Remington [found](#) Gableman's Office of Special Counsel in contempt over its handling of records requests and referred the former justice to the Office of Lawyer Regulation for possible disciplinary action for his disgraceful conduct during a court proceeding.

Gableman sneeringly refused to answer questions from Christa Westerberg, an attorney representing American Oversight, a group seeking records regarding Gableman's probe, and vice president of the Wisconsin Freedom of Information

Council.

Gableman's conduct was "misogynistic" and "an affront to the judicial process and an insult to Atty. Westerberg," Remington [wrote](#) in his contempt order. "The circus Gableman created in the courtroom destroyed any sense of decorum and irreparably damaged the public's perception of the judicial process."

Gableman is [appealing](#) the \$2,000-per-day penalty as "grossly disproportionate to the violation."

At a subsequent hearing in which he managed to maintain his composure, Gableman [admitted](#) that he has routinely destroyed records he considers not relevant to his investigation.

"Did I delete documents? Yes, I did," he told the court. These include his notes from trips he took on the taxpayer's dime to Arizona to watch the widely ridiculed recount and to South Dakota to hear My Pillow founder Mike Lindell make baseless allegations of electoral fraud. ("I didn't find anything that I could use during that seminar," Gableman testified.)

Indiana attorney James Bopp Jr., representing Gableman's Office of Special Counsel, argued in an [April 8 letter](#) that, absent a pending records request, there is no statutory requirement that records be preserved. But the Wisconsin Legislative Council, a nonpartisan service agency, had previously [determined](#) that this office was required to retain these records.

That's right: Bopp declared from his perch in Indiana that he knew more about Wisconsin's rules than the state itself. Gableman attained the same level of hubris in [contending](#) to reporters, "If I had to keep every scrap of paper I would do nothing else. I would need a warehouse."

Really? A warehouse? How many taxpayer-funded records has Gableman destroyed?

In fact, released records reveal, among other things, that the work for which Gableman was [pocketing](#) \$11,000 per month (it has since been cut in half) was, in the [estimation](#) of Judge Bailey-Rihn, "minimal." Gableman is now being [sued again](#) by American Oversight, over his destruction of records.

Clearly, the state Legislature must do a better job of ensuring that those it hires are

complying with their obligations under the state's openness laws. And Robin Vos and Michael Gableman should be held accountable for treating these laws with contempt.

*Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council (wisfoic.org), a group dedicated to open government. Bill Lueders, former editor and now editor-at-large of *The Progressive*, is the group's president.*