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POLICY BRIEF

Stacking the Deck?

Racine's Mobile Voting Unit and Ward Partisanship

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Executive Summary

Using funding from the Center for Tech and Civic Life (CTCL), the City of Racine purchased a mobile voting unit for use in the 2022 elections. The unit (see pictured vehicle) visits various designated locations around the city for the purpose of early voting (called “in-person absentee voting” in Wisconsin). However, concerns have been raised about the extent to which the mobile unit complies with Wisconsin state law, including a law which prohibits an absentee balloting location which “affords an advantage to any political party.” In this report, we analyze several issues and provide a statistical analysis as to whether Racine’s designated locations provide one party an advantage over the other. We find that the Democratic Party is advantaged by the locations designated by Racine.

Among the key findings of this report:

- **State law forbids absentee ballot locations that confer a partisan advantage.**
- **The City of Racine assigned more potential mobile voting locations to wards that vote at the highest percentage for Democrats.** Based on the selection method used by Racine, a hypothetical ward with 100% Democratic voters could be expected to have 2.2 more possible locations per 100 registered voters than a ward with 0% Democratic voters.
- **Similarly, the number of mobile unit locations selected for the 2022 Primary in a ward is correlated with the percentage of votes for Democrats in that ward.**
- **State law also requires that alternative voting sites be as close as practicable to City Hall, but Racine has not done that in their selection of locations.** We have identified a number of locations closer to City Hall that were approved as potential sites for the mobile voting unit, but were not selected for actual use during the primary election.
- **The mobile voting unit is likely in violation of other requirements for absentee voting in Wisconsin.** This includes the requirement that voting take place in a fixed structure—a building—and not a vehicle that allows for in-person absentee voting for a short period of time in a variety of places. It also makes Wisconsin’s ban on electioneering within 100 feet of a polling place extremely difficult to enforce.

Implications

It is vital that policymakers craft election practices that ensure every citizen has an equal opportunity to participate in the electoral process. Whether intentional or not, the City of Racine has exhibited a bias towards one political party in the selection of locations for their mobile voting unit. Because ensuring fairness in the use of a mobile voting unit would be extremely difficult for any municipality, our recommendation is that Racine refrain from utilizing the unit, and that such mobile voting units not be used by any municipality in the future unless specifically authorized by the legislature.

Background and Legal Question

In 2021, the City of Racine used funding from the Center for Tech and Civic Life (CTCL) to purchase a van for use as a mobile voting unit. The vehicle travels around the city, setting up at various designated locations to provide access to absentee voting (voters may also cast absentee ballots at City Hall).ⁱ

Wis. Stat. § 6.855(1), concerning alternate (i.e. in addition to City Hall) absentee balloting locations, provides that: “The designated site shall be located as near as practicable to the office of the municipal clerk or board of election commissioners and no site may be designated that affords an advantage to any political party.”

In this report, we will explore both components of this law in relation to the mobile voting unit. First, has the City of Racine placed its mobile voting unit in locations “as near as practicable to the office of the municipal clerk or board of election commissioners”? Second, has the City selected any site that affords an advantage “to any political party”?

The Election Van Purchase

As prelude, it is worth noting that the source of the funding for Racine’s mobile voting unit was the CTCL. Racine received almost \$1,700,000 from CTCL, in multiple instalments. On August 5, 2020, the Racine Common Council voted to allow CTCL funds to be used to purchase a van to be used as a mobile voting “precinct.”ⁱⁱ It was eventually purchased for \$222,045 and unveiled to the public in June of 2021 as a way to better engage citizens throughout the year and make voting more accessible.ⁱⁱⁱ The mobile voting precinct was used for the first time in the 2021 Spring Primary election, as an in-person early voting site, and is being utilized again this fall for that purpose.

Racine’s Absentee Voting Locations

In December 2021, the Racine City Council approved a list of 158 alternative absentee voting locations. Since then, each time the City of Racine holds elections, they select a number of approved locations from that list for use. Then, the van spends a scheduled amount of time distributing and collecting ballots at each over the 14 day period of in-person absentee voting prior to Election Day. For instance, during the Spring 2022 elections, 13 alternative sites were used for absentee voting by the mobile voting unit.^{iv} For the August 9th primary, 21 alternative sites were selected.^v

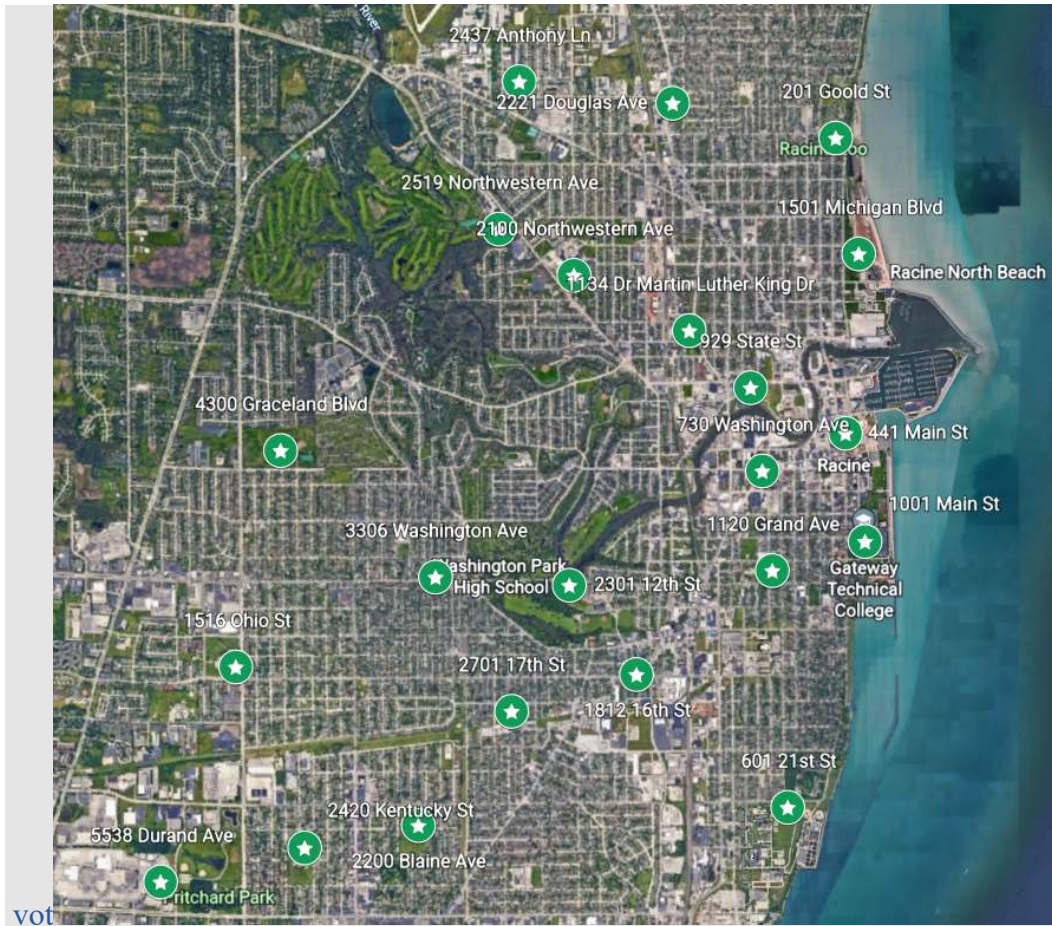


Figure 1 Racine Absentee Ballot Locations, August 2022

The above map denotes with green stars all 22 locations at which voters were enabled to submit absentee ballots for the August 9th, 2022, primaries. This includes Racine City Hall (730 Washington Avenue) and the 21 alternative sites, such as the Regency Mall (bottom leftmost green star on the map: 5538 Durand Avenue). These 21 alternative “sites” were places where voters could cast absentee ballots during early in-person absentee voting by going to the van on the specific days and times which had been posted by the City Clerk.

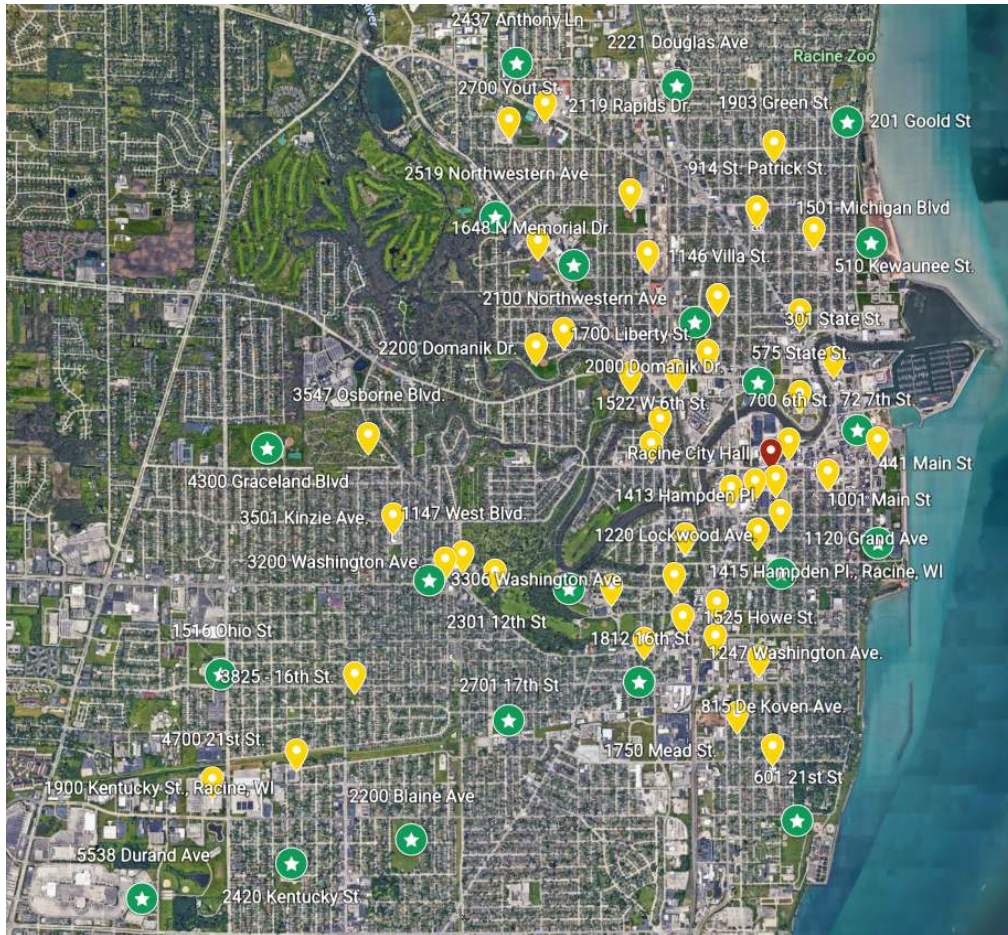


Figure 2 Racine Alternative Absentee Ballot Locations, August 2022

This second map denotes City Hall with a red marker, 50 approved alternative sites for absentee balloting that were not used in the August 9, 2022 primary with gold markers (chosen by us from the 137 total unused alternative sites to improve map readability), and the 21 alternative sites actually used for the August 9th primary marked by the same green stars used in the first map.

Despite the requirement in Wisconsin law, the alternative absentee sites selected for the August 9th primary were not “as near as practicable to the office of the municipal clerk” (i.e., at City Hall). For each of the 21 selected locations (green stars), there are multiple locations closer to the clerk’s City Hall office that could have been used, as shown by the gold markers. Each of the gold marker sites were pre-approved by the Racine Common Council. The use of the 21 alternative locations specifically chosen for the 2022 primaries therefore likely violates Wisconsin state law.

Even more fundamentally, Wisconsin election law does not anticipate the use of a mobile vehicle for casting absentee ballots at numerous temporary locations. It requires designation of a “site” with a “location” to be identified to the public in a specified way. This is hard to square with identification of a roving site which will stop at certain locations for limited periods of time. Nevertheless, Racine engages in this exact practice.

Finally, Wisconsin law provides that alternative absentee voter locations must confer no partisan advantage to any political party. Racine’s mobile voting scheme for the August 9th primary failed this requirement—as we will now demonstrate with statistical data.

Methods

In order to determine whether Racine’s choice of mobile unit locations conferred a partisan advantage, we compared both the selected locations for the primary and the full list of possible locations to ward-level voting data from the 2020, 2018, and 2016 elections. Because we have not yet had a partisan election under the wards put into place following the 2020 Census, we make use of the ward map that existed prior to 2022 in our analysis.¹

The key variable in this analysis was the number of unit locations per 100 registered voters in 2020. So, for instance, if a ward has 1,000 voters and 2 mobile voting locations, this ward’s variable would be:

$$\frac{2}{\left(\frac{1,000}{100}\right)} = 0.2$$

In this ward, there are 0.2 locations per 100 voters.²

Racine is a Democratic-leaning city, but does exhibit variation in the concentration of Democratic voters in each of its wards. The average percentage for the top-level (Presidential in 2020 and 2016 and Gubernatorial in 2018) Democratic candidate across the wards is 66.4%, with a high of about 90% and a low of about 45%. If there is a partisan bias in the choice of locations, we would expect the number of unit locations per 100 registered voters to be correlated with the partisanship of the ward. If there is no partisan advantage, we would expect partisanship to be insignificantly related to the number of locations per 100 voters.

Unlike many analyses we conduct at WILL, we are unconcerned about any role for other “explanatory” or “control” variables. The law is explicit that polling locations cannot have a partisan bias, so it is largely irrelevant for the question at hand if, for instance, poverty rates rather than partisanship could help to explain the results here. If any alternative absentee voting site “affords an advantage to any political party”, for any reason, it violates the law.

¹ Note that three locations do not appear to be part of any ward based on the 2020 ward map. These locations were excluded from analysis. Placing them in their nearest ward does not substantively change the results.

² We use this metric rather than what might be considered the more common inverse (voters per unit location) because a number of wards have no listed locations, leading to some divisions by zero. It is unclear how to properly incorporate those into our analysis, but using the inverse is a meaningful alternative that avoids that problem.

Results

Raw Data

We begin with a look at the raw data in two different contexts. Table 1 shows each ward in Racine (numbered 1 through 36), the percentage of the vote received on average by top-of-the-ticket Democrats in the last three major elections,³ and the count of unit locations selected overall as possibilities (“Count”) and those selected specifically for use in the August 2022 primary (“Primary”).

Table 1 Count of Unit Locations and Percent Democratic Voting by Ward

Ward	Dem %	Count	Primary	Ward	Dem %	Count	Primary
1	71%	28	3	19	86%	10	0
2	82%	5	1	20	56%	2	1
3	72%	4	1	21	68%	1	1
4	90%	4	0	22	60%	1	0
5	88%	3	1	23	64%	0	0
6	72%	13	0	24	58%	4	1
7	84%	8	1	25	68%	0	0
8	80%	6	2	26	45%	0	0
9	70%	5	0	27	56%	4	0
10	61%	4	1	28	55%	3	0
11	62%	3	1	29	58%	0	0
12	56%	1	0	30	66%	0	0
13	56%	6	1	31	57%	2	1
14	62%	7	0	32	68%	2	0
15	66%	2	1	33	60%	7	2
16	53%	8	0	34	56%	0	0
17	73%	5	1	35	58%	3	0
18	88%	3	1	36	68%	1	0

One can see that Ward 1—located in downtown Racine—has by far the largest number of possible locations for the mobile voting unit. This ward has voted 71% Democratic on average in the past three election cycles, above the city average of about 66%. The ward with the next highest count of potential sites is Ward 19, which is even more Democratic than average.

We take a more systematic look through all wards with the figures that follow. Figure 3 groups Racine’s wards into thirds based on the percentage of Democratic vote and plots the total number

³ These percentages are the average Democratic performance for each ward in the November 2016, November 2018, and November 2020 general elections.

of primary locations used in each third for the 2022 primary. Figure 4 shows the same number for the full list of possible locations for each third of wards.

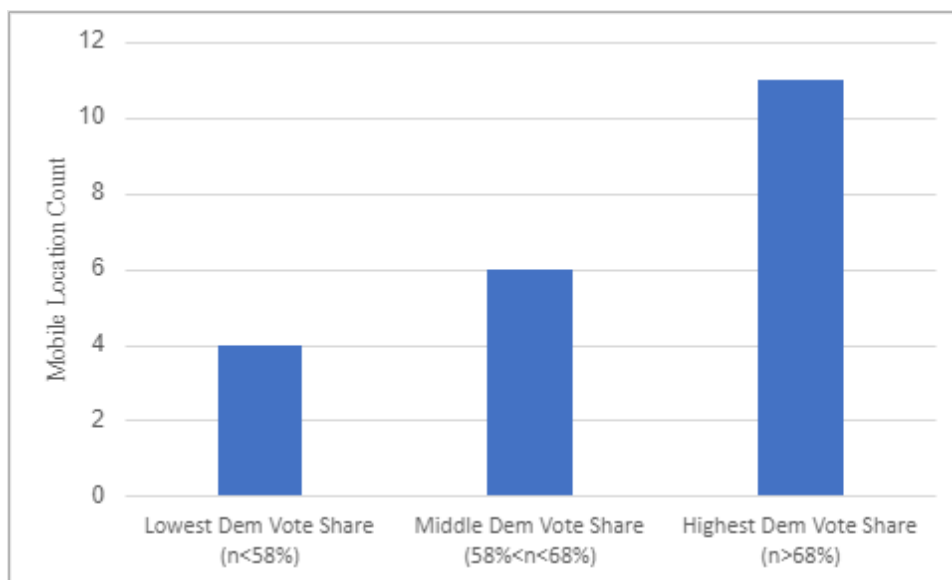


Figure 3 2022 Primary Unit Locations and Average Democratic Vote

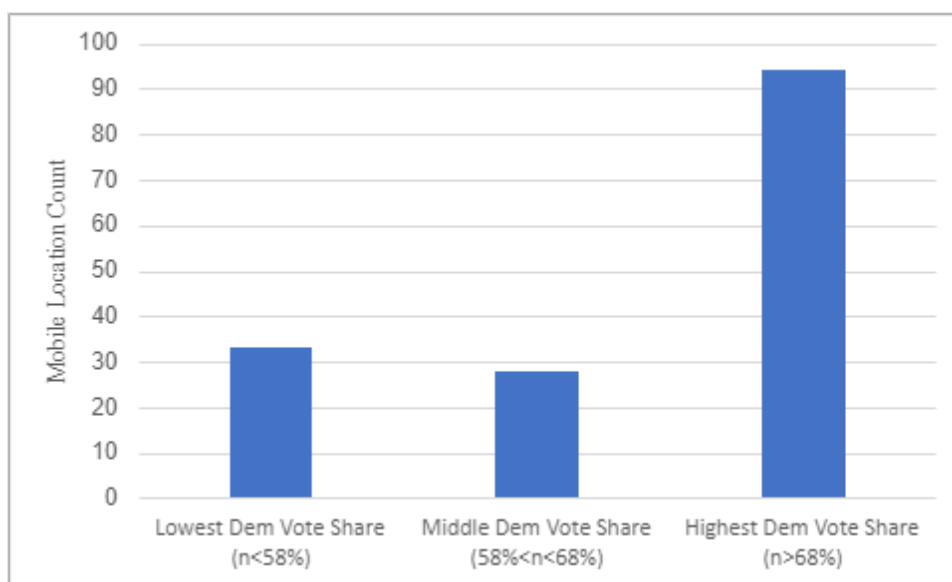


Figure 4 All Possible Unit Locations and Average Democratic Vote

In the case of primary locations, we see a visible stepping-up effect with more locations selected as the share of the vote becomes more heavily Democratic. In the case of all possible locations for the unit, we see a slight nuance in that there are slightly more locations (33) in relatively low-Democratic support wards than mid-level support wards (28). However, the number of locations in the highest Democratic-support wards dwarfs them all (94).

This outcome could, theoretically, come as a result of population—if significantly more people live in the Democratic-leaning areas, we would expect more locations there. We can control for

that by using the metric of locations per 100 registered voters. Figures 5 and 6 plot that new metric across the three subsets of wards to address that concern.

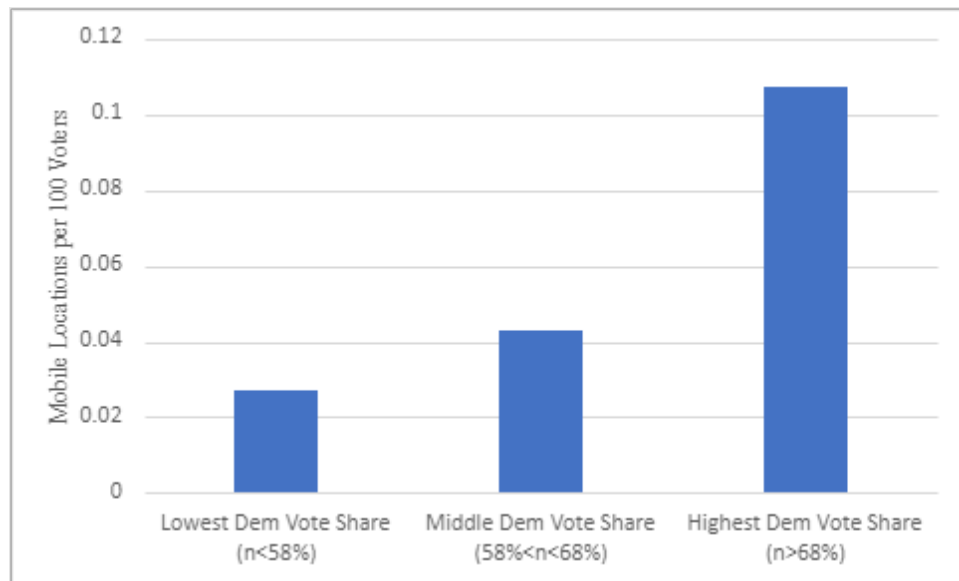


Figure 5 Primary Locations per 100 Registered Voters and Average Democratic Vote

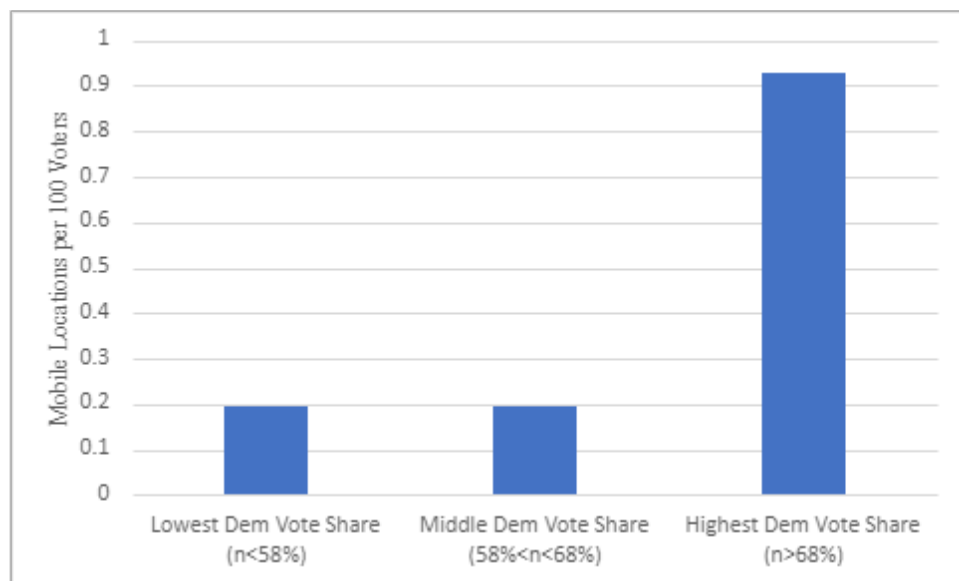


Figure 6 All Possible Unit Locations per 100 Registered Voters and Average Democratic Vote

A similar pattern emerges here. The number of locations per 100 voters visibly steps up when considering how many locations were selected for the primary. Among the possible absentee voting locations, we once again see relative parity among the low- and mid-level Democratic supporting wards, but significantly more among the high-Democratic supporting wards.

Correlational Analysis

Our final analysis allows us to describe the relationships discussed above more dynamically through regression analysis. These results are depicted in Table 2 below.

Table 2 Relationship Between Unit Locations per 100 Voters & Average Democratic Vote

VARIABLES	(1) Primary Locations/100 Voters	(2) Locations/100 Voters
Average Democratic %	0.258** (0.105)	2.248*** (0.725)
Constant	-0.123* (0.0709)	-1.056** (0.489)
Observations	36	36
R-squared	0.178	0.221

Standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

Once again, the results are consistent with partisan bias in the selected locations. Going from a hypothetical ward with no Democratic voters to a ward with 100% Democratic voters, there would be an expected increase in the number of unit locations by 0.25 in locations used for the August 9th primary and 2.248 for the full set of locations designated by the Racine Common Council.

Some may be concerned that the use of the last three election cycles masks changes in the voting patterns of Racine. Indeed, the city did vote slightly more Republican in 2020 than it did in the 2016 election.^{vi} When we conduct the analysis using just 2020 data, the results were statistically indistinguishable from the three-election average.

Legal Implications

As mentioned in the introduction to this paper, Wis. Stat. § 6.855(1) requires that (1) the selected alternative locations for absentee voting be “as near as practicable” to the city clerk’s office, and (2) the absentee voting locations not “afford an advantage” to either political party. Our analysis suggests that these standards have not been met by the City of Racine.

Though this report focuses chiefly on investigating whether Racine’s absentee voting scheme is in contradiction with Wis. Stat. § 6.855(1), there are likely further legal issues with Racine’s mobile voting unit.

Wisconsin election law does not anticipate the use of transitory vehicles as absentee voting locations. Rather, the statutes only reference “buildings” when describing polling places (See, e.g., Wis. Stat. § 5.25). Nor do the statutes anticipate absentee ballot locations that are only available for a three-hour period of time that changes every day. Finally, the use of an election van makes it difficult to enforce the statute prohibiting electioneering within 100 feet of a polling place. See, Wis. Stat. § 12.03(2)(b)2. For instance, one of the August 3rd voting locations was at Regency Mall.^{vii} Would it really be possible to consistently enforce electioneering rules in a parking lot? What about bumper stickers on parked cars? What about shirts and buttons on shoppers that promote a candidate? Other locations are near private stores. Do they have to take down any campaign signs they have on site?

In short, there are multiple unmistakable ways in which the City of Racine’s alternative absentee voting locations likely violate state election law. This report has just focused on the foremost issues of partisan advantage and improper distance from City Hall. These and other violations and injuries must be remedied to ensure fair elections in Racine. In light of state law’s sundry other requirements as well, it is WILL’s position that the clearest way to resolve Racine’s election law problems is to cease all absentee mobile voting unit operations in all future elections.

Conclusion

Whether Racine intended for partisan bias in their selection of locations is not a component of the law and therefore irrelevant to the issue at hand. The result of the locations chosen *is* biased along partisan lines, which violates state election law. If the mobile voting unit is effective in driving up turnout, concerns that there may be a differential partisan effect on turnout are well-founded, given the data presented here. This is fundamentally unfair. This, and the further violations and issues with Racine’s van discussed in this report, show that the current absentee voting structure in Racine must end and be replaced by a system that properly accords with state law.



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ⁱ <https://apnews.com/article/2022-midterm-elections-wisconsin-voting-municipal-ed31477d7a0429e642341ffd46f8b918>

ⁱⁱ <https://cityofracine.legistar.com/View.ashx?M=M&ID=800066&GUID=012F7AEE-5F79-45E9-B4BF-9C2DBC5D0373>

ⁱⁱⁱ https://journaltimes.com/news/local/govt-and-politics/elections/first-of-its-kind-in-wisconsin-racine-now-has-its-mobile-election-vehicle-thanks-to/article_c8581f0e-cbd2-54b4-8200-fa134ede78c9.html

^{iv} <https://racinecountyeye.com/in-person-absentee-voting-starts-march-22/>

^v <https://www.voteracine.org/vote-absentee/>

^{vi} <https://www.nytimes.com/interactive/2021/upshot/2020-election-map.html>

^{vii} <https://www.voteracine.org/vote-absentee/>