

Reading: A Messy Election Ahead?

There are many obstacles to a smooth election process in the November 2020 presidential election. Commentators have applied words like nightmarish, meltdown, chaos, coup, scary, confusion, dangerous, messy, calamity, crisis, and other dramatic terms to describe various 2020 election scenarios.

Among the factors that lead observers to believe that the 2020 election could be a difficult one:

- The Covid pandemic has disrupted usual patterns of voting, leading to confusion about the nation's state-by-state patchwork of voting laws and procedures.
- The country is bitterly divided, leading to doubt and suspicion by many.
- Two of the last three presidents were elected by a minority of the country (this is possible because under the Constitution, the election is decided by an [Electoral College](#), not by direct voting).
- Misinformation, disinformation, and conspiracy theories about the election are circulating widely.
- There have been widespread efforts to suppress the votes of people of color and other groups.

President Trump has increased public doubt about the election by questioning whether it will be fair. He has repeatedly accused the Democrats of “rigging the election” — though he has not cited specific instances that can be verified. In addition the President has attacked mail-in ballots as being especially subject to fraud — a claim that is not backed up by the evidence, according to the [AP](#) and many other sources. Trump has raised the specter of sending his supporters to polling stations to question the legitimacy of voters, which some worry will result in the intimidation of voters.

Voter suppression, accusations of fraud, contested ballots, and lawsuits are a near certainty in the election. We can also expect that the results of the election may be delayed, especially if there is not a landslide victory by either the Republican candidate, President Donald Trump, or the Democratic candidate, former Vice President Joe Biden. Presidential elections almost always end with clear results on Election Day. But this year, partly because so many absentee or mail votes must be counted (and perhaps disputed), we may have to wait several days or even weeks for the results.

Almost all rules governing elections, even federal elections, are set by the individual states, making an already confusing process even harder to understand.

Registering to Vote

Though the voting age is 18 for the entire country, the “when” and “how” of registering to vote varies widely by state. Some states allow 17-year-olds to vote in primaries as long as they will be 18 by Election Day. Some states automatically register people when they apply for driver's licenses. Some states allow people to register on Election Day. But most states require prior registration from one week to four weeks before the election. Some states allow online registration, some don't.

Restrictions on voter registration has become a popular tool for voter suppression. In response to charges of voter fraud (which are almost entirely unsubstantiated), many states have enacted laws requiring multiple IDs, and have conducted excessive or selective purging of voter lists. These obstacles disproportionately affect voters of color, who are more likely to vote for Democrats. In Florida, for example, voters approved a measure granting ex-felons the right to vote. But Republican state legislators then passed a law requiring felons to fully [pay back fines and fees to the courts](#) before they can actually vote. North Dakota passed a law that would require voters to have a specific street address, thereby disenfranchising Native Americans living on reservations with no street addresses.

Across the country, voting rights advocates have worked to counter voter suppression and to protect every citizen's right to vote, no matter who they choose to vote for.

Voting Early

Though Election Day is on Tuesday, November 3, most states permit voters to vote early. As with rules for registering, the dates, days of the week, times, and means of casting the ballot vary widely. For example:

- Michigan is allowing early voting by mail or special drop boxes up to 40 days before the election.
- New Hampshire allows absentee voting only if the voter is unable to vote on Election Day.
- In Florida, local election supervisors determine the dates of early voting.
- In Texas, mail-in ballots are allowed only for those who qualify (e.g. senior citizens, those with disabilities or people who will be away on Election Day (absentee)).
- Several states mail ballots to all voters giving everyone the option to vote early by mail. For instance, Colorado has had universal mail-in elections since 2013.

In light of the Covid pandemic (and the potential for contagion at polling stations), many states have taken steps to encourage mail-in voting by sending ballots or ballot applications to voters, loosening requirements, and providing special drop boxes for ballots. Because the 2020 presidential election is close and partisan division is high, and because Democrats were seen to be more likely to vote by mail, some Republican-led legislatures have resisted flexibility on early voting. (In Texas, the dispute over mail-in voting went all the way to the Supreme Court.) President Trump has often condemned the entire practice of voting by mail.

“I think mail-in voting is horrible. It’s corrupt...”

“There is NO WAY (ZERO!) that Mail-In Ballots will be anything less than substantially fraudulent.”

However, election officials, the FBI, and others have stated that mail-in voting has not been shown to be subject to fraud or corruption – or to [favor voters](#) from either party.

Election Day (November 3, 2020)

Every state makes its own rules about how to conduct the actual voting on Election Day: the hours that polls remain open, location and number of polling stations, the staffing of the polls, what machines are

used, and what, if any, identification is needed to vote. Each of these decisions can either encourage or discourage people from voting.

Civil rights groups have noted the disproportionate impact of these decisions on people of color. Since the Supreme Court eased the restrictions on the fifteen states that had violated the Voting Rights Act, over 1,600 polling stations have been closed. Of the 750 polls closed in Texas, for example, over two-thirds were in counties with an increasing number of Black and Latino voters. A study of the 2016 election by UCLA researchers found that waiting times in Black neighborhoods were 29 percent longer than in white neighborhoods.

In-person voting in the 2020 primaries (which took place from February to August 2020, depending on the state), was problematic in some cities. The coronavirus reduced the number of staff available to staff the polls, so many polling stations were closed. Some people were forced to wait six or more hours to vote. And again, people of color were disproportionately affected. In the city of Milwaukee, for example, Wisconsin's largest and most racially diverse city, polling stations were reduced from 180 to five. In Georgia's high-turnout precincts, Black majority polls had to close an average of 29 minutes late (some, as much as hours late), to accommodate voters who had lined up to vote – compared to just four minutes for white majority polls.

Long lines are not the only potential problem for Election Day voters. President Trump has often raised the specter of illegal voting: undocumented people voting, citizens voting twice, ballots thrown out. These allegations have been shown to be false. According to the fact-checking organization [Politifact](#):

“The Department of Justice under President George W. Bush, and Republican and Democratic election officials have investigated voter fraud extensively and found it is extremely rare.... David Becker, the executive director of the Center for Election Innovation & Research, a non-profit focused on election integrity, said: 'There's zero evidence of even dozens, let alone millions, of noncitizens voting in this or any other election.'”

The President and his surrogates have called for volunteers to “monitor” polling sites:

"We need every able-bodied man, woman to join Army for Trump's election security operation at [defendyourballot.com](#)." "We need you to help us watch them. Not just on Election Day, but also during early voting and at the counting boards. President Trump is going to win. Don't let them steal it." – Donald Trump Jr.

“I’m urging my supporters to go into the polls and watch very carefully because that’s what has to happen.” – President Trump

Given the surge in right-wing and white supremacist militias, these calls for “volunteers” has raised alarms among civil rights and voting rights organizations:

"The president's suggestions that law enforcement should act inappropriately or that vigilantes will storm the polls are simply designed to discourage voters, particularly voters of color, from voting and to undermine faith in our elections. It is important to call out Trump's comments for what they are: not just calls for illegal action but also attempts at voter suppression. Voters should not be intimidated." – Brennan Center for Justice

After the Election

Counting of ballots will continue after Election Day. This always happens, because many states allow mail-in votes up to or including the day of elections. And this year in particular, because of the expected huge number of mail-in ballots due to the pandemic, the counting will take days or even weeks.

If the election is close, it is possible that on election night, Trump will be ahead and lose later after all the mail-in votes are counted. Even without any evidence of wrongdoing, all the prior complaints and suspicions about mailed ballots could lead to a chaotic period of lawsuits, protests, federal intervention and a contested election. Trump could simply refuse to concede.

When President Trump was asked whether he would accept the election results, he said:

"I have to see. Look, you — I have to see. No, I'm not going to just say yes. I'm not going to say no, and I didn't last time, either."

Lawyers, Constitutional experts, civil rights organizations, and columnists from publications ranging from the New York Times to the Financial Times, from National Public Radio to the British Broadcasting Corporation warn about a number possible election scenarios that could be troublesome.

In one scenario, on election night, Trump is ahead in the battleground states, and declares victory, even though many ballots are yet to be counted. In the next week, mail-in votes go heavily for Biden, and Biden wins the election. Trump and his supporters call fraud.

In a very close race, even smaller problems, like multiple voting machine breakdowns, could alter the election results. Minor irregularities, either intentional or not, could be used to invalidate or throw into question a city or state's election results.

Since the likeliest source of friction lies in challenges to mail-in votes, states could start now to prepare for speedier counting. However, several battleground states, including Michigan, Wisconsin, and Pennsylvania, do not allow counting of ballots before Election Day.

Voters themselves – and voting advocates– can contribute to an orderly election by:

- learning about local voting rules and making a plan for how they (or family members) will vote
- voting – even if the voting site is far away, lines are long, and conditions are difficult
- sorting fact from fiction in election reporting and analysis
- being patient as election officials count the ballots
- joining efforts to ensure that all citizens have the right and the ability to vote for the candidates of their choice, whoever they might be