

**Problems for Military and Overseas Voters:
Why Many Soldiers and Their Families Can't Vote
Donald Palmer, Director, Division of Elections, Florida Department of State**

Florida is keenly aware of the particular needs of its military and overseas voters in overcoming logistical challenges and fully participating in our electoral system.

In the last 25 years, there has been significant improvement in the way the State of Florida works with its military and overseas voters. With some of the finest Air Force and Navy installations in the country, Florida election officials have always worked to accommodate the needs of these military voters because of the vital mission they serve far away from home.

With the leadership of state and local election officials in using alternative means of transmission of ballot materials, and the wisdom of the Florida Legislature in repealing the second primary, Florida has become one of the national leaders in facilitating military and overseas voting participation.

Fundamental reasons for that increase of access to the overseas voter franchise: First, Florida requires the mailing of ballots to overseas voters 45 days prior to a General Election and accepts ballots up to 10 days after the election as long as the ballot is signed and dated by Election Day.

Second, state and local election officials in Florida have taken extra steps such as seeking updated addresses from FVAP and fully utilizing email, fax, and the Internet where appropriate, in the transmission of ballot materials to and from overseas and military voters. The military wish to use electronic mail to return voted ballots.

Third, Florida has maintained a spirit of ingenuity and transparency to use the latest technology and encryption measures available in its review and certification of an electronic voting system for remote voters in three overseas locations.

Fourth, Florida recognizes the huge role that the Voting Assistance Officers (VAOs) play in helping the military register and vote. Florida local election officials have made extra efforts to maximize the use of local VAOs at our installations. Prior to deployment, the National Guard provided deploying units the necessary registration information and voting deadlines. The goal was to make these airman, sailors, and guardsmen "election ready" before they deployed and left U.S. soil

Fifth, Florida has developed a very close relationship with the United States Postal Service. In the run-up to the 2008 General Election, Florida election officials met repeatedly with United States Postal Service representatives at the state and federal level. Together, we explored different ways to use technology and the preparation of ballot envelopes to reduce error or confusion in the delivery/return process.

Senate Rules Committee Hearing
Problems for Military and Overseas Voters:
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May 13, 2009

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Mr. Chairman, Ranking Member, Committee Members,

Thank you for the invitation to discuss with this legislative body the challenges of military and overseas voters during the voting process and the great strides Florida has made to increase access to the voting franchise for these voters.

Florida makes every effort to meet the needs of our diverse population of 11.2 million registered voters. Florida is keenly aware of the particular needs of its military and overseas voters in overcoming logistical challenges and fully participating in our electoral system. As election administrators, our job is to utilize the tools that you provide us through legislation to maximize this participation.

In the last 25 years, there has been significant improvement in the way the State of Florida works with its military and overseas voters. With some of the finest Air Force and Navy installations in the country, Florida election officials have always worked to accommodate the needs of these military voters because of the vital mission they serve far away from home.

With the leadership of state and local election officials using alternative means of transmission of ballot materials, and the wisdom of the Florida Legislature to repeal the second primary, Florida has become one of the national leaders in facilitating military and overseas voting participation. In my review of the data available to me, Florida has the highest levels of voter participation of states with significant levels of military populations.

In the following testimony, I will provide the fundamental reasons for that increase of access to the voting franchise of overseas voters, and the areas of improvements that Florida is considering to help mitigate the challenges these voters face.

First, the State of Florida requires the mailing of ballots to overseas voters 45 days prior to a General Election.

In Florida, we have removed the second primary and jurisdictions are able to provide 45 days for the transmission of ballots and accept ballots up to 10 days after the election as long as the ballot is signed and dated by Election Day. If so, the ballot will count for federal races on the ballot.

In the era of snail mail, despite the improved efficiencies of the postal express service, allowing for 45 days for transmission is prudent and the additional window of time after the election in which to accept ballots provides a safety valve to receive any ballots that were delayed in the mail. To allow the sailor on the ship or the soldier in the field the extra time to receive and return the ballot on time is absolutely necessary when relying solely on the mail service.

Second, state and local election officials in Florida have taken extra steps such as seeking updated addresses from FVAP and fully utilizing email, fax, and the Internet where appropriate, in the transmission of ballot materials to and from overseas and military voters.

In late September of 2008, our Secretary of State, Kurt Browning, traveled to the Middle East with other Secretaries of State to see firsthand how soldiers in the battlefield received and cast their absentee ballot. This was the first time the Department of Defense had invited Secretaries of State to travel to areas of operation in Iraq, Afghanistan, and Kuwait to personally observe the absentee balloting process. This trip provided Secretary Browning an opportunity to ask the men and women in the theater of operation what they really needed to successfully vote when faced with the challenges of the mail system and other events swirling around them in a battle zone. He heard that they would like to use their computer and electronic mail to return voted ballots.

While many states, including Florida, allow use of the fax to return voted ballots, he heard that many of these service members simply no longer have fax technology readily available. Instead, most, if not all, have access to a computer, a scanner, email and to the Internet. When possible, they often use electronic mail as the primary method of communication with their local election official and expressed a similar desire to use email technology to vote because of its simplicity.

We also heard from the service members that they are often anxious and frustrated with a rapidly approaching election day because they are often left in the dark as to the status of their ballot. They are concerned whether their ballot will ever get to them and, if they did receive it, whether the ballot will make it back in time. At the present, there is no systematic way of finding out the status of their request or when the ballot had been sent or whether the ballot has a realistic chance of being received back in time.

Because many soldiers and sailors are reliant on their email and the Internet to communicate with the outside world and to our elected officials, they believe it would be helpful to receive regular updates on when their ballot request has been received, when the ballot has been sent, and when the local election official received their voted ballot.

In his visit, Secretary Browning saw the amazing and Herculean work of the men and women of the military and the military postal service who manage the operation of receipt, sorting and forwarding of huge volumes of mail at bases such as Balad, Iraq and Bagram, Afghanistan. He witnessed the management of multiple processes in an efficient and uniform manner across two theatres of operation in an effort to get that military ballot moving in the direction of mobile service members who may be deployed to a forward operating base or assigned to a unit in remote areas of operation.

Third, Florida has maintained a spirit of ingenuity and transparency to use the latest technology and encryption measures available to reach our remote voters.

Florida is open and flexible to incorporate the newest technology in our voting systems by testing, certifying, and deploying the latest voting systems for use by its citizens. In Florida, our Legislature has provided for the Bureau of Voting Systems Certification within the Division of Elections, to review, functionally test, and determine whether to certify voting systems for use in the state. With its certification program in place, Florida has become a leader in the testing and deployment of the latest optical scan and *ballot on demand* technology offered by our voting system vendors.

In this past cycle, the Florida Division of Elections was able to successfully review and certify the project application offered by the Okaloosa Distance Balloting Pilot (ODBP) primarily because of the foresight of legislators in giving local election officials the ability to utilize the secure use of the Internet for voting purposes. I am very proud of the pioneering spirit of our Bureau of Voting Systems Certification in its *first-of-its-kind* review of the source code and security plan submitted by Okaloosa County and its vendor Scytl.

After the public functionality testing of the system, including its cryptology protocols and use of secure sockets layer (SSL) virtual private network (VPN) technology, I provisionally certified this voting system for use in the 2008 General Election.

The pilot placed supervised voting kiosks in three locations overseas. Kiosk workers set up and operated the system at each site. Voters used touch-screen laptop computers to make their selections and could review a paper record of their choices before casting their vote. All ballots were digitally signed by the voters, then encrypted and transported to a secure data center using a Virtual Private Network (VPN) channel on the Internet. The local Canvassing Board decrypted and tabulated the ballots cast. The initial audit of the paper ballots with the decrypted electronic votes cast showed no irregularities and we await a final report on the entire project.

Based on the results of this pilot, we will work with the National Institute for Science and Technology (NIST) and the Election Assistance Commission

(EAC) to help develop voluntary system guidelines for states in the secure transmission of materials to remote voters.

While *ScytI- Secure Electronic Voting* has done work for other nations or military forces in Australia, United Kingdom, Switzerland, and Finland, this was the first use of the technology in the United States.

Since that time, I understand ScytI has submitted its system to the Election Assistance Commission (EAC) for federal certification and entered into a contract with France to provide remote voting in May 2009 to over 300,000 of its diplomatic overseas population, leading up to almost a million overseas French citizens eventually voting with the system.

Fourth, Florida recognizes the huge role that the Voting Assistance Officers (VAOs) play in helping the men and women in uniform to register and vote. Florida local election officials have made extra efforts to maximize the effectiveness of local VAOs at our installations by encouraging that all deploying personnel be provided voting information prior to deployment. The key is to provide updated information on the voting process for further dissemination and provide additional opportunities to service members for registration, address update, or absentee ballot request.

States also have a unique opportunity to work with their National Guard units. The Florida National Guard developed a small but effective program to include voting information with their pre-deployment briefings and send updates on voting information to deployed unit email addresses. Prior to deployment, the National Guard provided units the necessary voting information unique to Florida while stressing the importance of maintaining email or phone communication with their local elected officials, ensuring accurate address information, and confirming ballot delivery.

The simple goal was to make these airman, sailors, and guardsmen “election ready” before they deployed and left U.S. soil, not after. I believe a similar program has been implemented in the Minnesota National Guard in conjunction with election officials, and this type of program could be easily implemented for deploying National Guard units across the country.

Fifth, Florida has developed a very close working relationship with the United States Postal Service. In the run-up to the 2008 General Election, Florida election officials met repeatedly with United States Postal Service representatives at the state and federal level. On the county level, our election officials held numerous meetings with their local representatives, all in an attempt to explain the needs of our absentee and overseas absentee voters.

Together, we explored different ways to use technology and properly prepare ballot envelopes to further streamline the postal mailing of ballots. The postal service also provided counties individual opportunities to design envelopes to reduce error or confusion in the delivery and return process and use technology such as *Intelligent Code* to track absentee ballots while in the continental United States (INCONUS).

Exploring a way to track all ballots overseas should be considered as a great way to inform voters and local election officials alike where the ballots are in the process of delivery and return. One of the issues discussed was the large number of ballots sent to an incorrect or undeliverable address because the service member has either transferred to another command or war zone or the overseas address is no longer operative. This situation highlights the importance of finding a way to update the address of the service member when he goes from command to command.

Areas of Needed Improvement:

The Florida Department of State and Division of Elections are always looking for ways to improve our processes to increase overall voter participation. Based on our experience from the 2008 election cycle and the Secretary of State's visit overseas to the war zones, the Department of State offered some legislative recommendations on improving our system for overseas voters:

The Florida Department of State requested legislation that would help local election officials establish better communications with their overseas voters by use of email – the primary means of communication by service members. While a physical address may often change with a highly mobile

voter, the use of an email address established by the voter for communication with election officials can often serve as the one stable means of communication.

While even military email addresses often change, the establishment of one electronic mail address that can be used worldwide despite multiple moves from command to command would greatly facilitate the tracking service members.

The Florida Department of State also proposed language that would require local officials retain the overseas voter email address provided by the registrant; acknowledge receipt of a request for absentee ballots by email; provide notification that the absentee ballot has been sent; and send a notification by email that the ballot was received back from the overseas voter. The Florida Department of State also proposed language to join the approximately 14 other states that currently permit the use of electronic mail to transmit voted ballots. To ameliorate security concerns, the Bureau of Voting Systems Certification and local election officials would ensure that appropriate security is available and privacy procedures are in place.

Conclusion

As a former military citizen stationed overseas and deployed on a ship where mail was delivered by the occasional COD landing on deck, I can assure you that these men and women want to participate and vote despite the swirl of daily activity around them. I remember being deployed on a carrier in the Mediterranean during the 1992 Presidential Election wondering if my ballot would ever make it to me and back in time. Often the men and women serving overseas are frustrated and concerned that their vote will not return in time to be counted; however, they are committed to the mission and do not often complain. Therefore, it is our responsibility to review the facts presented on overseas and military participation that may point to potential deficiencies and use the tools necessary to facilitate their franchise to vote.

Biography – Donald Palmer

Donald Palmer is the current Director, Division of Elections, for the Florida Department of State and serves on the Executive Committee of the EAC Standards Board. Prior to coming to the Florida Department of State, he was a trial attorney with the Civil Rights Division, Department of Justice, where he enforced the Voting Rights Act (VRA), National Voter Registration Act (NVRA), and the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA). He represented the United States in one of its first enforcement actions under the Help America Vote Act (HAVA).

Donald Palmer is a former Intelligence Officer serving onboard the USS John F. Kennedy with Carrier Air Group Three and Sea Control Squadron Twenty-Two. He later served as an Intelligence analyst with a reserve unit supporting United States Central Command. As a Navy Judge Advocate General (JAG) he served as defense counsel at Naval Station Jacksonville, Florida before deploying overseas to Naval Station, Naples, Italy for a three year tour. As a JAG, he served in Europe and Southwest Asia (EURSWA) as Senior Defense Counsel, representing Sailors and Marines accused of military offenses at Courts-Martial or administrative discharge hearings. To represent his clients, he often traveled as a MOJAG (mobile JAG) to various parts of his area of responsibility (AOR) ranging from ships in the Persian Gulf to bases in Bahrain, Crete, Germany and Sicily. Returning to the United States, he later handled the criminal appeals of Navy & Marine Corps appellants and provided oral representation for the Navy as one of their appellate government counsel. Don resides in Tallahassee with his wife and three children.