

Testimony to the Subcommittee on Elections  
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## Introduction

My name is Michael C. Herron and I am the William Clinton Story Remsen 1943 Professor of Government at Dartmouth College in Hanover, New Hampshire. I have taught at Dartmouth since 2003 and previously was on the faculty of Northwestern University. I earned my doctorate from the Graduate School of Business at Stanford University in 1998, and my present research agenda focuses on American politics and in particular, on election administration.

Broadly construed, scholars whose research agendas fall in the area of election administration study the rules and procedures that prescribe how voters cast their votes, the experiences that voters have when participating in elections, and how elections are managed. Scholars of election administration tend not to focus on why any particular group of voters might prefer one set of candidates over others. My research agenda reflects this. Like other scholars who work in election administration, I study how voters register their preferences in elections, regardless of what these preferences happen to be.

Scholars of election administration cover a variety of topics in their research endeavors. Among other things, they study *when* voters cast votes, whether they vote *in-person* or with *vote-by-mail* ballots, *where* they vote if they vote in-person, how voters *authenticate*

themselves prior to voting, the *machines* that voters use when they cast their ballots, the *ballot formats* that voters engage when voting, and the extent to which their ballots are *rejected* after being cast. My published research in election administration has engaged many of these subjects, and I touch on some of them here.

## **Election administration in the United States**

A key feature of election administration in the United States is the extent to which it is decentralized. This is a reflection of American federalism. States have broad authority over how elections are administered within them, and they vary in their election laws. Moreover, state governments typically delegate many election administration duties to county governments or, in the case of New England states, to town or city governments. For example, Walker, Herron and Smith (2019) describe the discretion that county officials in North Carolina have over the days and hours of permitted pre-Election Day voting.

A consequence of the extent to which the American system of election administration is decentralized is variability in election rules and procedures both across and within states. That is to say, the jurisdiction in which an eligible voter lives affects how the individual registers to vote, the methods of voting available to the voter, deadlines and procedures associated with these methods, and the rules that govern how the voter's ballot is treated, among other things.

Moreover, states vary dramatically in the extent to which they make election data public. In some states (e.g., Florida and North Carolina), lists of registered voters and their demographic characteristics are public and easily accessed by researchers. In other states (e.g., New Hampshire), lists of registered voters are unavailable for research. A consequence of variability in data availability is that published articles in the academic literature on election administration often focus on individual states or small collections of states. This should not be understood as reflecting narrow interests. Rather, certain topics in the field of election

administration simply cannot be studied in some states on account of laws that govern access to data.

## Forms of in-person voting and voting by mail

Variability across states in election laws notwithstanding, eligible voters in the United States may cast ballots in one of two ways: either in-person or with vote-by-mail (VBM) ballots. While there are definitional subtleties in how different states classify voting that does not take place in-person, this dichotomy (in-person voting versus VBM voting) is nonetheless a useful one.

In-person voting takes place in locations designated by elections officials. Moreover, it takes place either on Election Day itself or on a day prior to Election Day. The latter is possible only in states that offer what is known as early voting.

### Early in-person voting

As I employ it here, the term “early voting” refers to in-person voting before Election Day. Some states that offer early voting label it in unique ways (i.e., in North Carolina, early voting is called “One-stop early voting” and early voters in this state technically use absentee ballots) and other states offer early voting without labeling it as such (i.e., Maine, where voters prior to Election Day may complete absentee ballots in the presence of local clerks). In other states, early voting is simply called, “early voting” (i.e., Florida). As of the writing of this testimony, 43 states offer early voting, and a 44th (Delaware) is slated to join this group as of 2022.<sup>1</sup>

Early voting is a form of “convenience voting” (Gronke et al., 2008), whose implementation decreases the cost of voting. The term “cost” here refers not necessarily to a monetary

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<sup>1</sup>See “State Laws Governing Early Voting,” *National Conference of State Legislatures*, October 22, 2020, available at <https://www.ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx> (last accessed June 7, 2021).

cost of participating in an election that would be borne by an individual but rather to the time, effort, and tasks that a voter must perform in order to vote. The costs of voting can include time spent waiting in line at a polling place, time spent registering to vote, time spent gathering documentation to establish voting eligibility, time spent traveling to vote, and the monetary cost of traveling to a polling place, among other things.

Scholars of election administration care about the cost of voting because of its relationship to voter turnout. The higher the cost of voting in a state, the lower the turnout tends to be, all things equal (Li, Pomante II and Schraufnagel, 2018).

Along with other forms of convenience voting and methods of voter registration, early voting has expanded across the United States over the past several decades (Biggers and Hanmer, 2015). In this time period, early voting has been heavily used by minority voters. My article on this subject (Herron and Smith, 2012) uses election data from Florida and highlights the tradition known as “Souls to the Polls,” in which Black voters vote disproportionately often on Sundays before Election Day. Florida notwithstanding, I show in Herron and Smith (2016) that, in North Carolina, Black early voters disproportionately voted in the first week of early voting (a week of early voting that, per a then-state law called the “Voter Information Verification Act,” was eliminated). Gronke and Galanes-Rosenbaum (2008) document a regularity involving Hispanic voters and disproportionate use of early voting.

Kaplan and Yuan (2020) estimate that “a day extra of early voting increases turnout by 0.218 percentage points” and that “those in child-rearing years and prime working years are particularly impacted by early voting availability” (p. 58). Relatedly, I show in Herron and Smith (2014) that minority voters, Democrats, and voters without formal party affiliations used early voting less frequently in Florida 2012 after early voting opportunities were diminished in the state compared to 2008.

The implication of the findings reviewed above is that the particular days of early voting offered in a jurisdiction—a state, county, or city/town—are not politically neutral. Certain

types of voters tend to use different days of early voting. Thus, changes to election administration procedures that affect precisely when early voting is offered—i.e., on weekdays only as opposed to on both weekdays and weekends—will affect different racial groups differently.

Finally, changes to early voting hours that reduce pre-Election Day, Sunday voting opportunities should be expected to disproportionately affect Black voters. If, hypothetically, a state were to eliminate Sunday early voting, the cost of voting for Black voters would disproportionately increase compared to White voters given the relatively heavy use of Sunday early voting by Black voters.

## Voting lines

Voters who cast their ballots early in-person must, like in-person Election Day voters, contend with the potential of voting lines. Voting lines constitute a time tax (Mukherjee, 2009). The longer a voter has to wait in line, the more of this tax the voter pays and thus the greater the cost of voting. Depending on the voting technology used in a given voter’s jurisdiction, a voter can be forced to wait in line before checking in to vote; after checking in and prior to voting; and, after voting and prior to inserting a completed ballot into a tabulating machine. Spencer and Markovits (2010) describes the mechanics of in-person polling places and where lines can form.

Long lines constitute one aspect of polling place features that can deter voting. Stewart III and Ansolabehere (2015) note that, “Responses to the 2012 Voting and Registration Supplement (VRS) of the Current Population Survey suggest that over 500,000 eligible voters failed to vote because of a list of polling place problems that include long lines—inconvenient hours or polling place location, or lines too long.” In 2020, the number of eligible voters similarly affected was 333,060.<sup>2</sup> Thus, in the most recent general election in the United States, more than 300,000 voters reported not voting for reasons associated with polling

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<sup>2</sup>This number is based on Table 10 of the corresponding 2020 Voting and Registration Supplement, available at <https://www2.census.gov/programs-surveys/cps/tables/p20/585/table10.xlsx> (last accessed June 7, 2021). The key figure in the table is 2.6 percent; I multiplied this by 12,810,000, yielding 333,060.

place inconvenience, one aspect of which is voting lines.

Much of the research on voting lines is relatively recent, and this reflects the difficulty inherent in studying this subject. The vast majority of polling places in the United States do not maintain comprehensive records on when their voters arrived to vote or how long voters waited in line before casting ballots. That said, the research in this area leverages publicly available data on polling places, surveys on voter experiences that query voters about how long they waited in line to vote, and timestamp data that describes when voters checked in to vote.<sup>3</sup>

With respect to the latter source of data, in some situations data on such check-in times can be informative about voting lines. If, for example, a polling place officially closed at 7:00pm on a given day (meaning, its check-in line was capped at 7:00pm), yet a voter checked in to vote at 7:30pm, then it must be the case that this voter had to wait in line for at least 30 minutes. Thus, check-in times after official polling place closure times provide conservative characterizations of voter wait times. These data are conservative because, one, a voter who checked in at 7:30 waited *at least* 30 minutes before checking in and, two, counting voters who voted after a polling place’s closure time does not identify voters who waited in line to vote but checked in before such a time. These caveats notwithstanding, Cottrell, Herron and Smith (2020) is a study of early voter check-in times in Florida and it shows that, in Florida’s 2012 general election, “On the final Saturday of early voting, over 50 stations were still open at 9:00 p.m., and a few processed voters through midnight.” An early vote processed at 9:00pm must have waited at least two hours to vote and an early voter processed at midnight, at least five hours. Cottrell, Herron and Smith show as well that early voting check-in lines were much shorter in Florida in 2016 than in 2012, a reflection of expanded early voting opportunities in 2016.

Across the United States and through recent election cycles, minority voters—in partic-

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<sup>3</sup>A prominent survey used in the study of election administration is the *Survey of the Performance of American Elections* (SPAЕ), available at <https://electionlab.mit.edu/research/projects/survey-performance-american-elections> (last accessed June 7, 2021). The earliest SPAЕ for which data are publicly available dates to 2008.

ular, Black and Hispanic voters—have been forced to wait in longer voting lines than White voters. Survey data show that this was the case in 2008 (Mukherjee, 2009) and in 2012 (Stewart III, 2013). In 2016, Chen et al. (2020) conclude using data from smart phones that, “[A]reas with a higher proportion of black (and to a lesser extent Hispanic) residents are more likely to face long wait times than areas that are predominantly white” (p. 18). Another study of voting in 2016, one covering 28 jurisdictions across the United States, shows that polling place resources, and in particular staffing levels, affected voting line lengths (Stein et al., 2020). And, an article drawing on the 2006, 2008, 2012, and 2014 versions of the Cooperative Congressional Election Study identifies a persistent effect of a precinct’s racial composition on voter wait times, namely, the greater the extent that a precinct is populated by White voters, the lower the average wait time (Pettigrew, 2017).<sup>4</sup> Pettigrew attributes this primarily to polling place resources much in the way that Highton (2006), a study of Franklin County, Ohio, in the 2004 election, attributes long lines to a dearth of voting machines.

The consequences of differential line lengths across racial groups is notable in light of findings on the relationship between waiting in line and turning out to vote in the future. Pettigrew (2021) is a study of voting in Boston and in Florida, concluding that voter turnout rates are “roughly [one] percentage point [lower] for every additional hour of waiting [in line in an earlier election].” My article on the subject of the consequences of voting lines draws on early voting check-in times in Florida in the 2012 and 2016 elections (Cottrell, Herron and Smith, 2020). Like Pettigrew (2021), it finds that standing to wait in line to vote has a small but notable depressing effect on future turnout.

In the most recent election cycles in the United States, minority voters have historically faced longer voting lines; and, waiting in line to vote has a small but slightly negative effect on future turnout. Thus, compared to their majority counterparts, minority voters in the United States have disproportionately been subjected to a feature of elections known to

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<sup>4</sup>The Cooperative Congressional Election Study is a national survey instrument used by academics across the United States.

diminish turnout.

## Voting by mail

VBM ballots have historically been called absentee ballots. As I use the term here, VBM ballots are not voted in-person at polling places designated by elections officials. Rather, after they are completed by voters at locations of their own choosing, VBM ballots can be submitted by mail to elections officials or dropped off at designated voting locations.<sup>5</sup>

Large-scale absentee voting began in the United States during the Civil War years, when many soldiers were away from their homes.<sup>6</sup> As of 2021, state laws vary considerably as to who is permitted to vote VBM, and as of 2021 the term “absentee ballot” is somewhat of a misnomer in many jurisdictions. Some states allow all eligible voters to vote in this way (i.e., Florida, a state which a voter need to be “absent” from his or her jurisdiction in order to vote VBM) and others restrict VBM voting to those voters who satisfy a set of official criteria (i.e., Texas, a state in which select types of voters need not be “absent” from their jurisdiction in order to vote VBM).

States whose laws permit any registered voter to vote via VBM are sometimes said to allow “no excuse absentee voting.” The origins of this term lie in the fact that VBM ballots have often been (and sometimes still are) called “absentee ballots,” whose use required an official rationale or excuse.<sup>7</sup> There are presently a total of 34 states (plus Washington, D.C.) that offer no-excuse absentee voting.<sup>8</sup>

As of 2021, five states (Colorado, Hawaii, Oregon, Utah and Washington) conduct their

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<sup>5</sup>States vary in VBM ballot drop-off procedures and in the extent that third parties can assist VBM voters with ballot drop-off.

<sup>6</sup>See “Voting by Mail Dates Back to America’s Earliest Years. Here’s How It’s Changed Over the Years,” *TIME.com*, September 28, 2020, available at <https://time.com/5892357/voting-by-mail-history> (last accessed June 7, 2021).

<sup>7</sup>In my discussion of VBM voting, I focus on domestic, non-military VBM voters. The Uniformed and Overseas Citizens Absentee Voting Act—known colloquially as UOCAVA—governs rules pertaining to voters serving in the military, dependents of these individuals, and United States citizens who live out of the country.

<sup>8</sup>See “VOPP: Table 1: States with No-Excuse Absentee Voting,” *National Conference of State Legislatures*, May 1, 2020, available at <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-1-states-with-no-excuse-absentee-voting.aspx> (last accessed June 7, 2021).



elections essentially entirely by mail (and thus, by construction, are also no-excuse states). Three states (California, Nebraska and North Dakota) provide counties with discretion as to whether they want to implement all-mail elections.<sup>9</sup>

During the COVID-19 pandemic, which affected much of the 2020 election cycle, there was a surge across the United States in VBM voting. In addition, some states and other jurisdictions that had not previously administered elections via mail turned during the pandemic to this form of voting in light of public health exigencies (i.e., the majority of the counties in Montana, a state that prior to 2020 did not conduct all-mail elections, conducted the state’s 2020 general election via mail). Of voters in the November 2020 election, approximately 43 percent cast VBM ballots,<sup>10</sup> roughly twice the percentage of voters who cast ballots this way in the November 2016 general election.<sup>11</sup>

The 2016 to 2020 shift to VBM voting was not uniform across racial groups, as Florida illustrates. Table 1 reports VBM rates by race group for the 2016 and 2020 elections (“VBM percent, 2016” and “VBM percent, 2020,” respectively), the corresponding change in rates (“Increase”), and the percentage change in rates (“Percent increase”).<sup>12</sup>

Table 1 highlights a racial disparity in the extent to which voters turned to VBM voting in Florida in 2020 compared to 2016. The VBM voting rate of Black voters increased from

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<sup>9</sup>See “VOPP: Table 18: States With All-Mail Elections,” *National Conference of State Legislatures*, April 21, 2020, available at <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-18-states-with-all-mail-elections.aspx> (last accessed June 7, 2021).

<sup>10</sup>See “Voting and Registration in the Election of November 2020,” *United States Census Bureau*, April 2021, in particular Table 14, available at <https://www2.census.gov/programs-surveys/cps/tables/p20/585/table14.xlsx> (last accessed June 7, 2021). On the 2020 general election in Montana, see “All-mail’ ballots in Montana: How will it work this election?,” *KPAX.com*, September 15, 2020, available at <https://www.kpax.com/news/election-2020/all-mail-ballots-in-montana-how-will-it-work-this-election?fbclid=IwAR17XiRCoy30UhjZSf-6mlutEhUi06r0tSPeJB4upxXQG1QcHaf0BSK60ik> ) (last accessed June 7, 2021).

<sup>11</sup>For the 21 percent figure, see “Majority of Voters Used Nontraditional Methods to Cast Ballots in 2020,” *United States Census Bureau*, April 29, 2021, available at <https://www.census.gov/library/stories/2021/04/what-methods-did-people-use-to-vote-in-2020-election.html> (last accessed June 8, 2021).

<sup>12</sup>The figures in Table 1 are drawn from two Florida statewide voter files dating to January 2017 (used for the 2016 election) and January 2021 (the 2020 election). The individuals listed in these files who are part of Table 1 consist of voters who have valid history codes that are not equal to “N.” VBM voters are those who have history codes of “A” (cast a valid VBM ballot) and “B” (cast a VBM ballot that did not count). Some voters in Table 1 appear twice in the 2017 and 2021 statewide voter files (5,615 duplicated voters in the former and 498 in the latter), but the number of individuals like this is not consequential for the table’s percentages.

Table 1: Comparing VBM voting in Florida 2016 and 2020

Race	VBM percent, 2016	VBM percent, 2020	Increase	Percent increase
Asian	30.7	52.5	21.9	71.2
Black	20.8	39.3	18.5	89.2
Hispanic	27.5	41.0	13.4	48.8
White	31.0	44.3	13.3	42.7
All groups	29.1	43.3	14.3	49.2

*Note: percentages in the table are rounded.*

almost 21 percent to around 39 percent. To be clear, of Black voters in the 2016 election, 21 percent cast VBM ballots; of Black voters in the 2020 election, 39 percent voted in this way. A change from 21 percent to 39 percent represents an 89 percent increase, which is much greater than the corresponding increase for White voters, whose VBM rates shifted from 31 percent in 2016 to 44 percent in 2020. The latter represents approximately a 43 percent increase. I note that 89 percent is roughly twice as large as 43 percent.

Whether the VBM voting rates observed across the United States during the COVID-19 pandemic will return to pre-pandemic levels is uncertain as of mid-2021. Still, the variability in how racial groups changed their VBM voting rates in response to the exigencies of COVID-19 mirrors the fact that racial groups have different preferences for days of early voting. Changes to VBM voting procedures should not be expected to be racially neutral anymore than changes to early voting procedures.

## Polling place locations

In-person voters must vote at polling locations designated by elections officials. However, depending on jurisdiction and circumstance, these voters may have flexibility over where they cast their ballots. In Florida, for example, an Election Day in-person voter must vote at a location, designated by officials, corresponding to the voter’s address. However, an early in-person voter in Florida can vote at any permitted early voting location within his or her county. Thus, Florida early in-person voters who live in counties that offer multiple early

voting locations have options over where to vote.

Election Day in-person voters thus face informational hurdles that are not faced by VBM voters and, potentially, are different than the hurdles that face early in-person voters. Namely, voters who cast their ballots in-person and on Election Day must know the one place where they are allowed to vote. This explains why scholars of election administration have considered what happens when voters' designated Election Day voting locations change.

While the literature on the subject of polling place locations is not extensive, it is consistent. Haspel and Knotts (2005) show in a study of Atlanta, Georgia, that a voter's distance to an Election Day polling location was negatively associated with propensity for turnout; Brady and McNulty (2011) show that voters in Los Angeles County who received new polling locations prior to the state's 2003 gubernatorial recall election were less likely to turn out to vote in this election than voters who did not receive new voting locations; and, Amos et al. (2017) show with data from Manatee County, Florida, that "those [voters] who were assigned to a new polling location were less likely to go to the polls on Election Day in 2014 and more likely to abstain than those who kept their polling location[s]" (p. 149). Moreover, Amos et al. find that turnout of the Hispanic voters in their study was most negatively affected by changes in polling locations compared other racial groups. And in a recent working paper, Yoder (2020) shows that polling place changes in North Carolina lead to small—and negative—changes in voter turnout rates.

Overall, the literature on polling place locations, while not large, covers a variety of jurisdictions and suggests that changes to polling locations negatively impact voters insofar as having a small and downward effect on turnout. And, there is evidence that the effect of polling place changes on voters is not neutral with respect to race.

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