

Ending Election Day: The Question of All-Mail Elections

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BACKGROUND: The following papers on election-related topics were a product of a 2009 summer internship program of the El Paso County Clerk & Recorder's office. Extensive research and writing of these articles was performed by Brian Brown, under the direction of Robert Balink, El Paso County Clerk & Recorder, and with support of the election department staff. Brian served as an intern in the office from June through early September 2009. Brian was a 2007 graduate of Princeton University and in December 2007 also a graduate of the John Jay Institute for Faith, Society and Law, in Colorado Springs, Colorado. He then served at The Heritage Foundation in Washington, D.C. prior to becoming a summer intern at the El Paso County Clerk & Recorder's Office. Brian Brown is currently serving as a fellow at the El Pomar Foundation in Colorado Springs, Colorado.

Recent national elections have seen high-profile problems ranging from low turnout and general apathy to hassle and election fraud. Elections like Bush vs. Gore in Florida in 2000 and Franken vs. Coleman in Minnesota in 2008 have ended not only in recounts but in lawsuits. A growing number of people advocate doing away with the polling place altogether, and conducting elections entirely by absentee ballot. In 1998, Oregon became the first state to operate its elections as all-mail elections, with Washington close behind. The argument was that this method of conducting elections was cheaper, more accurate, and more conducive to high voter turnout. The question: should all elections be run this way? Is the era of "Election Day" over?

The Argument against All-Mail Elections

Are elections a mess to run? Try running them when you have no idea how many ballots are forced or faked. Are uninterested citizens hurting turnout? Try getting higher turnout by taking away one of the only opportunities they have left to act like citizens.

All-Mail Elections Encourage Fraud. It's easy right now to point to inaccuracies in elections—you can see election judges' mistakes, high-profile cases like Florida 2000 and Minnesota 2008 make election officials look very bad, and in states with photo ID requirements you can tell when people try to vote illegally. It can be messy. But the lack of voter fraud cases in Oregon doesn't mean there's no fraud—it just means there is no way to tell when people cheat.¹

The right to the secret ballot has been considered a fundamental right of American democracy since the corrupt election of 1888.² Absentee ballots have always been the biggest potential source of voter fraud.³ Without the secret ballot, a husband can force his wife to mark her ballot his way (or vice versa) and threaten to abuse her if she tries to talk to election officials about it. Advocacy groups and labor unions can get dozens or even hundreds of people together for "ballot-filling" parties, where there can be pressure to mark the ballot the "right" way.⁴ Ballots sent to outdated addresses can wind up in

anybody's hands. People can go to retirement homes and "help" the elderly or disabled fill out their ballots. How will election officials tell the difference?

All-Mail Elections Encourage Ignorance. Meanwhile, the people who are honestly voting for themselves will be voting ignorantly. Imagine you are voting in an all-mail election. You send your ballot in a couple weeks early to make sure it gets there in time. What happens when, a week before the election, news breaks of a candidate's sex scandal or treasonous business dealings—and you already voted for him? What happens when 25 million other people did the same thing?⁵

All-Mail Elections Suppress Citizenship. The fact is, even though saving money and making things more efficient are valuable, sometimes there are more important priorities. In this case, the top priority is beyond even voting rights and informed voting—it is the importance of citizenship. Study after study has shown that absentee ballots don't significantly affect turnout (even in Oregon), and there is a reason for that.⁶ A low turnout doesn't indicate that voting is "too hard." It indicates that the citizens don't care.⁷

When government seems far away and irrelevant to life, people lose interest in citizenship. Election Day is one of the few occasions left to us in which we all go out and act like citizens together—living the democratic process, and exercising the responsibilities that come with our rights.⁸ We cannot increase turnout by taking away almost the last occasion we have to remind ourselves of who we are. That is not an argument—it is a fact borne out by study after study, and for good reason.⁹ There are some things that should not be sacrificed on the altar of efficiency.

The Argument for All-Mail Elections

There is little evidence that voter fraud is occurring in the states that operate all-mail elections, and none that voter turnout is decreasing. Procedures are in place in those states to deal with fraud if it arises. Meanwhile, while we hear of voting problems and contested elections in places like Florida and Minnesota, we do not hear of them from Oregon and Washington. That is because the elections there are simpler, cheaper, and more secure—and hence, more accurate.

All-Mail Elections Discourage Fraud. The concern about fraud is a legitimate one, but there is no evidence it is any more of a problem in Oregon than anywhere else. All signatures are verified by election officials, and if someone is coerced to vote a particular way, that person can go to the county clerk's office, have his ballot voided, and vote again.¹⁰ This system is very popular in Oregon, which speaks to how well it works.¹¹

All-Mail Elections Are Cheaper, Simpler and More Accurate. The system makes elections far simpler and cheaper. Ballots can be mailed "do not forward," which allows election officials to clean up voter registration records when ballots sent to outdated addresses get returned. Officials do not have to worry about hundreds of election judges making mistakes at the polling places, so they can concentrate their efforts on the simple task of processing the votes from a central location. This saves time, money and mistakes.

All-Mail Elections Encourage Turnout. It saves trouble for the voters, too. In normal elections, people have to go vote on Election Day whether they are ready or not. In all-mail elections, people can mail in their ballots from the comfort of their living rooms, whenever they decide they are ready. True, that time is earlier than Election Day, but the increased freedom of choice allows voters to set aside the time to think properly about their decisions. When a voter is ready, he does not have to worry about taking time off work, getting transportation to the polling place, finding an ID, waiting in line, or accidentally marking the wrong name in the high-pressure moment of voting. The absence of a hassle allows him to focus on which way to vote, rather than whether he is able to vote. All this provides a possible explanation for why at least one study suggests the system may increase voter turnout.¹²

The reason the system is popular goes beyond mere convenience, however. When voters find it easier to vote, and election officials find it easier to process the votes, then fewer mistakes will be made and election results will be more accurate. This can give people more confidence in the electoral process, more pride in being citizens, and more desire to participate. All-mail elections are the future. We can sit on our porches, dreaming nostalgically of an outdated system, or we can move ahead to a new one that works better for voters, officials, and democracy.

¹ John Fund, "Absent Without Leave: Early Voting May Mean Late Election Results," *The Wall Street Journal* (October 30, 2006), at <http://www.opinionjournal.com/diary/?id=110009167>

² John Fund, "Stealing Elections: How Voter Fraud Threatens Our Democracy" (New York: Encounter Books, 2008), p. 167. See also Hans von Spakovsky, "Cracking the Bedrock of Democracy: Destroying the Secret Ballot in Union Elections," Webmemo for The Heritage Foundation (2009) p. 2-4, at http://www.heritage.org/Research/Labor/upload/lm_38.pdf

³ Commission on Federal Electoral Reform, "Building Confidence in U.S. Elections," September 2005, p. 35, at www.american.edu/iacfer/report/full_report.pdf.

⁴ Curtis Gans, "Making It Easier Doesn't Work: No Excuse Absentee and Early Voting Hurt Voter Turnout," Center for the Study of the American Electorate, September 13, 2004, p. 6, at http://www.american.edu/ia/cfer/research/csae_09132004.pdf

⁵ Curtis Gans, "Making It Easier Doesn't Work," p. 5

⁶ Paul Gronke and Peter A. M. Miller, "Voting by Mail and Turnout: A Replication and Extension," APSA working paper (2007), p. 15, at <http://people.reed.edu/~gronkep/docs/gronkeandmiller2007.pdf>

⁷ Curtis Gans et al, "Much-Hyped Turnout Record Fails to Materialize: Convenience Voting Fails to Boost Balloting," American University, p. 4, at http://www1.media.american.edu/electionexperts/election_turnout_08.pdf

⁸ "The participation problem is, at heart, not procedural but motivational. In a variety of ways, events, politics, leadership, education, communications, and values have damped the religion of civic engagement and responsibility. We will not get that back by treating the voters as spoiled children. We need to demand more of our citizenry rather than less." (Curtis Gans, "Much-Hyped Turnout Record Fails to Materialize," p. 4)

⁹ Gronke and Miller summarize the literature well in their study (Paul Gronke and Peter A. M. Miller, p. 2)

¹⁰ Interview with Robert Balink, El Paso County (Colorado) Clerk and Recorder, 6 July 2009

¹¹ Priscilla L. Southwell, “Five Years Later: A Re-Assessment of Oregon’s Vote by Mail Electoral Process,” University of Oregon working paper, p. 4, at <http://www.votebymailproject.org/Southwell.pdf>

¹² John Mark Hansen, “Early Voting, Unrestricted Absentee Voting, and Voting By Mail,” Task Force on the Federal Election System, p. 6, at http://www.tcf.org/Publications/ElectionReform/NCFER/hansen_chap5_early.pdf