



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D. C. 20530

July 30, 2010

The Honorable John Cornyn
United States Senate
Washington, DC 20510

Dear Senator Cornyn:

This responds to your letter of July 26, 2010, to the Attorney General regarding enforcement by the Department of Justice of amendments to the Uniformed and Overseas Citizens Absentee Voting Act of 1986 ("UOCAVA") as enacted by the Military and Overseas Voter Empowerment Act ("MOVE Act"), Pub. L. No. 111-84, 123 Stat. 2190 (Oct. 28, 2009).

The Department of Justice is firmly committed to ensuring that our men and women serving in the uniformed services and living overseas have the opportunity to vote and to have their votes counted. Any suggestion to the contrary is simply untrue.

The Department strongly supported the goals of the MOVE Act, which established additional protections for UOCAVA voters. Since its enactment, the Department has devoted significant resources to ensuring successful nationwide implementation of the MOVE Act, including forming a team of attorneys to monitor state compliance with the Act's requirements and monitoring new state legislation. The statements referenced in your letter that have been attributed to Department personnel were taken out of context or misinterpreted. There should be no misunderstanding: we fully enforce the law.

As you know, the Department of Defense has responsibility, in consultation with the Department of Justice, for determining whether to grant waivers to states that are unable to comply with the MOVE Act requirement to mail ballots by the 45th day before a federal election. As of this writing, no waiver request decisions have been issued for the November 2010 general election. States are required to submit waivers in most cases by August 4, 2010 (90 days before the election) and the Department of Defense, after consultation with the Department of Justice, is required to issue decisions on those requests by August 29, 2010 (65 days before the election).

The Department of Justice is regularly consulting with the Federal Voting Assistance Program at the Department of Defense regarding state compliance with the

MOVE Act and waiver applications for the November 2010 election. Additionally, we have sent letters to every state seeking to determine their plans for coming into compliance with the MOVE Act by the November 2010 general election, and are working to help each state comply. The Department is fully prepared to file suit against states that do not come into compliance, but as with all statutes it enforces, DOJ seeks to ensure compliance without time-consuming or expensive litigation whenever possible.

The Department agrees entirely that states must comply with the deadline in the MOVE Act to transmit validly-requested absentee ballots to UOCAVA voters no later than 45 days before an election for a federal office, when the request has been received by that date, except where an undue hardship waiver is approved by the Department of Defense for that election in accordance with the MOVE Act; that to be eligible for a waiver, states must submit a waiver application in accordance with the MOVE Act requirements; that a waiver applies only to the election for federal office for which it is submitted; and that the state's comprehensive plan to protect voting rights submitted as part of its waiver application must ensure UOCAVA voters have sufficient time to receive, mark, and submit their absentee ballots in sufficient time to have those ballots counted in the election.

You have requested a state-by-state breakdown regarding compliance with the MOVE Act. As you may know, there is a limited universe of states that have late primary elections in sufficient proximity to the general election about which there are pending questions regarding compliance with the 45-day requirement in the MOVE Act. Some of these states have submitted waiver applications already, while other states are expected to do so by August 4. Certain other states may choose not to seek a waiver and we will determine whether further action is necessary as to them. We would like to offer you an in-person briefing with the most current information on these issues. We look forward to hearing from your office about scheduling a time to update you.

We hope that this is responsive to your concerns. If you have further questions regarding this or any other matter, please do not hesitate to contact us again.

Sincerely,



Ronald Weich
Assistant Attorney General