

# Getting it Straight for 2008

**What We Know About Vote By Mail Elections and How to Conduct them Well**



**Election Reform Brief**  
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*What We Know about Mail Elections and how to Conduct Them Well*

## Executive Summary

Vote By Mail (VBM) elections can increase turnout by four to five percentage points in general elections and significantly more in local or off-year elections. Rather than sparking participation among citizens who never vote, it appears that the added convenience of voting by mail serves primarily to retain higher participation among those voters who tend to vote in general elections by making it easier for them to vote in traditionally lower-interest local, special, or nonpartisan elections.

Among the other benefits of mail balloting are a reduction in logistical problems associated with in-person voting on Election Day, a reduction in poll-worker requirements, increased opportunities to conduct voter mobilization, minimizing the appeal of last-minute attack ads, providing more time for voters to fill out their ballots, the potential to save both time and money, and deterring fraud more efficiently than photo-ID requirements used with in-person polling.

There are also some potential problems with voting by mail, but these can be mitigated or eliminated by using the following recommended practices for Vote By Mail elections.

## **Recommended Vote by Mail Practices**

- 1) Election officials should provide candidates, parties, and interest groups with free lists of registered voters and update them at least twice a week as ballots are returned so that candidates, parties and voters can see whose votes have been received.
- 2) Voters who do not wish to vote by mail should be able to cast ballots in private booths at vote centers staffed with trained election workers in the days leading up to and on Election Day.
- 3) Vote by mail programs should adopt the practice of requiring voters to sign ballot envelopes and comparing those signatures to the signatures on the voters' registration files. Election workers must also use statewide databases to ensure that only one ballot is cast per voter.
- 4) VBM should not be viewed as a solution to the deeper problem of complete non-participation by much of the eligible electorate. Other measures must be taken to address the lack of civic involvement that reduces the quality of our collective decision-making.
- 5) In states that currently have permanent absentee voter programs, moving to elections where every registered voter is mailed a ballot should reduce the demographic disparities in voter turnout because the benefits of added convenience apply to all voters rather than those who self-select to participate in the program.
- 6) In VBM elections, ballots must be sent to all registered voters, including inactive voters.
- 7) Vote by mail elections should be heavily publicized via mailings, newspaper ads, and radio public service announcements at the time ballots are mailed out and in the final days before an election.
- 8) Steps should be taken to deter, detect, and correct coercion and vote-buying while casting a Vote By Mail ballot.
- 9) Election officials should contact voters by phone, postcard, or e-mail if their ballot is deemed uncountable due to lack of a signature match and give the voter the opportunity to correct it.
- 10) Election officials should work closely with the U.S. Postal Service to ensure timely and accurate delivery of ballots.
- 11) Jurisdictions using Vote By Mail must also maintain in-person polling alternatives to allow disabled and language assisted voting on accessible equipment.
- 12) Election officials should allow citizens to use election headquarters as their voter registration address and then allow these citizens to pick up ballots at election headquarters during the entire VBM election period.

## Introduction

As part of a comprehensive analysis of how we conduct elections in the United States and our efforts to ensure that we “Get it Straight in 2008,” the Common Cause Education Fund has completed an in-depth study of voting by mail. All states allow some voters to cast ballots by mail, but there are significant variations between states. Some states require an excuse to request an absentee ballot such as health reasons or being absent from the state on Election Day. Other jurisdictions mail every voter a ballot for all or some elections. This paper defines a Vote By Mail election as one where every registered voter is mailed a ballot. Some publications refer to this practice as all-mail elections, which suggests incorrectly that there are no options for receiving or returning a ballot other than by the mail.

The first mail election was held in California in 1977. Oregon began using Vote By Mail (VBM) for local and special elections in the early 1980s and expanded the program to cover all of its elections in 1998. However, even in Oregon, some voters can and do cast ballots in person by hand-delivering ballots to drop box locations or voting in-person at an election office or through other voter assistance programs.

The question, then, is not whether to allow voting by mail, nor whether to require every citizen to vote by mail. Rather, it is to assess to what degree it makes sense to conduct elections partially by mail, through programs that allow any person to request a mail in ballot (as opposed to limiting it to certain absentee situations), or primarily by mail by sending every registered voter a ballot which most will also return via the mail.

Common Cause research has identified at least seven significant advantages to Vote By Mail elections, as well as several potential downsides that can be mitigated using sound election practices.

## Advantages

### **Voting by Mail Can Increase Turnout, By Four to Five Percentage Points in General Elections and Even More in Local/Off-Year Elections**

It stands to reason that making it more convenient to

vote would lead to more people voting. According to the U.S. Census, 19.9 percent of the 16 million people who were registered to vote but did not cast a ballot in the 2004 election cited the fact that they were too busy or had conflicting schedules as the reason they did not vote. Some 15.4 percent cited illness or disability, 9 percent said they were out of town, 3 percent said their polling place was inconvenient, 2.1 percent noted transportation problems, and 0.5 percent blamed weather conditions. That amounts to 38.8 percent of all non-voters who could have cast a ballot had it been easier to do so by voting by mail. For Hispanic voters, the number grows to 42.8 percent, for black voters it is 44.8 percent and for Asian voters it amounts to 57.5 percent of the reasons given for failing to vote.<sup>1</sup>

A 2004 survey by the John F. Kennedy School of Government similarly found 24 percent of respondents saying they had not voted because they were too busy to make it to the polls and 20 percent saying they did not have transportation to a polling place. Six percent of the non-voters said that they had planned to vote but turned away after facing long lines.<sup>2</sup> While there is a chance that some of these voters are merely making excuses and self-reporting in polls is not a fail-safe measure, these numbers suggest that allowing voters to cast ballots by mail could make a difference for as many as half of non-voters.

There are strong anecdotal success stories of Vote By Mail elections being used at the local level to dramatically increase turnout, at times doubling or tripling it.

Helena, Montana, resident Joe Hollowell voted for the first time in ten years in Helena’s VBM election in November 2007. He told his local paper that he likely would not have voted had it not been for the VBM election format.<sup>3</sup> Helena’s 2007 local election, its first using VBM ballots, saw the highest voter turnout ever recorded for a local election at 61.5 percent. In 2005, the figure was 30.9 percent and the previous record was in 1979 at 49.9 percent. Helena’s 30-year average turnout for local elections was 32.8 percent. Missoula, Montana, also used VBM elections for the first time in 2007 and saw a turnout of 46 percent, triple the rate of the 2005 election.

Colorado has allowed local governments to use VBM elections since 1999 for local elections held in odd numbered years. Colorado Springs used a VBM election in 2007 and 2003 and saw 41 percent and 58 percent turnouts respectively. (The 2003 race featured 28 candidates running for only 4 seats, so this competition undoubtedly also drove turnout.) In between these elections, the city used a polling place election in 2005 and saw 15 percent turnout. Denver used VBM elections for its mayoral race in 2007 and saw a 41 percent turnout. This was a little lower than the 2003 turnout at a polling place election (that featured a hotly contested mayor's race) which had 46 percent turnout, but much higher than the 1999 election which saw 26 percent turnout in a race similar to 2003.

Seal Beach, California, held a local VBM election in March 2006 and saw a turnout of 35 percent, eight points higher than the previous comparable election. California's Contra Costa County held its first VBM election in June 2004 to adopt a school parcel tax. Turnout was 52.9 percent, higher than the two previous school parcel tax elections which saw 23.2 percent turnout (March 2002) and 52.4 percent in March 2004 (also a presidential primary election.) The fact that a special election on a school parcel tax surpassed turnout for a presidential primary is impressive.

But, these and other anecdotal successes about VBM elections run the risk of comparing apples to oranges because so many other factors can influence voter turnout ranging from how hotly contested a contest is to what issues are on the ballot. We know, for instance, that turnout in presidential elections in Oregon garnered 70 percent of the voting age population in 1992 (ranking 8<sup>th</sup> nationally) and 60 percent in 1996 (ranking 10<sup>th</sup> nationally) prior to adoption of VBM elections for presidential races. Turnout was 65 percent in 2000 (ranking 10<sup>th</sup> nationally) and 70 percent in 2004 (ranking 7<sup>th</sup>).<sup>4</sup> These numbers would appear to suggest little change from VBM in presidential elections, but there could have been other factors that were either driving turnout up or down and masking the impact of VBM.

A team of academics headed by Paul Gronke at the Early Voting Information Center at Reed College has attempted to overcome the shortcomings of anecdotal evidence by looking at elections from multiple states from 1980 to 2004 and controlling for other variables

that can influence turnout such as the number of ballot measures, the closeness of major races, and demographic differences. They find an average increase in voter turnout within Oregon of 4.7 percent due to VBM elections in presidential elections.<sup>5</sup>

The state of Washington provides an excellent laboratory as counties have independently been shifting to VBM elections over the past several years. This creates many opportunities to measure VBM turnout in some counties compared to polling place turnout in other counties during the same election. Gronke finds a 4.5 percent increase in voter turnout in Washington as a result of VBM balloting from 1960 to 2006.<sup>6</sup>

In Switzerland, voting by mail has increased turnout 4.1 percent for the years 1970 to 2005.<sup>7</sup>

Rather than sparking participation among citizens who never vote, it appears that the added convenience of voting by mail serves primarily to retain higher participation among those voters who tend to vote in general elections by making it easier for them to vote in traditionally lower-interest local, special, or nonpartisan elections.<sup>8</sup>

## **VBM Can Significantly Reduce Election Day Logistical Problems**

### *Equipment Failures*

Polling place elections require a large number of steps to go right. Voters must get to polls that open on time, poll workers must be deployed with adequate training, and there needs to be sufficient numbers of properly-working and well-secured voting machines. All too often, something goes wrong. In 2006, many Maryland polling places did not open on time because poll workers did not have the appropriate plastic cards to activate election machines. In Sarasota, Florida, more than 18,000 votes were not recorded in the 2006 congressional elections, most likely due to errors with touch screen voting machines. Vote By Mail solves these problems because it provides voters with plenty of time to cast ballots and avoid long lines while also providing election officials with ample time to count and process ballots. Because VBM uses paper ballots, it avoids the many concerns about electronic voting machines that lack an audit trail to use in cases of recounts or failure of tallying equipment. Two academic teams have concluded that VBM programs offer a more

accurate vote count than traditional elections.<sup>9</sup>

### *Equipment and Poll Worker Shortages*

In 2004, Ohio saw long lines at many polling places as a result of not having deployed enough electronic voting machines to each location. At Kenyon College in Gambier, Ohio, for instance, 1,300 voters waited in line to use just two voting machines. Denver, Colorado also saw long lines in 2006 due to election problems; many people gave up and did not vote as a result. For the 2004 election, the Election Administration Commission estimated that the country as a whole faced a shortage of more than 500,000 poll workers.<sup>10</sup> Conducting elections entirely by mail can dramatically reduce the need for Election Day poll workers. Moving to partial mail programs such as permanent absentee systems can considerably reduce Election Day pressures on poll workers and yield shorter lines for voters. Mailing every voter a ballot can reduce the problem further and allow election officials to rely more heavily on professional staff to conduct elections.

### *Bad Weather/Disasters*

A Vote By Mail program is less likely to be disrupted by bad weather, a natural disaster, or possibly something worse. As one example, Tillamook County in Oregon uses an VBM system for elections. In November 2006, 70 percent of registered voters cast their mail-in ballots even though on Election Day some 13 inches of rain fell and the governor had declared a state of emergency. Had Tillamook relied on a one-day polling place process, its turnout would likely have been dramatically reduced. It is worth remembering that September 11, 2001, was a local Election Day for New York City. Election Days are symbolic of our democracy and important to our government functioning so they could be possible targets for attacks in the future. Spreading Election Days into Election Weeks through voting by mail makes them less vulnerable to any form of disruption.

### **Vote by Mail Provides Additional Opportunities for Voter Mobilization**

Civic groups and political parties in Oregon have grown to love the Vote By Mail program because it gives them an opportunity to organize Get-Out-The-Vote (GOTV) over a multi-week period. Rather than focusing on a 12-14 hour period to contact and mobilize voters, organizations can systematically canvass their

members by phone or door-to-door to encourage their participation and can track those who vote, and then refocus repeat communication only with those voters who have not yet returned their ballots.

One study of absentee voting found that expanded opportunities to vote absentee with few restrictions did not by themselves yield to greater turnout. But, states where political parties and interest groups conducted voter mobilization drives among absentee voters did see increased voter turnout.<sup>11</sup> The same should hold for elections conducted primarily by mail.

While it is difficult to quantify, the opportunity for greater person-to-person contact during extended voter mobilization drives may more than offset one downside that some people see in VBM elections—the loss of a communal act of voting on one day in set locations. Some observers see the opportunity for voters to walk to the polls and stand in line together as an opportunity to transcend their personal lives and private interests and join together to act collectively as a voting public. While voters may still see others dropping ballots in mail boxes or drop-off sites in mail elections, it remains more of an individual act. But, if extended voting allows your neighbors to continue dropping by your house in the weeks before an election until you've sent in your ballot, the entire process could boost civic engagement and interaction beyond what is typically seen in polling place elections.

Some have argued that the extended voting period of Vote By Mail makes political campaigns more expensive. This conclusion is based upon the false premise that there is a set cost for any political campaign. Rather, candidates will spend as much as they can raise in order to win an election, unless they are so assured of their victory that they can save funds in a war chest for future campaigns. A campaign's spending calculations have to do with how much it can raise and what an opposing campaign is spending as opposed to any set "cost." However, it certainly is the case that Vote By Mail elections provide campaigns with another avenue for spending money on extended GOTV that they would not otherwise have. This could increase the disparity between heavily financed campaigns and poorly financed campaigns. On the other hand, GOTV efforts are something that can be conducted with volunteers, so there is also potential for grassroots campaigns to be more competitive with deep-pocketed

competitors in VBM elections. However, the real solution to distortions of the political process through big money is through campaign finance reform.

**Recommendation #1:** In order to fully realize potential increases in voter turnout, states should provide candidates, parties, and interest groups with free lists of registered voters and update them at least twice a week during the voting period so that both parties and voters can see whose votes have been received. This allows GOTV efforts to focus only on those voters who have not yet cast ballots.

### **Vote by Mail Can Reduce the Impact of Last Minute Negative Campaigning (but also the value of any late-breaking information.)**

Because many voters will cast their ballots weeks before Election Day, campaigns cannot wait until the last few days to launch their final messaging. While candidates will always critique their opponents when they see an advantage in doing so, the extended voting period of VBM means that their opponents will be more likely to have time to respond to charges.

The flip side of this advantage is that when new information does break late in a campaign, those voters who have already cast ballots will have made their decision without the benefit of that information. This dynamic will tend to push news outlets, candidates, and other political players to get information out well ahead of Election Day, which reduces the effectiveness of last minute sneak attacks and is generally beneficial. But, there will be instances where dramatic events, perhaps even the death or withdrawal of a candidate, will occur after many citizens have voted by mail.

In VBM elections, citizens do retain the ability to wait until Election Day to cast their ballot if they chose to personally deposit their ballot in a drop box or vote in-person. Many citizens, especially those fairly certain of their choices, will be willing to accept the risk that new information in the final days of a campaign could change their mind about an election in exchange for the added convenience of voting early. Undecided voters may chose to wait. In allowing citizens to vote early (either in person or by mail), society makes the judgment call that it is willing to accept these tradeoffs as individuals choose to make them.

### **Voting By Mail Can Provide Greater Time to Deliberate About Choices**

When casting a ballot in a traditional polling place, voters may feel rushed to complete their ballots. Especially if they have waited in a long line to reach the polling place and perhaps taken time away from work or family responsibilities, voters naturally want to get the process over quickly and may not take as much time as they should to consider their choices or complete the voting process carefully enough to ensure that they made no errors in casting their ballot.

There is no conclusive data on whether voters actually take advantage of the greater time available to research their voting choices while voting at home. However, there are strong indications that when given a chance, many voters prefer to fill out their ballot at home, enjoying greater time to deliberate and research their choices. In the 2004 elections, 20 percent of voters cast ballots by mail nationwide, indicating a strong voter preference.<sup>12</sup> A recent survey found 81 percent of Oregonians prefer voting by mail now that the state has shifted entirely to VBM elections.<sup>13</sup> In the 2006 general elections, 85 percent of voters in Washington cast their ballots by mail (where 33 of 39 counties conducted VBM elections)<sup>14</sup> as did 42 percent of Californians through a permanent absentee program.<sup>15</sup> Citizens are in effect voting with their feet by flocking to Vote By Mail programs when given the opportunity.

### **VBM Can Save Money and Time**

Because VBM greatly reduces the number of polling places, poll workers, and voting machines necessary to conduct elections, it can lower costs. There are increased costs of signature verification, public education, and maintaining drop boxes and early in-person voting centers, but empirically these costs have not outweighed the savings. Oregon has measured a real reduction in costs as a result of switching to VBM elections. The total election cost in the 1998 in-person primary election was \$3,396,272. The total election cost in the 2000 primary election was \$2,812,481, saving Oregonians \$583,791.<sup>16</sup> Overall, Oregon estimates a 17 percent savings due to VBM elections.<sup>17</sup> However, other states should remember that Oregon gradually built up its Vote By Mail infrastructure over decades before switching to elections conducted primarily by

mail.

Beyond savings to the government, voting by mail can save citizens time, which for many people carries a monetary value. Many citizens would much rather pay the postage costs of mailing in a ballot than take an hour off of work to cast a ballot in person. On the other hand, some have argued that the cost of postage could create a hurdle to voting akin to a poll tax for those citizens who cannot afford it. For some elections, return postage can exceed a regular first class stamp, which can create unusual postage amounts that citizens may not normally have on hand.

**Recommendation #2:** All Vote By Mail programs should maintain opportunities for citizens to cast a vote in person if they chose to do so. This allows voters to avoid the cost of postage and provides an alternative for those with concerns about the U.S. Postal Service. Oregon's program has a system of drop boxes where voters can deposit sealed ballots with no postage costs. Drop boxes should be in staffed locations (libraries, schools, fire-houses, post offices) or secured and bolted down so they cannot be opened or removed. Voters should also be able to cast ballots in private booths at vote centers staffed with trained election workers in the days leading up to and on Election Day. Further, state or local government should cover the cost of postage for any ballot that is sent with insufficient postage. Some jurisdictions might find it cheaper to simply pay all the return postage costs if doing so qualifies for sufficient bulk postage discounts.

### Signature Matching Avoids Fraud with Fewer Problems Than Photo ID Requirements

While voter fraud is extremely rare in the U.S., the few examples of fraud that have been unearthed often involve absentee ballots. The potential exists for someone to receive a ballot that was meant for another voter through stealing mail or simply taking a blank ballot that was mailed to a previous occupant of a residence.

**Recommendation #3:** In order to avoid fraudulent ballots, Vote By Mail programs should adopt the practice of requiring voters to sign ballot envelopes and comparing those signatures to the signatures on the voter's registration file. Officials can maintain privacy

of the signature through effective envelope design. This process requires a statewide voter registration database that includes scanned signatures, something that should now be achievable in every state due to the provisions of the Help America Vote Act. Election workers must also use a statewide database to ensure that nobody can cast more than one ballot either through requesting a replacement ballot or voting both by mail and in-person.

Using a signature match for mail in ballots is a superior method for preventing fraud than requiring voters to present photo ID at polls. Unlike photo ID requirements (which can both disenfranchise many legitimate voters who either forgot their ID or do not have a picture ID, and also slow down the voting process causing long lines), Vote By Mail allows election officials to compare signatures on the outside of a sealed voter envelope with the signature of a voter given during their registration. This signature verification, the same system this is used to verify signatures on voter petitions that qualify candidates or initiatives for the ballot, allows for greater accuracy and can apply to all voters without discrimination. Oregon has been remarkably free of allegations of fraud in its VBM program. In 2004, one group did claim that six voters had voted twice using VBM, but further investigation revealed that in five cases the claim was false and the sixth case was already being investigated by local elections officials.<sup>18</sup>

## Potential Problems and Mitigation Techniques

**Boosting Turnout Among Existing Voters Without Bringing in New Voters Might Further Skew the Electorate to be Older, Whiter, and Better Educated than the Population at Large (but, at least one example shows VBM does the opposite.)**

The existing American electorate does not accurately represent all eligible voters, to say nothing about the entire population that includes non-citizens and non-eligible voters (such as former felons in some states.) As a result, our societal decision-making suffers from not fully capturing the collective wisdom of the people. Put more starkly, our government lacks the full legitimacy of a government of, by, and for the people

when it is selected by an unrepresentative subset of the people.

For example, a recent Public Policy Institute of California survey found that 82 percent of Californians were eligible to vote but only 56 percent were registered. Registered voters were disproportionately white, older, and better educated than non-registered citizens who are eligible to vote. They also differed considerably on some policy matters, with 49 percent of voters saying that they prefer an active government with higher taxes and better services while two-thirds of non-registered but eligible voters do. California voters approve of the state's Proposition 13, which limits property taxes, by 56-33 percent while those non-registered oppose it 47-29.

Other studies have found that beyond registration, there are real policy differences between voters and non-voters (even those who may be registered). For instance, 31 percent of voters feel that the government should guarantee jobs for people, while 46 of non-voters feel this way. Some 44 percent of voters feel that the government should provide universal health insurance for all citizens while 52 percent of non-voters support this idea. Self-described moderates are underrepresented among those who vote, with 30 percent of voters calling themselves moderate compared to 42 percent of non-voters while conservatives are overrepresented by an 8 point spread. A robust 73 percent of non-voters think it should be easier to organize a union while 60 percent of voters do. A final example: 68 percent of voters think there should be more federal assistance to schools while 80 percent of non-voters do.<sup>19</sup>

Since VBM election programs seem to primarily boost turnout among the existing voter pool (which is skewed demographically and politically) rather than expand this pool to make it more accurately represent the populace, it is possible that VBM elections or any program that increases voter convenience will somewhat exacerbate the discrepancy between voters and non-voters.<sup>20</sup> While this theory is potentially important, existing data have not confirmed it.

**Recommendation #4:** While it is untenable to argue that we should avoid making voting more convenient for existing voters for fear of boosting their turnout, states should not view VBM as a solution to the deeper

problem of complete non-participation by much of the eligible electorate. Rather, states should pursue programs to register all eligible citizens, during high school for instance, to maintain these registrations when people move through lifetime registration policies that use U.S. Postal Service change of address data, DMV data, and tax data to automatically update voter registrations, and offer Election Day Registration to catch anyone who slips through the cracks. Increasing voter choices on Election Day through reforms such as fusion and instant runoff voting and programs such as full public financing would go even further by producing candidates that might have greater appeal to those citizens who are disinterested in current candidates and politics.

Aside from primarily Vote By Mail elections, there are also indications that those citizens who chose to participate in permanent absentee voter programs (now called permanent vote by mail in California and Colorado) also are not a representative subsample of the electorate as a whole. For instance, 31 percent of participants in California's permanent absentee program are over the age of 65 while only 19 percent of all registered California voters are this age. Three quarters of the permanent absentee voters are white non-Hispanic compared to two-thirds of registered voters. Just 13 percent of the permanent absentee voters are Latino while 21 percent of registered voters are.

**Recommendation #5:** In states that currently have permanent absentee voter programs, moving to elections where every registered voter is mailed a ballot should reduce the demographic disparities in voter turnout because the benefits of added convenience apply to all voters rather than those who self-select to participate in the program. Adopting local pilot programs, such as those in Colorado, would be a good way to gather data on the impact upon various demographic groups.

There is at least one example where adopting a Vote By Mail format significantly boosted the percentage of Latino and African American voters in the electorate.

Voters in heavily Latino districts in Denver, Colorado, trailed the city as a whole in turnout by 14 points during a May 2005 in-person local election. In contrast, these districts lagged by only three percentage points in the

May 2007 local election that was conducted entirely by mail.<sup>21</sup> Denver’s first Vote By Mail election in 2001 saw a citywide increase in turnout of 17 points compared to its 1999 polling place election, but heavily Latino precincts saw an increase of 55 percent.<sup>22</sup>

The numbers are similar for heavily African American districts.<sup>23</sup> In the May 2005 in-person election, heavily African American districts saw an average turnout of only 10.5 percent. This trailed the overall city turnout, which was 25 percent (still low). But, in the May 2007 local election conducted primarily by mail, turnout in these same African American districts was 40 percent, only three points lower than the city as a whole, which saw higher overall turnout at 43 percent. Precinct 807, which has the highest African American population at

*mailing* to all voters, which appears to significantly narrow the gap in turnout in heavily Latino precincts.

Denver’s inactive policy means that the turnout ratios in the Vote By Mail elections are inflated because they do not include the least active segment of the electorate. But, this flaw was constant among voters of all races, so it remains the case that relative to the city as a whole, Latino and African-American districts saw an increase in participation in the Vote By Mail elections.

**Recommendation #6:** In VBM elections, ballots must be sent to all registered voters, including inactive voters. Mailing ballots only to voters deemed “active” by virtue of their recent participation in elections deprives many voters the opportunity to cast a ballot.

### Ethnic Turnout in Denver’s In-Person and VBM Elections

	2004 Turnout In-Person	Difference from citywide	2005 Turnout In-Person	Difference from citywide	2007 Turnout All-Mail	Difference from citywide
Citywide	79.06%	--	25.11%	--	42.63%	--
Latino	42.38%	<b>-36.68%</b>	11.07%	<b>-14.04%</b>	40.10%	<b>-2.53%</b>
Black	40.23%	<b>-38.83%</b>	10.58%	<b>-14.53%</b>	39.81%	<b>-2.82%</b>

78.60 percent, saw turnout that was 39 percent lower than the city as a whole in the 2004 in-person election, 15 percent lower than the city as a whole in the 2005 in-person election, but *4.25 percent higher* than the city as a whole in the 2007 VBM election. Switching from polling place to VBM elections narrowed the gap in both Latino and African American turnout by about 11 percentage points.

#### Poorly Done Mail Balloting Can Disenfranchise Inactive Voters

Common Cause research in Denver, Colorado, uncovered the fact that many voters did not receive ballots in the mail during a recent VBM municipal election because they had failed to vote in the previous year’s November election and had been marked as “inactive.” This policy led to a decline in the electorate by 38 percent citywide and a decline of 50 percent within heavily Latino precincts.<sup>24</sup> It is important to differentiate this policy of *failing to mail* to inactive voters in Vote By Mail elections, which does have a negative effect on Latino voters, from the policy of

#### Poorly Implemented VBM Programs Can Reduce Turnout (at least in general elections).

California law currently allows election officials to conduct VBM elections in precincts that have fewer than 250 voters. These precinct lines can change from election to election, so voters in these areas sometimes find themselves needing to go to a polling place while other times needing to vote by mail. Further, there is no statewide, or even citywide public education campaign to inform these voters about how to vote. The result is confusion and lower turnout. One recent study found a 2.9 percent decline in turnout in these small VBM districts during general elections. Interestingly, despite these problems, turnout was still 7.6 percent higher in local special elections in these VBM precincts.<sup>25</sup>

**Recommendation #7:** Vote By Mail elections should be heavily publicized via mailings, newspaper ads, and radio public service announcements at the time ballots

are mailed out and in the final days before an election. States should use some of the savings achieved by not staffing polling places to fund vigorous public education. Conducting mail elections in only a few precincts is not advisable.

who fear coercion should have the opportunity to vote privately at a staffed vote center or election office within the final seven days prior to an election.

### **There are Potential Problems with Voter Coercion (but also some upsides).**

When voters fill out their ballots away from a voting booth, whether in an absentee program or a VBM election, there is the chance that they will be unduly influenced by another person who watches them vote. This could come in the form of a family member, employer, or member of their church or labor union who wants to influence how they vote, or in the form of outright vote-buying from people offering cash or other goods (cigarettes, food) in exchange for certain votes. Elderly or disabled voters could be especially vulnerable to suggestions on how to vote by those assisting them.

The evidence from Oregon indicates that neither coercion or vote-buying has been a problem in their VBM elections. One study from Oregon in 1984 found no evidence of illegal influence on voting during VBM elections and another in 1996 study found that less than 1/10<sup>th</sup> of one percent of respondents felt pressure to vote a certain way by anyone in their presence while filling out a ballot.<sup>26</sup> Conducting a vote-buying scheme of sufficient scale to alter an election result would run high chances of being caught and facing prosecution.

**Recommendation #8:** Steps should be taken to deter, detect, and correct coercion or vote-buying while casting a Vote By Mail ballot. Mail in ballots should contain bold-face notices that ballots must be filled out privately unless a voter requires assistance and that it is a felony to offer anything in return for a vote or to coerce any person while they are filling out their ballot. Ballots should publicize telephone hotlines voters can use to report attempted coercion or vote buying and if necessary cancel a ballot that they filled out under coercion. Nursing homes should provide bi-partisan teams of election observers to assist residents who request help filling out ballots. While it is appropriate for family members to take sealed ballots to a mailbox or ballot drop-box, there should be limits on the number of votes a person can collect and deliver on behalf of others to avoid vote harvesting. Finally, voters

On the other hand, there are also real coercion problems with in-person polling where there have historically been efforts to intimidate ethnic voters through aggressive challenges or outright harassment at polling places.

For instance, in California one political party settled a 1988 lawsuit about voter intimidation after it hired uniformed guards to stand outside of Latino polling places in the 71<sup>st</sup> Assembly District in Orange County with signs saying that “non-citizens can’t vote.” In 2007, California Republican Party leaders urged the Republican Candidate Tan Nguyen to withdraw from his congressional race after his campaign sent out letters intended to scare Latinos away from voting. If voters receive a ballot in the mail from an election official, they may be less likely to be intimidated by scare tactics such as these.

Other examples abound. Hispanic voters in Gainsville, Maryland, reportedly faced threats during elections in 2007. The county registrar reported that “there was a group of people out there with a camera yelling at our Hispanic voters that if they were illegal, they were going to be deported.”<sup>27</sup>

White voters challenged voting eligibility of Asian American voters in an August 2004 Alabama local election that involved a Vietnamese-American candidate. African American voters were intimidated in Philadelphia by men carrying clipboards and driving cars designed to look like law enforcement vehicles.<sup>28</sup>

Voting by mail also reduces the chance for mischief through deceptive practices. For instance, a flyer distributed in Franklin County, Ohio, declaring that Democrats could cast ballots on the Wednesday following Election Day during the 2004 election<sup>29</sup> would have done little harm and been more easily refuted during an extended Vote By Mail ballot period. Also in 2004, a GOP lawsuit accused Kerry-Edwards campaign workers of making misleading phone calls in five Ohio counties directing voters to the wrong polling places. This sort of mischief is avoided in VBM elections.

## There are Potential Problems with Spoiled Ballots and Unconfirmed Ballots

When voters fill out ballots at home, they may not have the opportunity to ask for assistance or to confirm that their ballot has been marked successfully. This creates the potential for overvotes and unintentional undervotes using VBM. However, some historical data has shown better accuracy with mailed in ballots.

A study of a Los Angeles election in 2000 (using punchcards for both absentee and in-person voting) found that ballots cast in-person had ten times the undervote and four times the overvote rate of absentee ballots that were mailed in<sup>31</sup>. Since the passage of HAVA, punchcards have been largely eliminated and voters now have the opportunity to verify their ballots are marked correctly if they vote in person. This should reduce problems with in-person voting from now on.

## Combined Over and Under Votes Cast in Florida Elections

	02 (Gov)	04 (Pres)	06 (Gov)
Absentee (optical scan)	.68%	67%	1.13%
In-person (DRE)	.86%	.41%	.98%

Florida has collected data on over and undervotes cast in person on its touchscreen equipment since 2002 compared to its absentee ballots cast via the mail.

In two of the three elections, in-person voting had somewhat lower ballot spoilage rates. But, remember that Florida was also the site of the 2006 touchscreen malfunction that lost 18,000 votes in a congressional race.

Oregon has found that it has reduced its numbers of spoiled ballots in every presidential election since 1992, despite the introduction of mail balloting for the 2000 and 2004 elections.<sup>30</sup>

In 2004, Oregon experienced a combined undervote and overvote rate of 0.8 percent for the presidential race using an VBM format. Washington state, which used VBM in most counties, also had a 0.8 percent residual vote rate. That year, ten states (AL, DE, FL, GA, HI, MD, MA, MI, NV, VT) experienced lower residual vote rates than Oregon and Washington, two states (NY and VA) experienced the same 0.8 percent rate, and 24 states experienced a worse rate (AZ, AR, CA, CO, CT,

DC, ID, IL, IN, IA, KT, MT, NE, NH, NM, NC, ND, OH, RI, SD, TN, UT, WV, WY). Oregon improved its residual rate from 1.6 percent in 2000 to 0.8 percent in 2004 and Washington likewise went from 1.1 percent to 0.8 percent, so there are techniques for improving rates even within the VBM format (most likely from switching from punchcards to optical scan ballots).<sup>32</sup>

There is also the potential for ballots to go uncounted because voters forget to sign their return envelope or the election officials deem that the signature does not match the one on file with the voter's registration. According to the Oregon Secretary of State's office, in the November 2004 election 1,057 ballots were rejected because the signature could not be verified. This compares to 606 in November 2003 and 602 in November 2002.<sup>33</sup>

**Recommendation #9:** Election officials should contact voters by phone, postcard, or e-mail if their ballot is deemed uncountable due to lack of a signature match and give the voter the opportunity to correct it. In close elections, officials should conduct manual recounts to minimize potential problems with undervotes and overvotes. If monitoring detects a problem with overvotes, ballots sent in early enough could be pre-screened prior to counting and the voter could be notified if overvotes are present.

## There are Potential Problems with Ballot Delivery via the U.S. Postal Service

Nearly everyone at one point in their life has had a bad experience with mail being lost or delayed. Yet, we trust the mail with financial transactions, voting by proxy for corporate shareholders and shipping valuables like diamonds that private carriers won't accept. The U.S.P.S. reports that in 2006, 95 percent of its overnight mail, 91 percent of its two-day mail, and 90 percent of its 3-day mail was delivered on time.<sup>34</sup> These numbers do not tell us, however, how often the mail was lost, only if it was on-time.

and election headquarters.

In Oregon's Multnomah County and Benton County, 6 and 7 percent, respectively, of the ballots were undeliverable in the 2006 elections.<sup>35</sup> This number could include postal errors, incorrect or out-dated registrations, and ballots that were returned due to death or relocation of the voter. Vote By Mail may have collateral benefits of keeping voter rolls clean, so long as postal errors are minimized and corrected.

**Recommendation #10:** Election officials should work closely with the U.S. Postal Service to ensure timely and accurate delivery of ballots, as well as with major institutions such as universities and assisted living centers. Every postal facility should be thoroughly searched for ballots by both postal workers and election staff upon the original sending out of ballots and on Election Day to ensure that all ballots are received. Officials should contact voters whose ballots are returned to confirm or correct their address and give the voter the opportunity to have a ballot resent or pick one up in person. Election officials should run public education campaigns to alert voters that they should receive ballots in the mail by set dates so that voters know to request one if they do not receive it. Finally, states or localities should consider using tracking software available from private companies that would allow each ballot to be assigned a unique barcode that would enable voters and election officials to track both delivery and return of ballots.

### **There are Potential Problems with Language and Accessibility (but also considerable opportunities).**

Physical disabilities or language barriers can prevent eligible citizens from voting by mail. Not everyone is able to read a paper ballot they receive in the mail, or mark their votes with a pencil or pen.

Polling place elections have problems with language and accessibility as well. A 2000 GAO report found that 84 percent of polling places were not fully accessible to disabled voters.<sup>36</sup> For many physically disabled voters, it is easier to vote at home than to travel to a polling place. If properly done, VBM elections should be able to expand voting opportunities for all voters. For instance, without the need to staff huge numbers of polling places, election officials are more able to maintain a qualified staff of many different language translators at a smaller number of vote centers

**Recommendation #11:** Jurisdictions using Vote By Mail must also maintain in-person polling locations to allow disabled and language assisted voting on accessible equipment. Oregon offers voting assistance in an elector's home in some instances as well as at senior centers and election offices. Another option would be travelling voting vans that could visit neighborhoods, clinics, or assisted living centers upon request. Further, as is currently done with absentee systems in many instances, election officials should maintain hotlines for language assistance and in areas with significant non-English speakers should make ballots and voting instructions/information available in other languages upon request. Election officials should consult with local voting rights groups, civil rights organizations, military and college institutions, and disability rights groups when designing VBM programs.

Vote By Mail programs also have the potential to disenfranchise those voters who have no mailing address. This could include homeless populations, but also people who are travelling for extended periods and simply have no permanent residents. Some Native American tribal members do not regularly use U.S. Mail.

**Recommendation #12:** Election officials should allow citizens to use election headquarters as their voter registration address and then allow these citizens to pick up ballots at election headquarters during the entire VBM election period. Voters should also be allowed to use shelters, senior centers, welfare offices, tribal headquarters, or family members as addresses to register and to receive ballots.

## **Conclusion**

Every state allows some degree of voting by mail, ranging from absentee ballots given only with an excuse to Oregon's system of mailing ballots to every voter. Conversely, every state allows voters to cast a ballot in person should they chose to do so. The debate, then, comes down to how widely used voting by mail will be, not whether to have it at all. Studies show that the vast majority of voters like voting by mail and its use is increasing. Voting by mail can improve

turnout, reduce Election Day problems, and provide for a more deliberative, accurate, and accessible election if implemented correctly. Moreover, Vote By Mail needs to be assessed in comparison to other real world voting systems, which have significant flaws and shortcomings. Common Cause has offered several recommendations to ensure that we get it straight when it comes to mail elections.

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