

To: Heather Gerken

From: Peter Miller

1/2/08

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

Attached: Memo 2 data.xls and Word documents of HAVA, NVRA, and UOCAVA

Heather,

Here is the second memo regarding data response rates. In this memo, I will do XXX things: first, I'll cover specific reporting requirements from the National Voter Registration Act (NVRA), the Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) and the Help America Vote Act (HAVA). I will describe the aggregation technique used to arrive at a GPA-like score for each state in terms of response rates. I am waiting for Paul Gronke to return from vacation before I can answer questions about the patterns of response rate for the survey questions related to poll workers, but expect that question to be answered soon.

Statutory Requirements

I have included the text of the three Acts mentioned above in Word documents with my comments, indicating reporting requirements of each Act where I could find them when I read through the Acts. As far as I can tell, there is not a itemized list of what data is required to be collected in accordance with these three Acts, and occasionally, pertinent which is conceivably collected is not included in the survey instrument (see my comments in the NVRA and UOCAVA text for two examples).

Briefly, the NVRA requires that citizens who use public assistance agencies, register residence or acquire a driver's license be allowed to register to vote at the same time. There is a requirement for a report to Congress, however.

Likewise, the UOCAVA text does not include a list of data to be collected, but does require a report to Congress

HAVA also has reporting requirements, such as a hotline to call to find out if a provisional ballot was counted and, if not, the reason for its exclusion. HAVA is also the only time I see a reference to residual votes, the over- and under-votes.

Justification for Survey Items

As you asked in our last phone conversation, I've been recording my thoughts on why each survey item is important for the survey's purposes. By survey, here are my reasons:

NVRA:

Active (or total) voters are often a denominator for other rates (such as turnout or the percentage of the population that are registered to vote) that make it an obvious count to record. Counts of inactive voters are less relevant, but I think that's because states are not sure what to do with that data.

Election Day Registration is also a high-profile count, given its experimental use in a small number of states. I'm sure other states are watching that count closely.

Questions asking for registration manner and location give an idea of where and how people are registering to vote. While these questions are broad enough to cover most cases of registration, there is not a question for people who registered by means other than via a public assistance agency (which is admittedly beyond the purview of NVRA).

Similarly, questions about vote rejection and voter removal give an idea of how the system of casting and counting votes is working properly. Data on the number of voters removed from the rolls because of death, for example, can be compared to the total number of voters removed from the rolls to assess if voters are being removed from the list inappropriately.

UOCAVA:

Questions about casting and counting ballots among uniformed and overseas citizens are a small piece of the election administration pie, but also a critical group that should not be denied the right to vote due to living outside the United States. These are more diagnostic tools to evaluate the efficacy of counting ballots cast by Americans abroad.

EDS:

The Election Day Survey is similar in subject matter to the UOCAVA survey, but vastly larger in scope.

In this survey, the battery of questions related to reasons for not counting provisional and absentee ballots is more expansive, including interesting items like the number of ballots that were rejected because the voter already voted some other way (a count which could be used as to show incidents where potential voter fraud was prevented) or the count of ballots rejected because of untimely receipt (which could be used as evidence to transition to a national policy of "postmark" requirements, where if a ballot is postmarked by Election Day, it is counted instead of mandating that ballots be received on Election Day in order to be counted).

Questions about poll workers, polls and access for disabled voters provide accountability measures to ensure polling places are properly administered, though there is some question if states are replying to these items accurately.

Overvotes and undervotes are technical items, but also important for policy debates involving questions of voting technology.

Aggregation Technique and Scoring

As you will recall, the first memo on this data included the number of counties and local jurisdictions that responded to the survey instrument circulated by the Election Assistance Commission. In that data, a “0” meant that no counties responded to a given survey item, while a response rate of 100% indicated that every county responded to the survey item, even if that response was 0 for any given item. Given the lack of a jurisdiction response count for the undervote and overvote items, I dropped these items from my calculations.

This scoring report is based on that earlier dataset. I have divided the number of counties that responded to each survey item by the number of counties in the state to arrive at some percentage, which is the response rate. Cases where 0 counties replied to a given survey item are replaced with blank cells. This response rate is then graded along a standard grading scale, from A to F (a specific grading policy is included in the “Total” tab in the data). The aggregate scores are included in the “Total” worksheet, while each survey is separated into its own worksheet. I have separated out the four territories and the District of Columbia from the main tabulation in the final score report, but calculated the results for these five areas too.

Let me walk you through the case of Alabama. You will see that Alabama has a “1” in the 2004 active voters column (NVRA tab), meaning that every county in Alabama responded to this question from the NVRA survey. 65 counties in Alabama responded to the 2004 inactive voter prompt, so the quantity in that cell is about 0.97, or indicating a 97% response rate. You will notice that the “Statewide response rate using total number of survey items (31/32)” column scores Alabama at about 0.29 and if you scroll to the right, you will see that Alabama’s good response rate on these first few survey items drops off considerably for the remainder of the NVRA survey. The same trend is replicated for the UOCAVA and Election Day Surveys. Alabama scored 0.24 and 0.14 on those surveys, respectively. Lastly, you will see in the “Total” tab that of the possible score of 133 (or a score of 1 for each of the 133 survey items Alabama could have responded to), Alabama scored just over 28, meaning that Alabama responded to about 21% of the survey items, and 21% is a failing grade. You’ll notice that the average score among the states is a D-. About half the states are reporting less than 60% of the survey items.

I considered two alternate aggregation techniques that I ultimately abandoned, or adjusted. First, I had mentioned to you that I would calculate a score based on the response rates within survey items that states responded to at any level, but decided that measure would be meaningless. Consider Alabama, which provided good data on a small number of survey items and Delaware, which provided good data across most of the survey items. I do not think these cases are comparable, since this measure would in effect artificially inflate the score of states like Alabama. So I dropped that technique entirely.

Secondly, I adjusted my technique to account for the states that do not provide for

Election Day registration. You will see that the total number of survey items is either 133 or 134 and that there are either 31 or 32 survey items in the NVRA section. The extra survey item is counts for EDR in the seven states that provide it. I altered the aggregation technique so that the 43 states that do not provide for EDR are not penalized in the final calculation.

I have one word of caution for the case of Hawaii. There are five legally defined counties in Hawaii, but one of them – Kalawao – is designated as a leper colony, and in a state of quarantine. As far as I can tell, there is a tiny county government (a sheriff and some officials from the Health Department), and this county accounts for most of the occasions in the data where 4 of the 5 Hawaiian counties responded to a given survey item. According to the 2000 census, there are 147 people living in this county, so it may be accurate to say that Hawaii's score is unfairly deflated because of one small case with unique circumstances did not reply to the survey instrument when it was circulated. If Hawaii's score is adjusted to remove this county, the adjusted score is .674 (an increase of .145), or a D+.