

Impossible Phantom Votes in New Mexico  
by [Warren Stewart](#)

"That can't be what they really call them!" I exclaimed in amusement. But Lowell Finley, legal counsel for the Green/Libertarian recount effort in New Mexico, assured me that 'phantom vote' was indeed the common legal term for the puzzling phenomenon I had uncovered in looking at the state's canvass report. A phantom vote occurs when the number of votes recorded exceeds the number of ballots cast. Mathematically, phantom votes are merely the inverse of undervotes. Undervotes, which show up when there are less votes than ballots cast, can be accounted for more or less persuasively in one way or another but I have yet to come up with any acceptable explanation for phantoms. Much less, 2,087 of them statewide in New Mexico, just about one third of the margin of victory that determined the selection of that state's presidential electors.

In a recent Albuquerque Journal article (<http://www.abqjournal.com/elex/278376elex12-24-04.htm>) New Mexico Secretary of State and Canvassing Board member Rebecca Vigil-Giron is quoted as saying that phantom votes are not possible. She stressed that independent auditors had looked at the state's final canvass report and assured us that "they didn't find any irregularities like that." However, an examination of the canvass reports available at her website (<http://www.sos.state.nm.us/Election/cntyindx04.html>) shows that those auditors apparently missed quite a few. For example, Dona Ana County's Precinct 106, where 107 absentee ballots somehow reported 325 presidential votes. Or Bernalillo Precinct 558 where in early voting the 178 ballots cast resulted in 319 presidential votes – 141 phantoms. In fact, phantom votes were reported in 15 of the 33 counties.

Phantoms are not new to New Mexico. In the 1996 canvass report we find 998 phantom votes in Chaves County - an astonishing rate of 5.57%. In 2000 in Dona Ana County, N.M. 5,509 absentee ballots somehow resulted in 6,456 votes. When Denise Lamb at the Secretary of State's office was asked to explain the 947 phantom votes, she blamed "administrative lapses." But wait a minute - no one would accept that sort of "lapse" on a monthly bank statement or a sales receipt from the 7-11. Why would anyone accept it in this, "the most important election of our lives" in which "every vote will count and every vote will be counted"?

The presence of such impossible votes is bad enough, but then there's the insidious effect they have on undervote reporting. When calculating undervotes at the statewide level, each phantom vote that might appear at the precinct level cancels out an undervote and both of them disappear in the accumulated totals. The pesky nature of phantoms can be observed even more clearly by separating the precinct totals into early vote, election day and absentees voting types. For example, in Santa Fe County Precinct 43 there were 10 phantom votes in early voting, and 25 undervotes on election day while absentee ballots produced two more undervotes. However, in the precinct totals these 27 undervotes and 10 phantom votes resolve into 17 undervotes, and the report shows no indication whatsoever of the phantom votes.-

A recent article ([http://www.courierpress.com/ecp/news/article/0,1626,ECP\\_734\\_3425406,00.html](http://www.courierpress.com/ecp/news/article/0,1626,ECP_734_3425406,00.html)) pointed out that New Mexico had the dubious honor of leading the nation in undervoting with a statewide rate of 2.45%. Of course, that figure was determined by simply taking the difference between the statewide totals of ballots cast and presidential votes. The 2,087 phantom votes 'disappeared' and hid an equal number of undervotes at the same time. Surely New Mexico would have left the other states in the dust if they had calculated the phantoms right. But then how many phantoms do you suppose there are lurking in the canvass reports of the other 49 states?

It seems that such questions are of little concern to Secretary of State Vigil-Giron who recently commented that "We don't spend a lot of time on undervote issues, I'm just speculating that some voters are just not concerned with the presidential race." Whether or not you find it easy to believe that more than 1 voter in every 40 decided not to vote for president this November, it hardly helps to know that, in the same election, over 2,000 votes somehow managed to be counted without a ballot being cast.

*A report prepared by Ellen Theisen and Warren Stewart in support of the Green/Libertarian New Mexico recount effort along with a comprehensive database on the 2004 New Mexico election can be downloaded at <http://www.votersunite.org/info/newmexicophantomvotes.asp>.*