

Miscounts are a reality, not a hypothetical risk.

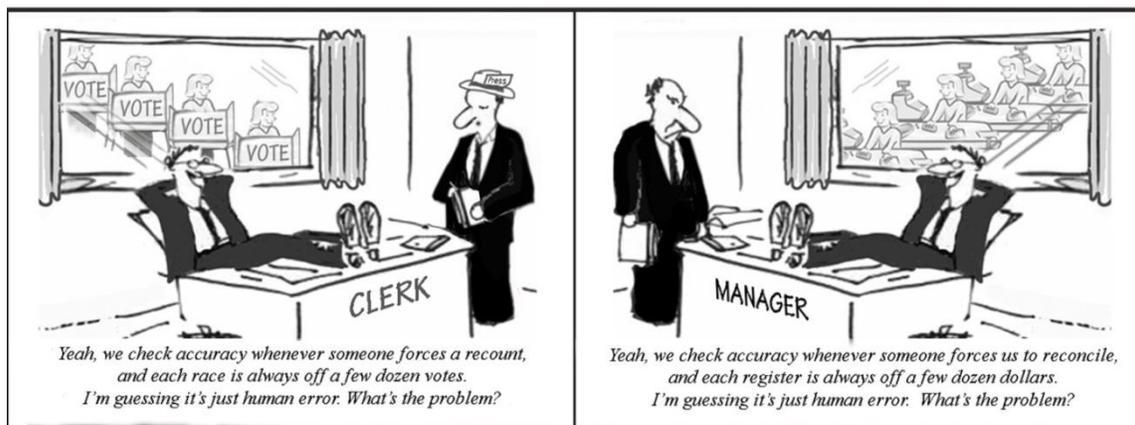
The Wisconsin recount found thousands of miscounted votes, even in the absence of apparent fraud. Election researchers at MIT, Harvard, and UW analyzed Wisconsin’s recount results and found that a minimum of 1 in every 170 votes was originally miscounted.

Both human error and machine miscount were at fault. Early, mailed-in, and absentee votes were most likely to be miscounted.

Officials fail to exercise basic prudent management.

Carelessness (no other word for it, sorry) was widespread. Poll workers and municipal clerks misplaced ballots and miscounted votes. County canvasses didn’t even collect the data needed for simple reasonability tests, never mind look to see if vote totals made sense. Officials proved willing and able to certify obviously incorrect vote totals—even when they were aware the vote totals were wrong!

This is likely true in any state that does not conduct routine audits, and may be true in some states that do. It’s the kind of degraded administrative practices that can be expected in any human endeavor in which the work product (that is, election results) receives no routine quality control (that is, the responsible managers never know if it’s accurate)—particularly one run with a temp workforce.



Lessons for future strategy

- ★ Expand our concern beyond fraud. Make it clear that even miscounts that don’t change the outcome are dangerous, in that they create circumstances in which fraud can hide. A miscounted vote violates our voting rights, regardless of whether the miscount was deliberate, or changed the outcome. Verifying accurate results would be effective against both fraud and inadvertent miscounts.
- ★ It’s time to break the Norman-Rockwellian bubble that protects local election officials from scrutiny and accountability. We need to bring more pressure to bear on local officials, not allow them to shift the responsibility to voters, voting-machine vendors, each other, or state legislators. Start expecting election officials to behave like every other responsible computer-dependent administrator—and routinely verify the accuracy of their work product.

The Wisconsin Recount of 2016

1. Half the votes were handcounted. Half were run back through the machines.
 - The biggest counties, except for Dane (Madison), machine-counted the recount. Therefore, any claim that Milwaukee and Waukesha vote totals, for example, were accurate is still just that—a claim without evidence.
 - In counties that did hand counts, Optech Eagle machines were found to be miscounting so badly the Wisconsin Elections Commission decertified them.
 - ★ Later post-election voting machine audits performed in counties that recounted by machine provided proof that recounting by machine **does not catch and correct all miscounts**, even when machines have been reprogrammed. The next time anyone goes to court to get an order forcing a hand count, use the evidence from Wisconsin that machine recounts fail to detect miscounts.
2. All but one of the 72 counties completed a recount, by either hand or machine
 - One small county does not appear to have made a serious effort.
 - All counties except the one appear to have reviewed poll books, absentee ballots, and write-ins well and thoroughly.
 - ★ Before every election, make sure you have up-to-date instructions for recount observers. Observers were very valuable where we had them but training, deploying, and gathering their reports was so very flawed as to render most useless. Massive wasted opportunity.

Miscounted votes

3. **Statewide, 1 in every 170 votes had originally been miscounted**—at the low estimate. Every county changed its vote totals, except Lafayette County.
 - See table on the next page for a sample.
 - Good overall analysis of results: *Learning from Recounts*, July 2017 – Stephen Ansolabehere, Barry C. Burden, Kenneth R. Mayer, Charles Stewart III. Electronic copy available at: <https://ssrn.com/abstract=2933139>
4. **Write-in votes**

Counting and reporting the number of unregistered write-in votes is optional for Wisconsin municipalities. Their glee at being released from having to count protest write-ins like Bernie Sanders or Mickey Mouse made poll workers exceedingly sloppy about the write-in votes they were required to count and report. Fully 15.7% of votes (almost 1 in every 6!) for Evan McMullin were not counted during the pre-recount canvass.

 - ★ Sloppy counting of write-in votes and sloppy reporting impaired anyone’s ability to assess the reasonability of **all** vote totals. (You cannot calculate an undervote rate unless you know the total number of votes.) Find out your state’s write-in procedures and do what you can to make sure all write-in votes are routinely counted, at least in the aggregate, and reported consistently.
5. **Absentee/Early/Mail-in Votes**

Problems with miscounted early ballots/votes are difficult to quantify, because of how recount records were maintained. We do know this:

 - Criteria for disqualifying early ballots based on envelope flaws are applied inconsistently. A single county’s canvass could be observed deciding one way for one municipality, and a different way for another. Differing decisions between county and municipal officials were common. Recount minutes provide no clear evidence of bias (that is, systematically accepting flawed ballots from one area while disqualifying them from another), but the opportunity clearly exists.
 - Wisconsin collects early ballots in the municipal clerks’ offices and distributes them to individual polling places to be counted on Election Day. Hundreds of ballots statewide (more than five dozen in Dane County alone) simply never made it to the correct polling place, or were never opened when they got there.

Percentage of Presidential Votes Changed during the Wisconsin Recount

For reporting units in which total additions and subtractions were more than 4% of the total votes
Includes only reporting units with more than 100 votes. Does not include unregistered write-in votes

Note: Accuracy standard implicit in WI recount statute assumes error rate <0.25%

County	Municipality and Ward	Total votes after recount	Number of votes added or subtracted during recount	Percent of votes changed in the recount
Milwaukee	City of Milwaukee - Ward 34	1,088	249	22.89% ^a
Eau Claire	City of Eau Claire - Ward 36	255	48	18.82% ^b
Vernon	Village of Readstown - Ward 1	172	19	11.05% ^c
Marinette	City of Marinette - Wards 1,3,5	1,598	146	9.14% ^d
Grant	Village of Blue River - Ward 1	185	16	8.65% ^e
Marinette	City of Marinette - Wards 2,4,6	1,592	121	7.60% ^d
Manitowoc	Town of Centerville - Ward 1	392	29	7.40% ^f
Sheboygan	City of Sheboygan - Ward 8	486	29	5.97% ^g
Iron	Town of Pence - Ward 1	101	6	5.94% ^h
Langlade	Town of Rolling - Ward 1-2	778	42	5.40% ⁱ
Washburn	Town of Bashaw - Wards 1-3	595	32	5.38% ^f
Marathon	City of Abbotsford - Ward 1	147	7	4.76% ^h
Jefferson	Town of Koshkonong - Wards 1,6	235	11	4.68% ^f
Iron	City of Hurley - Ward 4	171	8	4.68% ^f
Kenosha	Town of Somers - Ward 2	525	24	4.57% ^g
Adams	Town of Springville - Ward 1-2	645	28	4.34% ^f
Shawano	Village of Mattoon - Ward 1	148	6	4.05% ^f

a – Original canvass reported certified results containing a significant typo for one candidate’s total.

b – Original canvass certified vote total containing double-counted votes in one precinct.

c – Original canvass certified miscounted write-in votes.

d – Original canvass certified results based on flawed electronic tabulation (missing votes).

e – Original canvass certified votes from sheet on which one candidate’s votes were tallied for another.

f – Recount minutes note, but do not explain, miscount.

g – Original canvass certified results that included “three large ballot jams.”

h – Recount minutes note no change.

i – Original canvass certified votes from an incorrect tally sheet.

g – Original canvass certified none of the third-party candidates’ totals in the municipality.

Inaccurate certifications that don’t show up on this table:

- Oneida County, Town of Hazelhurst: Eliminated 440 votes with a typo. Noticed by a citizen right before recount started, and was corrected and re-certified before the recount.
- Marinette County, City of Marinette: Three voting machines used to count only absentee ballots missed 9.6%, 26.5%, and 30.8% of the valid votes. (Percentages in table above are for all votes.)

6. Machine errors

- DREs (touchscreens): Readable voter-verified paper trails failed to print in about a dozen polling places. Recount proceeded based on VVPATs reprinted from cast vote record, but that tape had never been displayed to the voters for their verification. No one seemed to care. Better than what Michigan did, I guess.
- Opiscans: Major problems with older opscan reliability—so bad that Wisconsin Elections Commission voted to decertify the Optech Eagle on September 26, 2017. Many Optech Eagles failed to count more than 4 percent of their votes. The worst machine missed 30.8% of the valid votes. WEC staff did a thorough study of one miscounted precinct and found that ink color contributed to the problems, but could not explain the full discrepancy.

7. *Simple carelessness*

- Typos and other sloppy clerical work. The biggest ‘lump’ errors were typos. More than 400 Trump votes were simply deleted from one municipality in Oneida County (484 votes were typed in as 44). The City of Milwaukee certified 8 votes for Trump in Ward 34, giving the ward an apparent 58% undervote rate. The figure should have been 254. These incorrect figures were too obvious to be deliberate, but without the recount would have disenfranchised voters just the same. Other sloppy errors included double-adding some tally sheets so that results showed more votes than voters, recording one candidates’ votes for another on a tally sheet, etc.
- Neglecting to report 3rd-party votes. One county and at least one municipality reported only Clinton’s and Trump’s vote totals for state certification, simply leaving out the third-party and independent candidates’ totals. I have no idea why they thought they could do that, but it would not have been caught but for the recount.
- Random drawdowns. Errors in tracking the number of voters and ballots are mistakes, but don’t do much harm. What puts everyone’s votes at risk, though, is the practice of ‘drawdown.’ If a polling place was found to have more ballots than voters, election officials were instructed by state law to select ballots randomly to discard until the number of ballots equaled the number of voters. Regardless of whether an ‘extra’ ballot was cast, or a voter not recorded as having voted, every ballot was at risk of being deliberately discarded. Some clerks—not all—didn’t select ballots randomly, but deliberately selected ballots with no vote for president or for an unregistered write-in that wouldn’t be counted anyway.

8. *Provisional ballots*

Provisional ballots were not a significant issue in Wisconsin. Same-day registration at the polls eliminates one of the biggest reasons for issuing provisional ballots in other states. And to the extent Voter ID suppresses the vote, publicity about the difficulty of ID keeps voters away from the polls more than it forces them to use a provisional ballot once they get there. In the November 2016 election, 757 provisional ballots were issued statewide (618 for lack of Voter ID); 584 of these were eventually rejected.

Officials’ negligence and overt disdain toward responsibility for accuracy

9. *Multiple municipal and county canvasses certified obviously incorrect vote totals, and at least two knowingly did so.*

Many of the miscounts—those with extreme undervote rates and with more votes than ballots—were obvious during the first canvass, even without a recount.

Records of the Marinette County recount indicate, and officials have acknowledged to me, that poll workers had noted the miscounting machines in their end-of-the-day reports, and the miscounts were discussed the canvass. Both city and county certified the vote totals without checking or correctly the vote totals. (This is a good example of seeing their job as ‘processing ballots’ rather than producing accurate election results.)

10. **County officials refused to check accuracy of machines that were observably miscounting.**

In Racine County, where the unreliable Optech Eagles were used to recount, observers who were counting votes with handheld clickers repeatedly noticed that the voting machines were failing to count all the votes. County election officials refused to check accuracy of even the smallest precincts with a hand count, aggressively rejected the objections, and threatened to eject the observers.

11. **Failure to investigate problems in a serious manner**

When problems are detected, election officials devoted minimal or no effort to objectively figuring out what went wrong, how far the problem extended, and how to prevent it in the future.

- The Optech Eagle miscounts discovered during the recount were explained by saying the voters used the wrong color ink, without even a cursory effort to confirm that hypothesis. It was not until a later voting-machine audit detected the same sort of miscount that had been detected in the recount that state elections agency staff made a concerted effort objectively to figure out the cause of the Optech Eagle miscounts.
- A voting machine in St. Croix County was observed to be operating without a security seal—not the seal over the software slot that is routinely opened and resealed each election, but the seal on the assembly case that is opened only when the machine is serviced. The election officials obtained a statement from the service technician that he’d been operating for about a year without carrying new seals in his tool box, and so had left every machine he had serviced for the last year unsealed. That was sufficient for Wisconsin election officials to declare ‘case closed.’ They did not check the unsealed machines to verify that they had not been tampered with or altered; they did not check the accuracy of any other race on the November 2016 ballot, or the results in any of the previous three elections conducted on unsealed machines. They did not check to see whether machines serviced by this same technician in other counties were similarly unsealed.

12. Clerks openly expressed disdain for their basic managerial quality-assurance responsibility

State election officials prudently expressed both appreciation for the opportunity to check accuracy and confidence in the correct outcome. Local officials, however, were openly disdainful:

- Sawyer County Clerk Carol Williamson, before the recount began, told a local reporter “It’s already a great inconvenience. It’s a long tedious job because it is so repetitious. I can tell you by the time we get done adding every vote on this and we get to the end, it’s going to be the exact total that’s on this tape.”
- Iron County Clerk Mike Saari told a reporter: “I don’t know why they’re doing it. I believe it’s a waste of time.”
- In Waukesha County, the recount found dozens of inappropriately rejected absentee ballots, and Waukesha County Clerk Kathleen Novack held no one accountable. But as soon as the recount found one absentee voter who had been allowed to cast both an early ballot and a ballot on Election Day, they called the police and had the voter questioned for a possible felony. (Prosecutors declined to file charges.)
- In Dane County, the recount changed 1,475 votes (0.48% of the total, almost twice the 0.25% error rate anticipated in state statutes), including dozens of unprocessed early ballots. Dane County Clerk Scott McDonnell expressed satisfaction and told the media: “The election equipment and procedures were found to be extremely secure and accurate. This was an abuse of the recount prerogative, born of the irrational belief that Wisconsin’s elections infrastructure is vulnerable to meddling.... It’s really quite an insult to suggest, absent any evidence, that we don’t know how to do our jobs.”

This attitude, fortunately, is NOT universal. Other voices expressed a more professional attitude:

- Winnebago County Clerk Sue Ertmer: "Recounts are a lot of work, and we dread having to go through one. But they show us where we can make improvements, and where more training is needed."
- Outagamie County Clerk Lori O'Bright: "When municipal clerks and staff come to a recount, they always say, 'Wow, this is so valuable,' because they're seeing things that are told to them at training. A recount is always valuable in that respect."
- Bayfield County Clerk Scott Fibert: "I want to find out if we have an issue, and know how to address it. If the machine says 300 votes for Clinton or Trump, I want us to be able to hand count 300 Clinton or Trump votes by grabbing the ballots."
- Jefferson County Clerk Barbara Frank: "The machine count has already happened so, to me, just to feed them into the machine again does not seem very logical. So, I thought we would just count by hand."

Shine the spotlight on local election officials

Local election officials could be--should be--the best line of defense against electronically mangled election results.

But they are actively denying responsibility for the accuracy of their work product.

What would you do, within current law, if you were county clerk to ensure accurate election results? Expect your local elections officials to do that.

What do clerks now do when a miscount is detected? They blame the voters. Blame the voting machines. Blame the election official higher or lower. Say the legislature doesn't require them to check accuracy, only to 'certify.' Say it didn't matter, because the error didn't change the outcome.

We would not tolerate that level of negligence from any other public official.

The Wisconsin recount revealed that not even basic, simple reasonability checks are in place—that is, looking at the results carefully and asking 'Does this make sense?' Wisconsin's current election-administration practices allow:

- a careless typo to erase half of a municipality's votes and proceed through both the municipal and county canvass; be submitted to the State; and be added to the tabulation of Wisconsin's electoral votes—without a single election official at any level noticing it.
- Voting machines to function so badly as to discard almost a third of the votes, and local election officials to do nothing but sign a certification statement declaring they'd found the results to be 'correct and true,' ***even though they had noticed the problem.***

Advantages of focusing on local elected officials:

- We need to educate them about their own responsibilities. Most now see their job as 'processing voters and ballots,' not 'producing accurate election results.' If they don't ensure accuracy, no one can.
- Cut off their avenue of escape from responsibility: It doesn't matter if it was someone else's mistake. It is THEIR signature on that certification statement, and it is THEIR fault for not checking accuracy before they signed.
- As managers, they have authority (though most have to be pressed to admit it) to ensure the quality of their work. If they can tell you what they would do if the voting-machine tape reported zero votes, or a million votes, they are admitting that they have authority to ensure accuracy.

Reasonability tests (citizens can do those) and valid audits (only official audits are effective)

- 'Reasonability tests' are very simple comparisons (percentage of ballots counted as blank, general reasonability of each ward's totals for each candidate, etc.) If the clerks won't do basic reasonability checks, citizens can. We cannot audit the software as citizens, but we can analyze certified election results to detect the glaring errors. Once they realize the embarrassment of having citizens notice errors they already certified, they will start routinely to check on their own. Do reasonability tests only on ***certified*** results; errors in preliminary results are not an issue.
- We need to push for routine outcome-confirming audits (i.e., risk-limiting audits). Recounts are next to worthless as a method of ensuring routine accuracy—too hurried, too rare, too unpredictable. Recounts are useless for detecting fraud, because fraud will never produce election results within the recount margin. Routine audits during the canvass, however, will effectively deter outsider fraud (hacking) better than the tightest technological security. Routine audits will provide the elections workforce with the feedback they need to maintain high-quality practices.