

Testimony of
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Mr. Chairman and members of the House Administration Committee, it is with extreme pleasure that I come before you today to testify about military and overseas voting. My name is Kimball Brace, and I am President of Election Data Services, Inc., a company I started 31 years ago. For almost four decades I have been involved with election administration issues, having been pulled into the field by my mentor, Dr. Richard Smolka, who's newsletter Election Administration Reports is a staple in the field and for which I was Associate Editor.

Over the past three decades, my company has been retained by federal, state, and local governments around the nation to conduct a variety of studies. When the Federal Election Commission focused on election administration, we created a major study on Statewide Voter Registration Systems. We did the same for states such as Pennsylvania, Illinois and North Carolina. In 1980, we compiled a database on what type of voting equipment was used in every county of the nation, and we have continued to update that information with each two year election cycle. That was 20 years before the American people discovered that voting equipment is a critical element in the election process. As a result, state and local governments have brought us in to assist them when they make changes to their voting systems and to observe their election processes. I have spent many an election day in nearly 400 jurisdictions in this nation, although for the past two years I've served as a poll worker in my home county in Virginia or doing commentary on election administration for NBC News.

We collect, analyze, and provide election results for the nation, and for the past 20 years we have created the well recognized election poster of results with our partner Roll Call. These posters can be found on many of the walls in this institution.

In addition, we have been heavily involved in redistricting for the past three decades. In 1980, 1990 and 2000 we assisted more than half the states of this nation in conducting redistricting of both your congressional districts as well as their state legislative districts. We have provided many redistricting services to states, cities and counties in this country, including the building of extensive databases, providing GIS redistricting and mapping software, and drawn thousands of district plans. Over that same timetable, I have testified as an expert witness in nearly 80 court cases around the nation on such topics as redistricting, voting behavior, the Census, election administration and voting equipment. I was an expert witness on voting machines in the court case in Florida in 2000 that prompted many people to discover the voting process and election administration. Finally, for the past two years I have served on the Commerce Department's 2010 Census Advisory Committee in reviewing plans for the upcoming Census. A full copy of my vita is attached to this statement.

In short, Mr. Chairman, I am a numbers guy. It is because of that background, that we have been the contractors to the U.S. Election Assistance Commission for the past four years. We have been in charge of compiling, analyzing and helping the EAC to create their reports to Congress on "The Impact of the National Voter Registration Act on the Administration of Elections", the "Survey Report Findings on the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)", and "The Election Administration and Voting Survey". There are reports for both the 2004 and the 2006 elections, and can be found on the EAC's website at www.eac.gov. The sources of the data for these reports are the Election Day Surveys that the EAC conducted after each federal election. For the 2006 series of studies we were assisted by subcontractors Clark Benson of Polidata, Inc. in Virginia, and Dr. Paul Gronke of Reed College in Oregon.

Before I talk about the results of the EAC's UOCAVA study, it is important to lay a framework of election administration in this country. There are 10,071 jurisdictions in this nation that conduct elections on a regular basis using a variety of different voting equipment. There are slightly more than 3,100 counties that conduct elections, but there are more than twice that number of local towns, townships and cities in the six states of New England, as well as Michigan, Minnesota and Wisconsin. As a result, half of all jurisdictions in this nation have less than 1,400 registered voters. A total of 7,654 jurisdictions have less than 10,000 registered voters. There are only 340 jurisdictions (mostly counties) that have more than 100,000 registered voters. Finally, there are only 15 counties in this country that have more than one million registered voters. In short, most of the elections in this nation are conducted by small jurisdictions that have small numbers of staff and very small budgets.

This simple fact of small jurisdictions, staff and budgets, compounded by the fact that elections are conducted under 50 different laws and thousands of different procedures, means that trying to collect complete data on the election administration process in this nation is extremely difficult. All of these factors have had a bearing on the EAC's surveys to date and means we need to understand that non-response or partial response has had an impact on the analysis and reports. The 2006 reports were clearly better than those produced for 2004, especially the one related to UOCAVA voting, but it was not complete, or perfect.

While every UOCAVA vote is important, it should also be noted that they are but a small element in the overall voting process. The EAC survey found that more than 78 percent of the ballots cast or counted in 2006 came from voters at the polls on election day. Overall absentee ballots made up another 13.8 percent of the vote and UOCAVA voters contributed less than one-half of one percent of the ballots cast or counted in 2006. While small in number, UOCAVA voters still constitute a significant voting block which suffers unique problems in grappling with the American election system.

Concerning UOCAVA voting, data was provided by less than two-thirds of the counties in the country in 2006. A major part of the problem was that local jurisdictions were unable to determine that a ballot application or registration form came from a voter who could be categorized as domestic military (DM), as overseas military (OM), or overseas citizen (OC). Keep in mind, when a state or local jurisdiction receives a registration card, they generally have just a name and an address. If they get lucky, maybe the name has something like Corporal or General in it ... ah, this person is a military person. But I think this is a very small percentage.

If the address says Camp Marshall, or The Pentagon, then the local election official might be able to assume a military person. But if the person happens to live at 5706 River Forest Drive, how do you determine if this is a military person or not? Now if the address is Beirut, Lebanon ... yes, they are overseas, but are they an overseas military or an overseas citizen?

These are the practical problems that election administrators face every day in trying to process registration forms. If the form comes in on something the Pentagon produced, then they could assume the person is military ... maybe. The key to all this is attempting to identify and code the registration record that then lets the voter registration system tally how many "OC's" or "DM's" they have. As long as they can tag a voter's record with some sort of identification, then they can track the later processing steps ... ballots mailed, ballots received, etc. But the "tracking" starts with being able to code the voter correctly. And that's the heart of the problem. As it was, the EAC survey found that nearly one-third of UOCAVA-related absentee ballots could not be "categorized" or "coded" for their source.

Overall, the nation's states and counties reported that just slightly less than one million UOCAVA ballots were requested in the 2006 election. But this amounted to only 16.5 percent of the nearly six million eligible citizens estimated by the GAO to be covered by UOCAVA. Undoubtedly, because a number of absentee ballots could not be determined as coming from UOCAVA voters and only partial data was available from jurisdictions, this number is low. Unfortunately, there is no way of knowing how low.

While reaching UOCAVA voters and getting them to seek to participate is one problem, and which my colleague on this panel has been instrumental in helping to solve, the EAC survey also unveiled a more significant problem. Of those nearly one million UOCAVA voters who requested absentee ballots, ultimately only one third of them were cast or counted.

One answer to this problem can be found in the reasons for ballots to be rejected. The EAC survey found that over 70 percent of the ballots were rejected because they were “undeliverable”. In other words, they were sent out by election administrators, but never reached the voter due to problems with the voters’ address. This was the top problem for UOCAVA ballots reported by 26 states. In addition, federal law requires that election administrators must send ballots to UOCAVA voters for at least two years. Therefore, when the addresses of UOCAVA voters are old and are not updated to reflect the fact that a voter has moved, or in the case of the military, been relocated, it is understandable that ballots do not reach the voters. Domestic civilians have an advantage because the US Post Office offers a "mail forwarding" service so that six months from when a person moves their mail is forwarded to their new address. Voters abroad, especially military voters, however, do not appear to have that luxury.

As a result of this larger problem, one of the key EAC recommendations from the UOCAVA study (recommendation #5, page 22) was:

It is unrealistic to keep sending ballots to voters who have moved: [many] ballots were returned as undeliverable. Mechanisms need to be set up by the military whereby a military transfer generates a move notice to the local registrar. Additionally, military bases need to set up programs with State and local elections offices whereby an undeliverable registration or ballot generates a rapid notification—perhaps by email—to the individual voter so that they may respond in a timely fashion. Another possibility would be to provide forwarding exemptions for overseas military ballots.

I firmly believe there are ways that the military can help with this problem. We incorporated some of these in the above recommendation. But the "undeliverable" problem is by far the larger issue facing UOCAVA voters, as documented by the EAC survey.

In addition, the EAC 2006 study shows that 23.1 percent of all the reasons for rejecting UOCAVA ballots, was because of "untimely receipt" of the ballots by the county election offices. That is, the ballots came in after the deadline for receipt at the local level. This was the largest reason for rejection in six states and two territories. I am aware that Representative McCarthy of California has introduced legislation to seek to solve this particular problem, but I believe it is important to note that nearly three times the number of people are affected by the "undeliverable" problem I mentioned earlier. One would hope that this issue could also be incorporated into Rep. McCarthy's bill.

In conclusion, Mr. Chairman, I would like to take this opportunity to thank this committee for conducting an outstanding series of hearings on elections in the last two years. I am pleased to see you continue to listen to local election administrators from around the country. For the past eight years administrators have been questioned, criticized, second guessed, and short changed. Having worked with them for nearly 40 years, however, I can attest they are the most dedicated and hard working individuals I have known. They continue to be asked to do the impossible, with fewer resources, less staff, and smaller budgets, but they are the bedrock of American democracy.

Thank you for allowing me to testify, and I look forward to answering any questions you might have.