

MINNESOTA'S 2010  
POST-ELECTION AUDIT  
Report and Recommendations



Citizens for

**ELECTION INTEGRITY**

MINNESOTA

*Verifiable, Transparent and Accurate Elections*

## SUMMARY

Citizens for Election Integrity Minnesota (CEIMN) is a statewide, non-partisan organization, formed in 2004, that advocates for accurate, transparent and verifiable elections in Minnesota and nationally. CEIMN has organized six statewide non-partisan observations in Minnesota – three post-election audit observations and three recount observations from 2006 -- 2010.

### Highlights

- Minnesota's post-election audit continues to be conducted in an efficient, transparent and accurate manner.
- The close scrutiny confirmed that Minnesota's election officials are conscientious and that our voting system is solid.
- Nonpartisan observers expressed confidence in the integrity and the accuracy of the post-election audit procedures.
- Minnesota's post-election audit, which includes the hand-counting of paper ballots and the potential to trigger a recount, is an important safeguard in Minnesota's election system. CEIMN advocates that other states implement post-election audits.<sup>1</sup>

---

<sup>1</sup> To learn more about post-election audit laws in other states, visit CEIMN's audit law database at [www.ceimn.org](http://www.ceimn.org)

## Contents

Background: Post-Election Audits in Minnesota, Generally .....	4
What is a post-election audit? .....	4
History of post-election audits in Minnesota. ....	4
Absentee ballots and precincts.....	4
Minnesota’s post-election audit law. ....	4
Minnesota’s post-election audit law and Absentee Ballot Boards.....	5
Impact of an audit in Minnesota.....	5
Reviewing ballots — voter intent.....	5
Counting ballots. ....	6
Transparency. ....	6
Background: 2010 post-election audit.....	6
Total number of precincts audited per county. ....	6
Total percent of precincts audited per county. ....	7
Types of precincts selected to be audited. ....	8
Total ballots per precinct. ....	8
Total ballots counted for the post-election audit.....	10
Absentee Ballot Boards.....	10
Absentee Ballot Boards Randomly Selected. ....	10
Official totals. ....	10
Sorting and Counting .....	11
Number of absentee voters at an official precinct. ....	11
Audit reporting.....	12
Total count differs.....	12
Voter intent.....	12
Direct Observations. ....	13
Training: assuring that observations are nonpartisan and accurate. ....	13
Deployment of volunteers. ....	13
Audit Procedures and Transparency.....	13
Did you observe the transfer of the ballots? .....	14
Were the ballots delivered to the audit location by at least two individuals? .....	14
Were the ballot envelopes/container seals intact when they were delivered?.....	14

Were the ballot envelopes/containers resealed when work was completed/at the end of the audit? .....	14
Were the ballots under the observation of at least two election officials at all times?.....	15
Announcing of audit procedures. ....	15
Non-elections people present at audits.....	15
Room for observers, no hindrance of the process. ....	15
Counting.....	16
Two-person protocol and counting teams.....	16
Confirming accuracy. ....	17
Blind counting. ....	17
Response to discrepancy in results.....	17
Post-review report forms.....	18
Optical scanner tape. ....	18
Observers' subjective report.....	19
Recommendations .....	19
Case Study: review of post-election audit and recount totals.....	20
Comparing Audit and Recount totals for Concord Township in Dodge County. ....	20
Comparing Audit and Recount totals for Sibley Township in Sibley County. ....	21

## Background: Post-Election Audits in Minnesota, Generally

### What is a post-election audit?

A post-election audit, defined for the purposes of this report, refers to hand-counting votes on paper ballots and comparing them to the corresponding Election Day voting machine (“machine”) total. This is a method to check the accuracy of the machines.

### History of post-election audits in Minnesota.

Minnesota’s first post-election audit<sup>2</sup> took place in November 2006. At that time, Minnesota was one of sixteen states to require a post-election audit. Since then, an additional eleven states and the District of Columbia have mandated post-election audits. While some states have stronger post-election audit laws than others, this shift towards an audit requirement is a positive move towards improving the transparency and integrity of elections throughout the United States.

### Absentee ballots and precincts.

Before 2010 absentee ballots were delivered to each precinct on Election Day ; as a result, the machine total reflected the votes of both in-person voters and absentee voters. Starting in 2010, absentee ballots are processed by an Absentee Ballot Board<sup>3</sup> at a central location and are not physically delivered to a precinct. This means that the absentee ballots are no longer fed through the same machine that the in-person ballots are fed-through. However, when the public views the on-line precinct totals, they see the combined total of the absentee ballots and in-person ballots.

### Minnesota’s post-election audit law.

After the election, precincts throughout the state are randomly selected by the County Canvassing Board to have pre-determined races counted.<sup>4</sup> The total number of precincts each county randomly selects varies based on the total number of people who are registered to vote:

- fewer than 50,000 registered voters: at least two precincts;
- between 50,000 and 100,000 registered voters: at least three precincts; and
- over 100,000 registered voters: at least four precincts, or three percent of the total number of precincts in the county, whichever is greater.

At least one precinct in each county must have had more than 150 votes cast in the general election.

---

<sup>2</sup> Minnesota elections officials refer to a post-election audit as a Post Election Equipment Review (PEER).

<sup>3</sup> To learn more about Absentee Ballot Boards, including who is on an Absentee Ballot Board and their duties, refer to MS 203B.23 Absentee Ballot Boards <https://www.revisor.mn.gov/statutes/?id=203B.23> and 203B.121 Ballot Boards <https://www.revisor.mn.gov/statutes/?id=203B.121>

<sup>4</sup> The races include U.S. President, U.S. Senate, U.S. Representative, and Governor.

## Minnesota’s post-election audit law and Absentee Ballot Boards.

Absentee ballots are fed through a machine at a central location, not at a precinct, by an Absentee Ballot Board (ABB). For the purposes of a post-election audit, the ABB location is also considered a precinct, making them eligible for the random selection for the post-election audit.

### Impact of an audit in Minnesota.

In some states, audits are conducted after election results are finalized, meaning that if an error is found, no corrective action is taken. This is not the case in Minnesota. The hand-counted audit results are incorporated into the official results. So, if the number of votes for any candidate changes, the new total becomes the official result.<sup>2</sup>

In addition to changing the official results, an audit can trigger more audits and can eventually lead to a recount. For example, if the audited results in one of the precincts “reveals a difference greater than one-half of one percent, or greater than two votes in a precinct where 400 or fewer voters cast ballots, the postelection review official must, within two days, conduct an additional review of the races...in at least three precincts in the same jurisdiction where the discrepancy was discovered.”<sup>5</sup> The statute then outlines a continuum of audit escalation : if the machine error rate exceeds the specified threshold, it will trigger an additional round of audits which could eventually trigger a recount. However, if the error(s) are attributed to voter intent the official results are changed, but no escalation occurs.

### Reviewing ballots — voter intent.

A post-election audit is a method of reviewing, via hand-counting, ballots fed through a machine to determine its accuracy. It is not a review of the accuracy of voter intent. For example, if a voter were to underline the names of all the candidates he or she voted for and did not fill in the oval, the machine would not be able read the markings and may determine that there was an “undervote” for those races. This means that when election judges count the ballots for the post-election audit, they will take into consideration voter intent and change the official totals to reflect voter intent. That change will not be a reason to escalate the audit into a further audit or a recount as noted in MS 206.89 sub 4:

Valid votes that have been marked by the voter outside the vote targets or using a manual marking device that cannot be read by the voting system must not be included in making the determination whether the voting system has met the standard of acceptable performance for any precinct.<sup>6</sup>

Again, this is because it is a machine audit and not an audit of voter intent. Vote totals are corrected, but the machine is considered to have worked as intended.

---

<sup>2</sup> 206.89, Postelection review of voting systems, sub 7

<sup>5</sup> 206.89, *Postelection review of voting systems, sub 4*

<sup>6</sup> 206.89, *Postelection review of voting systems, sub 4*

## Counting ballots.

The counting of the ballots tends to occur at the County Seat and the people counting the ballots are, at a minimum, two election judges who represent different parties. While the random selection of the precincts to be audited occurs in Minneapolis, Hennepin County's Seat, the counting of the ballots may either occur in the city whose precincts were randomly selected (as was the case in 2006 and 2008) or at the County Seat (as was the case in 2010).

## Transparency.

The public can observe the random selection of precincts to be audited as well as the counting of the ballots. Starting in 2006, Citizens for Election Integrity Minnesota (CEIMN) and its partner, the League of Women Voters Minnesota, have organized three statewide non-partisan observations of post-election audits throughout Minnesota.

## Background: 2010 post-election audit

### Total number of precincts audited per county.

The total number of precincts audited is based on the total number of registered voters, not the total number of precincts or machines used within a county, with the exception of counties that have over 100,000 registered voters. In that case, at least four precincts, or three percent of the total number of precincts in the county, whichever is greater, are audited.<sup>7</sup> Of Minnesota's 87 counties, six<sup>8</sup> have over 100,000 registered voters.

In 2010, a total of 205 precincts were randomly selected to be audited throughout Minnesota. Seventy-four counties (or 85 percent of all counties) audited two precincts. Hennepin County, the county with both the most registered voters and the most precincts in Minnesota, had 13 precincts audited.

---

<sup>7</sup> For example, St. Louis County, with a total of 128,000 registered voters and 178 precincts and Ramsey County, with 297,000 registered voters and 178 precincts conducted the same number of post-election audits because they both had over 100,000 voters and 178 precincts.

<sup>8</sup> Anoka, Dakota, Hennepin, Ramsey, St. Louis, and Washington.

Table 1 lists the number of audits per county, demonstrating that Hennepin County has more than twice as many precincts audited than St. Louis and Ramsey Counties (each had five precincts audited). Hennepin County also had six times more precincts audited than the most counties in Minnesota.

Number audits per county	Percent of counties with listed # audited
2	85
3	7
4	5
5	2
13	1

**Table 1**

The number of precincts to be audited for counties with over 100,000 voters registered is based on the total number of precincts within that county, not the number of voters. St. Louis County and Ramsey County both had 178 precincts so in both cases five precincts were audited. However, St. Louis County had a total of 128,000 registered voters while Ramsey County had 297,000 registered voters.<sup>9</sup>

Of the 205 precincts, 21 (10.2 percent) were mail-in precincts, six (2.9 percent) were absentee ballot board precincts while the remaining 178 (86.8 percent) were in-person precincts.

### Total percent of precincts audited per county.

Since the total number of precincts that are randomly selected to be audited is determined by the total number of registered voters within a county and not the total number of precincts within a county, there is a vast difference in the total percent of audited precincts per county. Table 2 demonstrates that in two counties<sup>10</sup> only two percent of precincts were audited, while three counties have more than 11 percent of their precincts audited.<sup>11</sup> All five of those counties had two precincts audited per the law but the total number of precincts in each county greatly differs. For example, Cook County has a total of 12 precincts, which means that 17 percent of its precincts are audited while Otter Tail County has 91 precincts, which means that two percent of its precincts are audited. Thus, two precincts can be the equivalent of two percent of precincts or 17 percent of precincts in each county.

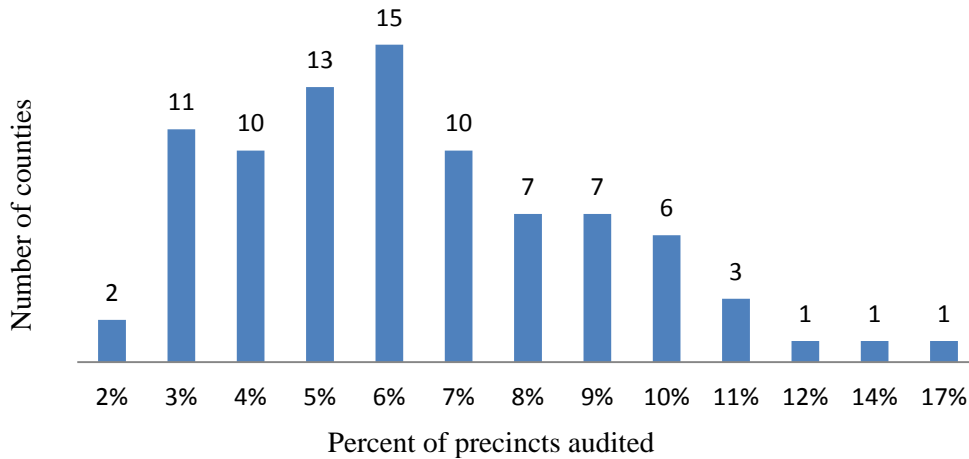
<sup>9</sup> St. Louis County had four percent of the 2010 voters; Ramsey County also had four percent of the 2010 voters.

<sup>10</sup> Otter Tail, 91 precincts, and Polk, 82 precincts

<sup>11</sup> Lake of the Woods: 12 percent of its 17 precincts audited; Clearwater: 14 percent of its 29 precincts audited; and Cook :17 percent of its 12 precincts audited



## Percent of precincts audited per county



**Table 2**

There is confusing logic in the law which requires some counties to have a minimum of three percent of precincts audited while other counties remain exempt from this requirement.

### **Types of precincts selected to be audited.**

In total, Minnesota has 4,137 precincts: 516 (12.5%) are mail-in precincts and the remaining 3621 (87.5%) are traditional precincts. CEIMN will refer to these traditional precincts as “in-person precincts” for the purposes of this report.

When reviewing the in-person and mail-in precincts that were randomly selected for the post-election audit, 21 (10.5%) were mail-in precincts and 179 (89.5%) were in-person precincts. Thus, the random selection has a sampling close to the actual percent of in-person and mail-in precincts.

### **Total ballots per precinct.**

In Minnesota, in-person precincts and mail-in precincts had an average of 490 ballots cast on Election Day in 2010.<sup>12</sup> The average number of ballots cast for the same group of precincts that were randomly selected for the post-election audit was 455. Thus, the average audited precinct size, based on voter turnout, was lower than the overall state average.

When the precinct size, based on in-person voter turnout, is segmented as in table 3, one can see the random selection is representative within one percentage point for precincts with 750 or more voters. The greatest difference is found in precincts that had 250 or fewer voters, where the difference is +/- six percentage points. This may be due, in part, to the fact that Minnesota’s audit law requires that at least one precinct have more than 150 registered voters. In Minnesota, 1,115 (27%) precincts have between 1-151 voters. In fact, over 80 percent of precincts in counties such as Wilkin, Traverse,

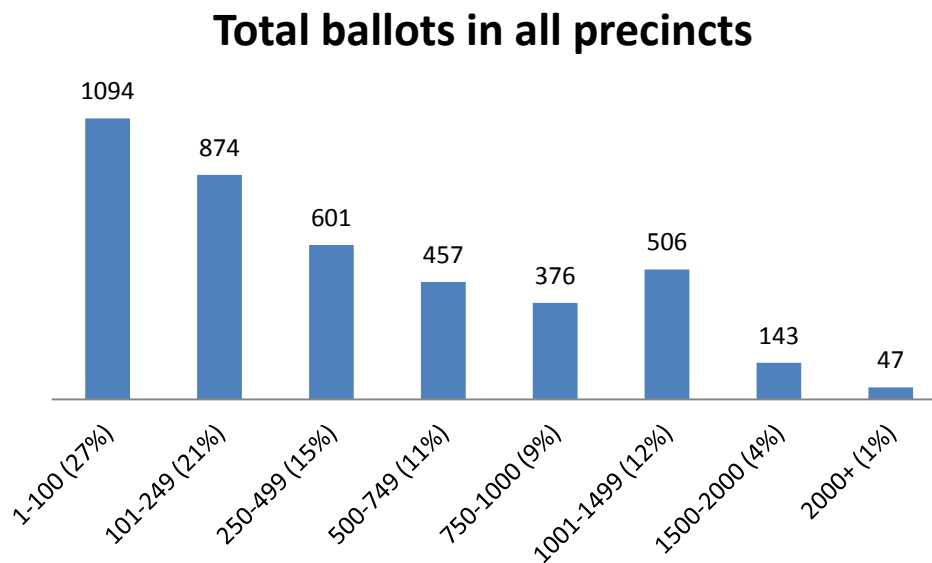
<sup>12</sup> This figure includes mail-in precincts, where voters do not appear on Election Day. The average number of ballots cast per precinct in 2010, excluding mail-in precincts is 477.

Norman, Marshall, and Kittson have 150 or fewer registered voters. The audit law may prevent the smaller counties from replicating the size of larger precincts and, in some instances, it may be assumed that at least one of four or five precincts will be randomly selected simply because some counties may not have more than four precincts with more than 150 registered voters.

Ballots cast per precinct	Percent of total ballots cast in all precincts on Election Day	Percent of total ballots in each audited precinct (not including absentee ballot board precincts)	Difference (Election Day Total v. Audited)
1-100	27	21	-6
101-249	21	27	+6
250-499	15	21	+6
500-479	11	8	-3
750-1000	9	8	-1
1001-1499	12	11	-1
1500-2000	4	4	0
Over 2000	1	Less than 1%	0

**Table 3**

Table 4 (below) provides more context to the total number of ballots cast in precincts throughout Minnesota—its data is related to the column titled “percent of total ballots cast in all precincts on Election Day.” In table z, the numbers on the top of the bar represent the total number of precincts. For example, 1094 precincts had 1-100 ballots cast.



**Table 4**

## Total ballots counted for the post-election audit.

In the 2010 election, just over 2.1 million Minnesotans voted. Approximately 92.4% of voters cast their ballots in precincts; 1.6% voted in mail-in precincts; and the remaining 6% voted absentee.<sup>13</sup>

When comparing the ballots cast to approximate audit numbers, 94.4% of voters who had their ballots audited were from in-person precincts; 2.0% were mail-in precinct voters; and 3.6% were from absentee ballot boards.<sup>14</sup>

## Absentee Ballot Boards

In 2010 the processing of absentee ballots occurred on Election Day at a central location by an Absentee Ballot Board (ABB) rather than at the precinct by election judges as was the practice in the past. ABB are composed of election judges of differing parties whose duties include accepting or rejecting the return envelopes as well as eventually opening accepted envelopes and placing the ballot in the machine.<sup>15</sup>

### Absentee Ballot Boards Randomly Selected.

ABB precincts are included in the random selection of precincts to be audited. In 2010 six of the 205 precincts that were randomly selected to be audited were ABB precincts. (Table 5 on the following page provides details about the six ABB precincts selected.)

### Official totals.

While an ABB precinct can be randomly selected to be audited, it should be noted that the totals within that absentee ballot precinct are added to the totals of the in-person precinct for the official precinct results. The equation for the official results is

$$\begin{array}{l} \text{In-person precinct} \\ + \text{absentee ballots cast by individuals who live in that precinct} \\ \hline \text{Official precinct results}^{16} \end{array}$$

Thus, there are two ways the official results may change due to post-election audit: if the in-person precinct is randomly selected to be audited and there are errors or if the ABB precinct is selected and there are errors.

---

<sup>13</sup> 1,962,232 voters came to the polls; 33,842 voting via mail-in precinct ; 127,295 voted absentee.

<sup>14</sup> Approximately 91,071 ballots from in-person voters were counted for the post-election audit; 1962 ballots from mail-in voters were audited while about 3,441 ballots from absentee voters were counted.

<sup>15</sup> More details about their duties, including what occurs if an absentee ballot envelop is rejected is found at MS 203B.23 Absentee Ballot Board. <https://www.revisor.mn.gov/statutes/?id=203B.23>

<sup>16</sup> Henceforth, called a official precinct.

## Sorting and Counting

The sorting and the counting of the absentee precincts differ from in-person precincts. At an in-person precinct, the ballots are sorted based on the markings of the ballot (i.e. candidate A in one pile; candidate B in another pile.), then they are counted. But at an ABB precinct the ballots are first sorted by the official precinct. Then, for each official precinct, the absentee ballots are sorted by the markings of the ballot and counted.

- For example, the ABB precinct in Chisago County was randomly selected to be audited. That ABB precinct had a total of 1,177 ballots cast, which represented a total of 24 precincts within that county. The ballots were sorted based on the 24 official precincts, then within those 24 precincts, the ballots were sorted based on their markings and counted.
- Similarly, Dodge County’s randomly selected absentee ballot precinct had 287 ballots cast, which represented 20 precincts within that county.
- Note: When counties are large, they are split into city ABB precincts. (*See table 5 for additional examples.*)

County	Total absentee ballots cast	Total number of precincts reviewed via the absentee ballot audit	Min/max number of ballots cast/votes counted within one absentee precinct
Chisago	1,177	24	1/146
Dodge	287	20	0/40
Goodhue	9	1	9/9
Hennepin/ Brooklyn Park	1,265	24	16/139
Hennepin /Champlin	488	4	94/120
Sibley	215	25	1/54
<b>Total</b>	<b>3,441</b>	<b>98</b>	

**Table 5**

## Number of absentee voters at an official precinct.

Two ABB precincts (Chisago and Sibley) had one official precinct that only had one absentee voter. For the audit there were a total of five official precincts with only two absentee voters and three official precincts with only three absentee voters.<sup>17</sup>

<sup>17</sup> Counties with 2, 3, or 4 votes cast within one precinct:

- Dodge (1 precinct with two votes; 1 precinct with 1 vote; 3 precincts with 4 votes.)
- Sibley (4 precincts with two votes; 3 precincts with 3 votes; 3 precincts with 4 votes)

In reviewing details regarding precincts with absentee voters (not just precincts that were randomly selected for the post-election audit), it was determined that 259 precincts (6.25 percent of all precincts) only had one absentee voter while 918 precincts (22 percent of all precincts) had four or fewer absentee voters. Since individuals are marked as absentee voters on the voter list and that information is publically available, this translates to compromising ballot secrecy for some absentee voters.

## Audit reporting

### Total count differs.

The hand-counting of two races (U.S. House and Governor) was part of the 2010 audit. This means that the same pile of ballots was counted twice — once for the governor’s race and once for the U.S. House race. In addition to counting the total number of ballots for a specific candidate, the on-line reporting form includes lines for write-in candidates, blank for office, and over/defective.<sup>18</sup> Because all possibilities are on the on-line version, the total number of ballots counted for the U.S. House race should be the same as the total number of ballots counted in the gubernatorial race. But, 23 percent of the time the totals differed, typically by only one vote. Reasons for this discrepancy may be explained by comments on the report forms from the Goodhue County auditor, who wrote that the “state worksheet did not provide # [number] for blank votes” as well as the Lac Qui Parle County Auditor who wrote, “undervotes are not reported in ERS [election reporting system].”

### Voter intent.

A post-election audit confirms the accuracy of a machine. While vote totals may change due to voter intent in a post-election audit, this is not considered a reason to escalate an audit.

Machines are only able to determine voter intent if voters appropriately fill in the ovals on a ballot. If the voter does not appropriately fill in the oval, the machine will not be able to accurately count the ballot. For example, there is a possibility the machine would count a vote as an overvote if a voter filled in an oval for one candidate, erased the marking in the oval, and filled in the oval next to another candidate. This is because the voter may not have completely erased the first oval. Another example is that a machine may count a vote as an undervote if a voter does not completely fill in the oval.

In reviewing the post-election audit report forms, it was determined that at least 21 percent of counties (18) changed vote totals because of voter intent. This figure was determined by explanations of changes which included “voter intent,” “machine didn’t count one because of lightly shaded,” “check mark in oval, not sure if voting machine could read it.” Because some county auditors may

---

<sup>18</sup> In order for the machine to read that there was a write-in candidate, the oval next to the line where the voter writes the name of the candidate must be filled. “Blank for office” refers to the fact that the voter did not vote in that race, which is not uncommon. “Over/defective” refers to “overvote” where the individual voted for more individuals than they should have. In this case, they voted for more than one candidate. Defective refers to a defective marking.

have made changes based on voter intent but did not explain the reason for these changes, the total number of county auditors who are reviewing ballots for voter intent may be higher than 21 percent.

## Direct Observations.

### Training: assuring that observations are nonpartisan and accurate.

CEIMN has a strong commitment towards non-partisan and accurate observations. Therefore, all volunteers had to sign a Code of Conduct<sup>19</sup> and attend a training session. Since CEIMN's volunteers are located both in the Twin Cities area and in greater Minnesota, most of CEIMN's trainings were conducted over the telephone.

The trainings included a review of the Code of Conduct and the questionnaire. They were reminded that they had to base all their reports on actual observations and not rumors, and that they were to remain strictly impartial with their observations.

### Deployment of volunteers.

Citizens for Election Integrity Minnesota (CEIMN) and its partner, the League of Women Voters Minnesota, deployed trained, non-partisan volunteers to observe the post-election audit in 54 of Minnesota's 87 counties. Thus, just over 60 percent of all counties had at least one observer. Since counties only audited two races, many of our volunteers (72 percent) were able to observe the audit procedures for all precincts selected within a county. In some of the remaining larger counties, such as Ramsey County and Hennepin County, CEIMN deployed observers to work in shifts during every day of the audit. In other counties, such as Anoka, CEIMN had teams of volunteers observe most of the audit procedures. Finally, since the post-election audit does not occur on the same day in all counties, some volunteers were able to observe in multiple counties, with some driving nearly 1,000 miles to complete their observations.

### Audit Procedures and Transparency

Volunteers reported that 92 percent of the time, the audit procedures started within five minutes of the time that the counties reported they would start their audits. The remaining audits typically started within 15-20 minutes of the scheduled time.

With regard to transparency, volunteers were asked to report their observations on chain-of-custody and if the container<sup>20</sup> holding the ballots was sealed. In response to the questions, they reported:

---

<sup>19</sup> The Code of Conduct CEIMN uses is based on the *Code of Conduct for International Election Observers*, Commemorated October 27, 2005, at the United Nations, New York, which has been endorsed by over 20 groups including United States Association of Former Members of Congress (USAFMC), National Democratic Institute (NDI), and Organization for Security and Cooperation in Europe, and Office of Democratic Institutions and Human Rights (OSCE/ODIHR).

<sup>20</sup> In Minnesota, ballots may be sealed in an envelope or a box. Thus, there is not one specific type of container for ballots nor is there a specific type of seal that is used throughout the state.

### **Did you observe the transfer of the ballots?**

61 percent reported that they observed the transfer of the ballots while two percent indicated that this question did not apply to them. (This may be due to the fact that they arrived later in the day.) Another reason cited was the fact that volunteers were not allowed to go to the room in which the ballots were stored, thus they could not observe the transfer from storage to the room that the ballots were counted. In some cases, the ballots were already at the counting room by the time the volunteer observer arrived.

### **Were the ballots delivered to the audit location by at least two individuals?**

74 percent reported that the ballots were delivered by at least two individuals while another 15 percent reported that they did not observe the delivery of the ballots. Finally, nine percent indicated that the ballots were not delivered by two people.<sup>21</sup> One volunteer noted that while only one person took the ballots out of the ballot storage room, people in the ballot counting room could clearly see what was going on in the ballot storage room.

In 2008, 18% of the observations reported that ballots were not delivered by at least two individuals. Thus, based on our 2010 observations, where nine percent of the indicated that ballots were not delivered by two people, this procedure *may* have improved. But, when reviewing the 2008 observations, where they reported 82 percent of the observations included seeing at least two people deliver the ballots, it may appear as if the two-person protocol decreased. The greatest difference may be that a higher percent of the 2010 volunteers did not observe this process. Therefore, we are not certain if improvements have been made.

### **Were the ballot envelopes/container seals intact when they were delivered?**

All volunteers who observed this reported that seals were intact when the containers were delivered. Further, no one reported that they were restricted by election officials from observing whether or not a seal was intact. In 2008, all but two observations noted that ballot containers were sealed. Thus, 2010 showed improvements with the sealing of ballot envelopes and containers.

### **Were the ballot envelopes/containers resealed when work was completed/at the end of the audit?**

All observers indicated that ballot envelopes/containers were resealed. This is consistent with the observations in 2008, where all observers reported that ballot envelopes and containers were resealed.

---

<sup>21</sup> The remaining two percent reported that the question did not apply to them.

### **Were the ballots under the observation of at least two election officials at all times?**

The intent of this question was to determine if, during the counting of the ballots for the audit, there were at least two election officials present at all times. Ninety-four percent (61 total responses) of the volunteers reported that there were at least two people present. Comments from some of the remaining six percent (four responses), indicated that they understood the question as to whether or not the ballots were under observation by at least two election officials since Election Day — not just during the audit. Since the volunteers did not observe anything between Election Day and the post-election audit, they could not accurately report information.

From our post-election audit debrief meetings, we learned that some volunteers were concerned that in some counties election officials did not secure the ballots (by having two election officials present) during breaks.

### **Announcing of audit procedures.**

In 97 percent of reported observations, supervisors clarified procedures before the counting of ballots began. While this is not mandated by law, it is an important step to ensure that everyone — including election officials and observers — understands and respects the process.

In 2008, 94 percent of reported observations indicated that procedures were announced. Based on the 2010 observations, the announcing of procedures has improved.

### **Non-elections people present at audits.**

On average, for each observation there were:

- party representatives<sup>22</sup>: 1.98
- candidate representatives: 2.53
- non-partisan observers (not CEIMN observers): 0.71
- media representatives: 0.44
- machine vendors: 0

The wide-spread interest in the post-election audit may be attributed to the understanding that there would be another state-wide recount.

### **Room for observers, no hindrance of the process.**

Concerning whether or not there was enough room for observers, 83% (55) of responses noted there was enough room for all observers. Some noted that while there was very little extra space, there still

---

<sup>22</sup> At an audit, there can only be observers while in recounts, there are observers and challengers. An observer is simply that — someone who observes the process. An observer can represent nonpartisan groups (such as the League of Women Voters or Citizens for Election Integrity Minnesota) or they can represent a political party or candidate. A challenger has the legal right to challenge the election judges' determination of the markings on a ballot. Challengers always represent a political party or candidate.



was enough for observers to see the markings on the ballots. This data is the same as the 2008 observations.

The observers were also asked if they observed anyone trying to hinder the process, 97% (64) reported that there was no one trying to hinder the process. One of the two observers who reported that someone was trying to hinder the process noted that a candidate representative had asked that one of the counting teams recount some of the ballots. The County Auditor refused to stop their counting so they could start over again. The observer reported that they were not sure if this was actually an act to hinder the process or not. This data was not collected in the 2008 post-election audit observation.

## Counting

In order to effectively count, there must be room for election judges to use the two-person protocol to pile and count ballots. In 97% of reported observations, it was noted there was enough room for elections staff and counters to work effectively.

### Two-person protocol and counting teams.

A two-person protocol is a method to ensure that *at least* two sets of eyes are reviewing the ballots.

Because there were multiple precincts that were audited, some counties had only one team count all the precincts. Other counties had multiple tables set up so more than one precinct could be counted at the same time. Based on the observations, there were *at least* two people on each counting team, with five being the greatest number of people on a team. Examples from volunteer reports include:

1. Each precinct had a five judge counting team. The entire team assisted with orienting ballots. The middle judge then sorted the entire stack by candidate to judges to their left or right, who double/triple-checked the sort. All assisted in counting the sorted stacks, at minimum double checking stacks of 25.
2. Each performed the same duties, repeating the entire counting process of sorting into piles, then counting piles, and seeking agreement with one another.
3. One person sorted and counted ballots, while the second person watched and stacked the counted ballots.
4. One person read and announced out loud the candidate name while the other looked on to double check. Midway, the twosomes would switch roles.
5. One looked at the ballot, announced candidate voted for, then handed the ballot to the other person, who verified the vote and placed it the pile for the appropriate candidate.

## Confirming accuracy.

### *In general.*

While there was a minimum of two people on a team, when observers were questioned as to whether or not election officials checked the accuracy of each other's work 86 percent checked the accuracy while 12 percent of the observations indicated that there wasn't a check on the accuracy of each other's work.

When comparing the 2010 observations of confirming accuracy to the 2008 observations, it appears as if there has been an improvement. In 2008, 83 percent of officials checked the accuracy of each other's work while 17 percent did not check the accuracy of the other's work.

### *Sorting.*

In 2010, when asked specifically if a two-person protocol was followed to *sort* ballots, the numbers indicated that 85 percent did follow that protocol while the remaining 15 percent did not follow that protocol.

This data is similar to 2008, where 84 percent did follow that protocol while 16 percent didn't follow the protocol.

### *Reporting.*

While counting and sorting is important, the entry of the data on the form is equally crucial. Two people cannot write at the same time, but there are ways in which a two-person protocol could be followed with entering counts onto forms. For example, after a number is entered on the form, all election judges who are part of the sorting and counting should be required to either sign or initial the form. Based on our 2010 volunteer observations, a two-person protocol was only followed 75 percent of the time; 20 percent of the time it was not followed; while the remaining five percent was due to either it not applying to the observation or because the volunteer could not observe the entry.

In 2008, our volunteers reported that 88 percent of the time a two-person protocol was followed when recording counts on forms.

## Blind counting.

Blind counting means that counting teams are kept unaware (blind) of the Election Day results until the end of the audit, even if a discrepancy arises. Just over 62 percent of reports indicate that blind counting occurred during the audits. This is an improvement from 2008, where we found that blind counting occurred 57 percent of the time.

## Response to discrepancy in results.

If the hand count differed from the Election Day machine total, 46 percent of the counting teams remained blind. In 2008, 25 percent of the counting teams remained blind. This is a substantial improvement but work still needs to be done.

### **Post-review report forms.**

Some volunteers throughout Minnesota reported that counting teams were provided with post-review report forms that already had the Election Day totals on them. This is the exact opposite of blind counting. One observer noted that a county elections official photocopied the post-elections report form, redacted the Election Day information, and then provided it to the counting team. Once they completed the count, the redacted form was reviewed by a separate team to determine if the ballots needed to be counted again.

### **Optical scanner tape.**

While it is important that the election judges counting the ballots are not informed of results (blind counting), thus preventing them from being influenced, at some point observers should be able to view the optical scanner tapes. This allows the observer to learn whether an audit should be escalated or not.

When asked if they could confirm identifying information such as the precinct number, date, and time on the signed optical scanner tape, 67.7 percent (42 observations) said yes. This is a substantial decrease from 2008, where 77 percent of observers could do so. It should be noted that two or three people reported that they responded negatively to the question because they didn't carefully observe the tape. This is similar to what occurred in 2008.

When reviewing some of the comments made by the observers, it is reported that often the tapes were locked in a separate area and that the elections official had a post-election review sheet with Election Day results on them. Some elections officials invited volunteers to return another day so they could review the tapes while others stated that a request, in writing, was needed for them to provide the tapes.

The signed Election Day optical scanner tape is critically important to an election. It documents the Election Day results and, since it is signed by Election Day judges, it is part of the record of the events that occurred on Election Day. Thus, keeping the poll tape in a secure location is important.

## Observers' subjective report.

CEIMN also asked it's observers to rate the:

	<b>Excellent A</b>	<b>Good B</b>	<b>Fair/Average C</b>	<b>Fail F</b>
way the room was laid out	70.2% <sup>23</sup>	25.5%	4.3%	0.0%
organization of the auditing	72.3	19.1	8.5	0.0
integrity of the counting method	75	12.8	8.5	4.3
accuracy of Election Day machine results	82.2	8.9	0.0	0.0
accuracy of the hand-counted audit results	80.4	15.2	2.2	2.2
reporting of the audit results	77.5	17.5	2.5	2.5
transparency/ observability of the process	80.9	12.8	6.4	0.0
chain of custody	76.2	16.7	7.1	0.0
conduct of elections staff	93.6	6.4	0.0	0.0
conduct of observers or other non-elections staff (not including CEIMN volunteers)	74.5	21.3	4.3	0.0

Overall, it appears as if observers ranked most items as either excellent or good. The lowest ranked item was the integrity of the process.

## Recommendations

1. **Ensure that on Election Day, election judges explain to voters how to correctly fill in their ballots.** While the vote total changes are minimal, 21 percent of County Auditors reported changes to the official results because of voter intent.
2. **Re-audit the precincts if the total ballots cast for each audited race does not add up to the same number.** For example, if a county reports that 114 votes were counted for the U.S. Representative race and 115 votes were counted for the gubernatorial race, they would required to re-audit both races so that the total ballots cast for each race is the same.

---

<sup>23</sup> Forty-seven responses, all figures are in percentage and have been rounded. Some volunteers had problems with this part of the database so all paper-forms were reentered in a separate database to ensure the accuracy of this observation.

## Case Study: review of post-election audit and recount totals

During the random selection process, if an in-person precinct is selected, the only ballots counted during the post-election audit are those cast within that specific precinct. This means that if an in-person precinct is audited, the corresponding absentee ballots will not be counted because those absentee ballots were feed through a different machine. However, there is a possibility of having both the in-person precinct randomly selected and the Absentee Ballot Board precinct randomly selected.

Two precincts, Concord Township in Dodge County and Sibley Township in Sibley County, were the only two precincts that had both the absentee ballots and the in-person ballots counted as part of the post-election audit. Since there was a statewide recount in 2010, there is an opportunity to review changes in count totals for a post-election audit and a recount.

### Comparing Audit and Recount totals for Concord Township in Dodge County.

The table below shows that at Concord Township, the audit total for Tom Emmer were 152 while his recount total was 153, thus he received one extra vote compared to the audit. Mark Dayton’s audit total was 84 while his recount total was 82, thus he received two fewer votes compared to the audit. Finally, the total ballots recorded for the audit was 274 while the total ballots reported for the recount was 273. The total reported signatures and absentee voters for this precinct was 274, thus it is certain that there were 274 ballots. The discrepancy in reporting the total ballots cast may be due to the fact that over/defective vote totals were not recorded for the recount.

<b>Dodge County, Concord Township</b>			
<b>Governor Candidate</b>	<b>Audit totals (Absentee and recount)</b>	<b>Recount totals</b>	<b>Difference</b>
Tom Horner	33	33	0
Tom Emmer	152	153	1
Mark Dayton	84	82	2
Farheen Hakeem	2	2	0
Linda Eno	0	0	0
Chris Wright	2	2	0
Ken Pentel	1	1	0
Write-in	0	0	0
Blank for Office	0	Did not report	
Over/defective	0	Did not report	
<b>Total ballots</b>	<b>274</b>	<b>273</b>	1

### Comparing Audit and Recount totals for Sibley Township in Sibley County.

The table below highlights that at Sibley Township, that there was no net change in total votes cast for the candidates. However, while the audit recorded one “blank for office” and one “over/defective” ballot, these were not recorded for the recount. This explains why the ballot total for the audit is higher than the ballot total for the recount.

Sibley County, Sibley Township			
Governor Candidate	Audit totals (Absentee and recount)	Recount totals	Difference
Tom Horner	17	17	0
Tom Emmer	77	77	0
Mark Dayton	26	26	0
Farheen Hakeem	0	0	0
Linda Eno	0	0	0
Chris Wright	0	0	0
Ken Pentel	0	0	0
Write-in	0	0	0
Blank for office	1	Did not report	0
Over/defective	1	Did not report	0
<b>Total ballots</b>	<b>122</b>	<b>120</b>	<b>0</b>



Citizens for Election Integrity Minnesota ([www.ceimn.org](http://www.ceimn.org)) is a nonprofit, nonpartisan organization that advocates for verifiable, transparent, and accurate elections in Minnesota and across the country.

We gratefully acknowledge and thank our post-election audit observation partner, the League of Women Voters Minnesota (<http://www.lwvmn.org/>), and the following individuals for their assistance in writing this report: Mark Halvorson, Stan Hilliard, Dan Pederson, and Jessica Trites Rolle.

CEIMN would also like to thank our many nonpartisan observation volunteers for their time and commitment towards election integrity.