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MILITARY VOTING

HEARING

BEFORE THE

SUBCOMMITTEE ON MILITARY PERSONNEL

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

HEARING HELD

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MILITARY VOTING

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SUBCOMMITTEE ON MILITARY PERSONNEL,
Washington, DC, Friday, July 15, 2011.

The subcommittee met, pursuant to call, at 1:35 p.m. in room 2212, Rayburn House Office Building, Hon. Joe Wilson (chairman of the subcommittee) presiding.

OPENING STATEMENT OF HON. JOE WILSON, A REPRESENTATIVE FROM SOUTH CAROLINA, CHAIRMAN, SUBCOMMITTEE ON MILITARY PERSONNEL

Mr. WILSON. Ladies and gentleman, good afternoon. I would like to welcome everyone to a Military Personnel Subcommittee hearing on military voting.

Today the subcommittee meets to hear the testimony on military and overseas voting from the Department of Defense, local election officials, and a military officer who was a voting assistance officer while deployed to Afghanistan during the 2010 election.

Our witnesses have traveled a long distance to help us understand how members of the Armed Forces and their families, along with the U.S. civilians living and working outside of the United States, are afforded the opportunity to exercise their right to vote.

I want to welcome our witnesses, and I look forward to their testimony.

Voting is a fundamental and essential part of the democratic process. It is both our right and our duty as citizens of a democracy to set the direction of the Nation by selecting the individuals who will represent us at each level of government. This responsibility remains with us regardless of where we choose to live and work or, as in the case of our service members, where they are sent to defend freedom.

For many years Congress has been concerned about military and overseas voters, who have told us about the difficulties they face when they try to cast their ballots. Registering to vote, receiving a ballot by mail, and returning the ballot by mail in time for the vote to count in an election when the voter is not physically located in the U.S. is challenging at best.

One can only imagine the difficulty trying to accomplish the same process when the voter is at a remote outpost in Afghanistan fighting a war. Yet, these are the very individuals who through their military service protect our right to vote.

Congress has worked hard over the last several years to ensure that the men and women assigned overseas on behalf of our country do not lose their ability to vote as a result of their service. A

number of Federal laws have been enacted to enable the military and U.S. citizens abroad to vote in Federal elections.

Most recently, Congress enacted the Military and Overseas Voter Empowerment—“MOVE”—Act as part of the National Defense Authorization Act for 2010. The MOVE Act required the Department of Defense to make several changes to the Federal Voting Assistance Program to improve the process by which military absentee voters cast their ballots.

I look forward to hearing from our DOD [Department of Defense] witnesses how these improvements have been implemented within the Department. I am also interested to know how the changes to FVAP [Federal Voting Assistance Program] affected the military and overseas voter in the 2010 election. Were more military and overseas voters able to cast their ballots in time for them to be counted in the election?

In addition, a successful military voting assistance program depends on the collaborative efforts of the Department of Defense with the military voting assistance officers in the field and State and local officials. I am very pleased we have two local elected officials with us today.

First, we have from my home State, but more importantly to me home own county, I am very honored that we have the registrar and director of elections of Lexington County, South Carolina. And additionally, from San Diego, California, we have the registrar from the home of the ranking member, Susan Davis.

We also have with us today a voting assistance officer who had to find a way to get deployed soldiers the election information they needed. I look forward to hearing their perspectives on how to best assist military and overseas voters cast an absentee ballot.

I will close by saying that every day our troops lay their lives on the line to defend freedom, and it is our job to make sure they are not denied the right to vote.

Before I introduce our panel, let me offer Congresswoman Susan Davis of California an opportunity to make her opening remarks.

[The prepared statement of Mr. Wilson can be found in the Appendix on page 31.]

STATEMENT OF HON. SUSAN A. DAVIS, A REPRESENTATIVE FROM CALIFORNIA, RANKING MEMBER, SUBCOMMITTEE ON MILITARY PERSONNEL

Mrs. DAVIS. Thank you, Mr. Chairman.

I believe it is so important that we are having this hearing today. We all know that voting is an important responsibility as an American citizen. It is fundamental to the continued success of our democratic society.

Over the past several years Congress has taken significant steps to improve the voting process for Americans, and specifically for our military personnel and their families. The National Defense Authorization Act for fiscal year 2010 included the Military and Overseas Voter Empowerment Act, which sought to further enhance the voting experience for military service members.

And these included—and my colleague has enumerated some of them; if I may, I wanted to just broaden that a little even in the time that we have—included the requirement for States to send out

requested ballots at least 45 days before an election, allows voter registration applications and absentee ballot applications to be sent by mail or electronically.

It expands the use of Federal write-in ballots to include primaries, run-offs, and special elections. It prohibits States from rejecting otherwise valid voter registration applications on the basis of notarization requirements or restrictions on paper or envelope type.

And it required the development of online portals of information and also required the service secretaries to designate offices on military installations to provide information on voter registration procedures and absentee ballot procedures, information, and assistance to military personnel.

I am very interested in hearing from Mr. Carey, the director of the Federal Voting Assistance Program, on how these changes have been implemented by the States and the Department of Defense and what issues were found during the last election.

I am also very pleased that we have Captain Angel Jackson-Gillespie here from the 101st Airborne, who was a voting assistance officer while deployed in Afghanistan.

I certainly hope that you will share with us, with the subcommittee your experiences and areas or issues of concern or success that you think will help us as we continue to improve the voting process for service members, their families, and Americans living and working abroad.

We have two individuals who are directly involved in the process on the ground level. Mr. Dean Crepes, director of Lexington County Commission of Registration, South Carolina, of course, and Mrs. Deborah Seiler, registrar of voters from San Diego, California.

I want to welcome you both and thank you for coming so far, particularly from San Diego, on such short notice.

I invited Deborah to be here today not just because she is in my district, but because she runs a first-class operation and can make a valuable contribution to our hearing. San Diego is the sixth largest county in the country, and coordinating activities for 2,300 precincts and counting over 1.2 million ballots each election is difficult and probably feels at times like a thankless task.

Deborah works tirelessly so that everyone gets a chance to vote and makes sure that everybody votes only once. Deborah and her staff put voters first.

With about 100,000 Active Duty military personnel stationed at bases in our county, they take pride in making sure the registrar's office is attuned to the unique needs of military voters. And that is why they have been known to communicate with service members in the middle of the night and even coordinate ballot delivery with sailors at their next port of call.

Mr. Chairman, let me welcome all of our witnesses. Thank you very much, again, for the hearing. I look forward to an open and productive dialogue.

[The prepared statement of Mrs. Davis can be found in the Appendix on page 33.]

Mr. WILSON. Thank you, Mrs. Davis.

And we are joined today by an outstanding panel. We would like to give each witness the opportunity to present his or her testi-

mony and each member who is here an opportunity to ask questions.

We will be looking for a summary of your written testimony that will be included in the record.

Additionally, in particular I want to thank Mr. Robert H. Carey, director of the Federal Voting Assistance Program, the Defense Human Resources Activity; Captain Angel Jackson-Gillespie, U.S. Army 2nd Brigade Combat Team of the 101st Airborne from Fort Campbell, Kentucky—and I am very grateful to know that she was also trained at Fort Jackson, South Carolina, so I know she has excellent training; and Mr. Dean Crepes, director of the Lexington County Registration and Elections Commission; and Mrs. Deborah Seiler, the San Diego County registrar of voters.

And we will begin first with Mr. Carey.

STATEMENT OF ROBERT H. CAREY, DIRECTOR, FEDERAL VOTING ASSISTANCE PROGRAM, DEFENSE HUMAN RESOURCES ACTIVITY

Mr. CAREY. Thank you, Mr. Chairman, Representative Davis, members of the committee. Thank you for this opportunity to testify on military voting and the Department of Defense's Military Voting Assistance Program. I also thank you for including my complete written testimony in today's record.

As you said, my name is Bob Carey, and I am the director of the Federal Voting Assistance Program and have been since July 2009.

After graduation from college, I joined the Navy, and I continue to serve in the Navy Reserves today. I have been both an overseas civilian voter and a military voter. I voted by absentee ballot for 21 straight years.

With that experience, upon my arrival at the Federal Voting Assistance Program, we used data from the 2008 post-election surveys of military personnel and local election officials—data, I may add, that has been developed statistically through a statistically rigorous survey methodology refined over decades—to restructure the Voting Assistance Program to more effectively support military voters' most personal needs.

That 2008 election data showed the most significant problem for military voters was not registration. It was not even voter participation rates. When adjusted for the substantial age and gender differences between the general population and the military, the military was registered at and voted at higher rates in the 2008 election than did the general population.

But when it came to successfully returning an absentee ballot sent to them, the difference was remarkable. Ninety-one percent of the general population successfully returned their absentee ballots in 2008, but only 62 percent of the military did.

Given this, the Federal Voting Assistance Program shifted to a system of direct-to-the-voter assistance, predominantly through online tools, to allow the limited voting assistance officer resources to be more focused where needed and to serve more greatly the underserved and underperforming populations.

To provide that direct-to-the-voter assistance, the Department automated the voter registration, absentee ballots, and back-up ballots forms with online wizards. Before, military voting assist-

ance officers had to help the voter fill out the form by hand, referencing back to this 466-page compendium of various State laws and regulations regarding military voting.

Now, the military voter can easily and seamlessly complete these forms online by answering a series of simple and intuitive questions, generally in the 5- to 8-minute range, even being presented all of their Federal candidates in the online ballot wizard as well.

Additionally, the Department worked with 17 States to deploy fully automated online blank ballot delivery systems. It also provided for online marking in most cases, where the voter could access the complete ballot at a secure Web site and, in most cases, mark that online, print it out, sign it, and return it. Fourteen States also deployed their own online ballot delivery systems.

The Department believes that such online ballot availability represents the best long-term method of ensuring voters have timely and successful access to all their ballots by allowing them to retrieve their ballot wherever and however they can.

To raise voter awareness of these tools and keep voting deadlines, the Department also executed an aggressive, integrated, strategic communications plan to reach these voters through multiple communications channels, print and online advertisements. I think we have a couple of versions of that you can see. We ran full-page ads in a number of papers, including *Defense Times*, *Stars and Stripes*, *Military Spouse Magazine*, *International Herald Tribune*.

We did an extensive social media campaign. RSS [really simple syndication] feeds, earned media, internal media, direct communications through unit and installation voting assistance officers, banners outside of installation gates and commissaries and exchanges, and force-wide emails were all used to inform military voters about upcoming elections, the procedures for registering and requesting an absentee ballot, and how best and most successfully to return those absentee ballots.

The Federal Voting Assistance Program has and will continue to work very closely with the Services as they execute the installation voter assistance office mandate of the MOVE Act.

However, the Department believes those mandates are costly, manpower intensive, and require significant effort for the Services to implement. Those implementing these programs in the field believe it may actually be counterproductive to an effective voting assistance office program by taking those resources away from the unit level, where they can be most precisely and quickly delivered.

The Department believes all the new voting assistance requirements mandated by the MOVE Act at the installation level, including the voting assistance requirements of the National Voter Registration Act, can be more efficiently accomplished at the unit level at far less cost and with far greater effectiveness, and focus more specifically on deployed personnel and underperforming segments of the voting population.

Legislatively, the Department believes the States should only need to report their military and overseas voting statistics to the Department of Defense. Currently, States report statistics to both the Department of Defense and Election Assistance Commission.

The MOVE Act, however, made the Secretary of Defense the lead agency in post-election military and overseas voting data collection

and reporting. Therefore, the Department recommends the Department of Defense be the sole data collection agency to reduce the survey burden on States and local election officials, and provide for full integration with the Department's other post-election surveys, which capture much of the voting behavior that cannot be captured by the reporting data that is provided by the States' election assistance commission.

Mr. Chairman, Representative Davis, members of the committee, I stand ready for your questions.

[The prepared statement of Mr. Carey can be found in the Appendix on page 35.]

Mr. WILSON. Thank you very much.

And, Captain.

**STATEMENT OF CPT ANGEL JACKSON-GILLESPIE, USA, 2ND
BRIGADE COMBAT TEAM, 101ST AIRBORNE, FT. CAMPBELL,
KENTUCKY, U.S. ARMY**

Captain JACKSON-GILLESPIE. Chairman Wilson, Ranking Member Davis, and distinguished members of the subcommittee, thank you so much for the opportunity to appear today and to represent the Army and the soldiers of the 101st Airborne Division, "The Screaming Eagles," at this hearing.

My name is Captain Angel Jackson-Gillespie from 526 Brigade Support Battalion. I am an adjunct general corps officer, and I have served on Active Duty for 9 years. I enlisted in 2001 and received my commission as an air defense officer in 2004.

I served initially at Fort Bliss, Texas as an air defense platoon leader, company executive officer, and battalion S-1 in a Patriot air defense unit. I am currently the battalion adjutant for the 526 Brigade Support Battalion 101st Airborne Division. In this position, I am responsible for all personnel actions for a 970-soldier unit with a mission of providing logistical support to an infantry brigade combat team within the 101st.

Currently, I serve as a voting assistance officer. Most recently, I served in this capacity during my unit's deployment to Operation Enduring Freedom from May 2010 to April 2011.

During this time, I provided voting assistance to approximately 600 soldiers spread across a wide area of operations in RC [Regional Command] South, based outside Kandahar City, Afghanistan. I am proud to be able to say that the young soldiers I served with were well-engaged in the voting process, even while deployed in harm's way.

While deployed, we requested and received voting information from the Federal Voting Assistance Program to ensure material was on hand for soldiers in theater. We used the Federal Voting Assistance Program Web site extensively, as it provided all the information we needed to assist soldiers with both registration and absentee ballots.

In addition, we designated primary and alternate company-level voting assistance officers to further assist soldiers with the voting process. I received frequent emails from the Federal Voting Assistance Program on pending elections that I, in turn, disseminated to our company-level voting assistance officers.

To assist our companies, my team and I also used a database to identify soldiers by home of record to notify them of upcoming elections. Additionally, I served as a voting assistance officer in several other positions prior to my current one. Over time I have seen significant improvement in access to voting assistance material.

Thank you again for the chance to represent the Army and my unit by appearing in front of the subcommittee today. I look forward to answering your questions.

Mr. WILSON. Thank you very much for your service.

Mr. Crepes.

**STATEMENT OF DEAN CREPES, DIRECTOR, LEXINGTON
COUNTY COMMISSION OF REGISTRATION AND ELECTIONS**

Mr. CREPES. I am honored to be here, Mr. Chairman. Yes, I am. My name is Dean Crepes. I am the director of voter registration in Lexington County in South Carolina. And also, being a veteran myself, I always have voted. I joined in 1980, and in the Marine Corps to 1980, and I understand the need to provide this opportunity to bases, to all veterans worldwide.

In 1992, the General Assembly passed legislation to allow electronic transmission of ballots in emergency situations only. In 1998, South Carolina participated in voting over the Internet, sponsored by the Department of Defense.

South Carolina was not only the State participating, but the only State that participated on a statewide basis. In 2004, South Carolina was invited and readily accepted an invitation to participate in SERVE, Secure Electronic Registration and Voting Experiment.

And unfortunately, this was cancelled by 2004, but in 2004 HAVA [Help America Vote Act] came onboard then. The ballot request there with HAVA was for a period of two general elections. This requirement made it very difficult for election officials, due to the movement of UOCAVA [Uniformed and Overseas Citizens Absentee Voting Act] voters as much as they do, usually about 2 years at one place.

And in the MOVE, the Military Overseas Voting Empowerment Act of 2009 removed that requirement and basically said we will remove that requirement. Instead annually, beginning 1 January of each year, we will start taking requests for absentee voting for that year. So we have already started taking this year for what we have in 2011 November for our municipal elections.

To apply for a UOCAVA absentee ballot, just simply contact the office. We will direct them, if they are military, to a FPCA, which is a Federal postcard application. If they do not have one or have access to one, we will email one to them and have them fill it out and send it back to us. And upon conclusion of that, then we will file according to elections that that individual is authorized to vote in.

South Carolina has approximately 82,000 voters that are covered by this act. Lexington County had, in 2008, in the presidential election—Lexington County, 89 percent for UOCAVA return rate, and 97 percent for non-UOCAVA.

And in 2010, we had a 91 percent UOCAVA and a 97 percent for UOCAVA, so it is on the increase there. Next year, with the 2012

presidential elections coming around, I expect that number to get even more, and even have more returns from there.

In Lexington County, one individual with one email address is designated a responsible person, too, in this absentee UOCAVA voting process. He has a specific fax and email address for people to get into. So if someone comes into me, I immediately refer it to him. He takes care of all of the contacts needed to be to the UOCAVA voter there. We send out whatever needs to be done to get taking care of the individual there.

Once the voted ballot comes in, it is immediately printed, is placed in an envelope and sealed, and then placed into a ballot box, where it is not touched again until Election Day. And that is where trained individuals, along with appointed election commission members, receive a note, open, duplicate to a hard ballot, which can be read off optically so we can basically get the tally of the votes in the night there.

During the June primaries, which is when we have primaries in our State, we still have a majority vote. We have what we call instant runoff ballot, which is basically any office that, or party for any office that has more than two potential candidates per office, we have an instant runoff ballot, which basically has the choices listed—for example, first choice, second choice, third choice, fourth choice.

That is sent along with the UOCAVA ballot for them to have that. It comes back to us, and we separate those two out when it comes back.

The instructions on how to vote the instant runoff ballot are in there. Therefore, because it takes about approximately 45 days for it to transit with mail, though, if we were to take care of problem at first with the instant runoff ballot, then we know exactly what the first, second, and, third, or fourth choices is for candidates, if there is a runoff.

And then our commission duplicates that onto a hard ballot, which we can actually vote electronically—I mean, count electronically. My apologies there.

In closing, the ultimate goal is to provide instant access to the voter registration. That is the process for UOCAVA voters. And I know this is all UOCAVA voters, but we give the same attention to any voter in Lexington County or South Carolina that wants to vote absentee.

And voters and to some increased success rate for returning ballot percentage is equal to that of the general absentee voting population in this moment. Thank you. I will entertain any questions here also.

[The prepared statement of Mr. Crepes can be found in the Appendix on page 47.]

Mr. WILSON. Thank you very much. And I think it should be noted you are being very humble. The county that you represent is one of the fastest-growing counties in the United States.

Mr. CREPES. Thank you.

Mr. WILSON. And so as you approach issues, they are ever changing and ever getting larger. So, again, appreciate your service.

Mr. CREPES. Yes, sir. They always said the good news is Lexington County is growing. The bad news is Lexington County is growing.

Mr. WILSON. That is it. It is a challenge, and you face it. Thank you very much.

Mrs. Deborah Seiler.

**STATEMENT OF DEBORAH SEILER, SAN DIEGO COUNTY
REGISTRAR, REGISTRAR OF VOTERS**

Mrs. SEILER. Thank you, Chairman Wilson, Ranking Member Davis, and distinguished members of the committee for inviting me here today to testify regarding military voting. I am Deborah Seiler, registrar of voters for the County of San Diego.

San Diego County is the second most populous county in California behind Los Angeles. And its population is greater than that of 21 States. It is home to a very large domestic military population in addition to military personnel stationed abroad. Most prominent installations known are Camp Pendleton and one home of the Navy SEALs out on Coronado Island.

As registrar I am mindful of the unique challenges facing military and overseas voters. Military voters abroad are stationed in remote locations, where mail delivery can be delayed, and they may lack access to news regarding upcoming elections.

The transitory nature of their assignments creates a challenge to register to vote timely and to maintain current address information. Our office has taken a series of steps to help these voters, beginning with the voter registration process.

For the benefit of all voters, including those in the military, we have posted our county-specific voter registration form online for easy access at any time and from any location through the world. The form is interactive and prompts the voter to supply essential information. Because the voter keys in that information, the data we receive is legible and complete, and no follow-up is required with that particular voter.

Our office also works hard to ensure military ballots and election materials are mailed on or before the 45th day before each election. Of course, many military voters do not register or do not update their mailing address until this 45-day mailing occurs. For these late registrants, we send frequent supplemental mailings. And as Election Day approaches, we increase our use of email and fax technology to distribute the ballots.

For example, in October, prior to the November 2008 presidential elections, we received an email from two Navy servicemen stationed in Iraq. The email was sent 25 days before the election, and the servicemen had not received their ballots, because they had not supplied us with their mailing address in Iraq, so the ballots went to San Diego.

Staff emailed a second ballot to each of the two men, who both voted their ballots, scanned them, and returned them to us by email as a PDF document. They had no fax capability where they were deployed.

Following that election, we were informed that the Secretary of State interprets California law to permit voted ballots to be returned by fax, but not by email, and we had to discontinue this

process. California election officials are concerned with this law, because fax technology has become increasingly obsolete, yet email is prevalent.

Nineteen States permit voter ballots to be returned by email, and California elections officials support legislation this year to permit this for our voters as well. The legislation was not approved, unfortunately, due to security concerns, and it is our opinion that these concerns are no greater for email technology than for fax technology.

We have no evidence of any actual abuse, and we will continue to advocate for this technology for our military voters stationed abroad. My testimony contains additional information, examples of our service and other recommendations.

I am happy to answer any questions from the committee.

[The prepared statement of Mrs. Seiler can be found in the Appendix on page 54.]

Mr. WILSON. Thank you very much.

And thank all of you. The procedure we will be going through now is a questioning for a 5-minute period by each member who is here. We are very fortunate that Jeanette James has volunteered to keep the time to keep us within our limit.

Beginning first, I want to defer immediately to Congressman Allen West of Florida. We are very proud that at 2:30 he has been selected to be the speaker pro tempore on the House floor.

Mr. WEST. That is because everyone has flown out of here already.

Mr. WILSON. This is a high honor that a retired colonel from the Army should deserve, so I defer to Colonel West.

Mr. WEST. Yes. It is called being the low man on the duty roster.

Thank you, Mr. Chairman and also ranking member.

And thank you to the panel for being here. And as some of you know, I spent about 22 years Active Duty service in the United States military, so this is very important for me, for the friends of mine that are still out there, to include my young nephew.

So, I have three short questions. The first question is, the Overseas Vote Foundation recently released its report from the 2010 election. One of the problems I see here is that 5,257 military and overseas voters completed that survey, but only 107, 3 percent of the respondents, were military.

Is there any means or is there any thought about coming back and reconducting a survey in this year, or maybe something leading up to the 2012 election cycle, which maybe we can get an even better snapshot, as far as military respondents?

Mr. CAREY. Mr. West, if I may. The Federal Voting Assistance Program actually conducts a statistically random sample survey of all military personnel. And we have done that in 2006, 2008, 2010 and will continue to do that every 2 years.

Mr. WEST. Okay.

Mr. CAREY. And that uses the status of forces survey methodology.

This year we also initiated a survey of military spouses to see what their voting behavior is like. We are trying to figure out how to best be able to do one for overseas civilians, but we don't know what the total number of overseas civilians is in the first place, As

well as doing, you know, Department of State voting assistance offices, military voting assistance offices and the local election officials.

Mr. WEST. Okay. All right. Thank you.

The next question, the MOVE Act said it would eliminate notarization requirements, but the report found that there were still many States where absentee ballots requested such notarization signatures. If you could provide back to this committee the States that maybe still made that a requirement in 2010, because that is something that the MOVE Act said we would get away from.

But if there are still States out there requiring that, that is a violation of the MOVE Act. So if you could get that back to the committee, I would be very appreciative.

[The information referred to can be found in the Appendix on page 89.]

Mr. CAREY. I will get that for the record, sir.

Mr. WEST. Thank you. And last question, I spent 2½ years in Kandahar, so I know it very well. I appreciate your service there. And, of course, you understand the very remote nature of some of those forward operating bases we have.

As a matter of fact, 3 weeks ago I visited a village stabilization platform. You know, now we are starting to push out our special operators into some very remote areas.

When I look down and see that we are requiring 45 days—I mean the ballot has to be mailed 45 days out—when you think of some of these places where we have our special operators especially, but also now we are starting to use conventional forces in these areas, you take into account weather effects—you know, sandstorms—you take into account the breakdown of aircraft, because we don't want people out doing many long logistical role type of convoys.

Do you think, Captain Jackson-Gillespie that—looking at Tarin Kowt, Spin Boldak, some of those places—that 45 days from it being mailed here overseas is adequate enough time? Do we think we may need to extend that based upon some of these remote locations?

Captain JACKSON-GILLESPIE. Sir, I do believe 45 days would be enough time. It takes about 2 weeks for mail to get into theater and down to the FOBs [forward operating bases] where we are, and we immediately push mail out to those outlying COBs [contingency operating bases] and FOBs, sir. So I do believe 45 days would probably be substantial.

However, if they are standing up, you know, further out, any time you stand up a new unit, it is going to take time to establish a system to get mail and communications out to those FOBs and COBs. So once established, I think it is enough time, sir.

Mr. WEST. Okay. And final question, you know, any good commander before they go into a military operation, they do a rehearsal. Is there a possibility that before we get into the next major general election cycle in 2012, we may just look to do a snapshot rehearsal of this voting procedure to see if there are any, you know, possibility of, you know, glitches, obstacles, loopholes, so that we can have lessons learned, we can apply them by the time we get to November 2012?

Mr. CAREY. We will definitely look into that, sir. I think it would be something we could definitely try to see if it is possible.

Mr. WEST. Okay.

Thank you, Mr. Chairman. I yield back.

Mr. WILSON. Thank you, Colonel.

And at this time we proceed with Mrs. Susan Davis of California.

Mrs. DAVIS. Thank you, Mr. Chairman.

And if I could start with you, Mr. Carey, we all know how critical this is, certainly for those who have sacrificed so much for our country to make sure that this works well.

And we know that there certainly were some glitches. But I also know that we tried to put this on a pretty short timeframe from the time it was enacted to the time everybody had to move forward with the 2010 election, which, as I understand it, ordinarily if we have to make a major change, we have about 2 years to do that.

So I wonder if you would address some of the concerns that people have and if you think that these were just some one-time issues, as people were adjusting to changes in the regulations that the MOVE Act required, or what of those problems are we likely to see again?

What is perhaps systemic in that, that would be a problem? And I know you talked about the unit level and how important that was.

Mr. CAREY. Yes, ma'am. For the installation voting assistance office program, the continuing resolution continuing through April was problematic in that it prohibited new starts and made it difficult for the Services to be able to start up the program.

And we are essentially, making these programs out of whole cloth at the installation level when, in fact, for a long time we have been doing it at the unit level.

The other issue is that the change of duty station process is migrating from the installation level to the unit level, supported by online applications. Whereas before you would go to the readiness support group or the joint administrative center or the personnel support detachment and talk to the pay folks and the medical folks, now you are doing that all at the unit level.

And I am concerned that we are going to leave an orphaned voting assistance program at the installation level. And, frankly, it is going to be very difficult for people to understand why they have to leave their unit, go to the installation, when they can just talk to the unit voting assistance officer and get it that much quicker.

So that is probably one of the big concerns about this. I mean, the Services are trying to move heaven and earth to make this happen as soon as possible, but given the hiring freezes, the civilian personnel cuts, it is difficult to just turn this on.

Mrs. DAVIS. Well, thank you. And so those are some things that we should be anticipating or could be problematic.

Mr. CAREY. Well, I think that, approximately 80 percent of all the installation voting assistance offices are now established. The Marine Corps says that they will have all 18 of theirs up and running by August 11th, and I believe that the Air Force will have all theirs up and running by the end of the fiscal year. That will complete all the Services.

Mrs. DAVIS. So—

Mr. CAREY. So I think that we will have a much better ability. But there is still the issue of, might we be able to spend these resources better, if we focus it at the unit level and allow it to be a little more tailored?

Mrs. DAVIS. Yes. Thank you I appreciate that. And certainly it seems to me that there is also an education issue here as well, encouraging and making sure that service members are voting, that they know that actually there is a lot of assistance out there for them. And we want to make sure that they know that. Thank you.

Mr. CAREY. Yes, ma'am.

Mrs. DAVIS. I wanted to turn to Mrs. Seiler just to look at some of the ways in which, I think, we can actually make this better for our military and overseas voters and to enable them to be able to track their ballots, which is an issue that we certainly have been involved in.

And I wonder if you could tell us how tracking is working and how you might think this might serve the military voter?

Mrs. SEILER. Well, thank you.

Mrs. DAVIS. And maybe you can explain for me what that means first.

Mrs. SEILER. Okay.

Mrs. DAVIS. Thank you.

Mrs. SEILER. Let me just tell you that in our office in 2008, we implemented the ballot tracking system, both, actually, for ballots as well as for voter registrations.

So currently any voter from any location throughout the world can log into our Web site. They can determine what their voter registration status is. They can determine their political party. They simply have to enter their birth date, their home address, and their Zip Code, and they can figure out if they are registered to vote.

We have had about 350,000 hits on that site since we implemented it in 2008, so it is working very well.

In addition to tracking the voter registration status, of course, voters can track to determine whether their mail ballot has been issued and whether it has been returned.

For example, in the 1-month, the 29-day period prior to the November 2010 election we just had, we had about 156,000 people access that site. So we have had tremendous success with our ballot tracking program.

Mrs. DAVIS. And we are acknowledging that is something that certainly Californians can do that. They can track their ballots. But individuals in other States cannot at this time. So we are really learning from the military and I appreciate that. Thank you.

Mr. WILSON. Thank you very much.

And we now proceed to Mr. Coffman, of Colorado.

Mr. COFFMAN. Thank you, Mr. Chairman.

First of all, Mr. Carey, if we accept your assertion that recent reports are skewed as to military voting participation and participation rates were not worse in 2010 compared to 2006, it still doesn't appear as if the situation has significantly improved.

And with the 2012 election cycle starting in a mere 6 months, I don't see us on track to see increases next year either. What will be improved between 2012 and 2010?

Mr. CAREY. Thank you Mr. Coffman. I would say, first, there was a substantial improvement between 2006 and 2010.

The 2006 voter participation rate from the Active Duty military survey showed a 22- to 24-percent voter participation rate. And in 2010, we are showing approximately a 29-percent voter participation rate. Now, that is about a 20- to 30-percent increase. And the regular voter participation rate for the general population was only about 41 percent.

Now about half the military, 60 percent of the military is under 29, but only about 20 percent of the general population is. And voter participation rates for the younger voters are much lower. So when we do that age and gender adjustment, the military voter participation rate has—in 2008 and it appears to be in 2010; we are still finalizing those numbers—appears to exceed that of the general population.

The one cohort, the one age cohort we are having problem is in the 18- to 24-year-olds, with which we identified in the 2008 post-election report. And so we are trying to expand that ability to reach out to the 18- to 24-year-olds, as well to the military spouses.

We have a \$16.2 million program that just closed out, grant program to the States to be able to deploy even more online ballot delivery systems that we can then direct the voter to through our on-line portal.

And then we are also working with the military postal system in order to be able to improve even more upon their 5.2-day ballot return average time, in order to be able to try to improve those rates, sir.

Mr. COFFMAN. Let me just say as someone who served in Iraq with the United States Marine Corps and was not able to vote in my own State's election in 2005, I take this issue pretty seriously.

And let me just say this as well, that I think comparing the young men and women to the same age demographic of their civilian counterparts is a real, I think, understatement as to really the quality of our men and women in the military. I mean, according to the U.S. Army, 70 percent of young people today are ineligible to enlist in the U.S. Army. So I think probably you might reexamine that.

To the voting assistance officer, Captain, in your experience would military voters be willing to sacrifice the privacy of secrecy of their ballots in order to return the ballots by fax or email, rather than through the postal system?

Captain JACKSON-GILLESPIE. Sir, I can't speak for all military personnel. I think of those who are going to vote and are willing to vote, they would probably have their vote counted whichever way they can. And especially in a deployed environment, they would probably use those tools by email, if they could.

So can't speak for all, but I know I would, sir.

Mr. COFFMAN. Thank you.

And let me ask a question to the election officers, to both of you. Do you send the absentee ballots by military voters separately? Or are they sent in the same way as regular absentee ballots?

I know that certain States—and this has been problematic for certain States—given their schedule for primary elections and stuff

like that, they differ. But I know Colorado had difficulty complying with the requirement.

Mrs. SEILER. Thank you, sir. In San Diego County, we have for many years been sending our military ballots at 45 days before the election to those voters in combat zones. We had worked this out with our U.S. Postal Service representatives. We worked very closely with them, and they had advised us that 45 days was a good target date for people in combat zones.

Then we were mailing at 39 days for those people in non-combat zones. With the MOVE Act, we have changed that now so that all of those military and overseas ballots go out at 45 days for all elections. And this is not simply for the Federal elections, but we try to meet that target for every election.

Mr. COFFMAN. Okay.

Mr. CREPES. Yes, sir. We have two ways, and we do email or fax ballots after they have been qualified for an election. Now, we do have a cover sheet that goes along with it they have to sign, letting them know they understand that this is done by maybe unsecured means of transmitting the ballot.

But when the ballot comes back to us, it is immediately printed and stuffed in an envelope, and then put in a ballot box, and immediately taken off of the computer that the person received it in, and then put onto a separate file.

Also, the other one, we have an envelope here that is a red envelope, that is a sort of an attention-getter to the U.S. Mail to "This is a UOCAVA ballot; make it happen pretty quick." And 45 days has been adequate with us there, sir.

Mr. COFFMAN. Thank you, Mr. Chairman. I yield back.

Mr. WILSON. Thank you very much.

And we proceed with Dr. Heck, of Nevada.

Dr. HECK. Thank you, Mr. Chairman.

The first question I have is what kind of recommendations would you make to strengthen the safeguards put in place by UOCAVA and the MOVE Act, because I am looking at the report from the Overseas Vote Foundation for the 2010 election results, and they still report that 33 percent of military and overseas voters reported attempting to vote, but were unable to, because they didn't receive their ballot or they received it too late.

And so we have heard that 45 days is enough, but 33 percent attempted, but didn't get it in time or didn't get it back in time. And while that represented a decrease from 50 percent for 2008, I think we would all agree that 33 percent is still unacceptable for our overseas voters.

In addition, I find it odd that they said that those who used electronic means to request a ballot were less likely to receive a ballot than those who did not, and that although the MOVE Act eliminated requirements for notarization, some States continue to require that.

So what would the recommendations be from those of you on the panel to strengthen these safeguards to make sure that everybody gets their ballot in time and can return it in time and make the process easier?

Mrs. SEILER. Okay. Thank you, sir.

One of the recommendations that we would like to offer, if it were possible, would be to ensure in some manner that we have current, up-to-date mailing address information. As I said in my testimony, for those voters who are registered with us and have up-to-date mailing information, we can send that mailing out at 45 days. It is highly effective.

It is those personnel whose address has changed and we don't know about it until after that 45-day mailing that, I think, are really what is creating the issue for us, and for the voter. And, in those cases, we do. We send our supplemental mailings. We send ballots by email, by fax, however we can get the ballot to them. But the time is shortened.

If there was some semi-automatic way that we could be informed, maybe if we had access to a database that the military services provided, so that we could match our database against a database provided by the military that indicates movement, so we could capture that at, say, 55 days before the election, we would have those updated addresses ready to go for that 45-day mailing. I think that would be a huge benefit to us and to the voters.

Dr. HECK. Anybody with any other recommendations?

Mr. CAREY. Sir, to follow up on that, we have a system in place to be able to try to provide updated addresses. The problem is that—I believe it is 10 USC Section 123 prohibits the Department from releasing the mailing address of military personnel assigned to a deployable unit. And so that limits our ability to be able to—and I am not exactly sure of that title and section. I know it is 10 USC, but I think it is Section 123.

And so that might be something that needs reconsideration. We are working with the Defense Manpower Data Center to see if we can actually open up the DEERS [Defense Enrollment Eligibility Reporting System] or the DEEDS [Data Elements for Emergency Department Systems] database to State election officials, and maybe the adjutants general, to be able to provide some method of address verification as well.

Dr. HECK. I guess, then, that would kind of bring me to my second question to the captain, being a voting assistance officer. What kind of outreach, specifically, let us say, the Army—what are you doing to make sure that those that are deployed know that you are there and know—I mean, I am sure if they don't know that they have to get their address updated or whatever, you know, before 45 days, so you have 45 days to turn it around, it makes it more difficult.

I know that when I was deployed to Iraq, there was a poster on the wall that said if you have any questions, you know, here is your VAO [voting assistance officer]. But that was it. I mean, I never met the VAO. I knew nothing about it. And I had to go seek the VAO out. So what kind of proactive outreach are we trying to do?

Captain JACKSON-GILLESPIE. Thank you, sir. At my level, we have voting assistance officers at the battalion and each of the company levels. We receive information from the Federal Voting Assistance Program, and we push that information down to the company level.

We also get the posters off of the Federal Voting Assistance Program Web site. We hang them up. But we can't force soldiers to come into our office. I can't force a soldier to go in and see his voting assistance officer. We make it known who we are, where we are, and it is on the soldier to come in and talk to us, sir.

Dr. HECK. All right.

Captain JACKSON-GILLESPIE. We will provide them with whatever assistance they need. If they need to know when an election is happening, we will give them that, how to request a ballot, how to register to vote. We get all of that information from the Federal Voting Assistance Program Web site, and we pass it on to the soldier and allow them to use our computer, sir.

Dr. HECK. Is it a passive process, or is it active? Are you out there holding briefings or, you know, telling folks you are there, because I am sure that the folks that are deployed at the COBs and FOBs have a lot of other things on their mind than coming to seek you out.

Captain JACKSON-GILLESPIE. Yes, sir. We are out there as much as we can be. We are out at COBs and FOBs, and we can have soldiers from anywhere from three to five to seven different COBs at one time.

And soldiers may be out, and then they come back in. But we are out there as much as we can be, sir. We let them know who we are. We push information out to the units that those soldiers are assigned or attached to.

And every battalion has voting assistance offices. So whatever battalion they are attached to, they can go and see another voting assistance officer. It doesn't have to be the one in their own unit.

Dr. HECK. All right. Thank you very much.

Thank you, Mr. Chair. I yield back.

Mr. WILSON. Thank you very much.

And we will proceed now to Mrs. Hartzler, of Missouri.

Mrs. HARTZLER. Thank you, Mr. Chairman.

This is such an important hearing. Last year, as I went through my district—I have Fort Leonard Wood and Whiteman Air Force Base—I can tell you, at almost every town hall that we had, this issue came up. And the outrage and frustration of people that the thought that we have men and women in harm's way, putting their life on the line and then not being able to vote, is just abominable.

And so I am so glad we are having this hearing, and I appreciate your efforts to try to make sure that they have a right to vote.

But I wanted follow up on—I was, too, like Dr. Heck, was concerned about this report that one out of three soldiers reported that they wanted to vote, but failed to do so because they didn't receive a ballot or because the ballot was too late. That is just shocking, and it is unacceptable.

And I wanted to just clarify again, what are the reasons that one out of three soldiers who wanted to vote couldn't. What are the problems? You mentioned the addresses. But, Mr. Carey, what other problems are there that could cause that?

Mr. CAREY. Well, we had problems also with ballots getting out late, past the deadline. A case in point, New York was granted a waiver, because they had a very aggressive ballot delivery process in place, and they even missed that deadline. And that was 50,000

ballots that were delivered 7 to 12 days after the waiver deadline that they were given. And then, Illinois had a number of problems as well. That was about 4,000 ballots.

Another part of this—but I go back to being able to post these ballots online. The issue about posting the ballots online is that you don't have to wait for your ballot to arrive by mail. You can go online. You can download it, and you can print it out, and you can vote it.

Now granted, there are going to be people that are going to, you know, not have that online access. And we are working with the MWR [morale, welfare, and recreation] cafes. There are 1,000 MWR Internet cafes in Iraq and Afghanistan, and 135 of these mobile ones.

We are working with them in order to be able to try to put the widgets on those desktops in order to be able to provide an easy access, as well as printers, in order to be able to see if they can actually get this printed out. But that to me represents the long-term solution.

Mrs. HARTZLER. Sounds good.

Mrs. Seiler, you mentioned you are advocating for the email versus the fax, because there aren't many fax machines, and you mentioned online. So what is the difference here? With an email, would it be scanned? I assume you would scan it and then email it?

Mrs. SEILER. That is correct. And that is what these voters did. They scanned those voted ballots, and they emailed them back to us. And then they have the same privacy protections, or attempted privacy protections.

Obviously, it is a hard copy ballot coming in. But we make every effort, as does my colleague, to make sure that that is—once the signature is verified, the ballot is separated. And then it is duplicated onto a ballot, once it is separated from its cover sheet. So we make every effort to really preserve the privacy of the voter to the greatest extent possible.

Mrs. HARTZLER. So to be able to do the email voting, you would have to change laws? Is that what you are saying?

Mrs. SEILER. California's law would have to be changed.

Mrs. HARTZLER. Oh, California's law.

Mrs. SEILER. So that is what we are seeking. The laws vary from State to State on this, apparently. And our group of election officials in California is supporting legislation to allow us to accept those email ballots.

Now, this is on the return side. We are able to email the ballots out, so that is not an issue. If we get very close to an election—

Mrs. HARTZLER. Right, right.

Mrs. SEILER [continuing]. Somebody calls from Iraq, we can email that ballot to them.

Mrs. HARTZLER. Okay.

Go back to the States, Mr. Carey. I know I had heard as well that there are certain States, due to the primaries and other issues, that were kind of the hold-up in this. What can be done, or what needs to be done within these States, to help get them out? Do they need to change their primary dates, or do we need to change—what do we need to do here?

Mr. CAREY. Most States are responding by changing their primaries. Some States with late primaries also have very quick canvassing and election result turnarounds, and so they are able to actually get the ballots out 45 days prior, even with late primaries.

But for most States, they have more extensive post-election canvassing requirements, and so it requires them to, if they are going to be able to get the ballots out 45 days prior, most States are saying they have to change their primary date.

Mrs. HARTZLER. Have any of them done that yet?

Mr. CAREY. Yes, ma'am, a number have, including a number that were granted a waiver in the 2010 cycle. So they probably won't be needing another late primary election waiver.

Mrs. HARTZLER. Okay. Very good.

Well, thank you for your efforts. Keep it up, and please continue to do everything possible to make sure that our soldiers' vote counts, because they are the reason we are able to vote and have freedoms.

Thank you.

Mr. WILSON. Thank you very much, Mrs. Hartzler, for your leadership on this issue.

It is now my turn. And I, again, I am just so grateful for all of you being here today. You really are giving us great information. I would also like to point out that this week we received a report, "Military Voting in 2010: A Step Forward, But a Long Way To Go," by Eric Eversole. This is by the Military Voter Protection Project. We will be providing this to all the committee members.

It is a study published by the Military Family United's Military Voter Protection Project and the AMVETS [American Veterans] Legal Clinic at the Chapman University's School of Law. And at this time, I would like to move unanimous consent that it be included in our record.

[The information referred to can be found in the Appendix on page 69.]

Mr. WILSON. Hearing no objection, it is included.

I would like to reference part of this report, and that is the fact that it was also in an article by J. Christian Adams in the *Examiner*—*The Washington Examiner*—that, sadly, 14 States and the District of Columbia failed to comply with the 45-day standard. As a former election commissioner, that really startled me. I can remember in the campaign, hearing over and over again where States did not comply with the 45 days.

But I would like to hear how it was done. And so, Mr. Crepes, how was the 45-day preparation of the ballot achieved in Lexington County?

Mr. CREPES. Thank you, Mr. Chairman.

Well, the 45 days—we are one of the larger counties in South Carolina. There are about 10 large counties, and we are number four or five. It depends on which way you hold your head when you are counting on the day there. We are one of the ones that get our ballot styles up and checked and authorized first, and so we are able to get out to 45 days.

But there is no county in South Carolina does not meet the 45-day deadline. If you do, we have to answer to a lot of people, and we don't want to do that. Last election we were 55 days in Lex-

ington County getting the ballots mailed out, so we don't have problem at all with the 45 days there.

Mr. Carey, if I may back up for a moment, we were talking about having the vote go online and view his or her ballot style online there. The problem with that in Lexington County and some of the other larger counties, we have 70 to 110 different ballot styles in some of our counties because of school boards, et cetera, we have on our ballots.

We would still have to come up with some sort of electronic way to match that person through the system to a specific ballot, because we can have one person on one street corner, and his neighbor next door would be on a totally different ballot style. And I have had a lot of problems with that, calling and saying, "Well, so-and-so voted this way."

That is something I think we ought to look into with the ballot style, that you would be able to view them online and possibly even vote online.

Mr. WILSON. And, Mrs. Seiler, how did you address that in San Diego?

Mrs. SEILER. Thank you, Mr. Chairman.

We addressed this by our filing period ends 88 days before the election. Very often there is an extension. We, too, have hundreds.

We have up to 600 different ballot styles, but we work very closely with our printer, so we have—it is a tight deadline for us, but we are working constantly with our printers to make sure that our ballot layouts are sent to them, and that they are ready to go and that everybody who is on our military and overseas file as of the 54th day is in that 45-day mailing.

So it is really just a process that we have honed by working with our suppliers.

Mr. WILSON. Well, I am really impressed by both of your positive attitude, because it would be easy to point out that you have split precincts, you have referendums, you have municipal elections, you have incorporations, you have annexations. And that you didn't complain, I am impressed.

At the same time, Mr. Carey, you have also been working with local election commissions in regard to the 45 days. What kind of advice have you given them?

Mr. CAREY. If they have compliance problems, we have offered to help them as much as possible. We were actually able to find some unique solutions to some States who were having concerns about not being able to get the ballots out 45 days prior. And we were able to examine their requirements and actually recommend some unique solutions that allowed a lot of them to get the ballot out on time.

The biggest thing is going back to the online system. For our 17 States we were able to have precinct-level ballots that were down to the individual precinct, delivered to the voter online—statewide systems for \$65,000 to \$75,000. So that represents to us a real good opportunity in order to be able to reduce the burden of filling absentee ballots and stuffing the ballots and getting them sent out.

Mr. WILSON. And as an indication of how important what you are saying and how important this is to the American people, we will have a second round and begin with Mrs. Susan Davis.

Mrs. DAVIS. Thank you, Mr. Chairman.

I think it is clear from a lot of the comments that you have made, in many ways the MOVE Act is leading the way and doing some things that perhaps are not being done in States. And one of the things that was actually eliminated is the notary signature. And I understand, neither Mr. Crepes nor Mrs. Seiler, you have that requirement in your State.

But is that a problem, do you think? Have you seen any reason why that was perhaps not something that should have been part of the MOVE Act? How would our soldiers have found those notaries in the field?

Mr. CREPES. Well, actually, it is not a notary for us. It is just a witness signature. It has been eliminated from the UOCAVA requirements on our ballots there. That is how we can email them back and forth. But it is not eliminated for the average citizen in the county there.

Mrs. DAVIS. Is there something we can learn from that, Mrs. Seiler?

Mrs. SEILER. California has not had a notary requirement for mail ballots, to my knowledge. We have had a requirement back in the late 1970s that people had to supply a reason. And that was eliminated in 1979. And we have had complete no-excuse absentee voting since that time.

And I think that what we learned from that is that voters love it. And it has really—we have been promoting a permanent vote-by-mail for our domestic military, as well as our overall population of voters. And we have seen our turnout really rise above the state-wide average and above that of all of our neighbors in Southern California.

Mrs. DAVIS. As we think about electronic voting in the future, too, is there any reason that people should be concerned about some of the fraud issues that are raised often when it comes to absentee voting?

Mrs. SEILER. In San Diego County, we check every single return envelope that arrives in our office. And we actually compare the signature on that envelope with the signature that we have on file. So we believe that the process is very fair, very precise, very clean. And we do not believe that we have evidence of any kind of widespread fraud in our mail ballot voting.

Mr. CAREY. Representative Davis, on the notary issue, the law actually says that the State cannot reject a ballot for not having a notary. The MOVE Act doesn't say that the State can't ask for a notary. And we can't compel the States to take that off their books or take that off their ballots. So that might be something if you are looking at, you know, how that issue could be addressed, that might be one of those aspects.

As far as the Federal Voting Assistance Program right now, we are not participating, we don't have programs right now for the electronic return of a voted ballot. You know, we are not doing an Internet voting program, although there was voting over the Internet in 2000 or the SERVE [Secure Electronic Registration and Voting Experiment] Project in 2004.

There is a requirement in the National Defense Authorization Act of 2002 and 2005 that the Department field an electronic ab-

sentee voting demonstration project where military voters can cast their ballots in a Federal election. And it allows us to wait until the Election Assistance Commission has developed guidelines.

We are working very closely the Election Assistance Commission and the National Institutes of Standards and Technologies to develop that, but that is a requirement on the Department of Defense to eventually be working towards fielding an Internet voting system.

Mrs. DAVIS. And as far as you know, from what you have seen to this date, are there any issues that would jump out at you, that you think would need to be addressed at that time?

Mr. CAREY. We are exploring a lot of those issues. I mean, we are not at the point where we believe that we can reliably deploy an Internet voting system by the Department of Defense.

There is benefit in the diversity of the election system that we have right now. With 7,800 election jurisdictions, being able to attack any one jurisdiction's election system will have a lot less effect than attacking, let us say, a centralized DOD system. So that, in and of itself, provides a lot of security, I think, that needs to be weighed in any of those analyses.

Mrs. DAVIS. Thank you.

And if I could, quickly, Captain Jackson-Gillespie, I am sure that from where you sit, you would love to see everyone out in the field—FOBs, everyone included—be serious and interested in voting. But that probably isn't a reality that you deal with every day.

Is there anything that you think could be done to encourage even more than what you are doing in the outreach that would change the statistics? Or is it really that people are very, very focused on the job at hand, and they are just not as engaged in it, because they are away from their communities?

Captain JACKSON-GILLESPIE. Thank you, ma'am.

I do believe that once you are in-theater, you are very focused on your mission at hand. I mean, that is your priority while you are there. I can't say that there are those that wanted to and couldn't vote, because I don't know.

I do know we assist where we can. And in my unit, we have also—or units that I have been in—we would incorporate voting assistance with other things that we had going on, like a personal asset inventory, where we account for everybody. And at that time, where they are signing their name saying, "Hey, I am present and accounted for," "Hey, have you registered to vote? Do you have—do you need any assistance with registering to vote?"

So we would possibly incorporate it with something else. But we do what we can to help everybody out. And I think those who really want to vote, we are able to help them.

Mrs. DAVIS. Thanks very much. Thanks for what you do.

Mr. WILSON. Thank you very much, Mrs. Davis.

And we now proceed to Mr. Coffman.

Mr. COFFMAN. Thank you, Mr. Chairman.

First of all, let me just say for the record that I, along with many Americans, are not supportive of Internet voting and am, in fact, deeply opposed to it. And I understand scanning documents and then emailing them, where you have a hard copy, which is a voted

ballot, I certainly understand that, but, obviously, concerned when it goes beyond that.

Let me just say this. In the State of Colorado, election law is that we don't have same-day registration. So if somebody shows up to the polls, and they are not shown as registered to vote in the poll book, then they are handed a provisional ballot. And they vote that provisional ballot, and that ballot is kept separate.

And then the respective county clerks then vet that ballot to make sure that that person had the legal right to cast that ballot. And so, actually, the election isn't closed out and I think the county clerks have a couple weeks to do that. So the election isn't closed out for a couple weeks.

But if a military ballot arrives 1 minute after 7:00 p.m. on the Tuesday of the election, it doesn't count.

And so has there ever been consideration, absent the focus on Internet voting, for those ballots that come—having a standard across the country, just as we have the 45-day standard, that if the ballot is shown to be having been mailed from the overseas duty station prior to the election, that in fact that ballot be counted in the same way that a provisional ballot be counted?

Mr. CAREY. The Department of Defense recommends to the States that they allow up to 15 days after the election for the ballots to be returned, so long as they are voted by Election Day. And a number of States have that, or better. But many States also require the ballot to be returned on Election Day.

Mr. COFFMAN. Okay.

And let me just say having served in a forward operating base in a fairly remote area on the western side of Iraq, the mail system was abysmal—I mean, just actually abysmal by the time it got to us or by the time it got out, as well as we didn't have fax machines or—there was very little connectivity out there.

So I think that that is something that we ought to look at in terms of having a uniform standard, just as we have now on the registration system. And I think also on—I understand that there were a number of States that were not in compliance with the act in the last election cycle for a variety of reasons, but just say the 45-day requirement.

What, I mean, were actions taken by the Justice—some States applied for waivers but I don't think any waivers were granted, it is my understanding. Maybe you can respond to that?

Mr. CAREY. There were 12 original applications. One State withdrew. Of the remaining 11, six were denied, five were granted.

Mr. COFFMAN. Oh, five were granted?

Mr. CAREY. And of the five that were granted, one failed to comply. I personally called up the election officials to tell them what their status was. The Department of Justice was with me on the calls to the States that were being denied waivers.

And the Department told them immediately that the assistant attorney general was authorized enforcement action and they would like to enter into negotiations at that point with the State in order to be able to figure out the best resolution.

Mr. COFFMAN. Was action taken, though? I mean I don't see where formal action was taken by the Justice Department, as it

would occur on another voting rights issue. Did the Justice Department take formal action and sanction any of these States?

Mr. CAREY. Yes, sir. In all 14 of these States, the Department of Justice either took onboard, I believe—I don't know the exact terminology; I would have to ask the Department of Justice. The States took effective action themselves and the Department accepted that. Or they actually went to Federal court and either got consent decrees or got a Federal decree from that Federal court. But in all these cases, action was taken by the Department of Justice.

Mr. COFFMAN. Thank you, Mr. Chairman.

And for the record I am wondering if you could get back—if we could have a summary of that action that was taken by noncomplying States.

[The information referred to can be found in the Appendix on page 89.]

Mr. CAREY. Yes, sir.

Mr. COFFMAN. Thank you Mr. Chairman. I yield back.

Mr. WILSON. Thank you, Mr. Coffman. And I, again, remain really impressed at the positive attitude of our registrars, because I do know the challenges you face. And one that has been mentioned, I would like to know how each of you, Mr. Crepes, Mrs. Seiler—how do you address maintaining current addresses, particularly the military because of their deployment, their travel.

How in the world do you keep their address current and in good faith make every effort and also even prior to that, keeping their registration current? And so, Mr. Crepes and then Mrs. Seiler, if you all would tell us, how do you work with young people and their family members, too—the military families—on registration and maintaining current addresses?

Mr. CREPES. Well, we try basically to reach out to them as much as we possibly can. I go to talk to several high schools locally, which basically graduates these young adults that are heading into the military, then, and explain to them what the situation is and why they need to basically keep it updated, if they are wanting to vote.

As far as if someone is deployed and sends something to us, we inform them through email to please keep your addresses updated, et cetera, with us so that we can make sure if there is any election that you need to vote in in the future, we can get you from there.

And if there are local family members in the county from a reservist that is activated, the family members are contacted to basically try to keep the addresses updated, because they will have the most recent address of their deployed father or child or whatever—father, child, son, daughter, whoever it may be that is in the forward bases.

But primarily it is through education with the high schools there.

Mr. WILSON. Thank you.

And Mrs. Seiler.

Mrs. SEILER. Thank you Mr. Chairman. Yes, we have a couple of tools. I don't know that any are perfect. As I mentioned earlier, it would really be nice to have some sort of automatic database that we could run up against. But we do have our tracking system, which allows the voters to track their registration.

They can track the address that we have on file for them, and so forth. So that is one avenue. We work with the bases. Our staff work with the bases at some of the major military installations to make sure that they have information, voter registration forms and so forth.

We have our own voter form online, which actually serves as a permanent voter registration, and as we send out any information to the voter, if that comes back as undeliverable and we get updated information, we update the voter's record and then send them a notice that we have updated their record.

And finally, we have noticed that with the MOVE Act, the voting assistance officers have been, at least in our county, they have been more diligent around January of each year, urging the service personnel to reregister to vote or to let us know of any address changes.

Mr. WILSON. Well, thank you again. And it has really been inspiring, this hearing.

And, Captain Jackson-Gillespie, thank you for your enthusiasm and service in Afghanistan.

And, Mr. Carey, we look forward to working with you for any changes.

And, again, I know personally the great work of Mr. Crepes and his commission.

And, Mrs. Seiler, it is great to see you again. I am really honored. I had the privilege of serving with Mrs. Seiler as an election observer in Bulgaria in June 1990. And she and I have both seen the success of free and democratic elections where a country has evolved from, the day we arrived there, a totalitarian State, to be a free market democracy and a great ally today of the United States.

And that is where elections can make such a difference in the United States and around the world.

If there are no further questions, we shall be adjourned. Thank you.

[Whereupon, at 2:47 p.m., the subcommittee was adjourned.]

A P P E N D I X

JULY 15, 2011

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

JULY 15, 2011

Statement of Chairman Joe Wilson
Subcommittee on Military Personnel
Military Voting Hearing
July 15, 2011

Today the Subcommittee meets to hear testimony on military and overseas voting from the Department of Defense, local election officials and a military officer who was a Voting Assistance Officer while deployed to Afghanistan during the 2010 election. Our witnesses have traveled a long distance to help us understand how members of the Armed Forces and their families along with U.S. civilians living and working outside of the United States are afforded the opportunity to exercise their right to vote. I want to welcome our witnesses and I look forward to their testimony.

Voting is a fundamental and essential part of the democratic process. It is both our right and our duty as citizens of a democracy to set the direction of the Nation by selecting the individuals who will represent us at each level of government. This responsibility remains with us regardless of where we choose to live and work or, as in the case of our service members, where they are sent to defend our freedom.

For many years Congress has been concerned about military and overseas voters who have told us about the difficulties they face when they try to cast their ballots. Registering to vote, receiving a ballot by mail and returning the ballot by mail in time for the vote to count in an election when the voter is not physically located in the U.S. is challenging at best. One can only imagine the difficulty trying to accomplish that same process when the voter is at a remote outpost in Afghanistan fighting a war.

Yet, these are the very individuals who, through their military service, protect our right to vote.

Congress has worked hard over the last several years to ensure that the men and women assigned overseas on behalf of our country do not lose their ability to vote as a result of their service. A number of federal laws have been enacted to enable the military and U.S. citizens abroad to vote in federal elections.

Most recently, Congress enacted the Military and Overseas Voter Empowerment (MOVE) Act as part of the National Defense Authorization Act for Fiscal Year 2010. The MOVE Act required the Department of Defense to make several changes to the Federal Voting Assistance Program (FVAP) to improve the process by which military absentee voters cast their ballots. I look forward to hear from our DOD witness how these improvements have been implemented within the Department. I am also interested to know how the changes to FVAP affected the military and overseas voter in the 2010 general election. Were more military and overseas voters able to cast their ballots in time for them to be counted in the election?

In addition, a successful military voting assistance program depends on the collaborative efforts of the Department of Defense, together with the military voting assistance officers in the field,

and state and local election officials. I am very pleased that we have two local election officials with us today. They come to us from Lexington County in my home state of South Carolina and from San Diego, California, home to our Ranking Member Susan Davis. We also have with us today a voting assistance officer who had to find a way to get deployed soldiers the election information they needed. I look forward to hearing their perspectives on how to best assist military and overseas voters cast an absentee ballot.

Every day, our troops lay their lives on the line to defend freedom and it is our job to make sure that they are not denied the right to vote.

**Statement of Ranking Member Susan Davis
Subcommittee on Military Personnel
Military Voting Hearing
July 15, 2011**

Thank you, Mr. Chairman. I believe it is important that we are holding this hearing. Voting is an important responsibility as an American citizen, it is fundamental to the continued success of our democratic society.

Over the past several years, Congress has taken significant steps to improve the voting process for Americans, and specifically for our military personnel and their families. The National Defense Authorization Act for Fiscal Year 2010 included the "Military and Overseas Voter Empowerment Act, which sought to further enhance the voting experience for military service members.

These included the requirement for states to send out requested ballots at least 45 days before an election; allows voter registration applications and absentee ballot applications to be sent by mail or electronically; expands the use of Federal write-in ballots to include primaries, runoffs and special elections; prohibits states from rejecting otherwise valid voter registration applications on the basis of notarization requirements or restrictions on paper or envelope type; and required the development of online portals of information; and required the Service Secretaries to designate offices on military installations to provide information on voter registration procedures and absentee ballot procedures, information and assistance to military personnel.

I am interested in hearing from Mr. Carey, the Director of the Federal Voting Assistance Program, on how these changes have been implemented by the States and the Department of Defense, and what issues were found during the last election. I am also pleased that we have Captain Angel Jackson-Gillespie from the 101st Airborne, who was a Voting Assistance Officer while deployed in Afghanistan. I hope that you will share with the subcommittee your experiences and areas or issues of concerns or success that you think will help us as we continue to improve the voting process for service members, their families, and Americans living and working abroad.

We also have two individuals who are directly involved in the process on the ground level—Mr. Dean Crepes, Director of Lexington County Commission of Registration, North Carolina and Ms. Deborah Seiler, Register of Voters, from San Diego, California. Welcome, and thank for coming so far on such a short notice.

I invited Deborah to be here today not just because she's in my district but because she runs a first-class operation and can make a valuable contribution to our hearing.

San Diego's the sixth largest county in the country and coordinating activities in 2300 precincts and counting over 1.2 million ballots each election is a difficult and often thankless task. Deborah works tirelessly so that everyone gets a chance to vote...but each vote counts just once.

Deborah and her staff put voters first. With about 150,000 active duty military personnel stationed at bases in our county, they take pride in making sure the registrar's office is attuned to the unique needs of military voters. That's why they've been known to communicate with service members in the middle of night and even coordinate ballot delivery with sailors at their next port of call.

Mr. Chairman, let me welcome all our witnesses here, I look forward to an open and productive dialogue that will help us understand the challenges that this process faces.

Thank you, Mr. Chairman.

STATEMENT OF
BOB CAREY
DIRECTOR
FEDERAL VOTING ASSISTANCE PROGRAM

BEFORE THE
HOUSE ARMED SERVICES COMMITTEE
MILITARY PERSONNEL SUBCOMIITEE

ON
MILITARY VOTING

ON
JULY 15, 2011

Executive Summary

The Federal Voting Assistance Program (FVAP) has met, and in many ways surpassed, the requirements for implementation of the Military and Overseas Voter Empowerment Act (MOVE Act). With preliminary trend analysis available for the first time with FVAP's 2010 post-election survey data of active duty military voters, military voting registration and military voter participation both show sustained rates greater than that of the general electorate. Final analysis is underway comparing all of the Department's post-election survey results, and making the proper statistical adjustments.

Since enactment of the Military and Overseas Voter Empowerment Act (MOVE Act), the Department has moved aggressively to improve, simplify, and make the military absentee voting process more accessible, through innovative technological tools and vigorous voter education and outreach. Further implementation of the changes to the Uniformed and Overseas Citizens Absentee Voting Act as mandated by the MOVE Act, as well as more time for those changes to become the norm in military and overseas voting administration, will help focus limited federal, State and local resources on the primary problem faced by military voters – receiving their ballot in enough time to vote and return it in time to be counted.

Conclusive results on the effects of the Military and Overseas Voter Empowerment Act (MOVE Act) are premature given the ongoing work with the remainder of the post-election surveys and Election Assistance Commission data collection, and given 2010 was the first election for which MOVE Act requirements were in effect. However, given the continued use of the sound statistical methodology used in the Department's 2006, 2008, and 2010 post-election surveys, the Department's ability to track voter success and identify key areas of failure should improve.

1. Introduction

Mr. Chairman, Representative Davis, and members of the Committee, thank you for this opportunity to testify on military voting and the Department of Defense's military voting assistance programs. Military voters face unique challenges in exercising their right to participate in our election process. The Federal Voting Assistance Program (FVAP) continues to identify individual and systemic barriers to voting faced by these services members, and works to assist both military and overseas voters, and State and local officials, in removing these obstacles.

FVAP supports both uniformed services voters and overseas citizens with voting assistance and advocacy. I will focus my remarks today to the uniformed services voter assistance programs, even though many of these programs are available universally to all military and overseas voters. Further, I will review FVAP's implementation of the Military and Overseas Voter Empowerment (MOVE) Act, including preliminary post-2010 election statistics showing possible effects of the MOVE Act on military voting.

2. Background

The *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)* safeguards the right to vote for federal offices by absent uniformed services members and their families, and overseas U. S. citizens. In the administration of the law, the Department of Defense works cooperatively with State and local election officials to carry out its provisions.

Traditionally absentee voting is accomplished by mail via the United States Postal Service (USPS), Military Postal Service Agency (MPSA), and foreign postal systems. However, modern information technologies provide various methods to streamline this process to better support absentee voters.

3. FVAP Goals and Pre-2010 Election Planning

In 2009 FVAP used key findings from the 2008 Post-Election Survey Report to develop strategic goals and lines of operation to more effectively support military voting assistance. Table 1 draws from the 2008 Survey Report (available, on the FVAP.gov website¹), and demonstrates that while military voters experienced failures at every stage of the voting process, the most significant problem is the successful return of transmitted ballots. Furthermore, available 2008 post-election data from both the Military Postal System Agency (MPSA) and the Election Assistance Commission 2008 Election Day Survey indicated undeliverable ballots were a relatively minor problem, with only 2.5% to 3.5% of the transmitted ballots returned as undeliverable. Similarly, while MPSA indicated that about nine percent of the ballots sent to overseas military personnel were misaddressed, it was able to properly readdress about two-thirds of those.

¹ <http://www.fvap.gov/reference/pesurveyrpts.html>

Table 1

| 2008 Election | | |
|-------------------------|--|--------------------|
| Stage of voting process | # of additional failures over general population | % of total failure |
| Registration Failure | 4,057 | 1.5% |
| Ballot Delivery | 20,068 | 7.5% |
| Ballot Return | 206,771 | 77.6% |
| Ballot Casting Failure | 35,645 | 13.4% |
| Total | 266,540 | |

FVAP also found in its 2008 post-election survey that voter registration and voter participation were not apparent areas of voting failure. For the 2008 general election, the military voter registration rate was 77%, compared to 71% for the general electorate. Additionally, while 64% of the general electorate participated in the 2008 general election, 53% of the military participated.

On the face of it, this lower voter participation rate would appear to indicate a failure of the voting assistance process. It should be noted, however, that the military population is much younger than the general electorate (Civilian Voting Age Population, or CVAP), and older voters are much more likely to vote.

Similarly, while the 2008 general electorate was 48% male and 52% female, the active duty military population was 85% male and 15% female, again where females have higher historical voter participation rates than males. Therefore, when proper statistical adjustments are made for those significant age and gender differences, the active duty military voter participation rate is actually 73%, fifteen percent higher than the general electorate's.

Given these trends, FVAP shifted away from focusing on voter registration and the distribution of paper-based forms through unit Voting Assistance Officers, to providing direct-to-the-voter assistance, predominantly through online tools, relieving much of the burden on the collateral duty Voting Assistance Officer.

To support that transformation, FVAP established five straightforward and enduring strategic goals:²

- #1: Improve UOCAVA voter success rates to meet or exceed the general absentee population's voter success rates.
- #2: Ensure all UOCAVA voters have adequate opportunity to successfully cast a ballot in every State and Territory.
- #3: Quantify the overseas civilian population.
- #4: Streamline the UOCAVA voting process, so that no stage of the process takes a voter more than 15 minutes to complete.
- #5: Be a model agency of professional execution.

² FVAP's entire Strategic Plan, can be found at http://www.fvap.gov/resources/media/strategic_plan.pdf

4. 2010 Election Voting Assistance Program and MOVE Act Implementation

The MOVE Act provided considerable leverage for the new FVAP approach to voting assistance, especially with its focus on expanded electronic voting support for military and overseas voters. It also provided the Department the authority necessary to implement many of these information technology improvements. In particular, the Department focused on five main initiatives to improve military voting assistance for the 2010 election:

- Expand the use and availability of electronic systems in support of military voting;
- Help State and local election officials to more broadly implement the MOVE Act's 45-day prior ballot delivery requirement, more effectively use technology (especially to deliver blank ballots), expand the use of the Federal Write-In Absentee Ballot, and provide general compliance assistance;
- Support the Services in establishing the Installation Voter Assistance Office program and training installation Voting Assistance Officers;
- Expand and improve unit Voting Assistance Officer training; and
- Execute a broad and effective voter education and outreach program.

4.1 FVAP.gov Portal

The MOVE Act requires States to provide electronic access to both voter registration/absentee ballot application forms and to blank absentee ballots. FVAP has moved forward to help States develop those capabilities, as well as to develop capabilities directly through the FVAP.gov website, on the presumption that any system a State develops itself, but which fully supports the military voter, will be superior to any product FVAP would produce itself. Therefore, FVAP shifted its online presence and website from a simple voting assistance service provider to a portal connecting voters quickly, easily, and seamlessly with their State and local election officials' military voting systems. If a State or local election jurisdiction has its own electronic military voting support systems, per the FVAP philosophy, the voter is presented the State/local system first.

4.2 Online Registration and Absentee Ballot Application Wizard

Completing the Federal Post Card Application (FPCA) can be complex and tedious; the variations amongst State and local laws and rules for military voters are extensive, and the Voting Assistance Guide FVAP compiles for every election is more than 300 pages long. Therefore, FVAP deployed an online FPCA "wizard" in June 2010, fully integrated with the FVAP.gov portal, to walk the voter through the FPCA form, asking a series of simple, State-specific questions.

Once the voter completes the online questionnaire, they print a PDF package which includes complete State and local submission instructions. They must then sign and mail in the paperwork.

This online wizard enjoyed substantial use by military voters, with 91,452 FPCAs downloaded during the 2010 election cycle.

4.3 Online Back-up Federal Write-in Absentee Ballot Wizard

With the online FPCA Wizard, FVAP also deployed an online Federal Write-in Absentee Ballot (FWAB) wizard. The FWAB is the military and overseas voters' emergency ballot to be used if they've made timely application for an absentee ballot, but have not yet received one. The MOVE Act requires the Department to deploy something like a system with the capabilities of the FWAB Wizard by December 31, 2011. Not only does the FWAB Wizard have greater functionality than required by the MOVE Act, but it was delivered 17 months early, in July 2010.

The wizard presents a voter all federal candidates for the general election. It also provides them, per the requirements of UOCAVA, the opportunity to write-in a candidate or to choose a candidate by political party affiliation alone.

Given the voters online choices, the FWAB is populated, with the voter's chosen candidates properly printed on the FWAB for the voter to confirm, print, sign and send back to their election official. Like the FPCA Wizard, complete State instructions are provided to the voter, along with pre-addressed and prepaid transmission and security envelopes. Also, both the FPCA and FWAB Wizards provide the voter email addresses, fax numbers, and transmission cover sheets for those State or local jurisdictions that allow for electronic return of these forms.

The FWAB wizard enjoyed significant use, with more than 20,000 FWABs downloaded during the 2010 election cycle.

4.4 Online Ballot Delivery and Online Ballot Marking Wizards

Although FVAP strongly encouraged military voters to use the FWAB if they had not received their regular State-issued absentee ballot, the use of the FWAB means the voter can only choose federal candidates in most States.

Therefore, FVAP also embarked on a first-ever State support program to deploy systems that would allow voters to access precinct-level ballots online, and in most cases, mark the ballot online like the FWAB Wizard, but for all elections. Throughout this process, each State maintained control over all election administration procedures. This approach reinforced FVAP's effort to buttress state and local election official activities, not replace them.

A total of 20 states initially participated in this effort, with seventeen states going "live" for the 2010 election. In addition, 14 additional States deployed their own online ballot delivery and marking systems for military voters. The FVAP.gov portal steered military and overseas voters to the State online ballot delivery and marking wizards, regardless of whether they were funded by FVAP or not.

FVAP believes that both email "push" of electronic absentee ballots, as well as online download "pull" is necessary for military personnel to have adequate opportunity to receive their ballots online. FVAP encourages all States to provide at least both methods of electronic ballot delivery, and will continue to work with them to develop such systems.

4.5 Expedited Mail Return

It does the military voter little good to receive a ballot electronically if the voted ballot still arrives to the Local Election Official too late to be counted. FVAP worked very closely with the Military Postal System Agency (MPSA) and the US Postal Service to ensure this program's success, and provided \$550,000 in funds to help MPSA buy bar-code scanners to provide online ballot tracking for MPSA and the voter. FVAP also made voters aware of this service through print and electronic advertisements, and internal communications via the Services and MPSA.

MPSA executed an aggressive Express Mail campaign to achieve the mandated seven-day return delivery, only having to use its delivery standard: the average ballot return transit time was 5.2 days, with 92% of the ballots delivered within seven days. For U.S. Navy ships at sea, historically units that suffered particularly long mail delivery times, the average ballot return time was eight days.

FVAP also assisted MPSA to accurately define the requirements of the MOVE Act and advised MPSA on how to avoid more than \$2.5 million in annual postage costs. Finally, FVAP assisted MPSA to analyze the impact of different expedited ballot delivery scenarios on voters and develop possible responses of the UOCAVA voter advocacy groups on the various implementation options.

During the 2008 election campaign, misaddressed and undeliverable ballots were a relatively small problem, with 17,457 of the 191,293 absentee ballots (9.1%) sent through the MPSA to voters incorrectly addressed. Of that nine percent, two-thirds, or 10,621 were readdressed and delivered by MPSA, leaving 3.6% (or 6,836 ballots) undeliverable.

However, during the 2010 general election cycle, 33,130 of the 68,977 absentee ballots (48%) sent through MPSA were incorrectly addressed. Twenty nine percent of the overall ballots (or 20,065, a little over half of the misaddressed ballots), were readdressed and delivered by MPSA, leaving 19%, or 13,065, undeliverable. Given MPSA only delivers mail for overseas military personnel and that only about 25% of military personnel are overseas at any one time, this misaddressed and undeliverable ballot is cause for concern.

What is known is that between those two elections, there were at least 23,000 fewer Guardsmen and Reservists on active duty.³ When Guardsmen and Reservists leave active duty and return to inactive duty, they are no longer eligible for the absentee voting protections of UOCAVA, but their Federal Post Card Applications may still linger in States' voter registration databases, driving election officials to continue to send these personnel absentee ballots

Further, while there has been a net reduction of only about 11,000 US military personnel overseas between 2008 and 2010, there have been substantial movements to and from both Iraq and Afghanistan. Given that deployed Army and Air Force units are assigned new Army Post

³ As of November 2, 2010, there were 97,002 Reservists and Guardsmen on federal active duty (Assistant Secretary of Defense (Public Affairs) News Release No. 1013-10). As of November 4, 2008, there were 120,310 Reservists and Guardsmen on federal active duty (Assistant Secretary of Defense (Public Affairs) News Release No. 933-08).

Office (APO) addresses both on deploying to and redeploying from overseas, such force movements may exacerbate the misaddressed ballot issue experienced in the 2010 election.

FVAP will cross-evaluate this data with the Active Duty Military post-election survey data, and with both the FVAP Local Election Official Post-Election survey data and the Election Assistance Commission's Election Day Survey data to see if the cause of this spike in undeliverable ballots can be explained. Combining that with more in-depth analysis of the active duty military survey micro-data may provide sufficient insights to determine the location and cause of these misaddressed and undeliverable ballots and help determine if this is a localized issue, a Service-specific issue, or something more generally applicable to military voters.

4.6 Outreach for Absent Uniformed Services Voters on Procedures

All of these voter assistance systems are of little use if the voter is not aware of them. For example, the 2008 Active Duty Military post-election survey indicated that only 21% of military personnel visited the FVAP.gov website, and of those who did not visit it, 63% did not visit it either because they did not know about it, or they knew about it but did not know the website address. Similarly, only three percent of the military used FVAP's toll-free help desk number during the 2008 election.

To make military voters and their voting age dependents aware of the services available to them through FVAP.gov, and through their unit and installation Voting Assistance Officers, FVAP engaged the Department's Joint Advertising and Market Research Studies (JAMRS) program to address requirements of the MOVE Act and develop a comprehensive voting assistance communications and "marketing" plan. The goal was to expand outreach to voters, improve brand recognition of FVAP.gov, drive users to online tools, and raise overall awareness of key milestones and dates for voters to meet in order to successfully cast a ballot. Only by bringing more UOCAVA voters to the FVAP website portal can it provide a more direct-to-the-voter assistance program.

FVAP uses a variety of communications and social media (Facebook, Twitter and LinkedIn) to inform military voters about upcoming elections and the procedures for registering and requesting an absentee ballot through commercial print and broadcast media outlets. This campaign was partially driven by the 2008 post-election survey data indicating 18-24 year old military voters had particular trouble voting and receiving voting assistance information. Stories and advertisements on absentee voting were run on the American Forces Radio and Television Service, the American Forces Network, the Pentagon Channel, American Forces Information Service, and Defense Link, as well as in private and military-focused print publications such as *Stars and Stripes*, *Army/Navy/Air Force Times*, the *International Herald Tribune* and other overseas publications.

Finally, FVAP is using the 2010 post-election survey to analyze user trends to determine why voters are not aware of, and do not use available voting assistance resources, understand what they find difficult with the current voting assistance process, and identify what they most want in their voting assistance programs. From that analysis, FVAP will develop additional communications and awareness campaigns for the 2012 election cycle.

4.7 Voting Assistance Officer and Voter Training and Education

FVAP devotes considerable resources to training Voting Assistance Officers (VAO) and educating *UOCAVA* citizens about the process of absentee voting. This includes formal training of unit Voting Assistance Officers, providing information to state and local election officials, and ensuring that military voters have access to the necessary materials and the means to request and submit their absentee ballots. To prepare for the 2010 election, FVAP conducted unit Voting Assistance Officer training workshops at military installations around the world.

In addition to the in-person training, the FVAP.gov information portal provides a complete Voting Assistance Officer section, which includes VAO training, complete templates for establishing an effective Voting Assistance Officer program, election alerts, and a wealth of information that will help them fulfill their responsibilities.

FVAP also sent blast emails to every member of the military 90, 60, and 30 days prior to the November 2010 general election, addressing voter registration and absentee ballot application, the availability of the wizards at FVAP.gov, and the need for using the FWAB (particularly the FWAB wizard).

4.8 Installation Voter Assistance Offices

The MOVE Act directs the Service Secretaries to designate offices on each military installation as Voter Assistance Offices. The MOVE Act prescribes that these offices provide information and direct assistance on voter registration and absentee ballot procedures to Uniformed Services members and their family members whenever a service member:

- In-processes at a new duty station;
- Deploys overseas for at least six months or returns from such a deployment; and
- Requests such assistance.

Separately, the Act authorizes the Secretary of Defense to designate Installation Voter Assistance (IVA) Offices as voter registration agencies (under the National Voter Registration Act, or NVRA). The Department issued a Directive-Type Memorandum (DTM) to the Services to implement IVA Offices in November 2010.

The Installation Voter Assistance Office provisions of the MOVE Act are costly, manpower intensive, and require significant effort for the Services to implement. Furthermore, while the change of duty station process is being moved away from installation level facilities to unit level execution supported by online applications, the IVA Office provision means voting assistance will soon be the only change of duty station or pre-/post-deployment activity handled at the installation level. All the voting assistance mandated by the MOVE Act, as well as that mandated for voter registration facilities under the National Voter Registration Act (NVRA), can be accomplished at the unit level, at far less cost and effort.

The Services were further hindered in their ability to establish Installation Voter Assistance Offices due to the restrictions on new program starts under the Continuing Resolution Authority for fiscal year 2011 that extended until April 2011. Once the final Service appropriations were

enacted, and new starts were authorized, the Services moved forward with the IVA Office implementation requirement, and as of June 30, 2011 report:

- *U.S. Army.* 51 out of 51 offices established,
- *U.S. Air Force.* 48 out of 76 offices established,
- *U.S. Coast Guard.* 13 out of 13 offices established; although the Coast Guard is not required to establish IVA Offices,
- *U.S. Navy.* 68 out of 68 offices established, and
- *U.S. Marine Corps.* 0 out of 18 offices established.

To assist the Services implement this requirement given the logistical hurdles and issues regarding delayed program starts, FVAP provided extensive in-person and webinar training for military installations, conducting onsite training in June and July 2010 at 36 military concentration areas worldwide. This training also provided complete training manuals and administrative document templates, much like an “IVA Office in a Box” turnkey set-up. FVAP hosts monthly status conference calls and quarterly face-to-face meetings with the Service Voting Action Officers to monitor implementation, identify problems requiring additional assistance, and to provide assistance to the Services in implementing these requirements.

5. Assessment of the 2010 Election

FVAP conducted six post-election surveys to assess the effectiveness of the voting assistance programs. Surveys were conducted with: Active Duty Military personnel; Spouses of Active Duty Military personnel; Unit Voting Assistance Officers; Overseas Civilians; Department of State Voting Assistance Officers; and Local Election Officials.

While all surveys have been completed, the statistical adjustments for demographics, non-response, selection bias, and other factors are considerable, and that analysis is not yet complete. The Department plans to submit its 2010 post-election report by September 30, 2011.

6. Moving Forward for the 2012 Election

To continue implementation of the MOVE Act and prepare for the 2012 election cycle, FVAP is continuing to improve its processes, programs and tools. FVAP is especially focused on expanding functionality of the current website portal and tools, specifically strengthening registration and ballot wizards, expanding availability of databases, and deployment of online training for Voting Assistance Officers. Additionally, FVAP is expanding its advertising and outreach efforts, and continuing to work with the States to streamline the UOCAVA voting process.

6.1 Direct to the Voter Outreach and Education

In order to expand its outreach and improve the voting experience for military voters, FVAP will foster public/private partnerships and integrate advocacy groups into the voting assistance program. Our commitment to direct-to-the-voter assistance will be expanded through numerous improvements to the FVAP.gov web portal.

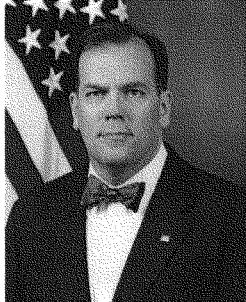
- FVAP will host the FWAB wizard database internally so that States can give us their candidate and election data directly.

- FWAB capabilities will be expanded so that States can provide state-wide candidate and election information which will be directly loaded into the FWAB Wizard.
- FVAP is pursuing two-dimensional bar code capability for both the FWAB and FPCA Wizards to enable automated uploading process and thereby reduce transcription errors.
- Additionally, both the paper-based and electronic versions of the FPCA and FWAB will be re-designed to make them more user-friendly and easier to complete.
- FVAP will create unit and installation-level VAO databases to make it easier for military voters to find the relevant contact information for their locations. This will ease military voter efforts while also relieving the Services of maintaining their own separate systems.
- Finally, FVAP will develop more interactive, intuitive online training that will guide Voting Assistance Officers, and for the first time for the voters themselves, through its online tools.

In addition to these technology solutions, during the 2012 election cycle, FVAP will once again provide a 24/7 call center and online chat capability and greater ombudsman support in order to meet the immediate needs of both military voters and local election officials.

6.2 Technology Initiatives

In addition to the above initiatives, FVAP has made available \$16,200,000 in federal funding to support research and development to advance the electronic options for military and overseas citizens when voting absentee. State, county and city or township governments are eligible to apply for the grants. The program, known as the Electronic Absentee Systems for Elections (EASE), will for the first time allow FVAP to competitively offer grant assistance to election officials. While geared towards developing systems that will be deployed by State and local election jurisdictions, ultimately it will be the military and overseas voter who benefits with easier access to ballots, and better data on the success of voting assistance programs to let FVAP refine and focus its efforts with limited resources.



Bob Carey

Director
Federal Voting Assistance Program

Bob Carey was appointed as the Director of the Federal Voting Assistance Program July 6, 2009.

Prior to this appointment, Mr. Carey served as Executive Director of the National Defense Committee and also served as a member of the Board of Directors of the Overseas Vote Foundation.

After graduating in 1985 from the University of Pennsylvania, he was commissioned an Ensign in the United States Navy, served on Destroyers, Carriers and was an A-6E "Intruder" bombardier/navigator through two deployments, including 37 combat missions during DESERT STORM. He left active duty in 1995 to serve on the staff of two U.S. Senators. He also served as a Senior Policy Advisor to the Secretary of Energy. Since 9/11, he has been recalled to active duty four times.

Mr. Carey comes to the federal government from the private sector where he was Principal for Empire-Capitol Strategies, a strategic planning and policy consulting firm.

Mr. Carey continues to serve in the U.S. Navy Reserve.

My name is Dean Crepes, Director of Lexington County Voter Registration and Elections, in South Carolina. I am present today to give a statement concerning our absentee voting process, more specifically, UOCAVA, (Uniform and Overseas Citizens Absentee Voting Act). I have a brief statement and then will entertain any questions that you may have. **UOCAVA establishes a framework** for military, and other Overseas Citizens to be able to vote in any election not only Lexington County, but the entire state of South Carolina. Being a veteran myself, I always voted absentee during my service, and I understand the need to ensure this opportunity is provided to the people that daily protects our right to vote, and their dependants, as well as other Citizens such as missionaries, teachers, and ex patriots, working abroad. In South Carolina voting rights of the military and overseas citizens have always been a high priority of the State General Assembly.

In 1992 the State General Assembly passed legislation to allow electronic transmission of applications and ballots only in an emergency situation such as war, conflict, military action, or military mobilization outside the continental United States which it would make it impractical for South Carolina citizens serving in the United States armed services to register or to vote in person in the normal manner.

In 1998 South Carolina participated in the VOI (Voting Over the Internet) sponsored by the Department of Defense. Of the jurisdictions chosen to participate, South Carolina was the only state participating on a statewide basis. In 2004, South Carolina was invited, and readily accepted, an invitation to participate in the SERVE (Secure Electronic Registration and Voting Experiment)... Unfortunately, this program was cancelled by the Department of Defense shortly before the 2004 Presidential Election.

In 2004, the Help America Vote Act extended absentee ballot requests made by military and overseas citizens, for period to include two General elections. This requirement made it very difficult for local election officials to locate UOCAVA voters since they move frequently.

The MOVE (Military and Overseas Empowerment Act) of 2009, remove the two General election requirement and stated that annually beginning 1 January of each year we would start taking requests for absentee voting for that year...this was a well needed change, it saved money and time because it eliminated the process of confirming that the UOCAVA voter had not relocated since the request was made.

To apply for an absentee ballot, a voter would call, write, or visit their Voter Registration office to request an application. The VR office would mail, fax, or email the application to the voter as normal. If emailing the application, the e-mail must contain a scan of the original application. A fax must also be of the original application. After completing the application, the voter would have the option to fax the application back to the VR office or to scan the application, attach it to an email, and send it to their county VR email address.

Then we send the absentee application to each requestor to be completed, returned, and filed according to the election, and upon approvals of all ballots, definitely no later than 45 days before the election, we immediately start, either mailing or electronically transmitting ballots, or faxing ballots, along with appropriate cover sheets for their signatures.

South Carolina has approximately 82,000 voters covered by this act. Many of these voters reside in remote locations with impediments and difficulties that prohibit the receipt of their ballots in a timely manner. In the 2008 Presidential election, of the 12,363 ballots issued to UOCAVA voters, only 8,667 were returned resulting in a 71% successful rate of return as compared to non-UOCAVA voters for the same elections was 97%. Lexington County was 81% for military, and 84% for citizens overseas, this was due to the 45 day transit both ways in the mail.

In 2010, Statewide Election, of the 1,757 ballots issued to UOCAVA voters, only 1,251 were returned resulting in a 69% successful rate of return as compared to non-UOCAVA voters for the same elections was 95%. Lexington County was 89% for military, and 86% for citizens overseas.

For the upcoming Presidential election, I expect all number to increase as more military and overseas citizens understand with not only Lexington County, but South Carolina as a whole, electronic transmission is the best and most efficient way to vote.

UOCAVA voters are also afforded two additional options:

- **Federal Post Card Application (FPCA, Standard Form 76):** The FPCA is an absentee ballot application, as well as a voter registration application for a person who is not already registered. The FPCA may be sent to the Board via mail, fax, or email. This application serves as a request for an absentee ballot for one calendar year.
- **Federal Write-in Absentee Ballot (FWAB):** The FWAB is a voter registration application, absentee ballot application, and a blank absentee ballot in one. The FWAB is used by UOCAVA voters who have no time or availability to receive return transmissions from their voter registration office. The voter completes the application information and writes-in names of candidates for whom he wishes to vote. The FWAB is sent one way from the voter to the voter registration office via mail, fax, or email; completing all processes at once. This application serves as a request for an absentee ballot for a specific election.

In Lexington County, one individual is designated as a responsible person for all absentee voting.....this person also serves as the UOCAVA representative..... a **specific fax and email address is designated** to receive such transmissions. Only those transmissions delivered to the designated account will be accepted. Upon receiving a completed application, and at the request of the voter, a ballot along with signature sheet is transmitted to the voter.....upon

receiving the voted ballot and the signature sheet....., It is immediately printed, placed in an envelope, an labeled, and placed in the absentee ballot box, and not touched again until Election day where trained individuals, along with appointed Election Commissioners, receive an oath..... open, and duplicate on to a hard ballot which can be read optically, upon successful tallying of all absentee ballots, the original, duplicated, and scanned ballots are secured with limited access.

Instant Run-off Ballots (IRBs) must be used for military and overseas citizens voting in primaries for federal offices or local where there is more than two candidates running under the same party for the same office. IRBs are sent along with the first primary ballot. The IRB allows the voter to rank candidates in their order of preference. For example: 1st choice, 2nd choice, 3rd choice, and 4th choice, etc. In case of a runoff, the vote goes to the candidate with the highest ranking among the candidates involved in the runoff. The State Election Commission provides IRBs for federal and state offices; local offices are added to include the county or local level.

Voters unable to vote by regular absentee ballot or in person due to requirements of military service, or who are living in an extremely isolated or remote areas of the world, no access to mail or electronic means.....may apply not earlier than 90 days before an election for a Special write-in absentee ballot (SWAB). The SWAB (Special Write-in absentee ballot) must be available for any primary, general election, or special election that includes federal offices, statewide offices, or local offices.

This ballot is used primarily by voters who, due to the reasons listed above, need to vote early and cannot wait for ballots to be printed. While military voters are eligible to vote a SWAB, many choose to use the **FWAB, (Federal write-in absentee ballot)**. The FWAB is a faster method since it doesn't require a separate application and multiple mailings/faxes/emails. However, the **SWAB (Special Write-in absentee ballot)** includes the offices to be voted upon and may include the candidate's names, while the FWAB is simply a blank ballot. To qualify for a SWAB, the voter must state that he is unable to vote by regular absentee ballot or in person due to requirements of military service or due to living in isolated areas or extremely remote areas of the world.

Due to the short two-week time period between the primary and run-off elections, when you send one of these special ballots, you should also send a separate, second ballot and return envelope. The second ballot is to be used in the event of a runoff. Both the second ballot and the return envelope should be marked "Runoff." Instructions are included informing the voter on how to complete and return the runoff ballot.

In Closing.....The ultimate primary goal is to provide instant access to the voter registration and absentee voting process for UOCAVA voters and to significantly increase the successful rate of return for ballots to a percentage that is equal to that of the general absentee voting population.

Biography for Dean C Crepes

Born in Columbia South Carolina attended Batesburg-Leesville High, graduated 1976. Attended Newberry College graduated 1980 with BA in mathematics. Upon Graduation joined the U.S. Marines as a Second Lieutenant, reported to Quantico, Va, for basic officer training, reported to Pensacola Fla, and received his wings in April 1982. His duty station was with Marine Heavy Helicopter Squadron 362 at New River Air Station, Camp Lejeune, North Carolina.

In 1988 transferred into the U.S. Navy and reported to Mine Countermeasure Squadron at NAS Norfolk Va. Other duties in Norfolk, was with the Tactical air Control squadron, and tactical air Control group at Little Creek Va. Retired in January 2001.

Civilian employment has been in manufacturing in Greensboro, NC and Food Service in Columbia, SC.

Received his masters in Business from the University South Carolina in 2003, and accepted a position with The County of Lexington County, SC in the Voter Registration and Elections department....

Resides on a farm in Leesville, South Carolina, with his wife and two children.

Witness name: Dean Crepes

 Individual

Representative

FISCAL YEAR 2011[illegible][illegible]

FISCAL YEAR 2009

| Federal grant(s) / contracts | federal agency | dollar value | subject(s) of contract or grant |
|---------------------------------|----------------|--------------|------------------------------------|
| None | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Federal Contract Information: If you or the entity you represent before the Committee on Armed Services has contracts (including subcontracts) with the federal government, please provide the following information:

Number of contracts (including subcontracts) with the federal government:

Current fiscal year (2011): None _____;
 Fiscal year 2010: _____;
 Fiscal year 2009: _____.

Federal agencies with which federal contracts are held:

Current fiscal year (2011): None _____;
 Fiscal year 2010: _____;
 Fiscal year 2009: _____.

List of subjects of federal contract(s) (for example, ship construction, aircraft parts manufacturing, software design, force structure consultant, architecture & engineering services, etc.):

Current fiscal year (2011): None _____;
 Fiscal year 2010: _____;
 Fiscal year 2009: _____.

Aggregate dollar value of federal contracts held:

Current fiscal year (2011): None _____;
 Fiscal year 2010: _____;
 Fiscal year 2009: _____.

Federal Grant Information: If you or the entity you represent before the Committee on Armed Services has grants (including subgrants) with the federal government, please provide the following information:

Number of grants (including subgrants) with the federal government:

Current fiscal year (2011): None;
Fiscal year 2010: _____;
Fiscal year 2009: _____.

Federal agencies with which federal grants are held:

Current fiscal year (2011): None;
Fiscal year 2010: _____;
Fiscal year 2009: _____.

List of subjects of federal grants(s) (for example, materials research, sociological study, software design, etc.):

Current fiscal year (2011): None;
Fiscal year 2010: _____;
Fiscal year 2009: _____.

Aggregate dollar value of federal grants held:

Current fiscal year (2011): None;
Fiscal year 2010: _____;
Fiscal year 2009: _____.

Deborah Seiler

County of San Diego Registrar of Voters

TESTIMONY

Before the

House Armed Services Committee Military Personnel Subcommittee

on

MILITARY AND OVERSEAS VOTING

July 15th, 2011

Introduction

Thank you Chairman Wilson, Ranking Member Davis, and distinguished members of the Committee for inviting me here today to testify regarding the administration of military and overseas voting. I am Deborah Seiler, Registrar of Voters for the County of San Diego.

Background on San Diego County

San Diego County is home to approximately 100,000 active duty service members and 80,000 members of their families. It is the home port of the USS Ronald Reagan and the USS Carl Vinson which recently returned from its mission near Pakistan. There are three Marine facilities, including Camp Pendleton, and four Navy facilities, including the Naval Amphibious Base in Coronado which is one of the homes for the Navy SEALs. In addition, San Diego hosts the Coast Guard Air Station San Diego, the Naval Medical Center San Diego, and the Space and Naval Warfare Systems Command.

San Diego is a geographically large county spanning 4,200 square miles, with 70 miles of coastline, and a shared border with Mexico. It stretches from the Pacific Ocean to the great Anza Borrego State Desert and its political diversity matches its geographic

span. The County contains 18 cities and 423 other political jurisdictions, ranging from school and community college districts to a host of special districts including water and fire districts among others. The latest census figures show San Diego has a population of 3,095,313 residents which makes it the second most populous California county, after Los Angeles, and larger than 21 states.

San Diego's political diversity is reflected by a population which is 48.5% non-Hispanic white, 32% Hispanic, 10.9% Asian, 5.1% African American, and 3.5% other. Its 1.4 million voters reflect a near equal division of Democrats and Republicans as well as a large percentage of Decline to State, or nonpartisan, voters.

The County of San Diego Registrar of Voters

The County of San Diego Registrar of Voters has a budget of \$28.5 million, 63 permanent staff, and over 730 temporary help workers for major statewide elections. In the November 2010 general election there were 1,466 voting precincts, 1,284 polling places, and 5,908 poll workers. The office provides ballots, other election materials, and oral assistance in English, Spanish, Filipino, and Vietnamese in accordance with minority language provisions of the Federal Voting Rights Act.

A hallmark of recent County elections is the explosive growth in the number of vote-by-mail voters. In November 2004, permanent vote by mail voters accounted for only 14% of all the voters. By November 2006, this had risen to 23% of the County's voters, and as of the November 2010 election it had risen to 45%. In the November 2010 general election, mail ballots were issued to more than 727,000 voters and, for the first time in a statewide general election, the number of mail ballot voters exceeded the number who went to the polls. Beginning in a 2005 special election the number of mail ballot voters exceeded the number of polls voters for the first time and this trend has become the norm for most special and primary elections. In a December 2009 special election, for example, 73% of all voters cast their ballots by mail.

This trend toward mail ballot voting has had a positive impact on voter turnout in San Diego County. Since 2006, with the growth in the number of permanent vote-by-mail voters, turnout in San Diego is higher than every other southern California county and higher than the statewide average voter turnout.

**VOTER TURNOUT COMPARISON
SAN DIEGO, SOUTHERN CALIFORNIA, STATEWIDE**

November 2010 Gubernatorial General

| COUNTY | TURNOUT | % VBM VOTERS |
|------------------|------------|--------------|
| Los Angeles | 53% | 29% |
| Orange | 55% | 52% |
| Riverside | 57% | 48% |
| S.Bernardino | 55% | 44% |
| San Diego | 64% | 55% |
| Ventura | 62% | 49% |
| Statewide | 59.59% | 48% |

June 2010 Gubernatorial Primary

| COUNTY | TURNOUT | % VBM VOTERS |
|------------------|------------|--------------|
| Los Angeles | 23% | 36% |
| Orange | 30% | 61% |
| Riverside | 31% | 58% |
| S.Bernardino | 27% | 55% |
| San Diego | 38% | 65% |
| Ventura | 35% | 57% |
| Statewide | 33% | 57% |

May 2009 Special Statewide

| COUNTY | TURNOUT | % VBM VOTERS |
|------------------|------------|--------------|
| Los Angeles | 20% | 43% |
| Orange | 28% | 63% |
| Riverside | 29% | 62% |
| S.Bernardino | 24% | 61% |
| San Diego | 31% | 66% |
| Ventura | 31% | 62% |
| Statewide | 28% | 62% |

How San Diego County Serves its Military and Overseas Voters

The Registrar of Voters has long prided itself on its service to military and overseas voters by providing access to voter registration information and materials as well as by supplying election materials to voters outside the territorial United States in a timely manner.

Voter Registration Assistance

The first step in serving military and overseas voters is to ensure they are registered to vote and their voter registration records are up to date. To promote this critical first step, the Registrar's office has designed its website to enable voters to determine the status of their voter registration and check on their political party preference at any time.

In addition, the Registrar's office has placed its voter registration form online to be accessible to any person in a remote location at any time. By accessing this form, voters can key in their information (as opposed to hand writing) and be prompted to provide all essential information to ensure the registration is executed without delay. They can also indicate their language preference and their desire to be a permanent mail ballot voter. Voters can print the voter registration form, sign it, and mail it to the Registrar. Due to the legibility of the typewritten information on the printed document, the data from these forms is keyed into the voter registration database with great accuracy. The State of California does not yet have true, online voter registration due to the fact that its statewide database has not been developed. However, counties are currently striving to make online voter registration a reality prior to the completion of this database. By placing its form online, San Diego County has taken a first step toward true, online voter registration.

The Registrar also promotes voter registration among military personnel who are newly naturalized citizens. Twice each year, the United States Citizenship and Immigration Services (USCIS) conducts naturalization ceremonies exclusively for members of the military. The Registrar's staff is present at each of these ceremonies to provide voter registration forms and personal assistance to help these newly naturalized citizens to register to vote.

Preparation and Distribution of Voting Materials

After all candidates and ballot measures have qualified for an election, the Registrar immediately begins to work with ballot and sample ballot booklet printers as well as translators to ensure election materials are produced and mailed by the 45th day (E-45) before the election. In addition to their ballots, military and overseas voters receive a pamphlet that includes the text, analysis, and arguments for and against state and local

propositions. This pamphlet also contains statements filed by various candidates to describe their qualifications for office. The mailed ballot and accompanying election materials are translated into Spanish, Filipino, and Vietnamese and distributed.

As additional military and overseas voters register to vote, the Registrar immediately sends ballots and election pamphlets to these voters. In the November 2008 presidential election, the Registrar received 8,323 FPCA applications; however 6,395 were not received in time for the initial mailing at E-45. Ballots and election materials for these late applicants were provided via one of several supplemental mailings.

Beginning in 2008, the Registrar established a ballot tracking system on its website to enable voters to inquire electronically whether their mail ballots were issued and received by entering birth date and local address information. In the November 2010 election, approximately 15,000 mail ballot voters accessed this site and successfully determined the status of their mail ballots. It is not possible, however, to determine the number of these users who were military and overseas voters.

Responding to telephone calls and emails from military and overseas voters is a priority. Call Center personnel identify calls from outside the United States and quickly route these to our Vote by Mail section staff for personal handling. A customer satisfaction survey conducted among military and overseas voters following the November 2008 presidential general election revealed a rating of 4.51 out of a possible 5.

Most ballots are returned by mail and all but a very few are timely received. In the November 2008 presidential election, 10,122 ballots were sent to military and overseas voters and 6,858, or 68%, were returned. Of these, 331 were received too late to count. Ballots that are timely received are processed in the same manner as domestic mail ballots.

In 2008, 2,307 ballots were returned by facsimile transmission with a cover sheet on which the voter waives his or her right to privacy. Nevertheless, the Registrar endeavors to protect the voter's privacy by removing the identifying information promptly after the voter's signature is verified and voting credit is recorded on the voter's record. No duplication of the faxed ballot onto an official ballot occurs until the ballot and the identifying information have been separated.

Challenges Facing Military Voters

Transitory and Remote Job Assignments

The primary challenge facing military voters is the transitory nature of their assignments. Military personnel move frequently and are often deployed in remote locations for many months. Normal contact with state and county service providers such as a registrar of

voters or a motor vehicles department is limited. This creates a challenge in communicating change of address information and obtaining current information regarding any changes in legal requirements for voting. In addition, vast distances and frequent moves hinder military voters' ability to obtain information regarding upcoming elections as well as information about the candidates and measures for which they are entitled to vote.

The San Diego Registrar communicates in a timely way with all voters whose names are on file and whose addresses are current. However, if the voter's mailing address has changed, the Registrar has no knowledge of this fact without some contact by the voter. As this contact occurs closer and closer to an election, the Registrar increasingly relies on email and fax to deliver ballots and election information to voters in remote locations. Staff are available to send voting materials to voters all over the world, provided they have access to computers and fax machines. However, the ability of military and overseas voters to return their voted ballots is presently constrained.

The lack of fax machines—a technology that is used with diminishing frequency—is a major stumbling block for military voters who register after the initial mailing 45 days before the election. Furthermore, as interpreted by the California Secretary of State, state law permits military and overseas voters to return their ballots by fax but prohibits voters from scanning their ballots and returning them by email. Legislation to address this issue has been introduced at the state level by State Senator Runner which would allow military and overseas voter to return their ballots by email. However, concerns over security have prevented such legislation from being passed.

Myriad State Laws

Lack of understanding of state laws is another barrier to voting by military personnel. Laws regarding deadlines to register to vote and requirements to vote by mail can vary from state to state. Primary election dates range from May to September, and rules for voting in primary elections range from open to closed, with other variations in between. In addition, rules for receipt of mail ballots vary widely, as some states require the ballots to be received by 7 pm, others at 8 pm, and others allow them to be received at varying intervals after the election. Voting assistance officers face a major challenge to accurately convey information to military voters that will enable them to apply universally and arrive in a timely manner.

Other Common Challenges

In addition to the need for current address information, it is essential for the Registrar to obtain complete information on registration forms. If voters fail to provide all necessary data, there could be a delay in processing their affidavits. The Registrar relies on the voters to supply—and their voting assistance officers to emphasize the need for—timely

and accurate information. The Registrar has taken steps to address this issue, and has posted the County voter registration form online. Because voters who register using the state form are considered permanently registered to vote, the Registrar will encourage all voters, including military and overseas, to use this form in lieu of the Federal Postcard Application (FPCA).

Other information is vital as well. For example, consistent signatures are critical to ensure ballots are counted. Military and overseas voters use mail ballots which are counted only if the signature on the return envelope compares with the signature on the affidavit. And finally, up-to-date contact information, particularly email addresses and telephone and fax numbers, help the Registrar expedite communication with military and overseas voters when deadlines are near.

These challenges result in a turnout rate among military and overseas voters that averages about 20% below the turnout rate for voters generally. Although turnout among military and overseas voters in San Diego County is higher than that in many other California counties, it still lags behind the rate for the population as whole.

Implementation of the MOVE Act in San Diego County

Prior to the passage of the Military and Overseas Voter Empowerment (MOVE) Act, the County of San Diego Registrar worked with the US Postal Service to ensure that ballots and materials were mailed to voters in combat zones by E-45. However, the Registrar, in consultation with the postal service, successfully reached military voters in noncombat zones by mailing ballots 39 days prior to the election. With the implementation of the MOVE Act, San Diego County now mails all military and overseas voter ballots by E-45. In addition, our office mails federal write-in ballots at E-60 to voters who reside in extremely remote areas and who contact our office to indicate difficulty receiving mail.

San Diego County experienced two benefits of the implementation of the MOVE Act. First, voting assistance officers now remind military personnel to re-register each January, and this has prompted many to update their voting addresses in a timely manner. Second, military and overseas voters now register for elections in a single calendar year. Prior law permitted voters to request a mail ballot and simultaneously register for a two-year period. However, the two-year span caused many to carry old addresses on their voter registration.

However, elections officials have found that some of the deadlines outlined by the MOVE Act are not consistent with California laws, specifically those regarding special elections to fill vacancies in state legislative offices and in the House of

Representatives. California Elections Code section 10704 requires candidates in a special vacancy election to file nomination papers between 63 and 43 days before the election, yet the MOVE Act requires ballots to be mailed overseas by E-45—clearly not possible under this scenario. Greater uniformity of state election law, particularly for military and overseas voting, would help resolve such discrepancies.

Recommendations for Legal and Procedural Improvements to Benefit Military and Overseas Voters

1. Encourage the military to report address change information for military personnel in a form that county elections officials could access.
2. Elections officials throughout California have been pushing for the ability to accept ballots by email. This is something that is done in 19 states. Election officials believe this is an appropriate use of a viable and widely available technology. Security concerns raised about scanned and emailed ballots are no greater than for ballots sent by fax and there is no evidence of abuse with either technology.
3. Continue longer term efforts to establish secure internet voting for military personnel.
4. Encourage states to pursue greater uniformity of laws regarding mail ballot voting, particularly for military and overseas voting.

Conclusion

Thank you for your interest in and support of military and overseas voters, and for providing the County of San Diego the opportunity to participate in today's hearing. I am happy to answer any questions that you may have.

BIOGRAPHICAL INFORMATION

DEBORAH SEILER

Tel: (858) 684-3401

Email: Deborah.Seiler@sdcounty.ca.gov

Present Position:

2007-current **Registrar of Voters, San Diego County, California**

Previous Positions:

2004-2007 **Assistant Registrar of Voters, Solano County, California**

Co-Chair, Legislative Committee, California Association of Clerks and Election Officials (CACEO)

1999-2004 **Sales Representative, Diebold Election Systems**

1993-1997 **Commissioner, California Fair Political Practices Commission** (appointed by March Fong Eu, served also under Bill Jones, secretaries of state)

1992-2004 **Chair, Code Revision Subcommittee, County Clerks Legislative Committee** to recodify, restructure, and partially re-write the California Elections Code

1991-2001 **Editor and Publisher, "California Elections Report,"** a monthly newsletter of California election administration – also published under the title "The Seiler Report."

1991-1999 **Director of Customer Relations, Sequoia Pacific Systems**

1989-1991 **Chief Consultant, Assembly Elections, Reapportionment and Constitutional Amendments Committee, California State Legislature**

1982-1989 **Assistant to the Secretary of State for Elections and Political Reform, California Secretary of State's office**

1979-1982 **Assistant Chief of Elections, California Secretary of State's Office**

Other:

March 2003: Nigerian Presidential Election Observer, national Democratic Institute.

December 2001: named “Honorary City Clerk” by City Clerks Association of California.

October 1998: Azerbaijani Presidential Election Observer, National Democratic Institute.

1997: Member, Advisory Task Force on Elections. Appointed by Secretary of State Bill Jones

October 1996: Macedonian Pre-election Assessment Advisor, National Democratic Institute.

November 1995: Electoral Consultant to the United Nations DDSMS program on an electoral modernization project proposed by the Brazilian government.

July-August 1995: Member, IFES Technical Assessment Team to evaluate proposed automation of voting and vote accumulation in the Philippines

February- May 1995: Vice-Chair, Advisory Task Force on Elections. Appointed by Secretary of State Bill Jones as principal author of a report suggesting wholesale revisions to improve elections in California.

February 1992; September 1992: Romanian Election Observer, National Democratic Institute

May 1990; June 1990; May 1991: Bulgarian Election Observer/Technical Advisor, National Democratic Institute

1988-1991: Advisory Board Member of the Federal Election Commission’s Elections Clearinghouse

1975: Research Fellow, Carnegie Endowment for International Peace, Washington, D.C.

1971: Bachelor of Arts Degree (magna cum laude), University of California, Berkeley.

**DISCLOSURE FORM FOR WITNESSES
CONCERNING FEDERAL CONTRACT AND GRANT INFORMATION**

INSTRUCTION TO WITNESSES: Rule 11, clause 2(g)(5), of the Rules of the U.S. House of Representatives for the 112th Congress requires nongovernmental witnesses appearing before House committees to include in their written statements a curriculum vitae and a disclosure of the amount and source of any federal contracts or grants (including subcontracts and subgrants) received during the current and two previous fiscal years either by the witness or by an entity represented by the witness. This form is intended to assist witnesses appearing before the House Armed Services Committee in complying with the House rule. Please note that a copy of these statements, with appropriate redactions to protect the witness's personal privacy (including home address and phone number) will be made publicly available in electronic form not later than one day after the witness's appearance before the committee.

Witness name: Deborah Seiler

Capacity in which appearing: (check one)

☒ Individual

☐ Representative

If appearing in a representative capacity, name of the company, association or other entity being represented:

FISCAL YEAR 2011

| federal grant(s) / contracts | federal agency | dollar value | subject(s) of contract or grant |
|---------------------------------|--------------------------------|----------------|---|
| HAVA 261 (May2011-Mar2013) | US Dept of Health & Human Svcs | \$212,348.00 | Elections Assistance for Individual with Disabilities |
| HAVA 251 (Oct2007-Dec2010) | Election Assistance Commission | \$9,859,594.57 | Voting System Program |
| | | | |
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FISCAL YEAR 2010

| federal grant(s) / contracts | federal agency | dollar value | subject(s) of contract or grant |
|---------------------------------|--------------------------------|----------------|------------------------------------|
| HAVA 251 (Oct2007-Dec2010) | Election Assistance Commission | \$9,859,594.57 | Voting System Program |
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FISCAL YEAR 2009

| Federal grant(s) / contracts | federal agency | dollar value | subject(s) of contract or grant |
|------------------------------|--------------------------------|----------------|---------------------------------|
| HAVA 251 (Oct2007-Dec2010) | Election Assistance Commission | \$9,859,594.57 | Voting System Program |
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Federal Contract Information: If you or the entity you represent before the Committee on Armed Services has contracts (including subcontracts) with the federal government, please provide the following information:

Number of contracts (including subcontracts) with the federal government:

Current fiscal year (2011): _____;
 Fiscal year 2010: _____;
 Fiscal year 2009: _____.

Federal agencies with which federal contracts are held:

Current fiscal year (2011): _____;
 Fiscal year 2010: _____;
 Fiscal year 2009: _____.

List of subjects of federal contract(s) (for example, ship construction, aircraft parts manufacturing, software design, force structure consultant, architecture & engineering services, etc.):

Current fiscal year (2011): _____;
 Fiscal year 2010: _____;
 Fiscal year 2009: _____.

Aggregate dollar value of federal contracts held:

Current fiscal year (2011): _____;
 Fiscal year 2010: _____;
 Fiscal year 2009: _____.

Federal Grant Information: If you or the entity you represent before the Committee on Armed Services has grants (including subgrants) with the federal government, please provide the following information:

Number of grants (including subgrants) with the federal government:

Current fiscal year (2011): two ;
 Fiscal year 2010: one ;
 Fiscal year 2009: one .

Federal agencies with which federal grants are held:

Current fiscal year (2011): US Dept. of Health & Human Services (DHHS) and Elections Assistance Comm. ;
 Fiscal year 2010: Elections Assistance Commission (EAC) ;
 Fiscal year 2009: Elections Assistance Commission (EAC) .

List of subjects of federal grants(s) (for example, materials research, sociological study, software design, etc.):

Current fiscal year (2011): Elections Assistance for Individuals with Disabilities and Voting System Program ;
 Fiscal year 2010: Voting System Program ;
 Fiscal year 2009: Voting System Program .

Aggregate dollar value of federal grants held:

Current fiscal year (2011): \$212,348.00 + \$9,859,594.57 = \$10,071,942.57 ;
 Fiscal year 2010: \$9,859,594.57 ;
 Fiscal year 2009: \$9,859,594.57 .

DOCUMENTS SUBMITTED FOR THE RECORD

JULY 15, 2011



Military Voting in 2010: A Step Forward, But A Long Way To Go

BY ERIC EVERSOLE



CHAPMAN UNIVERSITY | AMVETS
UNIVERSITY LEGAL CLINIC

A Study Published By
MILITARY FAMILIES UNITED'S MILITARY VOTER PROTECTION PROJECT and
AMVETS LEGAL CLINIC AT THE CHAPMAN UNIVERSITY SCHOOL OF LAW

About the Military Voter Protection Project

The Military Voter Protection Project (MVP Project), a program of Military Families United, is dedicated to promoting and protecting our military members' right to vote and ensuring that their votes are counted on Election Day. Utilizing media, education, and litigation, the MVP Project fights to ensure military voters have an opportunity to register, request an absentee ballot, and cast a vote regardless of their location in the world. The MVP Project fights as hard for their rights as they fight to protect our rights.

About Military Families United

Military Families United is a not-for-profit 501(c)(3) charitable organization whose mission is to Honor the Fallen, Support Those Who Fight, and Serve Their Families. We are a national coalition of Gold Star and Blue Star families, veterans, and patriotic Americans who share a deep appreciation for our men and women in uniform and support them in their mission to keep America safe. Together, we ensure that the sacrifices of our courageous military do not go unnoticed and that these men and women and their families receive the support they need and deserve. More information about our organization can be found at MilitaryFamiliesUnited.org.

About the Chapman University AMVETS Legal Clinic

The AMVETS Legal Clinic at Chapman University School of Law is part of Chapman University's Institute for Military Personnel, Veterans, Human Rights and International Law. It is headed by Kyndra Rotunda, Associate Professor of Military and International Law. Professor Rotunda also serves as a Lecturer at Berkeley School of Law and supervises some students working in Berkeley's Veterans Practicum.

The AMVETS Legal Clinic provides an opportunity for law students to represent military families and veterans in all types of civil legal claims. Since the clinic opened in January 2009, students and the faculty have helped to recover nearly \$5 million for their clients. The program is funded by AMVETS, Department of California. In addition to direct client representation, students in the AMVETS Legal Clinic pursue relevant policy and research initiatives.

Acknowledgements

Particular gratitude is owed to Professor Kyndra Rotunda and the AMVETS Legal Clinic, as well as Professor John Yoo and the Veterans Practicum at UC Berkeley School of Law. Without their support and steadfast devotion to our men and women in uniform, this report would not have been possible. In addition, the author must thank the dedicated and talented law students that participated in these programs and worked on this report, including Daniel Bilotti, Brandon Erickson, Robert Farrell, Joshua Flynn-Brown, Crystal Gunder, Laura Hall, Jason Hensely, Joseph Lloren, Katherine McGrath, and Claire Thompson. Finally, special thanks are due Bill Brown Jr., Margaret Thomas, and Kiana Boyce for their incredible work at the AMVETS Legal Clinic and their longstanding support.

Military Voting in 2010: A Step Forward, But a Long Way to Go

BY ERIC EVERSOLE¹

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MILITARY FAMILIES UNITED'S MILITARY VOTER PROTECTION PROJECT *and*
AMVETS LEGAL CLINIC AT THE CHAPMAN UNIVERSITY SCHOOL OF LAW

I. EXECUTIVE SUMMARY

In October 2009, Congress passed the Military and Overseas Voter Empowerment Act (MOVE Act),² which required states to implement several key changes to provide active duty military members and their voting age dependents³ (collectively, “military voters”) with greater opportunities to vote. Specifically, the MOVE Act required states to mail absentee ballots to all military voters at least 45 days before a federal election, to provide electronic delivery options for election materials, and to eliminate the notary requirement for absentee ballots.

The MOVE Act also required significant action by the federal government. It required the Department of Justice (DOJ) to provide clear implementation guidance to states and to work with the Department of Defense (DOD) to implement the new law. It also included specific requirements of DOD. In particular, it required DOD to return all overseas military ballots via express mail delivery and to create voter registration agencies on every military installation, which would provide greater opportunities for service members to register and request absentee ballots. The MOVE Act specified that all of the changes had to be implemented by the November 2010 election.

The question now is: did the MOVE Act work? Did the 45-day standard and electronic delivery options help military voters? Were more military voters able to vote and have their votes counted? What else needs to be done to protect military voters in 2012 and beyond?

The short answer is that while the MOVE Act made strides forward, especially at the state and local level, more must be done to protect the voting rights of our men and women in uniform and to provide them with greater opportunities to register and request an absentee ballot. Our key findings include:

- Of the 2 million military voters covered by this report, only 4.6 percent of those voters cast an absentee ballot that counted in 2010. This percentage represents a significant decrease from the last mid-term election in 2006, when 5.5 percent of military and overseas voters were able to cast an absentee ballot that counted.
- Only 15.8 percent of military voters requested an absentee ballot for the 2010 election, which shows a decrease in participation as compared to the 2006 election.
- Notwithstanding exceptional efforts by many states, local election officials in 14 states and the District of Columbia failed to comply with the 45-day standard for mailing absentee ballots. These failures impacted more than 65,000 military and overseas voters.
- States generally did a good job of counting absentee military ballots if the ballot was returned. Overall, the states in this report counted more than 94 percent of all ballots that were returned. Unfortunately, one state in particular, New York, rejected nearly one-third of all absentee ballots cast and returned by military voters.
- Electronic delivery options provided military voters with greater opportunities to vote in 2010.

II. BACKGROUND

Military members have long faced difficulties when they attempt to vote. With frequent deployments to war zones, constant moves between duty stations, and confusing state absentee voting laws, military members face an uphill battle trying to register and request an absentee ballot.⁴ To make matters worse, even if a military member requests an absentee ballot, his or her ballot is frequently lost or delayed in the mail or delivered too late to be returned and counted.

In 1986, Congress attempted to address these problems by passing the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).⁵ At its core, UOCAVA provided active duty military members and their dependents with a basic right to vote by absentee ballot in all federal elections. UOCAVA also required states to accept a standardized registration and absentee ballot request form, as well as an emergency blank federal write-in ballot.

While UOCAVA was significant because it created basic federal voting rights for military voters, the law failed to address many of the problems faced by these voters. In 2006, for example, the Election Assistance Commission (EAC) found that only 5.5 percent of military and overseas voters were able to cast an absentee ballot that counted in the election.⁶ The EAC also reported that thousands of military voters were disenfranchised when their ballots were sent to the wrong address, lost in the mail, or mailed too close to the election to be returned.

These problems continued to plague military voters in 2008. Notwithstanding the historic nature of that election—and the fact that 62 percent of

eligible citizens were able to vote nationwide—only 30 percent of military voters voted in the same election.⁷ Once again, data from the EAC surveys showed that more than 25 percent of ballots requested by deployed military personnel, as well as overseas voters, went uncollected or uncounted.⁸ As one of the MOVE Act's lead authors Senator Charles Schumer stated, "This data provides only a snapshot of the problem, but it is enough to show that the balloting process for service members is clearly in need of an overhaul."⁹

That overhaul came in 2009. The MOVE Act was the most comprehensive military voting reform in 25 years and attempted to address every facet of military voting. The Act's key provisions included:

- Requiring states to send absentee ballots at least 45 days before a federal election, unless the state received an undue hardship waiver from DOD;
- Requiring states to use electronic delivery mechanisms (e.g., fax, email, or online ballot delivery);
- Prohibiting states from requiring a notary's signature on absentee ballots and other election materials;
- Allowing states to clean up their absentee ballot request lists by requiring military voters to file a new absentee ballot request for each new election cycle;
- Requiring DOD to create and operate military voter registration agencies on every military installation; and
- Requiring DOD to use expedited mail delivery service for overseas military ballots.

III. REPORT OVERVIEW

UOCAVA requires the EAC to collect data and issue a biennial report regarding the ability of military voters to participate in federal elections.¹⁰ As part of that report, each state is required to complete a survey questionnaire regarding the number of military voters that request, receive, and return absentee ballots.¹¹ The survey also collects data regarding the total number of ballots that were rejected and, in some cases, identifies why the ballot was rejected.

While the EAC's report is the government's "official postmortem" on military voting,¹² the EAC does not issue its report until nearly a year after the election (usually in September). In the past, this late report date has made it difficult for Congress and the states to implement changes in time for the next election.

To overcome this delay, the MVP Project in conjunction with the AMVETS Legal Clinic at Chapman University School of Law and the Veterans Practicum at UC Berkeley School of Law, collected and analyzed the EAC's 2010 survey questionnaire data from 24 states (see Appendix A). Our data is the same data being collected and analyzed by the EAC. The MVP Project is simply releasing a snapshot of the data in time for lawmakers to act prior to the 2012 elections.

The 24 states in this report account for nearly two million military voters—that is, 80 percent of the total military voting population in the United States.¹³ The five largest states in this report—Texas, Florida, California, Virginia, and North Carolina—have nearly 1.1 million military voters or more than 40 percent of the total military voting population.

Like the EAC's report, our report focuses on four key data sets: (1) the total number of absentee ballots requested by military voters in each state; (2) the total number of absentee ballots that were transmitted to military voters in each state; (3) the number of absentee military ballots that were returned, cast, and counted in each state; and (4) the number of absentee military ballots that were rejected in each state and the reason why the ballot was rejected.

Finally, our report compares the 2010 survey data to the EAC's data from the last mid-term election in 2006. We are using the 2006 data because voter turnout in a presidential election (e.g., the 2008 election) is much higher and, thus, makes it difficult to compare a presidential election with a mid-term election. By using the 2006 data, we are making an "apples to apples" comparison between two similar sets of data.

IV. FINDINGS

A. Military Voter Participation Rates

The single most important criteria for judging the effectiveness of the MOVE Act is the overall participation rate by military voters. Simply put, were more military voters able to vote and have their votes counted in 2010 as compared to previous elections? On this front, the survey data paints a disappointing picture.

Of the 1,962,761 military voters accounted for in this report, only 89,887 (or 4.6 percent) of these voters were able to cast an absentee ballot that counted in 2010. *See Chart 1.* By comparison, the EAC's 2006 survey data shows that 5.5 percent of military and overseas voters were able to cast an absentee ballot that counted in that election.¹⁴ In other words, the 2010 data shows that military voters suffered a significant decrease in the overall number of absentee ballots counted in the 2010 election.

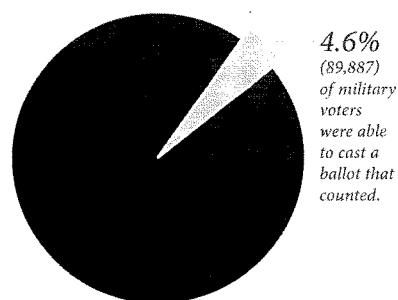


Chart 1

Percentage of the 1,962,761 military voters accounted for in this report who were able to cast a vote that counted in the 2010 general election.

On the individual state level, as set forth in Appendix A, the percentage of military voters whose absentee ballots were counted ranged from 1.3 percent in North Carolina, where only 8,323 of 111,550 eligible military voters had an absentee ballot that counted, to 15.7 percent in Washington. In total, 18 of the 24 states had military absentee voting participation rates that fell below 5 percent. Nine states had a participation rate below 3 percent.

While the 2010 survey data does not include military members who voted in person (with two exceptions discussed below), that percentage has been relatively small in the past. In 2006 for example, only 7 percent of military members voted in person.¹⁵ If a similar percentage voted in person in 2010, the total military voter participation rate for 2010 would have been 11.6 percent.

Our estimated participation rate of 11.6 percent is further supported by data from Washington and Oregon. Unlike other states, Washington and Oregon captured data on the total number of military voters that voted in their elections.¹⁶ According to their 2010 survey data, the total military voter participation rate was 9.9 percent in Oregon and 15.7 percent in Washington.¹⁷ Obviously, an estimated participation rate of 11.6 percent falls within this range.

One final point of comparison: the overall national participation rate for the 2010 election was 41.6 percent.¹⁸ If our estimate of 11.6 percent is correct, it means that military voters were 3.5 times *less likely* to vote in the 2010 election as compared to other voting-age citizens.

B. Requests for Absentee Ballots

Many states saw little or no increase in the number of absentee ballots being requested by military voters in 2010. Take, for example, the five largest military voting states: Texas, Florida, California, Virginia and North Carolina. Of the 1,078,720 military voters in these states, the survey data shows that only 159,918 requested absentee ballots for the 2010 election. In other words, only 14.8 percent of the eligible military voters in these states requested an absentee ballot.

The nationwide data is little better. Of the 24 states examined in this report, only 310,625 of nearly 2 million military voters requested an absentee ballot. That is an absentee ballot request rate of 15.8 percent. *See Chart 2.* By comparison, in 2006 the EAC reported that 16.5 percent of military and overseas voters requested absentee ballots.

In the past, it was difficult—if not impossible—to draw sound conclusions based on the reported number of absentee ballots being requested by military voters. The difficulty was due, in large part, to a provision in UOCAVA that required states to send absentee ballots to military voters for two federal election cycles. In other words, if a military voter requested an absentee ballot in 2006, states not only had to send an absentee ballot for that election, but also had to send ballots for all federal elections in 2008. Since military members move every two or three years,¹⁹ this provision caused thousands of ballots to be sent to the wrong address. It also grossly inflated the number of actual absentee ballot requests for an election.

The MOVE Act, however, eliminated this requirement and allowed (but did not require) states to remove absentee ballot requests after one

15.8%
(310,625)
of military
voters
requested
an absentee
ballot.

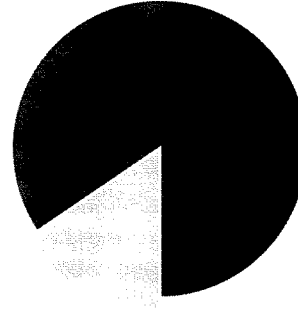


Chart 2

Percentage of military voters in 24 states that requested an absentee ballot in 2010.

election cycle. At least two states, Minnesota and Nevada, took advantage of this change in 2010 and required military voters to request absentee ballots for that specific election.²⁰ In other words, the 2010 survey data from these states reflects the total number of absentee ballots requested by military voters in 2010. Once again, the data paints a disappointing picture.

In these two states, the absentee ballot request rate ranged from 5.8 percent of the total number of military voters in Nevada to 6.9 percent in Minnesota. Collectively, only 2,656 of the 42,672 military voters in these states requested an absentee ballot in 2010—that is, an overall absentee ballot request rate of 6.2 percent. In our view, this data underscores the critical need for greater registration and absentee voting assistance for our men and women in uniform.

C. Transmission of Absentee Ballots

Many states undertook great efforts and expended significant resources to implement

the MOVE Act in time for the 2010 election. In some cases, states had to make relatively minor legislative changes to comply with the MOVE Act. In other cases, states had to move their primary schedule and re-write much of their election code. The states that undertook these efforts should be commended.²¹

There were, however, several major lapses related to the transmission of absentee military ballots impacting thousands of military voters. These lapses include:

1. Requests for Waivers

When Congress passed the MOVE Act, it recognized that some states may not be able to implement the 45-day standard in time for the 2010 election. Accordingly, the MOVE Act allows states to seek a one-time waiver of the 45-day standard if the state can show: (1) it has an undue hardship (including late primaries under certain circumstances); and (2) it has a comprehensive plan to provide military voters with sufficient time to vote.²² After consulting with DOJ, DOD has final authority to grant or deny a waiver application.

While the waiver provision was intended to create upfront certainty for military voters, as well as the states, it had the opposite effect in 2010. In total, 10 states and the District of Columbia requested an undue hardship waiver under the MOVE Act.²³ Most of the applications were submitted less than 50 days before the deadline for mailing absentee ballots. In other words, less than two months before the deadline for mailing absentee ballots, military voters in 10 states and the District of Columbia had no clear guidance on when their ballots would be sent.

This uncertainty impacted more than 400,000 military voters in these states.

To make matters worse, DOD and DOJ waited until August 27, 2010—that is, three weeks before the 45-day deadline—to decide whether to grant the waiver applications. Of the 11 waiver applications that were filed, DOD granted five waivers (Delaware, Massachusetts, New York, Rhode Island, and Washington) and denied five waivers (Alaska, Colorado, the District of Columbia, Hawaii, and Wisconsin). On the same day, DOJ notified these latter jurisdictions that they faced an imminent lawsuit for violating the MOVE Act. Such last-minute litigation hardly creates the upfront certainty envisioned by Congress.

Last minute litigation, however, was not the only problem created by DOJ. In particular, DOJ advised numerous jurisdictions, including Maryland, that it could avoid the need for a waiver by sending a ballot that contained federal races at least 45 days before the election, even if that meant depriving military voters of their right to vote in state races. When Maryland accepted this advice and withdrew its waiver application,²⁴ the MVP Project was forced to file a federal lawsuit arguing, in part, that Maryland's plan—which was approved by DOJ—violated our service members' fundamental right to vote in state races. A federal district court agreed and issued a preliminary injunction on October 29, 2010.²⁵ But for the lawsuit, hundreds of military voters would have been denied their right to vote in state races based on advice from DOJ.

2. Late Mailed Ballots

As noted above, most states and local jurisdictions effectively implemented the MOVE

Act and mailed absentee military ballots at least 45 days before the election. However, there were 14 states with one or more counties that violated the 45-day standard and these violations impacted more than 65,000 military and overseas voters.²⁶ See *Chart 3*. While a vast majority of these violations were inadvertent errors, there were at least two states, New York and Illinois, where the violations were more egregious.

As noted above, New York was one of the five states that received a waiver from the 45-day standard. Under the terms of its waiver with DOD, New York was required to mail absentee ballots no later than October 1, 2010 (i.e., 32 days before the election). In return for the waiver, New York agreed to count any ballot received

on or before November 15, 2010 (i.e., 13 days after the election).

Unfortunately, at least 13 counties in New York, including three boroughs in New York City, failed to meet the agreed upon October 1st deadline. Most of the counties missed the deadline by more than a week and sent ballots on October 12, 2010—that is, only three weeks before the election. More than 43,000 military and overseas voters were affected by this failure.²⁷ Similarly, at least 35 counties in Illinois failed to meet the 45-day deadline and, like New York, several counties waited until October 5, or later, to mail absentee ballots. One of the counties, St. Clair County (home to Scott Air Force Base), mailed more than a thousand absentee ballots

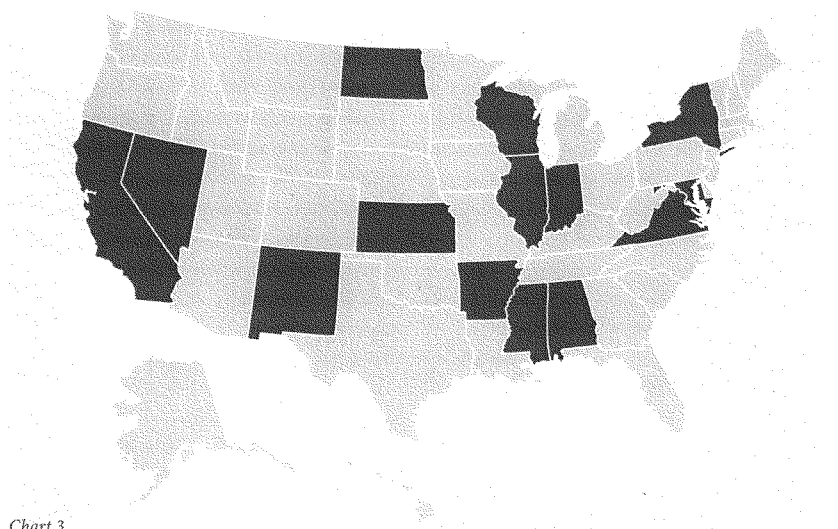


Chart 3

States with one or more counties that failed to mail absentee military ballots at least 45 days before the election as required by the MOVE Act.

on October 4, 2010, or 16 days after the deadline.

While DOJ ultimately filed UOCAVA lawsuits against both states, the media and other military voting advocates questioned the sufficiency of DOJ's settlement agreements and whether they fully protected our service members. Unfortunately, the 2010 survey data, especially the data from New York, shows the fundamentally flawed nature of these agreements.

In New York, for example, the 2010 survey data shows that election officials rejected 1,789 of the 5,090 absentee ballots returned by military voters—that is a rejection rate in excess of 30 percent. Many of these ballots—approximately 15 percent of 1,789—were rejected because they arrived after the deadline negotiated by DOJ in its settlement agreement. Clearly, DOJ's settlement agreement with New York did not go far enough to protect military voters.

3. Use of Electronic Delivery Methods

The MOVE Act attempted to modernize the military and overseas absentee voting process by requiring states to use electronic delivery mechanisms (i.e., online ballot system, fax, or email) to send blank absentee ballots. This quick transmission was intended to drastically reduce the amount of time needed for ballots to be delivered and, thus, better ensure that military voters were able to receive and return their ballots.

A vast majority of states met the electronic delivery requirement by transmitting blank ballots via email or allowing service members to download their ballots via a website. A few states, including Colorado, allowed for the limited use of email if the military voter was stationed overseas. Only two states—Alaska and Rhode

Island—used fax as their only method of electronic transmission.

While the 2010 survey data provides limited information about the usefulness of electronic delivery methods, the data from one state, Colorado, indicates that a significant number of military voters used electronic delivery options, especially those stationed overseas. According to Colorado's data, of the 1,222 ballots sent to overseas troops, 263 were sent via email (21.5 percent) and 7 were sent via facsimile (0.6 percent). Overall, more than 22 percent of the absentee ballots sent to overseas military members were sent electronically.²⁸ As more military voters become aware of these electronic delivery options, we believe that the use of such methods will continue to increase.

However, the survey data also raises a question about the continued viability of fax delivery, especially if it is the only form of electronic delivery available to military voters. As noted above, only 7 out of the 1,222 overseas absentee military ballots in Colorado were sent via a fax machine. At the very least, Alaska and Rhode Island should consider expanding their electronic delivery options beyond the use of fax machines.

One final point: while electronic delivery options provide military voters as a whole with increased opportunities to vote, it must be emphasized that not all service members have access to a computer with a printer (which is necessary to print the ballot) or a fax machine. This is especially true for military voters located in remote locations or serving at the front lines. Those voters must rely on their state and local election officials to mail absentee ballots at least 45 days before the election. The failure to meet

this standard has a disproportionate negative impact on these voters.

D. Return of Absentee Ballots

The rate of return for absentee military ballots in each state varied significantly. As set forth in Appendix A, the percentage of absentee ballots that were returned as compared to the number that were transmitted ranged from 13.5 percent in Louisiana to 73.6 percent in Nevada. Overall, of the 310,625 absentee ballots sent to military voters in 2010, only 95,535 were returned to state or local election officials. That is an overall return rate of just 30.8 percent.

While there are a number of factors that prevent military voters from returning their ballots (e.g., it may be received too late to be returned),²⁹ the data indicates that many of the ballots may not have reached their intended recipients. This conclusion is evidenced, in part, by the high rate of return in states that eliminated absentee ballot requests from previous election cycles. For example, the rate of return in Minnesota and Nevada ranged from 66 percent to 74 percent, whereas the rate of return in the other 22 states was 30 percent. As more states implement the one election cycle requirement, we anticipate that the absentee ballot return rate will continue to improve.³⁰

E. Counted Ballots and Rejection Rates

The survey data shows that absentee ballots, if they were returned to local election officials, had a significant likelihood of being counted. Of the

95,535 ballots that were returned by military voters in this report, state and local election officials counted 89,887 or 94.1 percent of the ballots. In other words, state and local election officials only rejected 5.9 percent of absentee military ballots.

The rejection rates in each state ranged from 0.4 percent in Georgia (lowest) to 31.6 percent in New York (highest). Overall, 10 of the 24 states in the survey counted more than 97 percent of the ballots that were returned to them in 2010. Only seven states (Alabama, Colorado, Indiana, Louisiana, New York, North Carolina, and Oklahoma) had a rejection rate that exceeded 10 percent.³¹ The percentage of returned ballots that were counted for each of the 24 states is listed in Appendix A.

New York's military voters represented the single largest group of disenfranchised voters in the survey data. Overall, 1,609 of New York's military voters had their ballots rejected by local election officials. To put this number in context, New York accounted for nearly 30 percent of the total number of absentee ballots rejected in the survey data. But for New York, the overall acceptance rate would have been 95.5 percent.

Despite New York's failures, the 2010 survey data shows an improvement in the number of ballots that were counted—and not rejected—by state and local election officials as compared to the 2006 election. In that election, state and local election officials rejected 7.5 percent of military and overseas absentee ballots. In our view, the MOVE Act and the changes implemented by the states played a critical role in this improvement.

V. CONCLUSION

The data in this report indicates that while the MOVE Act improved certain aspects of military voting, more must be done to enfranchise military voters in 2012. In particular, the 2010 survey data shows that military voters, if they were able to return an absentee ballot, enjoyed a very high likelihood of having that ballot counted. The data further indicates that absentee ballot return rates will continue to increase as states clean-up their absentee ballot request lists by sending ballots for one election cycle.

Much of the improvement in 2010 can be attributed to the MOVE Act. There should be no doubt that the requirement to mail absentee ballots at least 45-days before an election, as well the requirement to send election materials electronically, helped to ensure that absentee ballots were sent, received, and returned in a timely manner and, thus, reduced the likelihood that a ballot would be rejected.

However, the survey data also raises serious questions about the effectiveness of the MOVE Act, the manner in which it was implemented, and the need for further military voting reform. At the very least, Congress and interested parties should examine:

1. *Low Absentee Ballot Request Rates and Participation Rates.* When only 6.2 percent of eligible military voters request absentee ballots for the 2010 election, as was the case in Nevada and Minnesota, serious questions must be raised and addressed regarding the ability of our men and women in uniform to request and receive an absentee ballot. While the MOVE Act intended

to resolve low participation rates by requiring DOD to create voter registration offices on every military base, there is evidence indicating that the provision was not implemented (or fully implemented) prior to the 2010 election.³² Until the low absentee ballot request rate is resolved, military voters will continue to be the most disenfranchised group of voters in the United States.³³

2. *Need for a Waiver Process.* The post-election evidence raises serious questions about the manner in which the waiver process was implemented and whether the provision continues to serve a useful purpose. In large part, the waiver provision was intended to be a short-term bridge to allow certain states—especially those that needed to make wholesale changes to their election code—additional time to implement the 45-day deadline for mailing absentee ballots. Nearly two years after the passage of the MOVE Act, states have had more than sufficient time to act and, thus, the need for such a provision has been significantly diminished.

3. *DOJ's Handling of Military Voting Cases.* Between the botched waiver process, including the bad advice to Maryland, as well as the fundamentally flawed nature of the New York settlement agreement, questions must be asked and answered regarding DOJ's enforcement of military voting rights in 2010. Military voters should not suffer through another election where DOJ fails to act in a timely manner or fails to fully protect military voters when there has been a clear and egregious violation of federal law.

4. *Use of Fax Machines as the Only Means of Electronic Delivery.* Congress should consider whether fax machines are a viable form of technology to meet the electronic delivery requirements under the MOVE Act. Given the

outdated nature of this technology, as well as its limited use by overseas military voters, it may be time to require states to adopt either an online or email delivery mechanism to meet the electronic delivery requirements.

APPENDIX A

| State | Total Military Voters | All Military Ballots Transmitted | % of Ballots Transmitted v. Total Voters | All Military Ballots Returned | % of Ballots Returned v. Transmitted | % of Ballots Returned v. Total Voters | All Military Ballots Counted | % of Ballots Counted v. Returned | % of Ballots Returned v. Total Voters |
|----------------|-----------------------|----------------------------------|--|-------------------------------|--------------------------------------|---------------------------------------|------------------------------|----------------------------------|---------------------------------------|
| Texas | 337,673 | 49,789 | 14.74% | 13,218 | 26.55% | 3.91% | 12,773 | 96.63% | 3.78% |
| Florida | 250,941 | 53,426 | 21.29% | 21,762 | 40.73% | 8.67% | 20,677 | 95.01% | 8.24% |
| California | 240,151 | 41,401 | 17.24% | 6,385 | 15.42% | 2.66% | 5,977 | 93.61% | 2.49% |
| Virginia | 138,405 | 6,979 | 5.04% | 1,785 | 25.58% | 1.29% | 1,766 | 98.94% | 1.28% |
| North Carolina | 111,550 | 8,323 | 7.46% | 1,617 | 19.43% | 1.45% | 1,463 | 88.80% | 1.31% |
| Washington | 98,692 | 37,480 | 37.98% | 15,737 | 41.99% | 15.95% | 15,501 | 98.50% | 15.71% |
| Georgia | 94,424 | 12,611 | 13.36% | 2,238 | 17.75% | 2.37% | 2,230 | 99.64% | 2.36% |
| New York | 82,535 | 15,275 | 18.51% | 5,090 | 33.32% | 6.17% | 3,481 | 68.39% | 4.22% |
| Illinois | 69,049 | 8,212 | 11.89% | 2,845 | 34.64% | 4.12% | 2,728 | 95.89% | 3.95% |
| Pennsylvania | 61,112 | 12,186 | 19.94% | 4,319 | 35.44% | 7.07% | 4,230 | 97.94% | 6.92% |
| Ohio | 54,039 | 5,643 | 10.44% | 2,068 | 36.65% | 3.83% | 1,989 | 96.18% | 3.68% |
| Alaska | 52,972 | 8,133 | 15.35% | 4,294 | 52.80% | 8.11% | 4,121 | 95.97% | 7.78% |
| Colorado | 45,569 | 3,263 | 7.16% | 1,221 | 37.42% | 2.68% | 1,067 | 87.39% | 2.34% |
| Maryland | 43,985 | 3,354 | 7.63% | 683 | 20.36% | 1.55% | 649 | 95.02% | 1.48% |
| Missouri | 39,840 | 5,488 | 13.78% | 2,159 | 39.34% | 5.42% | 2,042 | 94.58% | 5.13% |
| Alabama | 36,517 | 3,982 | 10.90% | 1,058 | 26.57% | 2.90% | 858 | 81.10% | 2.35% |
| Oklahoma | 34,476 | 3,021 | 8.76% | 856 | 28.33% | 2.48% | 770 | 89.95% | 2.23% |
| Louisiana | 32,664 | 11,325 | 34.67% | 1,524 | 13.46% | 4.67% | 1,364 | 89.50% | 4.18% |
| New Jersey | 30,145 | 3,783 | 12.55% | 730 | 19.30% | 2.42% | 692 | 94.79% | 2.30% |
| Nevada | 26,491 | 1,541 | 5.82% | 1,134 | 73.59% | 4.28% | 1,116 | 98.41% | 4.21% |
| Indiana | 24,237 | 4,751 | 19.60% | 1,041 | 21.91% | 4.30% | 784 | 75.31% | 3.23% |
| Oregon | 21,992 | 6,941 | 31.56% | 2,247 | 32.37% | 10.22% | 2,184 | 97.20% | 9.93% |
| Wisconsin | 19,121 | 2,603 | 13.61% | 793 | 30.46% | 4.15% | 734 | 92.56% | 3.84% |
| Minnesota | 16,181 | 1,115 | 6.89% | 731 | 65.56% | 4.52% | 691 | 98.29% | 4.27% |
| Totals | 1,962,761 | 310,625 | 15.83% | 95,535 | 30.76% | 4.87% | 89,887 | 94.10% | 4.58% |

ENDNOTES

- 1 Eric Eversole is the founder and the Executive Director of the MVP Project and serves as an Adjunct Professor at the AMVETS Legal Clinic at Chapman University School of Law. Eric has a long history of promoting and protecting military voting rights. Prior to his current positions, he served as a litigation attorney in the Voting Section of the United States Department of Justice, Civil Rights Division, where he investigated and filed numerous cases on behalf of military voters. He is a recognized expert on military voting issues, publishing numerous articles on the subject and frequently appearing on national television. Eric also serves as a Judge Advocate in the United States Navy Reserve and holds the rank of Commander.
- 2 Pub. L. No. 111-84 §§ 577 to 582, 583(a), 584 to 587, 123 Stat. 2190 (2009).
- 3 Under UOCAVA, active duty military members and their voting age dependents are commonly known as "absent uniformed services voters." See 42 U.S.C. § 1973ff-4. As used in this report, the term "military voter" has the same meaning as "absent uniformed services voters."
- 4 Hans A. Von Spakovsky and M. Eric Eversole, "America's Military Voters: Re-enfranchising the Disenfranchised," Heritage Foundation (July 28, 2009) ("Heritage 2009 Legal Memo"), available at http://s3.amazonaws.com/thf_media/2009/pdf/lm0045.pdf.
- 5 There were several predecessor statutes to UOCAVA including the Overseas Citizens Voting Rights Act, 42 U.S.C. § 1973dd, and the Federal Voting Assistance Act, 42 U.S.C. § 1973cc.
- 6 U.S. Election Assistance Commission, *Uniformed and Overseas Citizens Absentee Voting Act Survey Report Findings, September 2007*, at 1 ("2006 EAC UOCAVA Survey"), available at www.eac.gov.
- 7 This 30 percent participation rate is based on an estimated in-person voting rate of 18 percent for the 2008 election, as well as an absentee voting participation rate of 12 percent. See U.S. Election Assistance Commission, *Uniformed and Overseas Citizens Absentee Voting Act Survey Report Findings, September 2009*, Table 15 ("2008 EAC UOCAVA Survey") (finding that 309,629 of approximately 2.5 million military voters cast an absentee ballot that counted in 2008); Federal Voting Assistance Program, *Eighteenth Report: 2008 Post-Election Survey Report*, March 2011, at 10 available at www.fvap.gov/resources/media/18threport.pdf (stating that 18 percent of military voters voted in person).
- 8 *Schumer Releases Survey Suggesting Ballots of One in Four Overseas Military Voters Went Uncounted in '08 Election*, May 13, 2009 ("Senator Schumer May 13, 2009 Statement"), available at http://schumer.senate.gov/new_website/record.cfm?id=312970.
- 9 *Id.*
- 10 42 U.S.C. § 1973ff-1(c).
- 11 The EAC survey questionnaire is available at http://www.eac.gov/research/uocava_studies.aspx.
- 12 See Senator Schumer May 13, 2009 Statement.
- 13 The data regarding the total number of military voters in each state was provided by the Federal Voting Assistance Program in a letter to each state on November 6, 2009. The letters are available at: <http://web.archive.org/web/20100914205226/http://www.fvap.gov/reference/laws/state-initiatives.html>.
- 14 2006 EAC UOCAVA Survey at 1.
- 15 Defense Manpower Data Center, Human Resources Strategic Assessment Program, *2006 Survey Results on Voting Assistance Among Military Members and DoD Civilian Employees*, Survey Note No. 2007-010, at 2 and Table 1 (May 7, 2007).
- 16 Washington and Oregon have implemented vote by mail statutes, which requires all voters to vote by absentee ballot. Thus, the absentee voting data for military voters in Washington and Oregon reflects the total number of military voters from those states that voted in the 2010 election.
- 17 By way of comparison, the participation rate for the general public in those states was 53.5 percent in Oregon to 54.3 percent in Washington. See http://elections.gmu.edu/Turnout_2010G.html.
- 18 *Id.*
- 19 Data collected by the U.S. Census Bureau indicates that military members are 2.5 times more likely to move as compared to the overall population over the age of 16. In 2009, 30.6 percent of military members moved as compared to 12.0 percent of the overall population. See U.S. Census Bureau, *General Mobility of Persons 16 Years and Over, by Sex, Age, Race and Hispanic Origin, Region, and Labor Force Status: 2009 to 2010*, available at <http://www.census.gov/hhes/migration/data/cps/cps2010.html>.

- 20 While Nevada did not officially implement this change until 2011, Nevada counties employed a procedure that effectively required military voters to re-request an absentee ballot in 2010. Specifically, the counties mailed a notice to all military voters who requested an absentee ballot in 2008 and required them to return the notice if they wanted a ballot in the 2010 election. If the military voter failed to return the notice, the voter would be moved to the inactive list and would not receive an absentee ballot in 2010. As noted above, this is tantamount to requiring the military voter to re-request an absentee ballot.
- 21 While many states could be referenced here, states like Vermont and Minnesota undertook the immense burden of moving their primary date to meet the 45-day deadline. Other states, like Alabama, California, Florida, and Indiana, undertook a comprehensive review of their military voting law and made significant changes to improve those laws.
- 22 See 42 U.S.C. § 1973ff-1(g).
- 23 Those ten states include Alaska, Colorado, Delaware, Hawaii, Maryland, Massachusetts, New York, Rhode Island, Washington, and Wisconsin.
- 24 Maryland's letter withdrawing its waiver application, as well as discussing its conversations with DOJ and DOD, can be found at: http://www.fvap.gov/resources/media/md_waiver_withdrawal.pdf.
- 25 See *Doe v. Walker*, --- F.2d ---, 2010 WL 4269605 (D. Md. 2010).
- 26 See Assistant Attorney General Thomas E. Perez Speaks at the MOVE Act Pen-and-Pad Briefing, Oct. 27, 2010 ("Perez Oct. 10 Statement"), available at <http://www.justice.gov/crt/opa/pr/speeches/2010/crt-speech-101027.html>. The states that had violations included Arkansas, Alabama, California, Indiana, Illinois, Kansas, Maryland, Mississippi, Nevada, New Mexico, New York, North Dakota, Virginia, and Wisconsin.
- 27 *Id.*
- 28 Interestingly, this data is nearly identical to a recent finding by the Overseas Vote Foundation (OVF), which reported that 23 percent of overseas voters used electronic delivery methods to receive their blank absentee ballot. See Overseas Vote Foundation, *2010 Post Election Survey of Military and Overseas Voters*, at 1, 6 (Feb. 2011), available at https://www.overseasvotefoundation.org/files/OVF_2010_Post_Election_Survey_Report.pdf.
- 29 According to OVF's survey, more than 12 percent of overseas voters did not return their absentee ballots even though they received it. See *id.* at 15. Many of those voters claimed that they received it too late for the ballot to be returned by the election deadline to be counted. *Id.*
- 30 At least 21 states plan to implement a one-election cycle or similar requirement in 2012. These states include: Arkansas, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Utah, and Virginia.
- 31 While our study simply reports the rejection rates provided by the 24 states, it appears that some states may have over-reported the number of rejected ballots based on an administrative error by the counties. In Indiana, for example, several counties reported that they did not count any military ballots, but they also reported that they did not reject any ballots. This apparent error accounted for most of the rejected military ballots in Indiana and, thus, we believe that Indiana's actual rejection rate is much lower.
- 32 DOD designated Installation Voting Assistance Offices as voter registration agencies under the National Voter Registration Act on November 15, 2010—that is, two weeks after the November 2010 election. See Directive-Type Memorandum DTM-10-021 (Nov. 15, 2010), available at <http://www.dtic.mil/whs/directives/corres/pdf/DTM-10-021.pdf>.
- 33 See Heritage 2009 Legal Memo at 4-5, 8-9.

**WITNESS RESPONSES TO QUESTIONS ASKED DURING
THE HEARING**

JULY 15, 2011

RESPONSE TO QUESTION SUBMITTED BY MR. COFFMAN

Mr. CAREY. There are no states that require notarization for absentee registration or ballot request. However, one state, Alabama, requires one signature from a witness (U.S. Citizenship not required) at least 18 years old for a Federal Post Card Application registration or absentee ballot request. Two states, Alabama and Louisiana require either a Notary or two witnesses at least 18 years old (U.S. Citizenship not required) to sign the return voted ballot envelope. Recently, both states, have taken legislative action that could eliminate their notary and witness requirements. On June 15, 2011, Governor Robert Bentley of Alabama signed into law SB 55, which grants the Secretary of State rulemaking authority to, among other things, eliminate the notary and witness requirements for UOCAVA voters. Similarly, Louisiana has recently approved HB 524 which would eliminate their notary and witness requirement. The Louisiana legislation is currently awaiting “pre-clearance” from the Department of Justice before it can take effect.

There are no states that require notarization for absentee registration or ballot request. However, one state, Alabama, requires one signature from a witness (U.S. Citizenship not required) at least 18 years old for a Federal Post Card Application registration or absentee ballot request. Two states, Alabama and Louisiana require either a Notary or two witnesses at least 18 years old (U.S. Citizenship not required) to sign the return voted ballot envelope. Recently, both states, have taken legislative action that could eliminate their notary and witness requirements. On June 15, 2011, Governor Robert Bentley of Alabama signed into law SB 55, which grants the Secretary of State rulemaking authority to, among other things, eliminate the notary and witness requirements for UOCAVA voters. Similarly, Louisiana has recently approved HB 524 which would eliminate their notary and witness requirement. The Louisiana legislation is currently awaiting “pre-clearance” from the Department of Justice before it can take effect.

In addition, Alaska, Virginia and Wisconsin require one signature from a witness at least 18 years of age on the return voted ballot envelope. Wisconsin further specifies that the witness must be a U.S. citizen. The returned voted ballot will not be counted in these states if the witness signature(s) are not present. [See page 24.]

RESPONSE TO QUESTION SUBMITTED BY MR. WEST

Mr. CAREY. The actions taken by non complying states are summarized in the Department of Justice’s report entitled “Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) 2010 Annual Report to Congress” (attached). This report states that the Department of Justice initiated litigation or out-of-court agreements to enforce MOVE Act amendments to UOCAVA in 14 jurisdictions (11 states, 2 territories, and the District of Columbia). The following is a brief list of the major actions taken.

1. Enforcement Actions Following Denial of Undue-Hardship Waivers by the Department of Defense in six jurisdictions: Alaska, Colorado, the District of Columbia, Hawaii, the U.S. Virgin Islands, and Wisconsin.

2. Enforcement Action for Failure to Comply with Terms of Undue-Hardship Waiver in one state, New York.

3. Civil Actions Filed to Enforce UOCAVA in three jurisdictions: Guam, Illinois, and New Mexico.

4. Memorandum Agreements and Letter Agreements in four states: Kansas, Mississippi, Nevada and North Dakota. [See page 11.]

