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Report on Some Irregularities Documented in the April 5, 2011 Election and Subsequent Recount

(This report is in addition to Problems Seen by Forensic Statistical Analysis)

This compilation of reported irregularities, while broad, does not claim to be comprehensive. Most of what is found below was collected through a reporting system that was begun after the recount had been completed in most counties, with no way to contact the volunteers, and the system was not widely publicized. Therefore, many reports of "anomalies," "episodes," and "irregularities" made to the campaign, to County Boards of Canvassers, and or to the G.A.B. are not in our possession. We have not reviewed the counties' recount minutes due to resource constraints.

Machines

Some of the machines were networked or equipped with modems. This means they could have been hacked in "real time" during the election.

The voting machines, as per the GAB, are decentralized and stored a wide variety of places between elections, often without security. Machines are stored in clerks' offices or even in clerks' homes. We know of one case where the machines are stored in a barn! The GAB does not keep a list as to where the machines are stored when not in use. It has been demonstrated numerous times

(http://sites.google.com/site/remediaetc/home/documents/Scientific_Studies_7-20-08.pdf) how one person with less than two minutes of access to a machine can change the outcome of even a future election.

Touchscreen voting machine tapes were missing votes, or -- what's worse -- were entirely blank and had to be reproduced from machine memory to allow a recount of the vote.

VVPAT (paper trails) were found blank.

Votes displayed on poll tapes from a PRE-ELECTION DATE were counted as ballots.

Not all individual tally tapes were time-stamped. (Top of original may have been time-stamped, but tapes were cut to be counted as individual "ballots" so individual tapes were not time stamped.) It is therefore impossible to confirm that they were really from the April 5 election.

Insufficient Reconciliation of Processes

Wisconsin election law does not require the reconciliation of number of ballots ordered, number delivered, number of ballots used, or ballots remaining. This is a very unsafe practice, leaving opportunity for ballot box stuffing, an election rigging method that can be used either on its own or to justify vote totals produced by machines that have been manipulated.

The way the recount was set up in some counties (Waukesha and others), there was no way for an observer to follow the pollbook reconciliation from a ward and the recount of the ballots from that same ward.

According to the G.A.B. website, "G.A.B. staff has created an internal review process to check each ward's recount totals against the original canvass totals to look for variances of plus or minus 10 votes. Any ward in which 10 more or 10 fewer votes are reported is flagged by staff for follow-up with the county clerk for an explanation of the reason." Yet with approximately 3600 reporting units in the state, many of which encompass more than one ward, and a threshold of only 3,504 votes that would need to be reversed in order to change the election outcome, election results that are off by only one vote per ward statewide would be sufficient to change the outcome, yet insufficient even to be "flagged" for "an explanation."

Chain of Custody

Insufficient legal protection for the safety and security of the ballots once they leave the public's sight on election night, including the transfer of ballots from municipalities to county clerk for recount. This leaves several gaping holes of vulnerability. For example:

Many people have keys to access areas where ballots were locked up.

The seals are plastic and not high security. They are "tamper evident," not "tamper-proof." This means that they're designed not to prevent tampering but just so people will know if tampering has occurred. What good is that when no action is taken even when evidence of tampering exists?

It is almost certainly possible to order multiple seals with identical numbers. (One might need to subpoena the records of the company supplying the seals.)

NB: Like all county election officials and despite (and prior to) her recusal, Kathy Nickolaus has had unfettered access to the ballots and scanning machines day and night.

At Recount

"The inspectors shall place together all ballots counted by them which relate to any national, state or county office or any state, county or technical college district referendum and *secure them together so that they cannot be untied or tampered with without breaking the seal.*" Wisconsin Statutes 7.51(3)(a) [italics added]

(Almost everything below was reported from both Milwaukee and Waukesha Counties)

- Ballot bags were brought in with large rips, some with gashes 6 or 7 inches long.
- Clerks testified the bags were not ripped when they delivered them. (The words of Kristine Schmidt, Clerk from City of Brookfield: "The bags were not tampered with UNTIL they left my office.")
- Ballot bags were brought in wide open
- Ballot bags were brought in with "wings" large enough to pass ballots in and out, so ballots could easily have been switched, added, or replaced. "Wings" = the part of the top of the bag that pulls out of the seal, leaving the seal intact and still gripping a small part of the bag
- Ballot bags with two ties far enough apart to fit hand in if tie without seal were opened and then reclosed.
- Ballot bags with a big slit up the side that had been closed with duct tape.
- Ballot bags and seals with numbers that did not match
- Clerk testified that her recorded seals from canvass do not match the seals presented at recount
- Ballot bags where seal number and the number on the bag matched but the number on the Inspector's Sheet did not
- Ballot bags with no number on the bag
- Ballot bags with numbers crossed out and replaced with other numbers. In many cases those replaced numbers do not match the numbers on the Inspector's Sheet
- Ballot bags with matching numbers, yet "file folder like" labels on bags with black marker cross-outs. (City Attorney Kristine Schmidt testified under oath that she had no knowledge of the meaning and/or reason for the crossed out labels.)
- Ballot bag numbers not listed on inspection report
- No signatures with seal number on Inspector's Report
- Inspectors' Reports not witnessed (required by law)
- No number of absentee ballots listed on Inspector's Statement

- Absentee ballot not witnessed, i.e., required initials missing, yet ballot was counted
- Red ink used in few cases that may indicate written after the election was over. Report of a partisan tabulator reading off DRE tape with no one double-checking his reading.
- Bag sealed with unnumbered tie. The proper seal with numbers on it was still attached to the *side* of the bag - unused.
- Bag numbered "2 of 2" but there was no "1 of 2."
- Ballots from bag with hole that were to be counted separately ended up mixed in with others.
- Blank Inspector's Reports Ballots delivered in a box "sealed" only with easily-removed and replaced duct tape (also in Dane Co.).
- Ballots initialed in pencil (only reported in Dane).

Observer in Waukesha: "They're hoping no one is noticing that extra ballots are showing up; absentee ballots are being illegally certified; BoC is allowing ballots with no signatures to be counted; and the numbers are magically coming together, even when they aren't."

Dane County:

Observer's eyewitness reports: "I was an observer on Thursday, April 28 at the City County Building in Madison when the unsecured stack of ballots from Verona was brought in and counted. These are the ballots that were found on a table in the Verona City Clerk's office under a binder and some unrelated papers. The first 41 ballots were a random mix - averaging 3 to 1 in favor of Kloppenburg. Starting with the 42nd vote, Prosser received 50 sequential votes while Kloppenburg received none. The second to last ballot was called for Kloppenburg and the last for Prosser. The final tally of those Verona ballots showed Prosser received more votes than Kloppenburg by approximately 2 to 1, in a county where Kloppenburg won by about that same margin." [One of the data analysts has determined that the chances of 50 ballots for Prosser coming up in a row in that city is close to 1 in a TRILLION TRILLION.

"In four out of five districts below, the ratio of remade or additional photocopied ballots for Kloppenburg/Prosser did not represent the same ratio as the total votes for Kloppenburg/Prosser. Prosser benefitted with the zerox (sic) and remade ballots in four of the five districts below. Furthermore, I believe, in each of districts where zeroxed (sic) ballots were used, the explanation for the higher ratio of Prosser votes was described as it being a more rural part of the ward. Each of these situations also involved a polling place with more than one school district and therefore more than one type of ballot, making it impossible to get a total number of votes for Kloppenburg and for Prosser from just that part of the ward that used the zerox (sic) ballots because they use two or more ballots at that polling place. The similarities with this pattern were a little disconcerting." [numbers available]

"They remade 35 ballots and the ratio of Kloppenburg/Prosser did not match that of the other absentee ballots, nor of the total ballots." (Westport)

"I think their ballots were pre-sorted. Not sure if this was only for the absentees or

was for all the ballots. The official running the room noted that some people might find that a cause for concern." (Sun Prairie)

Dodge County:

Observer eyewitness report: "When we started counting Watertown, it was noted that the seal had been broken and a new tag put on because the clerk had misplaced some ballots. When beginning to reconcile the poll books, the clerk removed the tabulation sheet that goes on top of the book, replaced it and threw the original one away in the trash. "

Milwaukee County:

Observer eyewitness reports: "Some of the bags had a tie with seal at one end of top and a black plastic zip cord at other end. The non-seal tie could have easily been taken off, bag opened fully enough for ballot swapping, and zip cord re-attached. Seal would have been left intact, and no one would have been the wiser. Since no records were kept of ballots printed and ballots used, it would have been easy to write votes on un- used ballots and substitute in the bag for votes the rigger did not like."

"Here we are almost 6 weeks after the election and the GAB has still not told the people of Wisconsin how many people voted...*as far as i am concerned, the secrecy is the crime in itself.*"

"Two recount poll workers recounted their own polling station."

[While there are some damning photos from Milwaukee County, the big story from Milwaukee seems to lie in the numbers. Also, there were many fewer reports filed with us from Milwaukee County than from Waukesha, as we had little contact with observers there. As of Friday, May 20, the notes/minutes from the recount had not yet been released and posted, although our understanding is that only 5 days are allowed following the completion of a county's recount.]

Waukesha County:

Observer eyewitness reports: "I saw a large number of uncounted ballot bags from Wauwatosa, lined up against the wall in stacks up to 5 or 6 deep. About 6 of the bags in the front row were improperly sealed, with very large openings of approx 7" on each side of the tags. It was impossible to tell how many more bags were unsecured in this manner behind those in front."

"Used ballot bags with tags were put into outgoing trash bin."

"The absentee ballots had a strikingly higher ratio of Prosser votes to Kloppenburg than the regular ballots did... was approximately 5:1 Prosser to Kloppenburg on the regular ballots and approximately 10:1 Prosser to Kloppenburg on the absentee ballots." Signatures on absentee ballot envelopes should be authenticated.

"I noticed a completely blank ballot on the table. No votes were cast for any of the races for this district. The only markings on the ballot were two sets of initials,

indicating that it was a "regular ballot" cast at the polling station for Wards 7 and 12. (The inference is that someone traveled to the voting district simply to put a blank ballot into the machine without casting a single vote in any of the races). Because I found it odd, I looked closer at the initialed signatures on the ballot. Specifically, the top set of initials (to be signed by the inspector issuing the ballot) appeared to be "Sag" or "Sog" and the second line's initials as "Municipal or Deputy Clerk" was signed "KN". Although the tabulator said she did not know the name of the municipal clerk from Menominee Falls, but she believed that the clerk likely had the initials "KN" because she saw these initials on too many ballots (as she was counting them) for it NOT to be the clerk. The tabulator said that Delafield Clerk signs all of them herself."

"Absentee ballots were pre-initialed -- some of the ballots had 3 sets of initials: two in the spot that is initialed at the polls and one in the spot that is initialed when the ballot is issued as an absentee ballot. "

"600 to 800 ballots stored away by one tabulator without any other assistance or oversight by another person."

"Any questionable ballots from a ward get bundled together with a rubber band and marked with a STICKY NOTE that has the name of the municipality and ward number on it then that bundle is separated from the other ballots from that ward and taken away (to be examined by the board of canvassers). Then the other ballots are put in a large bin -- not back in an official ballot bag to be resealed with a new numbered security bag tag -- but put loose in a bin, which has the top secured with a couple of plastic ties (granted, they are plastic ties that can only be removed by being cut off). Then a STICKY NOTE with the name of the municipality and ward number on it is stuck onto the bin top and the bin is hauled off. The initial official ballot bag the ballots were in before being recounted is nowhere in sight. Neither is a new official ballot bag the ballots should have been put in and sealed. There is no new reseal number or numbered bag tag anywhere in sight, and no one seems to be ensuring the integrity of the ballots. I have no idea if the three questionable ballots from the ward recount I was observing that were taken to the board of canvassers halfway across the room from the station where the recount of that ward took place were ever put back with the other ballots from that ward -- or if that was even the intention. Neither do I have any idea if the ballots from that ward were ever put back into an official ballot bag and sealed with a new reseal number."

"I was observing Menominee Falls wards 7&12. I noticed a blank absentee ballot that was initialed 'KN'. A "tabulator" told me that it was the community's clerk initials absentee ballots before mailing them out. Apparently in some communities, clerks might delegate this duty. The tabulator told me that she has seen the initials 'KN' on "too many ballots" for it NOT to be the clerk's initials...This "tabulator" told me that she is a poll worker in Delafield, where she lives. She did not know who the City/Township clerk was for Menominee Falls. I later found out that the Men. Falls Clerk is Janice Moreire (sp?) The initials on those ballots were not JM (I know what a 'JM' looks like :) They were KN...If this duty WAS delegated, who better to delegate to than the Waukesha County Clerk??"

"Ballots came from wards 8 and 9 in Pewaukee. These are all signed "BP" on the right and "LD" (or LP?) on the left. I'm not a handwriting expert but find it odd that there is so little consistency in these `signatures.'"

The live-stream camera (for observation from elsewhere) was not pointed to where the bags were opened, instead perched right above the table where bags were opened, so it is always looking off to one side or the other, but never to where the incoming bags were.

There were breaks where the camera was turned off and other breaks when it was left on. While there was no legal requirement to have a camera set up, this inconsistency raised suspicions.

Heard on the Waukesha live-stream: "There are multiple tables working on one reporting unit right? And when they're done , they don't even have to seal them, just put them together and sticky note the bags so we know what wards to do. Open this up, put them in a clear bag.....sticky on the top..."

Limits on Observation

- **County:** Milwaukee

Eyewitness reports include:

"PROSSER CAMP LIMITS WHERE WE CAN OBSERVE"

"Prosser camp allowed [dictated] only 1 observer per table per campaign in Milwaukee Co."

"Our recount observer manual stated we could roam freely among the tables, and get as close as we needed to, as long as we didn't get in anyone's way. This is how it worked in Dane Co. But in Milwaukee Co., observers were told they couldn't observe from the same side of the table as the tabulators."

"Public Viewing area cordoned off 60' from counting tables...from where it was impossible to view the procedures that were taking place. Inside the arena was a large metal barricade, guarded by security police that separated the Public Viewing Area from the Counting Area."

"As the Prosser camp wouldn't allow more than 1 rep observer per table in the counting area, and the tabulator was going too fast, it was nearly impossible to both tally machine counted votes and inspect ballots that perhaps should have been set aside..."

"Obstructionist behavior by election personnel. Observers not allowed

meaningful observation. When asked, the tabulator would not slow down in feeding ballots into machine.”

Many tabulators did not respect observers’ requests to slow down during the various processes.

- **County:** Waukesha

After a one-hour lunch break the tabulators began early, before the observers were told to reconvene.

“I would highly recommend someone have a chance to re-examine all the touch screen tapes from Waukesha to see if their dates and times matched.”
[Time was not allowed to observer.]

Conclusion:

Many many manners of ballot and procedural insecurity have been reported, most even photographed.

The DOJ's election crime/computer fraud unit says in their manual that *the average computer fraud case regarding elections takes SIX MONTHS to investigate and charge*. We have had barely more than one and a half. And of course we have no subpoena power.

If part of the point of a recount is, as you yourself have said, to “make sure the outcome of elections, when in doubt, can withstand scrutiny,” this recount has certainly demonstrated that the combination of Wisconsin election laws and procedures with the on-the-ground reality of how elections are conducted fails to produce elections that withstand scrutiny. “That, no more and no less, is exactly why this recount is so important.”

Even with a very cursory attempt to collect anomaly reports from witnesses, an effort that was instituted too late in the recount for the observers from most counties to be contacted, and without the benefit of having reviewed the minutes from the County Boards of Canvassers, sufficient evidence has been collected to cast serious doubt on the veracity of the official election results. When the above evidence is considered *along with the statistical near-impossibilities already discovered in the election results*, and the anomalies documented in official minutes, grave questions are raised about whether the certified outcome of this election was accurate. We strongly believe that a thorough and impartial investigation is in order.