

# Denver Election – Colorado Model Observation Report

*Image Description: Secretary of State Alex Padilla, in a Vote Center with members of the California observation team.*



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## **Introduction**

This report will seek to communicate observations of “Colorado Model” for the Denver City Election on Tuesday May 5, 2015, with particular attention and scrutiny to voting issues for people with disabilities. California Foundation for Independent Living Centers prioritizes voting through advocacy, education and our community organizing efforts.

The attention to this model as well as Oregon’s has increased recently due to concerns over election cost and declining turn out rates in California. In March 2015 a joint hearing of the California Senate and Assembly Committees on Elections took up these issues for discussion, and legislation to change California’s election process is expected.

A group from California attended this 2-day observation opportunity, which included the California Secretary of State Alex Padilla and four members of his senior staff; Ted Jackson, California Foundation for Independent Living Centers (CFILC) Community Organizing Director; and Astrid Ochoa, Future of California Elections (FoCE) Deputy Director. The group also included County Elections Directors and Registrars from across California. During this trip I interacted with county officials from Santa Barbara, San Diego, Riverside and Alameda.

There were also opportunities to interact with Amber McReynolds, Denver County Elections Director, Denver County Elections staff and poll workers. Also available for interaction was key staff from Dominion Voting, the company that created the accessible voting tablet used in Colorado, and the accessible voting machine tested by the CA SOS last year.

This report will examine my experience on chronological order, which also corresponded to separate phases of the election process:

- 1) Overview of the Colorado Model
- 2) Dominion and Denver Elections Presentations
- 3) Observing the Voting and Ballot Collection Process
- 4) Ballot Processing, County and Adjudication

## 5) Closing Recommendations

The trip to Denver was instrumental to understanding the types of changes in election systems that may be proposed in California. Even more important for disability advocates, we were able to get a glimpse at possible barriers to access for voter with disabilities. So that if or when California implements these systems, we can be prepared to protect every voter's constitutional rights.

### **Overview of the Colorado Model**

This section will explore "Colorado Model" as I understood it demonstrated. It is a multi-tiered ballot collection scheme that encourages voters to use mail ballots but recognizes the need for some voters to cast their ballot in person and with accessible technology. Responding to the growing popularity of mail voters with a sometimes slow postal service or delayed voter action, they have developed drop off options. This system also involves a location similar to a polling place, yet with less geographic frequency, for voters who need an in-person experience.

To begin a discussion on Colorado's voting systems, it is crucial to note that they moved toward today's model over a series of elections starting in the early years of this century. Although Colorado did not take as many years for transition as Oregon (about 25 years), in both cases these states recognized the need to transition over several election cycles.

Voting in Colorado occurs in three stages:

- Stage One: each registered voter is mailed a vote-by-mail ballot (VBM) 21 days prior to the election. Voters are free to cast their ballots from home and mail them to the county election division using the U.S. Postal Service or turn them in at a latter date to a Vote Center.
- Stage Two: 15 days prior to Election Day Voter Service and Poll Centers (VSP or Vote Centers) will open; people can either drop of their VBM ballot or surrender it to receive a fresh ballot to vote.

- Stage 3: 8 days prior to Election Day additional VSP's, drop off boxes and locations are opened for folks who wish to personally deliver their VBM ballot but don't want to go into the Vote Center.

The schedule above reflects a basic understanding for a General Election in Colorado. According to materials on the Colorado Secretary of State's website (Election Rules [8 CCR 1505-1]) election plans and amendments are submitted by the county clerk and approved by the Secretary of State. Based in differences observed during the May 5, 2015 elections, I assume that some amendments were requested and approved.

The system seems to favor voting by mail. This alerted my concerns about the voters with disabilities who could not easily travel to the nearest Vote Center, especially since they were so spread out for this election. According to Amber McReynolds, Director of Denver Elections, during the early voting period county elections staff does in-person visits to the 40-50 identified "group residential facilities." On these visits they usually encounter seniors and people with disabilities and bring the accessible voting tablet and printer in case any wishes to use it. However there is no provision to provide this same access to a private vote for voters with disabilities who live alone and could be homebound.

Of course the most interesting factor in the California team's objectives was the Voter Service and Polling Centers (VSP) or *Vote Centers* and drop off boxes and locations. The Vote Centers serve as a multi-purpose voting customer service center. At one of these locations one can register to vote (requires voting on a provisional ballot), turn in your VBM ballot or surrender an unwanted or soiled one, use an accessible electronic voting tablet or vote in a booth on a fresh ballot and receive voting demonstrations and HAVA information. Vote Centers and their processes must also meet all requirements for a polling place under the Americans with Disabilities Act and the Help America Vote Act.

In a General Election the number of Vote Centers is determined by the number of active voters from the previous election. For example in a county like Denver that has more than 25,000 active voters there should be

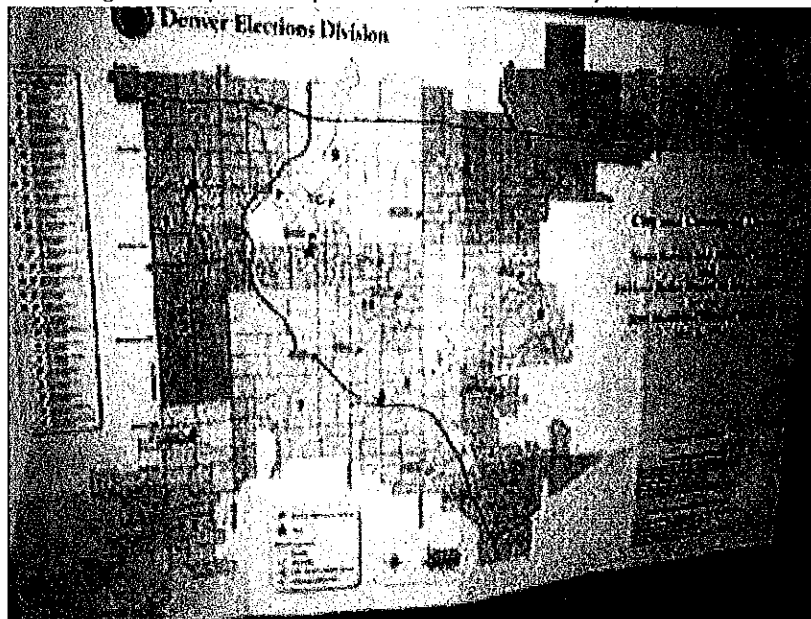
one VSP's per every 30,000 voters (at least one per county) for the early voting period (15 days prior to Election Day); and one per 15,000 voters on Election Day (no fewer than three per county).

Vote Centers are required to be open to the public for eight hours Monday through Friday, four hours on Saturdays, are not required to be open on Sundays and must be open from 7:00 a.m. to 7:00 p.m. on Election Day.

For the May 5, 2015 City and County of Denver Municipal Election Vote Centers and Drop Off Locations were provided as follows: 1) one Vote Center for Denver County located at the County Election Office opened 15 days before Election Day on April 20<sup>th</sup>; 2) seven Vote Centers opened eight days before Election Day on April 27<sup>th</sup>, which included one per every 59, 871 registered voters (419,098 total registered), one per every active 50,220 voters (351, 540 total active) and one per every 14, 569 voters who participated in this election (101,989 participating) according to the Denver Elections website

(<https://www.denvergov.org/electionresults#/results/20150505>); and 3) twenty-four Drop Off locations opened with the Vote Centers on April 27<sup>th</sup>.

*Image Description: Map of Vote Center and Drop Off Locations*



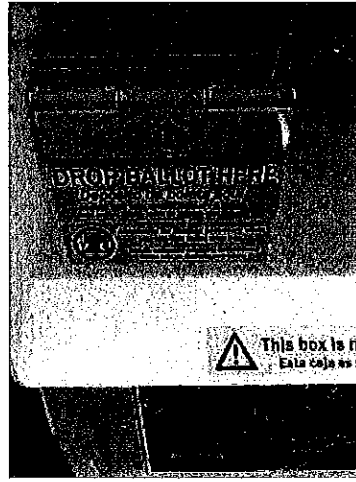
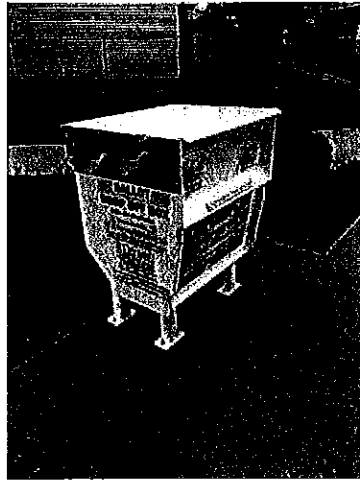
It's worth noting that Colorado has 15 counties with less than 25,000 active voters. And these guidelines and policies change with lesser active voting populations which may only require one VSP for early voting and three on Election Day per county in rural areas. Even with a 15-day period to vote, if the Vote Center is a long distance from parts of the county, scheduling Paratransit trips for wheel chair and power chair users could become very competitive.

Also, with less in-person locations Colorado law allows for only 15 minutes to vote using a paper ballot or accessible voting tablet at the Vote Center during a busy election. There is an exception for people with disabilities, they may be granted more time to complete their ballot at the discretion of the election judge. However, the enforcement of this regulation suggests that one of the precinct's election judges has the authority to evaluate a person's disability status. This is most probably a violation of the Americans with Disabilities Act.

Drop off locations are more numerous than the VSP's and can take two forms: a drop box similar to a mail box; and a tented drive up station. All Vote Centers serve as a drop off location and most (all but one in the May) had a drop box outside the poll during the May 5<sup>th</sup> Denver elections.

Drop boxes resemble U.S. Postal Service mail boxes; they are fortified steel and bolted into the ground. The box has a thin slip for inserting the ballot, and a few in our team wondered how accessible they were with such a thin slip. Each box is also required to be monitored by a security guard during hours of operation or camera and security recordings are kept for two years. The drop boxes are open during the same hours as the Vote Centers and are locked over night and ballots are collected securely daily. They seemed pretty fail-safe from theft or ballot tampering.

*Image Description: Ballot Drop Box (left), close up on Ballot Drop Box slit and locking mechanism (right).*

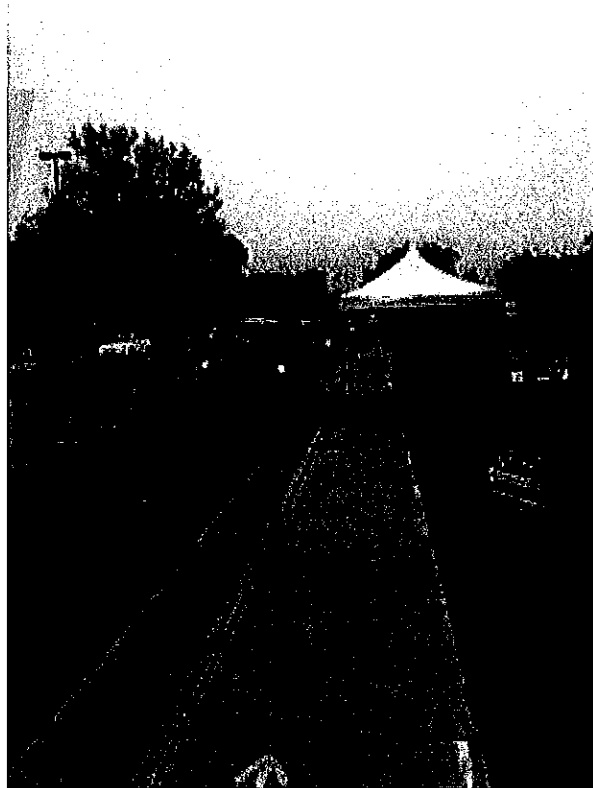


The other drop off option is a tented drive up station located either in the middle of the street for two-way drop off or on a sidewalk. The roadway leading to the drop off stations is separated by orange cones so they are intended to be accessed by a vehicle and not pedestrians. Each one contains a locked ballot box and at least two elections workers and one police officer are present. They appear to be a very accessible option for all voters who drive, but may encroach on access for pedestrian and wheelchair voters to be discussed later in this report.

*Image Description: Ballot Drop Off Lane Sign (Left), Two-way Drop Off Location in the middle of a street (right).*



*Image Description: Drop Off Location on th side of a road.*



Voters can go to any VSP within their county to either drop off their ballots or cast a ballot in person on paper or by accessible tablet. The voter database and counting systems called "SCORE" is continuous within a county. Although voters are not allowed to deliver more than 10 ballots either to a VSP or a drop box or station. This could be of concern for an organization like an Independent Living Center who may want to offer ballot pick and delivery as a service to people with disabilities who are not able to travel to the VSP or drop off location.

We were very curious about what the concerns and response was from the Colorado disability community during the transition to this model. Especially since the Colorado constitution guarantees a right to a private vote like California's. During the trip I heard from both former and current Denver Elections officials that people with disabilities and organizations such as Disability Law Colorado (DLC) were engaged during this process.



The former Denver Elections Director, now Riverside County, CA Elections Director, reported that there was a lot of advocacy from the disability community which resulted in the current processes. And in fact both Denver Elections and the Colorado Secretary of State (CO SOS) have Voter Accessibility Advisory Committees (VAAC) for oversight.

Staff from the CA SOS's office arranged for us to meet with Jennifer Levin, an attorney from DLC who covers voting rights issues. DLC is Colorado's federally funded protection and advocacy organization like Disability Rights California. Jennifer has been at DLC working on voting issues for two years, so she was not able to answer most of our questions about how the disability community was engaged during the transition to this model.

However, Levin is a current member of the CO SOS's VAAC and attends their meetings regularly. Her descriptions of their meetings and agendas drew some flags of concern. She able to express how she uses the group for information gathering about her organizations legislative advocacy around elections. But could not recall items the CO SOS has brought to the VAAC for review or oversight.

She was able to give us insight into how the county elections officials provide American Sign Language (ASL). ASL is provided by face time connection between the VSP and county elections office on a tablet. Using technology for this purpose has developed out of accommodations provided for overseas military voters.

Additionally, Astrid Ochoa from the FoCE and I searched for evidence limited English proficient community feedback in developing election plans. Unlike California, Colorado voters mostly speak English and some speak Spanish with a growing Vietnamese community. Materials are produced in both English and Spanish and according to Jennifer Levin the Denver Elections will provide a Vietnamese translator on request using face time on a tablet.

In all the Colorado model seems to be planned to increase voting by mail while offering opportunities for voters to use more traditional methods to cast a ballot or use accessible technology. Processing and counting systems will discussed later in this report. A pivotal question is: can this model be used in California?

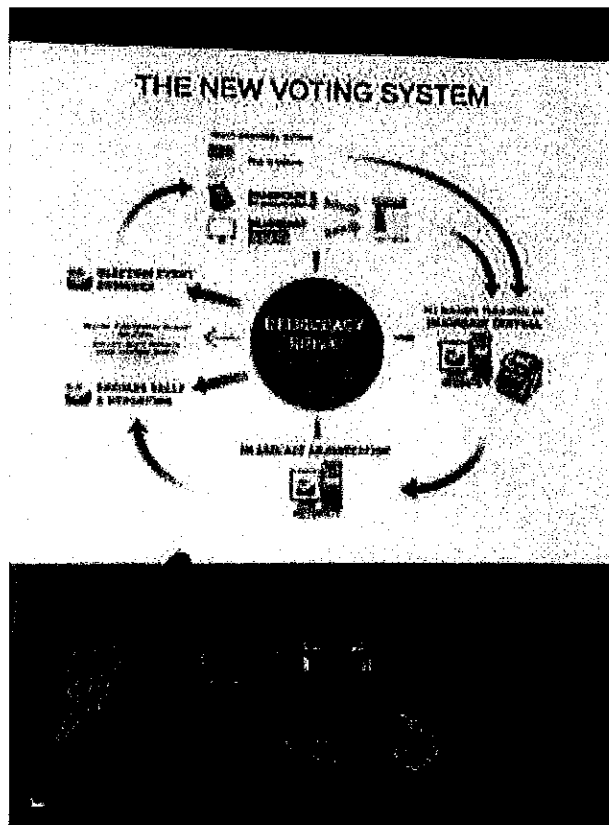
I think the answer can be found in a comparison of population sizes and community engagement. The entire state of Colorado has less than half of the voters in Los Angeles County alone. And California's disabled and limited English proficient communities are quite larger as well. Without evidence of enagement of these communities in Colorado, its hard to imagine how this model would stand the test in California. The structures that would need to be in place to support California's multitude of voters would certainly be much larger and more intricate than Colorado uses in this model.

### **Dominion and Denver Elections Presentations**

We began exploring the Colorado Model the day before Election Day. We were treated to presentations on the Colorado Model and the Dominion Voting accessible voting technology used in Denver.

Amber McReynolds from Denver Elections presented this model from a technology point of view. Exploring the value of the "Democracy Suite," Mc Reynolds covered the connectivity of accessible voting tablets to multi-feed scanners that can be used to efficiently count ballots and adjudication software for efficient translation of voter intent. She also covered the processes described above.

*Image Description: Amber McReynolds discusses the New Voting System in Colorado. Behind her is a flow chart of the "Democracy Suite" interaction.*



Representatives from Dominion Voting gave us an opportunity to test and experience their new voting tablet being used in Denver. This technology has yet to be tested for certification in California, although other technology from Dominion was tested last year with the help of CFILC program members. I think it is important cover this technology in this report because it was presented as a critical part of the Colorado Model's efficiency.

The accessible voting machine is a lightweight large tablet with touch screen and able to attached headphones, paddles and sip and puff devices. Dominion is marketing the tablet as a universal voting option. The most notable positive of this technology is the low cost. By comparison it will cost 10% to 15% of current accessible voting machines, including the printers. The touch screen allows a voter to move quickly through the ballot, move backwards, alerts the voter to over or under votes, review the ballot and make changes before printing the ballot.

*Image Description: Dominion Voting Accessible Voting Tablet with printer in a voting booth.*



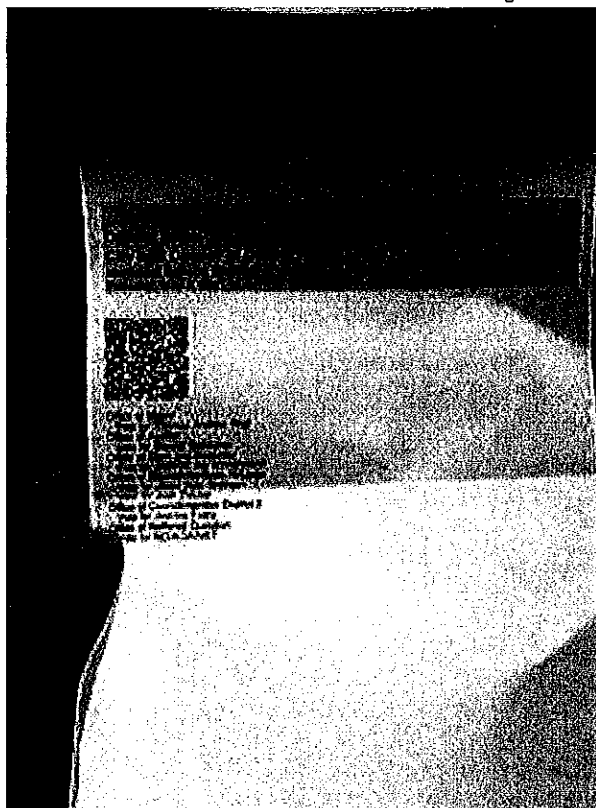
I was impressed with some features of the tablet, but had concerns about the accessibility features. To begin the voting process a person needs to swipe a card that is preset with the voter's ballot when they sign in and surrender their VBM ballot. Swiping this card independently could be an issue for a blind person or someone with dexterity issues.

This machine is not a ballot marking device as many other machines with which voters may be familiar. This machine prints a *representation of ballot*, complete with a "Q-R code" and printed voter information and contest selections.

This highlights my very first concern, how does this ballot match with others within an election. The voter's actual ballot lives in the cyber-sphere accessible through the Q-R code without a marked paper that can be used to verify voter intent - a different format from the marked VBM or paper ballots. Yet this printed out representation is what the voter puts into the ballot box and is kept for paper records. In California we have consistently

had recounts in at least a few counties every election cycle for the past decade. How will this different ballot be scrutinized during a recount? And will people with disabilities using this technology be at risk of having their vote disqualified in a recount?

*Image Description: Printed out ballot from the Dominion Voting accessible voting tablet.*



Additionally this ballot representation brings questions about verification for blind voters. These voters have not yet to date been able to read their ballot before placing it into the ballot box. The machine does have a listening option, like the current accessible voting machines used in California. But this last piece of verification is an important issue for blind voters who want to have a Braille option for independent verification. At some point we must address this inequality.

I asked the Dominion staff about developing a printer with a Braille option (there is room on the ballot print out) or providing a Braille hook up for reading the vote while hearing it. At this point they could not give an answer. The Los Angeles County Registrar's office is exploring these

options for the technology they are developing and many of us are looking forward to the options they will present.

Interestingly, the use of a Q-R code that prints out a representation of a ballot could be against California's election code which does not permit a "facsimile" of a ballot.

The second concern that caught my attention was the lack of tutorial option like many other machines. Many voters with disabilities may need this refresher opportunity to acquaint themselves with the machine. By jumping directly into the mechanics of the voting process a voter with a disability could easily become confused and mis-vote.

The tablet's accessibility devices were also curious. Unlike most touch screen voting machines, this tablet does not have a set of alternate buttons with Braille. Instead it uses a joy stick with Braille labels on the sides of the joy stick box for up, down, right, left. The selection function is activated by pushing the joy stick down from the top. There isn't a Braille label letting a blind voter know this, they would need to rely on instruction from poll workers.

Each tablet comes with a Tecla, a Bluetooth device (with wired option) to facilitate headphones, paddles and sip and puff devices. Domino Voting did not have any paddles or sip and puff devices available at the demonstration. I found this disappointing, because it demonstrated a lack of desire to showcase the features that would be interesting to voters with disabilities.

The information and experience provided on this first day was a good start to our time in Denver. It served as an orientation for what to look for on Election Day as we observed Vote Centers in action. And it gave us an opportunity to network with our California based elections colleagues.

Astrid Ochoa and I learned that a team of county registrars are investigating their own legislation to reform California's election process.

Joe Holland, Santa Barbara County Registrar, expressed an interest in having the both of us and our organizations involved with the planning process.

And I was able to spend some time discussing the San Diego County Special Election VBM pilot project. The San Diego County Registrar's representative asked for CFILC and the DOnetwork's assistance mapping out polling locations that are near public transportation transfer spots. We agreed to connect later this summer.

### **Observing the Voting and Ballot Collection Process**

On Election Day the California team observed operations at various polling places and the Denver County Elections office. Astrid Ochoa, myself and representatives from Santa Cruz, Riverside, San Diego and Monterey County Elections toured four Voter Centers. We were joined by the Secretary of State and senior staff for two of the locations. Later in the day many of us had the opportunity to tour the Denver Election counting room and witness how they process the ballots.

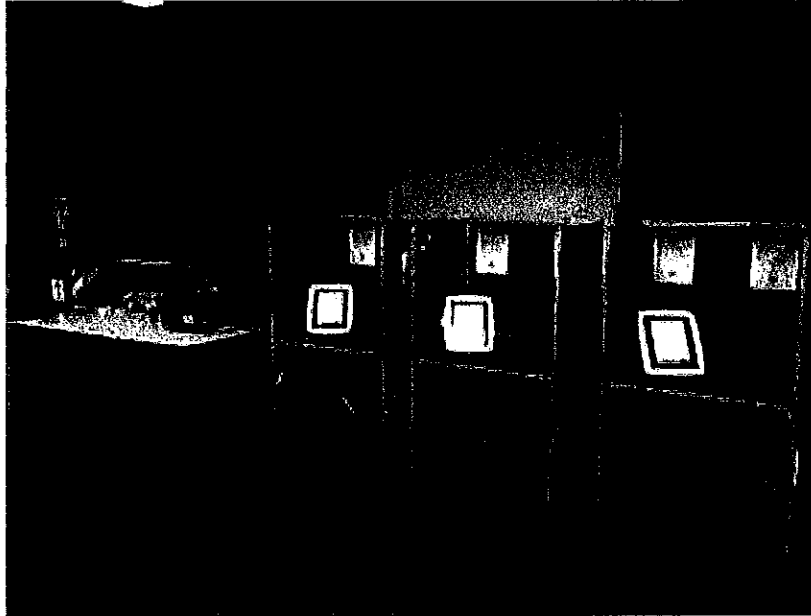
The day began at Hayawatha Community Center. Right away we saw the drive up drop off location outside with a lot of morning traffic. The Vote Center was located inside the community center and appeared to be a standard accessible polling place on the surface. However, there some items that I found curious, three of which would be consistent throughout the day.

First, the VSP was deep inside the building and the walk could be long for someone having difficulty walking longer distances. Next, I asked how close we were to public transportation. No one in the Vote Center could answer my question or find out for me where the closest public transportation stop was located. I had to drive around to find out that it was indeed nearby. This was a constant theme throughout the day.

And third, all of the accessible voting booths were turned out to face the public space, the set up did not provide for a right to privacy. When I asked

the precinct's election judges about the set up, they informed us that the plot for all Vote Centers is designed by the Denver Elections office. This would be a consistent response at each polling location when I asked about the lack of privacy for these voting booths.

*Image Description: Accessible Voting Booths in Vote Center that do not provide privacy.*



But at this one location they did go further and say that they had been told by Denver Election staff, the concern was to protect the privacy of the paper ballot voting booths. It is a curious response, because had the two rows of voting booths face each other, the voters would be back to back protecting a constitutional right to privacy. And there certainly was room to explore other plot options.

Last and most concerning, there were no paddles or sip and puff devices on site for voters with disabilities who might request them. When questioned about them the election judges told me they only provide the Tecla box. And that if people with disabilities needed to use these devices they are expected to bring their own. I had never heard this before, and I checked with some voters with disabilities who would use such devices to cast a vote when I returned to California. All of them said they do not travel with these items and would expect them to be available in a polling place.



Sadly this oversight was the case at all of the other Vote Centers we visited and seems to be a statewide elections policy.

We didn't get to see someone vote at this location, and indeed the day was slow for in-person voters. Most of the voters we witnessed were using the drive up drop off locations.

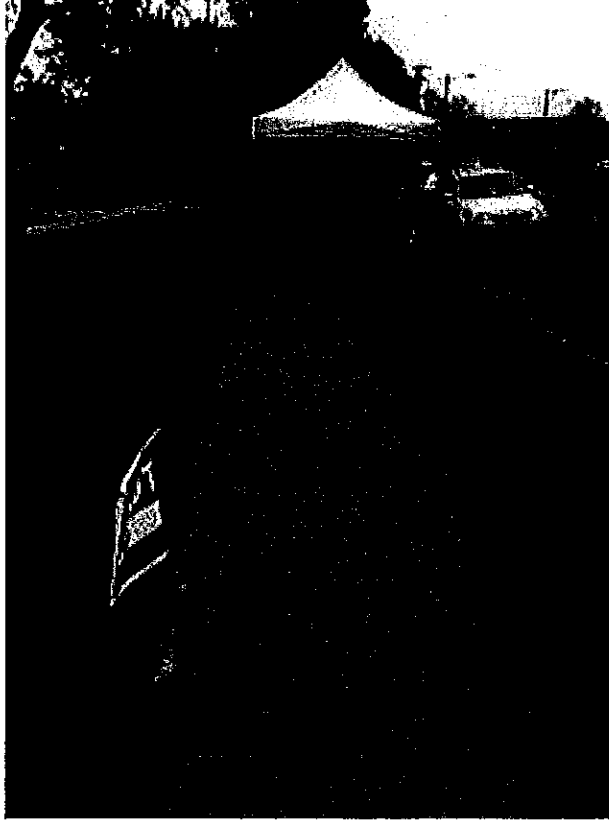
At our next stop at the Highland Recreation Center we experienced the same concerns about privacy, knowledge of public transportation and lack of accessible devices. At this location we noted they had an over abundance of room and could have designed a plot to provide the voter privacy.

By our third stop at the Harvey Recreation Center I had come to expect the same concerns already expressed. At this location the Secretary of State himself began to ask about the issue of privacy for voters using the accessible voting machine. This location actually had little room and would have struggled to provide a private booth, it made me really question what they would do during a busy presidential or midterm General Election.

But most significant was the path of travel into the Voter Center at this location. The elections staff at the drive up drop off had moved the tent out of the designated street location and onto the sidewalk. The public transportation stop was on the other side of the tent so a wheel chair or power chair could not pass. This was a clear ADA violation.

When I brought this to the election judge's attention he didn't ask them to move the tent. There was another pathway from the bus stop through the park behind the recreation center. However, this path had a couple of steep slopes, broken up pavements and deep puddles and would not have met the ADA standard. And

*Image Description: Drive Up Drop Off Location Tent blocking sidewalk access into the Vote Center.*



Later in the day I showed a picture of the tent to Amber McReynolds, Denver Elections Director and she made a note to correct the barrier for the future.

The final Vote Center I visited for the day was in a police station. Astrid Ochoa also attended this location with me and wondered about community feedback about the location being in a police station. This was of concern because some voters in California have experienced apprehension about voting in a police station. They told us that the community room they were in was used often by the local residents and would be a familiar location.

This Vote Center actually did provide privacy for half of the accessible voting booths, which was finally refreshing to see. And a blind man came in to vote so we were able to observe his experience.

After surrendering his VBM ballot, three poll workers walked him through the process of signing in and getting his swipe card for the accessible

tablet. The voter had requested the use of the tablet. The man was walked over to the accessible voting booth by a poll worker who guided him through the entire process. The poll worker did not ask him if he wanted privacy at any point during their interaction and watched him vote at close range (less than three feet).

The poll worker needed to swipe the card for the blind voter and complete the initial touch screen sections for him in order to vote. Clearly this was not an entirely independent or private process.

The voter was given his headphones and instruction on how to use the joy stick and the Braille labeling on the side of the device. The voter expressed some difficulty using the joy stick. Then the voter became confused after he began voting and he needed to assistance of the poll worker to back up his ballot and remove his wrong selections. This confusion could have been cleared up by having a tutorial and probably push button options with Braille.

When the voter completed his ballot he required the assistance of the poll worker to print his ballot. With the voter's permission the poll worker put the ballot into the ballot box. However he walked it across the Vote Center without a privacy sleeve and appeared to read the ballot. At the end of this voter's experience I did get a chance to speak with him and he expressed gratitude for casting his ballot on a machine for the first time.

Throughout the day we interacted with many poll workers and elections officials. At each opportunity I asked consistent questions about access referenced above. But I was also curious about the experience of people with disabilities, and most workers said they had rarely ever seen a voter with a disability come into the polling place.

Throughout the day we inquired about American Sign Language. At each opportunity the election judge said they would call the requests into the Denver Election HQ's and follow their instructions. Based on the

information given by Jennifer Levin from DLC about the use of face time on tablets, I assumed that this would be the process instructed.

Additionally, I was very curious about accommodation for voters with disabilities in the rural counties and their right to cast an independent ballot over great distances. Unfortunately no one could answer my question, not even the Director of Denver Elections.

### **Ballot Processing, County and Adjudication**

Each of us was given the opportunity to join a tour of the Denver Elections offices and ballot processing center. I witnessed a very efficient ballot process with impressive technology. The scanners are able to process the three different types of ballot paper, count the votes and identify errors for adjudication.

*Image Description: Adjudicators study a voters intent on a scan of the ballot.*



A scan of each ballot with a perceived error is automatically sent to a two-person team of bipartisan adjudicators who review, judge and decide on the voter's intent. During this process I was impressed with the teamwork. But after seeing a number of ballots that demonstrated voter confusion, I became concerned about voters with a cognitive or intellectual disability.

More outreach may be needed to educate voters on their right to surrender their ballot and receive a new one at a Vote Center.

### **Closing Recommendations**

The opportunity to observe the Colorado Model during the Denver Municipal Elections with California's voting stakeholders was a great learning experience. The model is working in many respects for the state of Colorado, which had one of the highest percentages of voter turnout in the 2014 Midterm Elections.

However, this model is serving a population less than half of the voters in Los Angeles County. California's voters may have to travel larger distances to participate in elections under this model. While there is a longer period for in-person voting, the distance between locations is a concern for people with disabilities. Both Paratransit and public transportation have limited wheelchair and powerchair spaces available. These spaces would be taken up for longer periods of time if the distance of travel to go vote in increased. This may result in reduction of participation in elections from voter with disabilities.

Any serious consideration of this or other election models needs to explore different options for metro and rural areas. But both must maintain and protect an individual's right to cast a private and independent vote.

The Dominion Voting technology used in this model was curious. While at first glance it appears to be very accessible, on closer scrutiny it lacks the finishing touches to provide opportunities for an independent vote.

While observing this election process I had questions about barriers to access related to privacy, location and public transportation, availability of pair-able devices and path of travel.

During the trip both Astrid Ochoa from FoCE and me had questions about the availability of accommodations for voters with disabilities and limited English proficient voters and the systems to serve them. Yet we

sometimes struggled to get satisfactory answers, many times no answer at all. My experience as a disability advocate is that if someone is unable to answer a question about access or accommodations, then serving people with disabilities has not been part of the plan.

If California wants to replicate the Colorado Model, I suggest that we replicate their process to discover what is best for our own state and serves all of our voters. This should include an association with people with disabilities as valued stakeholder from the very beginning of the process. Too often we have seen the best intentions of non-disabled end in barriers because people with disabilities weren't in an advisory capacity from the start.

We should also consider our timeline without a rush to completion. Oregon has taken about 25 years to achieve the model that is working for them. And yet many in the disability community still question its effectiveness.

Any changes will need large education campaigns. And this public education is a perfect opportunity to begin moving election materials, voter registration and communications to plain language.

The key to successful voter turnout is to listen to the voters, serve their needs and do it consistently. In order to obtain quality, scientific feedback active voters with disabilities, like voters from other communities, academicians and officials will need to access them through the voter file. Thus adding accommodations requests to the voter registration card should be a high priority.

Voters with disabilities go through great lengths to cast a ballot, lengths which many other people may easily take for granted. Their independence requires consistency in access.