

INVESTIGATING VOTING RIGHTS IN COLORADO:

An Assessment of Compliance with
the National Voter Registration Act
in Public Assistance Agencies

By Jody Herman and Douglas R. Hess



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About Project Vote

Since its founding in 1982, Project Vote has been a leading provider of strategic and management services to the voter engagement and civic participation community.

About the Author

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Additional Materials by the NVRA Implementation Project, a partnership between Project Vote, Demos and ACORN

Maximizing Voter Registration Opportunities at Public Assistance Agencies. November 2005.

Ten Years Later: A Promise Unfulfilled. The National Voter Registration Act in Public Assistance Agencies, 1995-2005. July 2005.

Public Agency Registration Model Bill. July 2005.

A Summary of the National Voter Registration Act. March 2006.

Executive Summary

Colorado's public assistance offices have been doing a poor job of offering their clients voter registration services, which is required by the National Voter Registration Act (NVRA) and Colorado state law. Since the enactment of the NVRA, the number of registration applications originating from public assistance offices in Colorado has remained very low. Visits to public assistance offices by Colorado ACORN and analysis of demographic and voter registration data by Project Vote indicate that the low number of registrations is a consequence of Colorado's public assistance offices' failure to comply with federal and state law. Fortunately, officials in Colorado have recently begun to take steps to improve their NVRA compliance.

This report details the following findings:

- The number of voter registration applications coming from public assistance offices across the state has remained at a low level since the enactment of the NVRA.
- Of the 900,000 unregistered adult citizens in Colorado in 2006, 229,000 had household incomes below \$25,000 and are likely to be in contact with public assistance offices.¹
- Voter registration performance at public assistance offices varies enormously from county to county. Some of the largest counties in Colorado reported zero voter registrations from their public assistance offices in some years.
- Participation in public assistance programs has not waned in Colorado but has increased, so changes in program participation do not explain the low number of registrations.
- Only a small number of the adults participating in public assistance programs are non-citizens. Ineligibility to vote due to the citizenship status of adult program participants does not explain the low number of registrations.
- The success of voter registration services at DMV offices also does not explain the low number of voter registrations at public assistance offices. Some counties demonstrate this by registering significant numbers in both DMV and public assistance offices.
- Visits by Colorado ACORN to public assistance offices in El Paso, Denver, Arapahoe and Adams counties found numerous instances of non-compliance with the NVRA.

We conclude that poor compliance and non-compliance with the NVRA is evident in many public assistance offices throughout Colorado. These compliance issues not only cause the very low numbers of registrations that originate from these offices, but also contribute to the disparity in registration rates and political participation between affluent and poor Coloradans. We call upon Colorado to review NVRA performance in its public assistance offices and to implement our recommendations for improvement based on effective practices in other states. While it is too soon to evaluate initial work by the state to improve NVRA compliance in public assistance agencies, Colorado's recent efforts to learn from NVRA improvement efforts in other states and meet with Project Vote and Colorado ACORN is a welcomed sign.

¹ Source: Project Vote analysis of Current Population Survey data, November 2006

Introduction

The goal of the National Voter Registration Act (NVRA) is to increase participation in federal elections by reducing barriers to voter registration and requiring states to play an active role in registering their citizens. Since the NVRA first went into effect in 1995, millions of citizens have registered to vote or updated their registration using services required by the Act. However, there is still much work to be done to fulfill the goals of this legislation.

Colorado, like many states, has significant room for improvement in the number of its citizens who are registered to vote. Project Vote's analysis of Census Bureau data finds that approximately 900,000 eligible voters in Colorado remain unregistered.² Despite this shortcoming, we detail in this report evidence indicating that Colorado has not fully complied with important portions of the National Voter Registration Act (NVRA) — and state law implementing the NVRA — that could register thousands, if not tens of thousands, of new voters this year alone. Those provisions, located in Section 7 of the Act, require voter registration to be provided in public assistance offices throughout the state.

This report, one in a series of reports on NVRA compliance in the states, reviews Colorado's voter registration performance in public assistance offices and examines possible explanations for the state's consistently poor results since the NVRA was enacted. We conclude that many public assistance offices are failing to offer voter registration as required by federal and state voting rights laws. Recommendations for improving Colorado's compliance with these important laws are provided at the end of this report.

Fortunately, officials in Colorado have recently begun to take steps to improve their NVRA compliance. The cooperation of Colorado's Secretary of State's office and Department of Human Services with Project Vote's NVRA technical assistance staff is a welcomed sign. If Colorado's actions take a similar course to those in states such as North Carolina, which has been working with Project Vote and Demos to improve agency registration, we can expect to see significant increases in the number of voter registration applications originating from Colorado's public assistance agencies.

The National Voter Registration Act of 1993

The National Voter Registration Act (NVRA) was passed by Congress in 1993 to expand access to voter registration and thereby increase participation in federal elections. The well-known “Motor Voter” feature of the law instructs states to offer voter registration as individuals apply for or renew their driver's licenses. Each year, millions of Americans update their voter registration information or register to vote for the first time thanks to “Motor Voter.”

² It is well known, however, that registration in these surveys is over-reported, so the actual number of eligible persons unregistered is likely higher.

An equally important but less well known provision of the NVRA requires states to offer voter registration to applicants for public assistance, such as the Food Stamp Program, Temporary Assistance for Needy Families (TANF) and Medicaid, among others.³ The NVRA requires voter registration at agencies in addition to motor vehicle offices to ensure that “the poor and persons with disabilities who do not have driver’s licenses [would]...not be excluded from those for whom registration will be convenient and readily available.”⁴ Census surveys verify the ability of agency-based registration to reach these populations: registered members of low-income households are several times more likely to have registered through a public assistance office than other citizens. Furthermore, individuals who indicated they were not able to work due to a temporary or permanent disability were three times more likely to have reported registering to vote through a public assistance office than other registered citizens.⁵

In this report, we discuss registrations originating from Colorado’s public assistance offices as, outside of motor vehicle sites, these offices have by far the most contact with those populations traditionally least registered to vote. The Department of Human Services (TANF, Food Stamps), the Department of Public Health and Environment (WIC) and the Department of Health Care Policy and Financing (Medicaid) are the largest providers of public assistance covered by the NVRA in Colorado. Collectively, data from these departments are referred to in the report as “agency registrations.”⁶

The next section of the report reviews the agency registration numbers for Colorado over the twelve years since the NVRA went into effect.

Colorado’s Public Assistance Offices Perform Poorly on Voter Registration

The number of voter registrations from Colorado’s public assistance offices has remained consistently low since implementation of the NVRA in 1995, while many of Colorado’s unregistered adult citizens are from low-income households. Of the 900,000 unregistered adult citizens in Colorado in 2006, approximately 229,000 of them had household incomes below \$25,000.⁷ Many individuals from low-income households have contact with public assistance offices. For instance, in an average month in 2006, approximately 110,000 adult citizens in Colorado participated in the Food Stamp Program *alone*.⁸ Colorado, however, has consistently registered only a small number of people through their public assistance offices.

“Of the 900,000 unregistered adult citizens in Colorado in 2006, approximately 229,000 of them had household incomes below \$25,000.”

³ 42 USC Section 1973gg

⁴ NVRA House Report 103 9, p.5

⁵ www.census.gov/population/socdemo/voting/cps2004/tab14.xls and additional analysis of the Current Population Survey November 2004 and 2006 Election Supplements by Project Vote

⁶ Voter registrations applications originating from these offices do not officially become registrations until they are validated by election authorities; however, for simplicity, data on applications from these agencies will be referred to as “agency registrations” in this report.

⁷ Source: Project Vote analysis of Current Population Survey data, November 2006

⁸ “Characteristics of Food Stamp Households: Fiscal Year 2006,” Report No. FSP-07-CHAR, U.S. Department of Agriculture, Food and Nutrition Service, September 2007. Tables B-11, B-12 and B-13.

Table I presents the number of voter registration applications from the Department of Motor Vehicles (DMV Registrations), public assistance offices (Agency Registrations) and mail-in forms (Mail Registrations). The data are presented in two-year periods, beginning in 1995 when the NVRA was implemented. The table also includes the voter-eligible population for the even-numbered years in each cycle.

Table I: Colorado Voter Registration Applications from Selected Sources

	1995-1996	1997-1998	1999-2000	2001-2002	2003-2004	2005-2006
Agency Reg. (FEC/EAC)	12,255	15,282	9,905	56,801*	21,123	10,222
Agency Reg. (CO SOS)**	n/a	n/a	10,352	6,804	15,579	11,441
DMV Registrations	303,422	697,194	626,964	634,150	584,380	448,330
Mail Registrations	52,644	79,546	139,715	230,234	500,842	386,727
All Registrations	554,343	1,021,816	1,003,557	1,194,031	1,858,230	1,256,354
Voter-Eligible Population	2,770,252	2,879,973	3,026,316	3,056,465	3,139,806	3,307,696

Source for voter registration data: FEC NVRA reports (up to 2002) or EAC NVRA reports (2003 forward)

Source for VEP (even years): <http://elections.gmu.edu>

* This unusually high number is presumably an error in the 2001–2002 FEC report.

** Data provided by the Colorado Secretary of State; this data covers the calendar years of each two-year cycle. The time period for data provided by the FEC and the EAC for these cycles differs slightly.

As the voter-eligible population has increased in Colorado, the total number of voter registration applications has steadily increased, with an additional jump in registrations running up to the hotly contested 2004 elections. However, agency registrations do not follow this trend. Instead, agency registration numbers are consistently low. (The FEC data show a giant spike in agency registrations in 2001–2002, but this is most likely an error, as it is contradicted by data provided by the Colorado Secretary of State’s office.)

A closer look at county-level data in Colorado reveals a possible explanation for the low number of registrations coming from public assistance agencies. Table 2 presents the number of voter registration applications in 2006 from DMV and public assistance offices for the eleven largest counties in Colorado.⁹ Enormous variation in registrations across counties is apparent; some counties reported zero public assistance registrations in 2006. Table 3 presents data on public assistance registrations in these same counties from 2003 to 2006. The total number of public assistance registrations in the state has steadily decreased, and several of these populous counties have consistently reported extremely few registrations.

One likely cause of the low number of public assistance registrations is a lack of compliance with the NVRA at the county level. For instance, most of the state’s agency registrations occur in Denver County. Surveys of public assistance offices in Denver County by staff with the community organization ACORN reveal, however, that not all offices in that county offer voter registration to clients and applicants as required by the NVRA. Therefore, even Denver’s number is lower than it would be if all offices in the county were in compliance. As we explain later, variation in the population, public assistance program use and DMV performance cannot account for the small number of registrations collected by the largest counties.

⁹ Only the eleven largest counties are included in this report due to the lack of available data for smaller counties. The American Community Survey currently can provide data only for localities that have a population of 65,000 or more.

Table 2: Voter Registration Applications from DMV and Public Assistance Agencies by County, 2006

Pop Rank	State/County	2006 Pop Estimate	DMV Regs	Agency Regs	DMV 2006 Pop	Agency/ 2006 Pop	Agency /DMV
	Colorado	4,753,377	222,322	4,667	4.7%	0.1%	2.1%
1	El Paso County	576,884	33,737	0	5.9%	0.0%	0.0%
2	Denver County	566,974	10,085	2,125	1.8%	0.4%	21.1%
3	Arapahoe County	537,197	27,357	0	5.1%	0.0%	0.0%
4	Jefferson County	526,994	25,509	27	4.8%	0.0%	0.1%
5	Adams County	414,338	22,664	735	5.5%	0.2%	3.2%
6	Boulder County	282,304	17,099	14	6.1%	0.0%	0.1%
7	Larimer County	276,253	18,700	287	6.8%	0.1%	1.5%
8	Douglas County	263,621	12,595	33	4.8%	0.0%	0.3%
9	Weld County	236,621	13,486	0	5.7%	0.0%	0.0%
10	Pueblo County	152,912	7,844	21	5.1%	0.0%	0.3%
11	Mesa County	134,189	971	0	0.7%	0.0%	0.0%
	All other counties	784,854	32,275	1,425	4.1%	0.2%	4.4%

Sources: American Community Survey (Census Bureau, 2006); Colorado Secretary of State

Table 3: Public Assistance Registrations by County, 2003–2006

Pop Rank	State/County	Agency Regs 2003	Agency Regs 2004	Agency Regs 2005	Agency Regs 2006
	Colorado	8,287	7,292	6,774	4,667
1	El Paso County	84	87	0	0
2	Denver County	4,470	3,768	4,640	2,125
3	Arapahoe County	449	27	0	0
4	Jefferson County	348	67	23	27
5	Adams County	768	730	625	735
6	Boulder County	257	148	9	14
7	Larimer County	365	136	114	287
8	Douglas County	107	106	71	33
9	Weld County	19	25	19	0
10	Pueblo County	16	54	191	21
11	Mesa County	0	0	0	0
	All other counties	1,354	2,144	1,082	1,425

Source: Colorado Secretary of State

Possible Explanations for Poor Performance

In this section, we will address possible explanations for the lack of public assistance registrations in Colorado. To address these alternative explanations, we use data provided by the Colorado Secretary of State's office, the Census Bureau's American Community Survey, the United States Department of Agriculture's Food and Nutrition Service, the Food Research and Action Center and information gathered for Project Vote by the community organization ACORN from visits in November and December 2007 to public assistance offices in Colorado. We conclude that the only plausible explanation for Colorado's poor performance in voter registration in public assistance offices is poor compliance with the NVRA.

Possible Explanation One: There has been a decline in participation in public assistance programs since the enactment of the NVRA, and many of those participating are non-citizens; thus, the number of voter registrations coming from these agencies remains low.

“We conclude that the only plausible explanation for Colorado’s poor performance in voter registration in public assistance offices is poor compliance with the NVRA.”

Although participation in public assistance programs did decrease throughout the 1990s, participation has since increased. Meanwhile, agency registrations remain seemingly unaffected by trends in participation rates.

The Food Stamp Program is the largest public assistance program and is used here to provide a conservative estimate of participation in public assistance programs in Colorado. Table 4 shows the approximate number of monthly food stamp participants and the number of agency registrations, as reported by the EAC and the Colorado Secretary of State. This table demonstrates that while food stamp participation did decrease over the late 1990s, participation has increased since 2000. During that time, agency registrations remained low, then decreased steadily since 2003 (see Table 3).

Furthermore, despite increases in the number of non-citizens in the public in general, only a small number of adults participating in public assistance programs are non-citizens. For fiscal year 2006, the USDA’s “Characteristics of Food Stamp Households” reports that of the approximately 117,000 adults who participated in food stamps, only about 7,000 were non-citizens.¹⁰

Table 4: Participation in Food Stamps and Public Assistance Registrations

	1995-1996	1997-1998	1999-2000	2001-2002	2003-2004	2005-2006
Approximate Number of Food Stamp participants	239,595	192,621	159,082	176,848	241,638	244,866
Agency Registrations	12,255	15,283	9,905	56,801*	21,123	10,222
Agency Reg. (CO SoS)**	n/a	n/a	10,352	6,804	15,579	11,441

Source for food stamp data: Food Research and Action Center (averaged monthly participation June & December of each period). Source for voter registration data: FEC NVRA reports (up to 2002) or EAC NVRA reports (2003 forward).

* This unusually high number is presumably an error in the 2001–2002 FEC report.

** Data provided by the Colorado Secretary of State; this data covers the calendar years of each two-year cycle. The time period for data provided by the FEC and the EAC for these cycles differs slightly.

We can also examine public assistance participation in the largest counties in Colorado. Over 83 percent of the state’s population lives in the eleven most populous counties in Colorado. Table 5 presents the number of households receiving cash public aid or food stamps in each of the largest counties and in the state of Colorado overall, along with each county’s share of the state’s total DMV and agency registrations.

Table 5 indicates that Adams, Denver and Larimer counties are registering more public aid recipients than their share of the total number of households in the state receiving cash aid or food stamps. For example, Adams County had 8 percent of all households in the state receiving cash aid or food stamps, yet produced 16 percent of all registrations from public assistance agencies. Meanwhile, other counties register very few citizens in public assistance offices despite having sizeable populations using these offices’ services. For example, El Paso

¹⁰ “Characteristics of Food Stamp Households: Fiscal Year 2006”, Report No.FSP-07-CHAR, U.S. Department of Agriculture, Food and Nutrition Service, September 2007; see tables B-11, B-12 and B-13.

County had 12 percent of all households in the state receiving cash aid or food stamps in 2006, yet produced no registrations from public assistance offices.

Taken together, the above evidence suggests that agency registrations have not been low due to lower levels of participation in public assistance programs or a large number of non-citizen participants.

Possible Explanation Two: Registering voters at the DMV is so effective that most people coming through public assistance offices are already registered; thus, the number of voter registrations coming from these offices remains low.

Voter registration rates in DMV offices are not related to voter registration rates in public assistance offices. While DMV registrations have fluctuated over time, agency registrations have followed dissimilar and unrelated trends. In other words, there is no data to support the idea that registration through DMV offices is “crowding out” the potential for registration through public assistance offices.

Along with food stamp and cash aid participation in each county, Table 5 presents data on DMV registrations for the eleven most populous counties in Colorado for 2006. If there is a relationship between DMV and agency registrations, Denver County, Adams County and the aggregate numbers for all other counties suggest the reverse relationship than offered in this possible explanation. In each of these jurisdictions, the percentage share of all public assistance registrations is larger than their share of DMV registrations in the state. Larimer County reports a relatively even share of both DMV and agency registrations, while all other counties show a larger share of DMV registrations than agency registrations. The varying shares of DMV versus agency registrations suggest that voter registration programs at DMV offices do not “crowd out” performance in public assistance agencies. Given the large number of unregistered citizens from low-income households, approximately 229,000 individuals, this finding makes sense; in short, there is a large untapped population of unregistered citizens that public assistance offices are not reaching with required voter registration services.

Table 5: Indicators of Performance for Eleven Most Populous Counties, 2006

	State/County	Percent of State's Population 2006	Percent of State's DMV Registrations 2006	Percent of State's Agency Registrations 2006	Households Receiving Cash Public Aid or Food Stamps, 2006	Percent of All Households in State Receiving Cash Public Aid or Food Stamps, 2006
	Colorado	100%	100%	100%	105,286	100%
1	El Paso County	12%	15%	0%	12,304	12%
2	Denver County	12%	5%	46%	18,411	17%
3	Arapahoe County	11%	12%	0%	8,342	8%
4	Jefferson County	11%	11%	1%	8,008	8%
5	Adams County	9%	10%	16%	8,546	8%
6	Boulder County	6%	8%	0%	4,906	5%
7	Larimer County	6%	8%	6%	5,764	5%
8	Douglas County	6%	6%	1%	970	1%
9	Weld County	5%	6%	0%	3,889	4%
10	Pueblo County	3%	4%	0%	9,037	9%
11	Mesa County	3%	0%	0%	3,864	4%
	All other counties	17%	15%	31%	21,147	20%

Source: American Community Survey (Census Bureau, 2006); Colorado Secretary of State

Possible Explanation Three: Public assistance offices are registering their clients to vote, but they are just not reporting the numbers; thus, the number of voter registrations coming from these offices remains low.

While there certainly seems to be a reporting problem in many jurisdictions, data collected by Colorado ACORN reveal that public assistance offices in Colorado are not in compliance with the NVRA. In November and December 2007, Colorado ACORN made visits to offices providing WIC, TANF and Food Stamp services in El Paso, Denver, Arapahoe and Adams counties. ACORN found that over half of the surveyed offices did not have voter registration forms available upon request and did not provide them in the application materials. One office told the ACORN surveyor that they were not responsible for voter registration. Another office claimed they had not been provided with voter registration supplies for seven to eight years. Of all the clients surveyed who met with a caseworker, none were offered voter registration by that caseworker. Colorado must improve both NVRA compliance and reporting procedures to improve voter registration performance.

Recommendations: Complying with the NVRA in Colorado

The data presented in this report, including the surveys completed by Colorado ACORN, reveal that there is a problem with NVRA compliance in Colorado's public assistance offices. Colorado departments that provide public assistance need to take steps to come into compliance with the NVRA.

The NVRA Implementation Project — a partnership between Project Vote, Demos and ACORN — has worked with a number of states to improve their public assistance offices' performance. Based on practices the NVRA Implementation Project has found to be effective in other states, such as Iowa and North Carolina, Colorado, along with other measures, should take the following actions:

1) Form a Joint NVRA Implementation Team

- Appropriate representatives from the three major Colorado departments that provide public assistance and all NVRA covered agencies, the Secretary of State's office, the Governor's office and Project Vote should form a task force or committee to improve NVRA performance in Colorado.
- The team should hold regular meetings or conferences to assess the status and success of any plans.

2) Send NVRA Memo to Agency/Office Personnel

- To immediately enhance each agency's understanding and implementation of NVRA requirements, a memorandum should be sent to the manager or director of each department site providing services covered by the NVRA.
- The memo should instruct agencies on their responsibilities and obligations under the NVRA, establish points of contact and supervisors for NVRA implementation throughout the state government, instruct appropriate and effective use of voter registration forms in

offices, direct the training of appropriate office staff on voter registration of clients, direct offices to advertize voter registration services in offices and give instruction on forwarding completed applications to the appropriate election officials each Friday.

3) Use Reporting from Sites to Monitor the NVRA

- Frequent reporting of statistics related to NVRA compliance by agency sites to the appropriate departmental and election officials and monitoring of these reports is critical to a successful NVRA plan.
- Reporting systems that are already in place should be revised and re-implemented to improve the reporting of voter registration application numbers.

4) Reinstigate/Improve NVRA Training

- The Joint NVRA Implementation Team should work together to create training materials and protocols to be used to train staff and supervisors on their obligations and responsibilities under Section 7 of the NVRA.

5) Comprehensive Remedy

- The opportunity to register to vote should be offered to persons who have applied for public assistance, recertified or changed their address at Department offices within the past two years.
- The state should organize and implement a mailing of voter registration materials to affected clients.

Colorado should implement the necessary changes to improve their compliance with the NVRA immediately. Hundreds of thousands of eligible voters remain unregistered in Colorado, many from low-income households. Project Vote and Colorado ACORN met with Colorado election officials in December 2007 to discuss recommendations like those listed above. Quick action to implement these recommendations will improve NVRA compliance in Colorado and result in increasing Colorado's overall voter registration performance.



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