

Universally Accessible and Racially Equitable Vote By Mail

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In a democracy, every eligible person who wants to make their voice heard must be able to vote. Unfortunately, this has never been true in American democracy. That's why generations of Americans—most often led by Black Americans¹—have fought, and sometimes given their lives, to secure the right to vote. But the COVID-19 pandemic has put that right further at risk, exacerbating existing barriers to the vote, laying bare longstanding structural exclusions in our democracy, and forcing voters to ask: how can we exercise our sacred right, while also keeping ourselves and our loved ones safe in the face of a deadly virus?

One clear answer is to vote by mail. A commonsense practice at any time, vote by mail is an essential, life-saving option during a global pandemic. It is also not a new concept: 5 states conduct all elections via mail voting, and 30 additional states and DC allow any voter to request a mail ballot.²

Ensuring equal and adequate access to vote by mail is especially critical to the Black and brown communities who, due to chronic disinvestment and systematic inequities, are facing higher rates of infection and death under COVID-19.³ While not a panacea and all jurisdictions must maintain in-person voting options for those who need or want them,⁴ vote by mail is an essential element of keeping our communities and our elections safe during the pandemic.

However, many current vote-by-mail (VBM) systems do not work equally well for all communities. Instead, persistent structural inequalities in all areas of our lives, from health care and housing to education and employment, mean that Black and brown voters face unique challenges when attempting to vote by mail. From difficulties accessing

VBM ballots, to burdensome requirements that make casting VBM ballots during COVID-19 impractical or impossible, to higher rates of rejection of completed VBM ballots, at each stage of the vote-by-mail process, Black and brown voters stand to lose out. Further, self-interested politicians are once again employing the racialized specter of “voter fraud” to undermine the use of vote by mail by Black and brown voters, even as they promote it to white voters.⁵

While the COVID-19 crisis has further exposed and exacerbated the many ways our democracy fails to live up to its ideals, it has also presented an opportunity for Congress, states, and localities to work toward those ideals by building VBM systems that work for all Americans. And there is evidence that, when designed with equity as a central goal, mail voting systems can work for Black and brown communities.⁶

This brief describes the challenges currently facing Black and brown people when voting by mail and presents policy recommendations at each step of the vote-by-mail process—accessing a VBM ballot, casting a VBM ballot, and ensuring a VBM ballot is counted—that can mitigate those problems and make vote by mail work better for the Black and brown communities that have always faced exclusions in our democracy.

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Lawmakers and election officials should make these improvements now, make them permanent, and work to educate voters about the changes in how they can vote in 2020 and beyond.⁷

Accessing a Vote-By-Mail Ballot

The first step to voting in any system is accessing a ballot. If voters cannot access a ballot, they cannot vote.

Voter Registration

In most places, a person must be an active registered voter to request (or be automatically sent)⁸ a vote-by-mail (VBM) ballot. However, a long history of weaponizing voter registration against communities of color⁹ means that Black and brown people are registered at lower rates than white people, election after election.¹⁰ And policy decisions like purging voters for inactivity have meant Black and brown people have a harder time staying on the rolls once they are registered. Discriminatory voter purges, often the goal of lawsuits filed by right-wing legal organizations,¹¹ disproportionately remove Black and brown voters from the registration rolls.¹² In the majority of states that do not have Automatic Voter Registration—through which registrations can be updated automatically when a voter moves within a state¹³—voters have to proactively seek out elections offices or other avenues for updating their registration status. For people of color, who move at higher rates than white people,¹⁴ this presents an additional hurdle to staying actively registered and, in turn, to accessing a ballot.

Further, registration disparities are likely to be exacerbated this year, due to COVID-19. Social distancing measures make in-person neighborhood registration drives and other community-based voter registration activities far more difficult. These efforts play an important role in getting eligible voters of color on the registration rolls each election cycle; Black and brown voters report being registered to vote through registration drives at twice the rate of white voters.¹⁵ And many government offices where voters are registered alongside routine transactions are shuttered. This causes particular problems for Latinx and Black voters who, due to centuries of economic exclusion, are more likely to rely on public assistance, and who register at public assistance agencies at more than 3 to 5 times the rate of white voters.¹⁶ As a result, many Black and brown voters will find themselves unregistered to vote and unable to access a VBM ballot.

Policy Recommendations:

To ensure all eligible people who want to cast a VBM ballot are registered, states/localities should remove unnecessary restrictions on the deadline and process for registering to vote. Specifically, they should:

- Extend or eliminate voter registration deadlines, so that people may register to vote via the mail through at least the deadline for requesting VBM ballots, or 10 days before Election Day, whichever is shorter.¹⁷
- Ensure everyone, not just people who already have information on file through a driver's license agency, is able to register to vote online.¹⁸
- Allow a VBM application to serve as a voter registration application, so that any eligible voter not on the registration rolls who requests a VBM ballot and supplies all requisite eligibility information is added to the rolls and receives a VBM ballot.
 - » In some states, this may mean updating the VBM application form to include any information that is required to verify eligibility but is not currently on the form, such as a citizenship attestation and/or means for voters to provide or update their permanent address.¹⁹
- Send a voter registration form and VBM ballot application, by forwardable mail, to all inactive voters at least 30 days before the registration deadline.²⁰ These mailings should notify voters that they can use the form(s) to update their registration if they have changes to report or to request a VBM ballot. All eligible voters who submit the form should be returned to active status and sent VBM ballots.

Mailing Address and Access Issues

Once registered, Black and brown voters may face additional challenges acquiring a VBM ballot. One fundamental requirement to vote by mail is a residential mailing address. For people experiencing homelessness, identifying a permanent address to receive mail, much less acquiring adequate identification showing that address, can be impossible. And because of racist housing policies and racialized income inequality, Black and brown households are more likely to experience housing insecurity and homelessness.²¹

Additionally, many Native voters living on tribal lands lack a residential mailing address entirely, and may live many miles from the closest post office. Some Navajo Nation members must travel a full 70 miles to access postal services,²² a trip made all the more dangerous and difficult—even impossible for some—during the COVID-19 outbreak. For these voters, having to physically pick up a VBM ballot application or ballot at a post office, even if they were able to register and apply using a P.O. box, is effectively disenfranchising. According to the Native American Rights Fund, these voters, especially tribal elders, “often lack reliable transportation and reside in geographically remote areas in which they rely upon friends and neighbors to pick up and return their mail.”²³

Policy Recommendations:

To ensure all eligible people can receive a VBM ballot where they live, states/localities should institute multiple avenues for voters to securely request and receive their VBM ballot. Specifically, they should:

- Send VBM ballots to all registered voters with self-sealing, postage-paid return envelopes at least 21 days before Election Day. With adequate preparation and strong systems in place, sending mail ballots would mitigate the myriad problems that result from requiring voters to first obtain and submit VBM ballot applications.²⁴
- Permit voters to use a post office box, a tribally-designated building, the address of a friend or relative where the voter is temporarily residing, a shelter, a community organization, or another location of their choosing as their mailing address to receive their VBM ballot.²⁵
- Ensure VBM ballot applications can be accessed and submitted online.
- Situate vote centers in locations accessible by public transportation, where people without a mailing address can update their registrations and pick up a VBM ballot, and where voters who have not received their ballots a few days before Election Day may access replacement ballots.
- Allow voters to designate any person of their choosing, including non-relatives and representatives of community organizations, to pick up a VBM ballot for them from an elections office or vote

center and bring it to them at their home or wherever they are temporarily residing.

- » States can include space for voters to make this authorization on the VBM ballot application, through a form available on their website or at elections offices, or through another voter-friendly method. Authorized designees should deliver blank requested VBM ballots to the voter within 3 days of picking them up or 3 days before Election Day, whichever is sooner.

Language and Disability Access

Some Black and brown people face additional barriers to accessing a VBM ballot. Limited English-proficient voters, for example—who are overwhelmingly people of color²⁶—may have a hard time requesting a VBM ballot if there are not adequate language accessibility provisions in place. Federal law already provides protections for some limited English-proficient voters,²⁷ and some states provide additional protections and accommodations.²⁸ But not all limited English-proficient voters are covered by these protections, and even those who are may have their legal right to voting materials in their native language violated when states and/or localities do not meet their obligations under these laws.²⁹

Voters with disabilities also confront complications voting by mail. Centuries of unequal access to quality health care, coupled with the systematic denial of access to economic opportunity, mean Native Americans and Black Americans have higher rates of disabilities than any other racial or ethnic group.³⁰ Federal law requires that people with disabilities have full and equal opportunity to vote and that all voters have the right to a private, independent ballot,³¹ and some states provide additional protections for voters with disabilities. Again, poor compliance with these obligations on the part of some jurisdictions means voters with disabilities routinely have their voting rights violated.³² Additionally, much of the assistance for both limited English-proficient voters and voters with disabilities is set up with in-person voting in mind.

Policy Recommendations:

To ensure all eligible limited English-proficient voters and voters with disabilities can access a VBM ballot, states/localities should improve

enforcement of existing protections and implement additional accessibility measures. Specifically, they should:

- Translate all instructions and notifications for registering to vote and requesting a VBM ballot into any languages other than English spoken by 3 percent of voting-age citizens, or 7,500 people (whichever is less)³³—or a lower threshold determined by a state or locality—so that every eligible person can vote, regardless of language ability.
- Employ translation services that connect limited English-proficient voters to a live translator who can assist them in requesting and completing a VBM ballot application and answer questions about voting options and the voting process.
- Utilize secure electronic blank ballot delivery software, through which voters with disabilities can request and receive accessible VBM ballots.³⁴
- Deliver VBM ballots to nursing homes, residential facilities, public housing facilities, and any other community living environments that may have previously served as polling places, but whose polling places have been closed or relocated.³⁵
- Ensure limited English-proficient voters and voters with disabilities are allowed to receive help from a person of their choosing as they apply to register to vote and complete and submit a VBM ballot application.³⁶
- Train elections personnel on their responsibilities to conduct elections that are accessible to both limited English-proficient voters and voters with disabilities, so that no voter is prevented from registering to vote or requesting a VBM ballot due to election worker misinformation or discrimination.

Incarcerated Voters

The only just and humane policy response related to incarceration and COVID-19 is to release people in significant numbers to stop the spread of the virus,³⁷ and powerful grassroots movements are pushing for such decarceration, with some success.³⁸ Corrections and election officials also have a responsibility to ensure any eligible voters who remain incarcerated can access a ballot and their fundamental right to vote. However, many incarcerated people who remain eligible to

vote—whether because they are in pre-trial detention and have not been found guilty of any crime, because they are serving sentences for misdemeanors or non-disqualifying felonies that do not deprive people of the right to vote, or because they live in a state that does not take away their right to vote—face very high hurdles to accessing a VBM ballot. Because our criminal legal system disproportionately targets, arrests, sentences, and locks up people of color, disenfranchised Americans are disproportionately Black and brown.³⁹ These voters must not be overlooked in election officials' response to the COVID-19 crisis. Now more than ever, as COVID-19 ravages jails, prisons, and detention centers, our democracy needs the voices and experiences of people behind bars.

Policy Recommendations:⁴⁰

To ensure no eligible person behind bars is disenfranchised, states/localities should facilitate voter registration and access to VBM ballots in jails and prisons. Specifically, they should:

- Ensure every jail and prison that houses eligible voters is stocked with voter registration forms, and that all state facilities have adequate copies of VBM ballot applications. Both should include self-sealing, postage-paid return envelopes.
- Guarantee that all eligible voters within jails and prisons can submit a combined voter registration and VBM ballot application up to the date non-incarcerated residents can. In states with same-day registration, allow incarcerated voters to participate in an election if they submit a voter registration form and absentee ballot application through the end of that state's same-day voter registration period.⁴¹
- Mail or deliver all VBM ballot applications requested by eligible incarcerated people to election officials in a timely fashion, and return VBM ballots (including self-sealing, postage-paid return envelopes) to these voters without delay when they are received at the jail or prison.

Casting a Vote-By-Mail Ballot

Once a voter has accessed their VBM ballot, they must then vote it. But there are unnecessary obstacles to casting a VBM ballot, too, especially for Black and brown voters.

ID and Witness Requirements

Requirements that accompany VBM ballots in many states disproportionately burden Black and brown voters. In some places, voters have to submit a copy of their ID along with their VBM ballot application or ballot.⁴² On top of the very practical reality that many voters do not have the scanner, copier, or printer at home that would be required for them to create and submit a hard copy of their ID, such policies also place unnecessary burdens on Black and brown voters, who possess government-issued photo IDs at lower rates than white voters,⁴³ as they attempt to cast their VBM ballots. Further, government office closures make it practically impossible for voters who either do not have an ID or whose ID is expired to obtain current, compliant IDs. Additionally, in some states voters are required to have one or multiple witnesses sign their voted VBM ballot, and in a few places that signature must come from a notary public.⁴⁴ These policies disadvantage people who live alone or with young children (those under the age of 18 are unable to serve as witnesses), who in at least some states are more likely to be Black and brown.⁴⁵

Policy Recommendations:

To ensure no eligible person is hindered from casting a ballot by mail, states/localities must remove requirements that make it unnecessarily difficult to cast one's VBM ballot. Specifically, they should:

- Eliminate any requirement that voters send a photocopy of their ID along with their VBM ballot application or VBM ballot.
- For any part of the VBM ballot application or voting process that still requires ID, accept IDs that expired since January 1, 2020. Voters whose ID expired early this year and who do not use their ID for driving or other frequently-practiced activities may have

been planning to renew it closer to the date of the election and may not now be able to, given DMV and other government closures.

- Eliminate requirements that a witness or notary sign a voter's ballot before it is valid, so that people who live or are quarantining alone are not endangered or disenfranchised. The voter's signature alone should suffice.

Language and Disability Access

Casting a VBM ballot can be harder for some Black and brown voters for other reasons, too. Some of the nearly 23 million limited English-proficient people of color in the United States⁴⁶ are eligible to vote, and they have the right to a ballot they can understand. Many of these voters likely count on in-person voting systems that allow them to receive language assistance casting their ballot, and as a result may have difficulty casting their ballot under vote-by-mail systems that do not take language accessibility into account. An estimated 8.8 million Americans of color with a disability were eligible to vote during the last presidential election.⁴⁷ These voters, who face heightened risk and additional complications with COVID-19 than voters without a disability,⁴⁸ have a right to cast a secret ballot and should have the ability to do so safely. But many vote-by-mail systems as designed are not accessible to all people with disabilities.

Policy Recommendations:

To ensure all eligible limited English-proficient voters and voters with disabilities can cast a VBM ballot, states/localities should bolster their current systems and implement additional accessibility measures. Specifically, they should:

- Provide multilingual ballots in languages other than English spoken by any language minority group that makes up 3 percent of the citizen voting-age population, or 7,500 people, whichever is smaller,⁴⁹ or a lower threshold set by a state or locality.
 - » If there are more than 3 languages that meet this threshold in the same jurisdiction and multilingual ballots would be impractical, ensure that there is a clear process for voters to request a ballot in the language of their choice. Such a process must include instructions for every step of the VBM ballot application and ballot completion process translated into all covered languages.

- Employ translation services that connect limited English-proficient voters to a live translator who can assist them in completing their VBM ballots and answer questions about voting options and the voting process.
- Utilize ballot marking software like remote access vote by mail that facilitates accessible private and independent ballot marking by voters with disabilities.⁵⁰
- Ensure limited English-proficient voters and voters with disabilities are allowed to receive help from a person of their choosing as they complete and submit their VBM ballot.⁵¹
- Train elections personnel on their responsibilities to conduct elections that are accessible to both limited English-proficient voters and voters with disabilities, so that no voter is unable to cast their VBM ballot due to election worker misinformation or discrimination.

Ballot Return and Voter Intimidation

Challenges submitting VBM ballots, particularly those related to postage, early post-mark deadlines, limited drop-boxes, and voter intimidation may present additional barriers to Black and brown voters. A long history of systematic wealth extraction from and economic exclusion of communities of color,⁵² coupled with ongoing racialized wage gaps,⁵³ mean that Black and brown voters have fewer resources than white voters.⁵⁴ For people living in poverty, the costs of obtaining stamps—both the monetary cost and the costs of finding time to go while working multiple jobs, or traveling to a post office without a car, among others—can be prohibitive. Especially for voters who need to send multiple mail pieces, including a registration form, VBM application, and then a VBM ballot, postage can act as a modern-day poll tax.⁵⁵

Black voters in particular, who are overrepresented among frontline workers who continue to work long hours throughout this crisis,⁵⁶ may have a harder time getting to a post office if they need to purchase postage, or to a designated drop-box to submit their ballot if locations are limited. Many Native voters on tribal lands do not receive mail service at their home and instead must travel to distant post offices to send and receive mail. Many of these voters live great distances from the nearest post office, so traveling to post offices to submit a VBM ballot may be an impossibility, and at the very least is dangerous amidst a deadly pandemic.⁵⁷

Additionally, Black and brown voters face a long history of intimidation at the ballot box.⁵⁸ Before the pandemic broke, conservative vote suppression groups were already developing plans to station former military and law enforcement personnel at polling places in Black and brown communities.⁵⁹ This tactic, illegal under federal law⁶⁰ and state law in many places⁶¹—and kept in check for decades under a recently-expired consent decree⁶²—is not likely to go away just because fewer people vote in person. Instead, it may well be repurposed under COVID-19 by stationing former military and law enforcement personnel at drop-boxes in communities of color to harass and intimidate Black and brown voters.⁶³

Policy Recommendations:

To ensure all eligible people can submit their ballot on time and free from harassment, states/localities must remove barriers to and create additional avenues for safe, intimidation-free ballot submission. Specifically, they should:

- Include postage-paid, self-sealing return envelopes with all mailed voting materials, including registration forms and VBM ballot applications (which ideally are consolidated, per the above recommendation), as well as VBM ballots themselves.
- Situate 24-hour, no-postage ballot drop-boxes in prominent, public transit-accessible locations throughout the county or municipality, where voters (or a designee of their choice) can submit their voted VBM ballots. These drop-boxes should be open for 24 hours a day beginning at least 30 days before Election Day, through the time the polls close on Election Day.
- Allow Native voters to submit their VBM ballots at tribally-designated buildings, and ensure there are adequate 24-hour, no-postage drop-boxes on tribal lands, such that no tribal member must travel farther than 20 miles to drop off their voted VBM ballot, and collect these ballots at no cost to the tribe.⁶⁴
- Allow voters to designate any person of their choosing, including non-relatives and representatives of community organizations, to pick up their completed VBM ballot and deliver it to their county or municipal elections office or a nearby ballot drop-box.
 - » States can add an authorization section to the VBM ballot return envelope, which voters can fill out and sign to authorize the return of their completed VBM ballot by their designee. Authorized designees should deliver completed VBM ballot to

a drop-box, vote center, polling place, or elections office within 3 days of receiving it or before the polls close on Election Day, whichever is sooner.⁶⁵

- Enforce existing protections in federal law—and any in state law—against intimidation and interference in voting to prohibit intimidation at ballot drop-boxes. Election officials should consider creating harassment-free zones around drop-boxes, which should be free from people except voters depositing their voted VBM ballots, a person they have invited to assist them, and election officials supporting voters, collecting ballots, or otherwise engaged in official election activity.

Incarcerated Voters

Additionally, Black and brown voters behind bars again face unique challenges casting their VBM ballots. For incarcerated people with no source of income, accessing and affording stamps can be impossible. And even those who have money for stamps may not be able to readily purchase them, as access to commissary may be limited. Further, incarcerated voters likely do not have access to identification documents that may be required to cast their VBM ballot. And the presence of guards or other facility officials may make marking one's ballot privately difficult or impossible. Finally, ensuring one's VBM ballot is sent out and post-marked on time may also be difficult, as incarcerated people do not send their mail themselves but instead rely on prison personnel to do so, and mail in and out of jails and prisons is sometimes delayed.

Policy Recommendations:

To ensure all eligible people behind bars can cast a secret VBM ballot on time, states/localities (and prison personnel) should facilitate secure and private transmission of VBM ballots in and out of jails and prisons. Specifically, they should:

- Transmit VBM ballots in a timely manner to a post office where they can be postmarked, a drop-box, or a polling place prior to close of polls on Election Day, without cost to the voter.
- Ensure incarcerated voters are not required to show ID when casting a VBM ballot.
- Prohibit prison personnel from observing voters while they cast their ballots, so that incarcerated people can cast a secret ballot.

Counting a Vote-By-Mail Ballot

Even after voters have received, voted, and mailed or dropped off their VBM ballots, a few more hurdles remain to having them counted.

Mail Delays and Distrust

First, ballots must arrive at the elections office on time. Native voters may encounter difficulties ensuring their VBM ballot arrives on time to be counted, as those living on tribal lands may not have residential addresses and are subject to long and convoluted mail routes that can result in significant mail delays.⁶⁶ Every eligible voter deserves to have confidence that their vote will arrive on time and be counted, yet voters of color are less confident this will happen. In California, a state in the process of transitioning to all-VBM elections, 32 percent of Black voters and 29 percent of Latinx voters said they did not trust the U.S. Postal Service to safely deliver their ballots on time, compared to just 21 percent of white voters.⁶⁷ A recent survey of Black voters by BlackPAC found that 41 percent of those surveyed are worried their vote will not be counted if they vote by mail.⁶⁸

Policy Recommendations:

To ensure every VBM ballot cast by an eligible person arrives on time and voters have confidence in their VBM ballot, states/localities should extend ballot receipt deadlines and utilize voter-friendly VBM ballot tracking systems. Specifically, they should:

- Ensure that all VBM ballots placed in a drop-box or postmarked by the time polls close on Election Day and received within 10 days after Election Day are counted.
 - » In states with significant rural populations and/or post offices that do not offer postmarks, some VBM ballots cast by Election Day may not receive a postmark. These states should consider counting VBM ballots, especially from these areas, that arrive postmarked a day or a few days after Election Day.
- Begin processing VBM ballots that arrive before Election Day, including checking envelopes for all required information and alerting voters

if there are any problems (more on this below), opening and preparing ballots to be scanned, and otherwise getting ballots ready to be processed, short of final tabulation.⁶⁹

- » Note that, even with pre-processing, given the importance of ensuring VBM ballots postmarked by but received after Election Day are counted—and the need for voters to be able to remedy or cure any problems with these ballots that arrived on time—it is possible states/localities will not have a full, accurate sense of election results on Election evening. Voters should prepare to wait a few or several days for final results, as Wisconsinites and Ohioans did during their primary this year. This extra time will be critical to the inclusivity and integrity of our elections.⁷⁰
- Incorporate voter-friendly ballot tracking systems that integrate a USPS intelligent mail barcode to allow voters to check the status of their VBM ballot, including when it was mailed out and delivered to them, as well as when it arrived back at their elections office. These systems can include text or email alerts to voters at each of these stages, and, importantly, notifications if there is a problem with their ballot they need to remedy.⁷¹
 - » Ballot tracking systems are important for voter confidence everywhere, and they are especially useful for voters who send their completed VBM ballot with a third party like a relative, friend, or community organization.

Voter Verification

Once ballots do arrive, there's still the issue of ensuring they are counted. To verify the validity of VBM ballots, local election officials often match voters' signatures against a signature they already have on file for that voter.⁷² Voters with disabilities and limited English-proficient voters, who are disproportionately people of color,⁷³ are more likely to have signatures that change over time and therefore to have their VBM ballots held up through the signature matching process.⁷⁴ Further, in many places the signature verification process entails a good deal of discretion by local election officials,⁷⁵ which can result in disparate rejection rates. Research from Florida shows that the VBM ballots of Black and Latinx voters are rejected at 2 to 3 times the rate of white voters. In the 2016 general election, 1.9 percent of VBM ballots cast by

Black voters and 1.8 percent of VBM ballots cast by Latinx voters were rejected, compared to 0.7 percent of those cast by white voters;⁷⁶ in 2018 those disparities held, with 2 percent of VBM ballots cast by both Black and Latinx voters rejected, compared to 0.9 percent of VBM ballots cast by white voters.⁷⁷

Ballots may not be counted for other reasons, including if the voter forgot to sign their ballot altogether, if they forgot to include other information required by some states (like a birth date or address), or if they left off the current date with their signature. Voters in Georgia can have their ballots rejected for any of these reasons, and data from 2018 show stark disparities in VBM ballot rejection rates by race in Gwinnett County, the second largest county in the state and home to hundreds of thousands of Georgians of color.⁷⁸

Policy Recommendations:

To ensure every VBM ballot cast by an eligible person is counted, states/localities should have a uniform and equitable ballot verification and curing process. Specifically, they should:

- Institute a statewide, uniform, and transparent process for signature verification, and train all election workers responsible for signature matching in this uniform verification process in advance of any ballot return and counting.
- Institute a state-wide, uniform, and timely remote process for signature “curing,” through which voters can correct their ballots if they have forgotten to sign them, if election officials believe their signature does not match the signature on file closely enough, or if there are other issues with their VBM ballot.
 - » Election officials should notify voters of any issue as soon as it is detected and through every medium for which they have contact information (phone, text, email, mail), and voters must be able to cure their ballot up to at least 10 days after Election Day.
- Require that a bipartisan panel of at least 3 different election officials review a VBM ballot, and any attempted cure, and agree on its inadequacy before it is rejected.
- Maintain a record of VBM ballots that were initially rejected, how voters were contacted and offered the opportunity to cure their ballot, and whether the ballot was eventually corrected or not, to allow for audits and accountability for any race-based disparities in ballot rejection.

Finally, across all 3 of these major steps to voting by mail—accessing a VBM ballot, casting a VBM ballot, and having a VBM ballot counted—Black and brown voters are largely unfamiliar with the process. A recent poll found that only one-third of registered Black voters across 8 states have experience with voting by mail.⁷⁹ In most places, Black and brown voters utilize vote by mail less than white voters. White voters vote by mail at higher rates than Latinx voters in 7 no-excuse absentee voting states examined by the Brennan Center and at higher rates than Black voters in 5 of those 7 states.⁸⁰ In California, the largest majority vote-by-mail state, Latinx voters vote by mail at the lowest rates of any racial or ethnic group.⁸¹

In addition to making the important policy changes above, states and localities must engage in significant voter education efforts, beginning now and ramping up through Election Day in November. These education efforts should focus on the Black and brown communities that are less familiar with voting by mail, and who, as laid out in this brief, face higher barriers to effectively voting by mail.

In a healthy democracy, all voters must know what options are available to us to safely make our voices heard, and if we choose to vote by mail, we must understand how to complete each step of the process. It is state and local lawmakers' and election officials' responsibility to ensure we do, and they can do so by investing in robust, sustained, and targeted voter education immediately.

Conclusion

The challenges to voting presented by COVID-19 are only the latest in a long history of barriers to the ballot box faced by Black and brown voters. These barriers represent yet another way that Black and brown communities have been prevented from building durable political power. Each of the disparities cited in this brief is the result of racist disinvestment on a systematic scale, and each makes the vote-by-mail process less accessible to people of color—just as race-based inequities have for decades made registering to vote and voting in person, in many places, less accessible. The COVID-19 pandemic has brought into stark relief just how far we still have to go toward our goal of political equality.

But vote-by-mail systems do not have to disproportionately disenfranchise Black and brown voters. With adjustments to the process for

accessing, casting, and having a VBM ballot counted, voting by mail can work as well for Black and brown voters as for all others. While we must still maintain in-person voting options in every community, and especially in communities of color, the updates described in this brief will ensure all eligible Americans can safely and securely make their voices heard this year and every year moving forward. In turn, we can all enjoy a more inclusive democracy.

Endnotes

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- 4 Laura Williamson, *How to Build a Racially Inclusive Democracy During COVID-19 and Beyond*, Dēmos, April 28, 2020. <https://www.demos.org/policy-briefs/how-build-racially-inclusive-democracy-during-covid-19-and-beyond>.
- 5 Chiraag Bains and Laura Williamson, “The Attack on Vote-By-Mail: Weaponizing ‘Voter Fraud’ Claims to Suppress the Vote,” Dēmos, April 14, 2020, <https://www.demos.org/policy-briefs/attack-vote-mail-weaponizing-voter-fraud-claims-suppress-vote#Voter-Purges>.
- 6 “Safeguarding Equity in the Vote At Home (VAH) Model,” National Vote At Home Institute, April 2020, <https://www.voteathome.org/wp-content/uploads/2020/04/Safeguards-for-Equity-in-the-VAH-Model.pdf>. See also Adam Bonica, Jacob M. Grumbach, Charlotte Hill, and Hakeem Jefferson, “All-Mail Voting in Colorado Increases Turnout and Reduces Inequality,” May 4, 2020. <https://www.voteathome.org/wp-content/uploads/2020/05/CO-All-Mail-Voting-2020-Paper.pdf>
- 7 Much election law is governed at the state level, by state legislatures, secretaries of state, and governors, though in some states local lawmakers and election officials have power to implement these recommendations. See Joshua A. Douglas, *The Right to Vote Under Local Law*, 85 *Geo. Wash. L. Rev.* 1039 (2017). https://uknowledge.uky.edu/law_facpub/615/.
- 8 In the 5 states that conduct all their elections by mail, active registered voters are automatically sent a VBM ballot in the weeks before an election. In most other states, voters must affirmatively request a ballot if they want to vote by mail.

- 9 After Black men gained the right to vote in 1870 with the ratification of the 15th Amendment and Black women in 1920 with ratification of the 19th Amendment, states utilized an array of racist tactics involving voter registration—such as poll taxes, literacy tests, and employment requirements—to keep them from exercising that right. See Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 312. See also Laura Williamson, Pamela Cataldo, and Brenda Wright, *Toward a More Representative Electorate*, *Dēmos*, 2018, 4. <https://www.demos.org/research/toward-more-representative-electorate>.
- 10 U.S. Census Bureau, “Voting and Registration in the Election of November 2018” (see also: 2016, 2014, 2012, etc.), April 2019, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-583.html>.
- 11 See *supra* note 5.
- 12 Shruti Banerjee and Stuart Naifeh, “How the Wisconsin Voter Purge Targets Black Voters,” *Dēmos*, December 20, 2019, https://www.demos.org/blog/how-wisconsin-voter-purge-targets-black-voters#footnoteref1_mdwi561.
- 13 Liz Kennedy, Lew Daly, and Brenda Wright, *Automatic Voter Registration: Finding America’s Missing Voters*, *Dēmos*, January 20, 2016. <https://www.demos.org/research/automatic-voter-registration-finding-americas-missing-voters>.
- 14 “Overall Mover Rate Remains at an All-Time Low,” U.S. Census Bureau, December 21, 2017, <https://www.census.gov/library/stories/2017/12/lower-moving-rate.html>. The mover rate for Black Americans is 13.1 percent, Asian Americans is 12.1 percent, and Latinx Americans is 11.7 percent, compared to 10 percent for non-Latinx white Americans.
- 15 U.S. Census Bureau, “Voting and Registration in the Election of November 2016,” May 2017, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-580.html>. 6.9 percent of Black Americans and 5.7 percent of Latinx Americans report registering via a registration drive, compared to 3.1 of non-Latinx, white Americans (see Table 12).
- 16 *Id.*
- 17 Under the National Voter Registration Act, states may have mail-in voter registration deadlines up to 30 days before Election Day. Five states have voter registration deadlines of 10 days or fewer (Colorado, Connecticut, New Hampshire, Vermont, and Washington) and lawmakers and advocates in several states are calling for extended mail-in voter registration deadlines. In Massachusetts, for example, lawmakers have introduced a bill to extend the voter registration deadline up to 10 days before Election Day. See Massachusetts Bill HD 5075, “An Act ensuring safe and participatory 2020 state elections in response to COVID-19,” <https://malegislature.gov/Bills/191/HD5075>.
- 18 Restricting online voter registration to just those who have driver’s licenses can negatively impact low-income residents and residents of color, who are less likely to have cars and transact with the DMV.

- 19 For example, in North Carolina, the absentee ballot application form does not include an attestation of citizenship (as does the registration form). See North Carolina’s voter registration form https://dl.ncsbe.gov/Voter_Registration/NCVoterRegForm_06W.pdf and absentee ballot request form <https://s3.amazonaws.com/dl.ncsbe.gov/Forms/NCAbsenteeBallotRequestForm.pdf>. With the addition of a simple box for applicants to check confirming they are U.S. citizens, and therefore eligible to vote in North Carolina, any voter who completes the absentee ballot application form but is not on the registration rolls will be registered and sent a VBM ballot at the same time. Note, however, that any voter requesting a VBM ballot who is already registered but who neglects to check the citizenship box or otherwise re-provide eligibility information should still be sent a VBM ballot, as they have already had their eligibility verified.
- 20 States that have made the recommendation above—i.e., have added all eligibility information to their VBM application and given voters the ability to update their permanent address—need only send a VBM application to inactive voters. Assuming they are eligible to vote in the jurisdiction, completing the application will both register them and request their VBM ballot.
- 21 *The 2016 Annual Homeless Assessment Report (AHAR) to Congress*, The U.S. Department of Housing and Urban Development, November 2016. <https://files.hudexchange.info/resources/documents/2016-AHAR-Part-1.pdf>. In 2016, Black Americans made up 40 percent of those experiencing homelessness, even though they made up only 13 percent of the population. Latinx Americans made up 22 percent of those experiencing homelessness, even though they made up only 18 percent of the population.
- 22 “Vote By Mail in Native American Communities,” Native American Rights Fund, <https://www.narf.org/vote-by-mail/>.
- 23 Jacqueline De León, “Opposition to the Ban on So-Called ‘Ballot Harvesting,’” Native American Rights Fund, March 5, 2019, <https://www.narf.org/ballot-harvesting-amendment/>.
- 24 The 5 states that currently conduct all elections by mail send all registered voters a VBM ballot directly in the weeks leading up to Election Day. For more on how states can do this, and the complication of instead sending VBM applications, see Daniel Nichanian, “‘Time is of the Essence’: How States Can Shore Up Mail Voting,” *The Appeal*, March 24, 2020, <https://theappeal.org/politicalreport/how-states-can-shore-up-mail-voting/>. See also, Nick Corasaniti and Stephanie Saul, “Inside Wisconsin’s Election Mess: Thousands of Missing or Nullified Ballots,” *The New York Times*, April 9, 2020, <https://www.nytimes.com/2020/04/09/us/politics/wisconsin-election-absentee-coronavirus.html>.
- 25 For example, Washington, an all vote-by-mail state, allows Native voters living on tribal lands to use a nontraditional residential address when registering to vote and to use tribally-designated buildings to receive and return their VBM ballots. See Washington Senate Bill 5079, 2019, <http://lawfilesex.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5079-S.SL.pdf?q=20200521055047>.

- 26 Only 12 percent of the limited English-proficient population is white; the other 88 percent are Black, Latinx, Asian Pacific Islander, or American Indian / Alaska Native. See Jeanne Batalova and Jie Zong, “Language Diversity and English Proficiency in the U.S.,” Migration Policy Institute, November 11, 2016, <https://www.migrationpolicy.org/article/language-diversity-and-english-proficiency-united-states>.
- 27 Section 203 of the Voting Rights Act (VRA) targets those language minorities who have suffered a history of exclusion from the political process: Spanish, Asian, American Indian, and Alaskan Native persons. Language translation requirements under Section 203 are triggered in 2 ways: 1) when either more than 5 percent of the citizens of voting age of the State or political subdivision are members of a single language minority and are limited-English proficient or, 2) more than 10,000 of the citizens of voting age of the political subdivision are members of a single language minority and are LEP, whichever is lower. 52 U.S. Code § 10503.
- 28 For example, some states set lower population thresholds for translation, translate a more extensive set of materials, require appointment of bilingual election officials, and host community-based voter registration workshops in other languages, among other protections. See also J. Mijin Cha and Liz Kennedy, *Millions to the Polls: Language & Disability Access*, Dēmos, February 18, 2014, at 2. <https://www.demos.org/policy-briefs/millions-polls-language-disability-access#Language-Access--->.
- 29 *An Assessment of Minority Voting Rights in the United States*, U.S. Commission on Civil Rights, 2018, at 183. https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf.
- 30 Three in 10 Native adults and 1 in 4 Black adults have a disability, compared to 1 in 5 white adults. See “Adults with Disabilities: Ethnicity and Race,” Centers for Disease Control and Prevention, October 25, 2019, <https://www.cdc.gov/ncbddd/disabilityandhealth/materials/infographic-disabilities-ethnicity-race.html>. See also Nanette Goodman, Michael Morris, and Kelvin Boston, *Financial Inequality: Disability, Race, and Poverty in America*, National Disability Institute, February 8, 2019. <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/02/disability-race-poverty-in-america.pdf>.
- 31 Section 208 of the VRA provides that “any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” The Americans with Disabilities Act (ADA) requires polling places be fully accessible to people with disabilities. The Help America Vote Act affirms the right of all people to an independent, private ballot. See “Federal Law and Voter Access: The Breakdown,” National Disability Rights Network, January 30, 2020, https://www.ndrn.org/wp-content/uploads/2020/01/NDRN_Blocking_the_Ballot_Box_2020_FederalLaw.pdf.
- 32 See *supra* note 29, at 193.
- 33 *Everyone’s America: State Policies for An Equal Say in our Democracy and an Equal Chance in our Economy*, Dēmos, Summer 2018. http://www.demos.org/sites/default/files/publications/EveryonesAmerica_July23.pdf.

- 34 One such system is offered by Democracy Live, which is in use or under certification in California, Colorado, Delaware, Florida, Illinois, Minnesota, Nevada, New Hampshire, North Dakota, Ohio, Texas, Vermont, Washington, Washington D.C., and West Virginia. See Democracy Live, <https://democracylive.com/approvals-reviews-and-certifications/>.
- 35 “Statement on Elections Accessibility During the COVID-19 Pandemic,” National Disability Rights Network, March 17, 2020, <https://www.ndrn.org/resource/statement-on-elections-accessibility-during-the-covid-19-pandemic/>.
- 36 Section 208 of the Voting Rights Act gives limited English-proficient voters and voters with disabilities the right to bring someone into the polling booth to assist them with their ballot. See 52 U.S. Code § 10508. States and localities must ensure this right extends to limited English-proficient voters and voters with disabilities through every stage of the absentee voting process.
- 37 As long as people are caged in small, crowded facilities in which sanitization and social distancing are impossibilities, COVID-19 will flourish. One recent model of COVID-19 in immigration detention facilities found that, after 90 days, nearly 100% of detained individuals will be infected with the illness. “Study Projects Significant Impact on Immigrants and on Local Health Care if ICE Detention Populations Are Not Decreased,” Government Accountability Project, April 27, 2020, <https://whistleblower.org/press/study-projects-significant-impact-on-immigrants-and-local-health-care-if-ice-detention-populations-are-not-decreased/>.
- 38 Prison Policy Initiative, “Responses to the COVID-19 Pandemic,” May 4, 2020, <https://www.prisonpolicy.org/virus/virusresponse.html>.
- 39 Black adults are 5.9 times and Latinx adults 3.1 times as likely to be imprisoned as white adults. See “Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System,” the Sentencing Project, April 19, 2018, <https://www.sentencingproject.org/issues/racial-disparity/>. See also Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2012).
- 40 For a more detailed set of recommendations related to voting during COVID and incarcerated voters, see Naila Awan and Shruti Banerjee, *How to End De Facto Disenfranchisement in the Criminal Justice System*, Dēmos, May 20, 2020. <https://www.demos.org/policy-briefs/how-end-de-facto-disenfranchisement-criminal-justice-system>.
- 41 Through same day registration, eligible but unregistered voters are able to register and cast a ballot on the same day. See “Same Day Registration,” National Conference of State Legislatures, June 28, 2019, <https://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx>. Twenty-one states and DC already allow voters to register and vote on the same day, though to do so they must show up in person to the polls, an option not available to incarcerated voters. Under this recommendation, if a voter wants to register and vote the same day, jail and prison officials would be responsible for transmitting voter registration forms and absentee ballot applications to election officials, returning VBM ballots to eligible incarcerated voters, and transmitting completed VBM ballots back to election officials in person.

- 42 “Verification of Absentee Ballots,” National Conference of State Legislatures, January 21, 2020, <https://www.ncsl.org/research/elections-and-campaigns/verification-of-absentee-ballots.aspx>.
- 43 Vanessa M. Perez, *Americans with Photo ID: A Breakdown of Demographic Characteristics*, Project Vote, February 2015. <http://www.projectvote.org/wp-content/uploads/2015/06/AMERICANS-WITH-PHOTO-ID-Research-Memo-February-2015.pdf>.
- 44 States requiring witness(es) or notary public include Alabama, Alaska, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, Rhode Island, South Carolina, Virginia, and Wisconsin. See *supra* note 42.
- 45 *People First of Alabama, et al. v. John Merrill, et al.*, (2020), at 35. https://www.splcenter.org/sites/default/files/documents/people_first_of_alabama_v._merrill_-_file_stamped_complaint.pdf.
- 46 See *supra* note 26.
- 47 Lisa Schur and Douglas Kruse, *Projecting the Number of Eligible Voters with Disabilities in the November 2016 Elections*, Rutgers University, September 8, 2016. https://smlr.rutgers.edu/sites/default/files/documents/faculty_staff_docs/Kruse%20and%20Schur_Disability%20electorate%20projections%202016_9-8-16.pdf.
- 48 “Disability Considerations During the COVID-19 Outbreak,” World Health Organization, https://www.who.int/docs/default-source/documents/disability/covid-19-disability-briefing.pdf?sfvrsn=fd77acb7_2&download=true.
- 49 See *supra* note 33.
- 50 For example, California uses such software, which Disability Rights California has stated “will allow voters with disabilities to vote by mail as privately and independently as possible.” See “Two New Remote Access Vote-By-Mail Systems Approved by California Secretary of State,” California Secretary of State’s Office, October 13, 2017, <https://www.sos.ca.gov/administration/news-releases-and-advisories/2017-news-releases-and-advisories/two-new-remote-access-vote-mail-systems-approved-california-secretary-state/>.
- 51 See *supra* note 31.
- 52 Amy Traub, Laura Sullivan, Tatjana Meschede, and Tom Shapiro, *The Asset Value of Whiteness*, Dēmos and the Institute on Assets and Social Policy, 2017. https://www.demos.org/research/asset-value-whiteness-understanding-racial-wealth-gap#footnoteref1_j9kfuzk.
- 53 Elise Gould, “Stark black-white divide in wages is widening further,” Economic Policy Institute, February 27, 2019, <https://www.epi.org/blog/stark-black-white-divide-in-wages-is-widening-further/>.
- 54 Twenty-two percent of Black Americans, 19 percent of Latinx Americans, and 24 percent of Native Americans live below the poverty line, compared to 9 percent of white Americans. See “Poverty Rate by Race/Ethnicity,” Kaiser Family Foundation, 2018, <https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

- 55 Co-founder and executive director of Black Voters Matter Fund Cliff Albright says that “By refusing to provide voters with postage paid envelopes, the secretary of state has... imposed a poll tax on individual voters...” See “ACLU files federal lawsuit challenging Georgia poll tax,” ACLU, April 8, 2020, <https://www.aclu.org/press-releases/aclu-files-federal-lawsuit-challenging-georgia-poll-tax>.
- 56 Hye Jin Rho, Hayley Brown, and Shawn Fremstad, *A Basic Demographic Profile of Workers in Frontline Industries*, The Center for Economic and Policy Research, April 2020. <https://cepr.net/wp-content/uploads/2020/04/2020-04-Frontline-Workers.pdf>. See also Amy Traub, “Protect Black and Brown Workers on the Front Lines of the Coronavirus Fight,” *Demos*, April 17, 2020, <https://www.demos.org/blog/protect-black-and-brown-workers-front-lines-coronavirus-fight>.
- 57 See *supra* note 22.
- 58 Liz Kennedy, Stephen Spaulding, Tova Wang, Jenny Flanagan, and Anthony Kammer, *Bullies at the Ballot Box*, *Demos*, September 2012. <https://www.demos.org/sites/default/files/publications/BulliesAtTheBallotBox-Final.pdf>.
- 59 Lee Fang and Nick Surgery, “Conservative Operatives Float Plan to Place Retired Military, Police Officers as GOP Poll Watchers on Election Day,” April 11, 2020, <https://theintercept.com/2020/04/11/republican-poll-watchers-vote-by-mail-voter-fraud/>.
- 60 The Voting Rights Act of 1965 prohibits intimidation of voters, 52 U.S. Code § 10101.
- 61 See *supra* note 58, Appendix 4.
- 62 Consent Decree, *DNC v. RNC*, (No. 81-3876, November 1, 1982), available as document no. 43-5, at <https://www.brennancenter.org/sites/default/files/legacy/Democracy/dnc.v.rnc/1982%20consent%20decree.pdf>.
- 63 See *supra* note 5.
- 64 See *supra* note 22.
- 65 More than half of states (27) already allow voters to designate someone else to return their ballot. See “VOPP: Table 10: Who Can Collect and Return an Absentee Ballot Other Than the Voter,” National Conference of State Legislatures, April 21, 2020, <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-10-who-can-collect-and-return-an-absentee-ballot-other-than-the-voter.aspx>. In some places, legislators have attempted to criminalize the practice of community ballot collection, but such punitive laws are being actively challenged. In Arizona, advocates successfully defeated a law that made community ballot collection a felony when the Ninth Circuit held that it was enacted with the intent to discriminate against voters of color. See *Democratic Nat’l Comm. v. Hobbs*, 948 F.3d 989 (9th Cir. 2020), <https://www.democracymatters.com/wp-content/uploads/sites/41/2020/03/ArizonaVoting-9CA.pdf>.

- 66 *Voting Barriers Encountered by Native Americans in Arizona, New Mexico, Nevada and South Dakota Survey Research Report*, Native American Voting Rights Coalition, January 2018. <https://www.narf.org/wordpress/wp-content/uploads/2018/01/2017NAVRCsurvey-results.pdf>.
- 67 “The California Voter Experience Study: A Statewide Survey on Voter Perspectives on Vote-By-Mail and Vote Centers,” California Civic Engagement Project, September 3, 2017, <https://static1.squarespace.com/static/57b8c7ce15d5dbf599fb46ab/t/59b1bacc4c0dbf34e91dac0d/1504819977791/UCDavisCCEPIssueBrief3VoteCenterStatewideSurveyBrief.pdf>.
- 68 “Poll: BlackPAC Survey Shows Black Voters Think Neighbors are Handling COVID Better Than Trump,” BlackPAC, April 14, 2020, <https://blackpac.com/poll-blackpac-survey-shows-black-voters-think-neighbors-are-handling-covid-19-better-than-trump/>.
- 69 *Fair Elections During A Crisis: Urgent Recommendations in Law, Media, Politics, and Tech to Advance the Legitimacy of, and the Public’s Confidence in, the November 2020 Elections*, AdHoc Committee for 2020 Election Fairness and Legitimacy, UCI Law, April 2020, 6. <https://www.law.uci.edu/faculty/full-time/hasen/2020ElectionReport.pdf>.
- 70 *Id.*, at 13.
- 71 One such system is offered by Democracy Works, a nonpartisan, nonprofit tech and civic organization that partners with state and local election administrators to create seamless and convenient ballot tracking systems that serve both elections staff and voters. See <https://www.democracy.works/ballot-scout>.
- 72 See *supra* note 42.
- 73 See *supra* notes 30 and 26.
- 74 Anna Baringer, Michael C. Herron, and Daniel A. Smith, *Voting by Mail and Ballot Rejection: Lessons from Florida for Elections in the Age of the Coronavirus*, April 25, 2020, at 31. https://electionscience.clas.ufl.edu/files/2020/04/Baringer_Herron_Smith_VBM_FL.pdf. See also Lila Carpenter, “Signature Match Laws Disproportionately Impact Voters Already on the Margins,” ACLU Voting Rights Project, November 2, 2018, <https://www.aclu.org/blog/voting-rights/signature-match-laws-disproportionately-impact-voters-already-margins>.
- 75 In a 2016 opinion in a case involving the right of VBM voters whose signatures were deemed mismatched to have the opportunity to correct them, the judge called Florida’s laws on signature matching and curing “a crazy quilt of conflicting and diverging procedures.” See Daniel A. Smith, *Vote-By-Mail Ballots Cast in Florida*, ACLU Florida, September 19, 2018, at 8. https://www.aclufl.org/sites/default/files/aclufl_-_vote_by_mail_-_report.pdf.
- 76 *Id.*, at 11.
- 77 See *supra* note 74 (Baringer, Herron, and Smith), at 19.

- 78 Lawyer's Committee for Civil Rights Under Law, Letter to Gwinnett County Attorney and Board of Registrations and Elections, October 15, 2018, <https://lawyerscommittee.org/wp-content/uploads/2018/10/Gwinnett-County-BORE-absentee-ballot-letter-FINAL.pdf>.
- 79 States include Florida, Georgia, Michigan, Minnesota, Nevada, North Carolina, Pennsylvania, and Wisconsin. See "Poll: BlackPAC Survey Shows Black Voters Think Neighbors are Handling COVID Better Than Trump," BlackPAC, April 14, 2020, <https://blackpac.com/poll-blackpac-survey-shows-black-voters-think-neighbors-are-handling-covid-19-better-than-trump/>.
- 80 States include Arizona, Florida, Georgia, Minnesota, North Carolina, Ohio, and Wisconsin. Only in Ohio and Wisconsin do Black voters cast a higher share of absentee ballots than white voters, and only by a narrow margin (by 1.8 percentage points in Ohio and 0.8 percentage points in Wisconsin). See Kevin Morris, "Who Votes By Mail?" Brennan Center for Justice, April 15, 2020, <https://www.brennancenter.org/our-work/analysis-opinion/who-votes-mail>.
- 81 "The California Voter Experience Study: A Statewide Survey on Voter Perspectives on Vote-By-Mail and Vote Centers," California Civic Engagement Project, September 3, 2017, <https://static1.squarespace.com/static/57b8c7ce15d5dbf599fb46ab/t/59b1bacc4c0dbf34e91dac0d/1504819977791/UCDavisCCEPIssueBrief3VoteCenterStatewideSurveyBrief.pdf>.

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