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Letter to Election Officials About Military Voting

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CATEGORY: Military Voting Rights

In December, a version of this newsletter was distributed by fax to most of the nation's 7,838 local election officials (LEOs). Please print this article and provide it to your own LEO—county clerk, county auditor, county supervisor of elections. The titles vary, but you can figure it out. Most LEOs are elected officials themselves, so they will pay attention to what you have to say about ensuring that military personnel have the opportunity to cast ballots that really do get counted, no matter where the service of our country has taken them.

Dear Election Official:

Please remember the 250,000 members of the U.S. Armed Forces who are serving in Iraq, Afghanistan, and 118 other countries around the world, or on Navy and Coast Guard ships at sea. Because of their service to our country, these folks cannot come home to vote. If they are to vote at all, it must be by absentee ballot.

In June 1952, the Subcommittee on Elections, Committee on House Administration, U.S. House of Representatives, conducted hearings on military voting. The hearings established that most of the brave young men and women fighting the Korean War were likely to be disenfranchised in the 1952 Presidential election. You can find the complete committee report on the National Defense Committee website, www.nationaldefensecommittee.org. The Honorable C.G. Hall, Secretary of State of Arkansas and President of the National Association of Secretaries of State, testified in those hearings that election officials were unable to mail absentee ballots in a timely manner, in many cases, because of late primaries, ballot access lawsuits, and other problems.

Not much has changed in more than half a century. More than half of the military and overseas citizens who tried to vote in the 2004 presidential election in Arkansas were disenfranchised—according to a survey conducted by the U.S. Election Assistance Commission (EAC), and also available on our website. Of the absentee ballots mailed to military and overseas voters by Arkansas counties, fewer than half came back in time to be counted.

The problem is that in most places absentee voting is still conducted essentially as it was in 1952, by mailing pieces of paper around the world. As you can appreciate, there are three time-consuming steps in absentee voting. First, the absentee ballot request must travel from the voter to the election official. Second, the unmarked ballot must travel from the election official to the voter. Finally, the marked ballot must travel from the voter back to the election official. Each of these steps can take weeks by mail, but only seconds if secure electronic means were authorized.

For the military voter, the most difficult step is the second step—the transmission of the ballot from the election official to the voter. First, the election official cannot print absentee ballots, much less mail them, until all uncertainties about who and what will be on the ballot have been resolved. Arkansas in 2004 had to contend with a lawsuit about the eligibility of Ralph Nader to be listed on the ballot as an independent candidate for president. The Arkansas Supreme Court did not resolve that question until several days into October; in the meantime the court enjoined election officials from printing and mailing ballots.

The second problem is the fact that the military voter is all too often a moving target. A Soldier was in Baghdad when he sent you a completed Federal Post Card Application (FPCA) in July; but when the unmarked ballot must be delivered in October, that Soldier may be stationed somewhere else in Iraq or Southwest Asia, or in transit back home, or injured at Walter Reed Army Hospital in Washington, D.C.

There is a bifurcated system for delivering mail to servicemembers. The U.S. Postal Service (USPS) delivers mail to all addresses within our country, including military installations like Fort Bragg and Walter Reed. The Military Postal Service Agency (MPSA), which is part of the Department of Defense, delivers mail to APO (Army Post Office) and FPO (Fleet Post Office) addresses outside the U.S. If you mailed the Soldier a ballot to an APO address in Iraq and that Soldier has returned to the states, it will likely take months for that ballot to catch up with him.

We seek a system whereby all three steps of the absentee voting process could be done electronically, via e-mail. We also understand concerns about the electronic transmission of the actual marked ballot. Accordingly, our proposed interim solution is a system whereby the first two steps of the absentee voting process would be completed electronically. The voter would print out the ballot (a complete ballot with state and local elections, not just federal elections), mark that ballot with a pen, and mail it back to your office. If the voter can receive the unmarked ballot 15 to 20 days before the election that will be enough time for the marked ballot to reach your office in time to be counted. While the voter is often a moving target, your office is not likely to move.

The 1952 congressional report also includes a copy of a letter to Congress from President Harry S Truman dated March 28, 1952. In his letter, he calls upon the states to fix their procedures in order to enable servicemembers to vote, no matter where the service of our country has taken them. He also calls upon Congress to enact temporary federal legislation for the 1952 presidential election. He wrote, “Any such legislation by Congress should be temporary, since it should be possible to make all the necessary changes in state laws before the congressional elections of 1954.”

Unfortunately, it did not work out that way. The Korean War ground to an inconclusive halt in July 1953, and this issue was forgotten for a generation. Born just a year before the 1952 hearings, I was working in 1976 as a brand-new lawyer on the campaign for Texas’ 22nd Congressional District seat in the U.S. House of Representatives. We learned that 300 mailed-in

absentee ballots, many of them military, arrived in the County Clerk's office on the morning after the 7 p.m. deadline on Election Day. Failing to count those ballots certainly could have affected the outcome of the election, because our candidate lost by just 225 votes. In the intervening three decades, during my career as a judge advocate in the Navy and Navy Reserve, I have made protecting the voting rights, reemployment rights, and other rights of servicemembers the principal focus of my life.

I invite your attention to the most eloquent opening paragraph of President Truman's letter:

About 2,500,000 men and women in the Armed Forces are of voting age at the present time. Many of those in uniform are serving over-seas, or in parts of the country distant from their homes. They are unable to return to their States either to register or to vote. Yet these men and women, who are serving their country and in many cases risking their lives, deserve above all others to exercise the right to vote in this election year. At a time when these young people are defending our country and its free institutions, the least we at home can do is to make sure that they are able to enjoy the rights they are being asked to fight to preserve.

What President Truman wrote of the brave young men and women fighting the Korean War in 1952 is equally true of their grandsons and granddaughters and great-grandsons and great-granddaughters fighting the Global War on Terrorism today. I respectfully suggest that President Truman's words are addressed to you, as an election official. With your help, America's sons and daughters in our Armed Forces will not have to wait another 55 years to enjoy a basic civil right that the rest of us take for granted

Thank you for your efforts to facilitate the enfranchisement of the brave young men and women from your community who are away from home and prepared to lay down their lives in defense of our country.

Sincerely,
Samuel F. Wright
Director, Military Voting Rights Project