

LAW REVIEW¹ 25027

July 2025

DOJ Should Prioritize UOCAVA Enforcement To Ensure that Military Personnel Will Be Able To Vote No Matter where they Serve.

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

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

On 4/10/2025, I sent a letter to the Honorable Harmeet Dhillon, the Assistant Attorney General for Civil Rights, United States Department of Justice (DOJ). In that letter, I urged her to ensure that DOJ devotes adequate time, attention, and resources to enforcement of the

¹ I invite the reader's attention to www.roa.org/lawcenter. You will find more than 2,000 "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 Spouses' 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 specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. I am the author of more than 90% of the articles, but we are always looking for "other than Sam" articles by other lawyers.

² 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 45 years, I have collaborated 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 (VRRRA—the 1940 version of the Federal reemployment statute) for 38 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 VRRRA 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 VRRRA 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 <mailto:swright@roa.org>.

Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Here is the entire text of that letter:

April 10, 2025

Honorable Harmeet Dhillon
Assistant Attorney General for Civil Rights
United States Department of Justice
Washington, DC 20530

Re: Enforcement of the Uniformed and Overseas Citizens
Absentee Voting Act

Dear Ms. Dhillon:

Congratulations on your confirmation as the Assistant Attorney General for Civil Rights. One of the many responsibilities of the Civil Rights Division is to enforce the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). *See* 52 U.S.C. 20307(a).

UOCAVA provides that members of the United States uniformed services and their voting-age spouses and children who are accompanying them have the right to vote by absentee ballot, whether they are inside or outside our country. UOCAVA also enfranchises United States civilian citizens who are outside our country temporarily or permanently, but my brief is for service members and their families.

In 1976, I graduated from law school, passed the Texas bar examination, and was sworn in as a member of the State Bar of Texas on 11/1/1976. In my first case as a lawyer, I represented (along with a much more senior lawyer) a freshman Republican Congressman, Representative Ron Paul. Representative Paul was first elected to Congress in a special election held in April 1976. He lost the 1976 general election by just 225 votes.

In the week after Election Day, more than 1,000 mailed-in absentee ballots arrived at the office of the County Clerk of Harris County and the election offices of the three other counties that were included in the 22nd Congressional District of Texas, and most of those late ballots were from Army Post Office (APO) and Fleet Post Office (FPO) addresses. Those ballots were not counted because they arrived after the close of the polls on Election Day. If those ballots had been counted, Representative Paul might very well have been reelected in 1976.

The voter may have applied for an absentee ballot months before Election Day, but the local election official (LEO) cannot print absentee ballots, much less transmit them, until the names of all candidates and the wording of all ballot questions have been settled. Because of late primaries, ballot access lawsuits, and other problems, LEOs sometimes do not have absentee ballots printed and ready to be transmitted until a few days before Election Day. Military personnel serving at sea or at isolated overseas duty stations, where mail service is slow and intermittent, may be disenfranchised through no fault of their own. There simply is not enough time for the ballot to travel to the voter and back in time for the ballot to be counted.

Finally, in 2009, Congress amended UOCAVA. Now, each State is required to transmit absentee ballots to absent uniformed services voters and overseas voters at least 45 days prior to Election Day. See 52 U.S.C. 20302(a)(8). The fact that federal law requires that absentee ballots go out at least 45 days before Election Day does not mean that LEOs always meet that standard. There are about 7,600 LEOs who administer absentee voting for federal elections. Absentee voting is administered centrally at the State level only in Alaska, Maine, and the District of Columbia. Some LEOs send out ballots when they get around to it, without regard to federal law.

After Congress established the 45-day deadline in 2009, several states moved back their primary dates to earlier in the year, to enable LEOs to

meet the 45-day standard. But New Hampshire has not moved its primary date. Last year, New Hampshire conducted its congressional primary on 9/10/2024, just 56 days before the general election on 11/5/2024. The deadline for transmitting absentee ballots was 9/21/2024, just 11 days after the primary, and 11 days is not enough time for election officials to determine the primary results and to print and mail the general election ballots.

I became aware of the problem that overseas military personnel have in voting in 1976, and I have devoted the last half-century (almost) to protecting the precious voting rights and other legal rights of the brave young men and women who are away from home and prepared to lay down their lives in defense of our country. I am sure that you agree that those who protect the precious rights that we all enjoy, including the right to vote in free elections, should be able to enjoy the rights that they are prepared to lay down their lives to preserve.

I learned of this problem in 1976, but others addressed the issue much earlier. In a 1952 letter to Congress, President Harry S. Truman wrote:

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 overseas, 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 that 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.

President Truman's letter is included in a 1952 report of the Subcommittee on Elections, Committee on House Administration, U.S.

House of Representatives, concerning voting rights for military personnel fighting the Korean War. The Honorable C.G. Hall, Secretary of State of Arkansas and President of the National Association of Secretaries of State, testified that military personnel serving in Korea and elsewhere were likely to be disenfranchised because late primaries, ballot access lawsuits, and other problems made it impossible for local election officials to print and mail absentee ballots until just a few days before Election Day.

In his 1952 letter, President Truman called upon the States to fix this problem, and he called 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.” It did not work out that way. The Korean War ended inconclusively in 1953, and the issue was largely forgotten in the United States. Finally, in 2009, Congress got tired of waiting on the States to fix this problem and mandated 45 days of ballot transmission time as a matter of federal law.

I call upon you to ensure that service members will have the opportunity to cast ballots that really do get counted, no matter where the service of our country has taken them. That means suing the States that miss the 45-day deadline for whatever reason. At that point, the only possible remedy is a court order extending the deadline for the receipt of absentee ballots mailed in from ships at sea or overseas military installations.

I fully understand that there are many important statutes under your purview as the Assistant Attorney General for the Civil Rights Division. Please ensure that appropriate attention and resources are devoted to UOCAVA enforcement.

Very respectfully,

Samuel F. Wright

Please join or support ROA.

This article is one of 2,300-plus “Law Review” articles available at www.roa.org/lawcenter. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. We add new articles each month.

ROA is the nation’s only national military organization that exclusively and solely supports the nation’s reserve components, including the Coast Guard Reserve (6,179 members), the Marine Corps Reserve (32,599 members), the Navy Reserve (55,224 members), the Air Force Reserve (68,048 members), the Air National Guard (104,984 members), the Army Reserve (176,171 members), and the Army National Guard (329,705 members).³

ROA is more than a century old—on 10/2/1922 a group of veterans of “The Great War,” as World War I was then known, founded our organization at a meeting in Washington’s historic Willard Hotel. The meeting was called by General of the Armies John J. Pershing, who had commanded American troops in the recently concluded “Great War.”

³ See <https://crsreports.congress.gov/product/pdf/IF/IF10540/>. These are the authorized figures as of 9/30/2022.

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 adequate national security. For more than a century, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation's defense needs.

Through these articles, and by other means, including amicus curiae ("friend of the court") briefs that we file in the Supreme Court and other courts, we advocate for the rights and interests of service members and educate service members, military spouses, attorneys, judges, employers, Department of Labor (DOL) investigators, Employer Support of the Guard and Reserve (ESGR) volunteers, federal and state legislators and staffers, and others about the legal rights of service members and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA, 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 eight⁴ uniformed services, you are eligible for membership in ROA,⁵ and a one-year membership only costs \$20 or \$450 for a life membership. 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.

⁴ Congress recently established the United States Space Force as the eighth uniformed service.

⁵ Spouses, widows, and widowers of past or present members of the uniformed services are also eligible to join.

If you are eligible for ROA membership, please join. You can join on-line at <https://www.roa.org/page/memberoptions> 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:

Reserve Organization of America
1 Constitution Ave. NE
Washington, DC 20002⁶

⁶ You can also contribute on-line at www.roa.org.