Wisconsin 2020:
Election Administration in the Coronavirus Pandemic

March 10, 2021

Abstract:

Wisconsin managed its administration of the November 2020 general election effectively despite a surging pandemic. After a presidential primary that made national headlines because of its dysfunction, Wisconsin invested millions of dollars to ensure safe and accessible voting in November. The state reported no major issues during the November election. Nonetheless, the Wisconsin Elections Commission (WEC) and cities across the state faced a deluge of lawsuits and accusations of fraud, as the Trump campaign and its allies attempted to discredit the administration of the election. However, despite the close margin of victory in the state, the courts easily resolved these suits and the election results, showing Democrat Joe Biden the winner, were promptly certified.

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This memo draws on prior memos published by Stanford-MIT Healthy Elections:
- "Wisconsin's 2020 primary in the Wake of COVID-19," Grace Scullion, Peter Prindville, Lexi Rubow, Bea Phi, Jeff Rodriguez, Joaquin Garcia, Alison Cohen (June 30, 2020).
- "Wisconsin 2020 Election Policies and Practices," Evie Freeman (November 2, 2020).
- "Mail Voting Litigation During the Coronavirus Pandemic," Connor Clerkin, Lane Corrigan, Zahavah Levine, Aviel Menter, Christopher Meyer, Alexander Perry, and Theodora Raymond-Sidel (October 29, 2020).
- "Post-Election Litigation in Battleground States: A Summary," Zahavah Levine and Jacob Kovacs-Goodman (Last Updated: March 1, 2021)

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I.   Introduction

Despite a quickly escalating coronavirus pandemic, Wisconsin election officials managed their general election well. After taking lessons learned from conducting the April primary with record high numbers of absentee voters, Wisconsin invested more resources in the absentee voting process. Millions of dollars were invested across the state to assist voters in applying for absentee ballots, as well as to bolster mail-ballot tracking and ensure that more locations were available for voters to safely vote early in person, if desired. Investments were made to increase the number of voting locations open on Election Day and to make these locations as coronavirus-safe as possible. These efforts proved successful, with no major issues reported. Nonetheless, the Wisconsin Elections Commission and cities across the state faced lawsuits and accusations of fraud, as the Trump campaign and its supporters attempted to discredit the administration of the election.

II.   Lay of the Land

In total, 3,278,963 Wisconsinites (72.3% of the voting-age population in 2019) voted in the 2020 general election, up from 3,004,501 (67.3%) in 2016.[1] President-Elect Biden won the presidential contest with 1,630,866–or 49.57% of–votes. President Trump received 1,610,184 votes, thereby losing by 20,682 votes, a margin small enough to qualify for a recount in the state.

More than half of Wisconsin voters cast absentee ballots in the 2020 general election. 1,957,514 people (59.7% of voters) voted early—651,422 (33%) voted in-person early, and 1,306,092 (66.7%) voted by-mail. This was more than the 1,321,449 votes cast in person on Election Day and significantly more than the 830,763 absentee ballots cast in the 2016 general election.

III.   Background

Several of Wisconsin's preexisting election laws positioned the state well to administer an election during a pandemic. Prior to the pandemic, Wisconsin law did not require an excuse to register to vote by mail, and voters were able to register online or at polling sites to avoid postal delays (both prior to and on Election Day). Existing Wisconsin law also offered early voting beginning two weeks before Election Day.

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[1] The presidential primary turnout decreased from 2016 to 2020 with 2,113,544 votes to 1,555,263 votes respectively.

Other existing state laws, however, added difficulty to the voting process, both for voters and for election workers. Most Wisconsin voters are required to provide a [form of photo ID](#) when they cast their ballots, either by providing it in person or by submitting a photocopy along with their absentee ballot request. Options for the type of photo ID are limited: voters must provide a Wisconsin driver's license, a passport, a naturalization certificate, a tribal ID, or one of [several other fairly uncommon documents](#). One exception to this is for "indefinitely confined" voters (voters who, because of age, physical illness, infirmity or disability, may have difficulty traveling to the polling place). They are not required to include a photocopy of their ID with their absentee ballot request, if they are unable. This category is self-identified and led to lawsuits over whether the Wisconsin Elections Commission had given adequate guidance as to who was eligible in the midst of the pandemic. Absentee voters were also required to return their ballots with a [witness signature](#). Obtaining a witness signature presents a potential barrier for absentee voters, particularly those living alone during the pandemic. In addition, state law does not allow ballots to be counted that were received after Election Day, regardless of whether they were postmarked on or before November 3. This law has also led to lawsuits. Although a federal judge in the spring extended the deadline by six days for the primary election, the federal appeals court suspended the order, and the [U.S. Supreme Court](#) declined to grant a stay of that appeals decision in October.

Wisconsin is also one of only four states with laws that prevented election workers from processing absentee ballots until Election Day—meaning that the ballots could not be removed from their return envelopes, unfolded, or prepped to go through the counting machines until the polls opened November 3. With almost two million absentee ballots to be counted in the 2020 election, processing was a daunting task, and the state's county clerks association [asked](#) the state legislature to allow them to begin opening envelopes earlier. This request was ignored, however, and led to clerks counting ballots through the night.

Despite lawsuits and proposed changes, the days leading up to the general election were not nearly as uncertain as they were going into the April primary. Wisconsin's April 7 primary was one of the first statewide elections held after President Trump declared a state of emergency on March 13 because of the public health hazard posed by the coronavirus pandemic. Preparing for the primary, voters and election officials faced almost daily changes to election procedures—even the date of the primary election itself. Governor Tony Evers pushed to postpone the primary election, while Republican state lawmakers, led by State Senate Majority Leader Scott Fizgerald and Assembly Speaker Robin Vos, defended the status quo. On the eve of the primary, the Wisconsin Supreme Court, divided along party lines, held that the primary would go forward as planned. Meanwhile, the Democratic Party and voting rights organizations filed lawsuits in federal court, seeking absentee voting accommodations. Among other things,

their lawsuits asked to delay the deadline to submit absentee ballots. While a federal district court issued an injunction extending the deadline for receipt of ballots, the order was reversed by the U.S. Supreme Court on the eve of the primary.

State election officials also faced logistical challenges for the April primary, such as poll worker shortages, challenges obtaining protective gear and cleaning supplies, and an overwhelming influx of absentee ballot applications. Despite valiant efforts by the Wisconsin Elections Commission and local election officials, many voters waited in long lines outside of limited polling facilities or waited for absentee ballots that never arrived. Concerns over health risks led roughly 7,000 poll workers statewide to step down before or on the day of the election.[2] In Milwaukee, just five polling places out of 180 were open the day of the primary because of poll worker shortages and social distancing considerations in traditional polling places. Though Governor Evers' administration worked with the Wisconsin Elections Commission to find protective equipment for poll workers, and freed up more than 2,400 members of the Wisconsin National Guard to serve at polling sites, reports described the day as "chaotic." Clerks consolidated numerous, smaller polling places into fewer, large facilities, like gymnasiums, to allow for social distancing, only to cause some voters to stand in line for hours, which went against public health recommendations.[3] Opportunities for in-person early voting were slashed considerably in places such as Madison and Milwaukee—the state's two largest cities. According to a study by the Brennan Center for Justice, a combination of closures and fears of contracting coronavirus depressed Black turnout by 15.9 percentage points in Milwaukee during the primary, compared to 9.9 percent for non-Black voters. And there were numerous reports of people never receiving absentee ballots despite having requested them. In all, an estimated 9,000 requested ballots were never sent by the state.

The Wisconsin primary illustrated the challenges of administering an election during a pandemic. However, election officials had more time to prepare for the general election on November 3 and were bolstered by federal and private grants to pay for needed resources. Polling places were more widely available, pandemic-prepared, and ready for the influx of absentee ballots on November 3.

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[2] Green Bay Mayor Eric Genrich, a former Democratic state lawmaker, said his city started with 270 poll workers before the coronavirus pandemic and ended up with just 15 (the city was offered help from the National Guard, but it declined; the mayor said "[w]e didn't know what the National Guard could do for us—how many people were available—until the 11th hour").

[3] In Milwaukee, the Election Commission Director consolidated 180 polling places into just 5, causing many voters to stand in line for hours.

IV.   Absentee Voting (Mail and In-Person Early Voting)

Reports indicated that absentee voting proceeded relatively smoothly for the general election. Nevertheless, President Trump and his allies used the influx of absentee ballot tallies after midnight on Election Night as a major driver of misinformation and conspiracy theories that led many Americans to believe the outcome was fraudulent. President Trump, his campaign, and other Republican figures and groups also launched numerous (unsuccessful) lawsuits.

A. Statistics

Out of the 3,278,963 people who voted in Wisconsin, 1,957,514—or 59.7%—voted absentee (651,422 in-person early; 1,306,092 by mail). This was a significant increase from the 2016 general election, in which 819,316–or 27%–of voters voted absentee. This increase was largely expected because of the coronavirus pandemic. Because the state law prohibited election workers from processing absentee ballots until Election Day, the time required to conduct the initial vote count extended into the morning of November 4.

B. Rejection Rates

Wisconsin Elections Commission data shows the percentage of rejected absentee ballots for the 2020 general election was in line with past November general elections (except for the November 2016 election, which had abnormally high rejection rates—2.3%—due to newly instated voter ID laws), and improved from the April 2020 primary. The November 2020 absentee ballot rejection rate was 0.2%, down from 1.8% in the April Primary and down slightly from 0.23% from November 2018.

The Wisconsin State Journal reported on October 28 – less than a week before the general election – that county elections clerks had found problems with just 1,506 absentee ballots out of the 1.45 million already returned. Most of those problem ballots were returned to voters so they could be corrected (contacting voters to correct or "cure" their ballots is optional for clerks in Wisconsin). Because absentee ballots could not be opened and processed until Election Day, these errors found prior to Election Day would have been visible on the outer return envelope, such as a missing witness signature or address.

The fraction of ballots that were rejected because they were received after Election Day fell from 1.4% in 2016 to 0.1% in 2020, resulting in a small numerical increase in late-arriving ballots

(1,277 to 1,508), despite the number of ballots cast by mail growing more than ten-fold, from 91,00 to nearly 1.4 million. The percent rejected for "certification insufficient," which includes a missing voter or witness signature or a missing witness address, was 0.07%.

C. Rules

Any registered Wisconsin voter was eligible to vote absentee (whether by mail or early in person) in the 2020 general election. Voters were required to provide a photocopy of their photo ID to cast an absentee ballot by mail and to show their photo ID when casting an in-person absentee ballot at their municipal clerk's office. There were some exceptions to this rule, such as for "indefinitely confined" voters (defined as persons who, because of age, physical illness, infirmity or disability, may have had difficulty traveling to the polling place). While no excuse was required to receive and cast an absentee ballot, there was some dispute over who was permitted to request an absentee ballot as an "indefinitely confined" voter during the coronavirus pandemic. According to statistics kept by the Wisconsin Elections Commission, nearly 216,000 voters said they were indefinitely confined during the 2020 election, up from under 57,000 in 2016. This led to assertions that voters were misclassifying themselves as indefinitely confined because of the pandemic. The Wisconsin Elections Commission provided guidance that the indefinitely confined status was a decision "for each individual voter to make based upon their current circumstances."

After completing their ballots, absentee voters were required to sign the return "certification" envelope in front of a witness, who was then required to add their signature and address. Despite some pushback, the state did not waive the witness signature requirement during the coronavirus pandemic. Instead, the Wisconsin Elections Commission provided additional guidance on how to secure a ballot witness while social distancing. The Commission urged voters to find a family member, mail delivery person, or grocery store employee to serve as a witness. It specified that the process could be done over video chat, with the ballot then left outside of the door or in a mailbox, or even mailed to the witness for the witness to sign and provide their address after the fact.

The return deadline for absentee ballots was Election Day (November 3). This deadline did not change for the general election, despite much advocating (and some suing) for an extension because of the coronavirus pandemic, and even though a six-day extension of the deadline was granted for the April 2020 primary election at the onset of the pandemic's spread in the U.S.

Under Wisconsin state law, election officials could not begin processing absentee ballots until Election Day. Local elections officials had lobbied the legislature for years to preprocess ballots.

While there was some [bipartisan support](#) in the legislature for [changing this law](#) in advance of the expected influx of absentee ballots, no change was enacted. Some experts [noted](#) in advance of the election that the processing time associated with a high-influx of mail ballots could give ammunition to the losing party to complain that the process appeared improper and challenge the state's results; for an analysis of post-election challenges and litigation, see section VI.[4]

Different localities [employed different approaches](#) to counting their absentee ballots in Wisconsin. While most jurisdictions, including Madison, processed them at the polls, Milwaukee and over three dozen other places did so at a central counting location. Those with a central count system posted their initial results representing in-person voting totals on Election Day and added absentee ballot tallies later. Localities with a central counting system reported incomplete results in initial tallies that did not include the large number of absentee ballots cast.

D. Absentee Voting Litigation – Pre-Election Day

Prior to the election, lawsuits were filed challenging Wisconsin's absentee voting laws to address the needs and protect the health of Wisconsinites in the midst of the coronavirus pandemic. Plaintiffs brought lawsuits in the hopes of increasing ballot access, extending deadlines, and removing barriers to voting (such as the need to find a witness at a time when everyone was asked to stay home and stay physically distant from individuals outside their household). Ultimately, none of these lawsuits were successful.

The city of Green Bay, Wisconsin, filed a lawsuit to ensure that eligible voters actually received mail-in ballots. The city filed a [constitutional claim](#) in federal court, arguing that, in light of the pandemic, election officials should be required to send ballots to all eligible voters automatically. The case was dismissed for lack of subject matter jurisdiction under a doctrine that holds that municipal organizations lack standing to bring an equal protection challenge against their own state government.

In *DNC v. Bostelmann,* the Democratic National Committee and the Democratic Party of Wisconsin challenged the Election Day mail ballot deadline in Wisconsin, arguing that the deadline constituted an undue burden on the right to vote under the Anderson-Burdick test; that it violated the Fourteenth Amendment by denying procedural due process; and that it violated the Equal Protection Clause of the Fourteenth Amendment. Plaintiffs initially saw some

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[4] Barry Burden, director of the Elections Research Center at the University of Wisconsin-Madison, noted that delayed processing of mail ballots could lend "ammunition" to complain that the election was illegitimate.

success on these constitutional claims, with a federal district court granting their request for a preliminary injunction and ordering the state to accept all ballots postmarked and received within six days of the primary election. However, the U.S. Supreme Court stayed the postmark-change portion of the order, reasoning that it was issued too close to the election and was, therefore, likely to cause confusion among voters. The ballot receipt deadline-change portion of the order was permitted to stand. Five months later, in late September, the district court granted a preliminary injunction in four consolidated lawsuits, including *DNC v. Bostelmann*. The injunction extended the deadline for receipt of an absentee ballot in the general election to November 9, provided the ballot envelopes were postmarked by Election Day, November 3. But the Seventh Circuit U.S. Court of Appeals stayed the district court's injunction in early October. It agreed with the Wisconsin legislature's contention that a federal court should not change rules so close to an election and that political, not judicial, officials should decide when a pandemic justifies making changes to otherwise valid rules. On October 26, 2020, the U.S. Supreme Court, in a 5-3 vote, rejected Democrats' and voting rights groups' request to vacate the Seventh Circuit's stay.

Also in *DNC v. Bostelmann*, the federal district court suspended Wisconsin's witness requirement during the pandemic. The Seventh Circuit overturned this decision as well, concluding that the district court "did not give adequate consideration to the state's interests" and citing precedent that "[v]oter fraud drives honest citizens out of the democratic process and breeds distrust of our government." Therefore, witness signatures were required for both the primary and general election in Wisconsin.

Finally, election clerks in Outagamie and Calumet counties sought the Wisconsin Supreme Court's permission to correct a small misprint of timing marks on 13,500 absentee ballots. [5] Timing marks are small black boxes printed along the edge of a ballot that guides the scanning of a ballot in a vote tabulation machine. The misprint prevented machines from correctly processing the ballots. The election clerks proposed using black ink to fill in the misprinted timing marks—a solution backed by the Wisconsin Election Commission's six commissioners to save time during ballot-processing. The WEC did not have the authority to approve the solution but sent a letter urging the court to allow election officials to permit this practice. The court declined to take the case, forcing election workers instead to remake[6] those ballots, a process

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[5] Timing marks are the black boxes printed around the edges of ballots. See image here.
[6] The procedure for making a duplicate is prescribed in Wis. Stat. § 5.85(3): "If any ballot is damaged or defective so that it cannot be properly counted by the automatic tabulating equipment, the election officials, in the presence of witnesses, shall make a true duplicate ballot of all votes on that ballot by using one of the marking devices so as to transfer all votes of the elector to an official ballot of that kind used by the elector who voted the original ballot in that election."

Outagamie County Clerk Lori O'Bright estimated would take about four minutes per ballot and would "slow things down."

E. Absentee Voting Litigation – Post-Election Day

Delays in counting ballots, whatever the reason, can have consequences. The significant increase in absentee ballots in 2020, combined with the state law prohibiting the processing of absentee ballots until Election Day, led to post-election lawsuits filed by the Trump campaign, Trump voters, and conservative groups, alleging fraud in the absentee ballot count. These lawsuits did not have any success in Wisconsin.

In _Langenhorst v. Pecore_, three Wisconsin voters sought to exclude all of the votes cast in Menominee, Milwaukee, and Dane counties from Wisconsin's total based on differences in the rules for handling absentee ballots in those counties. The lawsuit objected to the counties' policies allowing voters who say they are "indefinitely confined" to cast absentee ballots without providing photo identification. The complaint also cited two voters who said they received absentee ballots without requesting them, and three absentee ballots apparently cast by people who died before November 3. However, the plaintiffs voluntarily dismissed their lawsuit four days later.

On December 1, a Republican presidential elector, William Feehan, and the Republican nominee for Wisconsin's Third Congressional District seat in the U.S. House of Representatives, Derrick Van Orden, brought suit against the Wisconsin Elections Commission with numerous allegations. Among other things, they alleged that the Commission's guidance for submitting an absentee ballot as an indefinitely confined voter violated state law, as was their guidance permitting clerks to contact absentee voters to cure a missing witness address on their return certification envelope. The plaintiffs asked for emergency relief in the form of numerous orders and declaratory judgments, including an order directing Governor Evers and the Commission to de-certify the election results. They also sought a declaratory judgment "that mail-in and absentee ballot fraud must be remedied with a Full Manual Recount or statistically valid sampling that properly verifies the signatures on absentee ballot envelopes and that invalidates the certified results if the recount or sampling analysis shows a sufficient number of ineligible absentee ballots were counted." Two days later, plaintiff Feehan filed an amended complaint removing Derrick Van Orden as a plaintiff. On December 9, the federal district court held that it lacked the jurisdiction to grant the relief sought, saying "federal judges do not appoint the president in this country." The court also held that the plaintiff lacked Article III standing to sue in federal court over a state election claim, and dismissed the claims on the additional basis of mootness. The U.S. Supreme Court denied certiorari on March 1, 2021.

President Trump filed a lawsuit in federal district court against the Wisconsin Elections Commission, alleging that absentee voting discriminated against "able-bodied" voters and that the widespread availability of voting by mail contradicted the Wisconsin Legislature's disfavor of absentee voting policies. The suit also alleged that the Commission "eliminated state laws requiring that voters provide information on the mail-in ballot envelope" and permitted election workers to alter ballots, among other claims.[7] President Trump's legal team argued that the alleged conduct violated both the Elections and Electors Clauses of the U.S. Constitution. The suit also challenged the validity of 17,000 votes that were absentee ballots collected at "Democracy in the Park" events sponsored by the city of Madison.[8] As a remedy, President Trump requested that the result of the Wisconsin election be remanded to the Wisconsin Legislature. On December 12, the court dismissed the lawsuit with prejudice. The court found that the Commission's guidance on indefinitely confined voters, the use of absentee ballot drop boxes, and election workers' corrections to witness addresses were not challenges to the "Manner" of Wisconsin's appointment of presidential electors but rather disagreements over election administration. The court also found the Wisconsin Elections Commission conducted the election in the manner directed by the state legislature and in accordance with the Electors Clause.

F. Overall Performance of Absentee Voting

After the April 2020 Wisconsin primary, an investigation by the Milwaukee Journal Sentinel, the PBS series FRONTLINE, and Columbia Journalism Investigations revealed numerous breakdowns in the state's absentee ballot system, including delays in mailing ballots, misleading ballot tracking systems, and thousands of missing ballots. In addition, because the absentee ballot applications asked only for voters' mailing addresses, election clerks were not able to call or email voters to let them know if there was an issue with their application, leaving many voters unaware that their applications were pending or had been rejected.

In one of the worst examples from the April primary, "three large tubs" of undelivered absentee ballots–1,600 in total–from voters in Oshkosh and Appleton were reportedly discovered at a

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[7] In Wisconsin, absentee ballots must be returned in an envelope that is signed by both the voter and a witness, and the witness must also write their address. If a witness does not provide an address, election clerks are permitted to fill in the address if they can find that information by talking to the voter, talking to the witness, or looking at voter rolls and tax databases (a policy established in 2016 by Republicans serving on the Wisconsin Elections Commission). President Trump argued that only a voter or witness can fill out the address on the ballots and that ballots "cured" by a clerk should be disqualified.

[8] Madison's Democracy in the Park events irked Republicans, who asserted that they constituted an "illegal collection of ballots" that "falls outside lawful categories." They did not challenge them in court at the time, however.

post office the day after the April primary. A post office report on the discovery concluded that the ballots "faced mailing problems or mailing labels were never applied to the ballot envelopes." In Milwaukee, nearly 2,700 absentee ballots were never sent to voters because of a glitch in the state's computer system and another 386 ballots that were filled out and returned successfully were never read because of a "human error" at the counting center.

In response to these and other breakdowns, the Wisconsin Elections Commission pledged to implement a number of changes to the state's absentee ballot request process. The changes included a new ballot tracking system, in coordination with the U.S. Postal Service, with a unique barcode on each return envelope and additional fields on absentee ballot applications so voters can provide contact information (such as email address and phone number). The changes also included a move from processing ballot applications via email to a completely online database. The Commission also announced $4.1 million in federally funded block grants to help local election officials and voters prepare for the general election, such as helping to fund significant unbudgeted expenses, like postage and envelopes because of the high demand for absentee ballots.

In June, the Commission voted to send out absentee ballot applications proactively for the general election. The applications would be sent out by September 1 to all 2.7 million Wisconsin voters who had not yet applied, with the exception of 158,000 voters whose names were flagged by a multi-state government database as having potentially moved. According to a Wisconsin State Journal report in September, Wisconsin Elections Commission Administrator Meagan Wolfe said "the Elections Commission didn't really have a formal relationship with the U.S. Postal Service. Now, state elections officials meet weekly with the federal agency." As part of this closer coordination, the Commission had already begun adding intelligent barcodes to outgoing ballot envelopes, enabling them to be scanned at postal centers, verifying that the ballots were in the mail and received by county election offices. In July, the Commission Administrator announced there had been some glitches with the new barcodes that they hoped would be quickly resolved.

In addition, the Commission made improvements to the state's online voter registration system to prepare for increased usage and to make it easier for clerks to process absentee ballot requests. Under the improved system, clerks needed only to use the state's online registration system instead of manually entering absentee requests received via email. These applications included fields for the voter's phone number and email address in case of issues with their application.

As a result of these efforts, Wisconsin's absentee voting process went fairly smoothly for the November election. However, the Wisconsin Legislature's failure to allow the processing of

absentee ballots to begin before Election Day, despite knowledge of the likely surge in absentee ballots because of the coronavirus pandemic, would still likely lead to delayed announcement of the results. And that, in turn, would lead some (including the Trump campaign and its allies) to claim the absentee ballots were "vote dumps" in favor of Joe Biden, sparking conspiracy theories of widespread voter fraud and a "rigged" election (theories that were resoundingly disproven).

V.   In-Person Voting

Overall, reports indicate that in-person voting went smoothly on Election Day in Wisconsin. According to the Wisconsin Elections Commission, there were no widespread issues, threats of violence or intimidation, or threats to cybersecurity. Local election officials also reported that things ran smoothly and, though there were lines, the waits were not excessive.

A. Improvements from the April Primary

There were long lines at polling places during the Wisconsin primary in some jurisdictions, resulting in voters waiting for hours to vote. The coronavirus forced the closure of the majority of polling places around the state for the primary, which was held less than four weeks after President Trump declared a national emergency. Between the primary and general election, however, municipalities had the time and received the resources (through federal and private grant funding) to implement health department regulations that aided in recruiting enough poll workers for the general election and to supply each polling site with sufficient health-protective equipment and sanitation supplies.

These efforts resulted in the return of most of the closed polling sites in time for the general election. On November 3, 2020, there was only a 5% reduction in the number of open polling stations across the state compared to the 2016 general election. Milwaukee increased open polling sites from five in the primary to 173 (out of the usual 180) for the general election. Green Bay had only two open polling places in the primary out of the usual 31, but increased this number to 16 for the general election. Madison increased its polling sites from 66 in the primary to the usual 92. Other municipalities, however, were still forced to shut down locations that were physically too small to accommodate social distancing or that housed vulnerable communities, such as nursing homes. As a result, some areas still had significant polling place closures during the general election. The Center for Public Integrity found that Brown, Kenosha, Rock, and Waukesha counties saw some of the largest decreases in polling places compared to 2016. In Brown County, the number of polling places decreased from 75 to 52, a 31% drop.

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Kenosha's number dropped 38%, Rock's dropped 19%, and Waukesha's dropped 17%. In Cudahy, Wisconsin, all in-person voters had to cast their ballots at the local high school's auxiliary gym, down from four locations available in 2016.

B. Election Funding

In June, the Wisconsin Elections Commission approved the use of $7.2 million in federal funding through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, including a $4.1 million block grant program to help local election officials and voters prepare for fall 2020 elections amid the coronavirus pandemic. This funding was used to procure sanitation supplies and absentee ballot envelopes and distribute them to all 1,850 municipalities. CARES Act funding also went towards further development of the state voter registration system and implementation of intelligent barcodes. Local election officials were also able to use the funding to cover printing and postage costs, additional protective equipment, public communications on changes to the voting process, installing additional absentee ballot dropboxes, leasing of polling places when existing sites were closed or relocated, and additional equipment to process absentee ballots.

The Center for Tech and Civic Life (CTCL), with grant money funded by Priscilla Chan and Mark Zuckerberg, provided assistance to Wisconsin election administration. CTCL announced in July that it would commit $6.3 million to election administration assistance in Wisconsin through supporting programs in five cities.

- City of Milwaukee: $2,154,500
- City of Madison: $1,271,788
- City of Green Bay: $1,093,400
- City of Kenosha: $862,779
- City of Racine: $942,100

Assistance to the cities was based on a document called the "Wisconsin Safe Voting Plan 2020." The 21-page document was co-signed by the mayors of Milwaukee, Madison, Green Bay, Kenosha, and Racine. The plan described the issues Wisconsin election administrators were facing as a result of the pandemic, laid out four actionable "recommendations" that were needed to improve the election process in preparation for the general election, and identified the resources needed to achieve each. These recommendations were:

1. Encourage and Increase Absentee Voting;
2. Dramatically Expand Strategic Voter Education and Outreach Efforts, Particularly to Historically Disenfranchised Residents;
3. Launch Poll Worker Recruitment, Training and Safety Efforts; and
4. Ensure Safe and Efficient Election Day Administration.

CTCL's funding sparked two lawsuits in Wisconsin. Prior to the election, a group of plaintiffs who organized under the name "Wisconsin Voters Alliance" sued the Cities of Green Bay, Kenosha, Madison, Milwaukee, and Racine in federal district court, arguing that the grant funding was purposely directed to cities with a history of supporting Democrats, equating the funding to election bribery. The group also argued that private grants to run public elections were not permitted under state and federal law and the U.S. Constitution. The group asked a federal court to block the funding. The court denied the motion, finding "nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL." This claim was rehashed in a lawsuit filed by the same group after the election, though this time in state court. The plaintiffs made many of the same arguments, alleging that the grant money was illegally awarded and, therefore, the election results should be nullified. The Wisconsin Supreme Court declined to hear this second suit. Justice Brian Hagedorn said plaintiffs came "nowhere close" in terms of establishing their claims with substantive facts. He added that their complaint fell "far short of the kind of compelling evidence and legal support we would undoubtedly need to countenance the court-ordered disenfranchisement of every Wisconsin voter."

C. Poll Worker Recruitment and Training

Election administrators nationwide have struggled to recruit sufficient numbers of poll workers for several years, and the 2020 coronavirus pandemic exacerbated this problem. One long-time reliable demographic group of poll workers—return volunteers who were on average over 60 years old—were at greater risk of suffering serious health complications from COVID-19, and therefore stayed home. As a result, during Wisconsin's April primary, roughly 7,000 poll workers resigned statewide, and the state faced major shortages. For example, Milwaukee relied on fewer than 30% of its typical number of poll workers–400 of 1,400. Governor Tony Evers called up more than 2,400 members of the Wisconsin National Guard to attempt to fill some of the gap. It marked the first time the Wisconsin National Guard was activated for this purpose, but it was not deployed in time to reopen any of the closed polling sites.

Election officials, advocacy groups, and others in Wisconsin and across the country began recruiting poll workers more aggressively in the months prior to November. Younger people

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were a particular target demographic group because they were determined to be less vulnerable to COVID-19 complications.

The grant funding provided by CTCL allowed some municipalities to entice additional workers through additional pay and outreach efforts. Green Bay, for example, was able to increase its poll workers' salaries by 50%. Milwaukee launched an "Adopt A Voting Site" initiative, which encouraged corporations and local organizations to take a more active role in the election process by agreeing to "adopt" one of Milwaukee's 195 voting sites and providing a certain number of poll workers (depending on the site selected) on Election Day. Outside efforts, such as a student-run Poll Hero Project; LeBron James' "More Than A Vote" campaign; Power the Polls in partnership with Wisconsin Voices and a coalition of voting rights, civic, and corporate organizations also stepped in to help recruit poll workers in Wisconsin and around the country.[9]

These efforts proved successful. By October 15, the Associated Press reported that only about 180 poll workers out of 30,000 were still needed across the state. Wisconsin Elections Commission spokesperson Reid Magney told AP that "clerks are doing a good job of recruiting and Wisconsin citizens are stepping up in response to either calls to action or problems that occurred in April," and that there were no widespread gaps heading into the general election.

D. Coronavirus Safety Regulations

Polling stations implemented safety guidelines during the 2020 general election, such as instructing voters to maintain a social distance of six feet and not allowing long lines inside buildings. Poll workers who did not follow or enforce these guidelines were told they would be removed from their duties. The state provided locations with masks, gloves, and sanitizer for poll workers to use to follow health department protocols. While local election officials were given the authority to require their poll workers and observers to wear masks, they could not require voters to wear masks, as the Wisconsin Elections Commission determined that this would have required a new "qualification" for voting which, under the state constitution, only the state legislature could impose. Voters were encouraged to wear masks, however. According to JB Van Hollen, a former Wisconsin Attorney General who worked with a bipartisan coalition called "VoteSafe Wisconsin" to ensure Wisconsinites could vote safely and securely, "the clerks did a great job of anticipating the worst and based upon that, they have taken every precaution that I think you can really take and be able to function with in-person voting."

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[9] The new recruits were far younger than usual. Of the more than 920,000 poll workers nationwide in the 2016 election, more than 56% of them were above the age of 60, according to the U.S. Election Assistance Commission. By contrast, nearly 90% of the more than 650,000 poll workers referred to local officials this year by Power the Polls were under the age of 65, and the Poll Hero Project recruited more than 31,000 students, more than half of them high school students.

Under Wisconsin law, all polling places are required to provide curbside voting for voters who cannot access a polling site due to disability. In both the April primary and the November general election, this service was offered to voters with COVID-19 symptoms. Each municipality has its own way of conducting curbside voting, including talking to a poll worker outside, ringing a bell, or calling the clerk. A poll worker then would bring out a ballot. Hospitalized and quarantined voters also had another option for voting on Election Day. Wisconsin law allows people who are hospitalized to designate any registered voter to pick up and drop off their ballot on Election Day, even after the regular deadline for requesting an absentee ballot has passed. In March, the Wisconsin Elections Commission voted to expand its definition of "hospitalized electors" to include "those quarantined in their homes due to COVID-19." They issued guidance to designated people for how to safely pick up and deliver these ballots.

VI.   Post-Election Day

Despite state laws that prevented absentee ballots from being processed or counted before Election Day, a herculean effort by Wisconsin election workers provided the public with an unofficial final vote tally by the early hours of November 4. It was this very effort, however, that prompted the Trump campaign and conservative media to raise suspicions about the process, file lawsuits, and demand a partial recount.

A. The Vote Count

Election officials in Wisconsin worked all night and into the early morning of November 4 to count more than 3.2 million ballots, including the 1.9 million absentee ballots that workers could not start processing or counting until Election Day.

Early in the evening of November 3, President Trump was in the lead by more than 100,000 votes early. But the picture changed after the city of Milwaukee's central count finished processing its 170,000 absentee votes around 3:30 a.m. (Milwaukee and 38 other municipalities tallied all of their absentee ballots at one location, instead of individual polling places). The absentee votes were overwhelmingly Democratic. That late surge in votes for Biden from Milwaukee was expected, as absentee ballots tended to skew toward Democrats, and Milwaukee has historically been a Democratic stronghold. After Milwaukee reported those returns, Biden jumped ahead of Trump by about 8,000 votes. His lead widened to around 20,000 after Green Bay reported its in-person and absentee results and Kenosha finished its tally.

On Wednesday, November 4, the Associated Press declared Joe Biden the winner in Wisconsin, with unofficial results showing a lead for Biden of about 20,000 votes. Considering the significant increase in absentee ballots, combined with the very short timeframe election clerks were given to process them, this was a timely turnaround. Wisconsin Elections Commission Administrator Wolfe called it "a smooth day with no widespread issues reported."

The lack of widespread issues and the "smooth" administration of the vote did not stop attempts to discredit Wisconsin's results. Despite bipartisan support for pre-Election Day ballot processing (the legislature ultimately made no changes) and aggressive public messaging from Wisconsin officials warning that mail-in ballot results would trickle in as they were processed, the state was not immune from claims of fraudulent "ballot dumping." One conservative website made a claim, later repeated by President Trump, that the sharp uptick in votes for Biden around 4 a.m. the morning after the election (when Milwaukee released its absentee ballot results) was evidence of voter fraud. Another widely shared Facebook post called it a "ballot dump," while another referred to the votes as being "found." But under Wisconsin law, municipalities that use central counting facilities (such as Milwaukee) must report vote tallies in a lump sum. The head of the Milwaukee Election Commission, Claire Woodall-Vogg, reported that she requested permission from the Wisconsin Election Commission to release a partial update of results at 8 p.m. specifically to head off claims of ballot dumping, but was ultimately not allowed to do so. President Trump followed the ballot dumping narrative when he tweeted around 9 a.m. that his lead in key states "started to magically disappear as surprise ballot dumps were counted." Other widely repeated claims included that Wisconsin election officials "took a break" from counting votes at some point during the night and that, when they returned, they "suddenly came up with" hundreds of thousands of votes for Biden. They also claimed the state was reporting more votes than registered voters in the state. All of these theories were quickly disproved, but the Trump campaign and other sympathetic plaintiffs forged ahead with filing a recount petition and numerous lawsuits.

B. Recount

Under Wisconsin election law, a candidate who trails the leading candidate by 1% or less of the total votes cast can petition for a recount.[10] The petitioning candidate can file a petition with the proper clerk; for any federal office, this is the Wisconsin Elections Commission. The petition can be filed after the canvass has been completed and the results have been certified at the county level. For an election for President of the United States, the recount petition deadline is 5 p.m. on the first business day after the Wisconsin Elections Commission receives the last county

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[10] There are no automatic recount procedures in Wisconsin.

board of canvassers' certified results (The deadline for counties to report in their certified results is November 17.) The candidate petitioning for a recount is required to pay a fee unless the candidate trails by 0.25% or less following the canvass of all provisional and absentee ballots.[11]

President Trump requested a partial recount in Wisconsin on Wednesday, November 18. His campaign wired $3 million dollars to the Wisconsin Elections Commission to conduct recounts of Dane and Milwaukee counties, both of which are mostly Democratic areas in which Biden defeated Trump by large margins. Biden captured more than 75% of the vote in Dane and more than 69% of the vote in Milwaukee. The counties completed their recounts and reconfirmed Biden's victory on Sunday, November 29. After the completion of the recount in Wisconsin's Milwaukee County on Friday and Dane County on Sunday, there was little change in the final breakdown of the more than 800,000 ballots that had been cast in the two jurisdictions. In the end, Biden's lead over Trump in the state grew by 87 votes.

On December 1, the Trump campaign filed an appeal with the Wisconsin Supreme Court to contest the recount results. The appeal alleged that more than 230,000 absentee ballots had been illegally cast by voters in Dane and Milwaukee counties and should be thrown out.[12] In a 4-3 decision, the court denied immediate review of the case but left the door open for Trump to file his challenge in circuit court. The campaign then filed its case in Dane and Milwaukee counties' circuit courts and, pursuant to state law, Supreme Court Chief Justice Patience Roggensack consolidated the two cases in Milwaukee County Circuit Court and appointed Reserve Judge Stephen Simanek of Racine County to preside over the consolidated appeals. This appeal was rejected a week later by Judge Simanek, who held that election officials followed the state's voting laws and that President Trump failed to demonstrate that the laws were erroneously interpreted. The Trump campaign then again filed an appeal to the state supreme court, which heard the case on December 12. On Monday, December 14, hours before the state's 10 presidential electors were set to vote in the Electoral College, the Court rejected President Trump's challenge. In a 4-3 decision, the majority said that the campaign's challenge to Wisconsin's indefinitely confined voter laws was "without merit," and that he waited too long to challenge the other issues. The Trump campaign appealed to the Supreme Court, which declined to review on February 22. The final post-election case in Wisconsin, *Trump v. Wisconsin Elections Commissions*, concluded when the Supreme Court denied certiorari on March 8, 2021.

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[11] Green Party candidate Jill Stein paid nearly $3.5 million to initiate a full state recount of the presidential vote in the 2016 presidential election.

[12] These ballots included those cast during early in-person absentee voting which the Trump campaign claimed lacked proper written applications; ballots cast by people who "improperly" claimed they were indefinitely confined, which meant the voters didn't have to provide photo ID; absentee ballots where clerks filled in missing witness address information (a practice that has been in place since 2016); and ballots returned to parks in Madison.

For a more detailed summary of each of the Wisconsin cases filed post-Election Day, and the disposition of each, see the Stanford-MIT Healthy Elections Project's report on Post-Election Litigation & Summaries.

VII. Conclusion

After learning from a rocky primary in April, the Wisconsin Elections Commission and local election officials were well prepared for the challenges of conducting the general election during an ongoing pandemic, from improved absentee ballot systems to more safety precautions and resources for workers at the polls. These preparations proved fruitful, as statements from both county and state-level officials confirmed that the election went smoothly and suffered no major problems or irregularities. When minor issues did occur, poll workers were equipped to address them efficiently and effectively. For example, when some misprinted ballots could not be counted in Outagamie County and poll workers had to duplicate the ballot onto new ones, the county had enough poll workers to prevent any significant delays in counting. As one Outagamie clerk described, "[t]he ballots affected by the misprint took more time to process, but they were prepared with more equipment and staff. Most polling places finished processing absentee ballots faster than expected. The extra equipment and additional staff from the National Guard helped." Other clerks said that the day "was better than expected," that they felt confident in their system and their process, and that counting the large number of absentee ballots "went as well as it could've for the amount. ... It was done the way it was supposed to be done and the way we've always done it."

This success did not deter President Trump and his supporters from attempting to discredit the integrity of the election process through conspiracy theories and lawsuits based on little to no evidence of fraud or unlawful behavior. Though these efforts did drag out the process and cause some to question the results, the former president's repeated failures in court underscored the preparedness and smooth administration of the operation at both the state and local level.