



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000



July 21, 2004

The Honorable Nancy Worley
Secretary of State
State Capitol, Room S 105
600 Dexter Avenue
Montgomery, AL 36104

Dear Secretary Worley:

As we approach the 2004 federal election, the Department of Defense and the Department of Justice seek your cooperation in ensuring that Uniformed Services members and overseas citizens will have a full opportunity to vote. Especially at this time when so many of our military personnel are deployed to combat areas and serving their country around the world, we are certain you share our concern for guaranteeing that requested ballots for qualified overseas voters will be transmitted without delay and that voters will have a meaningful opportunity to return them in time to be counted.

The Secretary of Defense is responsible for administering the Federal responsibilities of the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. That authority is delegated to the Director, Federal Voting Assistance Program (FVAP). The Department of Justice is charged with enforcing *UOCAVA*.

We have been working closely together to find solutions to absentee ballot transit problems and delays exacerbated by uncertain mail delivery in many parts of the world. We will continue to work with state and local officials to address potential problems and it is our hope to avoid unnecessary litigation to enforce the rights of voters protected by *UOCAVA*.

The FVAP and the Department of Justice support and encourage state-sponsored initiatives to facilitate effective voting opportunities for their residents who are absent overseas. Since many of our Uniformed Services personnel are deployed to combat areas in Iraq and Afghanistan or are serving in remote regions, it is particularly important to allow at least a 45-day transit time from your mailing of ballots to your state's deadline for receiving voted absentee ballots. In addition, a number of states are using electronic means to send and/or receive Federal Post Card Application forms as well as ballots. We urge you, as the state's chief election official, to:

- Encourage election officials to use expedited postal or courier methods to deliver absentee ballots to *UOCAVA* citizens.



- Review your existing options if regular ballots cannot be mailed 45 days prior to the ballot receipt deadline (*e.g.*, the use of back-up or special write-in ballots) and seek the necessary authority to put in place such emergency procedures.
- Seek the legislative or regulatory authorization to permit overseas voters protected by *UOCAVA* to apply for, receive and return absentee ballots by facsimile or electronic mail methods, in addition to traditional mail delivery. Procedures to consider include:
 - Allow the voter to fax the FPCA to election officials.
 - Allow election officials to fax or email the blank ballot to the voter.
 - Consider a faxing/email option for return of voted ballots. If your state currently does not allow voting materials to be transmitted via email, but does allow faxing, FVAP has enhanced its electronic transmission service to receive faxed voting materials and forward them as email attachments. This option will provide a viable alternative to mailing voting materials by Uniformed Services members stationed in Iraq and Afghanistan and other overseas areas. Due to the security measures taken by the military, the capability for unclassified fax transmissions is not available to most of our men and women serving this region, but email transmissions are an option for many. After receiving an email from Uniformed Services members and other overseas voters, FVAP can forward the transmission to the states as a fax document to comply with state law.
 - FVAP's toll-free electronic transmission service for faxing of election materials is available to election officials at 1.800.368.8683.

Adoption of these instantaneous methods of transmittal such as faxing and email, with appropriate safeguards to protect the integrity and security of ballots, will ensure that overseas voters are not disenfranchised due to mail delays, especially in combat areas. (Enclosed are statutory provisions recently enacted in Oklahoma and Florida that might serve as a useful model for these procedures).

We appreciate your prompt attention to this important issue. Please advise us what actions you intend to take to help our Uniformed Services personnel, their family members, and overseas citizens register and vote in the 2004 elections.