

To: Heather Gerken

From: Peter Miller

11/30/07

Re: First memo on data used in NVRA, UOCAVA and EDS reports

Attached: Memo 1 data.xls

Heather,

Here is the first memo regarding data submission rates for the 50 states, the District of Columbia and 4 territories (Puerto Rico, Guam, American Samoa and the U.S. Virgin Islands) related to three reports submitted to Congress this summer: the National Voter Registration Act (NVRA) and the Uniformed and Overseas Citizen Absentee Voting Act. A third report, the Election Day Survey (EDS), covers election administration data.

The attached spreadsheet is split into three segments: survey questions related to NVRA, UOCAVA and EDS reporting requirements. In each segment, the 55 jurisdictions are sorted on the vertical axis, and survey items are arranged along the horizontal axis. The first column identifies the state, the second column establishes the maximum number of reporting jurisdictions. Thus, a response rate can be found by dividing the number in any cell by the number in the second cell. For example, you can see that 100% of jurisdictions in Alabama provided data on the total number of active voters in the 2004 election, but 65 of the 67 jurisdictions in Alabama reported the number of inactive voters in 2004.

The purpose of this memo is to identify potential pitfalls in the data contained in each report. For this purpose, I will consider five groups of data in the NVRA section (active and inactive voters, election day registration, registration manner and location, registration rejections and registration removals), three groups in the UOCAVA section (ballots cast and counted, absentee ballots and ballots rejected) and five groups in the EDS section (ballots cast and ballots counted, reasons for rejecting provisional ballots, reasons for rejecting domestic absentee ballots, undervotes and overvotes and poll worker, polls and disabled voters). Based on the response rates in the accompanying spreadsheet it will be possible to rank states according to completeness of responses to the survey questions.

At the outset, I will make a few observations about the data and general features. First, the response counts consider any number as valid (i.e. if one jurisdiction responded with "0" for a survey item, that state would have a "1" for that survey item). Secondly, the meaning of a jurisdiction varies across states. In Alaska, all data was submitted at the state level, so there is one jurisdiction for the entire state. New Hampshire has 333 jurisdictions because that state collects data at the township; there are 13 counties in the state, however (so the response rate for election day registration is closer to 70% than 2%). Third, states can be roughly categorized three ways based on response rates to survey items: states that returned complete or nearly complete data on all survey

questions; states that returned complete or nearly complete data on general items, but only partial data for minor survey items (for example, a state where most jurisdictions would report data on the number of domestic civilian absentee ballots received, but not include data on why some of these ballots would be ultimately rejected and not counted); and, lastly, states that would provide data on major survey items, but no data on other survey items (Alabama is a good example). Lastly, across the three reports, the response rates for the territories were particularly low.

NVRA Report

The NVRA report includes data on new and removed voter registrations. The data on inactive voters is most problematic, due to a lack of a uniform definition of an inactive voter across all states. The NVRA report states that 10 states do not collect data on inactive voters, treating all voters as active.

Active and Inactive Voters

These survey questions ask about the number of voters on state rolls categorized as active (meaning all registered voters except those who have been sent but have not responded to a confirmation mailing sent in accordance with NVRA (42 U.S.C. 1973gg-6(d)) and have not yet since offered to vote) and inactive (meaning registered voters who have been sent but have not responded to a confirmation mailing sent in accordance with NVRA (42 U.S.C. 1973gg-6(d)) and have not yet since offered to vote).

Generally speaking, the response rate across states is good on this critical survey item. In 2004, two states had low response rates for active and inactive voters, but high response rates for total number of voters: Mississippi (60 out of 82 jurisdictions for active voters, 43 of 82 for inactive voters) and Utah (3 of 29 jurisdictions for active voters, and 0 for inactive voters). While 10 states do not collect data on inactive voters, most states provide a top-level count of registered voters in 2004. North Dakota does not have voter registration, so it is exempt from this reporting requirement. In 2006, the quality of data improved as more jurisdictions replied to the survey, but inactive voters continue to be a category which states do not uniformly collect. 2006 is the first year centralized, statewide voter registration rolls are available for the state of Wisconsin. Among the states that provided a partial count of inactive voters, response rates improved from 2004, but eight states and North Dakota did not supply this data.

Election Day Registration

The survey instrument presented every jurisdiction with a question asking for the total number of election day registrants, while only seven states permit registration at the polls: Idaho, Maine, Minnesota, Montana, New Hampshire, Wisconsin and Wyoming. Fortunately, jurisdictions that did respond to this survey item reported “0” cases of registration on election day.

Registration Manner and Location

The next group of survey items are related to the manner and place voter registration forms were submitted in each jurisdiction between 2004 and 2006. Registration forms can be submitted either in person or by mail and can be submitted to a variety of public agencies in accordance with the NVRA text. While most states report the total number of registration applications received, the data becomes less complete for other items. Five states and North Dakota reported nothing else but a top-level count of registrations. Other states, such as Massachusetts, reported complete or nearly complete data for some of the survey items, not did not respond to other survey items in this group.

Registration Rejections and Removals

The final section of the NVRA survey dealt with voter registrations which were rejected (and specify a series of reasons) or removed from the voter rolls (again, including a reason as required by statute), and the total number of new registrations added to the voter rolls.

UOCAVA

The UOCAVA report dealt primarily with military and overseas citizen voters. However, interpretation of the results are complicated by low response rates. The report states, "Response rates varied across the UOCAVA-related questions, but in general, they are at a level that makes it difficult to monitor compliance with the basic requirements

of UOCAVA." For one example, at least 900,000 ballots were requested by UOCAVA voters (56% to 65% of jurisdictions responded to this question, depending on the category of voter as military or civilian) but only about 333,000 ballot cast or counted. It is also hard to discriminate between the number of ballots cast and the number of ballots counted, because for many jurisdictions, only one of these two numbers was provided by jurisdictions. Thus, we're left with one of two conclusions: either turnout among UOCAVA voters is very low in general elections, or data on this question is not being collected and submitted to the Election Assistance Commission.

Ballots Cast and Counted

The UOCAVA report requires jurisdictions to report the number of ballots cast and counted at the polls, by the demographic groups targeted by this legislation (i.e. overseas and domestic military voters and overseas civilian voters). While every state allows absentee voting (some in special cases such as illness or travel and others allow absentee voting without a reason), it is hard to believe that in some states there were no cases of absentee ballots or early votes cast, or that 15 states and the territories did not

have any cases of overseas military votes cast. Survey data on ballots counted among those ballots discussed above are also partial. The UOCAVA report uses a “maximum ballot” variable to compare turnout in cases where states submitted data on ballots cast or counted, but not both.

Absentee Ballots

The UOCAVA survey includes questions about the number of absentee ballots requested by the voter, sent by the election officials, and received by the election officials. As stated above, the data suggests that about one third of those voters who requested a ballot under UOCAVA returned a ballot. The concluding statement of the UOCAVA report is perhaps most illustrative of the data collection and submission process: “Too many local election authorities continue to fail to track the precise number of ballots they mailed or transmitted to their domestic military, overseas military, and overseas citizens, as required by HAVA
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Ballots Rejected

The UOCAVA report suggests that about 48,600 ballots were rejected. The most common reason for rejecting ballots was that ballots were often returned as undeliverable. The second-most common reason for rejecting UOCAVA ballots was “other,” suggesting that the already long list of reasons for rejecting a ballot was not long enough.

EDS

The Election Day Survey includes items on general election administration. The first EDS was conducted following the 2004 elections, and work is currently underway to prepare a 2008 survey. Unlike the NVRA and UOCAVA reports, the EDS report has not yet been formally submitted to Congress, so these data are not yet finalized. The data related to overvotes and undervotes is particularly hazardous to rely upon.

Ballots Cast and Counted

As explained above, the data on ballots cast and counted are often incomplete due to states not providing one of the counts.

Reasons for Rejecting Provisional Ballots

The data on reasons for rejecting provisional ballots is, like many other sections of these three reports, plagued by poor response rates. Vermont, for example, only returned data on the total number of provisional ballots which were rejected, and did not provide a reason for rejecting those ballots. Most of the remaining states follow the case of Vermont: providing complete or nearly complete data on a top-level count of rejected provisional ballots, but the response rates drop when considering the reasons for those rejections.

Reasons for Rejecting Domestic Absentee Ballots

Like the previous section on provisional ballots, domestic absentee ballots are also subject to poor data on reasons for rejecting ballots, even if most jurisdictions know how many absentee ballots were ultimately rejected. Across reasons, response rates range from 33% to 51% of jurisdictions.

Undervotes and Overvotes

Unlike every other column in the spreadsheet, the data on undervotes and overvotes reflect numbers of residual ballots for each state. The survey instrument question asked for counts of undervotes and overvotes in each Federal race in each jurisdiction. However, because some states sort Federal election data by Congressional district and because most races had many candidates, the resulting data was virtually unusable on a comparative basis. Instead, the report reflects the total number of undervotes and overvotes for House and Senate elections in each state. Note that 18 states and the 4 territories did not have a Senate race.

Polls, Poll Workers and Disabled Voters

Lastly, the EDS survey instrument asked about the number of precincts and polling places, data related to poll workers, and accessibility of voting places for disabled voters. Rather than follow the strategy adopted by many states in the 2004 survey and uniformly report the mandated number of poll workers, the 2006 survey includes many gaps in these data. Only about 40% of jurisdictions reported the number of precincts or polls that did not have the required number of poll workers. About 80% of jurisdictions responded to questions about disabled voter access. Between 85% and 94% of jurisdictions responded to questions about the number of precincts and polling places.

Conclusion

There are many holes in the data related to these three reports. Average response rates for each survey item in the three reports range from about 54% to 65%. For the entire dataset, 15 variables are complete or nearly complete, while 54 variables have less

than a 50% response rate. While inactive voters, ballots cast and counted and undervotes and overvotes are particularly problematic to interpret, the remaining data is by no means beyond reproach.