

**LAW REVIEW<sup>1</sup> 13013**  
**January 2013 (Updated April 2022)**

## **Good News on Military Voting in Avon, Connecticut**

By Captain Samuel F. Wright, JAGC, USN (Ret.)<sup>2</sup>

7.1—Election officials must get the absentee ballots out in time for the service member to vote.

Thank you to the Honorable Ann Dearstyne, Town Clerk of the Town of Avon (Connecticut) for her efforts to facilitate the enfranchisement of the brave young men and women of Avon who are away from home and prepared to lay down their lives in defense of our country. Thank you also to ROA life member Colonel John K. Jepson, USA (Ret.) for obtaining and reporting this data on military and overseas voting in the 2012 general election.

The Town of Avon has a population of about 18,000 and 12,677 registered voters. In Connecticut, like other New England states, absentee voting is administered by towns rather than counties.

The Town Clerk (Ms. Dearstyne) received 42 absentee ballot applications from Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters—members of the uniformed services

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<sup>1</sup>I invite the reader's attention to [www.roa.org/lawcenter](http://www.roa.org/lawcenter). You will find more than 2000 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997.

<sup>2</sup>BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. For 43 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 36 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at [SWright@roa.org](mailto:SWright@roa.org).

on active duty and their voting-age family members (within or outside our country) and U.S. citizens outside our country. The Town Clerk sent out ballots to all 42 applicants—no applications were rejected.

As amended in 2009, UOCAVA requires all states to transmit ballots to UOCAVA voters not later than the 45th day prior to the election or primary. 42 U.S.C. 1973ff-1(a)(8)(A). For the general election held on November 6, 2012, the deadline for transmitting UOCAVA ballots was Saturday, September 22. The Avon Town Clerk beat that deadline by one day, transmitting 37 absentee ballots on Friday, September 21.

Of course, the Town Clerk cannot send a ballot to a voter until she has received the voter's application for a ballot. She sent ballots out on September 21 to all 37 applicants who had submitted their applications by that date. An additional five applications arrived after September 21, and those ballots were sent out the same day as the application was received.

The Town Clerk reports that of the 42 UOCAVA ballots sent out, 37 of them arrived back on time, as voted ballots, and were counted. No ballots arrived late, but five ballots did not come back at all, at least as of January 15, 2013. It is likely that the five ballots that did not come back are the five ballots that were sent out after September 21, because the applications were received after that date, but we do not know that for sure.

It is most important that every local election official (LEO) get ballots out on or before the 45th day before Election Day, so that those who serve our country on ships at sea or in places like Afghanistan will have sufficient time to receive, mark, and return those ballots in time for them to be counted. This will often require a special effort by the LEO.

Readers—please contact your LEO. This will be the Town Clerk, County Clerk, Registrar of Voters, Supervisor of Elections, County Auditor, etc. The titles vary from state to state, but you can figure it out. Check your own voter registration card—you should have it in your wallet. Your voter registration card will contain the title, and possibly the name, of the LEO, along with the office address and telephone number. Please obtain and report this data for your town or county.

In most states, the local election official is also an elected official, like the Town Clerk or County Clerk. The LEO wants you to vote for her next time, so she has an incentive to listen to your pitch and take heed. It may be necessary for you to do an education job. Please remember that it has now been 40 years since Congress abolished the draft in 1973. The entire U.S. military establishment, including the National Guard and Reserve, amounts to less than 3/4 of one percent of our national population. And it is mostly the same families that serve, from one generation to the next. Service academy alumni publications in recent years are full of reports of intergenerational family reunions in Iraq and Afghanistan.

I find that each year a greater and greater percentage of those who are in charge of things have never served in the military, and no one in their family has ever served and none of their close

friends have ever served. They support the military—they clap for service members in airports—but as to military matters they often don’t have a clue. This applies to the Town Clerk who administers elections, to the HR Director at the company where you work, to your state and federal legislators, judges, etc. We must continually educate these folks about the special circumstances of military service and the special needs of military personnel.

Last year, I had a telephone conversation with the County Clerk of a major county. This was a county with a population of more than 1 million people, and a county where a major Navy base was located until it closed about 20 years ago. The County Clerk told me that he had received absentee ballot requests from “USS RONALD REAGAN” and USS this and USS that. He asked me, without a hint of irony in his voice, “What does USS stand for?” I patiently explained that it stands for United States Ship.

### **Update – April 2022**

The location of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) within the United States Code changed. UOCAVA was previously cited at 42 U.S.C. §§ 1973ff–1973ff-7. After an editorial reclassification, the UOCAVA is now codified at 52 U.S.C. §§ 20301–20311. The changes in codification have not changed the substance or application of the sections.

The relevant section cited throughout the article can be found at:

42 U.S.C. § 1973ff-1 discussing state responsibilities can be found at 52 U.S.C. § 20302.

### **Please join or support ROA**

This article is one of 1800-plus “Law Review” articles available at [www.roa.org/page/lawcenter](http://www.roa.org/page/lawcenter). The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. New articles are added each month.

ROA is almost a century old—it was established in 1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For many decades, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation’s defense needs.

Indeed, ROA is the *only* national military organization that exclusively supports America’s Reserve and National Guard.

Through these articles, and by other means, we have sought to educate service members, their spouses, and their attorneys about their legal rights and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are

members of ROA or eligible to join, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

If you are now serving or have ever served in any one of our nation's seven uniformed services, you are eligible for membership in ROA, and a one-year membership only costs \$20. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve.

If you are eligible for ROA membership, please join. You can join on-line at [www.roa.org](http://www.roa.org) or call ROA at 800-809-9448.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

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