# Wisconsin Election Protection
## 2020 Spring Election Report

*Report from Non-Partisan Observers of Voting in the April 7, 2020 Presidential Primary and Spring Election*


*By:*
*Legal Coordinating Committee of WISCONSIN ELECTION PROTECTION*
*& LEAGUE OF WOMEN VOTERS OF WISCONSIN*

# *Introduction*

WISCONSIN ELECTION PROTECTION (WEP) is a non-partisan organization, part of a nationwide coalition of organizations including Advancement Project, Alliance for Youth, Asian American Legal Defense and Educational Fund, Brennan Center for Justice, Common Cause, Democracy Initiative, Lawyers' Committee for Civil Rights Under Law, League of Women Voters of the United States, NAACP, National Action Network, National Bar Association, National Coalition on Black Civic Participation, State Voices, Sojourners, Religious Action Center, Rock the Vote and Verified Voting Foundation. Locally, WISCONSIN ELECTION PROTECTION includes affiliates of these national groups, as well as Milwaukee Area Labor Council, American Civil Liberties Union of Wisconsin Foundation, All Voting is Local, Wisconsin Conservation Voices, Disability Rights Wisconsin, Voting Rights Lab, Wisconsin Voices, and Voces de la Frontera.

The LEAGUE OF WOMEN VOTERS OF WISCONSIN (LWVWI OR THE LEAGUE) is a non-partisan, grassroots, political organization established in 1920 that advocates for informed and active participation in government. Our members are women and men who work to improve our systems of government and impact public policies through education and advocacy. The League of Women Voters of Wisconsin operates at the state level with grassroots support from 20 local Leagues across the state.

The April 7, 2020 election was conducted in the midst of the COVID-19 pandemic. Before the election and on Election Day, both WEP and LWVWI maintained active social media presences, sharing as much information as possible as rules and conditions kept changing, and responding to voters' questions. Our posts and tweets reached hundreds of thousands of viewers throughout the state of Wisconsin. On Election Day, we also responded to calls to the national ELECTION PROTECTION hotline, 866-OUR-VOTE. Because of the health risks and the "Safer at Home" order, we had a much smaller physical presence at polling sites than in past major elections. Almost 250 voters sought assistance online or through the hotline.

LWVWI also created a survey through which voters could share information on their experiences voting in the Spring Election and Presidential Preference Primary. Data for this report includes information shared by some of the 744 voters who responded to LWVWI's survey, called the Election Protection hotline and provided information through the Lawyer's Committee for Civil Rights Under Law's Our Vote Live system, provided information via our team of in-person and remote observers, or were identified in news reports covering the election, as well as statistics and other information made available by the Wisconsin Elections Commission. The stories cross the state and include rural, suburban and urban communities. Excerpts from many voters' experiences trying to vote in the April 7 election are included in the findings below.
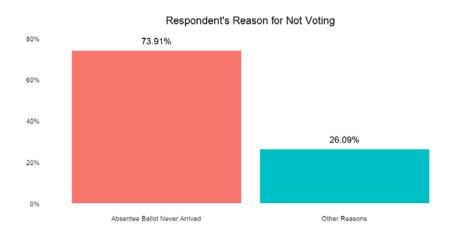
# TABLE OF CONTENTS

# *General Findings*

Wisconsin was the only state to hold an election in the midst of a pandemic. Shifting and overly stringent rules, overwhelmed clerks and frightened voters and poll workers created, in many communities, a dangerous and chaotic atmosphere. While this was not true in every community in the state, it was a major problem for far too many Wisconsin voters. There are specific problems that need to be addressed and rectified before future elections.

We have been participating in Election Protection efforts for more than 15 years and never have we been contacted by so many voters – more than one hundred - who were disenfranchised because of the way the election was carried out. Stories have poured in from across the state, from big cities like Milwaukee and Madison, medium-sized cities like Waukesha and Oshkosh, and small towns and villages like North Freedom and Lakeland. For many, this was the first time in their adult lives they were not able vote in an election. While each of these voter's stories and individual experiences are different, one thing was true for the vast majority of voters who responded to our survey: approximately 75% of them requested an absentee ballot that never arrived.



Respondent's Reason for Not Voting

Here are some of their stories.

- A *Madison* voter: "I am an emergency medicine doctor and have been quarantined for exposure to COVID. I requested an absentee ballot at least three weeks ago and did not receive it. I could not go vote because of public health laws/rules and my own desire not to spread the infection."

- A *Milwaukee* voter: "I did not get to vote and I am pretty upset about it. I requested an absentee ballot but it never came. Why didn't I vote in person, you ask?? Because I'm disabled and already have a weakened respiratory system. There have been many stories floating around about healthcare workers having to choose who to save if it came down to only having a handful of life saving supplies. The elderly and disabled are viewed as disposable in this virus situation. Yesterday, I chose my life over my rights. If that isn't ableism or able-bodied privilege, I don't know what is."

- A *North Freedom* voter: "No, I did not vote, I didn't receive my [absentee] ballot in time!! I am not happy. This is the first time I've ever tried to vote this way. I am at high risk for the virus!"

- An *Eagle* voter: "I ordered my absentee ballot at least a week before the deadline and it never came. I am an at risk person so I chose not to risk my life to vote during a global pandemic. This is the 1st time I haven't voted since I turned 18."

- A voter who did not provide their community of residence: "My sister is a cancer survivor. I am disabled. My absentee ballot arrived and has been mailed. Her ballot never arrived. First time she will not be voting. It's a crushing day."

- A *Madison* voter: "88 years old, did not want to risk the polls. Applied for an absentee ballot online March 18th, said it was mailed, NEVER received."

- An *Oshkosh* voter: "My absentee ballot hasn't yet arrived. I am undergoing treatment for cancer and wasn't comfortable actually going to a polling place."

- A *Town of Lakeland* voter: "I requested an absentee ballot and it never arrived. When I contacted the town clerk after the election I was told she made a mistake and forgot to submit my application."

- A *New Berlin* voter: "Couldn't go. I've not set foot in a store or public place since the 13th of March. Taking every precaution but nothing would of protected me at the polls."

- An *Oshkosh* voter summed up the feeling of many voters: "I didn't receive my absentee ballots after two requests. I will not go vote in this pandemic."

Another overarching concern is the profound difference in access to information and election participation depending on whether a voter did or did not have meaningful digital access at home. Especially for persons confined at home, much of the ability to register and request an absentee ballot was contingent upon digital access. Further, much of the information – and many of the rules – changed quickly and were often publicized, if at all, primarily online. The problem was exacerbated by the fact that overwhelmed clerks often were unable to even answer phone calls. Voters who rely on public locations such as libraries for internet access, voters without smart phones, and voters who live in parts of the state with little or no broadband service, were at a significant disadvantage.

Finally, we are very concerned that the combination of fear, confusion, lack of information, and systemic problems with voting processes may have caused voter participation to decline, especially among certain groups of voters. For example, preliminary research conducted by University of Wisconsin Elections Research Center Prof. Ken Mayer, suggests that turnout in Black and Latinx wards in Milwaukee, as a percentage of overall turnout in the city and county of Milwaukee, decreased or lagged compared to that turnout in previous Spring elections with presidential primaries.
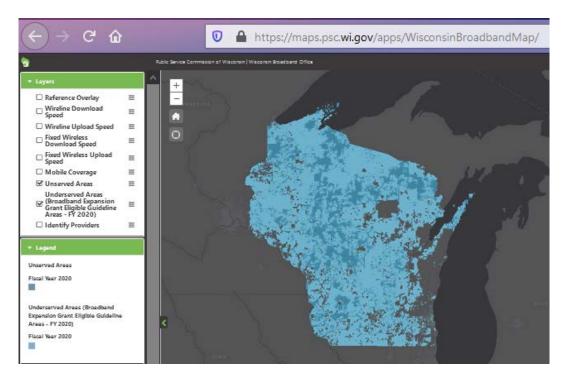
# *Mail Absentee Ballot Problems*

In the weeks before the election and on Election Day, WISCONSIN ELECTION PROTECTION ("WEP") and the LEAGUE OF WOMEN VOTERS OF WISCONSIN ("LWVWI" or the "LEAGUE") received many calls and provided information and assistance to many voters confused and upset about the rules for mail-in absentee ballots, or who understood the rules but never received their ballots. Trying to obtain and vote by a mail absentee ballot was by far the most widespread and difficult issue faced by Wisconsin voters in this election.

In response to the global pandemic, many voters chose to vote absentee by mail for the first time. In Wisconsin, more than 1.2 million voters requested an absentee ballot for the Spring Election and Presidential Primary. That is five times the number of absentee ballots requested in the 2016 Spring Election and Presidential Primary. Some frequently asked questions were:

- Who can request an absentee ballot?
- How do I request an absentee ballot?
- How do I upload a picture of my photo ID/how do I get a picture of my photo ID to my clerk?
- Who can be my witness to complete my absentee ballot certificate?
- I live alone and am social distancing, how do I get a witness to sign my absentee ballot?
- When do I need to return my absentee ballot by?
- What do I do if I made a mistake on my absentee ballot?
- I requested my absentee ballot and it hasn't come yet. What do I do?

Nonprofit voter education organizations and the people of Wisconsin did their best to share the answers to these questions and were able to help many voters get the information they needed to successfully vote absentee by mail. However, this kind of information is best when it comes from the official source - state and local election officials. While the Wisconsin Elections Commission published information about absentee voting on its website, social media pages, and via press statements, the WEC declined to conduct a larger public information campaign to share information about and encourage mail absentee voting. The focus on digital information sharing posed particular problems for voters who are less digitally connected themselves or live in areas with less digital access, such as areas on this Wisconsin Public Service Commission map of areas that are unserved and underserved by broadband internet. The lighter blue represents underserved areas, and the darker blue unserved areas, in Fiscal Year 2020.

Local municipalities also play a major role in getting voting information out to the public. Notably in the lead up to this election, Whitefish Bay and Bayside took great initiative and sent absentee ballot request forms to all the registered voters in their municipalities.[1] This dramatically increased the number of voters who were able to vote absentee and reduced the number of voters that had to expose themselves to COVID-19 on Election Day.

## Problems with Absentee Ballot Request Process

Wisconsin allows voters to request absentee ballots online or by mail until the Thursday before Election Day (and for this election, due to a court decision the deadline was extended until the Friday before Election Day). State law requires that most voters who wish to vote absentee by mail must provide a copy of a photo ID valid for voting with the absentee ballot request, unless the voter is indefinitely confined to home for specified reasons. The ID requirement, coupled with confusion and lack of public education on the indefinitely confined exception, raised concerns for many voters.

## Technological Barriers Related to Ballot Requests

While an unprecedented number of voters were able to successfully request their absentee ballots online, we received reports of problems from many voters, particularly older voters with limited

---

[1] "How two communities on Milwaukee's North Shore achieved sky-high levels of absentee voting despite coronavirus," *Milwaukee Journal Sentinel* (April 10, 2020) https://www.jsonline.com/story/news/politics/elections/2020/04/10/wisconsin-absentee-ballot-forms-sent-whitefish-bay-bayside-voters/5129125002/ These voters, however, still had to be able to obtain and send a copy of an ID card when returning the application.

access to or knowledge of the technology required to request an absentee ballot online. The technology gap among voters in Wisconsin is real and proved to be a significant barrier for many voters.[2]

The process to upload a copy of a photo ID into the system or otherwise get a copy of their photo ID to the municipal clerk was particularly challenging for some voters. Others encountered glitches in the state's online absentee ballot request system or faced barriers to requesting a ballot as the website is not fully accessible to voters who rely on screen readers. And of course the system was not usable by voters with little or no internet access, especially since many locations where public internet is often available, such as libraries, were closed. Problems were exacerbated for voters who were social distancing and thus had fewer friends and family available to assist them.[3]

- For example, a *New Berlin* voter stated: "My mother-in-law, 84, was not able to figure out how to download her ID to get her ballot, [due to] Safer at Home, I was not able to help her."

- A *Menomonee Falls* voter reported: "I tried to help my mom order an absentee ballot, but I was not with her and she did not understand how to attach a picture and do an online request. She just completed radiation treatment for breast cancer and was not going to vote in person so she and my dad were not able to cast votes. There are a lot of elderly people who had no knowledge on how to request an absentee vote and were not going to risk their lives to vote in person. What an embarrassment to the state of Wisconsin."

- A *Sturgeon Bay* voter did not get a copy of their ID to the clerk because the voter's scanner was not working. By the time the voter learned that they could photograph and upload the ID, it was too late to request a mailed ballot. The voter did not vote in person because the voter has "family that has dangerous health risks and didn't want to be the reason they don't survive this. It's also one of the few times that I haven't voted since I turned 18."

- An *Oneida* voter spent "three days of trying on multiple devices to upload ID. Nothing happened when upload was clicked after selecting photo."

---

[2] We heard from voters experiencing technology-related problems from all parts of the state, including Appleton, Green Bay, Hayward, Janesville, La Crosse, Madison, Medford, Menasha, Milwaukee, Mukwonago, Oneida, Sheboygan, Shorewood, Sturgeon Bay, and Sun Prairie.

[3] *See also, e.g.*, "They voted in every election—until April 7. For some Wisconsin voters, absentee ballot issues meant no voice," WSAW-TV (Apr. 26, 2020), https://www.wsaw.com/content/news/They-voted-in-every-electionuntil-April-7-For-some-Wisconsin-voters-absentee-ballot-issues-meant-no-voice-569457591.html (Some voters "said they struggled with the technology surrounding requesting an absentee ballot. [A voter] in Marathon County said she tried accessing the My Vote website more than a dozen times over a period of a couple weeks, trying to request a ballot. Each time, she said she either wasn't able to load the site or once loaded, the site froze. She's self-quarantining with her husband, who's at high risk if infected.")

- A *Milwaukee* voter "couldn't upload a pic of [their] license."

- A *Madison* voter "wasn't sure how to complete the request."

A few voters also were concerned about the privacy and security implications of sharing a photo ID electronically (*e.g.*, worried that the information could be hacked and stolen).

- For example, a *Sun Prairie* voter had difficulty uploading photo ID and also had privacy concerns about uploading ID when trying to request an absentee ballot.

At the same time, the mail absentee ballot request process was not realistically available for many voters. That is because in order to use that process, a voter needed to be able to print out a copy of the ballot request and also obtain a photocopy of an ID card, complete and sign those documents, obtain a stamp, and mail the application to the municipal clerk. Many voters simply do not have printers or copiers in their homes and were unable or unwilling to leave home to obtain the necessary copies (if they could even find an open print or copy shop), or to purchase stamps.

## Confusion about "Indefinitely Confined" Voters

Under Wisconsin law, there are limited exceptions to the requirement that a voter provide a copy of their photo ID in order to receive a ballot. One major exception is for voters who are classified as "indefinitely confined." Under Wisconsin law "[a]n elector who is indefinitely confined because of age, physical illness or infirmity or is disabled for an indefinite period" is exempt from the requirement of providing a photo ID to get a ballot. The Wisconsin Elections Commission defines an indefinitely confined voter as a voter who has "a difficult time getting to the polls due to age, illness, infirmity, or disability."[4] As a result of the global pandemic, an increased number of voters clearly qualified under this definition.[5]

However, few voters are aware of this provision, and there has not been an adequate, broad public education campaign by elections officials to raise awareness about it. Instead, to the extent voters learned about this exception at all it was in a piecemeal way, and the onus was on voters to seek out the information. Groups like LWVWI also attempted to share the information with a larger audience using the language approved by the WEC[6] and sharing it publicly on their

---

[4]"I want to vote absentee," Wisconsin Elections Commission, https://elections.wi.gov/voters/absentee.

[5] Moreover, because this law does not contain a requirement – express or implied - that the voter must have contracted an illness to fit within this category, the requirement should have been interpreted to make clear that voters who were ill due to COVID-19, as well as those who are following emergency orders and CDC recommendations to practice social distancing by staying home, should have been considered as –and advised that they could request a ballot as - being confined for an "indefinite" period, because of a widespread contagious physical illness.

[6] "Anyone who is following instructions from the state and health officials to stay home, and thus cannot vote in person because of COVID-19, may request an absentee ballot without providing a photo ID if they mark on the form that they are indefinitely confined to home when making their request."

website and social media channels. Compounding the problem, days before the absentee ballot request deadline, the Wisconsin Supreme Court blocked the Dane County Clerk "from telling large groups of voters they could request absentee ballots without showing a photo ID because of the coronavirus pandemic."[7] These responses further confused voters about their rights and the process to request an absentee ballot as indefinitely confined, and may have caused some voters who qualified as such to be reluctant to use it for fear of potential punishment.

## Absentee Ballot Processing and Mailing Delays

The largest single issue about which we received complaints was from voters who never received their absentee ballots. Before, on and after Election Day, we received numerous complaints from voters around the state who had requested absentee ballots – often well before the deadline to do so – but the ballots did not arrive timely or at all. Many of these voters did not vote because of concerns for their own health or the health of others. In more than 15 years of working on election protection, we have never before had this many voters contact us with sad or angry stories about their inability to vote.[8]
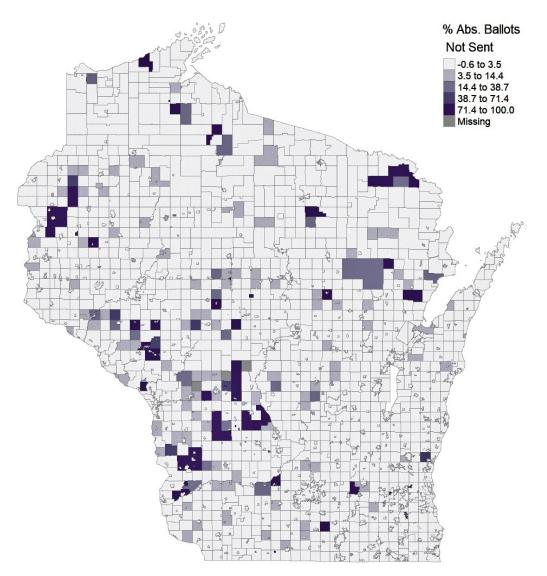
It is, of course, now clear that in many communities, election officials were simply unable to keep up with the unprecedented tide of absentee ballot requests. The issue was exacerbated by a lack of supplies, including a shortage of absentee ballot envelopes which have to meet strict criteria to ensure they have the best chance to make it through the postal system. This, combined with apparent bottlenecks in the postal system, led to many voters never receiving absentee ballots. Even voters on the permanent absentee list and voters who had requested absentee ballots for the whole year as early as January reported not receiving their absentee ballots. In addition, a number of voters who were temporarily out of state (in locations from Arizona to Washington DC) requested but never received mail absentee ballots. These voters, of course, could not get to a polling place on Election Day and thus could not vote at all.

---

[7] "Supreme Court bars Dane County clerk from telling groups of voters they don't need an ID to vote absentee," *Milwaukee Journal Sentinel* (Mar 31, 2020) https://www.jsonline.com/story/news/politics/elections/2020/03/31/wisconsin-court-bars-clerk-telling-voters-they-dont-need-id/5098982002/ . As the election approached, the Dane and Milwaukee County clerks had stated that all voters sheltering at home were considered to be indefinitely confined. Their decision was met with threats of potential investigations into misconduct, and they retracted those statements. "Elections commission will not investigate county clerks for allowing indefinitely confined absentee voters to avoid voter ID requirements," *Wisconsin State Journal* (Mar 30, 2020) https://madison.com/wsj/news/local/govt-and-politics/elections-commission-will-not-investigate-county-clerks-for-allowing-indefinitely-confined-absentee-voters-to-avoid/article_b95151e1-86d8-506f-bccc-aef2c84f031e.html

[8] We received reports from voters living in the following municipalities – although of course there were many other voters throughout the state who experienced the same problems and disenfranchisement: Appleton, Brookfield, Eagle, Franksville, Grafton, Green Bay, Hidden Valley, Hudson, Madison, Menomonie, Milwaukee, New Berlin, North Freedom, Oshkosh, Plymouth, Sheboygan, Shorewood, Sister Bay, Stevens Point, Sturgeon Bay, Sun Prairie, Town of Lakeland, Waukesha and Westby.

According to absentee ballot data published by the WEC, as of April 13 more than 11,000 requested absentee ballots were never sent to the voters who requested them.[9] The map below shows the distribution of absentee ballots not sent in municipalities across the state as a percentage of total absentee ballots that were requested in the municipality.[10]



At the same time, as of April 13 the municipalities with the most unfulfilled absentee ballot requests in raw numbers were:

---

[9] "Updated municipal absentee ballot data – posted 4/13/20 9:35 a.m." Wisconsin Elections Commission https://elections.wi.gov/node/6850 Note: These numbers are based on data entered by Wisconsin clerks and made publicly available by the Wisconsin Elections Commission. Delays in data entry may alter official final totals.

[10] Calculated from data posted on the Wisconsin Elections Commission's website on 4/13/20. "Updated municipal absentee ballot data – posted 4/13/20 9:35 a.m." Wisconsin Elections Commission https://elections.wi.gov/node/6850

- City of Green Bay – 1,195
- City of Milwaukee - 331
- City of Kenosha – 245
- Town of Saukville – 222
- Village of Stratford - 221

Clerks who received a previously unheard-of number of ballot requests often lacked the staff to process those requests – especially when many individuals who may have typically been called upon to assist were themselves social distancing. Due to the volume of requests, however, there were backlogs of at least days if not longer, from when an individual requested a ballot until it was prepared and mailed.

- In some communities, such as the city of *Madison,* other city employees were deployed to assist in processing ballot requests – a process that other municipalities should adopt.

Further, there were reports of errors in the mailing itself, such as a ballot not being included in the envelope.

Functional issues in the MyVote system exacerbated voter confusion. The system failed to provide confirmation that an application had actually been sent to or received by the municipal clerk, resulting in voters submitting multiple requests. Further, MyVote incorrectly lists a date for when the ballot was purportedly "mailed," but in fact this was the date the ballot envelope was printed, and actual mailing was frequently delayed for days or even a week after the date listed as the mailing date. This led to frustration and confusion for many voters who did not understand why they had not received their ballots for extended periods of time after it was purportedly mailed, again resulting in multiple requests.

Voters who did not receive their absentee ballots often went to great lengths to try to get them, at times reaching out to their clerks multiple times to see where their ballot was and diligently tracking the status of their ballot on MyVote. For example,

- A *Grafton* voter "requested a ballot on March 13 and it never arrived. I called the clerk several times and was told they were 'backed up.'"

- A *Milwaukee* voter "requested my ballot 3/12 at the same time as my husband. His arrived in a timely fashion, mine never did. I attempted to follow up 3 times and got nowhere with it."

- In *Greendale*, "[m]y husband and I applied for our absentee ballots at the same time. I received mine in days. He had to call three times and finally received it three weeks after I did."

More than 45% of voters who reported to us they requested an absentee ballot that never arrived ultimately decided to risk their health and vote in person, either before or on Election Day. However, many voters who had requested but not received absentee ballots also were unaware of or confused about their ability to vote in person on Election Day. We and other volunteers sought

to inform voters about their ability to vote as long as they hadn't returned the absentee ballot, but this is another area that would have benefitted from an educational campaign by state and local elections officials.

## Absentee Ballot Witness Problems

The requirement to have a witness sign the certificate on the a voter's absentee ballot return envelope was a major barrier for voters who live alone and were self-isolating in compliance with the Governor's Safer at Home Order or were quarantined because they had symptoms of or exposure to COVID-19. Voters across the state[11] were forced to put themselves, family members, and community members at risk to obtain a witness signature or give up their right to vote.

- In *Menomonie*, "I live by myself and was social distancing and could not get a witness."

- In an unidentified *rural community*, "I live alone. I did not realize absentee ballots had to be 'witnessed.' This is onerous for rural voters. My vote was not counted."

- In *Sturgeon Bay*, "I couldn't get a witness to sign my ballot. My ballot was returned to me, unopened, after the deadline."

- In *West Allis*, a single parent who received an absentee ballot couldn't cast it because she couldn't find a witness signature in time.

- In *Sun Prairie*, "As a single parent who is high risk it was risky for me to find a witness to sign the doc (it was before I found out certain groups were offering to come over to do it for me). Thankfully, I didn't get sick. It was still a bit scary for me."

- In *Waukesha,* "Because I don't live with any adults, I had to break social distancing to have a neighbor witness my ballot."

- A *Madison* voter noted that "We are in the midst of a quarantine. I live alone and tracking down a person who was willing to meet to be a witness was an absurd and long process. If I had waited until the last minute, I don't think I would have succeeded in finding a witness."

Some voters made extraordinary efforts to help others. In Madison, for example, the League of Women Voters of Dane County and other voters organized to drive around the city to help provide witness signatures to voters who needed them.

---

[11]We received specific reports from Columbus, Green Bay, Greenfield, Kenosha, Luxemburg, Madison, Menomonie, Milwaukee, Neenah, Saint Francis, Sheboygan, Sturgeon Bay, Sun Prairie, Viola, Appleton, Waukesha, Green Bay, Whitefish Bay, Madison, Milwaukee, Sturgeon Bay, Superior and Wauwatosa.

- A voter in the *Appleton* and *Green Bay* area noted that "Many friends did not have witnesses and never received ballots. I personally drove to 10 peoples' homes, during A PANDEMIC to be their witness."

For a brief moment, a court provided voters with some relief from the witness requirement if the voter certified that they were not able to get a witness. Some voters therefore submitted their ballots without a witness signature and with a certification. However, the U.S. Court of Appeals overturned this ruling, leaving voters who had returned their absentee ballots with a certification that they could not find a witness without a remedy. Those voters were disenfranchised.

- A *Columbus* voter had been "working remotely for the past month. I have no family or friends in the immediate area as well. Due to the current health crisis, it was not feasible to have anyone sign as a witness without potentially impacting their health or my own. I sent in the advised affirmation noting as such, only to then find out on the afternoon of 4/07/2020 that this waiver had been rescinded and no communication had been sent out. As I had already voted absentee, I was thus unable to vote in-person, should I have felt comfortable placing my life at risk by doing so."

- In *Kenosha*, after the "court ruled witness signature wasn't necessary I dropped my ballot off at the drop box. After I dropped it off, the ruling was reversed. Tried to contact city of Kenosha clerk but got no response. Now my vote will not be counted because of missing witness signature and through no fault of my own."

- In *Greenfield*, "I was told 5 days before the election that a witness was not necessary, I returned the ballot. On election day I found out that decision had been reversed and unless I came in to get it witnessed, it would not count."

In fact, "Insufficient Certification" was the number one reason returned absentee ballots were rejected and resulted in the rejection of more than 11,000 such ballots.[12]

## Absentee Ballot Return Concerns

In addition, some voters experienced problems returning their ballots. Although state law requires that clerks prepay postage for voters to return the absentee ballots, not all clerks did so.

- For example, a clerk in *northern Wisconsin* did not put postage on the return envelopes and wrongly stated – based on information from a county clerk - that return postage was not required. Despite the fact that at times postal officials have said they would get absentee ballots to the clerks even if they lacked postage, here the post office returned the voter's ballot to her for lack of postage.

---

[12] WEC memo, "2020 Spring Election and Presidential Preference Vote Ballot Status as of April 17, 2020," https://elections.wi.gov/sites/elections.wi.gov/files/2020-04/Ballot%20Data%20as%20of%20April%2017%202020.pdf

- Voters in *Black Earth, Hales Corners, Janesville* and *Green Bay* also received ballots without return postage.

Further, the U.S. Supreme Court – the evening before the election – changed the appeals court decision and ruled that ballots had to be received or "postmarked" by Election Day. As a result of the last minute imposition of this deadline, 5378 ballots received by April 13 were not counted.[13] It also meant that voters who received their mail ballots after the deadline but before April 13 could not return them in time to be counted. However, the court intervention extending the timeline during which absentee ballots postmarked on or before Election Day could be counted until April 13, resulted in counting 113,906 ballots of voters who otherwise would have been disenfranchised.[14]

- In *Milwaukee*, "Our absentee ballots didn't arrive until the 8th in the evening. We weren't able to get them into the mail until the 9th, which guaranteed our votes would not be counted."

- Also in *Milwaukee* a voter "requested my ballot on March 19th and by March 30th it still hadn't arrived. I called and requested a new ballot, but with all the back and forth was left needing to drop off the ballot I finally did receive at a drop off location on April 7th. Due to my disability this wasn't really an option and I didn't want to risk it not getting there by the 13th. Luckily a friend was able to pick it up and drop it off for me, but it was still an extremely overwhelming experience and no thought of disabled people, especially disabled [people of color], particularly those who are immunocompromised was taken throughout this whole process."

Many communities attempted to assist voters by setting up drop boxes for the return of absentee ballots. This was helpful to many voters and is something to be encouraged in the future. However, it is important to be clear about when and how the drop boxes, or other methods to personally return absentee ballots, are to be used.

- For example, in *Mequon* the "Mayor sent a 'final' election update last night [April 6] to voters telling them not to bring their absentee ballots to their polling place but rather to put them in the city drop box. Today the Mayor sent a correction saying that they can't be dropped off at the drop box but have to be returned to people's polling places."

- Another voter was personally returning their ballot "to City Hall in *Green Bay* to make sure it got there in time, but the collection box was not very easy to find. I did find it, but there should have been better signage."

- Similarly in *Kenosha*, the "dates for submitting the absentee ballots kept on changing so we decided to drop off our ballots at the City of Kenosha municipal building. The flyers

---

[13] *Id*. It is unclear whether the ballots listed as "postmarked after election day" include ballots that may have been timely sent but were not postmarked at all, such as metered mailing.

[14] "Lewis v. Knudson Lawsuit Achieves Enfranchisement of 113,906 Voters," posted on The Wheeler Report, http://www.thewheelerreport.com/wheeler_docs/files/041520lwv.pdf

in the parking lot said to put the ballots in the white boxes. The only boxes in the parking lot are white (there are two) and are normally used for payments to the city. We didn't feel 100% sure that these were the correct boxes but put our ballots in them. Perhaps the signs were indicating not to put the ballot in the blue mailbox next to the entrance? It would have been helpful to have dedicated, clearly-labeled boxes just for the ballots and have additional boxes at the polling places."

- In *Milwaukee*, the drop off site was listed as being in City Hall. "But when I got there I was directed to a [different] building… When I got there there was confusion around how to drop the ballots off; we were told no one was allowed in the building. Someone came out of the building to take our ballots."

- Also in *Milwaukee*, voters who went to several of the city's five polling sites to drop off ballots were told they could not drop their ballots off at the polling sites but had to take them to different drop off locations.

- A *Madison* voter also expressed confusion on where absentee ballots could be dropped off instead of being mailed.

## *Early Voting Problems*

WISCONSIN ELECTION PROTECTION was also contacted by many voters concerned about the cancellation of early voting in their municipalities.

Under state law, communities are required to provide at least two weeks of early voting prior to Election Day. Up until the Friday before Election Day, voters are also allowed to register at the time they early vote. The health emergency, however, interfered with many early voting opportunities. First, the pandemic led to the elimination of "special voting deputies," who assist voters in designated care facilities to register and vote before Election Day.[15] Without the visits from Special Voting Deputies, voters living in the specified care facilities who lacked standing absentee ballot requests faced more barriers to voting, and residents were no longer guaranteed assistance completing their ballots.

Second, some communities had scheduled early voting in locations closer to community members (*e.g.,* libraries). When those public facilities closed, early voting was cancelled at those places.

---

[15]"Wisconsin Election Commission takes action on Covid-19 issues ahead of spring election," WAOW.com (Mar. 13, 2020), https://waow.com/2020/03/13/wisconsin-election-commission-takes-action-on-covid-19-issues-ahead-of-spring-election/

Third, a number of municipalities, such as Green Bay, Milwaukee, Madison and Oak Creek (and likely many others) suspended early voting.[16] Some, such as Green Bay, eventually restored limited early voting, with fewer hours and at another location. Appleton apparently limited early voting to a total of 8 hours over four days.[17] Others, including Milwaukee (after a week-long delay), Madison and others set up drive-up (curbside) early voting. This option was helpful to many voters and should be considered in the future.

- A *Sun Prairie* voter: "I was on the absentee ballot list for the entire year. No ballot arrived for this election. Not like it was a last minute request. Had to do curbside absentee ballot prior to election day."

Even so, curbside early voting was generally for more limited hours and/or at fewer locations than the planned early voting, and thus was not accessible to as many voters.

## *In Person Voting Problems*

There is no question that the decision to hold an election in the midst of a pandemic created massive disruption and problems for poll workers and voters alike. A lack of poll workers, last minute closure and changes of polling places, confusion about the rules, and fears about contracting COVID-19 all contributed to the problem. Voting in person was particularly challenging for voters who are immunocompromised or otherwise high risk for COVID-19. We heard from many voters in this situation who attempted to vote absentee, did not receive their ballot, and were forced to make the decision of whether to risk their lives to vote.

- In *Appleton*: "It sickens me that even with taking proper safety precautions, I had to risk spreading COVID-19 to others (particularly the elderly poll workers) and also put myself at even bigger risk than I already am with my husband and I both being essential employees in different government positions plus with him having underlying health issues. I felt like I had to choose between living/being safe/being healthy and exercising my constitutional right to vote which is not ok."

- In *Madison*: "Just generally feeling unsafe and like I was putting myself and my 3 small children at risk by having to go to the polls during a pandemic."

At the same time, in person voting is a crucial option to ensure every voter is able to exercise their right to cast their ballot privately and independently. For example, without access to the accessible voting equipment, voters who rely on that equipment would lose the ability to vote privately and independently. Without in person voting, voters who rely on same day registration

---

[16] "Election Officials Across Wisconsin Eliminate, Scale Back In-Person Early Voting," *WPR* (Mar. 23, 2020), https://www.wpr.org/election-officials-across-wisconsin-eliminate-scale-back-person-early-voting

[17] "Appleton announces changes for in-person absentee voting," Fox11News (Mar. 18, 2020), https://fox11online.com/news/coronavirus/appleton-announces-changes-in-person-absentee-voting

will also be disenfranchised. Therefore, while there is a need to improve mail absentee voting procedures, it is crucial to ensure that in person voting is truly accessible to all eligible voters.

## Consolidation of Polling Places and Long Lines

On March 12, 2020 the Wisconsin Elections Commission gave clerks the authority to relocate polling places without obtaining the prior approval of the local governing body or municipal elections commission as facilities, such as nursing homes, that traditionally serve as polling places may not be available for use. Under normal circumstances, clerks are required to establish the list of polling places that will be used 30 days before the election.

This decision gave clerks flexibility to respond to the changing circumstances as the election approached and helped protect vulnerable populations from coming into contact with the virus, such as by moving polling places out of nursing homes and other care facilities. Although some municipalities made few, if any, changes to the number or location of their polling places, many, including Milwaukee, Green Bay, and Waukesha, consolidated more than 90 percent of their polling places. These decisions forced voters who wanted or needed to vote in person[18] to gather in fewer locations, increasing the length of wait times, crowding, and confusion.

| **Number of Open Polling Places for Spring Elections in 2018 and 2020 in the Top 10 Most Populous Municipalities in Wisconsin** | | | |
|---|---|---|---|
| **Municipality** | **# Polling Places April 2018** | **# Polling Places April 2020** | **% Polling Places Open in 2020** |
| Milwaukee | 182 | 5 | 2.7% |
| Madison | 87 | 66 | 75.8% |
| Green Bay | 31 | 2 | 6.4% |
| Kenosha | 23 | 10 | 43.5% |
| Racine | 17 | 14 | 82.4% |
| Appleton | 15 | 15 | 100% |
| Waukesha | 15 | 1 | 6.7% |
| Oshkosh | 16 | 14 | 87.5% |

[18] Voting by mail may is not an option for all voters, such as the many Wisconsin voters who need to register in person on Election Day and those who need to use accessible voting machines, although we note that an additional option for some voters with disabilities is to allow voters to request an absentee electronic ballot that provides a link to the ballot, so that the voter can complete it using assistive technology before printing and returning the completed ballot In addition, in person voting became a necessity for voters who did not receive their mail absentee ballots and wanted to vote.

| Eau Claire | 20 | 20 | 100% |
|---|---|---|---|
| Janesville | 10 | 4 | 40% |

- "In *Milwaukee*, there were not enough volunteers so they had to consolidate our 180 polling places into five. FIVE. If I had been able to vote at my normal place, it would have been a block from my house and I would have been exposed to (typically) less than ten people. Instead, I had to drive 10 minutes to my polling place and vote with hundreds."

- In *Green Bay*, "Due to lack of available poll workers, the 3rd largest city on WI had only 2 polling locations open during a worldwide pandemic. Poll workers were not prepared for such a large number of in person voters, and they did not know how to efficiently direct voters to the correct ward. The line was hours long and had hundreds of people in it. Poll workers had sanitation supplies, but voters were not directed to use them at all."

- In *Sun Prairie*, "Got in line at 6:30 AM (3rd person). Fortunately I could drive since 8 polling places were consolidated into 1 … polling place a distance from my home."

- In *Sheboygan*, "Two polling places were moved; this is very difficult for Sheboygan voters. One polling place was moved to city hall which DID NOT have enough room."

When polling place changes were made, little time was left for voters to be informed of the changes in polling places and presented a challenge for voters. For example, not all changes were entered into WisVote in a timely manner, leading the state's online voter information portal, MyVote, to send some voters to closed polling places.

- "As a poll worker for the city of *Delafield* I was assigned to sit at the parking lot of Christ the King church, the site where voting is normally done, because the site was moved to city hall. About 250 cars arrived to vote at the church, because they had checked the MyVote website and that website incorrectly directed them to this church. I redirected them, but without my intervention I think many would have given up. There was a small (8"X 11") sign on a rear door to inform persons of the change of site, but this was not visible to anyone that didn't come looking at the door. The decision to move the polling place was made weeks before election day, and so I wonder why the MyVote website was not updated."

For some voters, the location changes made it more difficult or impossible to vote at all.

- For example, in *Milwaukee* a voter requested an absentee ballot. It never came. Her polling place closed and has no way to get to her new polling place.

Having fewer polling places in many cases also led to unreasonably long waits. We heard from more than 60 voters experiencing long lines and excessive wait times. Of course long lines are a barrier for all voters, but can be a particularly challenging barrier for voters with disabilities, or, as here, voters who were at risk for COVID-19. Both Milwaukee and Green Bay received

national attention and by far were the areas we have also heard of having the longest wait times, at times as much as five hours long and in poor weather conditions. However, voters also reported long lines to vote in other communities, such as Appleton, Hayward, Mukwonago, Oshkosh, and Bayside.

- In *Green Bay*:
  - "I waited in line at Green Bay West High school for 3 1/2 hours. The volunteers and the police who were there to support were wonderful. However the long line was not. To me this wait time for voting is too long and unacceptable. We should of had additional polling stations. Better yet this election should have been postponed or done through mail. Unacceptable."

  - "I stood in the rain in Green Bay for 5 hours and I'm high risk for the virus and I'm scared."

- In *Milwaukee:*
  - "The wait time was 90 minutes in heat, then rain and hail."

  - A voter had "over a two hour wait with no bathroom access, no hand sanitizer access, half of the people weren't wearing masks in line. Social distancing was not followed well."

  - "I waited over 2 hours to get into my polling place. The line wrapped around 5 city blocks. There was no way to stay socially distant in the line. The poll workers were exceptional though and made everyone use hand sanitizer and made sure no one touched anything inside the building."

  - "My sister in law...waited over three hours with her one year old (because she has no child care at the moment) to exercise a basic civic right. It's despicable that citizens are forced to choose between being healthy and voting."

  - "Arrived 10 min prior to polls opening, waited with well over 100 people. Line stretched through the parking lot around the building and down the sidewalk. I had to wait until 810am to cast my ballot. Police were everywhere and only paying attention when voters got closer to the building where cones were set 6ft apart. The police admonished voters who were not next to the cone. . ."

- In *Bayside,* "Only twelve people could vote in the 80 minutes I was at my local voting site."

- In *Hayward,* "We had drive up voting with waits of up to 1 1/2 hour."

- "The City of *Appleton* kindly taped off the floor for social distancing, all the way out the doors, and was carefully only letting a few people vote at a time. But what can really be done about lots of people? You cannot really turn them away... They seemed to do their best under the circumstances."

Some voters were simply unable to wait in long lines and gave up their right to vote. Because the lines were worst in Milwaukee and Green Bay, we were contacted more voters from those communities.

- In *Milwaukee*, "If there had been more voting sites and the lines were not so outrageously long, I would have gone to vote! I shouldn't have to choose between risking myself and my family's health and my right to vote. It's absolutely absurd."

- Also in *Milwaukee*: "I did not receive my absentee ballot, which had been requested more than two weeks before the election and I went to the voting site every two hours over the course of the day, but the line was always at least 300 people and at 81 years old with some lung issues, I could not join the end of the line."

- A *Green Bay* voter who was in line for more than four hours stated that "voters were leaving because they just couldn't stand any longer, they were hungry or they had to use a restroom!"

- Another *Green Bay* voter said that "The line was very long. My disabled husband could not stand for the 3 hour wait."

## Inadequate Sanitation and Lack of Social Distancing

Despite efforts of state and local officials to procure sanitation supplies to help ensure the safety of poll workers and voters going to vote in person, we still received reports of polling places lacking sanitation supplies as well as a lack of best practices around personal hygiene and proper use of personal protective equipment, like masks and gloves.[19] Further, although polling places implemented measures to try to ensure social distancing practices, like tape on the floor and plexiglass barriers, some voters reported polling places to be too crowded for safe social distancing.[20]

- In *Luck*, "election officials were not following safe practices, not wearing masks and one official coughed into her hand and licked her finger to turn pages. The voting area had hand sanitizers and did use good distancing practices."

- In *Neenah*, "They were sanitizing the pens but not the voting booths. Also all poll workers weren't wearing masks or gloves."

- In *Green Bay*, "Poll workers had sanitation supplies, but voters were not directed to use them at all."

---

[19] Reports came from Appleton, Eau Claire, Green Bay, La Crosse, Luck, Madison, Milwaukee, Neenah, Oshkosh, Sheboygan, and West Milwaukee.

[20] We received reports of this from Baileys Harbor, Eureka, Forestville, Green Bay, La Crosse, Madison, Milwaukee, Oshkosh, Sheboygan, and Sun Prairie.

- In *Eureka*, "People were not staying far enough apart, the line behind me was long."

- In *Forestville*, "It is a small location so as we exited others were standing in line and it is a very tight small hallway."

- In *Oshkosh*, "Poll workers cross contamination of everything! Poll workers wore masks under their noses. Used the same paper towel to wash voter booths between voters. [I felt] threatened because not all who were there to vote respected safe distancing directions. Also, I had to be there 20 minutes longer than normal due to inadequate process for canceling my absentee ballot. Lots of elderly without any masks. Standing outside in cold waiting to get inside."

- In *Milwaukee*, "I waited in line for over 2 hours and 20 minutes of that wait was indoors with a significant number of other people. It was impossible to maintain 6 ft spacing while indoors."

- Another *Milwaukee* voter similarly noted that while social distancing occurred outside, "once inside of the school it became a little harder to maintain our distance or at least it felt that way as there were a lot more people in a smaller space, some moving around and crossing with others workers and voters. There was no hand sanitizer that voters had access to."

## Curbside Voting

In some communities, curbside voting was readily available, or even virtually the only option. In other communities, while curbside voting was offered in theory, it was difficult to access for some voters and other voters were denied the option outright.

- In *Milwaukee*, "My husband has compromised lungs. Covid 19 would be lethal. We could not risk joining the crowds of people to vote. The police told us we weren't disabled enough to do curbside voting."

- In *Green Bay,* "Curbside voting was advertised, but was impossible to obtain. Multiple calls to the clerk and other redirects went nowhere."

- Also in *Green Bay,* "Due to my Parkinsons I needed to have curbside voting. I was able to vote curbside, but it took me over 1 hour to notify someone at the voting location that I needed assistance."

- In *Beloit*, there was a drive up (curbside) and a walk up outdoor voting line. Because the drive up line was long, some voters apparently parked their cars to use the walk up line. The clerk considered this "cutting in line" – even though the walk up section had little wait – and was considering referring those voters to the police to be cited, essentially for cutting in line.

# *Intimidation and Law Enforcement Concerns*

We received a few reports of voters feeling intimidated or threatened at the polls, particularly in Milwaukee.

- "I thought the police being there was a little alarming as I did not remember a police presence while voting before. I had not bad interaction but it did make me feel a little uneasy.[21]"

- "Police were everywhere and only paying attention when voters got closer to the building where cones were set 6ft apart. The police admonished voters who were not next to the cone."

- "A man was in line about ten people behind me with a pro-life sign cursing at people the entire two hours."

In *Milwaukee*, we also heard reports of people harassing voters who were still in line at 8 p.m., wrongfully telling them they would not be able to vote and to go home. Some voters knew they could stay in line and that they would still be able to vote, but not all did.

In addition, due to the severe shortage of poll workers, National Guard volunteers were trained to serve as poll workers. Although they wore plain clothes and provided a great service to our communities, using military personnel as elections officials may also be intimidating.

# *Voter ID Issues*

A number of voters also were unable to vote because they lacked voter ID. In the weeks leading up to the election, DMV cut its hours and started only seeing people by appointment. Transit service was also reduced in many locations. These factors, combined with voters' general reluctance to leave home, made it much harder for voters to even think about obtaining ID cards.

- As one *Milwaukee* voter noted, she would have like to vote absentee but did not have a Wisconsin ID.

- Another voter reached out after the election saying she was unable to vote because she lacked a birth certificate and a Wisconsin ID card. She was entirely unaware of any process to obtain an ID card.

---

[21]Voters also remarked upon the police presence in Appleton, Green Bay, Hidden Valley, La Crosse, Madison, Milwaukee, New Berlin, and Sun Prairie.

- Another *Milwaukee* voter presented her U.S. passport as ID, but poll workers initially refused to accept it because it was not a Wisconsin driver's license or state ID card.

# Recommendations for Future Elections

Although Wisconsin had reasonable turnout despite the pandemic, holding an election under those circumstances, with the level of chaos, confusion, and risk that occurred, is not something that should be repeated. Moreover, the conditions under which this election was held clearly prevented many Wisconsinites from voting and may have particularly depressed turnout in communities of color, especially in Milwaukee. This cannot be allowed to recur.

The time is now for state and local elections officials to develop detailed emergency and contingency plans that are targeted at ensuring that they are ready to act in the event that this pandemic, or some other emergency, continues or recurs in the future. This will also require prompt action now, such as early recruitment of extra poll workers. Participation in civil society by voting is a critical fundamental right that must be strongly encouraged.

Officials must categorically ensure that there are systems in place that preclude the chaos and disorganization that have led to the present litigation, and so no last-minute changes in procedures are again suddenly imposed upon Wisconsin voters and elections officials. Proactive measures should include, but not be limited to, a communications plan that allows elections officials and the public—including those lacking access to or do not use electronic or social media—to be fully informed about rules and regulations that will be in place for those elections.

Our recommendations here supplement those made in prior reports, such as our 2018 Midterm Election Report (https://drive.google.com/file/d/1jMNNrkeG982rZ5VWE8cpZG0fjInfzFnc/view ). We include here primarily recommendations addressing the problems and situations that occurred in this election, rather than general overall voting recommendations.

# Recommendations Related to Public Education

The WEC and municipal clerks are authorized to develop and conduct "educational programs to inform electors about voting procedures, voting rights, and voting technology." Wis. Stat. §§ 5.05(12), 7.15(9). This election made clear that voter education must occur.

One of the key issues requiring education, is the need for much more information about the process for mail absentee voting. It is vital that the state develop an expanded public education campaign – and one that reaches well beyond digitally connected voters, to educate voters around the state, including more vulnerable groups of voters, of how the mail absentee ballot process works – from making the request to completing the ballot to returning the ballot. Of course, any such campaign also must explain other voting requirements, including voter eligibility, the registration process, and

any voter ID requirement. And it must be provided in languages and formats accessible to persons who are limited English proficient and persons with disabilities.

# *Recommendations Related to Voter Registration*

It is a positive development that the state has opened opportunities for online voter registration until 20 days before Election Day. This provides the opportunity for more voters to register or update their registrations online and reduces the need for voters to go to the polls in person to register. We believe that it would be beneficial, especially in emergency situations, to expand the online registration period to coincide with the absentee ballot request period, in order to allow more voters to register and then request absentee ballots online. This is particularly critical in situations such as occurred in April, where rapidly changing conditions made voters unexpectedly want to register and in person registration was limited by whether or not a voter's willingness to venture out of home.

However, there are limitations with online registration, especially that it is only available to voters with Wisconsin driver's licenses or ID cards. Such efforts should include combining voter registration with other state processes, such as allowing registration at the time a voter obtains or renews ID or a driver's license. The state should also consider incorporating online registration for voters who engage in other transactions with the state which already collect residence information, such as applying for a hunting or fishing license or applying for benefits. Voters could opt out of being registered, but having registration handled by state entities already collecting residence information would ensure more consistency in the state databases and more effectively facilitate voter registration and voting.

Furthermore, we encourage changes that would allow all voters to use the MyVote system to complete their voter registration online, even if they do not possess Wisconsin driver's licenses or state ID cards. One possibility that seems quite reasonable is to allow voters to submit registration forms with documentary proof of residence electronically, so that these voters do not need to print out and mail in those documents. Given that the state already allows voters to present proof of residence on electronic devices, and also allows voters to upload photos of their IDs to request absentee ballots, it would not and should not be a stretch to expand capabilities to allow electronic submission of proof of residence.

# *Recommendations Related to Mail Absentee Voting*

## Facilitate Applications for Absentee Ballots

First, all municipalities should be required to, within 30 days, develop emergency plans to increase staffing to process ballot requests. This could be done by redeploying other municipal workers, recruiting employees or volunteers from schools or businesses, or any other means that the municipality finds appropriate.

Second, in the context of a health emergency (or natural disaster), absentee ballots should be mailed to all registered voters without the need to undergo the application process. This will substantially reduce the workload for already burdened elections staff and facilitate voter participation.

Third, if the state does require an application, one should be sent to every voter, as was done in Whitefish Bay and Bayside.

Fourth, the state should expressly permit voters who are quarantined or confined to their homes due to illness use the "hospitalized elector" option to register and vote up to and including on Election Day.

Fifth, the state should not require voters to produce photo ID to obtain such a ballot. As discussed above, the need to provide copies of photo ID in order to obtain a mail absentee ballot posed a barrier for many voters – especially older voters, and less digitally connected voters. Moreover, as DMV limits its hours and availability, it will become increasingly difficult for voters – especially those sheltering at home – to obtain an ID at all. If the requirement is retained, then the "indefinitely confined" exception should be expanded to explicitly encompass voters who are following state orders or health guidance to remain in their homes, and the state also should allow the voter to submit an affidavit that they have a reasonable impediment to obtaining ID in lieu of a copy of the ID itself.

Finally, WEC should improve monitoring of absentee ballot applications, especially between the time an application has been submitted by the voter and when the clerk processes the application. Improvements in MyVote or some alternative system must track and notify voters (by email, text or other method) when a ballot application is received, when it is processed, when it is actually mailed, and when it is received back by the clerk. Wisconsin should adopt a system similar to Colorado's Ballot Trace program that incorporates mail tracking of ballots. This would also reduce clerks' workloads by facilitating voters being able to keep track of their own ballots, rather than repeatedly contacting the clerk's office or submitting multiple absentee ballot requests.

## Facilitate Ballot Returns

In order to facilitate voters returning their ballots, the state should allow the voter to submit a sworn statement or certification in lieu of obtaining a witness signature. Even if the state does not allow this alteration in all situations, in the context of a health or other emergency in which many voters will be unable to obtain a witness, Wisconsin should permit voters to affirm or certify that they completed the ballot on their own and their inability, for reasons related to the emergency, to obtain a witness.

In addition, municipalities should be required to establish secure drop boxes where voters can return their absentee ballots instead of sending them through the mail, although voters should continue to be allowed to use the mail or to drop their completed ballots off at the clerk's office or polling places. In larger municipalities, there should be multiple drop boxes at locations easily accessible to community members, and not just in a single central location.

Finally, the deadline for receipt of absentee ballots should be extended. As this election showed, voters suddenly choosing to vote by mail, overwhelmed elections staff and slow mail delivery led to significant delays in delivery of ballots to, and return of ballots by, many voters. For years, Wisconsin allowed ballots received by the Friday after Election Day to be counted, and for this election ballots received by the Monday after Election Day were counted, enfranchising more than 100,000 voters. At a minimum, the Friday deadline should be restored, although especially in an emergency situation with overwhelming mail absentee voting, the Monday deadline is appropriate.

# *Recommendations Related to In-Person Voting*

Even if absentee balloting is dramatically expanded, it is critical to maintain meaningful opportunities for voters throughout the state to vote in person, not restrict an election to mail-only voting which would fail to accommodate many voters. This is particularly true for voters with disabilities, who may require accommodations such as accessible voting machines, and voters of color, who may live in communities where mail service is often not as robust as in other communities and may be distrustful of the mail system as the vehicle to exercise their fundamental right to vote. Moreover, mandatory vote by mail—especially if ballots are only sent to already registered voters—will deprive Wisconsin voters of the opportunity for same day registration they have enjoyed since 1976, and upon which tens or hundreds of thousands rely.

## Expand Early In-person and Curbside Absentee Voting

In Wisconsin, each municipality has the discretion to set their own days and times for early voting, as long as it meets certain minimums. It is clear, however, that providing more early voting opportunities spreads out the number of voters present at any given time – a critical concern during a health emergency. Rather than reducing early voting hours or locations, communities should be encouraged to expand those opportunities, to help keep voters and elections staff alike safer. Municipal clerks and communities in general should be supported with the resources necessary to allow for these flexible voting options.

One initiative that developed during this election was curbside/drive up early voting. While options for voters who do not drive must be maintained, we encourage the development and expansion of this process, which allows voters to remain in their vehicles and to preserve more distance between voters and poll workers. We also believe that municipalities, especially larger municipalities, should include night and weekend early voting opportunities, to reduce the pressure and crowds on election day. Further, communities – especially the five or ten largest Wisconsin cities - should not limit early in person or curbside voting to a single central location. Instead, to facilitate its use and again reduce pressure on polling places on Election Day, municipalities should try to ensure that early and curbside voting locations are dispersed throughout the community.

Communities also should plan now to identify locations that could be used for both walk in and drive up early voting, including identifying any necessary back up locations in the event that the primary locations are closed.

## Develop Emergency Staffing Plans

One of the crises that developed in this election was the last-minute inability of many poll workers to work on Election Day due to pandemic-related health risks. Communities cannot wait: they must start now, and WEC must require them to start now, to recruit supplemental and backup poll workers so that the last minute polling place closures that befell communities like Milwaukee and Green Bay will not occur.

Such plans could focus on recruiting poll workers from less medically vulnerable communities. In addition, municipalities with limited English proficient citizens must diversify poll worker recruitment to obtain bilingual poll workers to assist voters who need language assistance. Municipalities also should provide poll workers the alternative of working a half day instead of a full day, in order to encourage more persons to participate.

WEC also should develop expanded methods for remote training of new Chief Inspectors and poll workers, and remote refresher training of experienced Chiefs and poll workers. This can be particularly important in situations such as occurred in this election, with many rapid changes in election rules and procedures.

## Maintain Safe, Local, Accessible Polling Sites

In addition to backup staffing plans, WEC should require that all municipalities develop back up polling place plans within 30 days, and to notify voters of both their regular and any back up polling locations. The plan must also include a mechanism to ensure the general public is aware of polling place changes. This would help ensure that if there is an unplanned closure of polling places, there are back up locations ready to go, and that voters are aware of this possibility.

WEC also must require that these back up plans require each municipality to retain polling locations in areas reasonably close to voters regular polling places, to readily serve all community members and allow voters to register and vote quickly and efficiently if they choose to vote in person on Election Day. Municipalities cannot be allowed to consolidate so many polling places that voters have difficulty accessing those locations, and/or that unreasonably long lines ensue and would be a particular concern if municipalities that drop below 75% of the typical number of polling locations. State law also requires that municipalities provide at least one voting booth for each 200 voters who voted in the last general election (*i.e.*, November 2018), and that requirement must also be maintained. Wis. Stat. § 5.35(2).

Care must be taken to ensure that polling locations including back up locations are accessible to all voters. The accessible voting equipment is required by law to be set up and available to all voters who want to use it. Election officials need to be adequately trained to ensure the equipment is set up and that they can help voters use it if necessary. Elections officials also should develop mechanisms for curbside voting for voters who require it, to help keep poll workers and voters safe, including ways for voters to more easily request curbside assistance when it is needed.

In addition, every polling location and early vote location should meet basic sanitary standards. Particularly if a health emergency continues or recurs, each poll worker should be provided masks and basic supplies to keep them safe. Voters also should be encouraged to wear masks, and each voter should be given the opportunity to use hand sanitizer or wash their hands. In addition, barriers such as plexiglass should be utilized.

## *Recommendations Related to Voter ID*

If the health emergency continues or recurs, obtaining ID needed to vote will become increasingly difficult or impossible for many voters. As DMV restricts access and transit routes become less frequent, it will become increasingly difficult for voters to reach DMV offices to obtain ID – and it could threaten their health to require them to do so. Voters who require other forms of ID – such as college students who need alternate compliant college ID cards – will be unable to obtain those forms of ID if colleges and universities shut down. And, as noted above, even voters who have ID may be unable to access the technology required to provide copies of the ID to elections officials. Voters therefore will be disenfranchised.

To the extent that the state insists on keeping the voter ID requirement, there should be an expansion of the types of ID permissible for voting, as there are many forms of secure photo ID other than the kinds of ID currently listed in the statute. Additional forms of ID to consider include:

- Any photo ID card issued by the federal government, the state of Wisconsin, or a Wisconsin county, local government, school district or other governmental entity (as does, for example, Alabama[22]);

- Regular college and university ID cards from all Wisconsin colleges and technical schools (a particularly important option if these colleges suddenly shut down and are unable to issue compliant ID) (Mississippi, among other states, allows these forms of ID);

- High school student photo ID cards (allowed in a number of states, including Idaho);

- Out-of-state driver's licenses (as does Michigan, for example); and

- An affidavit for voters who have reasonable impediments to obtaining photo ID, which is a failsafe in a number of states including South Carolina, and which in the present context must include impediments related to sheltering at home for a health emergency or other natural disaster.

---

[22] References to practices in other states  found here: https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx

In addition, there are transportation and scheduling barriers that preclude some Wisconsin residents from obtaining ID. Particularly if a reasonable impediment affidavit is not permitted, DMV therefore should also:

- Ensure that evening and weekend hours are available at all DMV service centers during the 60 days prior to any election, and publicize that availability;

- Provide mobile vehicles to take DMV services to communities, especially communities of rural, homeless, indigent and disabled voters – again, a particularly important option should a health emergency exist; and

- Consider establishing a system so that voters without ID could have photographs taken and an ID application initiated at polling sites and vote at that time.

Finally, WEC is also statutorily obligated to engage in "outreach to identify and contact groups of electors who may need assistance in obtaining or renewing" photo ID. Wis. Stat. § 7.08(12). Whether or not there is a health emergency, it is incumbent upon the WEC to make meaningful outreach and assistance efforts to voters who will need help getting whatever photo ID is necessary to vote. And those efforts cannot be limited to ones conducted digitally.

## *Conclusion*

Wisconsin voters who voted – or tried to vote – in the midst of a pandemic should be commended. However, the chaos and disenfranchisement that accompanied this election cannot be. We now have been warned: the current mail absentee voting system, especially specific rules and procedures, cannot withstand an onslaught of mail voting occasioned by a health emergency. No one knows when this pandemic will end, and state and local elections officials must prepare, *now,* for the possibility it will continue or recur through the August or November elections. We hope that our recommendations will assist in making voting easier and better for Wisconsin voters.

*Respectfully submitted:*

The Legal Coordinating Committee of WISCONSIN ELECTION PROTECTION, by:
    Karyn L. Rotker, American Civil Liberties Union of Wisconsin Foundation
    Barbara Zack Quindel & Summer Murshid, Hawks Quindel, S.C.

LEAGUE OF WOMEN VOTERS OF WISCONSIN, by:
    Eileen Newcomer, Voter Education Manager