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THE CURRENT: What trends are we seeing in early voting?

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(MUSIC)

PITA: You're listening to The Current, part of the Brookings Podcast Network. I'm your host, Adrianna Pita.

In six days, voting will be over for the 2020 election, though the counting may continue for some time after. More than 66 million people have already cast votes – either by mail or through early in-person voting. So to help us understand what we're seeing so far with these early voting trends, we're talking again to Elaine Kamarck, senior fellow and director of the Center for Effective Public Management here at Brookings. Elaine, thanks for coming back on.

KAMARCK: Well, thanks for having me.

PITA: With the pandemic still ongoing, and at this point, rising at an alarming rate, many states have expanded their options for people to vote, whether making mail-in ballots more widely available, and drop off boxes, and some expanding their in-person early voting. What has this meant in terms of numbers? I think we know obviously more people are voting earlier than usual, but how much more are we talking?

KAMARCK: Well, it's, actually phenomenal. We are seeing in some states more early votes cast than votes were cast in the whole state. Right? I mean, it's just a phenomenal increase. Now, given what happened in the primaries, we did expect this, we expected to see a huge increase in early voting, but I don't think anybody expected numbers quite like this. It's really, you know, phenomenal. There are states where the early voting is getting to the point where it's the total vote from 2016, and we've still got, you know, a couple more days to go, so it's a pretty amazing phenomenon.

I think one thing to say and put it in context is that this is not totally brand new. There was a trend going on before this, where people were increasingly voting either by mail or voting early and if you look at a graph which we have in one of our Brookings blog posts on FixGov, if you look at the graph, starting from 1992 to 2016 there was a steady uptick in early voting and voting by mail. So, this was a trend that was happening in any event. It is now on steroids and is through the roof.

PITA: So, what are you expecting that this will mean for what the total election turnout is going to be? Is this a big year like 2008, but just front-loaded or are we talking about this is going to be a really phenomenal percentage of the electorate voting overall when we do the final tally after next week?

KAMARCK: Well, it's a little bit hard to say, since the hardcore partisans clearly vote more earlier than others. But most people think we could be looking at record turnout. Mostly not necessarily because

of the early vote, but just because of the enthusiasm that's out there, the interest in the election, the high level of polarization. So, to put it into perspective, there were 136 million people voting in 2016. I think most people think conservatively we'll have 150 million people voting in 2020 and maybe even more. The all-time high for the last century plus was 1908 when 67% of the electorate voted. And we may be getting into that territory as we move into the 2020 election.

PITA: Wow. So, what do we know about who these early voters are? Do we have any trends in terms of party or age or racial demographics? I'd be particularly interested, if we know at all, how many of them are new voters who haven't come out before.

KAMARCK: Well that's the big statistic, and you're absolutely right. From what we can tell, 25% of them are new voters, or what we call infrequent voters. In other words, people who may have not voted in the last couple of elections. So that's a big, big percentage. And frankly, kind of a surprising percentage. We also know that most of them are Democrats, which is not surprising, given that Trump has been, you know, bad mouthing mail-in voting for no reason for months now. So he's convinced Republicans that somehow it's corrupt to vote by mail, even though he does it himself, and Democrats have taken the opposite stance and they said, boy, we better get our ballots in early because the Republicans are going to try to steal the election somehow. So, we've seen a real polarization in the vote.

Now what's interesting is that this never happened before. I mean, absentee balloting was not thought to be the province of one party or the other, even though there have been elections won and lost on the basis of, you know, mobilization -- close elections -- based on the mobilization of the absentee voters. So it's a very odd year in that you see this disparity. Now, in recent days, there have been more Republicans voting absentee. And I think what's happened is, they're looking at this, reading the news, and saying, wait a minute, I want to get my vote in, and I want to make sure nothing happens on Election Day to prevent me from voting. And so more Republicans are in fact voting absentee, so we are seeing some of the Republican numbers increase. And of course, there's some states, by the way, where people don't register by party where we don't know what's going on.

PITA: OK. So, ballot drop boxes have been one popular option for returning your ballot in states have made those available this year. Given some of the problems and delays that the US Postal Service experienced this summer since being taken over by a Trump appointee in May. But the drop boxes haven't been without their own security concerns. There were two instances, one in California, one in Boston, of boxes being set on fire and destroying some of the ballots that were there. Also in California, the state Republican Party put out their own collection boxes in competition with the ones that were put out by the state election officials. What steps have states taken to secure ballot drop boxes, to try to protect them from tampering or vandalism, and in the case of California, what wound up happening with these separate, unofficial collection sites?

KAMARCK: First of all, it's clear that if this trend continues -- I mean, we have a couple isolated incidents now -- it's clear that if this trend continues, they're going to have to put armed guards at ballot boxes, just as they do at county offices. That's just something that they're going to have to, you know, do. I noticed when I voted in Massachusetts in the primary in September, there were armed guards at the polling places. So unfortunately, I think we're going to see a lot more police presence, maybe even National Guard presence at polling places all over the country on Election Day, and in places where ballots are being dropped off prior to Election Day.

With regard to California, some states have laws against what's called ballot harvesting, which is that it's illegal for someone to collect other people's ballots and turn them in. These laws arose in places where Republican operatives would collect the ballots of African American voters and then not turn them in because the assumption was that the African Americans were voting for the Democrats. California doesn't have a law and it does let voters designate someone to take their ballot to the officials, so, obviously, the Republican Party read that to mean that they can set up their own drop boxes because essentially, you know, Republican drop boxes were the voters saying, "yes, I allow the Republican Party to take these to the officials," but given this, there's now a fight in California. There's now a legal fight over the legality of these drop boxes and we will see whether the state forces the Republicans to take them away or not.

PITA: All right. On that point, there's a lot of litigation going on in many different states. States all have very different requirements about early voting about whether you need to turn in a photocopy of your official ID or whether you need a witness signature and all sorts of rules like that. And so there's a lot of cases going forward about whether states can loosen these restrictions or not. And to make it very confusing, these cases are often proceeding through the court system, even though voting has already started and voters have already turned their ballots in. What can you tell us about sort of the scale and the scope of these kinds of cases, and what this is going to mean for voters who have already turned in their ballots and what this means for states who are trying to figure out how to tally their ballots fairly and accurately?

KAMARCK: Well, we've never seen this amount of litigation state by state and it is mostly litigation started by the Republican parties in the states and by the Republican National Committee, which is trying to restrict voting as much as they can, following the president's assertions -- which are ungrounded -- that there's a lot of corruption in vote-by-mail states. So, this has been ongoing since the summer. Many of these cases are now being decided. It is really, really close to Election Day, and I don't think anything overturns -- there's no case decided that would put somebody's ballot already cast in jeopardy. The cases now are more about counting and when you can begin the counting process. And that's been a point of some contention within the states and between the parties.

Obviously, the sooner you can start counting absentee ballots before Election Day, the more complete your vote totals will be on Election Day. The president has come up with this bizarre notion that only a ballot cast on Election Day is a legitimate, good ballot, which is very bizarre, given that his own ballot won't be cast on Election Day; it'll be cast absentee. So it's a very strange situation. As with many things we've seen in the last four years, President Trump has just thrown lots of unsubstantiated assertions into the voting process in an effort to just create chaos out there. Nonetheless, it doesn't seem that many Americans are listening to him because there is this unbelievable early turnout and early voting and absentee voting. So, I think at this point, you're not going to see too many courts making decisions about voting itself, rather if there are any decisions to come, they may be about when states can start counting ballots. I think that's the situation in Pennsylvania.

PITA: Okay. And on that note, to end with, in terms of in terms of that question of, when does the counting start and when does it stop, the Supreme Court this week just recently blocked Wisconsin -- Wisconsin was looking to extend their deadline for receiving and counting their absentee ballots. And in Justice Kavanaugh's write-up of the decision, many legal experts were reading it as implying that counting is also supposed to stop on election night. You know, once election night is done, that's it, you shouldn't be counting anymore. And in fact, Justice Elena Kagan called that out explicitly in her dissent.

What's your forecast for what we're going to be looking at election night and in the days after? How the tallying process is going to wind up going? I realize that that's asking you to pull out a crystal ball, I apologize for that.

KAMARCK: Well, it's a little bit hard to say. And a lot of this is going to depend on whether or not states are close. You see what I mean. The closer they are, the more points of contention there will be. But as for counting ballots that arrive after Election Day, there's a lot of states, California being the big one, that have always done that. California has always counted its absentee ballots that arrive late, as long as they were postmarked on Election Day. It's hard to imagine that courts would overturn that sort of precedent. Okay? And it's hard to imagine that the court would willingly, sort of, you know, take the legitimate votes of thousands, hundreds of thousands of voters, maybe millions of voters, and say, suddenly after the fact, "Oh, they don't count because it arrived one day or two days after Election Day." That would be, frankly, a real outrage. That would be a total utter outrage. Now in in some states, and Wisconsin being one of them, what they've done is they've just said, well, the state law says this, it's been like that, that's what it should be. And the Kavanaugh opinion has worried some people, but frankly, you're talking about a very, very, very serious disruption in the vote should courts try to delegitimize the votes of people who sent in their ballots and thought they were doing the right thing. So, you know, it's worrisome. But I also don't think it's actually going to come to pass.

Pita: All right. Well, thanks, Elaine, for those words of encouragement and we'll all stay tuned and see what happens next week.

KAMARCK: Great, thank you, Adrianna.