

# Racial Justice Demands That Every Vote Is Counted

Discounting Mail-In Ballots Will Disenfranchise Communities of Color and Distort Election Outcomes in Key Counties in Michigan, Wisconsin, Pennsylvania, and Georgia



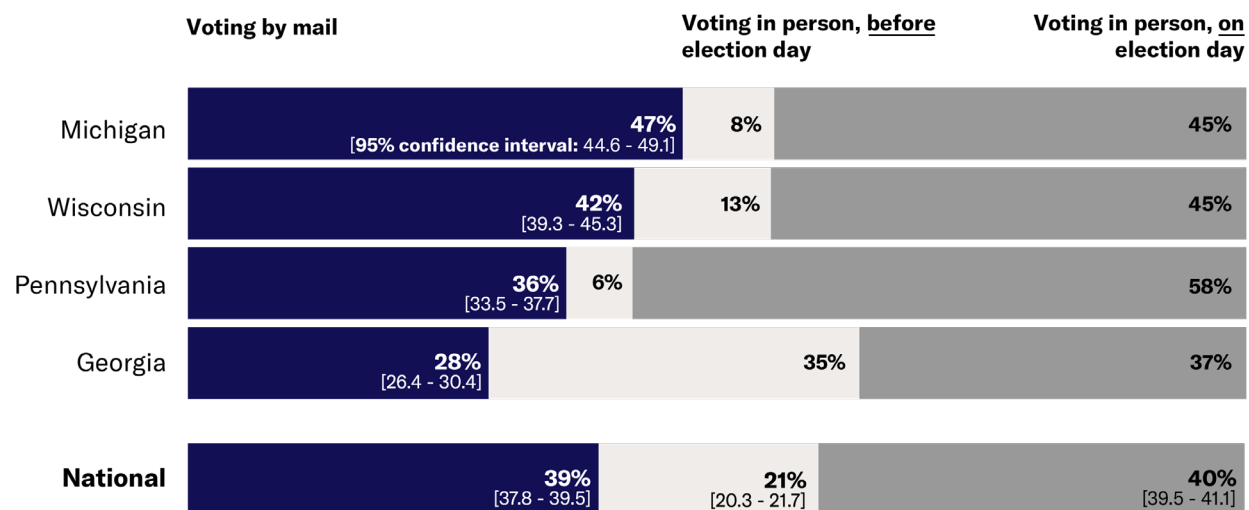
**ACLU**

# Racial Justice Demands That Every Vote Is Counted

This year, ensuring every mail-in ballot is counted is more important than ever. The COVID-19 crisis has led to a surge in the number of voters who are expected to cast a ballot that was mailed to them – already, more than 90.7 million absentee ballots have been requested or sent to voters in 50 states and the District of Columbia.<sup>1</sup> Moreover, voters of color are even more likely to vote by mail than white voters. Any attempt to interfere with a full count of mail-in ballots or unfairly reject those ballots would disproportionately disenfranchise communities of color, the very constituencies historically disenfranchised, and distort election outcomes. This report identifies the battleground states and their key counties where this issue is most acute – states and counties we must all watch closely.

Particularly important to watch are Michigan, Wisconsin, and Pennsylvania – three states widely acknowledged as “battleground states” critical to determining the outcome of the presidential race. These states don’t begin processing mail-in ballots until Election Day or the day before, increasing the danger of a confusing premature victory call.<sup>2</sup> Their status on the electoral map means they could also be targets for problematic ballot rejections or even an attempt to interfere with a full count of mail-in ballots during counting. We also examine Georgia, where the gap in vote-by-mail usage by race is particularly large, and the threat of disenfranchisement of voters of color is high.<sup>3</sup>

**FIGURE 1**  
**How [do you plan on voting/did you vote] in the 2020 general election?**



## Communities of color are disproportionately planning to vote by mail – nationwide, and in the key states of Michigan, Wisconsin, Pennsylvania, and Georgia

Vote-by-mail rates are surging across the board, but particularly among communities of color.

A nationwide representative tracking survey of likely voters conducted by YouGov<sup>4</sup> finds that in Michigan, Wisconsin, Pennsylvania, and Georgia, an astounding 47 percent, 42 percent, 36 percent, and 28 percent of likely voters, respectively, plan to vote by mail (see Figure 1) – compared to 24 percent, 6 percent, 4 percent, and 6 percent in the 2018 election.<sup>5</sup>

Simultaneously, the gaps in vote-method intent by race have never been as wide as in this cycle, with voters of color reporting intent to vote by mail at significantly higher rates than white voters.

Figure 2 demonstrates how intended vote-by-mail rates differ by voter race in Michigan, Wisconsin, Pennsylvania, and Georgia. In each of these states and nationwide, people of color report planning to vote by mail at higher rates than white people, by margins ranging from 5 percentage points in Wisconsin

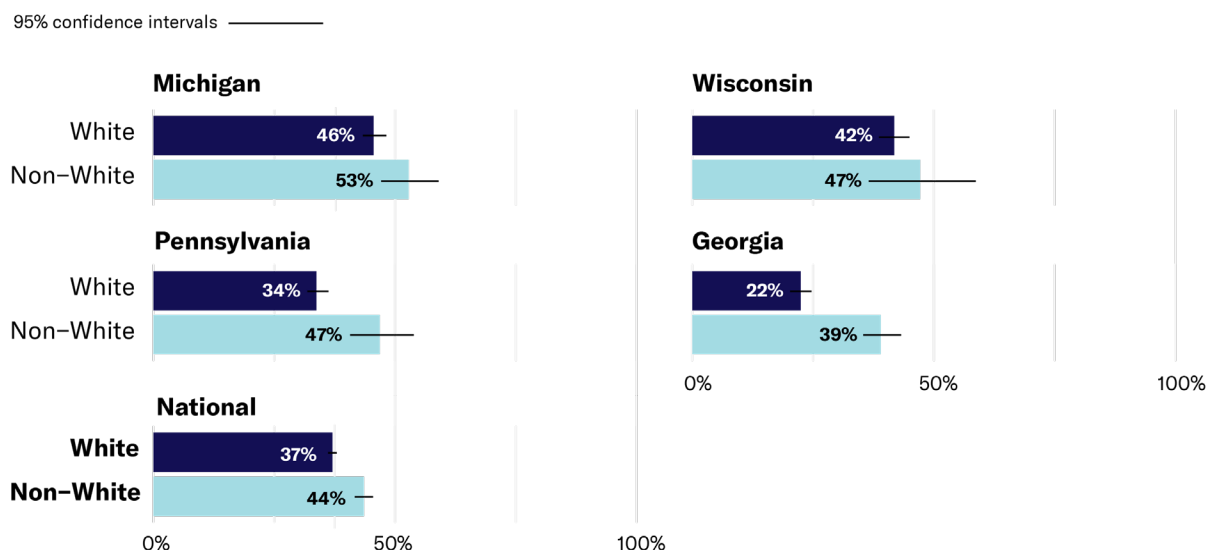
to 17 percentage points in Georgia<sup>6</sup>. This means that any improper treatment of mail-in ballots will disproportionately disenfranchise communities of color from being represented in the election outcome.

## A predictive model estimates county-level impacts in Michigan, Wisconsin, Pennsylvania, and Georgia, and points toward counties to watch in each state

Using a combination of in-cycle political polling and statistical modeling, the ACLU Analytics team generated estimates of mail-in voting volume and candidate support by vote-method and by race in every county in Michigan, Wisconsin, Pennsylvania, and Georgia. The model identifies counties where disregarding or improperly treating mail-in ballots is likely to have the greatest impact on election outcomes and representation of voters of color, and estimates a range on the size of the impact.

The counties that will have the highest number of mail-in ballots from voters of color are exactly those where the mail-in vote can change the outcomes of the election – places that could be targets for interference

**FIGURE 2**  
**How [do you plan on voting/did you vote] in the 2020 general election? (percent answering “Voting by Mail,” by race)**

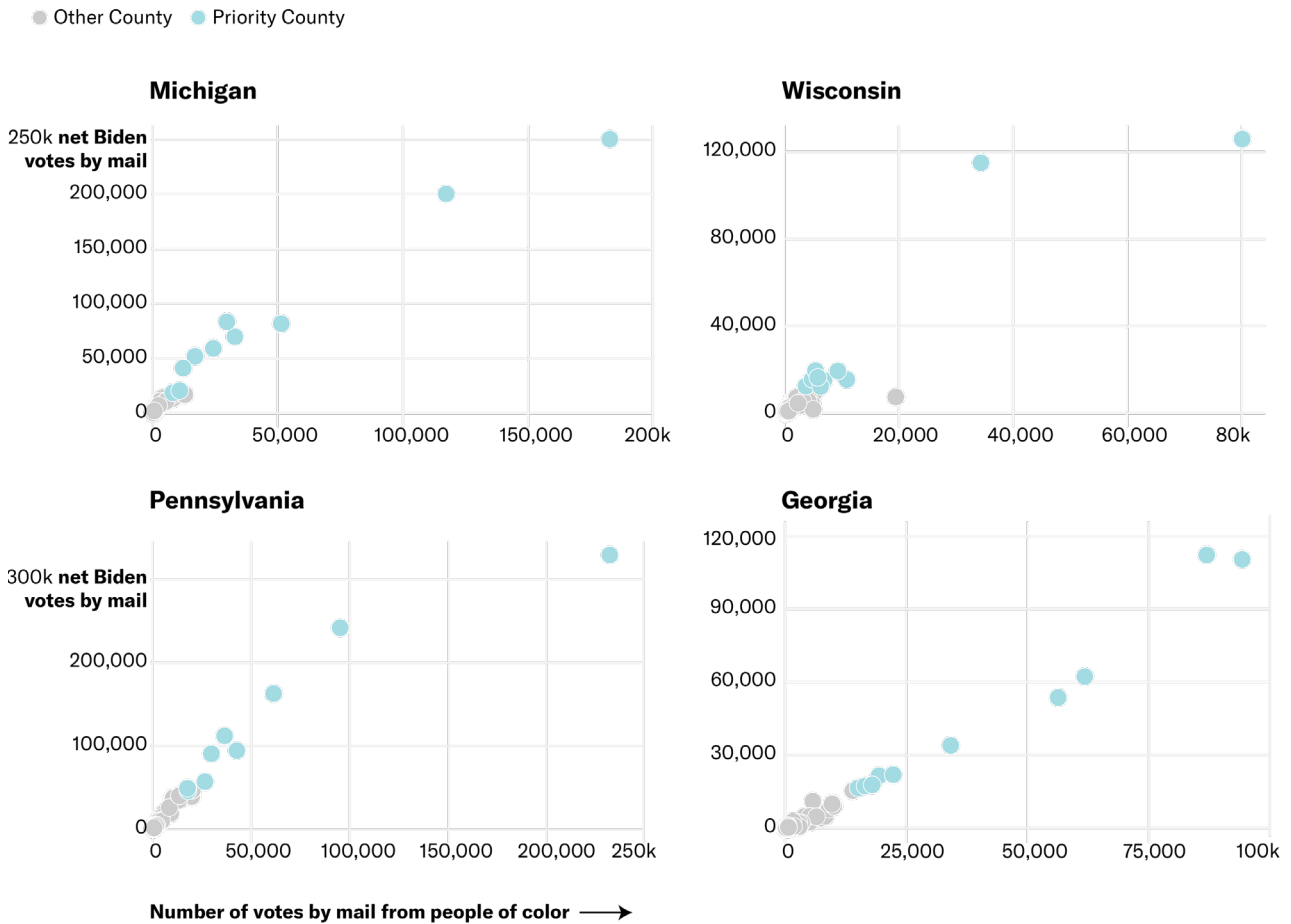


with the mail-in ballot count. Figure 3 plots counties in each state by the number of voters of color among mail-in ballots and a measure of the potential impact of mail-in ballots on election outcomes.<sup>7</sup>

The top 10 critical counties by the impact of vote-by-mail in each state are highlighted in each panel in Figure 3. Tables 1-4 below provide predicted ranges on

the estimated percentage point impact of the mail-in vote on the presidential race outcome in each county, as well as the estimated share of people of color voting by mail in each of these counties. These counties potentially face the largest racial representation gap – that is, if the by-mail ballot count is not completed, they will cause the biggest disenfranchisement of voters of color

**FIGURE 3**  
**Counties in Michigan, Wisconsin\*, Pennsylvania, and Georgia by number of by-mail voters of color and impact on election outcome**



\* In Wisconsin, we urge additional caution when interpreting the results. In the Wisconsin voter file we rely on, there are high levels of missingness in the modelled race variable for voters outside of Milwaukee (560,000 missing entries out of 3.66 million registered voters). As a result, our estimates for the number and share of people of color voting by mail may be low for some counties, which is reflected in the weaker alignment with net Biden votes from vote-by-mail than in other states.

TABLE 1

## Michigan — Top 10 counties by largest net votes for a candidate from mail-in ballots

County	Estimated Change in Presidential Vote Share Accounting for Mail-In Vote [95% Confidence Interval <sup>8</sup> ]	Estimated Share of People of Color Voting by Mail [95% Confidence Interval]
Wayne	15.4% [9.3%, 21.6%]	55.6% [41.9%, 68.1%]
Oakland	22.5% [13.7%, 31.2%]	59.7% [47.5%, 71.9%]
Washtenaw	19.5% [10.5%, 28.5%]	61.4% [47.5%, 75.2%]
Macomb	18.5% [11.6%, 25.3%]	52.2% [40.0%, 63.5%]
Kent	18.0% [9.3%, 26.8%]	50.5% [35.9%, 62.3%]
Genesee	20.8% [10.6%, 31.0%]	51.4% [37.6%, 65.6%]
Ingham	23.9% [13.8%, 34.0%]	60.4% [45.9%, 72.9%]
Kalamazoo	23.1% [12.8%, 33.5%]	52.1% [39.5%, 66.5%]
Saginaw	17.8% [8.1%, 27.6%]	45.5% [30.6%, 60.5%]
Muskegon	18.2% [8.0%, 28.4%]	48.7% [34.3%, 63.7%]

Across all four states, the key geographies to watch will be the greater metro areas with large populations of people of color, such as Detroit (Wayne, Oakland, and Macomb counties), Milwaukee and Madison (Milwaukee and Dane counties), Philadelphia and Pittsburgh (Philadelphia, Allegheny, Montgomery, Bucks, Delaware, and Chester counties), and Atlanta (DeKalb, Fulton, Cobb, Gwinnett, Clayton, and Henry counties). Not fully counting the mail-in vote would mean disregarding between 32.9 percent (in Gwinnett

County, GA) and 61.4 percent (in Washtenaw County, MI) of the votes of people of color.

## Discounting the by-mail vote and the votes of communities of color can change the course of the election

Can attempts to suppress the by-mail vote and the voices of voters of color – whether through delays, ballot

TABLE 2

## Wisconsin — Top 10 counties by largest net votes for a candidate from mail-in ballots

County	Estimated Change in Presidential Race Vote Share Accounting for Mail-In Vote [95% Confidence Interval]	Estimated Share of People of Color Voting by Mail [95% Confidence Interval]
Milwaukee	12.9% [-0.1%, 26.0%]	47.0% [31.3%, 60.8%]
Dane	14.3% [2.3%, 26.2%]	51.7% [35.9%, 65.8%]
Rock	17.3% [2.4%, 32.2%]	46.4% [30.0%, 62.7%]
Racine	16.1% [2.8%, 29.4%]	40.6% [26.7%, 55.7%]
Winnebago	18.3% [2.9%, 33.7%]	39.8% [25.7%, 54.3%]
Lacrosse	14.5% [-2.4%, 31.5%]	40.8% [25.2%, 56.2%]
Kenosha	16.2% [0.8%, 31.6%]	44.6% [29.6%, 59.9%]
Eau Claire	14.2% [-1.2%, 29.7%]	42.2% [27.5%, 57.6%]
Brown	15.4% [-2.7%, 33.4%]	43.7% [28.8%, 59.7%]
Outagamie	14.8% [-2.4%, 32.0%]	38.7% [27.6%, 54.4%]

TABLE 3

**Pennsylvania — Top 10 counties by largest net votes for a candidate from mail-in ballots**

County	Estimated Change in Presidential Race Vote Share Accounting for Mail-In Vote [95% Confidence Interval]	Estimated Share of People of Color Voting by Mail [95% Confidence Interval]
Philadelphia	13.1% [7.3%, 18.9%]	47.3% [33.3%, 62.2%]
Allegheny	19.2% [10.2%, 28.1%]	45.9% [32.6%, 57.2%]
Montgomery	21.2% [12.4%, 30.0%]	46.2% [31.9%, 59.9%]
Bucks	21.2% [12.3%, 30.0%]	41.7% [32.4%, 52.9%]
Delaware	19.5% [12.0%, 27.0%]	43.1% [31.1%, 55.0%]
Chester	19.2% [2.5%, 35.8%]	47.0% [34.1%, 60.2%]
Lehigh	21.0% [10.6%, 31.4%]	44.6% [31.1%, 57.2%]
Berks	19.1% [8.8%, 29.3%]	34.7% [21.2%, 47.4%]
Northampton	20.1% [11.0%, 29.1%]	40.0% [28.3%, 53.6%]
York	18.9% [8.5%, 29.3%]	40.4% [27.6%, 53.5%]

rejections, or outright interference with the full count — change the outcomes of the election? Absolutely.

In the key counties identified above, the final result in the presidential race could shift between 5.1 percent (in Clayton County, GA) and 23.9 percent (in Ingham County, MI) when accounting for the mail-in vote. These votes add up. Figure 4 represents the gap in

support between Democratic presidential candidate Joe Biden and Republican Donald Trump by intended vote method. In these key states and nationwide, Biden supporters outnumber Trump supporters among intended vote-by-mail voters by a large margin (50-72 percentage points), while Trump supporters outnumber Biden supporters among intended Election Day in-person voters by margins almost as large (30-40

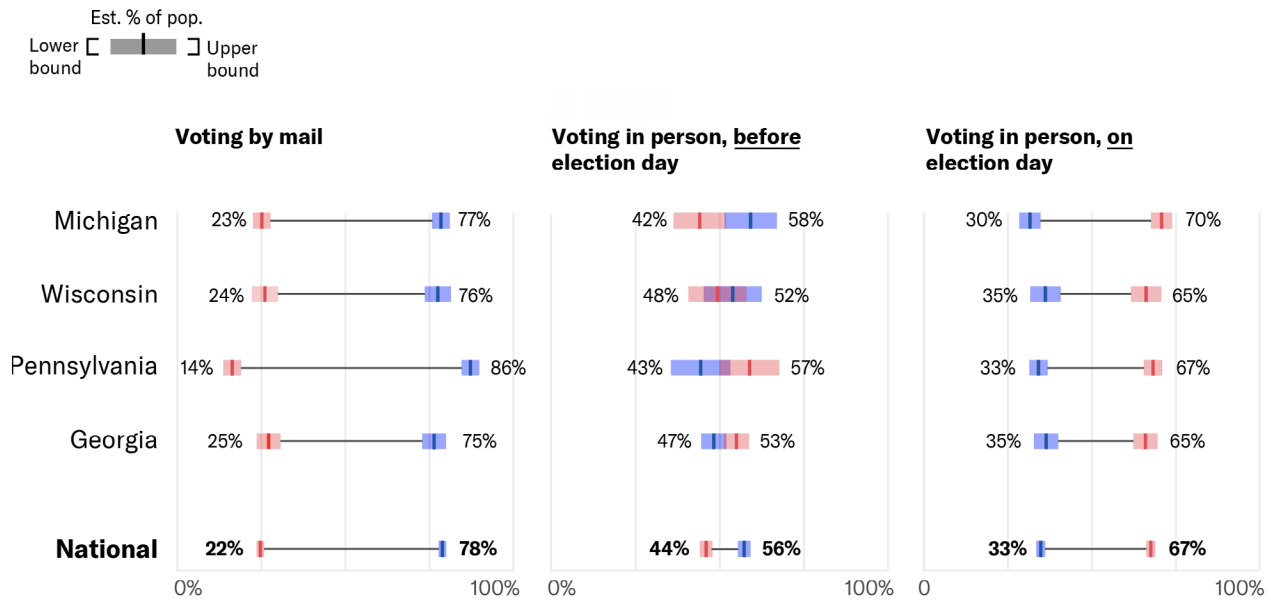
TABLE 4

**Georgia — Top 10 counties by largest net votes for a candidate from mail-in ballots**

County	Estimated Change in Presidential Race Vote Share Accounting for Mail-In Vote [95% Confidence Interval]	Estimated Share of People of Color Voting by Mail [95% Confidence Interval]
Dekalb	7.4% [0.6%, 14.1%]	42.3% [28.2%, 56.5%]
Fulton	7.7% [0.4%, 15.0%]	37.5% [26.0%, 51.6%]
Cobb	10.9% [3.1%, 18.6%]	44.1% [31.4%, 58.6%]
Gwinnett	9.0% [-0.2%, 18.3%]	32.9% [21.5%, 44.3%]
Clayton	5.1% [-0.5%, 10.6%]	40.1% [25.4%, 53.4%]
Henry	10.7% [0.6%, 20.9%]	38.0% [23.1%, 53.6%]
Chatham	9.1% [1.7%, 16.6%]	37.5% [24.1%, 53.0%]
Muscogee	10.7% [1.2%, 20.2%]	43.2% [28.9%, 58.0%]
Richmond	7.0% [-2.1%, 16.1%]	36.1% [22.2%, 52.7%]
Bibb	11.8% [1.6%, 21.9%]	43.2% [25.4%, 59.5%]

FIGURE 4

If the November 2020 election were being held tomorrow and the candidates were Democrat **Joe Biden** and Republican **Donald Trump**, for whom would you vote?  
(By intended vote-method)



percentage points).<sup>9</sup> In-person early voting presents a mixed picture, but also represents a much smaller proportion of likely voters.

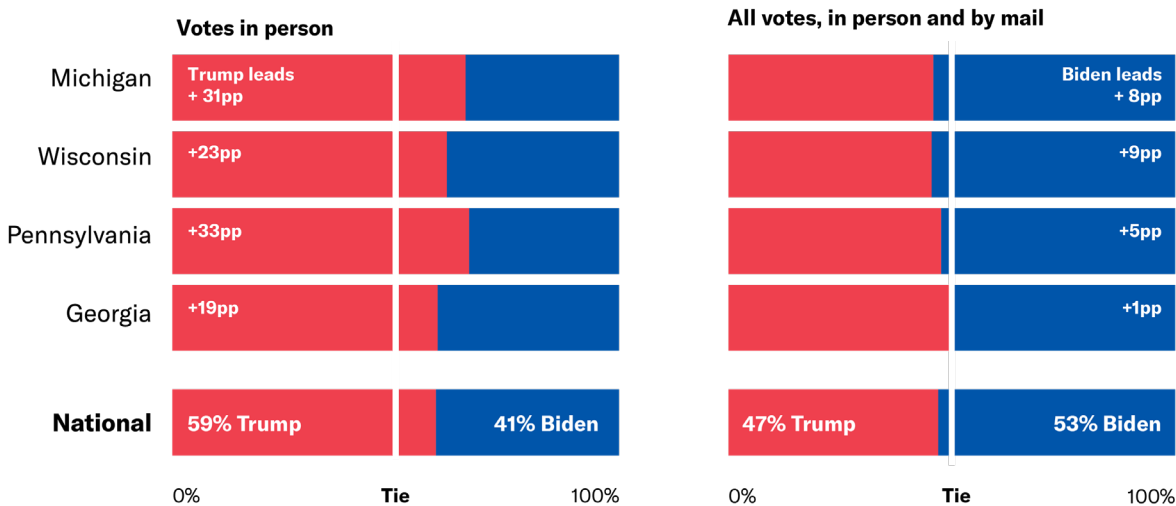
Differences in processing times between these three voting methods mean that how election results are reported is also important. We must remember that

the early reported results – likely from in-person voting – will disproportionately represent the voices of white voters.

Figure 5 juxtaposes the potential early election night results (the combination of in-person early voting and in-person Election Day voting<sup>10</sup>) and potential

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If the November 2020 election were being held tomorrow and the candidates were Democrat **Joe Biden** and Republican **Donald Trump**, for whom would you vote?  
(In person vs. total votes)



final results after all votes have been counted in the presidential race. In Michigan, Wisconsin, Pennsylvania, and Georgia – as well as nationwide – we may see a results swing that could change the outcome of the election.

We've observed this kind of effect in previous election cycles, just not to the extent to which we may see it in this election. The effect can also go either way, with the mail-in vote shifting the total towards Democratic candidates or Republican candidates. In the 2016 presidential election, for example, at the time Trump declared victory, he was ahead in the nationwide popular vote by 950,000 votes; in the final vote count, Hillary Clinton had won 2.9 million more votes due to mail-in ballots.<sup>11</sup> In Missouri, on the other hand, 56 percent of in person votes were for Trump, compared to 63 percent of mail-in votes.<sup>12</sup> In this case the outcome shift wasn't substantial enough to change the election outcome. This year may be different.

This year, discounting the mail-in vote will surely disenfranchise voters of color and distort the election outcome. Ensuring that every vote – whether cast by mail, early, or in-person on Election Day – is counted must be the responsibility and priority of election officials everywhere. Voters, not politicians, must decide the outcome.



# Endnotes

- 1 Retrieved October 27, 2020 from <https://electproject.github.io/Early-Vote-2020G/index.html>
- 2 During the 2020 primaries, counties in Pennsylvania took between 1-15 days after Election Day to complete their mail-in ballot count, according to the Pennsylvania 2020 Primary Election Act 35 of 2020 Report: <https://assets.bwbx.io/documents/users/iqjWHBFdfxIU/r87pxvcoHOEg/v>
- 3 In Georgia, election administrators are permitted to begin pre-processing ballots by examining the outer envelope (e.g., comparing signatures) as they are received to determine whether to accept or reject. They were then permitted to begin processing ballots on Oct. 19 by opening both the outer and inner envelopes and physically scanning (but not tabulating) the absentee ballot, and many Georgia counties, including the top 10 most populous counties, have started this process. Georgia counties are permitted, but not required, to start tabulating absentee ballots the morning of Election Day, but must start doing so after the close of polls. However, the large number of potential ballots expected to arrive in the final days before November 3, combined with shortages in election staffing in some counties, means that a fast completion of the mail-in ballot count is by no means assured.
- 4 The survey is based on 9,612 interviews in MI, WI, PA, and GA, and 15,658 interviews nationwide conducted by YouGov on the internet of registered voters likely to vote in the 2020 election. The interviews are part of a series of surveys fielded by YouGov Blue from June 30 - October 13, 2020. The sample is weighted according to gender, age, race, education, region, and past presidential vote based on the 2016 American Community Study and the November 2016 Current Population Survey Registration and Voting Supplement, conducted by the U.S. Bureau of the Census.
- 5 Based on data from the US Election Administration and Voting Survey: <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>.
- 6 Current reporting (as of October 27, 2020) on vote-by-mail ballot requests in PA show a smaller racial gap than our survey results, and in some counties, white voters are voting by mail at higher rates than Black voters. In addition, because PA does not report voter race on its official voter file, this reporting varies by source, due to different modeling of the race variable. Due to changing rules about vote-by-mail and delays in the sending of some absentee ballots in Pennsylvania, the final racial breakdown in vote-by-mail may differ from polled voter intent.
- 7 We use as this measure the net votes for a candidate from the mail-in vote in the presidential race. In this case, because we predict that in all counties in MI, WI, PA, and GA, Democratic candidate Joe Biden will perform better among by-mail voters compared to in-person voters, this measure is effectively the net votes for Biden from the mail-in vote.
- 8 The estimated change in vote share after accounting for the mail-in vote and estimated share of people of color voting by mail represent our best estimates, which have several sources of possible uncertainty such as sampling variation, measurement error, and varying sample sizes. We try to convey this uncertainty by also presenting lower and upper confidence intervals, which represent a broader range of plausible values for these estimates.
- 9 Researchers have found some [recent evidence](#) that expressed vote-by-mail intent may be overstating actual realized vote-by-mail among Democratic voters, so these gaps may be an overestimate. However, given the size of the gap, it seems likely that a substantial difference still remains after accounting for this effect.
- 10 In some states, such as Wisconsin, early in-person voting (or in-person absentee voting) is processed and counted together with mail-in votes. In Figure 5, we contrast the Trump and Biden margins of in-person and by-mail voting, combining early in-person and in-person on Election Day.
- 11 Retrieved October 25, 2020 from <https://www.cnn.com/2020/09/01/politics/2020-election-count-red-mirage-blue-shift/index.html>
- 12 Based on precinct-level data from the MIT Election Data Science Lab. We verified this result with data from the US Election Administration and Voting Survey (EAVS). While exact percentages differed slightly in the EAVS data, the direction of the result shift after accounting for vote-by-mail was the same.