



Latino Voters Do Vote By Mail— *But Only if We Let Them*

Executive Summary

***Heavily Latino precincts had a turnout that was 37 percentage points lower than Denver as a whole in the November 2004 presidential election, which used traditional polling places.** Citywide, turnout was 79 percent while the turnout in these 48 heavily Latino precincts averaged 42 percent.

***In the May 2005 polling place election, turnout in these same heavily Latino precincts was 14 percentage points lower than the city as a whole.** The city as a whole saw turnout of 25 percent while Latino voters turned out at an 11 percent rate.

***In the May 2007 all mail election, turnout in heavily Latino precincts was only 3 percentage points lower than the city as a whole.** Denver saw turnout of 43 percent of active voters citywide while the 48 heavily Latino precincts saw a turnout of 40 percent. However, legally registered voters who were designated “inactive” were not included in this figure and did not receive ballots in the mail.

***Colorado’s Inactive Voter Policy meant that only 189,527 voters were designated as active in the May 2007 election. This compares to 250,389 active voters in the 2005 municipal election and 304,706 active voters in the 2004 presidential election. While the city as a whole saw a decline of 38 percent in active voters, the 48 heavily Latino precincts saw a decline of 50 percent.**

*** The 48 most heavily Latino precincts comprised 11 percent of Denver’s electorate in November 2004, but by May of 2007 this had declined to 8.9 percent. Colorado’s inactive voter policy thus most likely has the impact of making turnout among any group that traditionally faces lower rates of participation even lower in future elections.**

Introduction

Colorado’s practice of all mail voting has grown increasingly popular among its 64 counties. Colorado law allows all mail voting during odd year, non partisan elections. One potential concern that has been raised with elections that are conducted entirely by mail is whether or not such a program could reduce the accuracy of elections by either reducing the turnout of ethnic minorities or disproportionately increasing turnout among white voters. Some argue that ethnic groups could react differently to all vote by mail programs either because of language barriers, because they might move more frequently and be less likely to receive a ballot, or perhaps other reasons.

On the other hand, it is possible that some ethnic minorities might prefer voting by mail. This could particularly be true where there have historically been efforts to intimidate ethnic voters through aggressive

challenges or outright harassment at polling places. For instance, in California one political party settled a 1988 lawsuit about voter intimidation after it hired uniformed guards to stand outside of Latino polling places in the 71st Assembly District in Orange County with signs saying that “non-citizens can’t vote.” Just last fall California Republican Party leaders urged the Republican Candidate Tan Nguyen to withdraw from his congressional race after his campaign sent out letters intended to scare Latinos from voting. If voters receive a ballot in the mail from an election official, they may be less likely to be intimidated by scare tactics such as these.

If there is any disparate impact upon ethnic minorities due to vote by mail (VBM) programs, Latino voters may be among the most likely ethnic groups to be adversely affected. Nationwide, these voters may be the most likely to move frequently or face language barriers in voting by mail. Unfortunately, there has been little analysis of how these communities fare in all mail elections. One difficulty is that there have not been that many all mail elections held in the U.S., and where they have been held there have not always been conducted using identical district lines both prior to and after the implementation of VBM. Where district lines have been maintained, it is sometimes for local elections that do not have census data broken down to provide easy analysis.

One notable exception is Denver, Colorado. Denver has conducted several all mail elections for state and local elections since 2001. While Denver changed its precinct lines in 2004, they remained fixed over several elections both prior to and after that change. Denver also has demographic data for these precincts that includes the ratio of Latino voters based upon information gathered in the 2000 census.

An analysis by the Bighorn Policy Center in 2002 looked at Denver’s first all mail election held in 2001. That election saw a citywide 17.2 percent increase in voter participation from the previous local election of 1999. However, the 19 precincts with the highest Latino populations saw an increase of 55.5 percent compared to the 1999 election. Precinct 510, which according to 2000 census information is Denver’s precinct with the highest percentage of Hispanic residents at 86.50 percent Hispanic, showed an 82.14 percent improvement in total votes during the 2001 VBM election compared to the polling place election of 1999.¹

The 2001 experience would suggest that, if anything, VBM programs are beneficial to Latino turnout. But, it is possible that this was an anomaly. We thus looked at further elections held in Denver since then to confirm this trend.

In November 2004, Denver had new precinct lines and held an in-person polling place election. As a presidential election, this drew high levels of participation citywide and provides a good baseline to measure future turnout by. In the following years, Denver conducted a municipal election in May 2005 using in-person polling places and then a municipal election in May 2007 using entirely vote by mail.

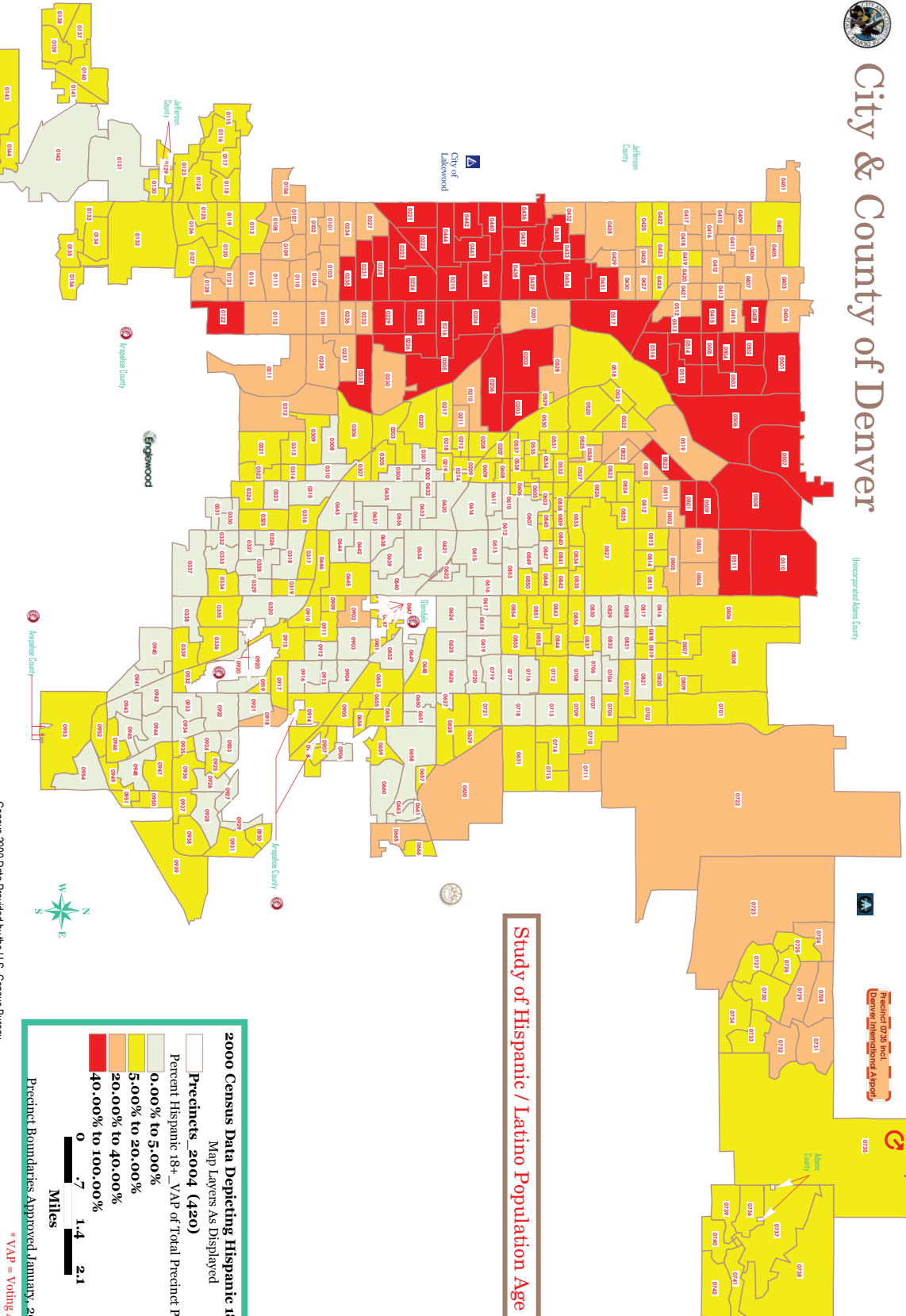
Analysis

As shown in the following map, as of 2004, Denver has 48 precincts that have a population over 18 years old that is at least 40 percent Latino/Hispanic.



City & County of Denver

Unincorporated Denver County



Study of Hispanic / Latino Population Age 18 & Over

2000 Census Data Depicting Hispanic 18+ - VAP *
Map Layers As Displayed

Precincts, 2004 (420)
Percent Hispanic 18+, VAP of Total Precinct Population
0.00% to 5.00%
5.00% to 20.00%
20.00% to 40.00%
40.00% to 100.00%

0 0.7 1.4 2.1 Miles

Census 2000 Data Provided by the U.S. Census Bureau

* VAP = Voting Age Population

The 48 heavily Latino precincts had a turnout that was 37 percentage points lower than Denver as a whole in the November 2004 presidential election. Citywide, turnout was 79 percent while the turnout in these 48 heavily Latino precincts averaged 42 percent.

The May 2005 municipal elections were conducted using traditional polling places. In that election, Latino turnout was 14 percentage points lower than the city as a whole. The city as a whole saw turnout of 25 percent while Latino voters turned out at an 11 percent rate. There was significant community outcry over the use of traditional polling places over mail balloting for this election. The main issue on the ballot was a bond measure for the construction of a justice center in Denver. Community members argued that the city officials were trying to sway the election by choosing traditional polling places because it was known that mail balloting improved turnout in these odd year elections in general, and particularly for minority voters. According to a story in the *Rocky Mountain News* published May 19, 2005: “Denver elections employee Fred Sandoval has filed a federal lawsuit alleging that the Denver County clerk tried to hold down turnout in the May 3 election by not allowing a mail ballot and by limiting voter registration sites.”²

Two years later in the May 2007 all mail municipal election, Latino turnout was only 3 percentage points lower than the city as a whole. Denver saw turnout of 43 percent citywide while the 48 heavily Latino precincts saw a turnout of 40 percent. As with the 2001 experience, Latino voters participated in greater ratios using the VBM format.

The citywide turnout in 2007 was lower than the 48 percent turnout of Denver’s 2003 municipal polling place election that featured a hotly contested mayoral race. But it was significantly higher than the 1999 polling place mayoral election, which saw a turnout of only 26 percent. This would suggest that for local elections, VBM has the potential to increase overall turnout percentages significantly.

However, one other feature of Denver’s 2007 municipal election stands out. Ballots were mailed to 189,527 active voters for that election. This compares to 250,389 voters who were registered as active for the 2005 municipal election and 304,706 voters who were registered as active for the 2004 presidential election. Overall, this represents a 38 percent decline in the number of active registered voters in Denver in an 18-month period.

The explanation for this severe decline in active registered voters is Colorado’s policy of declaring voters “inactive” if they miss one general election.³ So, voters who failed to cast ballots in the November 2006 election, which was conducted using vote centers and plagued with problems, were to be marked as inactive. Because of public protest due to the problematic 2006 election and a looming January 2007 municipal election, Denver officials included all registered voters in the January mail election (287,389 voter were sent ballots). This election saw only 18 percent voter turnout.

Denver officials did make voters inactive after the January election if they failed to vote in both the November 2006 and January 2007 elections. The inactive voters were sent a legally required notice, and if they failed to respond, their inactive status caused them to not receive ballots for the May 2007 municipal election. These voters were still technically registered and could have requested a ballot, but most voters probably were unaware of their inactive status and the need to affirmatively reactivate their status.

Colorado’s procedure for declaring voters “inactive” after missing a general election appears to have hit Latino voters particularly hard. While the city as a whole saw a decline of 38 percent in active voters, the 48 heavily Latino precincts saw a decline of 50 percent. This makes logical sense, given that Latino voters tend to turn out in lower percentages generally and even more so in polling place balloting which is used

for all general elections. They probably had a lower turnout in the 2006 general election and thus saw a higher proportion of their voters removed from active status. So while the turnout numbers of the May 2007 election were high both city wide and for Latino voters, those numbers are misleading. Because of the policy of not mailing ballots to 'inactive' voters, only those voters who participate in every election are invited to participate. The policy cherry picks the most active voters and blacklists the occasional voters essentially denying them participation in the process.

While these 48 heavily Latino precincts comprised 11 percent of Denver's electorate in 2004, by May of 2007 this had declined to 8.9 percent. Colorado's inactive system thus most likely has the impact of making turnout among any group that traditionally faces lower rates of participation even lower in future elections.

The problem of ignoring inactive voters during all-mail elections is not limited to Denver. In an April 2007 election in El Paso County, 75,000 registered voters did not receive ballots because they had been labeled inactive and did not request ballots be mailed to them.⁴ For the Fall 2007 elections in Boulder, 55,956 voters have been labeled "inactive" after failing to vote in the November 2006 elections and will not receive their ballots unless they reach out to their county Clerk and Recorder.

Conclusions

Data from the 2001, 2005, and 2007 municipal elections in Denver, Colorado suggest that when Latino voters receive ballots in the mail, they seem to fill them out and return them at rates that demonstrate higher participation than when they cast votes at in-person polling places.

On the other hand, data from the 2007 election suggest that Colorado's process of declaring voters inactive had a negative effect on voter participation generally and is even more detrimental to Latino voters. Somewhat like kicking them when they are down, the policy would appear to set long term participation in a permanently downward spiral by any group that experiences lower than average levels of voting.

Recommendations

Colorado's inactive voter law needs reform. In light of Colorado's increased use of vote by mail for odd-year non-partisan elections, this practice of inactivating voters has the effect of taking ballots out of the hands of properly registered voters. A voter should not be penalized for failing to miss one election. To the contrary, voters should be encouraged to participate and be given the benefit of the doubt. To this end, Colorado Common Cause and the Latina Initiative recommend:

1) A thorough review of the current policy to declare voters inactive. While public policy reasons exist to maintain accurate and up-to-date voter registration lists, Colorado law goes to the other extreme by deeming voters inactive who are eligible to participate. The practice of inactivating voters means several things for voters, including not receiving regular mailings about important election information. For polling place elections, this is problematic but not fatal, as an inactive voter can go to the polls and vote. However, with an all mail election this status prevents the voter from receiving the ballot by mail, and places the burden on the voter to re activate their status far enough in advance, so that they can receive a ballot. The only other remedy is for the voter to approach the county office to receive a ballot. Colorado should consider only marking a voter inactive if they have missed a presidential election and not responded to notifications that they will be marked inactive. California, for instance, only marks a voter inactive if they have failed to vote in any election in four years or if a county has received affirmative notice that a voter has moved from the US Post Office or other source.

2) Counties should mail ballots to all registered voters in all mail elections, rather than to only active voters. Inactive status is problematic during polling place elections because a voter does not receive the voters guide or notification of their polling place location, but they can still vote if they follow their neighbors to the polling place and request a ballot. In all mail elections, however, the inactive voter status effectively disenfranchises otherwise eligible, properly registered voters. At a minimum, Colorado policy makers should revise their practice for mail elections to provide a ballot to all properly registered voters. We should not treat our eligible registered voters differently for the sole reason that they failed to turnout in a prior election.

3) Conduct odd-year elections by entirely mail. Colorado should seek to encourage voter turnout and evidence to date suggests that all-mail elections boost turnout in non-general elections. To that end, we encourage these elections to be conducted by mail unless there is a compelling reason otherwise. This presumption would create a system that voters could rely on, while still allowing the counties the option to conduct a different style of elections if the circumstances require it.⁵

Methodology and Acknowledgements

This study looked at three elections held in Denver Colorado: November 2004, May 2005, and May 2007. The latter two elections are the only ones that provide a comparison between an election conducted using traditional polling places and one conducted entirely by mail that use the exact same precinct lines. The November 2004 election was used as the best baseline to compare Latino turnout to the rest of the city because that election featured a hotly contested presidential race and represented a general high-water mark for voter registration and participation in Colorado. Denver also conducted general elections in November 2006 using “vote centers” which do not provide for demographic turnout data and which therefore have not been used in this analysis.

We examined turnout in 48 precincts that have at least 40 percent of their population comprised of Latinos who are at or above the voting age of 18 as identified by the US Census in 2000. We then compared the turnout in these precincts for each of the 3 elections studied and compared the results to turnout for Denver as a whole. All data was provided by the Denver County Elections Commission at its website www.denvergov.org/election_commission except for May 2007 election turnout data which was e-mailed to Common Cause by county election officials on May 16, 2007. Latinos were the only ethnic minority that Denver provided precinct-level demographic data for on its website.

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Endnotes

¹ Turnout also increased among African American voters. Of the 25 precincts in Denver with the highest percentage African American population (based on 2000 Census data); the average improvement between 1999’s polling place election and the 2001 mail ballot election was 78.12 percent. (Voting Through the Mail and Minority Voters, Bighorn Policy Center 2002).

² “Charges Fly on Jail Vote,” *Rocky Mountain News*, May 19, 2005 available at: http://www.rockymountainnews.com//drmn/local/article/0,1299,DRMN_15_3792926,00.html

³ CRS 1-2-605 (2): A registered elector who is deemed “Active” but who fails to vote in general election shall have the elector’s registration record marked “Inactive (insert date)” by the county clerk and recorder following the general election.

⁴ “Votes Still Out on Mail Polls,” *Gazette Telegraph*, April 9, 2007.

⁵ Low-profile contests held outside of the normal electoral calendar – we found that voting by mail increased turnout by about eight percentage points. Shifting to vote by mail can also cut the costs of running elections and increase their accessibility, Thad Kousser and Megan Mullin (“Vote by Mail Doesn’t Deliver Voters,” *San Diego Union-Tribune*, April 19, 2007.)

Denver November 2004 Elections

Precincts with 40-100% Hispanic 18+ VAP using precinct boundaries approved Jan 2004

	In person			
	Nov-04	Nov-04	Nov-04	Nov-04
Precinct	Registration	turnout	%	Latino
CityWide	304706	240897	79.06%	Difference
122	676	277	40.98%	-38.08%
202	778	237	30.46%	-48.60%
203	561	270	48.13%	-30.93%
204	501	200	39.92%	-39.14%
205	551	212	38.48%	-40.58%
206	951	458	48.16%	-30.90%
216	600	220	36.67%	-42.39%
221	886	342	38.60%	-40.46%
222	548	221	40.33%	-38.73%
223	609	265	43.51%	-35.55%
224	895	409	45.70%	-33.36%
225	773	270	34.93%	-44.13%
228	538	220	40.89%	-38.17%
229	545	216	39.63%	-39.43%
231	483	205	42.44%	-36.62%
233	516	234	45.35%	-33.71%
235	527	192	36.43%	-42.63%
408	768	302	39.32%	-39.74%
415	781	358	45.84%	-33.22%
431	904	405	44.80%	-34.26%
433	714	318	44.54%	-34.52%
434	1268	482	38.01%	-41.05%
435	763	340	44.56%	-34.50%
436	722	305	42.24%	-36.82%
437	686	286	41.69%	-37.37%
438	668	281	42.07%	-36.99%
439	624	309	49.52%	-29.54%
440	669	332	49.63%	-29.43%
441	641	311	48.52%	-30.54%
442	642	306	47.66%	-31.40%
443	616	302	49.03%	-30.03%
501	844	310	36.73%	-42.33%
502	758	309	40.77%	-38.29%
503	837	299	35.72%	-43.34%
504	689	331	48.04%	-31.02%
505	551	257	46.64%	-32.42%
506	402	196	48.76%	-30.30%
507	632	244	38.61%	-40.45%
508	287	115	40.07%	-38.99%
509	435	208	47.82%	-31.24%
510	801	362	45.19%	-33.87%
511	557	216	38.78%	-40.28%
513	913	399	43.70%	-35.36%
514	868	398	45.85%	-33.21%
515	1011	403	39.86%	-39.20%
517	788	260	33.00%	-46.07%
523	948	406	42.83%	-36.23%
801	764	334	43.72%	-35.34%
Latino average	33489		42.38%	-36.68%

Denver May 2005 Elections

Precincts with 40-100% Hispanic 18+ VAP using precinct boundaries approved Jan 2004

	In person				Registration	%
	May-05	May-05	May-05	May-05	Decrease	list
Precinct	Registration	turnout	%	Latino	from 04	attrition
CityWide	250389	62877	25.11%	Difference	54317	-18%
122	460	36	7.83%	-17.28%	216	-32%
202	433	67	15.47%	-9.64%	345	-44%
203	415	54	13.01%	-12.10%	146	-26%
204	350	34	9.71%	-15.40%	151	-30%
205	401	36	8.98%	-16.13%	150	-27%
206	763	108	14.15%	-10.96%	188	-20%
216	395	39	9.87%	-15.24%	205	-34%
221	652	55	8.44%	-16.67%	234	-26%
222	387	29	7.49%	-17.62%	161	-29%
223	446	35	7.85%	-17.26%	163	-27%
224	591	46	7.78%	-17.33%	304	-34%
225	579	60	10.36%	-14.75%	194	-25%
228	364	44	12.09%	-13.02%	174	-32%
229	428	45	10.51%	-14.60%	117	-21%
231	367	59	16.08%	-9.03%	116	-24%
233	396	54	13.64%	-11.47%	120	-23%
235	341	20	5.87%	-19.24%	186	-35%
408	601	71	11.81%	-13.30%	167	-22%
415	625	103	16.48%	-8.63%	156	-20%
431	777	91	11.71%	-13.40%	127	-14%
433	524	96	18.32%	-6.79%	190	-27%
434	840	62	7.38%	-17.73%	428	-34%
435	567	49	8.64%	-16.47%	196	-26%
436	500	38	7.60%	-17.51%	222	-31%
437	472	65	13.77%	-11.34%	214	-31%
438	485	52	10.72%	-14.39%	183	-27%
439	472	52	11.02%	-14.09%	152	-24%
440	552	74	13.41%	-11.70%	117	-17%
441	466	59	12.66%	-12.45%	175	-27%
442	509	80	15.72%	-9.39%	133	-21%
443	463	59	12.74%	-12.37%	153	-25%
501	654	56	8.56%	-16.55%	190	-23%
502	579	74	12.78%	-12.33%	179	-24%
503	528	41	7.77%	-17.34%	309	-37%
504	550	80	14.55%	-10.56%	139	-20%
505	467	61	13.06%	-12.05%	84	-15%
506	280	45	16.07%	-9.04%	122	-30%
507	433	41	9.47%	-15.64%	199	-31%
508	173	21	12.14%	-12.97%	114	-40%
509	311	30	9.65%	-15.46%	124	-29%
510	589	55	9.34%	-15.77%	212	-26%
511	340	29	8.53%	-16.58%	217	-39%
513	786	79	10.05%	-15.06%	127	-14%
514	702	88	12.54%	-12.57%	166	-19%
515	757	70	9.25%	-15.86%	254	-25%
517	526	47	8.94%	-16.17%	262	-33%
523	682	51	7.48%	-17.63%	266	-28%
801	500	51	10.20%	-14.91%	264	-35%
Latino average			11.07%	-14.04%	33,489	-27.20%

Denver May 2007 Elections

Precincts with 40-100% Hispanic 18+ VAP using precinct boundaries approved Jan 2004

	All Mail				Registration	%
	May-07	May-07	May-07	May-07	decrease	list
Precinct	Registration	turnout	%	Latino	from 04	attrition
City-Wide	189527	80794	42.63%	Difference	115179	-38%
122	334	119	35.63%	-7.00%	342	-51%
202	296	86	29.05%	-13.58%	482	-62%
203	286	98	34.27%	-8.36%	275	-49%
204	238	63	26.47%	-16.16%	263	-52%
205	266	106	39.85%	-2.78%	285	-52%
206	571	188	32.92%	-9.71%	380	-40%
216	265	117	44.15%	1.52%	335	-56%
221	455	204	44.84%	2.21%	431	-49%
222	249	133	53.41%	10.78%	299	-55%
223	264	119	45.08%	2.45%	345	-57%
224	365	156	42.74%	0.11%	530	-59%
225	416	216	51.92%	9.29%	357	-46%
228	248	124	50.00%	7.37%	290	-54%
229	299	160	53.51%	10.88%	246	-45%
231	277	133	48.01%	5.38%	206	-43%
233	270	136	50.37%	7.74%	246	-48%
235	230	81	35.22%	-7.41%	297	-56%
408	463	199	42.98%	0.35%	305	-40%
415	427	171	40.05%	-2.58%	354	-45%
431	515	217	42.14%	-0.49%	389	-43%
433	348	136	39.08%	-3.55%	366	-51%
434	475	132	27.79%	-14.84%	793	-63%
435	386	144	37.31%	-5.32%	377	-49%
436	328	158	48.17%	5.54%	394	-55%
437	325	170	52.31%	9.68%	361	-53%
438	302	124	41.06%	-1.57%	366	-55%
439	294	156	53.06%	10.43%	330	-53%
440	380	208	54.74%	12.11%	289	-43%
441	342	161	47.08%	4.45%	299	-47%
442	352	197	55.97%	13.34%	290	-45%
443	312	139	44.55%	1.92%	304	-49%
501	461	212	45.99%	3.36%	383	-45%
502	384	172	44.79%	2.16%	374	-49%
503	290	75	25.86%	-16.77%	547	-65%
504	365	145	39.73%	-2.90%	324	-47%
505	551	121	21.96%	-20.67%	0	0%
506	190	56	29.47%	-13.16%	212	-53%
507	279	94	33.69%	-8.94%	353	-56%
508	112	33	29.46%	-13.17%	175	-61%
509	198	68	34.34%	-8.29%	237	-54%
510	360	131	36.39%	-6.24%	441	-55%
511	224	80	35.71%	-6.92%	333	-60%
513	600	191	31.83%	-10.80%	313	-34%
514	536	209	38.99%	-3.64%	332	-38%
515	567	193	34.04%	-8.59%	444	-44%
517	422	131	31.04%	-11.59%	366	-46%
523	394	122	30.96%	-11.67%	554	-58%
801	300	111	37.00%	-5.63%	464	-61%
Latino average	16811		40.10%	-2.53%		-49.82%