

DIANE M. LOWE

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2
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE WESTERN DISTRICT OF WISCONSIN
5 * * * * *
6 ONE WISCONSIN INSTITUTE, INC., et al.,
7 Plaintiffs,
8 -vs- Case No. 15-CV-324
9 GERALD C. NICHOL, et al.,
10 Defendants.
11 * * * * *
12
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14
15 VIDEOTAPED DEPOSITION OF DIANE M. LOWE
16 Monday, January 25, 2016
17 9:10 a.m.
18
19 Reported by: Lisa A. Creeron, RPR
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1 VIDEOTAPED DEPOSITION OF DIANE M. LOWE, a
2 witness in the above-entitled action, taken at the
3 instance of the plaintiffs, under the provisions of the
4 Federal Rules of Civil Procedure, taken pursuant to
5 notice, before LISA A. CREERON, a Registered Professional
6 Reporter and Notary Public in and for the State of
7 Wisconsin, at the Wisconsin Department of Justice, 17 West
8 Main Street, in the City of Madison, County of Dane, and
9 State of Wisconsin, on the 25th day of January, 2016,
10 commencing at 9:10 a.m.
11
12 A P P E A R A N C E S
13 JOSHUA L. KAUL,
14 PERKINS COIE, LLP,
15 Attorneys at Law,
16 One East Main Street,
17 Madison, Wisconsin 53703, appearing on
18 behalf of the plaintiffs;
19 BRIAN P. KEENAN,
20 Assistant Attorney General,
21 WISCONSIN DEPARTMENT OF JUSTICE,
22 17 West Main Street,
23 Madison, Wisconsin 53703, appearing on
24 behalf of the defendants.
25 ALSO PRESENT: TODD CAMPBELL (Videographer)
* * * * *

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DIANE M. LOWE

1 THE VIDEOGRAPHER: We are on the
2 record. Seated before you is Diane Lowe. This
3 is Video No. 1 of her video deposition, taken
4 pursuant to notice, at the instance of the
5 plaintiffs, in the matter of One Wisconsin
6 Institute, Incorporated, et al., vs.
7 Gerald C. Nichol, et al. This matter is pending
8 in the United States District Court, Western
9 District for the State of Wisconsin, Case
10 No. 15-CV-324.

11 This deposition is taking place at the
12 State of Wisconsin, Department of Justice,
13 17 West Main Street in Madison, Wisconsin. The
14 date is January 25th, 2016. The time is 9:10
15 a.m. I am Todd Campbell, videographer with
16 Campbell Legal Video. The court reporter is
17 Lisa Creeron with Madison Freelance Reporters.

18 Would counsel please first introduce
19 themselves, state whom they represent and then
20 the court reporter will swear in the witness.

21 MR. KAUL: On behalf of the
22 plaintiffs, I'm Josh Kaul.

23 MR. KEENAN: On behalf of the
24 defendants, Assistant Attorney General
25 Brian Keenan.

5

1 anything I'm saying, please just let me know, okay?

2 A Okay.

3 Q If you do have trouble understanding a question that
4 I ask, please ask for clarification. If you don't,
5 I'll assume you understand the question, is that
6 fair?

7 A Yes.

8 Q You're doing a good job with this already, but one
9 thing that's very helpful to the court reporter is to
10 answer audibly, so to say yes or no rather than
11 nodding your head or saying uh-huh or uhn-uhn. Does
12 that make sense?

13 A Yes, it does.

14 Q And I will do my best not to speak over you when
15 you're answering questions, and I'm hoping you can
16 also do your best not to start answering before I
17 finish the question so that we have a clear
18 transcript, okay?

19 A Okay.

20 Q You work at the Government Accountability Board, is
21 that right?

22 A Yes.

23 Q And if I call that the GAB or GAB today, will you
24 understand what I'm referring to?

25 A Yes, I will.

7

1 DIANE M. LOWE,
2 called as a witness, being first duly
3 sworn in the above cause, testified
4 under oath as follows:

5 EXAMINATION

6 BY MR. KAUL:

7 Q Ms. Lowe, let me -- I just introduced myself, but let
8 me again do it on the record. My name is Josh Kaul.
9 I'm an attorney for the plaintiffs in the One
10 Wisconsin Institute vs. Nichol case. And before we
11 get into any substance, let me ask have you been
12 deposed before?

13 A Yes.

14 Q How many times?

15 A Once.

16 Q And there's some background noise here, so if you
17 have any trouble hearing me, please let me know,
18 okay?

19 A Okay.

20 Q First, you were probably given some ground rules for
21 the last deposition, but let me just go over them
22 briefly. If I ask you a question, I'd ask that you
23 answer it fully, completely and truthfully as you
24 just took an oath to do. But if at any point you
25 need to take break or have trouble understanding

6

1 Q Do you have a preference as to which one I use?

2 A I don't care.

3 Q Okay. Let me first ask about your educational
4 background. Would you mind describing that?

5 A I have two years of college and two years of
6 technical college.

7 Q Okay. And what did you do after technical college?

8 A I got married. I worked in Racine for 16 years in a
9 manufacturing company in the office in accounts
10 payable.

11 Q And did you begin work in the elections field after
12 that?

13 A Yes.

14 Q Do you know approximately when that was?

15 A It was February 1995.

16 Q And have you worked in elections since that time?

17 A Yes, I have.

18 Q What position did you start out with when you were
19 working in elections?

20 A Program assistant.

21 Q And what does that mean?

22 A That just means that you're a glorified secretary.

23 Q And how long were you in that position?

24 A Two years.

25 Q And what did you do after that?

8

1 A Became an elections specialist with the Government
 2 Accountability Board.
 3 Q And is that the position that you've held since that
 4 time?
 5 A Yes, except that somewhere along the line I became
 6 the lead elections specialist.
 7 Q Do you know approximately when that was?
 8 A I think about 2000, 2001, around there.
 9 Q And the agency that you've worked for, its name has
 10 changed, but your basic function has remained the
 11 same, is that right?
 12 A Correct.
 13 Q And so you've been working either as lead elections
 14 specialist or as an elections specialist for close to
 15 20 years, is that right?
 16 A Almost 21.
 17 Q Okay. Over 20 years?
 18 A Yes.
 19 Q And can you sort of explain day to day what you do in
 20 that role?
 21 A We are a resource for the Legislature, for the
 22 public, for municipal and county clerks as far as
 23 election administration. We interpret election laws.
 24 We provide advice to the county and municipal clerks.
 25 We prepare training materials for county and

9

1 him, but there are very -- there are a lot of people
 2 under him in the IT, and there is an elections
 3 supervisor, Ross Hein, who is directly under him.
 4 Theoretically his position is higher than mine
 5 because he is management and I am not, but I do not
 6 work for Ross. I'm sure that was clear.
 7 Q I think I understand what you're saying. Let me,
 8 first of all, with respect to Mr. Hein, let me ask
 9 you what's the difference between his position and
 10 your position?
 11 A He's more in charge of, like I said, the IT people,
 12 the help desk whereas I'm more in charge of the
 13 election administration part of it.
 14 Q And where do the staff counsel fall in the hierarchy?
 15 A Below Kevin Kennedy and off to the side.
 16 Q Okay. So you mentioned that one of your duties is to
 17 work with municipal and county clerks, is that right?
 18 A That's correct.
 19 Q And how regularly are you in contact with local
 20 clerks?
 21 A Daily.
 22 Q And what types of interactions do you have with them?
 23 A Generally they call with questions. They run the
 24 gamut of topics having to do with election
 25 administration, questions about how to, for instance,

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1 municipal clerks as well as poll workers.
 2 Day to day it's answering questions from the
 3 public, from media, from county municipal clerks as
 4 far as election administration, particularly as it
 5 relates to the -- usually the upcoming election but
 6 also training of poll workers. We conduct canvass of
 7 elections. We collect nomination papers. I should
 8 say receive nomination papers from candidates for
 9 federal and state office.
 10 Q I'm sure there are other things you to do too, is
 11 that right?
 12 A There are.
 13 Q As the chief elections specialist, are you in charge
 14 of overseeing those efforts generally or some of the
 15 efforts?
 16 A I wouldn't say in charge of overseeing. We work as a
 17 team, the elections specialists and I. I am a lead
 18 worker, so I do sometimes assign people certain
 19 aspects of whatever we're doing.
 20 Q And who do you report to?
 21 A I report to Mike Haas, the elections administrator.
 22 Q And in the GAB hierarchy, who would be under him
 23 besides you, directly under him, I mean?
 24 A The elections hierarchy in the GAB is a little bit
 25 different. So there isn't anybody between me and

10

1 set up their reporting units for an election,
 2 questions on whether something is required, whether
 3 or not a particular law is in force right now, status
 4 of candidates, a lot of things.
 5 Q Are you the primary contact at the GAB for the local
 6 clerks?
 7 A I wouldn't say primary because the help desk does try
 8 to spread the calls around to all the elections
 9 specialists. If any of the elections specialists
 10 have trouble answering, they generally come to me to
 11 at least get my advice. So I'm not necessarily the
 12 primary person that people go to.
 13 Q And who are the elections specialists currently?
 14 A David Buerger, Marianne Griffin, Jennifer Webb, and
 15 right now that's it.
 16 Q And do you communicate with legislators in the
 17 context of your role as chief elections specialist?
 18 A Yes. Usually not the legislator themselves but
 19 someone in their office, an aide.
 20 Q Legislative staff?
 21 A Right.
 22 Q Do you communicate with them regularly?
 23 A I would say regularly. Not frequently.
 24 Q And what do you communicate with legislative staff
 25 about?

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1 A Usually they call with constituent questions. Some
 2 constituent has called in and asked about -- have a
 3 question about something that happened to them,
 4 whether it be something that happened between the
 5 constituent and maybe a clerk when they were
 6 registering to vote or absentee voting, whether or
 7 not it was proper, whatever it is a municipal clerk
 8 did, whatever procedure they followed, things like
 9 that.
 10 Q When the Legislature is considering new elections
 11 legislation, do legislative staff talk to you about
 12 the bills?
 13 A They don't normally call me. They would call
 14 Mike Haas. They would call one of our attorneys.
 15 They would call Kevin Kennedy. Very infrequently
 16 they would call me.
 17 Q And do you also communicate with voters who have had
 18 issues with one election's procedure or another?
 19 A Yes, um-hum.
 20 Q And how regular a part of your work is that?
 21 A Currently it's been fairly infrequent.
 22 Q Is that a change or is that -- you said currently.
 23 That's why I'm asking.
 24 A Right. We haven't had -- we don't have an election
 25 yet. We haven't had an election since last spring at

13

1 attorneys, what did you do to prepare for the
 2 deposition today, if anything?
 3 A Well, it was a little hard to cram for something like
 4 this, so I really didn't do anything.
 5 Q Did you review any materials in preparation for the
 6 deposition?
 7 A No, because I had no idea what you would ask me.
 8 Q Did you talk to anybody about the deposition?
 9 A I had two texts with Mike Haas just saying how long
 10 did yours go and he said but I don't think yours will
 11 be that long, so --
 12 Q And have you reviewed Mr. Haas' testimony or
 13 Director Kennedy's testimony?
 14 A No.
 15 Q Let me ask -- I'd like to focus on the period from
 16 the start of 2011 through the present. So right
 17 after Governor Walker was elected, do you know how
 18 many changes the Legislature has made to Wisconsin
 19 election law since then?
 20 A No.
 21 Q Do you have an estimate?
 22 A I've seen the number, but I can't remember what it
 23 was, no.
 24 Q During your 20 years in election administration, has
 25 there ever been a period in which there were as many

15

1 this time. So we haven't had a lot of people calling
 2 in and asking questions about particular laws that
 3 have to do with elections.
 4 Q Okay. And the GAB is going to be replaced at the end
 5 of June with a new agency, is that right?
 6 A Right.
 7 Q And do you know at this point what position you will
 8 have in the new agency?
 9 A All I know is that all positions transfer and I
 10 assume I will have the same position or something
 11 like it, but I don't know.
 12 Q And what percentage of your time has been devoted to
 13 transition to the new agency since the bill passed?
 14 A I would say close to none.
 15 Q Will that change as we get closer to --
 16 A I'm sure it will.
 17 Q And why do you say that?
 18 A Well, there will be a lot of things to be done.
 19 There will be forms to change. There will be -- I've
 20 never had a change like this before, so I don't know
 21 exactly what I will be doing to do in this
 22 transition, but I know that there will be some things
 23 that will have to be done.
 24 Q Before we get into some substantive questions, let me
 25 ask you aside from talking to Mr. Keenan or any other

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1 changes made as there have been since the start of
 2 2011?
 3 A No.
 4 Q Do you follow developments in election law in other
 5 states?
 6 A Not -- I guess my answer is no.
 7 Q Going back to the changes that have been made since
 8 the start of 2011, based on your experience and your
 9 knowledge and your training, did any of those changes
 10 make it easier to vote?
 11 A I would say no.
 12 Q And I mentioned training, by the way. Do you have
 13 regular training as part of your work?
 14 A Training of myself?
 15 Q Yes.
 16 A No.
 17 Q Do you conduct trainings?
 18 A Yes.
 19 Q Can you just provide a brief overview of what that
 20 is?
 21 A Of what kind of training we provide?
 22 Q Yes.
 23 A We provide training for municipal clerks and for poll
 24 workers. We do it in the form of Webinars.
 25 Sometimes we do it in person, not as much as we used

16

1 to because we do have the ability to use Webinars
 2 now.
 3 We train them in Election Day activities. We
 4 train them in election administration activities
 5 leading up to the election, so that would be voter
 6 registration, absentee voting, preparation for
 7 reporting election results, preparation for canvass,
 8 things like that.
 9 Q So going back to the changes in the law, do changes
 10 like the ones that have been passed since the start
 11 of 2011 increase the responsibilities that election
 12 administrators have?
 13 A Yes.
 14 Q And can you explain how that happens?
 15 A Well, the burden falls on us to make sure that the
 16 persons in the trenches, so to speak, that are
 17 actually conducting elections realize what the new
 18 laws are, that they understand the components of the
 19 law, that they know the procedures associated with
 20 the law. If it's a major change from what they were
 21 previously doing, sometimes that takes a little while
 22 to sink in. So we do repetitive trainings on things
 23 like that that we feel are important that they know
 24 by rote and don't do improperly.
 25 Q And between the municipal clerks and the county

1 clerks, there are a little over 1,900 clerks in
 2 Wisconsin, is that right?
 3 A Yes.
 4 Q And those clerks in your experience operate with
 5 limited resources, right?
 6 A Yes.
 7 Q Do changes like those that have been passed over the
 8 last five years strain those limited resources?
 9 MR. KEENAN: Object, calls for
 10 speculation.
 11 Q In your experience.
 12 A Some of them, yes.
 13 Q Are there ones in particular that you're thinking of?
 14 A Nothing in particular.
 15 Q Let me ask you specifically about changes to the
 16 voter registration laws that have been passed since
 17 the start of 2011. In your experience, have the
 18 documentary proof of residence requirement and the
 19 elimination of corroboration made it more difficult
 20 for some voters to register?
 21 A I haven't heard -- let me rephrase that. Most likely
 22 it has. I don't recall hearing an overly abundant
 23 amount of complaints that corroboration was taken
 24 away.
 25 There has always been people who cannot come up

1 with proper proof of residence in order to register.
 2 That may have increased since corroboration was taken
 3 away. The number may have increased.
 4 Q When you say it may have, that's to the best of your
 5 understanding --
 6 A Yes.
 7 Q -- would it be fair to say it has?
 8 A Yes.
 9 Q Let me ask you specifically about some documents.
 10 And I guess before I do that, let me ask you, have
 11 you had discussions about problems that nursing home
 12 residents in particular have had proving their
 13 residence in light of some of the recent changes to
 14 the law?
 15 A Yes. Nursing home residents are a particular group
 16 that have a problem when registering to vote in
 17 proving where they live, which seems kind of a funny
 18 thing to say, but generally people in nursing homes
 19 don't receive mail of any sort unless it's a letter
 20 from, you know, a relative or something. Their POA
 21 takes care of everything or their kids take care of
 22 their finances. They don't receive mail from units
 23 of government that can be used for proof of
 24 residence. So sometimes they have a hard time coming
 25 up with some document that they can use to provide

1 proof of their residence.
 2 Q And when those situations come to your attention, are
 3 there particular recommendations that you make to
 4 local clerks?
 5 A Yes. We have said that ordinarily a lease can be
 6 used as proof of residence. Except if you're
 7 registering by mail, it can't be. So we say that any
 8 intake document that the facility uses as long as it
 9 carries the components of a lease could be used.
 10 A lot of times they don't contain the components
 11 of a lease, like a rent amount or some of them don't
 12 have a room number, some of them don't have a
 13 duration, like a lease does a duration of the lease.
 14 They're usually missing something.
 15 The other thing that we do say is that if you
 16 are aware of people in the facility who -- talking to
 17 a municipal clerk -- that wishes to register to vote,
 18 acceptable proof of residence is a document from a
 19 unit of government and you, municipal clerk, are a
 20 representative of a unit of government. You can
 21 write them a letter. And in the letter, you can just
 22 say and you can use this document when the special
 23 registration deputies come to register you, you can
 24 use this document as proof of residence. And we
 25 instruct them to mail it to the facility and make

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1 sure that it doesn't forward, so that it's received
 2 by them at the facility.
 3 Q And you mentioned that the leases can be used for
 4 registration in person but not by mail, is that
 5 right?
 6 A Um-hum. Yes.
 7 Q Are you aware of any election administration
 8 interests served by permitting leases to be used in
 9 person but not by mail?
 10 A No.
 11 Q And do you know how most nursing home residents
 12 register, in person or by mail?
 13 A I would say both. Most of them register in person.
 14 Most of the municipal clerks that I've talked to make
 15 an effort to get special registration deputies there
 16 to register voters during open registration and
 17 sometimes they actually deputize staff at the nursing
 18 home as special registration deputies so that they
 19 can register people.
 20 Q Let me show you a document --
 21 MR. KAUL: What number are we on?
 22 THE REPORTER: This will be 54.
 23 (Exhibit 54 is marked for identification)
 24 Q And with all the documents that I'll be showing you
 25 today, take as much time as you need to make yourself

21

1 Q With their address on it. And Ms. Helt on the third
 2 page near the top in the paragraph beginning with
 3 additionally indicated that nursing home residents
 4 move within facilities a number of times, is that
 5 right?
 6 MR. KEENAN: Are you asking if that's
 7 what it says in the email?
 8 MR. KAUL: Yes.
 9 A Yes.
 10 Q And is that consistent with your experience?
 11 A That they move around within a care facility?
 12 Q Yes.
 13 A My experience as far as what I've been told by
 14 clerks, yes.
 15 Q And Ms. Helt expressed concern that without good
 16 direction and good options, the entire nursing home
 17 population would not be voting, is that right?
 18 A I don't know about entire. She expresses concern
 19 that there are a number of them that may not be able
 20 to obtain proper proof of residence.
 21 Q Okay. So when she says the entire population, that's
 22 what you understood her to be referring to?
 23 A Where does she say entire population?
 24 Q There's a paragraph beginning with I'm not trying to
 25 be difficult on the third page of that document.

23

1 comfortable with the document and acclimated, and I
 2 will in almost all cases direct you to particular
 3 parts of the document. But like I said, you know,
 4 take as much time as you need to feel comfortable
 5 with it and let me know when you're at that point.
 6 A Okay.
 7 Q First of all, this document is an email exchange
 8 involving you and Julee Helt, is that right?
 9 A Right.
 10 Q And Julee is spelled J-u-l-e-e. I'm going to show
 11 you a number of documents today that have Diane Lowe
 12 or Lowe, Diane on them. If any of them are not you,
 13 please let me know, okay?
 14 A Okay.
 15 Q Who is Ms. Helt?
 16 A She is the clerk for the Village of Waunakee.
 17 Q And this relates to the issue we've just been
 18 discussing regarding registration of voters at
 19 nursing homes, right?
 20 A Yes.
 21 Q And fairly early in this chain, you suggest to
 22 Ms. Helt what you just mentioned, which is that she
 23 could send a communication to nursing home residents
 24 which would then be a government document, right?
 25 A Yes.

22

1 A That is what she says, yes.
 2 Q And going to the top of the second page, the
 3 beginning of her email, she indicates that she
 4 doesn't believe the Legislature intended to make it
 5 virtually impossible for nursing home residents to
 6 register to vote, right?
 7 A Yes, she says that.
 8 Q And then turning to your email on the top of the
 9 first page, you wrote, "Maybe they didn't intend
 10 that, but the fact remains that they have." Is that
 11 right?
 12 A Yes, I wrote that.
 13 Q And what was that in reference to?
 14 A To her last paragraph on the third page that reads,
 15 "I don't know if that was the intent of this
 16 legislation, but I certainly hope not."
 17 Q Okay. So when you said the fact remains that they
 18 have, you're referring to the Legislature having made
 19 it difficult for nursing home residents --
 20 A Yes.
 21 Q -- to register to vote?
 22 A Yes.
 23 Q And what provision specifically were you referring
 24 to?
 25 A The requirement for them to come up with a document

24

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1 that is proof of residence.
 2 Q And that is in part due to the elimination of
 3 corroboration, correct?
 4 A Yes.
 5 Q And it's in part due to the requirement that voters
 6 who register during open registration provide
 7 documentary proof of residence, right?
 8 A Correct. But that was always the case.
 9 Q What was?
 10 A Providing proof of residence or having a
 11 corroborator, one of the two was always a
 12 requirement, and then they did away with
 13 corroboration. They didn't make proof of residence
 14 any different as far as I can remember.
 15 Q Okay. Previously if a voter registered during open
 16 registration, do you know whether they had to provide
 17 proof of residence at the time of their registration?
 18 A Now you're going to make me remember. I see what you
 19 mean. I see what you mean. Yes. Previously if they
 20 registered in open registration, they did not have to
 21 provide proof of residence unless they were a
 22 first-time voter registering by mail.
 23 Q So is that one of the changes that has made it more
 24 difficult for nursing home residents to register?
 25 A Yes.

25

1 Q And you indicate in this -- the very top paragraph of
 2 the email that the residents seem to move around a
 3 lot within the same building, is that right?
 4 A They move around.
 5 Q I'm sorry, I was looking at the second sentence in
 6 the first -- the top paragraph.
 7 A Okay. Yes, that is what I wrote.
 8 Q And you provide some examples of that, is that right?
 9 A Yes.
 10 Q All right. And then about two-thirds of the way
 11 down, you wrote, "If they have to register, most of
 12 them don't have proof of registration and it seems
 13 really silly to have to re-register because your
 14 apartment or room number changed but you are at the
 15 same address, especially if the voter is then
 16 disenfranchised because they don't have any POR." Is
 17 that right?
 18 A Correct.
 19 Q And POR refers to proof of residence?
 20 A Yes.
 21 Q And is this statement a fair reflection of your view?
 22 A Yes, it is.
 23 Q Okay. Now, has the GAB made a decision about whether
 24 nursing home residents need to re-register if they
 25 move within a nursing home?

27

1 Q And you've had several communications with local
 2 clerks about this issue with nursing homes, is that
 3 right?
 4 A Yes.
 5 Q And several have expressed concerns about the
 6 difficulty of nursing home residents registering to
 7 vote?
 8 A Yes.
 9 Q Does that continue to be an issue?
 10 A Well, since nothing has really changed, yes.
 11 Q Let me show you another document. This is going to
 12 be Exhibit 55.
 13 (Exhibit 55 is marked for identification)
 14 Q And this one, I'm just going to be asking you about
 15 the very top paragraph.
 16 A Um-hum. Okay.
 17 Q This is again an email exchange among GAB staff
 18 regarding proof of registration for nursing home
 19 residents, right?
 20 A Correct.
 21 Q All right. And this relates to another issue we were
 22 just talking about, which is nursing home residents
 23 being -- moving around within nursing homes, is that
 24 right?
 25 A Um-hum, yes.

26

1 A We have as a training tool or as a training -- not a
 2 tool. When training clerks to register voters, I
 3 believe that we're still sticking to the if someone
 4 changes their apartment number or room number that
 5 they're required to register. However, we do also
 6 direct them to a statute, and I don't remember the
 7 statute number, that says upon, you know, reliable
 8 information that someone has moved, the clerk can use
 9 their own incentive to administratively change that
 10 person's address.
 11 And as far as -- and that is the current advice
 12 at least that I've been giving is that if you have
 13 reliable information that this person still lives in
 14 the same building but has moved to a different room
 15 in that building, that that can be administratively
 16 changed without them registering.
 17 Q Okay. And when you say administratively changed,
 18 that means that no form needs to be submitted for
 19 registration?
 20 A Correct, that they can just administratively change
 21 the registration to Room 2 rather than Room 1.
 22 Q Okay. And do you know whether that guidance is given
 23 out consistently by the GAB or if other people give
 24 out difference guidance on that?
 25 A I couldn't say for sure.

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DEANE M. LOWE

1 Q And so if the municipal clerks don't administratively
 2 change the voter's residence you just described, when
 3 a voter moves within a nursing home, he or she is not
 4 technically permitted to vote, is that right, until
 5 he or she submits a new registration?
 6 A Whenever someone moves, whether it be within a
 7 building or within a municipality or, you know, from
 8 state to state, if they have an intent to return,
 9 they can continue to vote from that address. So I
 10 don't think it's absolute to say they absolutely
 11 could not vote because they moved to another room.
 12 Q Okay. Have you observed any impact that the changes
 13 to the registration laws since 2011 have had on the
 14 ability of homeless people to register to vote?
 15 A Homeless people in the past were mostly using
 16 corroborators, someone who knew of them, someone who
 17 knew where their home base was or where from when
 18 they left, they returned to.
 19 Q So the elimination then of corroboration has made it
 20 more difficult for homeless voters --
 21 A Made it more difficult, yes.
 22 Q -- to register, as the end of my sentence. I'm
 23 sorry.
 24 A To register, sorry.
 25 Q No, that was my fault. I trailed off. Let me show

29

1 that right?
 2 A Yes.
 3 Q And you indicate that you had a discussion with the
 4 person who works with out-of-work homeless people, is
 5 that right?
 6 A Right.
 7 Q And you discussed with her -- him or her -- no, her,
 8 I'm sorry, whether homeless individuals were likely
 9 to have the documentation necessary to obtain a free
 10 ID, is that right?
 11 A Yes.
 12 Q And what conclusion did you come to based on that
 13 conversation?
 14 A That it would be difficult for them to come up with
 15 everything they needed in order to get the ID.
 16 Q Okay. And is that still your view?
 17 A Yes.
 18 Q Move on to the next document. This one is
 19 Exhibit 57.
 20 (Exhibit 57 is marked for identification)
 21 Q Now, this is an email between you and Susan Schupp,
 22 is that right?
 23 A Yes.
 24 Q Am I pronouncing that correctly?
 25 A I think it's Schupp.

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1 you a couple documents related to that issue.
 2 MR. KEENAN: You may want to start a
 3 pile of those. Put them off to the side.
 4 Q Yeah. I doubt if I will return to any of them, but
 5 if I do, you can take a moment to shuffle through.
 6 This is going to be document -- Exhibit 56.
 7 (Exhibit 56 is marked for identification)
 8 MR. KEENAN: I just have a question
 9 for you, Josh. It looks like there's supposed
 10 to be an attachment to this email. Do you have
 11 that?
 12 MR. KAUL: I do not.
 13 A Okay.
 14 Q And so as Mr. Keenan just noted, it appears that
 15 there was a PDF attached to this. If you go to the
 16 bottom of the second page, there's a PDF image.
 17 A Um-hum.
 18 Q Are you familiar with what that attachment is?
 19 A I think so.
 20 Q If in any way your answer is impacted by the lack of
 21 attachment, please let me know, okay?
 22 A Okay.
 23 MR. KAUL: Thanks, Brian, for
 24 mentioning that.
 25 Q So the first email in this string was sent by you, is

30

1 Q I suppose you don't know the pronunciation of all
 2 1,850 some clerks, right?
 3 A Pretty close.
 4 Q And Ms. Schupp is the clerk for the Village of West
 5 Milwaukee, is that right?
 6 A Yes. Yes.
 7 Q And this relates to the issue we've just been
 8 discussing, which is the difficulty that homeless
 9 individuals have registering, is that right?
 10 A Correct.
 11 Q And let me just direct your attention to the final
 12 two emails in this exchange, the first and the second
 13 email on the first page. Ms. Schupp wrote to you
 14 that, "Unless homeless live at a shelter, they will
 15 not be able to register to vote, they need proof of
 16 residence to register and nothing would prove they
 17 live on the streets." Is that right?
 18 A Yes.
 19 Q And you agreed with that statement, is that right?
 20 A Correct.
 21 Q And is that an accurate characterization of your
 22 view?
 23 A Yes.
 24 Q Now, we talked earlier about ways that --
 25 A Could I correct one thing?

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1 Q Please do. And if at any point today you want to do
 2 that, please do.
 3 A Ms. Schupp presents it as if they do not live at a
 4 shelter. Generally if they frequent a shelter, not
 5 necessarily reside there every night or anything,
 6 when we talk about a person, as we did a little later
 7 on here, getting a letter from a proprietor or
 8 whatever of a shelter, they can also if they know
 9 that this person lives at a particular park bench,
 10 whatever it might be, and that's where they generally
 11 hang out, they can also provide something if asked
 12 that says, yes, they come to the shelter, but I also
 13 know that they spend a lot of time at the corner of,
 14 you know, Main and whatever street. So they can also
 15 corroborate -- not necessarily corroborate but
 16 provide a document that says that this person does
 17 reside at a particular place.
 18 Q Okay.
 19 A So it isn't necessarily just if they reside day in,
 20 day out at a shelter, which I don't think they can do
 21 anyway.
 22 Q But they need to at least frequent the shelter, is
 23 that fair?
 24 A Yeah, they have to have some idea who this person is,
 25 yes.

1 Q And with that caveat, your prior answer was accurate?
 2 A Yes.
 3 Q Okay. So we had talked about some possible solutions
 4 that would permit individual nursing homes to
 5 register before. And you mentioned I believe the
 6 possibility of a lease-like document or special
 7 registration deputies going to nursing homes?
 8 A Um-hum.
 9 Q Is that a yes?
 10 A I'm sorry, yes.
 11 Q That's okay. I do the same thing all the time. In
 12 your experience, are nursing homes generally
 13 cooperative with elections officials?
 14 A Some are. Some not as much.
 15 Q And if the nursing homes are not cooperative, those
 16 solutions become very difficult to implement, is that
 17 right?
 18 A They become more difficult.
 19 Q Do nursing homes have to allow special registration
 20 deputies onto their property, if you know?
 21 A I don't know what they have -- I almost think they
 22 have to just because special registration deputies
 23 are -- I don't know.
 24 Q And they certainly don't need to generate lease
 25 documents, right?

1 A They're not required to do that, no.
 2 Q Okay. And you've had examples of -- you've had cases
 3 in which nursing homes were not cooperative, is that
 4 right?
 5 A Yes.
 6 Q Have the changes to the voter registration laws since
 7 2011 also created challenges for college students
 8 registering to vote?
 9 A Yes.
 10 Q Okay. And can you explain how that's been an issue?
 11 A College students have to provide either one of the
 12 acceptable proof of residence that everybody else has
 13 to provide or they can also use their college ID, but
 14 they also must accompany it with a -- and I'm going
 15 to forget which one it is now. Is it the fee
 16 receipt? One goes with ID and one goes with proof of
 17 residence. I always get it mixed up. But they have
 18 to have another document that proves that they are
 19 attending school at the current time. So they can't
 20 just use an ID because it doesn't have their --
 21 generally doesn't have their address on it.
 22 So they have to provide another document to go
 23 along with it, and sometimes it's not easy to come up
 24 with those things, especially when the document is
 25 sent to mom and dad, the fee receipt is sent to mom

1 and dad, not necessarily to the student at the
 2 address where the student lives.
 3 Q And even if the student ID has an address on it, the
 4 student is still required to bring either a fee
 5 receipt or to have some other document that proves
 6 their residence, is that right?
 7 A The law says that they either have to have another
 8 document along with it or there must be a list of
 9 students that live in college housing, but that also
 10 requires a show -- it requires that it show that each
 11 of the people on this list is a citizen of the
 12 United States. And so that's been a little more
 13 difficult because just of privacy laws.
 14 Q And I'm going to come back to that one --
 15 A Okay.
 16 Q -- in a minute. But focusing just on the use of
 17 student IDs, I'll show you a document that we'll mark
 18 as Exhibit 58.
 19 (Exhibit 58 is marked for identification)
 20 A Okay.
 21 Q Now, this is an email exchange between you and
 22 another individual, is that right?
 23 A Um-hum, yes.
 24 Q Can you pronounce her name for me, please?
 25 A Melissa Hongisto.

1 Q Thank you. And Ms. Hongisto is the clerk for
 2 Saumico, is that right?
 3 A Correct.
 4 Q And first of all, was it your understanding based on
 5 this email that she was --
 6 A Yes.
 7 Q -- confused about some of the proof of residence
 8 requirements?
 9 A Yes, she was.
 10 Q Was that unusual in your experience for clerks --
 11 A No.
 12 Q -- to be confused about that?
 13 A No.
 14 Q And would it be fair to say that the degree of
 15 confusion has increased since the beginning of 2011?
 16 A The degree of confusion increased. It may have
 17 leveled off a little now, but it has increased, yes.
 18 Q Leveled off at a higher level than it was originally,
 19 is that right?
 20 A I mean that it isn't getting any -- you know, people
 21 aren't getting more and more and more and more
 22 confused. I mean it's kind of topped out.
 23 Q Okay. Looking at the first page of this email, the
 24 last in time emails, you refer to -- this would be
 25 the third email down, the fact that the Legislature

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1 Q Okay. And Ms. Hongisto indicates that this seems
 2 unfair, is that right?
 3 A Yes.
 4 Q And is it fair to say that you're agreeing with that
 5 in your response?
 6 A I think that's fair to say.
 7 Q And is that your view?
 8 A Yes.
 9 Q Now, you had mentioned just a moment ago difficulties
 10 with housing lists being provided. Can you explain
 11 what you were getting at there?
 12 A There are certain privacy laws, federal laws, I
 13 believe, that the laws about -- well, first of all,
 14 the laws about Wisconsin's proof of residence for
 15 college students and for tech school students says
 16 that they can use their college photo ID, but they
 17 either have to have a fee receipt to go along with it
 18 or they can have a list of -- their name can appear
 19 on a list of students that live in student housing,
 20 but it has to show that they -- each student listed
 21 on that list is a citizen of the United States, and
 22 that requires as far as I am aware that the --
 23 someone in the university has to go and quiz
 24 everybody that's on the list and get their approval
 25 for putting their citizenship on the list. And a lot

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1 deliberately placed an extra burden on college,
 2 university and tech school students for proof of
 3 residence, do you see that?
 4 A Um-hum.
 5 Q And what extra burden are you referring to in
 6 particular?
 7 A I would have to read back now.
 8 Q Sorry about that.
 9 A Oh, because normally an identification issued by a
 10 unit of government can serve as -- and I guess we've
 11 talked about proof of residence and we've talked
 12 about ID here. So I'm trying to get back to where
 13 she's -- what she's talking about now. I'm sorry,
 14 I'm not following her train now as I read it.
 15 Q Okay. Well, would it be -- we talked earlier about
 16 how if an ID is used for proof of residence, it must
 17 be accompanied by a fee receipt, is that right?
 18 A Right.
 19 Q And that's only true for students, correct?
 20 A Yes, um-hum. I guess where I'm getting tangled up
 21 here is that one of the reasons that they have to use
 22 something else is there's generally not an address on
 23 it, on the ID for proof of -- you know, for proof of
 24 it. But, yes, whether or not there's an address on
 25 it, they do have to come up with another document.

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1 of them don't like to have to go through that and
 2 it's not feasible for them to do so.
 3 Some of the private universities may do that,
 4 but public universities like UW-Madison, it's
 5 burdensome for them to do that.
 6 Q Okay. And so has that had an impact on whether those
 7 schools ultimately provide the list of registered
 8 students?
 9 A Most from what I have heard, most of the students
 10 have gone away from using a list.
 11 Q The schools no longer use lists?
 12 A They don't use the lists. A few may, but most of
 13 them don't.
 14 Q And so that to the extent that those schools have
 15 stopped providing those lists, that has eliminated
 16 that as a means of registration for students, is that
 17 right?
 18 A Yes.
 19 Q Are you aware of any other types of documentation
 20 other than student IDs that have to be accompanied by
 21 some sort of proof or certification of citizenship
 22 for registration to be processed?
 23 A No.
 24 Q We talked a little bit earlier about the change to
 25 the proof of residence requirement, the documentary

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1 requirement that pursuant to which registrations
 2 submitted more than -- during the open registration
 3 period now have to be accompanied by documentary
 4 proof of residence. Have clerks to your knowledge
 5 been receiving voter registration applications during
 6 open registration that were not accompanied by proof
 7 of residence?
 8 A Yes.
 9 Q And what happens with those registrations?
 10 A One of two things. Either the registration is just
 11 sent back to the voter and the voter is told to, you
 12 know, send it back when they have the proof of
 13 residence to accompany it or the clerk will keep the
 14 registration form and just contact the person and say
 15 I can't register you until you provide proof of
 16 residence.
 17 Q So unless there's a follow-up action by the voter,
 18 the registration is not processed, is that right?
 19 A That's correct.
 20 Q Do you know what percentage of applications received
 21 during the open registration period now are missing
 22 proof of residence?
 23 A No.
 24 Q Would it be fair to say that you've received a number
 25 of communications about this issue?

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1 necessarily the post office. He had an application
 2 type of thing.
 3 Q Okay. Yeah, I guess so I'll go through some
 4 specifics of this in a moment, but can you just
 5 generally explain what the issue was?
 6 A And without reading the whole thing, he either does
 7 not mention proof of residence at all or it's buried
 8 in his -- in the tool that he uses. I can't remember
 9 exactly.
 10 Q Let me do this.
 11 A I don't think he mentions it at all. It's fill out
 12 this form and send it in.
 13 Q And let me direct you to the second to last page in
 14 this document. There's an email from Rusty Lewis to
 15 you dated July 30th, 2014 at 3:54 p.m., do you see
 16 that?
 17 A Um-hum, yes.
 18 Q And in the second paragraph of that email, Mr. Lewis
 19 indicates that his company supports the postal
 20 service mail forwarding process, is that right?
 21 A Yes.
 22 Q And then one of the things they do with the post
 23 office or postal service is permit voters -- I'm
 24 sorry, citizens to provide change of address forms
 25 when they move, is that right?

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1 A Yes.
 2 Q Have you looked into reasons why the registrations
 3 would be missing proof of residence?
 4 A I think that word hasn't gotten out for some reason
 5 to people. Another reason could possibly be that
 6 voter registration drives pass out forms to people
 7 and don't give proper instruction or if they do, it
 8 goes over their heads, I don't know. Probably a
 9 number of reasons. People don't read the forms well,
 10 fill out the forms and then mail them in.
 11 Q And have you also had some problems with the postal
 12 service?
 13 A Explain.
 14 Q Let me show you a document in a minute that will
 15 clarify, I think.
 16 A Okay.
 17 Q Before I do, has the Legislature appropriated any
 18 money to the GAB to do education regarding changes to
 19 the voter registration laws?
 20 A Not that I'm aware of.
 21 Q Here's the document I was referring to a moment ago.
 22 This is Exhibit 59.
 23 (Exhibit 59 is marked for identification)
 24 Q I take it this is refreshing your memory?
 25 A Yes. Yeah, this was a fellow that -- it wasn't

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1 A Yes.
 2 Q And he indicates in the next paragraph that the
 3 company has been testing a tool that lets customers
 4 fill out the national voter registration form, is
 5 that right?
 6 A Correct.
 7 Q And so clerks in Wisconsin had been receiving voter
 8 registration forms that had been filled out through
 9 that system, is that right?
 10 A That's correct.
 11 Q So moving forward I guess two pages -- three pages
 12 actually, there's a lengthy email from you to
 13 Mr. Lewis also on July 30th at 5:59 p.m., do you see
 14 that?
 15 A Yes.
 16 Q And if you go down to the second paragraph, you refer
 17 him to a link on mymove.com, do you see that?
 18 A Right.
 19 Q And then you relay some information from the
 20 instructions, is that right?
 21 A That's correct.
 22 Q Now, at the very top of the next page, you indicate
 23 that you have added (highlighted) the very important
 24 information that is missing?
 25 A Yes.

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1 Q Now, I can't tell from this document what the
2 highlighted information was, but is it your
3 understanding that it was the reference to acceptable
4 proof of residence that was added?
5 A I'm assuming that's what it was, yes.
6 Q And you also included in this email, it looks like
7 you pasted it in, an email from Neil Albrecht?
8 A Right.
9 Q And he is the chief elections official in Milwaukee,
10 right?
11 A In the City of Milwaukee, yes.
12 Q And he indicated to you and your colleagues that out
13 of 565 registrations by mail that he had received,
14 375 had not included proof of residence?
15 A Right.
16 Q So that's well over 50 percent, right?
17 A I would say it is.
18 Q Do you know if those numbers are consistent with
19 numbers that other clerks have seen?
20 A I couldn't say.
21 Q Okay. And in the following paragraph, Mr. Albrecht
22 indicated to you that by far the largest number of
23 those noncompliant registrations were coming
24 through -- here he says My Vote, but he later
25 corrected it to My Move, is that right?

1 website.
2 Q And then in the following paragraph, which begins
3 with the law is one that you wrote, is that right?
4 A Yes.
5 Q In response to that email, did you have that portion
6 of the website updated?
7 A When I responded to him, was it updated?
8 Q Well, when you received his email, did that cause you
9 to get the portion of the website that he had
10 identified updated?
11 A I'm trying to remember if it had already been updated
12 when I looked at it. I don't remember.
13 Q Okay.
14 A It either had been updated shortly in between the
15 time that he had looked at it and emailed me or we
16 updated it after he pointed it out, but I don't
17 remember.
18 Q Okay. Now, moving forward to the second page of this
19 document, there's an email from Michael Haas to you
20 dated March 21st, 2015, do you see that?
21 A Yes.
22 Q And Mr. Haas indicates that Neil Albrecht had
23 followed up with him and this issue is still a
24 problem, do you see that?
25 A Yes.

1 A That's correct.
2 Q All right. Now, in response to your email, Mr. Lewis
3 sent an email dated August 5, 2014, right?
4 A Yes.
5 Q Now, this email contains both -- the version we're
6 looking at here contains both his email and also
7 responses from you, is that right?
8 A I believe it does, yes.
9 Q And there's a paragraph beginning with my concern, do
10 you see that?
11 A Yes.
12 Q And that's a paragraph that Mr. Lewis wrote, right?
13 A Yes.
14 Q And then in the next paragraph, there's a sentence
15 that says yes, this will happen regardless?
16 A Yes.
17 Q That paragraph is one that you wrote, correct?
18 A That is.
19 Q All right. And then it proceeds down two paragraphs,
20 there's a quote referring to if a copy of proof of
21 residence is not included, do you see that?
22 A Where is it again? Oh, okay. Yes.
23 Q These are the projector. So Mr. Lewis is quoting
24 language he saw on the GAB website, right?
25 A Yes. He apparently found something old on our

1 Q Meaning that he was still getting registrations
2 through My Move that did not have proof of residence
3 accompanying them?
4 A Correct.
5 Q And this is now close to eight months after the prior
6 communication, is that right?
7 A Yes.
8 Q And you did follow up with Mr. Lewis, correct?
9 A I did.
10 Q And there's an email from you at the top of the first
11 page, do you see that?
12 A Yes.
13 Q And in the second paragraph you write, "I'm sure it's
14 not the intent of the USPS, the My Move site or
15 Imagitas to disenfranchise voters or at the very
16 least inconvenience voters and election officials."
17 Is that right?
18 A Yes.
19 Q And is it fair to say that you while you were
20 indicating that you were sure that that was not their
21 intent, that that's in fact what they were doing?
22 A Yes.
23 Q Do you know what's happened with this issue since
24 this last email?
25 A I have not had any more correspondence with him.

DIANE M. LOWE

1 Q Do you know if he responded to your email?

2 A I don't believe he did.

3 Q And by the way, it's now about 10:25, which means

4 we've been going for about an hour and 15. The tapes

5 are two hours long, so we can either go for another

6 half an hour or so and then take a break or take a

7 break now if you need one.

8 A Might as well go for it.

9 Q Okay. Do you know whether the change to the proof of

10 registration law which requires documentary proof of

11 registration more than 20 days before an election has

12 impacted voter registration drives?

13 A It has in that voter registration drives, special

14 registration deputies when they would go out to

15 register voters in the past didn't have to worry

16 about getting any type of or seeing any type of proof

17 of residence. Now they do have to at least see it.

18 They don't have to make a copy of it, but they have

19 to see it and they have to document it on the form.

20 Q All right. And if individuals who are not special

21 registration deputies are participating in a voter

22 registration drive, they actually need to obtain a

23 copy of the proof of registration, right?

24 A They actually do, yes.

25 Q And do you know whether that's impacted the

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1 agreed with that interpretation, right?

2 A Um-hum, yes.

3 Q And you indicated that one of the impacts of that

4 change to the law is that it might reduce the number

5 of voter registration drives, right?

6 A Yes.

7 Q And so that was a foreseeable consequence of this

8 change in the law in your view, is that right?

9 A Yes.

10 Q Let me show you another one. This will be 61.

11 (Exhibit 61 is marked for identification)

12 Q Now, this begins with an email from Catherine Conrad

13 to the GAB help desk, is that right?

14 A Yes.

15 Q And is that a Listserv?

16 A The help desk?

17 Q Yes.

18 A It's not -- I don't know what you mean by a Listserv.

19 It's just a group of people in our office that divvy

20 out phone calls. If they can't help them, they give

21 them to somebody else.

22 Q And do you know who -- when an email is sent to the

23 GAB help desk who receives it?

24 A Any number of about three people.

25 Q Okay.

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1 prevalence of voter registration drives?

2 A I think they're still out there. I think they still

3 want to do the registration drives, but I think it's

4 become -- it's become more of a, you know, here's a

5 registration form, fill it out, take it home with

6 you, get your -- make a copy of your ID, send it in.

7 I think it's gotten into just encouraging people to

8 mail in their applications more so than actually, you

9 know, assisting them the way they used to.

10 Q And let me show you an email that touches on that

11 issue. This will be Exhibit 60.

12 (Exhibit 60 is marked for identification)

13 Q And this is a lengthy exchange, though I'm just going

14 to focus on the content on the third page. This

15 relates to guidance that GAB was providing relating

16 to the change in proof of residence law that we've

17 been discussing, is that right?

18 A Right.

19 Q And Mr. Buerger indicates that non-SRD voter

20 registration drives -- well, that voter registrations

21 received on such drives would need to be accompanied

22 by a physical copy of proof of registration -- of

23 proof of residence, is that right?

24 A That's right.

25 Q All right. And Mr. Falk, who was a staff counsel,

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1 A There are three people at the help desk.

2 Q Who are those people?

3 A Names?

4 Q Yes.

5 A Tiffany Schwoerer, Steve Rossman and John Hoeth.

6 Q And so this would have been forwarded to you, is that

7 right?

8 A Yes.

9 Q And Cathy Conrad is the clerk for the Town of

10 Sheboygan, right?

11 A Correct.

12 Q And she's indicating that nearly all of the voter

13 registrations they had received had been sent out by

14 various groups doing voter registration work were not

15 accompanied by proof of residence, is that right?

16 A Right.

17 Q And also that absentee ballot requests were not

18 accompanied by photo ID, is that right?

19 A Right.

20 Q So was this during the period in 2014 when it looked

21 as though the photo ID law was going to be in effect

22 for the 2014 election?

23 A I believe it was, yes.

24 Q And you provided guidance to Ms. Conrad on how to

25 respond to that issue?

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DIANE M. LOWE

1 A Yes.

2 Q Had you received other similar communications
3 regarding voter registration forms?

4 A Yes.

5 Q Do you know how many?

6 A It's hard for me to put a number on it.

7 Q But it's not an unusual communication?

8 A No, it's not unusual.

9 Q Did you also receive similar communications about
10 absentee ballot requests not being accompanied by
11 photo ID?

12 A Yes.

13 Q And again that was not unusual?

14 A Not unusual.

15 Q One more document relating to the voter registration
16 rules. This will be Exhibit 62.
17 (Exhibit 62 is marked for identification)

18 A Okay.

19 Q Now, most of this document is an email exchange
20 between you and the Sheboygan County Clerk, is that
21 right?

22 A Correct.

23 Q And it would be fair to say that he is confused about
24 the proof of residence requirements under the voter
25 registration laws, right?

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1 A I think that's fair to say.

2 Q And in fact, you forwarded this to some of your
3 colleagues at the GAB and you changed the subject to
4 big sigh, is that right?

5 A Oh, that sounds like me, yes.

6 Q And that's because it was probably frustrating that
7 even county clerks didn't understand the rules for
8 voter registration, is that right?

9 A Yes.

10 Q Would it be fair to say that there's been significant
11 confusion among clerks relating to the changes to the
12 voter registration laws?

13 A Yes. I would say that's true.

14 Q Has the passage of the voter ID law added to that
15 confusion?

16 A Yes. They had a hard time with proof of residence
17 and now they have a hard time differentiating between
18 what constitutes proof of residence, when you need
19 proof of residence, when you need photo ID, what's
20 the difference, can they be the same, you know,
21 because some of them can be the same document. So
22 yeah.

23 Q Okay. And it's the clerks who are responsible for
24 training poll workers, right?

25 A They train their poll workers. A lot of them do have

54

1 them attend our Webinars, so we do get a shot at it.

2 Q Okay. And in your experience, the clerks generally
3 know the rules better than the voters, right?

4 A Yes.

5 Q So if there's confusion --

6 A Not always, but yes.

7 Q So is it fair to say that if there's confusion among
8 the clerks, that there will be typically more
9 confusion among the voters?

10 MR. KAUL: Objection, calls for
11 speculation.

12 Q In your experience?

13 A I would say there would at least be equal confusion.

14 Q At least, you said, right?

15 A Yes.

16 Q Okay.

17 MR. KAUL: Why don't we actually --
18 I'm switching topics, so why don't we take a
19 break now and we can take as long as you want,
20 and five minutes is fine for me.

21 THE VIDEOGRAPHER: Off the record at
22 10:36. We are concluding Disk No. 1 in the
23 deposition of Diane Lowe.
24 (Short recess is taken)
25 THE VIDEOGRAPHER: We are on the

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1 record. The time is 10:47. This marks the
2 beginning of Media No. 2 in the deposition of
3 Diane Lowe.

4 Q Ms. Lowe, before we took a break, we were talking
5 about voter registration, and I thought I was done
6 with that line. I do have one, I guess, topic I
7 should ask you about. Based on your experience with
8 elections, have any of the changes to the voter
9 registration laws passed since the beginning of 2011
10 made the registration process more secure?

11 A Well, I suppose the fact that everyone now has to
12 provide proof of residence, I suppose that makes it
13 more secure. There was a gap, albeit a rather small
14 one, when people didn't have to provide proof of
15 residence during open registration because there was
16 a mechanism by which the clerks sent a postcard to
17 that voter and unless it came back, it was assumed
18 that that person lived where they said they do. So I
19 suppose in that respect, it made it a little more
20 secure.

21 Q So there was a process in place for confirming the
22 residence of voters before the change to the law, is
23 that right?

24 A Right.

25 Q Are there other ways in which the changes to the law

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DIANE M. LOWE

1 since 2011 have made the registration process more
 2 secure?
 3 A That's about the only one I can think of.
 4 Q All right. Let me ask you about election observers
 5 then. Do you know how long Wisconsin has permitted
 6 individuals to be election observers?
 7 A I don't know how long, but as we talked about
 8 earlier, I've been with the Government Accountability
 9 Board and its predecessor, the Elections Board, for
 10 21 years and they were allowed then and I think they
 11 were allowed for quite some time before then.
 12 Q And have you received complaints about election
 13 observers?
 14 A Some, yes.
 15 Q First of all, what are the nature of the complaints
 16 that you have received?
 17 A Generally that they are maybe trying to overstep
 18 their bounds a little bit, interrupt the conduct of
 19 the process. They want to see more than they're
 20 allowed to see. They want to see the proof of
 21 residence documents. They want to see ID documents.
 22 They want to be as close as they possibly can to the
 23 inspectors. They want to -- a lot of it comes from
 24 the fact that the voter is supposed to say their name
 25 and address out loud and a lot of times the observers

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1 have their reports ever indicated that they were
 2 unable to hear?
 3 A Yes.
 4 Q They have?
 5 A I believe they did, yes.
 6 Q Do you know when that was?
 7 A No. I think it was back during the recall, I think,
 8 or something like that. It was quite a while ago
 9 that I heard that. I don't have a definite time.
 10 Q Okay. Has the nature of the complaints that you've
 11 received changed over time? I should be more
 12 specific. The complaints about observers.
 13 A I know you're going to show me something to
 14 contradict me, so I'll just say no, I don't think
 15 they've really changed over time unless you can do
 16 your thing.
 17 Q Has the volume changed over time? Let me ask you
 18 that.
 19 A I don't think the volume has changed over time. The
 20 highest volume I remember about complaints about
 21 observers was probably back in the -- at the early
 22 2000s, and it was just all over the place. And, yes,
 23 we still get complaints about observers, but I don't
 24 think that they have necessarily accelerated -- in a
 25 few cases, yes, to the point of them being disruptive

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1 can't hear. And so it's -- they're always wanting
 2 them to repeat the name and that's kind of the nature
 3 of it.
 4 Q And do you know whether it's in fact true that the
 5 observers can't hear or if they -- if that's just an
 6 assertion that's made?
 7 A Well, I think that there are times when they can't.
 8 I mean I'm sure there are times when they
 9 legitimately can't hear. I don't know that there is
 10 an assertion really by -- are you talking about
 11 inspectors?
 12 Q Well, let me ask it a different way. The League of
 13 Women Voters is involved in doing election observing,
 14 correct?
 15 A Um-hum.
 16 Q And they provide information to the GAB about what
 17 they've observed, correct?
 18 A Yeah, yes.
 19 Q Has the League of Women Voters to your knowledge ever
 20 indicated that its observers were unable to hear the
 21 information that they were supposed to be able to
 22 hear?
 23 A I don't recall if that was one of their remarks or
 24 not. It's possible.
 25 Q And same question for Wisconsin Election Protection,

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1 at a polling place, yes.
 2 Q And I guess let me ask you about some of those
 3 documents that you were anticipating me asking you
 4 about. This is one that was marked previously as
 5 Kennedy 18.
 6 MR. KAUL: And, Brian, the version
 7 that I have for you does not have the exhibit
 8 sticker, so you're welcome to compare them if
 9 that's helpful.
 10 Q Can you explain what this document is just generally?
 11 A This was -- when I mentioned the early 2000s, the
 12 incident that I had in my mind happened in Racine
 13 also. Yeah, this was -- it was in Racine where the
 14 poll workers were very, according to the clerk,
 15 belligerent and very rude, disrespectful, in general
 16 out of line.
 17 Q All right. And this string contains a draft response
 18 that you prepared to the Racine clerk, is that right?
 19 A Yes, um-hum.
 20 Q And is that who Janice Johnson-Martin is?
 21 A Janice, yes, um-hum. This was in 2012, yeah.
 22 Q Okay. And this would be just after the 2012 recall
 23 election, is that right?
 24 A Um-hum. Yes.
 25 Q And on the first page, there's an email from you to

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1 Nat Robinson copying Kevin Kennedy, right?
 2 A Yes.
 3 Q And you indicate that you're disgusted by this, is
 4 that right?
 5 A Yes.
 6 Q And what did you mean by that? Let me ask it a
 7 different way. What were you referring to?
 8 A I was referring to the behavior of the inspectors.
 9 Q So you found that what Ms. Johnson-Martin said to be
 10 credible, is that fair?
 11 A If it happened the way Ms. Janice Martin said that it
 12 happened, it was appalling.
 13 Q All right. And in your draft response to her in the
 14 first paragraph, about halfway through, you indicate
 15 that the observers violated election law?
 16 A Yes.
 17 Q And what did you mean -- what election laws were they
 18 violating?
 19 A Well, they were ignoring lawful orders by the chief
 20 inspector.
 21 Q And you forwarded the email to Allison Coakley, do
 22 you see that?
 23 A Yes.
 24 Q Do you recall why?
 25 A Because she is normally in on our discussions because

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1 Ms. Johnson-Martin?
 2 A I don't recall if I spoke directly to her, but that
 3 has been one of our training advisories is if you
 4 really want to, you know, make sure everybody knows
 5 where the six-foot mark is, you should put down some
 6 duct tape or something that marks it off.
 7 Q And do you have an understanding as to why she wanted
 8 to make sure observers knew where the six-foot mark
 9 was?
 10 A Well, assumably because they were stepping over what
 11 she thought was the six-foot mark and coming too
 12 close to the inspector.
 13 Q And did having observers closer than that create
 14 problems?
 15 A It evidently did in this case.
 16 Q Do you know if it did in other cases as well?
 17 A There were other complaints about observers staying
 18 behind the six-foot mark and then coming up and
 19 tapping the inspector on the shoulder and saying I
 20 didn't hear that name, could you repeat the name and
 21 what was the last name that you read before that and
 22 so --
 23 Q And does that slow the voting process down?
 24 A Yes.
 25 Q And that means longer lines to vote, right?

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1 she is the trainer, our training officer, and I
 2 thought she'd be interested in reading it.
 3 Q Near the -- I guess the third page near the bottom,
 4 there's a section with the heading Implementations.
 5 Do you see that?
 6 A Um-hum, yes.
 7 Q That was drafted by Ms. Johnson-Martin, is that
 8 right?
 9 A Yes.
 10 Q And if you go on to the next page, the second to last
 11 implementation is marking with painter's tape six
 12 feet from the table so observers are aware of the
 13 area they are allowed to be in. Do you see that?
 14 A On the last page?
 15 Q Yes. It's the second to last implementation.
 16 A I'm looking down here at implementation.
 17 Q Oh, does it cut off?
 18 MR. KEENAN: Let me see. Yeah, she
 19 doesn't have the last page.
 20 Q Sorry about that.
 21 MR. KAUL: Could we take a look at the
 22 original? Thank you very much.
 23 Q That was a printing error on my part. I apologize.
 24 A Okay. I see it.
 25 Q Is that something that you discussed with

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1 A Well, it slows it down, yes.
 2 Q And did you observe that election inspectors were
 3 intimidated by that in some cases?
 4 A In this case, they were. And in some cases, yes.
 5 They're intimidated, they begin -- especially some of
 6 the observers identify themselves as lawyers and they
 7 become intimidated by that and they begin to doubt
 8 themselves and they begin to doubt their expertise.
 9 Q And does that cause them to make mistakes?
 10 A Yes.
 11 Q Do you know who the observers were who were the
 12 subject of this email?
 13 A Not offhand, no.
 14 Q This will be Exhibit 63.
 15 (Exhibit 63 is marked for identification)
 16 A Did you want this Kennedy one separated?
 17 Q Yes, please. Thank you. We have somebody that knows
 18 how to run a deposition. All right. So this is an
 19 email exchange between you and Ms. Hongisto again, is
 20 that right?
 21 A Yes.
 22 Q And am I right in understanding that she is
 23 indicating that her poll workers were making mistakes
 24 with respect to proof of residence?
 25 A Yes.

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1 Q And she indicates that they were overwhelmed, is that
2 right?
3 A I think that was her word. Maybe it was my word.
4 Q Well, let me actually focus on the final email, the
5 one that you wrote at the top of Page 1. You
6 indicate to Ms. Hongisto that even as an expert in
7 this area as you are, you can't remember all the
8 changes that had come down within the last year as of
9 July 2012, so it would be unreasonable to expect the
10 poll workers to also remember all those, is that
11 fair?
12 A Yes.
13 Q And you indicate that in Racine, observers took over
14 the polling place and created utter chaos, is that
15 right?
16 A That's correct.
17 Q And are both of those statements accurate to your
18 knowledge?
19 A To my knowledge.
20 Q This one will be Exhibit 64.
21 (Exhibit 64 is marked for identification)
22 Q Now, this is a memorandum from Michael Haas to
23 Kevin Kennedy, right?
24 A Right.
25 Q And this document indicates that on the day of the

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1 A Yes.
2 Q And you actually shortly after this reached out to
3 police officers about potentially appearing at
4 polling locations in Racine, is that right?
5 A Yes, we did.
6 Q And was that a communication with the Racine police,
7 do you know?
8 A I believe it was. I'm not sure who made that -- who
9 made that contact.
10 Q And let me show you a document and ask you if you
11 recognize --
12 A Sure.
13 Q -- the recipient. This is going to be Exhibit 65.
14 (Exhibit 65 is marked for identification)
15 A Oh, sure.
16 Q Do you know who bcdc@wi.rr.com, whose email that is?
17 A I believe his name is Bill Chessum (ph.).
18 Q And is he a police officer with Racine?
19 A He was.
20 Q Okay. At this time was he?
21 A No.
22 Q Okay. Am I right that you reached out to him because
23 you thought he might have some insight on --
24 A Yes.
25 Q -- Racine's police officers and what they might do?

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1 memo, July 19th, 2012, several members of the GAB
2 staff participated in a telephone conference with
3 staff from the City of Racine, is that right?
4 A That's right.
5 Q And you were one of the participants?
6 A Yes.
7 Q Did you review this memorandum before it was sent, do
8 you know?
9 A I don't remember if I did.
10 Q Is it right that you participated in that
11 teleconference?
12 A Yes.
13 Q Do you recall the conference?
14 A Vaguely.
15 Q To the best of your recollection, does this summary
16 reflect what was discussed in that teleconference?
17 A Yes.
18 Q And one of the results of the difficulties that
19 Racine had been having with election observers was
20 that a number of inspectors, election inspectors
21 indicated that they wouldn't work subsequent
22 elections, is that right?
23 A Yes.
24 Q Have you observed that problem in other areas where
25 there were complaints about observers?

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1 A Because in the early 2000s, he was one that was
2 called to a polling place that had been virtually
3 taken over by observers and I remembered one of his
4 complaints was I didn't know who was right, I didn't
5 know -- you know, who could do what, I didn't know
6 who I should arrest. So yes.
7 Q All right. And this is an email sent by you,
8 correct?
9 A Um-hum. Yes.
10 Q So there's been a recurring problem with disruptive
11 observers in Racine, right?
12 A Yes.
13 Q Are there other cities that have had recurring
14 problems with observers?
15 A I don't think at that level. There is actually a
16 little burg up in Outagamie County that routinely has
17 problems with observers, but that's because they have
18 local things going on. Racine seems to be the hotbed
19 for observers.
20 Q Milwaukee has also had problems in several elections,
21 right?
22 A Yes, um-hum.
23 Q This will be Exhibit 66.
24 (Exhibit 66 is marked for identification)
25 A Okay. This is pretty cryptic.

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DIANE M. LOWE

1 Q Well, first let me ask you, is this an email exchange
 2 between you and Charlene Peterson?
 3 A Yes.
 4 Q And she's the city clerk for Appleton?
 5 A She was.
 6 Q And you got to my first question. You quote
 7 something here. Do you know what that would have
 8 come from? Is that perhaps a different email string?
 9 A The reasonably limiting or where are you?
 10 Q I'm sorry, fair question. The first email from you
 11 says -- the first in time email, I should say, it
 12 says Char and there's quoted language, "The rest (14)
 13 are fine." And then you ask her whether that's 14
 14 polling places, do you see that?
 15 A Yeah, I see that.
 16 Q Do you remember where that would have come from?
 17 A I'm not sure what this is in relation to.
 18 Q Okay.
 19 A I guess the ultimate is that she must have been
 20 having a problem with inspectors and needed to cull
 21 them down a little bit so she didn't have so many,
 22 but I don't know what the 14 is.
 23 Q Well, she responds to you and says, "Yes, 14 polling
 24 places," right?
 25 A Yeah.

1 Q And then at the end of her response email, she asks
 2 if you know how many other municipalities had or
 3 continue to have issues in relationship to
 4 colleges/universities. Do you see that?
 5 A Um-hum, yes.
 6 Q Was it your understanding that there had been issues
 7 with observers at college or university precincts
 8 specifically?
 9 A I don't recall that. Possibly. I don't recall this
 10 interchange at all, so I'm not really sure what we're
 11 even getting -- what issue we're getting to here. I
 12 mean I can see her subject line, reasonably limit the
 13 number of observers. I don't recall talking about
 14 specifically having issues with observers,
 15 specifically at college and university polling places
 16 if that's what she's getting at.
 17 Q Do you know whether there were any issues at Lawrence
 18 College with observers?
 19 A Possibly. That rings a bell. That would have been
 20 around that area. But I really don't remember.
 21 Q Okay. Are you familiar with the group known as True
 22 the Vote?
 23 A Yes.
 24 Q Do you know whether that group has been involved in
 25 election observing in Wisconsin?

1 A Possibly.
 2 Q Are you familiar with an election observer named
 3 Ardis Cerny?
 4 A Yes.
 5 Q And also one named Mary Ann Hanson?
 6 A Yes.
 7 Q Have you received multiple complaints regarding those
 8 observers?
 9 A We have received a couple, maybe several regarding
 10 Ms. Cerny. I don't recall complaints about
 11 Ms. Hanson unless it was a while back.
 12 Q Is it fair to say that it's your view that they're
 13 highly partisan?
 14 A Yes.
 15 Q And specifically partisan Republicans?
 16 A Yes.
 17 Q Let me show you a document that we'll mark as
 18 Exhibit 67.
 19 (Exhibit 67 is marked for identification)
 20 Q Now, this string begins with Mike Haas relaying two
 21 complaints, one of which was from Neil Albrecht
 22 indicating that a young first-time voter was harassed
 23 and intimidated by Republican observers until he tore
 24 up his registration form and decided not to vote, is
 25 that right?

1 A Correct.
 2 Q And Mr. Haas indicated that -- well, actually first
 3 let me ask you, do you know who Kristina Sesek is?
 4 A I am trying to remember who Kristina Sesek is.
 5 Q Do you know whether she was counsel for the
 6 Republican Party of Wisconsin?
 7 A I don't recall who she was counsel for. She talks
 8 about the Romney campaign, so possibly.
 9 Q And according to Mr. Haas, she was suggesting that
 10 perhaps the observers Mr. Albrecht was talking about
 11 signed in as Republicans even though they were not
 12 actually Republicans, is that right?
 13 A Yes.
 14 Q Okay. And there's an email from you near the end
 15 regarding that comment, is that right?
 16 A Yes, that was my snarky comment.
 17 Q It's fair to say you were being sarcastic?
 18 A Yes.
 19 Q And is that because you had repeated problems with
 20 Republicans observers?
 21 A I think my remark had to do with there's always a no,
 22 no, no, we didn't do that on either side. No, no, it
 23 wasn't that way. So right.
 24 Q So you were --
 25 A I was being sarcastic. When I read this account that

DIANE M. LOWE

1 Mike had laid out, I was appalled by it. I really
 2 was shocked by it, and it appeared to be that it was
 3 the Republican observers that were causing this
 4 problem. But since, you know, they always have a
 5 different spin on it, I said, yeah, that must have
 6 been the fake ones then.

7 Q All right. Now, following these incidents, the
 8 Legislature passed legislation regarding where
 9 observer areas should be located, correct?

10 A Um-hum.

11 THE REPORTER: Yes?
 12 THE WITNESS: Yes. If you know what
 13 um-hum means, why don't you just type yes?

14 Q Just so you know, she's required to transcribe it
 15 exactly, so --

16 A I know. A little levity.

17 Q The legislation the Legislature ultimately passed
 18 moved the observer area closer to voters and
 19 elections inspectors than it had previously been, is
 20 that right?

21 A Yes.

22 Q All right. Let me show you Exhibit 68.

23 (Exhibit 68 is marked for identification)

24 Q All right. Do you recognize this document?

25 A Not really.

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1 that interference?

2 A Yes.

3 Q In your experience, do you know whether complaints
 4 that you've received relating to election observers
 5 have disproportionately involved observers at
 6 predominantly African-American precincts?

7 A I would have to say yes simply because they do -- the
 8 issues do mostly occur in cities like Racine,
 9 Milwaukee. They seem to get -- that seems to be
 10 where the observers want to go observe.

11 Q And in your experience, are the observers about whom
 12 complaints are made usually from those cities?

13 A No. They're usually not from the city itself.

14 Q And so using the example of Ms. Cerny, who we talked
 15 about before, do you know whether she's from
 16 Waukesha?

17 A She's from Waukesha.

18 Q And do you know whether -- where her observing
 19 activities are conducted?

20 A Generally in the City of Milwaukee, I believe.

21 Q Let me shift gears then and show you another
 22 document. This will be 69, Exhibit 69.

23 (Exhibit 69 is marked for identification)

24 Q So this is an email string that started with the
 25 forward of -- this is a blog post from a conservative

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1 Q Do you have any doubt that this is an email that you
 2 received?

3 A No. I don't have any doubt.

4 Q And based on having just reviewed it, is it your
 5 understanding that the clerk -- the then clerk in
 6 Appleton forwarded you an email exchange among some
 7 other clerks?

8 A Yes.

9 Q And here the clerks are indicating that they could
 10 live -- a few clerks, I should say, that they could
 11 live with five to eight feet, but that three feet is
 12 too close, is that right?

13 A Right.

14 Q And on the fourth page, there is an email from
 15 Charlene Peterson in which she writes that three feet
 16 is way too close based on our experience last year.
 17 Do you see that?

18 A Yes.

19 Q Do you know what she's referring to there?

20 A I believe Char had an experience in Appleton where,
 21 first of all, she had allowed too many observers in
 22 there and they were causing disruption by being close
 23 enough to lean over the shoulders of the inspectors
 24 and be disruptive.

25 Q Okay. And so having observers further away reduced

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1 writer responding to the issuance of a draft report
 2 on Election Day registration, is that right?

3 A Um-hum, yes.

4 Q And that was a report that the GAB prepared?

5 A Yes.

6 Q Now, Reid Magney is indicating in part based on this
 7 blog post that he thinks it's necessary to address
 8 the issue of fraud in the final report. Is that
 9 right?

10 A Yes.

11 Q And do you know what it is exactly that he thought
 12 should be included on that issue?

13 A Well, I think he wanted to again, you know, bring up
 14 the fact that there's very little fraud and
 15 changing -- taking away same day registration isn't
 16 going to make it any less than it already is.

17 Q All right. In the very first email on Page 1, the
 18 last in time email, you indicated that part of you
 19 wanted to say because it's the truth that there's no
 20 evidence that rampant fraud has occurred or whether
 21 Election Day registration has any bearing on it, is
 22 that right?

23 A Right.

24 Q And you believe that that statement is accurate, is
 25 that right?

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1 A I do.
 2 Q And why did you believe that that statement would
 3 potentially make you sound partisan?
 4 A Because everything we say becomes partisan.
 5 Q This is Exhibit 70. It's not 70 for your exhibits,
 6 but it's just 70 in the full set. Take as much time
 7 as you need to read this, but I will tell you I'm
 8 just going to ask you about an email that you sent in
 9 the second page.
 10 (Exhibit 70 is marked for identification)
 11 A Okay.
 12 Q Now, this is again during that period of time in 2014
 13 when it appeared that voter registration -- I'm
 14 sorry, voter identification was going to be in
 15 effect, is that right?
 16 A Right.
 17 Q And you write that you found that clerks were going
 18 through their absentee requests and pulling out
 19 requests that indicate the voter is indefinitely
 20 confined because the clerk "sees them out and about"
 21 and doesn't buy it?
 22 A Correct.
 23 Q And is that right, had you seen that?
 24 A I had heard different clerks report that they were
 25 kind of cleaning out their files, you know, and were

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1 ask you about the last paragraph in your email that
 2 starts on Page 1 and continues on Page 2.
 3 A That starts with Hi Diane there?
 4 Q No, I'm sorry. Just above there, the photo ID
 5 legislation.
 6 A Oh, okay. All right.
 7 Q So you indicate that the photo ID legislation doesn't
 8 describe any requirement for inspectors to be able to
 9 identify fakes, is that right?
 10 A That's correct.
 11 Q So what is an inspector supposed to do if they see an
 12 ID that they believe is a fake ID?
 13 A They can challenge it, and in that case, the person
 14 could vote, but it would be a challenge.
 15 Q And do you know how that would be resolved?
 16 A It would only be resolved if it went to recount and
 17 they would possibly come up with a recount and would
 18 be identified then. If the inspector is going to
 19 challenge on that basis that they feel that the ID is
 20 a fake, they are to report it to the municipal clerk
 21 who is supposed to report that to the district
 22 attorney for investigation. But it's solely up to
 23 the DA as to whether they're going to investigate.
 24 Q Okay. Is it fair to say that here you're indicating
 25 that it's not the job of the inspectors to try to be

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1 making their own decisions as to whether someone
 2 was -- remained indefinitely confined or not.
 3 Q Okay. And are clerks supposed to take the -- I guess
 4 do you check a box on the form?
 5 A Yeah.
 6 Q So are clerks supposed to take that at face value?
 7 A Yes.
 8 Q But some were not doing that, right?
 9 A They're not the indefinitely confined police, no.
 10 Q Okay. And that had an impact on voters because
 11 voters who are indefinitely confined didn't have to
 12 provide a form of identification, right?
 13 A Correct.
 14 Q So by switching the status of those voters, they
 15 would then be forcing the voters to provide an ID, is
 16 that right?
 17 A That's right.
 18 Q So they're not the indefinitely confined police, but
 19 they are the reasonable resemblance police, is that
 20 right?
 21 A Yes, they are.
 22 Q Let me ask you about that. This will be Exhibit 71.
 23 (Exhibit 71 is marked for identification)
 24 Q And again I'm not going to -- you're welcome to look
 25 at as much of this as you would like. I'm going to

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1 ferreting out whether IDs are fake?
 2 A Right.
 3 Q And that is because the legislation doesn't say
 4 anything about that, is that right?
 5 A It doesn't mention anything about what to look for,
 6 what to keep your eyes out for. There's no
 7 direction.
 8 Q You indicate that you were concerned that inspectors
 9 would closely scrutinize the pictures and decide that
 10 the photos and the IDs didn't resemble the people
 11 well enough, is that right?
 12 A You'd be surprised how inspectors take their job very
 13 seriously and start looking for things where they're
 14 not and, yeah, people's hair changes, people -- the
 15 shape of their face may change if they lose weight,
 16 they may not look exactly like they did eight
 17 years -- what do you get a license for, eight years
 18 now, I think.
 19 So, yeah, there is concern that some of them may
 20 take it too far and not looking at the whole picture
 21 and determining if there's a reasonable
 22 resemblance.
 23 Q Are you also concerned that election observers will
 24 encourage inspectors to engage in that activity?
 25 A I'm sorry, that --

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1 Q Do you have concerns that election observers will
2 encourage inspectors to engage in that activity?
3 A Since the inspector -- since the observers are not
4 allowed to see the ID, I don't think they would have
5 an opportunity to do that. So I guess my answer is
6 no simply because of that.
7 Q And then you indicate in the next sentence that it's
8 very subjective. That's a reference to whether a
9 person reasonably resembles the ID, is that right?
10 A Right.
11 Q All right. This is Exhibit 72.
12 (Exhibit 72 is marked for identification)
13 Q All right. In the second paragraph in the top email,
14 you refer to the GAB's interpretation of the
15 Legislature's convoluted act, do you see that?
16 A Um-hum.
17 Q Is that a reference to the voter ID law generally or
18 to Act 227 specifically?
19 A 227 specifically.
20 Q And why do you describe that as convoluted?
21 A This was the one -- this was the act that required
22 photo ID for -- well, for everyone, but for persons
23 voting by mail, voting absentee by mail, they had to
24 send a copy of their photo ID, and I thought it was
25 very odd that you could still -- you still had to

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1 Q But that's what the law stated, so you were required
2 to enforce this, is that right?
3 A Yeah. And that's what we would just say. It's the
4 law says that's what you do.
5 Q All right. And here is Exhibit 74.
6 (Exhibit 74 is marked for identification)
7 Q So at the bottom of the first page, there's an email
8 from the clerk in Wisconsin Rapids to you, is that
9 right?
10 A Yes.
11 Q And he's asking how he can determine a photo ID
12 received through the mail reasonably resembles the
13 voter, is that right?
14 A That's correct.
15 Q And you indicate that you don't understand how you do
16 that either, is that right?
17 A That's correct.
18 Q But the law as written is it your understanding
19 indicates that to count an absentee ballot, the
20 election inspector is supposed to make a
21 determination that the photo reasonably resembles the
22 voter?
23 A To count an absentee ballot?
24 Q Yes. Or to issue an absentee ballot. Let me
25 actually withdraw the question --

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1 send a photo ID, although there was nothing for the
2 photo ID to be compared against because the person
3 isn't in person, the person is at the other end of
4 the mail string. So I just found that kind of
5 unusual.
6 Q Would it be fair to say that it didn't seem to serve
7 any purpose?
8 A Yeah. It didn't -- no. I guess I didn't see what
9 purpose it served.
10 Q This is Exhibit 73.
11 (Exhibit 73 is marked for identification)
12 Q All right. So this email exchange begins with a
13 clerk from Superior explaining that she doesn't
14 understand why ID only has to be provided for an
15 absentee voter the first time they request an
16 absentee ballot since in-person voters always have to
17 show an ID, is that right?
18 A That's right.
19 Q And you responded that when the photo ID law was
20 first passed, you asked yourself the same questions,
21 is that right?
22 A Correct, um-hum. Yes.
23 Q Did you ever come to any understanding as to why
24 there was that inconsistency?
25 A No.

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1 A Okay.
2 Q -- and ask it a different way. Is there any rule
3 that the reasonable resemblance requirement plays in
4 the absentee voting process under the law?
5 A Not as far as -- you know, I mean if someone comes in
6 in person, yes, because then you've got an ID and a
7 person to compare. When voting by mail, there's
8 nothing to compare it to. So in that case, there's
9 nothing to compare it to.
10 Q Okay. So there's no way to determine whether --
11 A No way to determine whether they reasonably resemble.
12 Q Is the clerk from Wisconsin Rapids, is it your
13 understanding he thinks he is required to make some
14 determination that there is a reasonable resemblance?
15 A I think he wonders why he doesn't have to or isn't
16 there some way that he's supposed to, I think that's
17 what he's getting at.
18 Q Okay.
19 A So, yes, I think he probably think he needs to.
20 Q Okay. All right. And you've also received
21 communications that indicate that some poll workers
22 quit working because they didn't want to have to
23 administer the voter ID laws, is that right?
24 A Correct.
25 Q All right. I'd like to ask you a little bit about

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1 the no fee ID for voting. Do you know for
 2 individuals whose license has been suspended or
 3 revoked whether they can get a no fee ID for voting?
 4 A I don't remember.
 5 Q Let me show you a document that relates to that.
 6 A Okay.
 7 Q This is Exhibit 75.
 8 A A long one.
 9 (Exhibit 75 is marked for identification)
 10 A Okay.
 11 Q Thank you for bearing with me on that one. The first
 12 question I have for you on this is the no fee ID
 13 process is being run by the DMV, right?
 14 A Right.
 15 Q Do you, you meaning GAB, have any ability to overrule
 16 any decisions that the DMV makes with respect to
 17 those IDs?
 18 A No.
 19 Q So going to the second page of this -- oh, is
 20 Kristina Boardman your primary contact at the DMV
 21 regarding these issues?
 22 A She's one of them.
 23 Q And so it's your understanding from -- well, this
 24 email is indicating that it's your understanding from
 25 your communications with Ms. Boardman that a voter

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1 to which this voter would need to go to get an ID
 2 that Mr. Falk and Mr. Haas were making jokes about
 3 it?
 4 A Apparently.
 5 Q By the way, I asked you before about cities losing
 6 poll workers who didn't want to implement the voter
 7 ID law. Cities have also reported to you that
 8 they've lost poll workers because of the multitude of
 9 laws that have been passed in the last several years,
 10 is that right?
 11 A That's correct.
 12 Q And based on your experience, do you know whether
 13 cities often have a difficult time finding good poll
 14 workers?
 15 A It depends on the city, but yes. Often they're not
 16 exactly beating a path to the clerk's door. It has
 17 become easier to get a list of poll workers since
 18 both parties have been very active in sending in
 19 names of nominees for appointment as inspectors.
 20 It's harder to get persons that live in your
 21 municipality that don't want to represent a party.
 22 They just want to work. A lot of them have fallen
 23 off just because they feel like there's just so much
 24 responsibility now and so much to remember and what
 25 if I mess it up.

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1 whose license was --
 2 A Disconnected.
 3 Q Well, I think his was not, but it was taken at the
 4 very least.
 5 A In another state.
 6 Q Yes. In any event, the understanding is that a voter
 7 who has a suspended license must either disconnect,
 8 which would then require him to buy a new license if
 9 he were to want to drive again, or resolve the
 10 suspension in order to get a free -- let me rephrase
 11 that entirely because that doesn't make any sense.
 12 Am I understanding this correctly to say that
 13 it's your understanding to get a free ID, a voter
 14 whose license is suspended or in some other status
 15 like that has to actually surrender the license in
 16 order to get the free ID?
 17 A That's what I understand, yes.
 18 Q And that's still true?
 19 A As far as I know.
 20 Q And if the voter does that, the voter then needs to
 21 buy a new license in order to drive in the future, is
 22 that right?
 23 A Correct. They only want one product out there per
 24 person.
 25 Q And is it fair to say that given the sort of lengths

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1 Q And has that issue -- have those difficulties
 2 increased --
 3 A Yes.
 4 Q -- over the last five years?
 5 A Oh, yes.
 6 Q Let me show you Exhibit 76.
 7 (Exhibit 76 is marked for identification)
 8 A Wow, it's a long one.
 9 Q It's a big font at least. This is a communication
 10 between you and a poll worker from Madison, is that
 11 right?
 12 A Yes, um-hum. Yes.
 13 Q Does this relate, do you know, to what was Act 23?
 14 A I don't know what act it was part of.
 15 Q Is it your understanding Ms. Doughman was talking
 16 about legislation that impacted the residency
 17 requirement, corroboration and that instituted voter
 18 ID?
 19 A Yes.
 20 Q At the beginning of your response to her, you write
 21 that, "I believe it's safe to say that virtually all
 22 your concerns have been previously presented to the
 23 Legislature by GAB staff and by other interested
 24 parties in public hearings." Do you see that?
 25 A Yes, I do.

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1 Q Why did you believe that?

2 A Because I know that we brought up a lot of the holes

3 in the laws and that's what our job is to do, to

4 point out what's missing, what could cause a problem,

5 and I did listen to a number of the testimonies of

6 other interested parties who had virtually the same,

7 you know, criticisms or questions that this person

8 had.

9 Q Okay. So based both on your work providing --

10 helping to provide information from GAB to the

11 Legislature and having observed legislative

12 proceedings, it's your understanding that virtually

13 all of these concerns were presented to the

14 Legislature prior to passage of --

15 A That's my understanding, yes.

16 Q And it's the passage of whatever bill or bills, those

17 provisions that we've been discussing?

18 A Right.

19 Q At the bottom of that first paragraph, you write

20 that, "This bill will increase workload for all

21 election administration officials from GAB staff, to

22 county and municipal clerks, to poll workers

23 substantially at least at first." Do you see that?

24 Sorry, it's the end of the first paragraph that you

25 wrote.

1 need another document to go with it.

2 Q And is it your from understanding --

3 A Because -- can I finish?

4 Q I'm sorry, please.

5 A Sorry, I didn't mean to interrupt. Because if they

6 do live in dorms, you know, in college housing, they

7 aren't going to have most likely some of the -- you

8 know, the regular forms of ID that people might have.

9 They might have a driver's license, they might not

10 when they're away from home. So most of them will

11 rely on their ID, but they will also have to have

12 another document that proves that they're enrolled.

13 Q And is it your understanding from your communications

14 in your 20-plus years of experience in elections work

15 that a number of college students in the University

16 of Wisconsin System or at private colleges in

17 Wisconsin don't have driver's licenses?

18 A I would say that's true, that most of them don't.

19 Q More than the rest of the population, right?

20 MR. KEENAN: Object as vague.

21 A I would say that there's probably more college kids

22 that don't have automobiles or driver's license than

23 there do run of the mill, go to work every day

24 people, yes.

25 Q Were those concerns about college students presented

1 A Oh, okay.

2 Q Is that right?

3 A Yes, that's right.

4 Q And is that a fair characterization of your view?

5 A It is.

6 Q And has the legislation regarding residency and

7 corroboration and voter ID substantially increased

8 workload for election administration officials?

9 A Yes.

10 Q Let me turn your attention to the second page. Near

11 the bottom there's a paragraph that begins with photo

12 ID. Do you see that?

13 A Yes.

14 Q And about two-thirds of the way through that

15 paragraph, you write, "I acknowledge that the photo

16 ID requirement will make it much more difficult for

17 students to vote in the college town." Do you see

18 that?

19 A I see that.

20 Q Is that a fair characterization of your view?

21 A Yes.

22 Q And why is it that the photo ID requirement makes it

23 more difficult for college students to vote in their

24 college town?

25 A Because they not only need the college ID, but they

1 to the Legislature, if you know?

2 A I don't recall offhand. I do know that for -- and

3 maybe we're moving on to this later, so stop me if

4 I'm getting ahead, but I know when it came to

5 including technical colleges, that was presented to

6 the Legislature as that they needed to be included

7 along with college, the colleges when you're talking

8 about ID because that was kind of ignored.

9 Q And then the last paragraph of your email, so the

10 next page, you write that this bill is very

11 challenging for all, do you see that?

12 A Um-hum, yes.

13 Q Is that an accurate characterization of your views?

14 A Yes.

15 Q And you write, "The reality is that the bill will

16 make the act of voting more difficult for some." Do

17 you see that?

18 A Yes, I do.

19 Q And is that also an accurate characterization of your

20 views?

21 A Yes, it is.

22 Q I may be able to do this without a document, but I'll

23 come back to it if I need to. My next question

24 relates to the residency rules, the change from the

25 10-day period to 28-day period. So first of all, I

1 want to ask about voters who move but were not
 2 registered at their previous address. If a voter
 3 moves within the 28-day period before an election and
 4 is not registered at the voter's prior address, what
 5 does that voter need to do to cast a ballot?
 6 A Well, they can't cast a ballot where they've moved to
 7 because they haven't fulfilled the residency
 8 requirement. They can go back to where they lived
 9 and had established residency and fill out a form and
 10 show proof of residence to vote at that prior
 11 address.
 12 Q Now, when they -- the voter would no longer live at
 13 that prior address, right?
 14 A Right.
 15 Q Does that create challenges for those voters getting
 16 registered?
 17 A It may.
 18 Q And what are some of those challenges?
 19 A It may be that they don't have any -- depending on
 20 how long it's been since they moved, you know, you're
 21 saying it's in that 28-day period, they may not
 22 have -- maybe they've changed their driver's license,
 23 it doesn't have their old address on it anymore, they
 24 couldn't use that. They may not have utility bills,
 25 things like that coming to their old house anymore.

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1 sent, right?
 2 A Um-hum.
 3 Q So what happens to the confirmation mailings for
 4 those voters?
 5 A It will be returned as they don't live there. What
 6 we tell the clerks is that, you know, if you know
 7 that this is this person in this particular situation
 8 that has no other opportunity to vote but to vote
 9 from whence they came, that you need to take that
 10 into consideration when you get that -- because
 11 you're expecting it when you get that postcard back,
 12 that you don't just kick them off the voting roll.
 13 Q Now, if those voters you say early -- or in-person
 14 absentee voting?
 15 A That's what I'm saying.
 16 Q Yes. And the confirmation notice comes back
 17 undeliverable before the election has occurred, what
 18 happens with the votes?
 19 A So now you're talking about they voted in this
 20 previous location?
 21 Q Yes.
 22 A Right? Okay. However, the clerk knows what's going
 23 on with this person. So the vote is counted.
 24 Q Okay. And if the clerk doesn't know what's going on?
 25 A If the voter has not indicated anything, then the

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1 So they couldn't use that.
 2 They might have something issued by a unit of
 3 government that's still going to the old address that
 4 they forgot about that maybe they still have, but it
 5 would make it more difficult.
 6 Q Okay. And to register at their old address, the
 7 voters need to sign a certification, correct?
 8 A Correct.
 9 Q And the certification indicates that the voter
 10 presently lives at that address and has no intent to
 11 move, right?
 12 A That's what it says.
 13 Q Okay. So is any instruction given to those voters
 14 about how to handle that?
 15 A We've had calls from voters that are uncomfortable
 16 about signing that and what we've told them is you
 17 need to be able to vote somewhere and you're in this
 18 kind of limbo situation, you haven't -- you haven't
 19 acquired residency where you've moved. You still,
 20 you know, should have an opportunity to vote. You
 21 did live at this residence and you did establish
 22 residency there and this is the best case scenario
 23 where you can vote, and yes, they do -- they are
 24 uncomfortable.
 25 Q After a voter registers, a confirmation mailing is

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1 vote is probably not going to count, if the voter has
 2 not made it clear why he is registering there.
 3 Q And do you know whether some counties or some
 4 municipalities refer to the DA confirmation notices
 5 that are returned?
 6 A If they do or why they do?
 7 Q Do you know if they do?
 8 A They are supposed to. Whether they do all the time,
 9 I don't know.
 10 Q Okay. So if the clerk doesn't know that individuals
 11 are in this residency limbo, voters who cast a ballot
 12 at their old location get referred to the DA, is that
 13 right?
 14 A Sometimes.
 15 Q Have you received questions about the impact of the
 16 expanded residency requirement on college students in
 17 particular?
 18 A I think, yes, back when it first happened, that
 19 was -- there were a lot of questions about that and
 20 how it affected them.
 21 Q Okay. And one result of the expanded residency
 22 period is that a greater number of college students
 23 have to vote absentee either from school or from
 24 their parents' location -- parents' residence, is
 25 that right?

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1 A Right.
 2 Q Or travel back to the other location?
 3 A Make a trip, yeah.
 4 Q All right. Let me show you Exhibit 77.
 5 (Exhibit 77 is marked for identification)
 6 Q And again this one is pretty long, but I will tell
 7 you I'm just going to ask you about the final two
 8 emails in time on the first page.
 9 A Okay.
 10 Q So am I right in understanding this to mean that one
 11 implication of the change in the residency rules was
 12 that college students voting in the 2012 recall who
 13 were no longer living at their college residence
 14 because it was the summer either had to vote absentee
 15 or return to their college town to vote?
 16 A Yes.
 17 Q And in response to Mr. Haas' email summarizing GAB's
 18 view of the law, you wrote that other than I don't
 19 like it, you didn't have any comments on his view?
 20 A That's what I wrote.
 21 Q Do you recall what you meant by that?
 22 A I'm trying to remember. Let me read Mr. Haas' whole
 23 line of thought here. I think what I was saying is,
 24 yes, his analysis is correct. My I don't like it had
 25 to do with it's so confusing. It's just a mess.

1 of 2011, you were asked to work on a committee to
 2 improve the information on the GAB website, is that
 3 right?
 4 A Yeah.
 5 Q And that committee was formed because some of the
 6 information on the GAB website regarding the photo ID
 7 law and other election related issues was inaccurate,
 8 difficult to locate and not current, is that right?
 9 A Yes.
 10 Q And does that committee still exist, or has it been
 11 ended?
 12 A Not as it was. It's more of an ad hoc now. We're
 13 constantly looking to see -- especially if someone
 14 finds something that, you know, it's like where did
 15 you find that because people do -- if they search on
 16 something might find something inaccurate that we
 17 missed.
 18 Q Okay.
 19 A But yeah. But we went through the entire website and
 20 made a valiant attempt to make everything accurate
 21 and complete.
 22 Q Okay. And every time there's new election law
 23 passed, do you then need to do that process again?
 24 A We have to try to reach everything that it touches,
 25 yes.

1 MR. KAUL: Why don't we go off the
 2 record for a minute?
 3 THE VIDEOGRAPHER: Off the record at
 4 12:21. This will conclude Media No. 2 in the
 5 deposition of Diane Lowe.
 6 (Lunch recess is taken)
 7 (12:22 p.m. to 1:18 p.m.)
 8 THE VIDEOGRAPHER: The time is 1:18.
 9 We are on the record. This marks the beginning
 10 of Media No. 3 in the deposition of
 11 Diane Lowe.
 12 Q Ms. Lowe, I want to start out the afternoon by asking
 13 you about testimony you provided in the voter ID
 14 trial in Milwaukee a couple years ago. First do you
 15 recall testifying in that case?
 16 A I recall testifying.
 17 Q And I am guessing that you're about to say you don't
 18 recall the exact details of what you said.
 19 A That's correct.
 20 Q Do you have any reason to believe that anything you
 21 said in your testimony was not correct?
 22 A No.
 23 Q I'm certainly not going to go through everything you
 24 said at the last trial, but I do want to ask you
 25 about a couple specific things. One is in December

1 Q Okay. And is there an index or something like that
 2 that lists all the place where that information is?
 3 A You'd probably have to ask our public information
 4 officer that question.
 5 Q Okay. I also want to ask you about the no fee ID
 6 program. Have you received communications relating
 7 to that program, first of all?
 8 A A couple, a few.
 9 Q Okay. And there have been cases in which the DMV
 10 refused to process applications in which you believe
 11 that they should have been processed, is that right?
 12 A Yes. We're talking about now before they have
 13 instituted this policy of helping people get birth
 14 certificates and things like that? Are we on the
 15 same page here or not?
 16 Q I understand what you're saying.
 17 A Okay.
 18 Q So let me first ask you what's the new policy that's
 19 been implemented?
 20 A Well, the new policy is that if you have a birth
 21 certificate, but it's going to cost you 20 bucks to
 22 get you one, the motor vehicle department can assist
 23 you with that and can obtain that for you and I think
 24 they can also get it from other -- certain other
 25 states, I won't say all of them, and that was usually

1 the cost point when it came to something you had to
 2 provide in order to get the ID.
 3 Q Okay. And have you received any complaints relating
 4 to that process?
 5 A No.
 6 Q But before that process was implemented, you received
 7 some complaints?
 8 A Yes.
 9 Q All right. And one of the situations involved a
 10 woman who lost the use of both of her hands and
 11 couldn't sign the application for an ID, is that
 12 right?
 13 A Yes, I remember that.
 14 Q All right. And the woman had orally authorized her
 15 daughter to sign the application in the presence of a
 16 DMV field agent, is that right?
 17 A Yes.
 18 Q And the daughter brought in with her a copy of a
 19 power of attorney giving her permission to sign the
 20 application, right?
 21 A Right.
 22 Q But she was not allowed to sign the application for
 23 her mother, is that right?
 24 A That's what I remember.
 25 Q And do you recall you wrote in an email, "I can't

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1 window?
 2 A The only complaints that I had received were -- that
 3 I recall were from places like Madison, Milwaukee who
 4 had in the past routinely held hours, office hours on
 5 maybe a Saturday, you know, of course, on the Monday
 6 before the election because that was also a day that
 7 you could vote absentee previously in order to get,
 8 you know, people in that wanted to vote in person and
 9 they couldn't do that anymore.
 10 So it was a lot of complaints from clerks -- not
 11 a lot. Mostly from those large municipalities that
 12 had that practice of doing that. I think Green Bay
 13 maybe did that too. For voters themselves, I haven't
 14 heard a whole lot. I do recall one person, I don't
 15 remember where they were from, that had tried to
 16 contact the clerk and to no avail and it got to be
 17 the last day and finally I think he went to get -- I
 18 think the town board chair or someone helped him and
 19 gave him a ballot.
 20 But, yeah, mostly I've heard it from clerks not
 21 liking that they've had to shorten their hours. On
 22 the other hand, I've heard it from clerks that are
 23 more than happy to shorten their hours, so --
 24 Q On the Monday before the Election Day, the day
 25 before, is there any circumstance in which a voter

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1 believe that people without the use of their hands
 2 are prohibited from obtaining an ID"?
 3 A Yes.
 4 Q You said that the reason you couldn't believe that
 5 was because it was an unreasonable position for DMV
 6 to take, correct?
 7 A I don't recall that's what I wrote, but if you say I
 8 did --
 9 Q Well, is that your view?
 10 A Yes, I did think it was unreasonable.
 11 Q All right. Let me ask you about the reductions to
 12 the in-person absentee voting period that have been
 13 passed -- well, there were two bills that reduced the
 14 period, correct?
 15 A Were there two?
 16 Q Oh, let me go through each one that I recall at
 17 least. There was one bill that shortened the period
 18 to 12 days, is that right?
 19 A I must have jettisoned that one. I'm down to 10.
 20 Q Okay. There currently are 10 days, right?
 21 A Yeah.
 22 Q And the period is limited to 8 a.m. to 7 p.m. on
 23 weekdays, right?
 24 A Right.
 25 Q Have you received any complaints relating to that

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1 can vote absentee if they have some sort of
 2 extraordinary event?
 3 A Yes, if -- well, the only ones that can vote, only
 4 people that can vote absentee would be indefinitely
 5 confined -- or, I'm sorry, hospitalized voters or
 6 sequestered jurors.
 7 Q Okay. So if --
 8 A But if you broke your leg on Sunday and you were
 9 going to have surgery on Tuesday, that's not a reason
 10 to be able to vote absentee on Monday.
 11 Q Okay. Some -- many actually municipal clerks are
 12 part-time employees, right?
 13 A Right.
 14 Q And many of them have full-time jobs, right?
 15 A Correct.
 16 Q Did you receive complaints from some of them about
 17 their inability under the current window to schedule
 18 appointments with voters for evenings or weekends?
 19 A At the beginning, yes. They did complain about that.
 20 Q Okay. Let me show you a document that was previously
 21 marked as Exhibit 9.
 22 A Okay.
 23 Q All right. So this is a series of emails in which
 24 guidance is provided to the GAB staff, including you,
 25 about how to handle a situation in which voters cast

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1 in-person absentee ballots outside of the permissible
 2 window, correct?
 3 A Correct.
 4 Q And let me first direct your attention to the third
 5 page, which is an email from Shane Falk to
 6 Kevin Kennedy. Mr. Falk begins the email by saying,
 7 "As you know, we have received numerous inquiries
 8 regarding how to treat absentee ballots that a clerk
 9 mistakenly permitted voters to vote in person prior
 10 to the opening of business on the third Monday before
 11 the election." Do you see that?
 12 A Yes, I do.
 13 Q And he indicates that you received similar inquiries
 14 about voters who cast their ballots too late also, is
 15 that right?
 16 A Yes.
 17 Q To your knowledge, is that statement accurate?
 18 A That they were allowed to vote too early and too late
 19 for in-person voting? Yes.
 20 Q And that you had received numerous inquiries about
 21 that?
 22 A Yes.
 23 Q And you received those inquiries to your knowledge
 24 because that situation had occurred, right?
 25 A Right.

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1 Q And this exchange indicates that in that situation,
 2 the clerk is not permitted to count those ballots,
 3 right?
 4 A Correct.
 5 Q And instead has to administratively spoil the ballot,
 6 is that right?
 7 A Correct.
 8 Q And that effectively nullifies the ballot, right?
 9 A Correct. It can't be used as a ballot.
 10 Q Okay. And so if those voters don't return then to
 11 cast a ballot, their vote is not counted, is that
 12 right?
 13 A Correct.
 14 Q And this original series took place in 2012 shortly
 15 before the presidential election, is that right?
 16 A Um-hum.
 17 Q Is that a yes?
 18 A I'm sorry, yes.
 19 Q That's okay. It's not natural. And then you
 20 forwarded that email just before the 2014 general
 21 election, is that right? At the very top of Page 1.
 22 A Just before the 2012 -- oh, yeah, '14. Yes.
 23 Q Okay. And do you know, were you forwarding that
 24 because the same issues that had occurred in 2012
 25 were again occurring in 2014?

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1 A Not sure why I forwarded it. I don't know.
 2 Q Let me ask it a different way. Did the same issues
 3 occur in 2014 that they did in 2012?
 4 A I believe they did, yes.
 5 Q And that's referring to voters casting a ballot
 6 outside the window?
 7 A Yes.
 8 Q All right. Let me show you another document that
 9 we'll mark as Exhibit 78.
 10 (Exhibit 78 is marked for identification)
 11 A Okay.
 12 Q So this exchange began when the clerk from Pine Grove
 13 sent an email to the GAB help desk, correct?
 14 A Correct.
 15 Q And she's indicating that she was not happy about the
 16 limited early voting hours, is that right?
 17 A Right, because of her full-time job.
 18 Q So this was an example of that issue we were
 19 discussing before with clerks with full-time jobs?
 20 A Yes.
 21 Q All right. And you responded to her email to the
 22 help desk, is that right?
 23 A Correct.
 24 Q Let me first ask you about the third paragraph of
 25 your response email, which is on Page 2 and starts

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1 with there are a number of ways. Do you see that?
 2 A Um-hum, yes.
 3 Q And what you're indicating here is that after the
 4 changes in the law, clerks still have a great deal of
 5 flexibility about how they offer in-person or
 6 absentee voting, right?
 7 A Right.
 8 Q And you specifically explain that they could allow
 9 absentee voting during all office hours, is that
 10 right?
 11 A They could.
 12 Q Okay. And then you're referring here to in-person
 13 absentee, is that right?
 14 A In-person absentee.
 15 Q Or they could limit the period to specified hours
 16 during that 10-day window, is that right?
 17 A Correct.
 18 Q And they could even have early voting or in-person
 19 absentee voting by appointment only, is that right?
 20 A If they were specific about when the appointments
 21 would occur.
 22 Q Okay. And they could have any number of hours
 23 available still, right?
 24 A Yes.
 25 Q So a clerk could offer as little as an hour of

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1 in-person absentee voting?
 2 A They could.
 3 Q And is it your understanding that clerks do offer a
 4 wide variety of windows for in-person absentee
 5 voting?
 6 A There are various means by which they accomplish
 7 this, yes. Some of them have -- in large
 8 municipalities, they're from a certain time in the
 9 morning to a certain time at night and they just
 10 conduct absentee voting whenever anybody comes in to
 11 absentee vote.
 12 Some that are clerks in smaller towns or have
 13 other jobs do say by appointment, but we encourage
 14 them when they do their Type E notice, their notice
 15 of absentee voting that they say by appointment
 16 between the hours of so that they narrow it down.
 17 Otherwise if they just say by appointment, it kind of
 18 leaves them wide open to I'm out to dinner at 6
 19 o'clock at night with my family and somebody wants to
 20 absentee vote, I said I'd be available by appointment
 21 during the whole time during the day that these
 22 people could absentee vote, so I need to leave now to
 23 help this person absentee vote. So that's why we
 24 tell them to designate. But, yeah, some of them do
 25 just a particular day a week or a couple of days a

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1 A They are examples of how they should be used.
 2 Q Okay. So the hours that municipalities offer for
 3 in-person absentee voting continue to vary from
 4 municipality to municipality?
 5 A They vary widely, um-hum.
 6 Q At the beginning of your email, you indicated that
 7 you hoped that the clerks who had expressed this
 8 concern about the window that's now in effect did so
 9 with their legislators before the law was passed, is
 10 that right?
 11 A Yes, I did.
 12 Q And Ms. Cummings indicates that she had done that, is
 13 that right?
 14 A That's right.
 15 Q All right. And you said, "Yeah, I'm not surprised"?
 16 A Yes, I did.
 17 Q And is that because the clerks had expressed concerns
 18 about a number of the pieces of legislation that had
 19 been passed since the beginning of 2011?
 20 A My response, I'm not surprised, had more to do with
 21 as much as we are invited to give our thoughts on
 22 legislation and so are the clerks and how it can be
 23 approved, it's we find that it often falls on deaf
 24 ears.
 25 Q I'm going to mark this as Exhibit 79. I'm going to

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1 week that they administer voting.
 2 Q Okay. So some just do one day a week?
 3 A Some do just one day a week.
 4 Q And are there some clerks that just do in-person
 5 absentee voting by appointment only?
 6 A There are a lot of them that do that.
 7 Q Is that the majority, do you know?
 8 A Well, if you want to talk about majority, they don't
 9 do that in the larger municipalities. They do that
 10 in the smaller, the towns where they -- this is a
 11 part-time job, they're not there all the time. They
 12 do them by appointment method.
 13 Q Okay. So a large number do it, but they tend to be
 14 in the smaller towns?
 15 A Yes.
 16 Q And then you provide some examples of this notice,
 17 right?
 18 A Oh, yes, um-hum.
 19 Q And are these actual examples, or are they ones that
 20 you created?
 21 A I just created them.
 22 Q Okay.
 23 A As an example.
 24 Q But they're reflective of the types of notices that
 25 clerks actually use?

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1 completely change gears here.
 2 (Exhibit 79 is marked for identification)
 3 Q I'm primarily going to focus on the first paragraph
 4 of the first email -- first two paragraphs, I should
 5 say.
 6 A Yes, my love for the post office comes through.
 7 Q I don't think you're unique among election
 8 administrators. Would it be fair to say that you
 9 have had recurring problems with the postal service?
 10 A We do. We have problems in that -- well, this is
 11 just my thought, but they've made everything so
 12 automated that every little mark you put on an
 13 envelope has to be completely placed exactly the
 14 right little nth of a -- they get very picky about
 15 where things are, how things look, how big, how
 16 small, what's the ratio between this -- they're very
 17 picky.
 18 And if you don't do it right, well, then it's
 19 your fault it didn't get there because, you know,
 20 didn't you read the domestic mail manual. Who can
 21 read the domestic mail manual? So, yes, I do have an
 22 ongoing problem with them, one of which is I
 23 mentioned in that paragraph about FIM bars or that
 24 might have been in the second paragraph.
 25 The FIM bar as I had it explained to me is the

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1 little vertical lines that appear on the face of an
 2 envelope. One of the -- it does a number of things,
 3 but one of the things it's supposed to do is tell the
 4 postal equipment which side of the address the
 5 address to which the piece of mail is going is on,
 6 okay.
 7 Well, I don't know if you've ever looked at an
 8 absentee envelope, but there's an address on the
 9 front and there's an address on the back. The
 10 address on the back is the voter's address because
 11 they fill out that certification. There's also a
 12 signature of a witness with their address.
 13 We've had several incidents where the witness or
 14 the voter, one of the two, will receive the ballot
 15 rather than the clerk. And also with regard to the
 16 election logo, we've had it drilled into us from the
 17 upper echelons of the post office that really needs
 18 to be on there and it really expedites election mail
 19 and when you get to the on the ground worker at the
 20 local post offices, they don't even know what that
 21 is.
 22 Q Have you also had problems with mail not being picked
 23 up?
 24 A You're going to show me something that says, yes, I
 25 did. I don't remember that.

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1 municipal clerk, which is -- easily disenfranchises
 2 people.
 3 Q Here is Exhibit 80.
 4 (Exhibit 80 is marked for identification)
 5 Q So these emails relate to a report that the League of
 6 Women Voters of Wisconsin sent to the GAB, right?
 7 A Yes.
 8 Q And these emails are from September 2011, is that
 9 right?
 10 A Yes, they are.
 11 Q And the League of Women Voters and Wisconsin Election
 12 Protection have sent reports to the GAB for
 13 subsequent elections also, right?
 14 A Yes.
 15 Q Mr. Buerger in the first email here indicates that he
 16 read this and would like to follow up with some of
 17 these places identified, is that right?
 18 A That's what he says, yes.
 19 Q Do you know whether any of that follow-up was done?
 20 A I don't know.
 21 Q Does the GAB have an approach generally for handling
 22 these sorts of reports?
 23 A Usually they are handled by management. I'm not
 24 recalling whether we followed up on a lot of these.
 25 Usually it would be between Kevin and Mike to kind of

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1 Q I actually think it's the start of this chain.
 2 Sorry, I misled you by saying I was just going to ask
 3 you about the first two paragraphs. Oh, no, I'm
 4 misunderstanding.
 5 The email that started this chain is an email
 6 about the post office delivering an absentee ballot
 7 back to the person who submitted it, is that right?
 8 A Yes.
 9 Q Okay. Sorry about that. Do you know if you've had
 10 problems with delivery of the voter registrations by
 11 mail?
 12 A Mostly we have problems with those, the voter
 13 registrations when they are third parties that are
 14 voter registration drives that are sending out
 15 registration forms that they've collected and they
 16 either have not used the list of clerks from the
 17 Government Accountability Board or they've combined
 18 their own clerk list from I don't know where or they
 19 just don't look far enough into Wisconsin's -- the
 20 way Wisconsin runs elections on the municipal level
 21 to know that municipal clerks are to receive these,
 22 not the county clerks.
 23 So we will get a bunch of registration forms
 24 either coming to us or going to county clerks or if
 25 they do go to municipal clerks, they go to the wrong

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1 ferret it out and figure out if these were accurate
 2 or not.
 3 Q In your experience, are those reports accurate? And
 4 I'm specifically talking about the ones from League
 5 of Women Voters and Wisconsin Election Protection.
 6 A I would say fairly accurate. I would say fairly
 7 accurate.
 8 Q I have a few sort of miscellaneous questions here, so
 9 I'll be switching topics on you quickly. One is
 10 there was a period of time when high schools were
 11 required to appoint special registration deputies,
 12 right?
 13 A Right.
 14 Q And that requirement was eliminated?
 15 A Yes.
 16 Q Prior to its elimination, did you ever receive
 17 complaints from clerks indicating that they were
 18 burdened by that requirement in any way?
 19 A Not that I recall. I do remember school districts
 20 being the ones that were more burdened. They seemed
 21 to be the ones that were more burdened that they had
 22 to have somebody there to register voters. I don't
 23 recall hearing too much from clerks about it.
 24 Q So school districts didn't want to have to register
 25 their students?

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1 A And not all of them. There were just certain school
 2 districts found it to be, you know, just kind of a
 3 task that they had to do and others were perfectly
 4 fine with it, so --
 5 Q One of the changes to the law in 2011 is that the
 6 circumstances in which clerks could return absentee
 7 ballots to voters were limited to a specific set of
 8 circumstances. Does that sound right?
 9 A Return them to absentee voters, you mean like --
 10 Q Tell me if this sounds correct, that absentee ballots
 11 can only be returned to voters if they are spoiled,
 12 damaged or if there's no certificate or an improper
 13 certificate.
 14 A Right.
 15 Q Prior to 2011, were there reasons beyond that that
 16 clerks would return absentee ballots to voters, do
 17 you know?
 18 A I think it was the same reasons. They wanted to
 19 spoil the ballot. Of course, if they were going to
 20 spoil it, they would return it -- well, if it was
 21 already returned to the clerk, the clerk wouldn't
 22 return it to the voter so they could spoil it. The
 23 voter would either come in and spoil it or call and
 24 say I want to spoil it and vote a new one. So I'm
 25 not thinking of any other reason why.

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1 A I'm thinking late '90s, early 2000s.
 2 Q So well before straight ticket voting was eliminated?
 3 A Yes.
 4 Q Another recent change is that clerks can no longer
 5 fax or email absentee ballots to voters except for
 6 permanent overseas and military voters, right?
 7 A Right.
 8 Q Have you received complaints or other communications
 9 regarding that provision?
 10 A Yes, especially from people who are heading out to go
 11 overseas, I mean whether it be for a vacation or
 12 whatever they're doing -- going on vacation and
 13 they're leaving just before the election, but it's
 14 not early enough to get an absentee ballot yet. They
 15 want to know since they're going to be somewhere that
 16 they don't have access to email or someplace remote
 17 where they don't have any electronic access -- I
 18 should say that they don't have access to mail, but
 19 perhaps they could get something via email or fax and
 20 wonder if they could have it emailed or faxed and the
 21 answer is no, and by the time it gets mailed, they
 22 don't have enough time to get it back. So, yes,
 23 problems like that.
 24 Q Are there areas -- municipalities, I should say, in
 25 Wisconsin that have had long wait times to vote since

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1 Q Wisconsin also had straight ticket voting for a
 2 period of time, right?
 3 A Quite a while.
 4 Q How did that process work mechanically?
 5 A When you went to vote at the November election, there
 6 was a straight ticket section and if you filled in an
 7 arrow or an oval in that section for say Libertarian,
 8 every Libertarian on the ballot would get a vote
 9 automatically.
 10 Q Okay. And did you have to cast a different vote for
 11 president, or did that apply to all elections?
 12 A At one time, yes, at one time that you did have to
 13 vote separately for president. I believe, though,
 14 that after they -- it used to have to have a separate
 15 ballot for president. Then they changed the law so
 16 that the presidential ballot could be on the optical
 17 scan ballot and that the straight party applied to
 18 all offices on the ballot. So if you chose
 19 Republican, every Republican got a vote.
 20 Now there is no straight party. You have to
 21 vote for individual candidates in order for your
 22 votes to count.
 23 Q Well, do you know when the law switched from having
 24 to vote separately for president to being able to
 25 vote for everything at once approximately?

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1 say 2008?
 2 A Yes, there have been reports of long wait times, and
 3 that's one of the things that we still struggle with
 4 is in a big election like the presidential how to
 5 shorten up those lines, how to make maybe more lines
 6 so you're not just in one serpentine line, yeah.
 7 There have been complaints about that, and they
 8 did increase when the photo ID law came in because
 9 that does take a certain amount of time for the
 10 inspectors to look at the photo ID, does it
 11 reasonably resemble, is the name virtually the same
 12 as what's on the poll list, look at the expiration
 13 date, things like that. People say it doesn't take
 14 time, but it takes a little time.
 15 Q And have there been lines during in-person absentee
 16 voting?
 17 A Yes, um-hum.
 18 Q And you mentioned one of the ways you can reduce
 19 lines is by having more lines. Would one way to have
 20 more lines be to have multiple in-person absentee
 21 voting locations in a municipality?
 22 A You could. That's a little hard to administer,
 23 though, and I don't think the law allows that right
 24 now.
 25 Q That's right.

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1 A Yeah. And it might be a little hard to administer
2 anyway because then you've got people wandering
3 around at different locations trying to vote absentee
4 when they already voted absentee somewhere, some
5 other place in some other location.
6 Q Do you know whether other states have multiple early
7 voting locations in municipalities?
8 A Um-hum, um-hum.
9 Q And they do have those, right?
10 A Yeah. Colorado is a big one.
11 Q And they're able to successfully administer those
12 programs, right?
13 A Yes, they are.
14 Q Are there particular municipalities that have had
15 consistent problems with lines?
16 A I'm trying to remember. I think Fond du Lac had a
17 problem with lines. And I do remember Appleton
18 having a problem with lines because I remember having
19 to get her to split her poll lists into --
20 alphabetically into two so that she could get more
21 lines going. So yeah.
22 Q And what about Milwaukee?
23 A And Milwaukee -- Milwaukee always has a problem just
24 because of their largeness.
25 Q And how about Madison?

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1 A And from voters.
2 Q And through that work, you've developed an
3 understanding of the areas of law that create
4 difficulties for election workers, is that right?
5 A Yes.
6 Q And also for voters?
7 A Yes.
8 Q And today I've been asking you questions about your
9 understanding of how laws impact voters and election
10 workers. In answering those questions, is it fair to
11 assume that you're drawing upon the experience and
12 the background we've just been discussing?
13 A Yes.
14 Q When you started doing elections work 20 years ago,
15 did you have nearly so much knowledge --
16 A No.
17 Q -- about how elections worked?
18 A No. I was blissfully unaware.
19 MR. KAUL: Okay. Could we go off the
20 record for five minutes?
21 THE VIDEOGRAPHER: Off the record at
22 2:01 p.m.
23 (Short recess is taken)
24 THE VIDEOGRAPHER: We are back on the
25 record at 2:08.

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1 A I haven't heard too much about Madison. I would
2 expect that they probably did. I haven't personally
3 talked to anybody in Madison about long lines, but I
4 don't remember.
5 Q I just want to briefly go back to your duties and
6 responsibilities in your position. They include
7 being an authority on the interpretation of election
8 law in Wisconsin, right?
9 A Um-hum, yes.
10 Q And you're responsible for ensuring that election
11 workers are applying the law correctly?
12 A Yes.
13 Q And you're responsible for implementing changes in
14 election law?
15 A Yes.
16 Q And you're responsible for training election workers?
17 A Yes. At least chief inspectors.
18 Q Okay. And you're responsible for ensuring that
19 elections division staff correctly answers questions
20 from the public about election law, right?
21 A Yes.
22 Q And you -- I think you said that you regularly
23 receive questions from election workers?
24 A Yes, um-hum. Yes.
25 Q And from voters?

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1 Q Ms. Lowe, just a couple quick follow-up questions.
2 We today discussed a number of emails and I guess at
3 least one and maybe a few memorandum -- memoranda, is
4 that right?
5 A Memoranda.
6 Q Are those emails and the memoranda we discussed
7 documents that are an ordinary part of your daily
8 business in your work for the GAB?
9 A Yes.
10 Q And do you regularly -- you meaning the GAB regularly
11 retain emails?
12 A Yes.
13 Q And is there a regular system for doing that?
14 A Just keep it all.
15 Q Okay. And the topics we discussed today are ones
16 that you would normally discuss in the ordinary
17 course of your work, is that right?
18 A Yes.
19 Q And you communicate with municipal and county clerks
20 in the course of your ordinary work as well?
21 A Yes.
22 Q And we were talking earlier about how your testimony
23 today reflects your knowledge and your experience.
24 Do your communications with your colleagues at the
25 GAB and municipal and local clerks also reflect that

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1 knowledge and your training and your experience?
 2 A I would hope so.
 3 MR. KAUL: That's all I have.
 4 EXAMINATION
 5 BY MR. KEENAN:
 6 Q I just have a few like follow-up questions to the
 7 questions that Mr. Kaul has done, and I'll try to
 8 make it quick, but -- and if you'll maybe want to
 9 turn the stack of exhibits over. I'll try to go in
 10 order as we went before. So I'll point you to maybe
 11 a particular topic or a particular exhibit that was
 12 already marked.
 13 Going back to the topic of college students and
 14 proving proof of residence, is one way of proving
 15 residence -- proof of residence for registering to
 16 vote in Wisconsin called the government document
 17 method?
 18 A Yes.
 19 Q Okay. Could you explain what that is?
 20 A It's any document issued by a unit of government can
 21 be used as proof of residence as long as it has the
 22 voter's name and address on it.
 23 Q Okay. And are the public universities in Wisconsin
 24 considered government units for the purpose of the
 25 government document method of proving residence?

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1 office?
 2 A I don't know.
 3 Q There were some questions on the recall election of
 4 2012 and how that impacted university voters' ability
 5 to vote. And if I recall, is it correct that the
 6 burden on those university voters is that they needed
 7 to request an absentee ballot so that they could vote
 8 at their university address?
 9 A Yes.
 10 Q So they would have been able to vote in that election
 11 if they had requested an absentee mail ballot from
 12 their student address?
 13 A Correct.
 14 Q Let me go to Exhibit -- it's the one about
 15 Rusty Lewis. Here it is, 59. He's from Imagitas, I
 16 believe?
 17 A Yeah, um-hum.
 18 Q What's your understanding of what Imagitas is?
 19 A Imagitas is a company that develops these
 20 registration tools that they bring to different
 21 vendors, shall we say, one of them being the
 22 United States Post Office, to supposedly make voter
 23 registration easy and remind people who move and who
 24 need to register that this is the way they can do it.
 25 Q So what was the problem you found with what Mr. Lewis

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1 A Yes, public universities.
 2 Q Okay. So any college student who went to a public
 3 university in Wisconsin and received a piece of mail
 4 from the university at that address would be able to
 5 take that piece of paper to the voter registration
 6 and that would qualify as a proof of that voter's
 7 residence?
 8 A Yes.
 9 Q Another way to prove proof of residence is showing a
 10 qualifying university ID along with some other
 11 things, correct?
 12 A Correct.
 13 Q So I'll just direct your attention to that. The
 14 additional burden, so to speak, that we've talked
 15 about in using the university ID is they also have to
 16 obtain a fee receipt from the university, is that
 17 correct?
 18 A Correct.
 19 Q Okay. You're not offering an opinion on how
 20 burdensome it is for a student to actually secure one
 21 of those fee receipts from his or her university, are
 22 you?
 23 A No.
 24 Q So you don't know whether it's available online from
 25 their university or just via a trip to the university

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1 was doing with his side as it was applied to
 2 Wisconsin?
 3 A Right. Mostly because he made no mention of proof of
 4 residence being required with proof of registration.
 5 Q Was Mr. Lewis or My Move website, were they special
 6 registration deputies?
 7 A No.
 8 Q There was some testimony about clerks being a little
 9 bit confused about the difference between documents
 10 that could be used to provide proof of residence and
 11 those that can be used to provide proof of
 12 identification. Do you remember some of that
 13 testimony?
 14 A Yes.
 15 Q Okay. What have you done in your role as someone who
 16 educates clerks about election laws to provide some
 17 guidance as to what's sort of acceptable as a proof
 18 of residence and what's acceptable as a proof of ID?
 19 A Well, we have quite a few, you know, lists of
 20 definitions for each one, but we do have one that
 21 puts it all on one sheet of paper. Proof of
 22 residence versus proof of identification, all the
 23 parameters that go with each one, whether it has to
 24 be -- it can only be like a utility for proof of
 25 residence, it can only be no older than three months,

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1 whatever it is.
 2 It's all the standards are on there, and it's so
 3 that -- it's made so that if you're registering
 4 voters at the polls or in the office if you're a
 5 clerk, you can turn it and just have that side up so
 6 that you can see all the different types of proof of
 7 residence you can use and all the things that you
 8 have to look at on the proof of residence to see if
 9 it complies and if you are at the polling place or in
 10 your office and looking at proof of identification,
 11 it has all the parameters for those types of IDs.
 12 Q What is -- sorry.
 13 A That's okay.
 14 Q What is the response of clerks who you provided this
 15 form with to the form?
 16 A They liked it. It's very helpful to them. They
 17 actually asked for it in a Word document so that they
 18 could put in the different like dates of the last
 19 election when a driver's license had expired was
 20 good, even if it had expired after the date of the
 21 last election. So they wanted something that was
 22 living, like a living document that they could
 23 continue to update.
 24 Q There was questions on poll monitoring in general and
 25 also some incidents that happened in the City of

1 correct?
 2 A Correct.
 3 Q Let me look at -- this is the third page, and I think
 4 it's the fourth paragraph, it starts your inspectors
 5 must not allow observers?
 6 A Um-hum, yes.
 7 Q This email is a little bit strange in that I think
 8 there's some text that's written by Janice and some
 9 that's written by you. This paragraph --
 10 A I usually tried to do it in different font, but maybe
 11 it didn't print out that way.
 12 Q Yeah. Is this paragraph that starts out your
 13 inspectors and then ends with a statute,
 14 Wis. Stats. 12.13, is that a paragraph that you
 15 wrote?
 16 A Yes.
 17 Q Okay. And this is a little bit annoying. Could I
 18 just get you to read that entire paragraph into the
 19 record? Just read it out loud.
 20 A Certainly. "Your inspectors must not allow observers
 21 to intimidate them. The chief inspector is going to
 22 have to assert his or her authority. The chief
 23 inspector should advise each observer upon arrival
 24 that while they are welcome to observe, no disruption
 25 or interference will be tolerated. Let them know

1 Racine. Do you recall that?
 2 A Um-hum, yes.
 3 Q And I'm trying to find the exhibit, the email between
 4 you and the person from Racine, which I thought it
 5 would be right by this memo here, but it's not. Do
 6 you recall what that one is?
 7 MR. KAUL: Which person?
 8 Q This is the one --
 9 A Janice Martin.
 10 Q Yeah, the clerk from Racine. Yeah, that was one
 11 that was already marked in Kennedy. I think that was
 12 18, the Kennedy 18.
 13 A I may not have that.
 14 MR. KEENAN: Do we still --
 15 (Discussion off the record)
 16 Q Okay. So first I just want to ask were you actually
 17 at the polling places in Racine where these incidents
 18 occurred?
 19 A No.
 20 Q So what you know about these incidents isn't from
 21 your own firsthand knowledge?
 22 A No, it's not.
 23 Q So you know what you've been told by Janice?
 24 A Martin.
 25 Q Janice Martin and some other people in Racine, that's

1 they will receive only one warning before being
 2 ordered to leave. If an observer does not heed the
 3 warning and is ordered to leave the polling place but
 4 refuses to leave, the chief inspector should call law
 5 enforcement. The officer should be told that the
 6 observer has refused to obey the lawful order of an
 7 election official and engaged in disorderly behavior
 8 at the polling place, a violation of
 9 Wis. Stats. 12.13(3)(x)."
 10 Q Does that paragraph that you just read constitute
 11 what your advice would be to election inspectors or
 12 clerks who are faced with problematic observers at an
 13 election polling place?
 14 A Yes.
 15 Q Okay. So it is your opinion that Wisconsin law
 16 allows -- provides a way for chief inspectors and
 17 clerks to deal with observers who are causing
 18 problems at polling places?
 19 A It allows a way for them to deal with that.
 20 Q Moving on to the new law that allows inspectors to be
 21 somewhere between three and eight feet, what's your
 22 understanding of what that law allows?
 23 A Well, the three and eight feet is a range. If they
 24 can hear perfectly well at six feet, they can be
 25 positioned six feet away. If they can't hear at

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1 three feet, they can be moved up further, but the
 2 idea is to keep them away from the poll workers
 3 themselves so that they aren't interrupting the poll
 4 workers or interfering with what the poll workers are
 5 supposed to be doing.
 6 Q And what's your understanding about who has the
 7 authority to set the limit at a certain amount of
 8 feet at a polling place?
 9 A The chief inspector.
 10 Q So a chief inspector that doesn't think it's
 11 appropriate for observers to stand within three feet
 12 would be able to set a limit that's five feet or six
 13 feet, is that correct?
 14 A Yes.
 15 Q If you'd go to Exhibit 75, this is an email about the
 16 man with a suspended license.
 17 A Oh, yes.
 18 Q For someone who is a Wisconsin resident whose license
 19 is suspended, what is your understanding of whether
 20 that person can use a license as a proof of ID to
 21 vote? Let me reask it again.
 22 A Okay.
 23 Q Their license is suspended, but it is not expired.
 24 What is your understanding of whether that person can
 25 use the license as a form of ID to vote?

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1 Q -- and then it was bumped --
 2 A Twenty-eight.
 3 Q -- to 28 days?
 4 A Yes.
 5 Q Okay. And you had offered some testimony about there
 6 might be an issue with someone proving residence if
 7 they had to vote at their prior location, do you
 8 recall that?
 9 A Yes.
 10 Q And you said they may not have any documents anymore,
 11 do you recall that?
 12 A I do recall that.
 13 Q And so but that would only be for people -- if they
 14 have lived more than 28 days at the time of the
 15 election, they would be able to vote at the new
 16 location?
 17 A Correct.
 18 Q And so the problem with proving the old residence
 19 would be someone who had moved within the 28 to 10
 20 days, is that correct?
 21 A The 28 days.
 22 Q Yeah. And so they would need to have a document that
 23 is -- they could use a document that was perhaps only
 24 30 days only to prove the prior residency, is that
 25 correct?

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1 A If it is not expired, it can be used as ID.
 2 Q Okay. And if you look at the last page of this
 3 Exhibit 75, and it's talking about this Peter Roberts
 4 who is the one who had his suspended driver's license
 5 because of his traffic tickets, if you look at the
 6 last page, second to last sentence, it says "just
 7 found out that he does not have physical possession
 8 of the license as he was forced to surrender it in
 9 Illinois when he got a DL there". Do you see that?
 10 A Yes.
 11 Q So what is your understanding about whether -- sorry.
 12 Just strike my question.
 13 So in Mr. Roberts' case here where he was being
 14 asked to surrender his Wisconsin ID, isn't it the
 15 case that he actually had another driver's license in
 16 Illinois at this time?
 17 A Yes, it appears that he did.
 18 Q You can put that away. There was some testimony
 19 about the change in the residency requirement from 28
 20 days -- it was 28 days and then it went down to 10
 21 days and now it's back to 28 days, do you recall
 22 that? There was some testimony about how the
 23 residency requirements, someone has to live at
 24 least -- the law was 10 days before the election --
 25 A Ten days.

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1 A Yes, um-hum.
 2 Q You mentioned that there were some clerks who had
 3 contacted the GAB and said they were happy that the
 4 in-person absentee voting hours had been shortened,
 5 do you recall that?
 6 A Yes. I don't recall that I actually said they were
 7 happy, but they were very willing to make the time
 8 period shorter than it perhaps had been for them.
 9 Q And why did they -- what did they say about why they
 10 were willing to do that?
 11 A Most of them were smaller town clerks. They weren't
 12 there all the time. They -- you know, this way they
 13 could just say, well, I'm only in on Tuesday and
 14 so -- sometimes Thursday and so that's when I'm going
 15 to do absentee voting. So they didn't have to worry
 16 about the other days when they were at work and
 17 couldn't accommodate people very well.
 18 Q And then a last little topic here is Kennedy
 19 Exhibit 9, which was the -- do you still have that
 20 here?
 21 A I don't I think I do. I don't think I have the
 22 Kennedy ones.
 23 Q It was an email from Shane Falk that talked about
 24 ballots that were cast before the early in-person
 25 absentee period began or after the period ended, and

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1 the -- you mentioned that the ballot had to be marked
 2 spoiled if it was cast outside of the appropriate
 3 time period.
 4 A Um-hum.
 5 Q Correct?
 6 A Correct.
 7 Q What is your understanding of what a voter would
 8 still be allowed to do in order to cast a proper
 9 ballot if that happened to that voter?
 10 A The voter still has up until the regular time to
 11 request another ballot. So they could request
 12 another ballot. They could come to the clerk's
 13 office and vote in person or they could come to the
 14 polling place on Election Day and vote since they
 15 have not yet cast a ballot.
 16 MR. KEENAN: And that's all I have.
 17 REEXAMINATION
 18 BY MR. KAUL:
 19 Q I have a few brief follow-ups for you. Number one,
 20 Racine, you indicated before that you had
 21 communications with Janice Johnson-Martin about
 22 election observers, is that right?
 23 A Right.
 24 Q You had communications with other people about
 25 problems that Racine has had with election observers,

1 right?
 2 A Probably.
 3 Q And at one point the police department was actually
 4 brought in to the polling places in Racine, right?
 5 A Yes, um-hum.
 6 Q Do you have any doubt that there was a problem with
 7 election observers in Racine?
 8 A No.
 9 Q And you had a meeting with Ms. Johnson-Martin, a
 10 teleconference, is that right?
 11 A Right.
 12 Q Were there other officials from Racine who
 13 participated in that?
 14 A I think possibly her deputy was on the line and I
 15 think that the mayor was also.
 16 Q So the mayor was also concerned about this issue?
 17 A Yes.
 18 Q And was her deputy concerned about this issue as
 19 well?
 20 A Yes.
 21 Q And are those communications a regular part of your
 22 work for the GAB?
 23 A Well, inasmuch as whenever there is a problem, we try
 24 to, you know, get a lot of input so we can make a
 25 decision on what a good outcome would be, what we

1 need to do to fix the problem. I wouldn't say
 2 talking to the mayor and the city clerk and the
 3 deputy about one problem in particular is routine,
 4 no.
 5 Q Would it be routine to actively try to learn about
 6 election administration problems and to work to solve
 7 them?
 8 A Yes.
 9 Q On the license issue you just discussed a moment ago
 10 with the out-of-state license, do you know when
 11 individuals have suspended or canceled licenses in
 12 Wisconsin, do they -- are those licenses revoked from
 13 them physically?
 14 A As I understand it in Wisconsin, if you're -- that it
 15 doesn't always happen, and there has -- I don't know
 16 what the rules are for that. Sometimes people's
 17 driver's licenses are suspended or revoked and
 18 they're taken away and sometimes they aren't. So I
 19 don't know what the criteria is for that for DMV.
 20 Q So for the people whose licenses have been physically
 21 revoked --
 22 A Yes.
 23 Q -- is it your understanding that they are not able to
 24 obtain no fee voter IDs?
 25 A They are given a receipt that they can use for -- and

1 it's either 45 or 60 days, I'm never sure, that they
 2 can use that in lieu of their driver's license.
 3 Q For voting?
 4 A For voting.
 5 Q And what if an individual's license is revoked for a
 6 year?
 7 A Then it won't work.
 8 Q And individuals who misplace or lose their driver's
 9 licenses would be in the same situation as the people
 10 whose licenses have been physically revoked except
 11 they wouldn't have a receipt even, right?
 12 A They wouldn't have a receipt. They would have to go
 13 apply for another license if they've lost them.
 14 Q But they wouldn't be able to obtain a no fee ID
 15 unless they discontinued their prior license?
 16 A Right.
 17 Q The absentee in-person voting period with -- the
 18 clerks' views on that issue, prior to the reductions
 19 in the period, clerks were able to make their period
 20 as short as they wanted to, correct?
 21 A Correct.
 22 Q So this change didn't allow them to have shorter
 23 hours -- I'm sorry. They could have had hours just
 24 as short before as they can now?
 25 A They could. I think it just called it to their

DIANE M. LOWE

1 attention that suddenly, you know, oh, wow, we can
 2 just kind of do this whenever we want whereas before
 3 it was, well, I'm in the office on Tuesday and
 4 Wednesday so that's when I'll have absentee because
 5 that's my office hours.
 6 Well, now they seem to have shrunk it even more
 7 to, well, I'm in the office on Tuesday, I probably
 8 won't be in on Wednesday, maybe I'll just do it for a
 9 couple of hours on Tuesday afternoon. Like I said,
 10 most of them go with the by appointment, you know,
 11 method which -- and to be fair, most of them are very
 12 accommodating and they will say, you know, from 5:00
 13 to 7:00 at night or something like that.
 14 Q And the last question on that, I think we've talked
 15 about how Wisconsin has 1,850 some municipalities?
 16 A Um-hum.
 17 Q And population-wise, a lot of those people live in
 18 the largest municipalities, right?
 19 A Right.
 20 Q But the number of municipalities that have a
 21 relatively small population is quite large?
 22 A Right.
 23 Q In those municipalities say under 5,000 people, would
 24 it be fair to say that it would be uncommon for there
 25 to be long lines on Election Day?

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1 ERRATA SHEET
 2 Witness Name: Diane M. Lowe
 3 Date Taken: January 25, 2016
 4 Case Name: One Wisconsin v. Gerald Nichol, et al.
 5 Page/Line Reads Should Read Reason
 6 _____
 7 _____
 8 _____
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 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____
 Diane M. Lowe

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1 A I think it would be fair to say.
 2 MR. KAUL: That's all I have.
 3 Anything else?
 4 MR. KEENAN: No, no.
 5 THE VIDEOGRAPHER: The time is 2:32.
 6 We are going off the record concluding the video
 7 deposition of Diane Lowe.
 8 (2:32 p.m.)

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1 STATE OF WISCONSIN)
 2) ss.
 3 COUNTY OF DANE)
 4)
 5 I, LISA A. CREERON, a Registered Professional
 6 Reporter and Notary Public in and for the State of
 7 Wisconsin, do hereby certify that the foregoing is a
 8 true record of the deposition of DIANE M. LOWE, who was
 9 first duly sworn by me; having been taken on the 25th day
 10 of January, 2016, at the Wisconsin Department of Justice,
 11 17 West Main Street, in the City of Madison, County of
 12 Dane, and State of Wisconsin, in my presence, and reduced
 13 to writing in accordance with my stenographic notes made
 14 at said time and place.
 15 I further certify that I am not a relative
 16 or employee or attorney or counsel for any of the
 17 parties, or a relative or employee of such attorney
 18 or counsel, or financially interested in said action.
 19 In witness whereof, I have hereunto set my hand
 20 and affixed my seal of office this 25th day of January,
 21 2016.
 22 _____
 23 Notary Public, State of Wisconsin
 24 My Commission Expires: 1/29/17
 25 _____

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