

State of Wisconsin\Government Accountability Board

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JUDGE GORDON MYSE
Chair

KEVIN J. KENNEDY
Director and General Counsel

December 17, 2010

Thomas E. Perez
Assistant Attorney General
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Perez:

This correspondence provides the report of the State of Wisconsin concerning the transmittal of absentee ballots by Wisconsin's local election jurisdictions to military and overseas voters for the November 2, 2010 General Election.

This correspondence and the accompanying report are being transmitted by email and a paper copy is being sent by USPS mail. This report is required by the consent decree entered into between the United States Department of Justice and the State of Wisconsin, and approved by the Federal court in *United States of America v. State of Wisconsin, et al.*, Case No. 10-cv-518 in the U.S. District Court, Western District of Wisconsin.

Specifically, the consent decree provides as follows:

- (5) The Defendants shall file a report with the United States Department of Justice no later than December 17, 2010, concerning the number of UOCAVA absentee ballots, by local election jurisdiction, received and counted for the November 2, 2010 general election for Federal office. The report will set forth the following information, by local election jurisdiction, and categorized by "military electors" and other overseas voters:
 - a. The number of absentee ballots from UOCAVA voters received before the close of polls on November 2, 2010, and counted;
 - b. The number of absentee ballots from UOCAVA voters received and counted after the close of polls on November 2, 2010 but prior to the close of business on November 19, 2010;
 - c. The number of absentee ballots from UOCAVA voters received later than the close of business on November 19, 2010; and
 - d. The number of absentee ballots from UOCAVA voters that were not counted in the general election for Federal office, for reasons other than late receipt.

Report Concerning UOCAVA Ballots

The documents accompanying this correspondence summarize the absentee ballots from UOCAVA voters for the November 2, 2010 General Election. Each document is labeled to match the corresponding requirement in the Consent Decree. The information contained in each report only includes the local election jurisdictions with UOCAVA absentee ballot requests on file. Wisconsin has 1,850 municipalities

divided into 1,909 local election jurisdictions; municipalities that cross county lines have an election jurisdiction in each county. Of those jurisdiction, 1,274 did not have any UOCAVA electors for the 2010 General Election, leaving 635 local election jurisdictions with UOCAVA electors. A list of all the local election jurisdictions is available on the Government Accountability Board's (the Board) website: <http://gab.wi.gov/clerks/directory>

We have generated and labeled a separate report to correspond to each of the inquiries contained in the introductory paragraph and each sub-paragraph of item (5) of the Consent Decree. The information presented in each report is described below:

- Excel Document Labeled Consent Decree (5)
 - Column A shows the HINDI number which serves as a tracking mechanism for the Board.
 - Column B shows the name of the local election jurisdiction.
 - Column C shows the number of absentee ballots from Military electors returned to the clerk of the corresponding jurisdiction.
 - Column D shows the number of absentee ballots from Military electors counted in the corresponding jurisdiction.
 - Column E shows the number of absentee ballots from Overseas electors returned to the clerk of the corresponding jurisdiction.
 - Column F shows the number of absentee ballots from Overseas electors counted in the corresponding jurisdiction.

- Excel Document Labeled Consent Decree (5)a
 - Column A shows the HINDI number which serves as a tracking mechanism for the Board.
 - Column B shows the name of the local election jurisdiction.
 - Column C shows the number of absentee ballots from Military electors returned to the clerk of the corresponding jurisdiction on or before November 2, 2010.
 - Column D shows the number of absentee ballots from Military electors counted in the corresponding jurisdiction on or before November 2, 2010.
 - Column E shows the number of absentee ballots from Overseas electors returned to the clerk of the corresponding jurisdiction on or before November 2, 2010.
 - Column F shows the number of absentee ballots from Overseas electors counted in the corresponding jurisdiction on or before November 2, 2010.

- Excel Document Labeled Consent Decree (5)b
 - Column A shows the HINDI number which serves as a tracking mechanism for the Board.
 - Column B shows the name of the local election jurisdiction.
 - Column C shows the number of absentee ballots from Military electors returned to the clerk of the corresponding jurisdiction on or after November 3, 2010 but on or before November 19, 2010.
 - Column D shows the number of absentee ballots from Military electors counted in the corresponding jurisdiction on or after November 3, 2010 but on or before November 19, 2010.
 - Column E shows the number of absentee ballots from Overseas electors returned to the clerk of the corresponding jurisdiction on or after November 3, 2010 but on or before November 19, 2010.
 - Column F shows the number of absentee ballots from Overseas electors counted in the corresponding jurisdiction on or after November 3, 2010 but on or before November 19, 2010.

- Excel Document Labeled Consent Decree (5)c
 - Column A shows the HINDI number which serves as a tracking mechanism for the Board.
 - Column B shows the name of the local election jurisdiction.
 - Column C shows the number of absentee ballots from Military electors returned to the clerk of the corresponding jurisdiction after November 19, 2010
 - Column D shows the number of absentee ballots from Overseas electors returned to the clerk of the corresponding jurisdiction after November 19, 2010

- Excel Document Labeled Consent Decree (5)d
 - Column A shows the HINDI number which serves as a tracking mechanism for the Board.
 - Column B shows the name of the local election jurisdiction.
 - Column C shows the number of absentee ballots from Military electors returned to the clerk of the corresponding jurisdiction but were not counted for reasons other than late receipt.
 - Column D shows the number of absentee ballots from Overseas electors returned to the clerk of the corresponding jurisdiction but were not counted for reasons other than late receipt.
 - Column E shows the number of absentee ballots from Military electors returned to the clerk of the corresponding jurisdiction as undeliverable.
 - Column F shows the number of absentee ballots from Overseas electors returned to the clerk of the corresponding jurisdiction as undeliverable.

The Official Election Results for the 2010 General Election are available on the Board's website:
<http://gab.wi.gov/elections-voting/results/2010/fall-general>

Information on Attached Data

The information contained in the attached reports is extracted from the Statewide Voter Registration System (SVRS). Each of the 1,850 municipalities in Wisconsin has a separate jurisdiction node containing the voter's registration information, registration history, UOCAVA absentee ballot information and voting history. Some of the 1,850 municipalities have not completed the post-election data entry and therefore some voter participation data (such as whether an elector's ballot has been cast) has not been entered. The attached reports may be tallying a small number of UOCAVA electors' ballots as not counted because that information has not been updated in the SVRS. The Board's staff continues to assist and oversee these municipalities they complete their post-election data entry.

In an effort to ensure data quality, the Board required UOCAVA data from municipalities from two separate data sources. When comparing these data sources, the Board found some discrepancies. The Board's staff has worked with municipalities to reconcile these discrepancies, however there remain 31 election jurisdictions with discrepancies which may or may not affect the reporting of approximately 35 ballots from UOCAVA voters. The Board's staff continues to work with these municipalities to reconcile the remaining discrepancies.

Future Compliance with the MOVE Act

The Board's obligations created by the Consent Decree are due to Wisconsin's inability to comply with the federal requirement created by the Military and Overseas Voting Empowerment Act (MOVE) to mail official ballots to all military and overseas electors 45 days prior to a Federal Election because of the statutory requirement for a partisan primary in September. Board staff developed legislation in 2009 to conform our statutory procedures for UOCAVA voters with the MOVE Act. This legislation was incorporated in 2009 Assembly Bill 895 and 2009 Senate Bill 640 along with other legislative initiatives proposed by the chairs of the relevant standing committees. That legislation failed but the Board plans to reintroduce new legislation that will also address the date of the Primary and its related statutes to enable

the preparation of official ballots for distribution at least 45 days prior to the General Election. Internal discussions have already taken place on new recommendations for the Legislature and the Board's staff will continue to work with local election officials, interest groups, and legislative partners to comply with the MOVE Act.

We hope that this information is useful in your review of Wisconsin's transmission and receipt of UOCAVA ballots pursuant to the Federal court consent decree. The submission of this completed report fulfills the requirements of the consent decree between the United States Department of Justice and the State of Wisconsin. If you have questions or if you wish to discuss the submitted report, I may be contacted at (608) 266-8005, or at Kevin.Kennedy@wi.gov. Thank you.

**WISCONSIN GOVERNMENT
ACCOUNTABILITY BOARD**



Kevin J. Kennedy
Director and General Counsel

cc: Members, Wisconsin Government Accountability Board

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