



**Advancement Project National Office – VBM Essay  
Voting By Mail in 2020: Panacea or Predicament?<sup>1</sup>  
June 21, 2020**

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Driven, in part, by the COVID-19 pandemic in 2020 that introduced new challenges to voting in person, an unprecedented shift to voting by mail (“VBM”) is underway. Two months ago, Advancement Project National Office began reaching out to local advocates and election officials as well as our own staff members for insights on the impact of this dynamic shift on voters of color in upcoming federal and state elections. We received a wide range of views. On the one hand, expanded VBM is a commonsense reform during a pandemic. On the other, systemic barriers in the VBM process have produced voting systems that are failing communities of color. As one longtime voting rights communicator shared:

This rapid shift to VBM over one election cycle without preserving in-person polling locations is not working. If Black voters choose to vote in person on Election Day, we literally risk our lives standing in long lines at fewer polling locations. Such was the fate of Black voters in Wisconsin, Georgia, and Washington, D.C. If we choose to vote by mail, we risk having our ballots disproportionately rejected due to signature mismatches. We are also at higher risk of never receiving our blank ballots in the first place. Black voters need additional reforms to secure free and safe elections in 2020, and we need them now.<sup>2</sup>

Advocates also noted a deep distrust of VBM. As a longtime advocate for rights restoration in Florida shared:

This is my first presidential election. I fought hard to get my right to vote back. I don't want to just drop it in the mail. It might not get there. I want to go down to the polling station and *vote*. I don't know if I can support vote-by-mail. And if I

can't support it, how can I talk about vote-by-mail with members of my organization and my community?<sup>3</sup>

Advocates reported that despite the distrust, more voters of color are indeed turning to VBM. However, as they do so, voters of color must contend with a false "voter fraud" narrative, and in some cases, voters of color are facing outright voter intimidation tactics such as in Georgia where authorities established an absentee ballot voter fraud taskforce charged with investigating every signature mismatch.<sup>4</sup> All this despite the fact that absentee voter fraud is almost non-existent in Georgia and nationally.<sup>5</sup> One longtime expert expressed deep frustration with this phenomenon:

Historically, more white voters than voters of color have voted by mail. Whenever people of color show up into new spaces, there is always an underlying premise that criminality is involved. That premise seeps through every aspect of American life. It is why, in part, we have segregated housing, segregated schools, callous immigration restrictions, employment discrimination, and abusive and restrictive requirements in voting. When we show up in spaces they claim to own, they freak out and devise schemes to create suspicions and cause each other into believing false claims.<sup>6</sup>

Above all else, advocates conveyed the immediate need to combat these barriers and conduct voter education in preparation for the November presidential election. As one Wisconsin advocate stated, "given our disastrous experience during the primary, we do not want to be caught off guard again. We want to be prepared. We want to start *now*. What are Black and Brown communities really up against in this fall?"<sup>7</sup>

This paper focuses on the intersection of race and VBM. It is a call to action to find, flag, and fix the notable problems that may prevent voters of color from casting effective VBM ballots that count. This must be done in this election cycle through robust voter education, advocacy, strategic communications, and, when necessary, litigation. Here, we lift up the

concerns and hopes of advocates on the ground. We point out the meaningful ways in which they are preparing their communities for the 2020 elections. We highlight some of the questions discussed: What exactly is VBM? What does this expansion of VBM mean for communities of color? What can we do to ensure that moving to VBM in one election cycle is not a disaster waiting to happen for voters of color?

We conclude with this: The right to vote is almost sacred among voters of color. Ordinary people secured it with their blood, sweat, and tears, understanding that all Americans are equal at the voting booth. Those we spoke with agree: VBM is not a panacea for voters of color, and it could continue to be a predicament. We cannot continue shifting to an entirely VBM system in a single election cycle. Instead, we must plan and prepare a “hybrid election” that combines ample, safe, secure in-person polling places and VBM options.

“Hybrid” elections *are* possible in 2020. We recommend the following four areas for reform for free and safe elections:

- Create a fair and just, universally available, no-excuse VBM system.
  - Ensure that VBM signature matching procedures are clear, objective, reliable, accessible, and non-discriminatory.
  - Extend the VBM “cure” period for ballots with missing or mismatched signatures.
  - Expand the location of secure VBM drop boxes to include churches, grocery stores, drive-throughs, and even mobile drop box options. For example, advocacy groups and election officials could agree on churches where drop boxes would be located on two consecutive Sundays directly before Election Day, for activities similar to in-person “Souls to the Polls” activities.

- Accept and count VBM ballots postmarked by Election Day and include a longer period to apply for VBM ballots, given that the U.S. Postal Service recommends allowing at least one week to receive a blank VBM ballot and one week for return of the voted ballot to election officials.
- Provide voters with accurate and easily accessible VBM application and ballot tracking, such as through the U.S. Postal Service and on state and county election sites.
- Ensure postage is pre-paid for all voter registration forms, VBM requests, VBM return envelopes, and VBM “cure” materials.
- Create VBM ballot replacement sites and other alternatives for voters who did not receive their ballots in the mail.
- Eliminate requirements for witness signatures or notarization on VBM applications and ballots.
- Engage in robust and culturally competent voter education in communities of color, including voting rights flyers tailored to local needs and distributed by trusted organizations, and including hotline information.
- Expand Early Voting and maintain in-person polling sites on Election Day.
  - Preserve in-person polling sites on Election Day.
  - Expand the number and locations of early voting sites.
  - Increase efforts to recruit and train a new generation of poll workers.
  - Ensure equitable distribution of polling sites.
- Ensure VBM drop boxes and polling sites are free from sources of voter intimidation.

- Avoid using armed and uniformed law enforcement officers, including National Guard, at drop boxes and polling sites.
- Encourage states to use list maintenance practices that account for COVID-19-related emergency conditions.

Above all else, we recommend working closely with local advocates, community leaders, and election officials on creative and outside-the-box methods to secure free and safe elections during this pandemic and beyond.

## **1. What is VBM exactly?**

### ***The Basics***

Voting by mail or “vote-by-mail” is just another method of voting. Instead of casting a ballot in-person on Election Day or during Early Voting, the VBM voter receives a blank ballot from election officials via the U.S. Postal Service. The voter hand-marks this ballot and returns it through the U.S. Postal Service or drops it off in person at a secure drop-off location. “Absentee mail voting” or “vote-at-home” are other names for VBM.<sup>8</sup> Some even call it “drop box voting” or “distribute[d] ballots by mail” voting because significant majorities of VBM voters are choosing *not* to use the U.S. Postal Service to return voted ballots.<sup>9</sup> Instead, they are dropping their ballots in person into secure, tamper-free drop boxes or other designated locations.

VBM is widely used. All 50 states, Washington, D.C., and Puerto Rico provide some form of VBM.<sup>10</sup> Five states —Oregon, Washington, Colorado, Utah, and Hawaii – are “all-mail” states, meaning election officials directly mail each registered voter a ballot. Some “all-mail” states, such as Colorado, also provide in-person voting options. Together, those states combined with 26 others and Washington, D.C. comprise the 34 “no excuse required” jurisdictions, meaning

voters may vote by mail for the sake of their own personal convenience without a reason or excuse. Notably, a number of 2020 battleground states are “no-excuse” states, including Arizona, Georgia, Florida, Michigan, Nevada, North Carolina, Ohio, Pennsylvania, Virginia, and Wisconsin.<sup>11</sup> The remaining 16 states and Puerto Rico are “excuse required” jurisdictions, meaning voters must provide a reason or excuse (e.g., out of town for work on Election Day) before receiving a VBM ballot.<sup>12</sup>

Despite the false media narrative to contrary, VBM is a secure voting method. Election experts have confirmed that mail ballot fraud is exceedingly rare. Use of a VBM ballot to vote in someone else’s name and other forms of fraud associated with a mail ballot comes at the risk of significant criminal penalties, carrying up to five years in prison for each vote and \$10,000 in fines under federal law as well as state penalties.<sup>13</sup> A recent tabulation by the leaders of the MIT Election Data and Science Lab and the National Vote at Home Institute identified fraud in approximately 0.00006 percent of total VBM votes cast in the past 20 years or “one case per state every six or seven years.”<sup>14</sup> VBM is also secure. The voting method, after all, fundamentally involves a “human-readable paper ballot” that election officials can recount by hand and audit.<sup>15</sup> Experts still consider paper ballots as the top standard in voting. In the words of California Secretary of State Alex Padilla, “you cannot hack a paper ballot.”<sup>16</sup>

### ***VBM “Surge” in 2020***

Prior to Covid-19, reformers advocating for states to become “all-mail” had been steadily gaining traction with states like California expanding VBM in 14 major counties. In the COVID-19 era, however, VBM is now front and center in every discussion of the 2020 elections. To date, litigators have filed 117 coronavirus-related voting rights cases in over 36 states and

Washington, D.C.<sup>17</sup> Many of the lawsuits seek to expand VBM.<sup>18</sup> With or without court-ordered changes to VBM systems, however, turnout models project that approximately 50 percent of the tens of millions of ballots cast this fall will be VBM ballots – over twice the number of VBM ballots cast in 2016.<sup>19</sup> Election officials are reporting massive levels of requests for mail-in ballots in the remaining primaries.<sup>20</sup> VBM is quite literally surging.

## **2. What does this VBM “surge” mean for voters of color in 2020?**

As the Wisconsin, Ohio, Georgia, New Jersey, and Washington, D.C. primary and local elections have shown us thus far in 2020, the VBM “surge” could mean disaster for voters of color in the remaining state primaries and in November. The advocates and election officials we spoke with all agree: we cannot continue to move to an entirely VBM system in a single election cycle. Instead, we must plan and prepare for a “hybrid election” that combines ample in-person polling options and VBM. VBM is necessary for the safety of voters and poll workers. It is not sufficient, however, to give fair, free, accessible opportunities for all voters of color to participate in 2020 elections. Why? Here are some of their answers:

***The pandemic is displacing voters of color from their residences at high levels. Many voters of color are transient and do not have addresses.***

Job losses during the pandemic are hitting voters of color hardest – especially Black and Latinx voters – resulting in frequent moves and displacement.<sup>21</sup> According to a former Virginia election official, this displacement will likely undermine VBM options for voters of color disproportionately. “These are voters who may move due to job losses and are sheltering-in-place at residences different than their mailing addresses. They may not routinely access the places where election documents are mailed,” this official shared.<sup>22</sup> An advocate in Virginia

confirmed this high level of houselessness and displacement: “Our members, our base, many of whom are working people, naturalized U.S. citizens, people of color, low-income, are highly vulnerable and moving a lot.”<sup>23</sup>

Prior to COVID-19, Black Americans had the “highest move rates” and comprised “nearly 40 percent of the U.S. homeless population—those who lack a fixed, regular, and adequate nighttime residence,” according to a recent report by the NAACP and the Center for American Progress.<sup>24</sup> A decade ago, an early study by the Pew Center of States warned that mandatory VBM systems have “not been a magnificent success among low-income communities of color (in inner cities and rural areas), because of higher mobility rates and poorer mail service among these populations, among other factors.”<sup>25</sup> Then and now, “[f]or voters who frequently move or lack permanent addresses, in-person voting options often offer the only means by which they can cast a ballot.”<sup>26</sup>

***Voters of color have strong cultural voting patterns and connection to traditional in-person voting.***

Advocates also pointed out the well-established in-person cultural voting patterns in communities of color emerging from years of struggle against structural barriers. Among Black voters, there is immense pride in and excitement about voting in person, especially for those who are Returning Citizens, meaning voters with past conviction histories who recently had their right to vote restored.<sup>27</sup> Advocates also discussed faith-based “Souls to the Polls” activities and other time-honored and meaningful family and community voting traditions. A 2016 California study showing that a majority of African American focus group participants considered in-person voting to be “an important opportunity to be seen and to represent the



African American community at the polls. Oakland voters spoke about the way casting a vote at the polls made them feel empowered. ‘It is about controlling my right to vote . . . by exercising it from A to Zed,’ said one voter. ‘I feel really powerful when seen in those spaces and in communication and community with black and brown women,’ explained another. ‘To see black women in those spaces and a part of that work is really powerful for me, and I feel like I can connect to that.’”<sup>28</sup>

***Given this immense pride and cultural patterns of in-person voting, voters of color may have higher levels of distrust in the U.S. Postal Service and there is no time to address this distrust.***

Advocates also identified a need for safe, accessible in-person voting options for those who are skeptical about mailing their ballots through the U.S. Postal Service. One longtime advocate discussed his high level of distrust in VBM as a Returning Citizen who would be voting for President for the first time in the fall.<sup>29</sup> In the 2016 study referenced above, the “overwhelming majority” of Black polling place voters said they voted in person to “make sure their votes were counted” and because they “had concerns over the reliability of the postal service in getting their ballot to its intended location due to the inefficiencies and errors of the postal system.”<sup>30</sup> The study provided:

One Los Angeles voter’s response encapsulates many of the concerns expressed by other voters in the groups. ‘I feel that when it comes to minorities, especially when you live in a neighborhood like this [ . . . ] they may feel that they could just cast those votes aside and it wouldn’t make a difference, so that’s why I like to see it [my ballot] go into the box so at least I feel better about it.’

A 2017 study identified a high level of distrust of the U.S. Postal Service among a subset of voters of color who chose not to mail their VBM ballots, though importantly, in this study, the rates at which Asian Americans and Pacific Islanders and Latinx voters used VBM increased

overall.<sup>31</sup> Notably, there was no comparable data for VBM use overall for African American voters. Still, the study found that “29 percent of Latinos, 32 percent of African Americans, and 47 percent of Asian Americans who do not typically use the USPS to mail a VBM ballot said that they did not trust the USPS to safely deliver their ballots, or to deliver them on time. Only 21 percent of white voters in the same voter type expressed this lack of trust.”<sup>32</sup>

Research from 2019 indicates that a VBM voter’s distrust in the U.S. Postal Service “diminishes after their first vote-by-mail election,” according to the UCLA Latino Policy and Politics Initiative citing a 2019 study.<sup>33</sup> Unfortunately, although some states have yet to conduct their primaries, advocates in 2020 do not have the luxury of multiple cycles with large groups of new VBM voters.

***VBM is insufficient for Native American voters living on tribal lands and voters who require language and disability assistance.***

Native American voters living on tribal lands, many of whom do not receive mail at their homes, will need in-person voting options.<sup>34</sup> Moreover, as a recent Leadership Conference on Civil and Human Rights letter further explained: “Language access and literacy issues can compound these problems since a ballot mailed to a voter in a language they cannot speak or read is effectively useless.”<sup>35</sup> Some voters in certain jurisdictions will need in-person polling sites to access the language assistance guaranteed under Section 203 of the Voting Rights Act and disability assistance under the Americans with Disabilities Act and the Rehabilitation Act.

***Disparate racial impact in VBM signature mismatches, the lack of an adequate “cure” process, and the criminalization of signature mismatch are barriers for voters of color in the VBM process.***

The issue of race cannot be separated from state efforts to take away the right to vote from eligible voters with signature mismatch and vote-by-mail errors. To intimidate and discourage people of color from voting by mail, states like Georgia have established absentee ballot voter fraud taskforces charged with investigating every signature mismatch.<sup>36</sup> All this despite the fact, again, mail ballot fraud is almost non-existent statewide.<sup>37</sup> Signatures also can naturally change with age (e.g., signatures become more stable permanent over time), disability (e.g., tremors or eyesight loss), and name change (e.g., transgender people or women who more often change their name with marriage or divorce).

Because Latinx and Black voters, as well as young voters experience markedly higher absentee ballot rejection rates than white voters, they are also at increased risk of being criminalized.<sup>38</sup> In this way, the criminalization of vote-by-mail by be especially precarious for Returning Citizens, those with prior felony convictions and those under supervision who are disproportionately people of color. Publicly investigating individuals and organizations helping Black and Brown voters register and vote-by-mail may also have a chilling effect and discourage Black and Brown voters, young people and the disabled from voting by mail.

In sum, any 2020 election plan must include in-person polling options. To paraphrase Professor Pam Karlan of Stanford Law School, in-person options are “the ventilators.”<sup>39</sup> We need to make sure those who need, get them. We need to “flatten the curve” of the VBM surge as much as possible by broadening access to VBM for the purpose of ensuring that in-person options are available for those who want and need them.

**3. What are some successful advocacy approaches? What can we do to ensure that moving to VBM in one election cycle is not a disaster waiting to happen for voters of color?**

***Our starting point on any next steps is this: Black and Latinx voters are open to VBM.***

Recent polls indicate that Black voters are overall fine with VBM. Forty-nine percent of Black voters surveyed last month by BlackPAC, a national organization that supports and increases election turnout among African American voters, said VBM is “no big deal.”<sup>40</sup> “[Eighty] percent of Black voters said they would vote by mail if that option were available to them.”<sup>41</sup> Significantly, “[n]early half of those who didn’t vote in 2016 said they would prefer to vote via mail—suggesting that making this method of voting more readily available and accessible could activate people who, for a variety of reasons, didn’t participate in the last presidential election.”<sup>42</sup>

There is a history of support for VBM in communities of color. One advocate from Arizona shared that her community – the Latinx community – considers Arizona’s relatively progressive VBM laws to be a victory from their battles against SB1070. Such battles revealed the alarming levels of disenfranchisement of Latinx community members. Her organization fought tirelessly to bring access to the ballot to all and considered the expansion of VBM to be central to that fight.<sup>43</sup>

***What we need is robust voter education and field strategy for voters of color now.***

What voters of color need is information as soon as possible on VBM. One advocate based in the South told us: “Our communities have no problem with VBM. We just want to know how to do it. We need graphics and a decision tree laying out options for the election.”<sup>44</sup> Election officials who are carrying out VBM functions concurred. It is essential for them to secure immediate federal funds to resource massive, nonpartisan voter education and public

awareness campaigns on VBM via television, radio ads, social media, mailings, and postcards, in English, Spanish, and other languages as needed. It is also important for credible spokespeople to train and motivate communities of color on the use of VBM.<sup>45</sup>

Advocates also identified a need for a set of tools and best practices for organizers. “Advocates of color need a uniform script and a uniform strategy now to talk with our members about the fall election. We need to start now,” shared one advocate.<sup>46</sup> One advocacy organization is using direct mail more frequently as a means of contacting members in order to build their collective muscle around use of mail in the era of COVID-19. “We want our members to get used to receiving mail,” explained the organizer.<sup>47</sup> Other ideas include “socially-distanced marches to early voting sites or online church programs to help parishioners fill out their ballots.”<sup>48</sup>

Finally, advocates suggested that grassroots voter education around VBM include continued trainings on socially distanced protest and collective action on election issues in the time of pandemic. One advocate shared that their organization staged protests in front of their local election offices, demanding an accurate and transparent count of hundreds of thousands of VBM ballots cast in a local sheriff’s race. Importantly, officials did not make a pronouncement of a winner until the count’s completion. It took a month. The action built their operation, their power, and their base.<sup>49</sup>

***We should aggressively pursue concrete ways to improve VBM for voters of color.***

Advocates and election officials also recommended that communities take action now to optimize VBM for voters of color. We focus below on several key reforms raised during our discussions.

***Ensure a fair signature verification process and adequate “cure” process.***

Advocates emphasized to us that signature verification processes must be free from racial bias and inequity. An academic paper issued last month by Professor Dan Smith and other scholars at the University of Florida concluded that VBM ballots cast by Black, Latinx, and other racial and ethnic minorities were more than twice as likely to be rejected as the VBM ballots cast by white VBM voters in Florida’s 2018 election.<sup>50</sup> Local election officials should consider using other secure forms of verification such as a sworn statement and other identifying information known only to the voter. Advocates emphasized that any “cure” process if there is a problem must include sufficient time for election officials to notify a voter of an issue with their voted VBM ballot as well as time for the voter to remedy the issue.

***Eliminate requirements for witness signatures on or notarization of VBM applications and ballots.***

Requiring one or more witness signatures on VBM applications or ballots, or requiring these documents to be notarized, imposes additional barriers on voters of color, especially the elderly or incarcerated, those with limited financial and other resources, and those in rural communities. Finding witnesses who are available adds more time and uncertainty to an already burdensome process, and finding a notary is difficult, often requiring a trip to a bank where one has an account, or to a post office, and usually requires payment of a fee – another effective “poll tax” for voting. And for communities of color who are already more vulnerable to COVID-19, obtaining a witness or notary signature requires in-person contact that adds further risk of contagion.

***Expand the use of VBM drop boxes.***

Drop boxes are effective for increasing turnout among voters of color, confirmed a former elections official. Drop box locations must be equitably distributed, “secure, accessible, and popular.”<sup>51</sup> Grocery stores, for example, have been mentioned since they have plenty of light, surveillance cameras, generally open many hours, centrally located, and a place people are inclined to go during the pandemic. Designating churches and other faith-based organizations as drop box locations made sense so long as they met the criteria of being secure and accessible. Advocacy groups and election officials could agree on churches where drop boxes would be located, for example, in two consecutive Sundays directly before Election Day. Election officials could either be stationed there or agree on a time to collect the ballots from the drop boxes.<sup>52</sup>

***Accept and count VBM ballots postmarked by Election Day. Create VBM ballot replacement sites for those who do not receive their ballots.***

Advocates are demanding removal of VBM ballot receipt-by deadlines before or on Election Day and longer periods to apply for and to count VBM ballots, given anticipated mail delays and the general instability of the U.S. Postal Service. The USPS itself now recommends allowing at least one week to receive a blank VBM ballot and one week for return of the voted ballot to election officials.<sup>53</sup> Financial difficulties may result in the USPS ending Saturday delivery, conducting layoffs, and closing more stations, especially in rural areas, all of which would have a huge impact on VBM in the fall.<sup>54</sup> “The question for voters is not whether they will be able to go to the ballot box, but whether the Postal Service will be able to bring the ballot box to them.”<sup>55</sup> Given this scenario, ballot replacement sites may be a viable reform – where voters are able to obtain replacement VBM ballots; such sites have been successful in

Native American communities.<sup>56</sup> Washington, D.C. also allowed voters to submit ballots by email after problems ensued.<sup>57</sup> Additionally, given that access to stamps can be difficult, particularly during a pandemic, advocates recommend ensuring pre-paid postage for all voter registration forms, VBM requests, VBM return envelopes, and VBM “cure” materials.

***Ensure that drop boxes are free from voter intimidation, especially from law enforcement.***

An advocate in a Southern state raised concerns about potential VBM drop box placement at local police stations.<sup>58</sup> Another advocate based in the South expressed concern about uniformed law enforcement presence at drop boxes. They shared that their members are asking them: Will the police be at the drop boxes to ask for identification of the person dropping off a voted VBM ballot, given strict limitations on who can return voted VBM ballots? Will police count the number of ballots people are dropping off?<sup>59</sup> Advocates want assistance in developing a plan with local election officials that avoids use of armed and uniformed law enforcement, including the National Guard, while simultaneously protecting three distinct interests: the security of drop boxes and the integrity of the election, the fundamental right to vote of eligible voters, and the health and safety of those voters.

***Provide voters with accurate and easily accessible VBM application and ballot tracking***

Voter confidence and counted votes would increase with accurate and easily accessible tracking of VBM applications and ballots. This can be done through the U.S. Postal Service with intelligent mail bar codes, which are used in California and Colorado. While relatively new, these ballot tracking systems are now readily available and are easily operable at scale. State and county election offices can also provide voters with online tracking of VBM applications and



ballots, such as those used in Georgia and Pennsylvania.<sup>60</sup> Jurisdictions should also provide tracking information by phone, for voters without internet access.

***Expand early voting and maintain in-person Election Day polling sites.***

As difficult as it is to recruit poll workers during the COVID-19 pandemic and to run a “hybrid” election, local election officials should be encouraged to keep as many in-person polling sites open as possible. Advocates acknowledge the difficulties in recruiting and training a new generation of poll workers, but in-person sites are critical. Advocates also recommend expanded early voting prior to Election Day in order to provide for social distancing and avoid “clustering” during periods of in-person voting.<sup>61</sup>

***Encourage states to use list maintenance practices that account for COVID-19-related emergency conditions.***

Many advocates raised list maintenance concerns. Advocates are concerned about what will happen to voters following any VBM-related mailing returned as “undeliverable.” Election officials we spoke with also emphasized this as a factor in why VBM is insufficient for voters of color during the COVID-19 health care crisis. “Even if [voters] submit changes of addresses, missing mailings again could mean they get placed on inactive lists.”<sup>62</sup> However, *not* mailing the VBM ballot applications to the entire voter list, and instead, only mailing ballot applications to active, registered voters may result in a disparate impact on voters of color. For example, that policy of mailing ballot applications to active, registered voters resulted in the exclusion of “about 300,000 of Georgia’s 7.2 million voters, according to state data. Of those, 24 percent are 30 and under and 40 percent are nonwhite.”<sup>63</sup>

Advocates discussed working with states to ensure that voters would not fall into “inactive” status due to “undeliverable” mail. States should affirmatively send mailings to confirm signatures and whereabouts of voters, e.g. Hawaii’s “signature capture cards” that allow voters to update their signatures in advance of elections, but states should not jeopardize a voter’s ability to access the ballot box due to piece of mail being returned.<sup>64</sup>

## Conclusion

VBM is not a panacea and could continue to be a predicament, but there is still time. Robust and immediate voter education and creative and collaborative work between voters, their trusted advocates, organizers, strategic communicators, and election officials will once again lead the way in the COVID-19 chapter of this tireless, centuries-old struggle of communities of color to secure the right to vote.

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<sup>1</sup> Prepared by Jennifer Lai-Peterson, Senior Staff Attorney in collaboration with Edward A. Hailes, Jr. Managing Director and General Counsel, Jeralyn Cave, Senior Communications Associate, and Debra Cooper, Esq. The authors also wish to extend our gratitude to the advocates and election officials with whom we spoke as part of this project. All errors are ours.

<sup>2</sup> Telephone conversation with Advancement Project advocate, June 17, 2020.

<sup>3</sup> Go-To-Meeting conference with Florida advocate, May 6, 2020. We chose not to identify our interviewees by name in this paper. We do identify the date and some details about our conversation. For more information about our interviews, please email: [jlaipeterson@advancementproject.org](mailto:jlaipeterson@advancementproject.org).

<sup>4</sup> Telephone conversation with Washington, D.C. senior communications specialist, June 15, 2020.

<sup>5</sup> Mark Niese, *Vote-by-mail fraud more a fear than a reality in Georgia*, Atlanta Journal-Constitution (May 14, 2020),

<https://www.ajc.com/news/state--regional-govt--politics/vote-mail-fraud-more-fear-than-reality-georgia/gS4XspdDwNMFFKRrVml5gM/> (last visited June 20, 2020).

<sup>6</sup> Written commentary by Washington, D.C. advocate, May 13, 2020.

<sup>7</sup> Telephone conversation with Wisconsin advocate, April 14, 2020.

<sup>8</sup> *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options*, National Conference of State Legislatures (Apr. 24, 2020) (“NCSL Voting”),

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<https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx> (last visited May 12, 2020).

<sup>9</sup> *Voting by mail and absentee voting*, MIT Election Data and Science Lab,

<https://electionlab.mit.edu/research/voting-mail-and-absentee-voting> (last visited May 12, 2020).

<sup>10</sup> NCSL Voting, *supra*.

<sup>11</sup> *VOPP Table 1: States with No-Excuse Absentee Voting*, National Conference of State Legislatures (May 1, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-1-states-with-no-excuse-absentee-voting.aspx> (last visited May 3, 2020).

<sup>12</sup> *VOPP: Table 2: Excuses to Vote Absentee*, National Conference of State Legislatures (Apr. 20, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-2-excuses-to-vote-absentee.aspx> (last visited May 12, 2020).

<sup>13</sup> See e.g., 52 U.S.C.A. § 10307 (West).

<sup>14</sup> Amber McReynolds, Charles Stewart III, *Let's put the vote-by-mail 'fraud' myth to rest*, The Hill (Apr. 28, 2020),

<https://thehill.com/opinion/campaign/494189-lets-put-the-vote-by-mail-fraud-myth-to-rest> (last visited June 20, 2020).

<sup>15</sup> Alex Padilla, Pamela Karlan, Neal Kelley, Sonja Diaz, Matt Barreto, Chad Dunn, *Protecting Democracy: Implementing Equal and Safe Access to the Ballot Box During a Global Pandemic*, Webinar, UCLA Latino Policy and Politics Initiative (Apr. 2, 2020) (“UCLA Webinar”), <https://latino.ucla.edu/work/vote/> (quoting Orange County Registrar of Voters Neal Kelley) (last visited June 20, 2020).

<sup>16</sup> *Id.* (quoting California Secretary of State Alex Padilla).

<sup>17</sup> List of COVID-19 election cases, compiled by Justin Levitt, Election Law Blog (June 15, 2020).

<https://electionlawblog.org/?p=111962>.

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<https://www.theatlantic.com/politics/archive/2020/04/voting-mail-2020-race-between-biden-and-trump/609799/> (last visited May 12, 2020).

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<sup>21</sup> Khristopher Brooks, Coronavirus job losses have hit people of color the hardest, MoneyWatch (May 7, 2020), <https://www.cbsnews.com/news/coronavirus-job-losses-black-hispanic/> (last visited May 12, 2020); Kim Parker, Juliana Menasce Horowitz, Anna Brown, *About Half of Lower-Income Americans Report Household Job or Wage Loss Due to COVID-19*, Pew Research Center (Apr. 21, 2020), <https://www.pewsocialtrends.org/2020/04/21/about-half-of-lower-income-americans-report-household-job-or-wage-loss-due-to-covid-19/> (last visited May 12, 2020).

<sup>22</sup> Telephone conversation with Virginia election official, May 8, 2020.

<sup>23</sup> Go-To-Meeting conversation with Virginia advocate, Apr. 28, 2020.

<sup>24</sup> Danielle Root, Danyelle Solomon, Rebecca Cokley, Tori O’Neal, Jamal R. Watkins, and Dominik Whitehead, *In Expanding Vote by Mail, States Must Maintain In-Person Voting Options During the*

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<sup>27</sup> Go-To-Meeting conference with Florida advocate, May 6, 2020.

<sup>28</sup> *Why African-American Voters Choose to Vote at the Polls or Vote-by-Mail, and How They Perceive Proposed Changes to California's Voting System*, California Civic Engagement Project (Sept. 2016) ("CCEP"), <https://voterschoice.org/wp-content/uploads/2017/08/UCDavisCCEPCVEBriefTwo.pdf> (last visited May 3, 2020).

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<https://static1.squarespace.com/static/57b8c7ce15d5dbf599fb46ab/t/59b1bacc4c0dbf34e91dac0d/1504819977791/UCDavisCCEPIssueBrief3VoteCenterStatewideSurveyBrief.pdf> (last visited May 12, 2020).

<sup>32</sup> *Id.*

<sup>33</sup> Matt Barreto, Chad Dunn, Michael Latner, Tye Rush, Gabriel Sanchez, and Sonni Waknin, *Debunking the Myth of Voter Fraud in Mail Ballots*, UCLA Latino Policy and Politics Initiative (Apr. 14, 2020) (citing Atsusaka, Yuki, Andrew Menger, and Robert Stein. 2019. Compositional Effects of Vote by Mail Elections on Voter Turnout), <https://latino.ucla.edu/wp-content/uploads/2020/04/LPPI-VRP-Voter-Fraud-res.pdf> (last visited May 12, 2020).

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- <sup>42</sup> *Id.*
- <sup>43</sup> Telephone call with Arizona advocate, May 1, 2020.
- <sup>44</sup> Email exchange with Kentucky advocate I, Apr. 28, 2020.
- <sup>45</sup> Telephone conversation with Pennsylvania election official, Apr. 20, 2020.
- <sup>46</sup> Telephone call with Arizona advocate, May 1, 2020.
- <sup>47</sup> Go-To-Meeting conference with Virginia advocate, Apr. 28, 2020.
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