

## Debunking the myth of voter fraud in mail ballots

As the nation prepares for what most public health experts -- including those from the White House -- predict will be the peak in Coronavirus infections and casualties, several important political questions are being debated across the nation. At the top of this list is whether states should postpone their primary elections, continue elections through mail-voting or some hybrid system. One thing is clear, what happened in Wisconsin on April 7, 2020 was a disservice to voters that resulted in confusion, risky in-person voting, and thousands of mail ballots delivered to voters too late, or not at all. Coordination, planning and proper funding are essential to implement free and fair elections. Despite the obvious need for safer and healthier voting options during a global pandemic, some politicians have questioned whether or not vote-by-mail is secure or if it can lead to fraud? The UCLA Voting Rights Project partnered<sup>1</sup> with the [University of New Mexico Center for Social Policy](#) and the [Union of Concerned Scientists](#) to carefully review the research on vote-by-mail and voter fraud. This brief report addresses this question by drawing from the social science research on mail and absentee voting and what has been learned from states that have been using mail voting exclusively for many years. **We conclude that vote-by-mail does not increase voter fraud and that necessary safeguards are well documented in states that routinely process millions of mail ballots without any voter fraud.**

As previous reports from the [UCLA Voting Rights Project](#) have made clear, the public health risks to the voting population who may be required to vote in person are substantial ([report here](#)). Even with social distancing and constant disinfection at traditional polling locations, the risk of transmission of COVID-19 through in-person voting are obvious and well documented elsewhere. In fact, the head of the Centers for Disease Control and Prevention (CDC) and other leading officials from the White House have consistently begged the public to stay home and avoid crowds to help flatten the curve and avoid the spread of the virus. Given this context, it was a major surprise to most that government authorities in Wisconsin ignored the national and state emergency declarations, and allowed the state to proceed with in-person voting. Election day images of voters in Milwaukee standing in long lines wearing masks and gloves directly contradicting the strong messaging coming from essentially all health experts to avoid just that type of behavior. There is no doubt that countless more potential voters stayed home to avoid the health risks of in-person voting, effectively losing their right to vote.

While some have argued for national standards on a transition to vote-by-mail, numerous Republican politicians have suggested this voting mechanism is rampant with fraud. President Donald Trump, despite himself having recently voted by mail, has stated: “these (absentee ballots) are different from Mail-In Voting, which is “RIPE for FRAUD,” and shouldn’t be allowed!” Republican Representative Thomas Massie of Kentucky tweeted that moving to universal vote-by-mail would be “the end of our republic as we know it.”

Are mail-in voting systems actually more prone to fraud? Fortunately, this is an empirical question that academics, think tanks, state governments, and the White House itself has studied over time. We draw from this body of work to address a simple question: is there a heightened risk of fraud with voting by mail, and what risk there is, is it greater than the public health risks associated with having

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voters show up to vote in person? Decades of data, research and findings suggest vote-by-mail is safe, secure and will not lead to greater fraud risks.

## **I. Voter Fraud is Extremely Rare and Fraud Concerns Longstanding**

Concerns regarding voter fraud are not new, in fact voter identification laws are facially rooted in concern over in-person voter fraud. Federal concern over electoral integrity rose in salience after the disputed Presidential election in 2000 and produced the Help America Vote Act (HAVA) of 2002. HAVA sought to replace punch card voting systems, assist in the administration of federal elections and to “establish minimum election administration standards for States and units of local government” (Pub.L.107-252 §208.b.2). These concerns with voter fraud led to a rise in attempts to empirically measure voter fraud in elections across several entities, including the federal government. The research from the federal government during this period made clear that voter fraud is rare. For example, in 2002 the U.S. Department of Justice (DOJ) began investigating voter fraud. In fact, only 24 people were convicted or pleaded guilty to illegal voting between 2002 and 2005 nationally (L. C. Minnite 2007).

Given the millions of ballots that were cast over this period, the 24 cases were minuscule. Furthermore, reviews of newspaper coverage, court proceedings, and interviews indicate that voter fraud in state elections are also negligible (See Minnite and Callahan 2003). A report by Professor Justin Levitt also finds voter fraud to be extremely rare, with evidence of only thirty-one credible incidents of voter impersonation in an investigation of over one billion votes cast (Levitt 2012). It is more likely that clerical or typographical errors, poor signature matching, voter mistakes, and jumping to unwarranted conclusions with a limited amount of information account for most voter fraud allegations (Levitt 2007). Ahlquist, Mayer, and Jackman (2014) found no systematic evidence that voter impersonation occurs, concluding that the proportion of the population reporting impersonation is no different than the proportion of people who report that they were abducted by extraterrestrial beings. Evidence from court cases also have not found rampant fraud in their investigations. For example, In *Crawford v. Marion County Election Board*, the state of Indiana was unable to cite any contemporary evidence of in-person voter fraud, instead citing fraud from a 2003 mayoral primary and from other parts of the U.S. (“*Crawford v. Marion County Election Bd.*, 472 F. 3d 949 (7th Cir. 2007)” 2007). Fraud is ineffective in influencing an election because each vote carries a federal penalty of five years in prison and a \$10,000 fine, along with any state penalties.<sup>2</sup> To the extent that any voter fraud exists, there are existing laws and penalties to address it appropriately.

## **II. Mail-Based Voting Fraud is Extremely Rare**

The extant research makes clear that voter fraud is not widespread and occurs only rarely across a wide range of elections years studied. This is particularly true of mail-based voting. The messaging from some Republican leaders including the President, however, takes particular aim at mail voting. We therefore summarize the research that has focused specifically on fraud conducted through mail based and absentee voting. The Heritage Foundation, a conservative think tank, defines the fraudulent use of absentee ballots as “[r]equesting absentee ballots and voting without the knowledge of the actual voter; or obtaining the absentee ballot from a voter and either filling it in directly and

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<sup>2</sup> 42 U.S.C. § 1973i(c), (e); 42 U.S.C. § 1973gg-10.

forging the voter's signature or illegally telling the voter who to vote for.”<sup>3</sup> The Heritage Foundation examined cases of voter fraud to create a dataset called the Election Fraud Cases database. They offer a detailed account of fraud cases ranging from 1982 to 2020.<sup>4</sup> A detailed examination of this resource demonstrates that absentee ballot fraud is rare, with just 207 fraudulent absentee ballot cases out of 1,277 instances of credible voter fraud cases. So among the voter fraud cases investigated by Heritage, just 16% were found to be related to mail voting and 84% were related to in-person voting. Of the 207 instances of absentee ballot fraud, just 5 were tied to ballot harvesting schemes. According to their database, absentee voters are more likely to receive assistance from third parties, who then fail to co-sign the ballots of the people that they have assisted. This is not fraud, this is just an error in full compliance with absentee laws. Other studies report findings that likewise provide evidence that vote-by-mail based fraud is very rare (Levitt 2012; L. Minnite and Sheriff 2018; L. C. Minnite 2019, 2007).

Vote-by-mail related fraud is indeed rare, but it has happened, and when it does it usually generates a lot of headlines. The most recent headline-grabbing mail ballot fraud incident happened in 2018 in North Carolina's 9th House District race, where a Republican operative improperly collected and possibly tampered with absentee ballots. North Carolina officials decided to overturn the election results, where the GOP operative's actions advantaged the Republican candidate who had about 900 more votes than the Democrat by the time results were tallied. Thus, existing laws allowed voter fraud to be detected and penalized.

Fortunately, this research demonstrates the ability for jurisdictions to implement additional guidelines for third-parties who may assist voters in need with their ballot submission and to take precautions to deter and punish the few ballot harvesting schemes that may present themselves. Our review of the extant literature suggests that rather than outright deny vote-by-mail entirely due to the very small chance of fraud occurring in a jurisdiction, states can and have already taken appropriate steps to decrease the likelihood that it will occur.

For example, in 2017, Texas introduced legislation that provided for in-person delivery and collection of ballots to residents of nursing facilities (Texas HB 658, repealed). If five or more vote-by-mail applications were requested from the same facility, residents would have their ballots hand-delivered by county election staff. Residents would then be able to fill out the ballot and return it to the election staff, and that ballot would be processed by the county clerk. These additional steps can be taken for states concerned with voter fraud.

Current research suggests that the overall impact of mail voting on turnout is slightly positive (Showalter, Manson, and Courtney 2018; Gerber, Huber, and Hill 2013; Richey 2008) *without* any accompanying increase in voter fraud. Some Republican politicians have claimed that vote by mail will benefit Democrats, however the data does not support this claim. There is no evidence that the adoption of vote-by-mail systematically and definitively benefits one political party over another (Gerber, Huber, and Hill 2013; Gronke et al. 2008; Showalter 2017; Showalter, Manson, and Courtney 2018). Moreover, a New York Times article featuring a [comprehensive analysis](#) of studies that assess partisan bias in vote-by-mail finds mixed evidence of partisan bias in only a couple of

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<sup>3</sup> “Heritage Explains Voter Fraud.” *The Heritage Foundation*. <https://www.heritage.org/election-integrity/heritage-explains/voter-fraud>

<sup>4</sup> Election Fraud Cases Database. *The Heritage Foundation*.

[https://www.heritage.org/voterfraud/search?combine=&state=All&year=1979&case\\_type=All&fraud\\_type=All](https://www.heritage.org/voterfraud/search?combine=&state=All&year=1979&case_type=All&fraud_type=All)

cases, but no bias elsewhere. Depending on the context, there is evidence that both Democrats and Republicans have slight advantages under such systems depending on the timing and environment of the election. In Colorado’s 2014 election, Republicans gained a slight advantage (Showalter 2017), but in Utah in 2016, Democrats gained a slight advantage (Showalter, Manson, and Courtney 2018). Both the Utah and Colorado studies find that vote-by-mail matters most for people who are least likely to vote, increasing the likelihood that they cast a ballot in an election. In both cases, the advantage for political parties *was not* related to fraud, it was related to each party doing a good job at voter education and outreach, encouraging their supporters to use vote-by-mail.

### **III. Fraud is Infrequent in States That Use Mail-Based Voting**

More states than ever before are either converting elections to all-mail ballots or allowing local jurisdictions and counties to do so. The [National Conference of State Legislators](#) identifies that five states are currently using universal vote-by-mail (Colorado, Hawaii, Oregon, Washington and Utah), and that 21 other states and counting have laws that allow voters to vote through mail ballots in smaller elections, such as school board contests. California, Nebraska, and North Dakota each allow counties to conduct all-mail elections, and Alaska, Arizona, Florida, Idaho, Kansas, Maryland, Minnesota, Missouri, Mississippi, Montana, Nevada, New Jersey, New Mexico, and Wyoming all have provisions to allow some jurisdictions to conduct all-mail elections as well.<sup>5</sup>

For these elections, all registered voters receive a ballot in the mail. The voter marks the ballot, puts it in a secrecy envelope or sleeve and then into a separate mailing envelope, signs an affidavit on the exterior of the mailing envelope, and returns the package via mail or by dropping it off. Although NCLS does note that there are some added financial costs for states who have moved to vote-by-mail, they list voter convenience and increased turnout as advantages when compared to traditional voting practices. There is also evidence from the [Pew Charitable Trusts](#) that Colorado generated significant savings from the transition to mail-voting, largely due to decreased staffing costs and voting machine purchases and maintenance.

Oregon became the first all-mail ballot state in 1998 when voters passed a ballot initiative to do so. The transition began with political tension [in 1995](#) when the Republican majority state legislature passed a Vote-by-Mail expansion that was ultimately vetoed by the Democratic Governor. Oregon saw a significant increase in voter turnout soon after converting to all-mail elections. Since then, Colorado, Hawaii, Washington, and Utah have passed measures to conduct all of their elections by mail.

Vote by mail has steadily become more common over the past twenty years. The Massachusetts Institute of Technology Election Data + Science Lab finds that, not only has vote-by-mail been the leading alternative to in-person election day voting, but it is also on the rise, with about 1 out of every 4 ballots cast through mail ballot alternatives in 2018.<sup>6</sup> This increase is not accompanied with an increase in mail ballot fraud.

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<sup>5</sup> National Conference of State Legislatures. “All-Mail Elections (aka Vote-By-Mail)”. March 24, 2020. [www.ncsl.org/research/elections-and-campaigns/all-mail-elections.aspx](http://www.ncsl.org/research/elections-and-campaigns/all-mail-elections.aspx)

<sup>6</sup> Massachusetts Institute of Technology Election Data + Science Lab. “Voting by mail and absentee voting”. <https://electionlab.mit.edu/research/voting-mail-and-absentee-voting>

While there is no evidence to support the claim that there is rampant voter fraud with vote-by-mail, such claims often focus on voter worries over this method of casting a ballot.<sup>7</sup> Previous research has found that some people are concerned that the United States Postal Service will either lose their ballot in the mail or they will not deliver it to officials in a timely manner, though this concern diminishes after their first vote-by-mail election (Atsusaka, Menger, and Stein 2019). All-mail election states have been able to address this concern by offering alternatives to mailing in their ballot such as physical locations where voters may drop their ballots. The 2016 [Survey of the Performance of American Elections](#) reveals that in Colorado, Oregon, and Washington, most voters returned their ballots directly to official ballot return sites like drop boxes and election offices, eliminating the possibility of ballots being lost or taken in transit to election officials from voters. Much like President Trump's debunked claim that there was massive voter fraud in the 2016 election (Cottrell, Herron, and Westwood 2018), available evidence refutes the claim that vote-by-mail expansion increases related fraud.

The Heritage Foundation's "[Election Fraud Cases](#)" database allows us a detailed look into fraud cases, which is particularly helpful in examining fraud in states with all-mail elections. In Oregon, Heritage counts a total of two cases of absentee fraud, when a voter filled out a previous tenant's ballot and mailed it in, and when another voter sent in two ballots, one on behalf of themselves and one on behalf of their daughter. During the 2016 presidential election, 2,051,448 votes were cast and the Oregon Department of Justice referred 56 cases of possible voter fraud, representing 0.003% of ballots.<sup>8</sup> After investigating each of the 56 cases, the state concluded that 46 were legally cast and 10 violated Oregon law. 10 instances out of 2 million votes represents 0.0005% of ballots cast. Most of these cases involved people who had also voted in the neighboring state of Washington. For example, one woman, aged 76 had been living in Vancouver, Washington caring for her elderly father and returned a Washington ballot. Her father passed away right around the election, and she returned to her home in Oregon, finding a ballot waiting for her in the mail, which she filled out and mailed. She said later it was a stressful time, she forgot about the Washington ballot and it was an innocent mistake. This case is an exemplar of the kind of very limited voter fraud that rarely occurs in states like Oregon.

The Heritage database also contains six instances of absentee ballot fraud from Washington, all occurring before 2009 without an entry since, against roughly 3 million votes cast in a presidential election. According to a report from national public radio affiliate KUOW, "there's no evidence that voter fraud has ever affected the outcome of a vote-by-mail election here in Washington state."<sup>9</sup> In Colorado, there were only five cases of absentee ballot fraud spanning from 2006 to 2017. In four of the Colorado cases, a person voted on behalf of a deceased, living, or ineligible family member. For the remaining all-mail election states, there are no entries in the Heritage database for absentee ballot fraud cases either before or after the adoption of statewide vote-by-mail. Anecdotal evidence from this database demonstrates that absentee ballot fraud is nowhere near as nefarious as misleading, sensationalized claims of vote-by-mail fraud assert. State's with all-mail elections have seen increased political participation and have not had problems with voter fraud (Showalter, Manson, and Courtney 2018; Showalter 2017; Gerber, Huber, and Hill 2013; Richey 2008)).

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<sup>7</sup> Election Fraud Cases Database. *The Heritage Foundation*.

[https://www.heritage.org/voterfraud/search?combine=&state=All&year=1979&case\\_type=All&fraud\\_type=All](https://www.heritage.org/voterfraud/search?combine=&state=All&year=1979&case_type=All&fraud_type=All)

<sup>8</sup> <https://www.oregonlive.com/politics/2019/04/10-oregon-voters-plea-guilty-to-voter-fraud-in-2016-presidential-election.html>

<sup>9</sup> <https://www.kuow.org/stories/it-s-easy-to-commit-election-fraud-in-washington-state>

Mail ballot fraud is extremely rare, even in all-mail ballot states, regardless of partisan control over the process. All-mail ballot states have seen divided partisan control over state executive offices. Colorado currently has a Democrat serving as Secretary of State, the office which administers elections, but from 2011-2019, Republicans were elected to this office. In fact, over the last 20 years, the last 5 out of 7 Secretaries of State in Colorado have been Republican, while the last 3 out of 4 Governors have been Democrats over the past 20 years. In Washington, a Republican has held the office of the Secretary of State since 1965, while Democrats have held the Governorship since 1985, with some Republican Lt. Governors in between. In Oregon, there has similarly been divided control over executive offices with authority over election administration. Over the last 20 years in Oregon, there have been 3 Democratic Secretaries of State and, more recently, 3 consecutive Republican Secretaries of State, all serving with a Democratic Governor. All-mail election states have seen no increase in fraud, and fraud remains rare no matter which party holds Secretary of State and administrative authority over elections. In Utah where vote-by-mail accounts for over 80% of all ballots cast it has been Republicans promoting and overseeing the implementation of mail-balloting. In Arizona, the use of vote-by-mail has grown under Republican Governors and Secretaries of State.

#### **IV. Requiring In-Person Voting Will Undoubtedly Decrease Civic Engagement**

In his seminal work, *An Economic Theory of Democracy* (Downs 1957), Anthony Downs articulated a rational choice theory of voting behavior that predicts individuals will vote when the benefits of doing so outweigh the costs. A wide number of political science studies have verified this classic finding, with many studies noting that with relatively low perceived benefits to voting among the electorate, even small increases to barriers to the ballot box can have a marked impact on turnout. Furthermore, segments of the electorate with lower resources have been disproportionately and negatively impacted by increased costs to voting (Hershey 2009; Barreto, Nuño, and Sanchez 2009; Hajnal, Lajevardi, and Nielson 2017; Nickerson 2015; Rosenstone and Wolfinger 1978; Sobel and Smith 2009). Consequently, it is painfully obvious that requiring voters to consider the life and death consequences of voting in person will effectively disenfranchise many voters. Furthermore, given the vast [racial and ethnic disparities](#) in infection rates and deaths due to COVID-19, the perceived cost to vote in person will be much higher for racial and ethnic minorities.

This literature on the impact of costs on voter turnout is particularly useful in the nuanced discussion of whether states should use the absentee process or mail-only voting? This is the debate in New Mexico for example, where the [Secretary of State and a large number of County Clerks](#) are supporting an election by mail system where all active voters will be mailed a ballot across the state. Republican party leaders on the other hand prefer an absentee based system, where voters would first have to request a ballot that they could submit through mail. Although it is progress that both sides agree that in-person voting is not a wise idea given the current context, the rational choice literature indicates that increasing the cost for voters to have to apply for a ballot will not only decrease voter participation, but particularly among lower resourced voters. This is particularly important given that New Mexico is one of the poorest states in the union that is being impacted economically more than most.

Political leaders concerned about voter fraud should consider the advantages of vote-by-mail with regard to two security benefits: ballot tracking and risk-limiting audits. Approximately one quarter of states, predominantly those where vote-by-mail is more common, have already adopted technology that allows voters to track their ballots, similar to the way that people can track package deliveries

(Scarpello 2010). The capacity for ballot tracking can range from a minimal verification, where voters can verify whether a ballot has been received by local election authorities, to full tracing capacity that allows a ballot to be traced from the time it is sent out, received, returned, and counted (see for example Oregon Secretary of State, 2020; Washington Secretary of State, 2020; North Carolina State Board of Elections, 2020). Another security benefit of mail ballots is that they are verified, providing a paper record that is suitable for risk-limiting audits and manual recounts. In an era where everyone should be concerned with foreign interference and cyber-disruption of voting systems, vote-by-mail adds a level of resilience to our voting systems.

## V. Conclusion

As this paper articulated above, voter fraud of all kinds is extremely rare. This is especially true of absentee or mail voting. All-mail ballot states do not see higher levels of voter fraud after the switch from in-person to mail voting. Results from those states indicate that vote-by-mail is a safe, secure, and implementable process. It is worth reiterating that vote-by-mail does not increase voter fraud and that necessary safeguards are well documented in states that routinely process millions of mail ballots without any voter fraud. In the time of this pandemic, election officials, state governments, and the federal government cannot force voters to choose between their health and the health of the public and their fundamental right to vote. Vote-by-mail is a necessary alternative to in-person voting and must be implemented for the November 2020 General Election.

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