

2020 Primary Post-Election Assessment and Recommendations for Future Elections



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Introduction

This is one of the most important election years in a generation.

In the throes of the coronavirus pandemic, it is more important than ever that we have full access to the democratic process. But like every other aspect of our lives, the pandemic has led to a marked change in the voting process, including the manner in which we cast our votes.

Though voting by mail has [traditionally](#) been distrusted by some Black and other voters of color who prefer to cast their ballots in person, the pandemic has required greater use of mail-in voting. Indeed, New Jersey's May municipal elections were vote-by-mail only, and the July 7 primary was a hybrid election that ensured both mail-in and in-person voting opportunities. These two elections provided insight into the impact of the public health crisis on democratic participation throughout the state.

While there were certainly marked successes with the process, such as the [second-highest voter turnout](#) in the state's history for a primary, the election was also characterized by confusion, a lack of transparency and public education, and the spread of misinformation.

And, as thousands across the state, and millions across America, have taken to the streets in protest to affirm the principle that Black lives matter, it is clear that to really make Black lives matter, every Black vote must be counted in the November election, which, following Governor Murphy's [Executive Order Nos. 177](#) and [179](#) and the legislation codifying the executive orders, will once again be a hybrid election.

As we swiftly approach the highly anticipated November 2020 election, we looked back at the July election to help inform the November election. We collected data regarding the July primary in multiple ways. First, we monitored media reporting on issues leading up to, during and after the July election. Second, we tracked voter concerns and complaints fielded by the Lawyers' Committee for Civil Rights-run Election Protection (EP) hotline. Third, we fielded a survey* to ask voters about their experiences. Finally, we obtained limited poll worker feedback.

The primary election issues arose in four areas: (1) voter registration; (2) polling locations; (3) poll worker training and election misinformation; and (4) vote-by-mail. In this assessment, we outline these findings and advance several recommendations to strengthen our elections.

We are hopeful that, as we collaborate with the New Jersey Secretary of State, elections officials, the Legislature and the Governor, this document can serve as a resource to help ensure that every vote is counted in our upcoming and future elections under the new normal created by COVID-19.

* The non-scientific survey was sent to the members and email lists of the authors of this assessment and was promoted on social media. There were 1,536 responses. Respondents were not a random sampling of voters in the state.

1. Voter Registration

Voter registration rates have [decreased](#) due to COVID-19. With limited ability to register in person, lack of broad access to printers for individuals to print registration forms and the Motor Vehicle Commission (MVC) – which processes [automatic voter registration](#) – being temporarily closed for in-person services, potential voters had few options.

Residents were able to call their county clerks to request that voter registration forms be mailed to them and others were able to register when using the MVC's limited online services. However, many people were not aware of these options and county clerk office hours were reduced because of the pandemic.

It is imperative to rectify these problems and remove barriers to registration.

What Worked

- 210 survey participants registered to vote after requesting and receiving a registration form in the mail with prepaid postage from their county clerk's office. Overall, 340 survey participants identified as new registrants and faced no issues registering.
- 80% of survey participants had already registered to vote in a previous election cycle.

Issues

- Six survey participants and several EP hotline callers reported they did not vote in the July primary because they had missed the registration deadline.
- Eight survey participants were unable to register to vote because they never received a registration form from their county clerk's office after requesting one.
- Two people reported that they did not register to vote because they have criminal convictions and thought they were ineligible. On March 17, 2020, all New Jersey residents on probation or parole had their right to vote [restored](#).

Recommendations

The registration process has already seen improvements. On September 4, 2020, the state launched [online voter registration](#), which is both fast and convenient. Studies have shown that it particularly increases voter registration among young people. For example, in Arizona, registration for 18 to 24 year olds [increased](#) from 28% to 53% after the state adopted online voter registration. Online voter registration [reduces](#) a barrier for people with disabilities, specifically voters with limited mobility, and others who face registration problems. One national [study](#) found that “16.5% of registered non-voting Whites reported not voting because of a registration problem but 37.0% of registered non-voting Blacks, 31.9% of registered non-voting Hispanics, and 78.2% of registered non-voting Asians reported not voting because of a registration problem.” Immediate confirmation that a voter is registered will help alleviate this problem.

However, additional steps must be taken to mitigate the effects of COVID-19 on voter registration:

- **Adopt Same-Day Registration:** [Same-day registration](#), including on Election Day, allows voters to both register to vote and cast a ballot on the same day. Twenty-one states and the District of Columbia [have](#) already enacted same-day registration. It is both secure and cost effective, particularly if begun through the use of provisional ballots, [such](#) as in Utah and Nevada. Multiple studies have shown that same-day registration increases voter turnout, with an average of a [5% boost](#) in turnout, and as much as a [10 percentage point](#) increase in turnout among 18-to-24-year-olds. In 2018, states with same-day registration had a turnout rate that was [7% higher](#) than states that did not have it.
- **Readily Accessible Registration Information:** The “My Voter Information” section of the New Jersey Division of Elections website should include detailed information about a voter’s registration, including full street address, to allow voters to verify the information.
- **Expand Automatic Voter Registration (AVR):** Pursuant to N.J.S.A. 19:31-6.14, the state should establish Medicaid (through the Department of Human Services), the Department of Corrections (DOC) and the New Jersey State Parole Board as AVR agencies. Until this is implemented, the state should require that the DOC and Parole Board provide notice about the right to vote and a registration form to every person on parole or released from prison. The state should coordinate with Probation Services, which is under the Judiciary, to do the same.
- **Pre-registration for Incarcerated People:** The state should [restore](#) voting rights to people in prison. However, until that time, the state should allow incarcerated people to pre-register. Prior to restoring voting rights to people on parole, Colorado [passed](#) a law allowing them to pre-register. New Jersey should pass a similar law for people in prison.
- **Portable Voter Registration:** The state legislature should consider amending the state Constitution, which requires that a voter be a resident of a county for 30 days before having the right to vote in that county, to allow for [portable voter registration](#). Portable voter registration would allow a voter’s registration to move with them when they move within the state. While registration information would still need to be updated, it would prevent voters from losing their right to vote.

2. Polling Locations

In Executive Order No. [144](#) – which outlined the format of the primary election – Governor Murphy rightly recognized that “voting-by-mail may have a disproportionate impact on historically disenfranchised voters such as disabled voters, low-income voters, voters with unstable housing, limited-English-speaking voters, and voters of color.”

The option to use polling places was a crucial component of the primary, and we must continue to recognize that in-person voting options must be readily accessible for all voters, particularly Black and other voters of color who prefer in-person voting.

What Worked

- 91% of survey participants that voted in person easily found their polling locations.

- 71% of survey participants that voted in person felt that proper precautions and protocols were followed to protect their health and the health of poll workers. 27% of respondents indicated they had no opinion. Only 3% of respondents shared they did not feel proper precautions were followed.
- 81% of survey participants that voted in person waited less than five minutes to cast their ballot. Only one voter reported waiting between 30-45 minutes. That voter used a voting machine as an ADA-accommodation.

Issues

- The Division of Elections [polling place finder](#) webpage was temporarily shut down to fix an unspecified problem. The problem was resolved within an hour, but [media](#) and EP hotline callers reported voter confusion.
- 31 survey respondents and EP hotline callers were unaware polling locations were open and thought they were unable to vote as they never received a vote-by-mail ballot.
- Survey respondents and a poll worker shared voter confusion over having to vote by provisional ballot instead of a voting machine:
 - “The biggest complaints at the poll location where I worked were the folks wanted to vote on the machine. Also, the provisional ballot that was being utilized at the polls was confusing to those filling them out. I would estimate each person taking at least 20 minutes to fill out their ballot.”
 - “I spoke to a few other voters who were going to vote in person, but were not sure of their polling locations, and did not know what a provisional ballot is. They expected to vote on the usual machines.”
- According to one [report](#), a Plainfield resident spent hours going to three different locations before finding the proper polling location, Plainfield High School. However, the entrance to the location was closed. Another voter made their own sign instructing people to enter through the back and asked the board of elections to put up signs at closed voting locations.
- One EP hotline caller reported that in the towns of Vernon and Teaneck, polling locations ran out of Democratic provisional ballots. A voter in Vernon was not able to vote because of this issue. In Teaneck, voters had to wait until more ballots were provided by the county.

Recommendations

For the [November](#) election, New Jersey will once again have in-person polling locations available. Each municipality will be required to have at least one polling place and all public primary and secondary schools will be closed to in-person instruction so that they can be used as polling places. Additional steps should be taken to ensure no one is denied the right to vote:

- ***Number/Awareness of Polling Places:*** All counties are required to have a minimum of 50% of polling places open if sufficient poll workers are available. However, except for health and safety reasons, counties should not consolidate polling places. Whenever possible, voters who vote in person should be able to vote in their normal polling place. The state must expand its voter education efforts regarding polling location availability and why voters should trust using provisional ballots on Election Day.

- **Electronic Poll Books:** For future elections, the state must adopt [electronic poll books](#), which are electronic lists of registered voters that allow people to sign in at voting places, in lieu of signing paper poll books. Machine voting is not possible for the upcoming election because electronic poll books are needed to allow officials to confirm someone did not vote on a machine before they count their vote-by-mail ballot. In order to have the use of the vote-by-mail system and voting machines simultaneously, the state must require electronic poll books and appropriate sufficient funds for the effort.
- **Paper Ballot Election:** Instead of referring to the November election as a “primarily vote by mail election,” it should be referred to as a “paper ballot election” so people do not assume there are no in-person options or that using the U.S. Postal Service is the only way to return the ballot they receive by mail.
- **Clear signage:** Each polling place should have clearly visible signs that direct people to the entrance. Any location that is typically used as a polling place, but may be closed for the November election, should have a sign that indicates that it is not being used as a polling place and directs people to the alternative location.
- **Poll Worker Recruitment and Tracking:** [One](#) reason for delays and polling place consolidation is a shortage of poll workers. The Governor [has](#) suspended the county resident requirement for poll workers for November and the state has created a statewide [website](#) to encourage recruitment. Both are great steps. However, there should be consistency in all counties and recruitment efforts must be transparent. The state should require that counties set goals for the number of poll workers needed and provide weekly breakdowns of recruitment numbers. This should all be publicly available through a poll worker recruitment tracker, similar to the one [Ohio](#) uses. Using this data, high schools and colleges should encourage students to serve as poll workers by offering community service hours or class credit.

3. Poll Worker Training and Election Misinformation

All election-related policies and voter education should be consistent across the state. While New Jersey’s elections are run at a county level, the same laws apply statewide. It is also imperative that poll worker training includes a thorough overview of state election law – especially significant changes that were implemented for the upcoming election.

What Worked

- 81% of survey participants did not encounter any issues voting in the primary.
- Numerous survey participants found their county clerk office was extremely helpful. One voter shared: “the County Clerk office was very helpful, they confirmed my request for a mail in ballot, promised and met their delivery commitment within the time promised.”

Issues

- 35 of survey participants that voted in person were asked to show ID. However, it appears that it was only an appropriate request of one participant who was asked to show ID because they failed to provide identification information when registering to vote. Other participants were provided invalid reasons, such as being told ID was required by law or for provisional voting or were given no reason at all.

- A poll worker in Essex County shared that at their polling place, some poll workers were asking voters “is your ballot at home?” and “why did you not vote by mail?” Some voters were also told “go back home and use your paper ballot.”
- Piscataway Township posted incorrect information on Facebook stating in-person voting was limited only to voters that encounter problems with vote-by-mail and that they must show ID before being permitted to vote. The post was later updated.
- The Mayor of Ramsey [posted](#) a message misinforming residents that the town’s in-person polling location would only be available “to voters who are blind, physically disabled or illiterate.”

Recommendations

The state and election officials [will](#) be expanding voter education efforts. Election officials must combat voter confusion and disinformation, and early, consistent and clear communication must be prioritized as these necessary changes are implemented. They must also ensure poll workers receive proper training.

- ***Appointing County Clerks:*** New Jersey’s Constitution should be amended so that county clerks are no longer elected positions. County clerks [oversee](#) vote-by-mail applications, candidate petitions and certify election results. This means that county clerks are supervising and administering the electoral process even when they themselves are up for election, which is a conflict of interest. Election administration should not be partisan but instead free of any perception of bias.
- ***Accessible, Consistent and Clear Messaging:*** The Division of Elections website, like the [Department of Health website](#), should have clear, accessible information, and, as we get closer to Election Day, should be updated regularly. The state should provide templates of election-related social media posts to all elected officials to ensure consistent and accurate messaging.
- ***Poll Worker Training:*** In addition to normal training, poll workers should be trained on the election format for November, the issues seen during the primary election and the limited application of voter ID law. In future elections, to ensure new poll workers are comfortable with the work, the state should institute a poll worker mentoring program in which an experienced poll worker mentors a new poll worker on Election Day.

4. Vote-By-Mail

In light of the dangers posed by COVID-19, the state [expanded](#) vote-by-mail for the primary by sending ballots to all active registered Democrats and Republicans, allowing for ballots postmarked by Election Day to be counted if received up to seven days after the election and installing five secure ballot drop boxes in each county. As a result, the state saw over 1.47 million ballots [cast](#) in the primary.

Following litigation brought by the authors of this assessment, the state also instituted a ballot cure process for signature issues for vote-by-mail and provisional ballots. Even with this progress, there are still procedures that need to be addressed.

What Worked

- [87.5%](#) of voters voted by mail in the primary, including 95% of survey participants.
- 77% of survey participants that used a ballot drop box faced no issues.
- 85% of survey participants that voted by mail found it easy to follow the instructions for filling out and returning their vote-by-mail ballot:
 - “I found vote by mail very effective and hopefully will do it again.”
 - “Vote by Mail was easy to do, and I could track that my ballot was received.”
- [6,851](#) of vote-by mail ballots were counted after voters returned cure forms affirming their votes.

Issues

- 40,845 vote-by-mail and provisional ballots [were](#) rejected – a 2.78% rejection rate.
- According to one [report](#), Gloucester County rejected 596 ballots for arriving with a postmark after July 7. Burlington County rejected 1,400 for the same issue.
- 200 survey respondents expressed trouble understanding how to use a vote-by-mail ballot:
 - “I was able to complete the process, but it was neither straightforward nor user-friendly. There must be some safeguard logic to the process, but the multi-step process generated a degree of anxiety and second-guessing. For voters with limited reading or cognitive abilities, the process will be difficult and can result in an error which could disqualify their vote.”
 - “I did find it confusing. There were a lot of separate pieces, and, for example, the ballot instructions on the back were actually different from those on the front. I think things were made much more complicated than they needed to be.”
 - “Instructions for where to sign, what not to detach, which envelopes to use, all could be clearer.”
- Several EP hotline callers complained that they requested a ballot but never received one.
- 1,034 survey participants did not track their ballots following the election. Many were unaware they could track their ballot and only learned about it when taking the survey.
- Per one [report](#), a printing error led to 500-700 Republican voters in Bernardsville receiving Democratic ballots.
- One media outlet [reported](#) that in Dover certain components of the vote-by-mail documents were printed only in English, which was a violation of an [appellate court ruling](#) last year that held election materials in Dover must be bilingual.
- Some survey respondents shared their concerns about ballot drop box locations:
 - “Didn’t know about ballot drop boxes until a neighbor mentioned them. The nearest one was several towns away, so I made a trip there. There should be a box in every town.”

- “The ballot box I wanted to use was located at the Sheriff’s office and you couldn’t enter the parking lot to get to the drop box because the parking lot entrance was blocked by red cones.”
- “I think there needs to be more secure ballot drop boxes around the state. I live in the north part of Morris County and had to drive 25 miles to the nearest one. Ideally there would be a secure drop box at polling locations.”

Recommendations

As discussed, New Jersey [has](#) again expanded vote-by-mail for the November election. Vote-by-mail ballots will be mailed to every active, registered New Jersey voter. Following [recommendations](#) from the authors of this assessment, each polling place will be designated as a location to drop off personal vote-by-mail ballots. Each county is required to have a minimum of 10 secure ballot drop box locations. The state also [codified](#) the ballot cure procedure from the primary with additional provisions to make the law even stronger. In addition to these improvements, the state should take the following steps:

- **Secure Drop Boxes:** Drop box locations should be listed on the New Jersey Division of Elections website, county websites and municipal websites. As voters are increasingly concerned about mail delays, drop boxes are an ideal alternative for voters. However, drop boxes must not be placed at or near law enforcement agencies. Communities of color, specifically Black voters, may feel apprehensive at being within the vicinity of a law enforcement agency in order to vote.
- **Redesign Vote-by-Mail Ballots:** For future elections, the state should reevaluate the vote-by-mail ballot design to be less confusing and include clear, detailed instructions. Ballot and envelope design must be uniform across the state to decrease voter confusion.
- **Accessible Vote-by-Mail Options and Tracking Information:** The state’s [online voter information portal](#) should be expanded to allow voters to find out if their ballot was counted, if it was rejected, why it was rejected and how to correct issues or cure their ballot; counties should be required to update the tracking website within a week following an election. The state should also consider developing an automated computer system that will call each voter to provide the same information. For future elections, New Jersey should develop an online system like exists in [Pennsylvania](#), allowing voters to request a vote-by-mail ballot or a replacement vote-by-mail ballot online.
- **Statewide Compliance:** The state must ensure that all counties are complying with the Voting Rights Act requirement of sending all voting material in all relevant languages.
- **Expanded State Oversight:** Elections are administered at the county level. However, the state has a vested interest in ensuring that all voters have meaningful access to the ballot. The Legislature should pass a law empowering the Secretary of State’s office to investigate any counties that have outlier or unusual election practices that could be detrimental to voters, such as a disproportionately high rate of ballot rejection.

Conclusion

As we prepare for one of the most important elections in our time, and as we assess the last few elections leading up to it, it is paramount to prioritize health and safety, while also ensuring full, open and active access to our democracy. It is imperative for elected officials to listen and respond to voter feedback.

In addition to the work conducted throughout this year and this assessment, the authors of this assessment will continue to be on the front lines to ensure that we make Black lives really matter by ensuring full access to the ballot box this fall and in the future.

In the lead up to the November election, we will be creating and sharing voter information [materials](#) and also engaging in voter protection work on Election Day. To further protect our democracy from voter suppression efforts, we have also [filed](#) a Motion to Intervene in *Trump v. Murphy*, the lawsuit challenging Executive Order 177, the legislation that codified the executive order and the format of our elections.

The coming election is one of the most important – even urgent – in American, and New Jersey, history. Never has it been more crucial that everyone vote, and every vote be counted.

