

By-Mail Voting Survives 2020

Future Expansion Remains an Open Debate

Prepared For:
Interested Citizens

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Executive Summary

In the midst of a global pandemic complicating a national election, the electoral process had to be modified to accommodate a safe alternative to voting in person. This paper examines the expanded use of by-mail voting to address the crisis, and the restrictive (some would say “suppressive”) challenges it faced under the guise of securing the integrity of the election. It highlights by-mail voting restrictions imposed at the federal, state, and local levels of government. This paper is intended to inform the general public—laypersons—on the general process of by-mail voting, along with shedding light on the challenges it endured this election season. This election taught that by-mail voting, as implemented across the country in 2020, is a remarkably effective and resilient means of ensuring voter participation.

1. Context

The Presidential election of 2020 was unlike any before in the history of the United States. The emergence of the novel coronavirus at the start of the year disrupted virtually every aspect of a regular election season. The country was forced into a lock-down in the midst of the Presidential primaries. Campaign travel and rallies were cancelled or postponed. The “ground game” of door knocking and “get out the vote” activities ground to a halt. Conventions were postponed, then converted to virtual, rather than in-person, television and media spectacles. After spending months avoiding being in close contact with strangers and steering clear of any large gatherings (especially those held indoors), many people viewed heading to the polls to cast their vote in person to be risky, if not outright dangerous to public health.

States had to adopt alternative methods to hold a Presidential election to avoid disenfranchising high-risk and health-conscious citizens. Across the board, states settled on by-mail voting as the most viable solution. The primary benefit was to allow people to vote without risking exposure to a deadly virus. An ancillary benefit was that it facilitated getting more people to vote in general. Every year, people are unable to cast a ballot because they are traveling, or working, or have other commitments on Election Day. In addition to preventing “super-spreader” conditions in polling places, this more convenient method of voting helped a record number of people find their electoral voices and express their will at the ballot box.

The significant expansion of this tried-and-true voting method was not, however, loved by all. President Donald Trump unleashed an unrelenting and unprecedented attack on by-mail voting, claiming that it would be easily manipulated and that this would be “*the most corrupt election in the history of our country.*”¹ This was another novel element of the 2020 Presidential election. No sitting President had ever mounted such an extensive campaign to preemptively cast aspersions and doubt on the election results and the system through which they were obtained.

Many of the President’s spurious claims about by-mail voting’s susceptibility to fraud are directly contradicted by decades of precedent from states such as Oregon and Washington that have already implemented all-mail voting systems. Despite the lack of tangible evidence of fraud with established mail-in voting processes, states’ efforts to offer a pandemic-safe, remote alternative to traditional, in-person voting were met with widespread incidents, orchestrated by Republicans at both the federal and state levels, to restrict or limit mail-in options. Citing concerns of widespread fraud, they deployed a plethora of tactics were employed - such as mounting an extensive media campaign of misinformation; within Congress blocking COVID relief funds for the U.S. Postal Service; at the states’ level limiting the number of drop boxes, and generally constraining access to mail-in voting - to restrict the fundamental right of a functioning democracy, the right of every eligible person to cast a vote.

2. Historical Viability of By-Mail Voting

There is a misconception, propagated by President Trump, that the by-mail voting methods being deployed throughout the country were novel and, consequently, easy targets for malicious actors to fraudulently influence the outcome of the election. Trump used his incessant tweets, Facebook posts, Fox News appearances and right wing communication platforms as a weapon of misinformation, to promote the idea that “mail voting” (which was falsely distinguished from “absentee voting”) is a tool used by Democrats to rig the 2020 election. However, absentee voting by mail is not a new concept; the first widespread example of absentee voting occurred during the Civil War. Industrialization and the expansion of the national economy spread people out even more, which accelerated the need for by-mail voting as a means of allowing people who were on the road to participate in their state's elections.²

In 1974, Washington State became the first state to allow absentee voting without requiring citizens to make an “excuse” for why they could not come to the polls in person.³ Other states have since followed suit. Before the 2020 election, five states (Colorado, Hawaii, Oregon, Washington, and Utah) had already been holding all-mail elections.⁴

¹ Vazquez, Maegan, and Donald Judd. “Trump Predicts 'Most Corrupt Election' in U.S. History While Making False Claims about Mail-in Voting.” CNN. Cable News Network, June 24, 2020. <https://www.cnn.com/2020/06/23/politics/donald-trump-mail-voter-fraud-most-corrupt-election/index.html>

² Rotondi, Jessica Pearce. “Vote-by-Mail Programs Date Back to the Civil War.” History.com. A&E Television Networks, September 24, 2020. <https://www.history.com/news/vote-by-mail-soldiers-war>

³ Rotondi, Jessica Pearce. “Vote-by-Mail Programs Date Back to the Civil War.” History.com. A&E Television Networks, September 24, 2020. <https://www.history.com/news/vote-by-mail-soldiers-war>

⁴ Colby, Clifford. “How Vote by Mail Works in All 50 States for the 2020 Election. Hint: You Can Do It Now.” CNET. Accessed December 27, 2020. <https://www.cnet.com/how-to/how-vote-by-mail-works-in-all-50-states-for-the-2020-election-hint-you-can-do-it-now/>

In Oregon, which has been practicing all-mail elections since 1998, all registered voters are sent a ballot, and they can drop it off or mail it back.⁵ Naturally, these states have adopted extensive measures to protect against voter fraud. For example, the ballots themselves are created in a manner that makes them extremely difficult to copy. They are printed on a specific stock of paper and depending on the state or county, the ballots have different appearances. The return envelope itself has a barcode that corresponds with the person to whom it was addressed. So if someone tried to use another individual's ballot, it could be identified as fraudulent and not counted.⁶

The record thus far suggests that these states have largely been successful in their efforts. In a review of Oregon's vote-by-mail system the Legislative Fiscal Office, a nonpartisan organization, found, *"The division obtained 38 criminal convictions for voter fraud out of the 60.9 million ballots in Oregon elections cast over a 19-year period. That amounts to a rate of 0.000006%. These figures demonstrate that voter fraud is exceedingly rare in Oregon."* Voter fraud is also exceedingly rare across the country, LFO noted: *"In June 2020, the Heritage Foundation reviewed all voter fraud cases it could find over a 36-year period. Heritage found 1,285 cases of voter fraud out of more than 1.8 billion ballots cast in all 50 states from 1982 to 2018. That amounts to a rate of 0.000007%."*⁷

Although there had not been an overt campaign against by-mail voting prior to this most recent election, there have been rumblings among Republicans who feared higher turnout that would accompany mail in voting would lead to election losses for them.⁸ These rumblings have morphed into unproductive measures to expose potential fraud. And sometimes "fraud" surfaces in unforeseen ways. In 2006 for example, a woman in King County, Washington, which includes Seattle, attempted to register her dog to vote. She was trying to prove that the system in place is flawed, but inadvertently ended up proving the opposite when the fraudulent registration was quickly identified and she was arrested.⁹

Overall, contrary to the media campaign in 2020 that attempted to portray by-mail voting as a new and easily exploited system, these Western States have been operating all-mail voting systems for decades with little to no evidence of voter fraud and plenty of indication that the system is a viable and arguably more efficient and democratic way of running an election.

⁵ "Voting in Oregon - Vote By Mail." Multnomah County, September 10, 2020. <https://multco.us/elections/voting-oregon-vote-mail>

⁶ The Conversation. "6 Ways Mail-in Ballots Are Protected from Fraud." The Conversation, November 20, 2020. <https://theconversation.com/6-ways-mail-in-ballots-are-protected-from-fraud-145666>

⁷ Nigel Jaquiss | Published October 19 Updated October 19, and About Nigel Jaquiss News reporter Nigel Jaquiss joined Willamette Week in 1998. He covers politics. "New Legislative Fiscal Office Review of Oregon Vote by Mail: 'Voter Fraud Is Exceedingly Rare.'" Willamette Week. Accessed December 27, 2020. <https://www.wweek.com/news/2020/10/19/new-legislative-fiscal-office-review-of-oregon-vote-by-mail-voter-fraud-is-exceedingly-rare/>

⁸ Berman, Ari. "The GOP War on Voting." Rolling Stone. Rolling Stone, June 25, 2018. <https://www.rollingstone.com/politics/politics-news/the-gop-war-on-voting-242182/>

⁹ Ervin, Keith. "Woman Registers Her Dog to Vote; Prosecutors Growl." The Seattle Times. The Seattle Times Company, June 22, 2007. <https://www.seattletimes.com/seattle-news/woman-registers-her-dog-to-vote-prosecutors-growl/>

3. Attempts at Restrictions

It may be safe to assert that no good deed goes unchallenged. For all the goodness that making voting easier in the midst of a pandemic brought, it did not go unchallenged, and in fact, had to weather a damaging storm of attacks from several sources at federal, state, and local levels. Not the least of challengers turned out to be the President of the United States himself, who some experts believe unwittingly suppressed the turnout of his own supporters in the process.

In the run up to the 2020 election, there was an overt campaign by President Trump to cast preemptive doubt on the integrity of the election process. Fearing a negative impact of a high turnout election facilitated by the convenience of mail-in ballots on his re-election, Trump repeatedly questioned the validity of by-mail voting, and openly speculated that its widespread use would lead to a fraudulent election loss for him.

The President's election fraud media blitz honed in on battleground states, specifically counties that generally vote Democratic.

*"In Philadelphia they went in to watch. They're called poll watchers. A very safe, very nice thing. They were thrown out. They weren't allowed to watch. You know why? Because bad things happen in Philadelphia, bad things."*¹⁰

Since President Trump probably knew that he was likely to lose certain counties in key states in the general election, experts suggest he wanted to preemptively cast doubt on their results. However, many of President Trump's claims were deemed to be factually inaccurate. In terms of his Philadelphia claim, PolitiFact points out that there were observers from *both* parties allowed to watch the entire vote counting process and that a Trump attorney was forced to admit in court that they had a "non-zero number" of observers in Philadelphia.¹¹

President Trump did more than just talk. By his own admission, he and some Republican legislators looked at ways to potentially limit the capacity to vote by mail. As Congress pored over a potential Covid stimulus deal in August, Democrats sought to include increased funding for the United States Postal Service, in part, to help deal with the increased usage of mail-in ballots for the federal election unfolding during a pandemic. As the Covid legislation deal fell apart, Trump heralded as a "silver lining" the fact that the USPS would not receive the necessary funding to handle the anticipated high volume of mail-in ballots, causing disruption on election day. In an interview with Maria Bartiromo of Fox News, Trump stated,

"Now, if we don't make a deal, that means they don't get the money. That means they can't have universal mail-in voting, they just can't have it. So, you know, sort of a crazy thing. Very interesting."

¹⁰ Rushing, Ellie, Chris Brennan, and Jonathan Lai. "Bad Things Happen in Philadelphia.' Trump Renews False Claim about Poll Watchers," September 30, 2020. <https://www.inquirer.com/politics/election/trump-poll-watchers-philadelphia-early-voting-20200929.html>

¹¹ McCarthy, Bill. "PolitiFact - Trump's Wrong Claim That Election Observers Were Barred in Pennsylvania, Michigan." @PolitiFact, November 12, 2020. <https://www.politifact.com/factchecks/2020/nov/12/donald-trump/trumps-wrong-claim-election-observers-were-barred/>

According to CNN editor-at-large Chris Cillizza, it appears that one of President Trump’s primary motivations for opposing additional USPS funding might have been to limit the number of people able to vote in the election. “*Trump refuses to give them that money—or include it in any sort of deal—because, without it, there won't be the ability for the people to cast more mail-in ballots, or—and this is really important—for election officials to effectively count them all.*”¹²

Overall, the multi-pronged effort undertaken by President Trump to spread misinformation about the election process, preemptively cast doubt upon election results, and limit election capacity amounted to unparalleled assault on a U.S. Presidential election.

3.1 State-Level Restriction Efforts

Meanwhile, some states, recognizing the extraordinary circumstances of the 2020 election, updated their laws to facilitate greater access to vote. According to the Washington Post, fifteen states and Washington, D.C. expanded their by-mail voting programs for this election by either mailing ballots or applications to all registered voters for the first time. In fact, during the primary season, in the face of the COVID-19 pandemic, 46 of 50 states and the District of Columbia offered some form of by-mail voting *for all voters*. 24 of those states have Democratic Governors, and 22 have Republican governors.¹³ However, this does not mean that efforts to restrict access didn’t occur. By the November election, five states, all controlled by Republicans, still required an excuse beyond COVID-19 fear to vote by mail.¹⁴ Some of these states were even proactive in their efforts to restrict the expansion of by-mail voting. For example, when local officials in Harris County, Texas attempted to send mail-in ballot applications to all of their registered voters, state officials challenged the plan in court, citing pre-existing laws that limited eligibility to vote by mail to those who are 65-year-old or older; who will be out of the country during the election period; are confined to a jail; or are disabled, in order to stop this effort and force citizens to come to the polls in person.¹⁵

In 31 states, another potential pitfall for voters was remembering how exactly they signed their official voter registration. These states used signature matching as a fraud-prevention practice. To be sure, signature verification serves a good purpose; but studies show that rejections disproportionately affect Black, Latino, and new voters. Therefore, in 2020 it posed a risk for disenfranchisement; however, fortunately it appears that a lot of public education about the importance of signatures actually helped. Actual rejection rates in the 2020 election were far lower than the worst fears. However, it’s worth noting, that because people sometimes do not sign things precisely the same way every time, exact match laws can sometimes do more to reject

¹² Cillizza, Chris. “Donald Trump Just Straight-up Admitted He Is Working to Meddle in the Election.” CNN. Cable News Network, August 13, 2020.

<https://www.cnn.com/2020/08/13/politics/donald-trump-mail-in-ballots-2020/index.html>

¹³ Perez, Edward. “The Bipartisan Truth About By-Mail Voting.” OSET Institute, Inc. May 28, 2020

<https://www.osefoundation.org/research/2020/28/05/bp-vbm>

¹⁴ Kate Rabinowitz, Brittany Mayes. “Vote by Mail: Which States Allow Absentee Voting,” September 25, 2020.

<https://www.washingtonpost.com/graphics/2020/politics/vote-by-mail-states/>

¹⁵ Platoff, Emma. “Harris County Can't Send Mail-in Ballot Applications to All Registered Voters, Texas Supreme Court Rules.” The Texas Tribune. The Texas Tribune, October 7, 2020.

<https://www.texastribune.org/2020/10/07/harris-county-mail-in-ballot-applications/>

legitimate by-mail ballots than protect against accepting fraudulent ones.¹⁶ Here is where, while beyond the scope of this paper, it's also worth noting that vastly improving computer-assisted signature verification tools can improve matching accuracy and reduce invalid rejections.

Another innovation that numerous states have used in the past to facilitate the delivery of ballots not cast at traditional polling places—which was expanded in the midst of the pandemic—was the implementation of drop boxes. Additional drop boxes gave voters a means of conveniently delivering mail-in ballots if they were concerned about the health risk of voting in person, or did not trust the infrastructure of the post office to ensure that their ballots arrived on time and securely to election officials. These drop boxes are outside and do not require voters to spend time indoors with large groups of people to cast their ballot.

Despite the fact that states like Colorado and Washington have been using drop boxes without issue for years, some states refused to use them in 2020. Alabama, Arkansas, Indiana, New Hampshire, Oklahoma, West Virginia, New York, Missouri, Tennessee, and Mississippi all decided not to install drop boxes to facilitate by-mail voting during the pandemic. Since all of the aforementioned states, with the exception of New York, are controlled by Republicans, the constraint on voting drop boxes is viewed as yet another partisan effort to restrict (some will label it “suppress”) mail in voting.¹⁷ To illuminate the arguably capricious behavior, consider Texas Governor Greg Abbott, who issued an executive order just one month before the election, restricting the number of drop boxes to one per county. According to Abbott, this was ostensibly done for the vague purpose of “help[ing] stop attempts at illegal voting,” but the reality is that the availability of a single drop box was more than a bit problematic in high-population areas such as Harris County, Texas, which contains Houston and has approximately 2.5 million registered voters.¹⁸ As a result of this order, Harris County was forced to reduce its number of drop boxes from twelve to one. To put a finer point on that, Harris County, Texas is over 1,700 square miles in geographical size.

3.2 Local Level Restriction Efforts

While helping people get their ballots to election officials promotes greater participation in democracy, the GOP exploited so-called “ballot harvesting” rules to confuse people as to whether they were dropping their ballots off to an official government sanctioned drop box, or instead were entrusting their ballot with strangers who had no relation to election officials. In at least four counties in Southern California, the California Republican party installed numerous unauthorized ballot drop boxes. The party claimed it was a non-malicious attempt to gather ballots and deliver them to election officials. The issue is that the fake dropboxes were nearly identical to the official ones, which created a scenario where people unknowingly could hand

¹⁶ Graham, David A. “Signed, Sealed, Delivered-Then Discarded,” November 6, 2020. <https://www.theatlantic.com/ideas/archive/2020/10/signature-matching-is-the-phrenology-of-elections/616790/>

¹⁷ Iyer, Kaanita. “Some States Have Tried to Limit Ballot Drop-off Locations, but the Voters Keep Coming.” CNS Maryland. CNS Maryland, October 27, 2020. <https://cnsmaryland.org/2020/10/22/some-states-have-tried-to-limit-ballot-drop-off-locations-but-the-voters-keep-coming/>

¹⁸ Killough, Ashley, Ed Lavandera, and Paul LeBlanc. “Texas Governor Limits Election Drop Boxes to One per County in Sprawling State.” CNN. Cable News Network, October 5, 2020. <https://www.cnn.com/2020/10/01/politics/texas-governor-drop-off-locations-ballots/index.html>

their voice in democracy to a stranger. According to Alex Padilla, the then-California Secretary of State (now U.S. Senator-designate for California), the GOP was breaking the law. Padilla's office issued a five-page memo to counties explaining the relevant state laws. This memo explained that state law only permits election officials to establish dropboxes. It also described the party's violation of laws pertaining to ballot harvesting. California permits voters to select a 'person' to deliver their ballot in their place. However, the unauthorized drop boxes eliminated this person-to-person exchange, arguably in violation of state laws. This incident brings up the question as to whether the GOP was in fact attempting to interfere with the election, or if they were just trying to improve voter turnout. One thing is clear: because these unofficial drop boxes look the same as the official ones, people were potentially deceived. The notion of helping people get their ballot cast is one that should be promoted, but it should never jeopardize the integrity of the election process. Going forward, the methodology of unofficial drop boxes presents yet another concern with the security of the means of delivering a ballot.¹⁹

4. Future Expansion Remains an Open Debate

The global pandemic is not the first, and won't be the last disruptive force in the administration of a federal election. The country will continue to confront events that warrant by-mail voting as an alternative to in-person, Election Day voting. While there should be an interest in all parties to increase voter participation, at a minimum we should be able to agree that those who wish to vote are ensured the necessary means of doing so in a safe and secure manner.

The focus going forward should be on enhancing the availability and security of by-mail voting, rather than discussing whether it is a viable option as a means of voting.

Unfortunately, what is unfolding with the special election in Georgia suggests we may continue to litigate in the court of public opinion whether by-mail voting should be more readily available. Of course, we are learning that Georgia's experience with by-mail voting was generally sound—with no widespread evidence of fraudulent mail-in ballots. After review by the (Republican) election officials in the state, Georgia's Secretary of State Brad Raffensperger released a statement declaring that “[t]he signature review in Cobb County found that the elections were not fraudulent and had a 99.99 per cent accuracy rate when it came to performing correct signature verification procedures.”

We nevertheless see the current President of the United States persisting baseless claims on social media of voter fraud and lost ballots. America cannot allow the manufacturing of alternative facts to override the abundant evidence of the successful use of by-mail voting at scale.

It appears the by-mail voting ship has sailed. While by-mail voting may play a significant role in coming elections, it is foreseeable that efforts to restrict, obstruct, or even eliminate this important means to ensure resiliency in elections will persist. However, the fight cannot be about whether or not by-mail voting will exist, but rather how best it can be implemented and scaled. It must be all about resiliency in our elections and by-mail voting helps ensure that.

¹⁹ Cohen, Marshall. “‘It’s Extremely Problematic’: Republicans Inject New Chaos into 2020 Election with Unauthorized Ballot Dropboxes in California.” CNN. Cable News Network, October 15, 2020. <https://www.cnn.com/2020/10/14/politics/california-dropbox-controversy-explained/index.html>

Summary

The expansion of by-mail voting in this election was clearly a contributing factor to record-breaking participation. It survived a hostile social media campaign orchestrated by the sitting president and echoed by the vast majority of the Republican party; attempts to block COVID relief funds for the U.S. Postal Service; restricted or reduced numbers of official ballot drop boxes; and constrained access to mail-in voting. Despite a global pandemic, economic crisis, and the aforementioned attempts of restriction (some would argue outright “suppression”), this election produced record turnout without any substantive let alone persuasive evidence of fraud.

The 2020 election demonstrated the resilience of our electoral process and made the case for the expanded use of by-mail voting practices. By-mail voting proved to be an essential element of the success of this election, and revealed a more efficient means of expanding voter participation in future elections.

While this election was a resounding success in a challenging environment, one opportunity for improvement will be more widespread adoption of tools to confirm a ballot was received and counted. Fortunately, ballot tracking systems, like BallotTrax²⁰ and BallotScout²¹ make keeping tabs on the progress of your ballot as easy as tracking a package with today’s couriers such as FedEx. Our own election software foundry, the [TrustTheVote Project](#) offers an even more complete solution: [VoteReady™](#).²² VoteReady not only can notify you of receipt and counting of your ballot (similar to ballot tracking tools), in fact, it can do something that will prove to be even more urgent in coming elections (and fundamental to the success of by-mail voting): letting you know if your voter registration is altered or worse, suspended or cancelled. Expanding adoption of VoteReady with an integrated ballot tracking feature is just one example of the public benefit technology the OSET Institute is advancing.

To what extent by-mail voting will expand across the country in the coming election cycles is an open debate. While many states are eager to leverage the benefits they witnessed in 2020, other states are using the 2020 unfounded fraud claims as an excuse to curtail or even eliminate the practice or at least severely limit or eliminate no-excuse absentee ballots. It is incumbent upon the state — and to the extent reasonable, the federal government — to protect access to by-mail voting (especially for federal elections), not abandon it. One very simple, glaring and persistent reason was omnipresent in 2020: natural disasters, weather events, and most certainly health pandemics. These disruptions will occur again. Resiliency in our electoral system is imperative. By-mail voting is an excellent solution.

²⁰ See: <https://ballottrax.com/>

²¹ See: <https://www.democracy.works/ballot-scout>

²² See: <https://trustthevote.org/voteready>

About the Author



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About the OSET Institute

The Open Source Election Technology (“OSET”) Institute is a 501(c)(3) tax-exempt nonpartisan, nonprofit election technology research corporation chartered with research, development, and education in election technology innovation. The Institute’s flagship effort, the TrustTheVote™ Project is developing ElectOS™ a next generation higher integrity, lower cost, easier to use election administration and voting technology framework freely available for any election jurisdiction to adopt, and have professionally adapted and deployed. ElectOS and all open source election technology is being designed and engineered per the requirements and specifications of election officials, administrators, and operators through a Request For Comment (RFC) process. As part of our research, development and education mission, from time to time, the Institute produces Briefings and other content to inform stakeholders, supporters, and the public about issues of election technology innovation and integrity.

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