

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

\* \* \*

THE NORTHEAST OHIO  
COALITION FOR THE  
HOMELESS, et al.,  
Plaintiffs,

vs. CASE NO. 2:06-CV-896

J. KENNETH BLACKWELL,  
in his official capacity  
as Secretary of State of  
Ohio,

Defendant.

\* \* \*

Deposition of JOHN WILLIAMS, Witness  
herein called by the Plaintiffs for  
cross-examination pursuant to the Rules of Civil  
Procedure, taken before me, Mary Jo Stevens, a  
Notary Public in and for the State of Ohio, at the  
offices of the Hamilton County Board of Elections,  
824 Broadway, Cincinnati, Ohio, on Tuesday, the  
31st day of October, 2006, at 11:44 a.m.

\* \* \*

1 EXAMINATIONS CONDUCTED PAGE  
 2 BY MS. GENTRY:..... 4  
 3 BY MR. COGLIANESE:..... 44  
 4 BY MS. GENTRY:..... 79  
 5 BY MR. COGLIANESE:..... 132

6  
 7 EXHIBITS MARKED  
 8 (Thereupon, Williams Exhibit 1 was  
 9 marked for purposes of  
 10 identification.)..... 3  
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1 JOHN WILLIAMS  
 2 of lawful age, Witness herein, having been first  
 3 duly cautioned and sworn, as hereinafter  
 4 certified, was examined and said as follows:

5 CROSS-EXAMINATION  
 6 BY MS. GENTRY:  
 7 Q. Mr. Williams, could you please  
 8 state your name for the record?  
 9 A. John Williams.  
 10 Q. Have you been deposed before,  
 11 Mr. Williams?  
 12 A. Please?  
 13 Q. Have you been deposed before?  
 14 A. No. I've been a witness.  
 15 Q. A few ground rules. If at any  
 16 time you need to take a break, just let me know  
 17 or let your attorney know. The only thing I  
 18 ask is that if there's a question pending you  
 19 answer it before we take a break. Do you  
 20 understand?  
 21 A. Yes.  
 22 Q. If you do not hear any of my  
 23 questions, please let me know and I'll repeat  
 24 it or if you do not understand any of my  
 25 questions, please let me know and I will

1 APPEARANCES:  
 2 On behalf of the Plaintiffs:  
 3 Porter Wright Morris & Arthur  
 4 By: Caroline H. Gentry  
 5 Attorney at Law  
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 9 On behalf of the Defendant:  
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 Elections:  
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 Assistant Prosecuting Attorney  
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 \* \* \*  
 (Thereupon, Williams Exhibit 1 was  
 marked for purposes of identification.)

1 rephrase it. Do you understand?  
 2 A. Yes. What's your name?  
 3 Q. Caroline Gentry.  
 4 A. Thank you.  
 5 Q. You're welcome. And finally, if  
 6 at any point in time you wish to supplement or  
 7 clarify a prior answer, please let me know or  
 8 let your attorney know and we will make that  
 9 clarification.  
 10 A. Yes.  
 11 Q. Mr. Williams, could you please  
 12 state your title and job responsibilities?  
 13 A. I'm director of Hamilton County  
 14 Board of Elections, chief administrative  
 15 officer for elections in Hamilton County.  
 16 Q. Are you responsible for  
 17 administering the processes for the upcoming  
 18 election in November?  
 19 A. Yes.  
 20 Q. How long have you been director of  
 21 elections?  
 22 A. I believe January 29th of '04.  
 23 Q. What was your position prior to  
 24 that?  
 25 A. Assistant Hamilton County

1 Prosecutor.

2 Q. How long were you with the  
3 Hamilton County Prosecutor's Office?

4 A. Not quite eleven years.

5 Q. Mr. Williams, several issues have  
6 come up in this case and I'm going to go  
7 through them, hopefully quickly.

8 A. Okay.

9 Q. The first issue relates to the  
10 phrase current utility bills, bank statements,  
11 government checks, paychecks or other  
12 government documents which is in the voter  
13 identification laws. Are you familiar with  
14 that phrase?

15 A. Yes.

16 Q. How is your Board of Elections  
17 interpreting the word current in that phrase?

18 A. We have just -- we have not at  
19 this point attached a month deadline so we have  
20 not -- we've just accepted it as on a common  
21 sense basis.

22 Q. What does that mean?

23 A. Well, we have not -- there was  
24 something that came out recently on the six  
25 month on the directive for -- 78, 2006-78, and

1 that.

2 Q. Do you know if you have received  
3 any documents older than six months?

4 A. You know, I would say no, I don't  
5 believe we have.

6 Q. And when you say you haven't  
7 received them, are you talking about --

8 A. I would have to certainly follow  
9 up with our absentee, but I'm just not aware of  
10 receiving three year old utility bills or  
11 anything like that. It seems like everybody  
12 here has been providing, I would say, you know,  
13 good documentation as far as more recent.

14 Q. Let me ask you about the basis of  
15 your understanding. Is your understanding  
16 based on conversations with your staff or how  
17 do you know that nothing older than six months  
18 has been provided?

19 A. Some conversations with staff. I  
20 also have -- from time-to-time I am out,  
21 obviously around the building and I'm out when  
22 absentee is returned and I have obviously  
23 talked to people in the absentee department and  
24 I have, first of all, not heard anything in  
25 regard to an old document being sent to us that

1 we have -- you know, we look at the directive  
2 in terms of -- excuse me, we look at current  
3 as, you know, just -- on a common sense basis.  
4 I mean, we have not looked and applied a date  
5 to it. We've looked at obviously current  
6 driver's license and all that stuff has a date  
7 but we haven't really applied a deadline to the  
8 current, you know -- the current -- word  
9 current. We really haven't placed a deadline  
10 because I don't know that we've received  
11 anything on it until recently.

12 Q. When you say you have been  
13 applying a common sense basis, what do you mean  
14 by that?

15 A. We have not used any deadline in  
16 which to differentiate. In other words, if  
17 somebody came -- everything we see pretty much  
18 is very recent. We haven't really seen  
19 anything that's been old, so, you know, the  
20 issue of something that's very old really  
21 hasn't come to the Board of Elections.  
22 Everybody that we're seeing is sending in, you  
23 know, very recent documentation. So I don't  
24 think we've had to deal with something that is  
25 a three year old document or something like

1 they would ask me about, and also, the  
2 documentation in many cases is -- in some cases  
3 multiple. I mean, they give us -- we've  
4 actually had people physically take pictures of  
5 themselves, including with various forms of  
6 documentation, and sometimes it's more than one  
7 and that's not something that we've requested,  
8 it's just something that the voters in Hamilton  
9 County in some instances have sent us.

10 Q. Mr. Williams, I want to go back to  
11 the question of the basis of your knowledge.  
12 Have you asked the staff in your absentee  
13 department whether any of those have received  
14 identification older than six months?

15 A. I don't know that I've had a  
16 specific question or anything about a document  
17 older than six months. What I have talked to  
18 them about is, you know -- and they are noting  
19 things to me at various times, and like I said,  
20 I have not seen anything or heard any comments  
21 from our absentee department or other staff  
22 that we've had absentee issues that would go  
23 longer than six months, so I just -- I don't  
24 know that I have a -- I don't know that we're  
25 seeing documentation that is that old.

1 Q. And I understand your testimony to  
2 be that you haven't -- you're not personally  
3 aware of any documentation older than six  
4 months?

5 A. That's correct.

6 Q. But can you be sure that none of  
7 your staff has seen documentation older than  
8 six months, and if you are sure, why?

9 A. I can't be sure about that. But I  
10 would think if -- and I think our staff is very  
11 good here and typically if there's an unusual  
12 incident that comes to someone's attention, I  
13 think we're pretty good around here about  
14 trying to talk through things.

15 Q. And have you instructed your staff  
16 to bring to your attention any documents that  
17 are older than six months?

18 A. I have not.

19 Q. You don't know for sure that they  
20 would do that?

21 A. No, I don't, but I would say our  
22 course of activity here is to be fairly  
23 communicative among administrators and staff.  
24 We're trying to always talk out procedures and  
25 things like that and this issue has not come up

1 envelope, the return envelope.

2 Q. I'm trying to picture what you're  
3 talking about. When you say something is on  
4 the outside of the envelope, identifying  
5 information is on the outside of the envelope,  
6 what are you referring to?

7 A. Well, when you send an absentee  
8 ballot out you have to send out an envelope  
9 obviously containing quite of bit of stuff and  
10 one of the things is an ID envelope itself and  
11 then a return envelope so when the absentee  
12 voter sends it back, they place it inside --  
13 the ID envelope inside the outer envelope that  
14 we provide and what I'm saying is that we have  
15 identifying information inside the first  
16 envelope, not the second envelope, which is the  
17 ID envelope in many, many cases.

18 Q. You mean people just -- they  
19 didn't put it in the ID envelope, they just  
20 stuck it in the outer envelope?

21 A. Yes.

22 Q. And in that case have you been  
23 reviewing that documentation to determine  
24 whether it is sufficient?

25 A. Yes. We have a policy in Hamilton

1 as a problem.

2 Q. But you have not raised it either  
3 with your staff; is that fair to say?

4 A. Sure. Yeah, I mean, I can't tell  
5 you I said hey, we have documents older than  
6 six months coming in, that's true.

7 Q. Mr. Williams, is it correct that  
8 the absentee ballots that have been sent, not  
9 the application, but the ballots, some of them  
10 include copies of identification?

11 A. Yes.

12 Q. Have you opened those envelopes to  
13 see what copies have been provided?

14 A. We have not opened any ID  
15 envelopes yet.

16 Q. Is it fair to say you don't know  
17 if people have sent in utility bills or bank  
18 statements that are older than six months with  
19 their ballots?

20 A. What we have here is typically  
21 received IDs that have the identifying  
22 information on the outside of that in many  
23 cases and that's how I would know that they are  
24 sending some of these kind of documents in so  
25 it's not inside the ID, it's in that other

1 County to -- in regard to the application and I  
2 don't know if this is -- do you want to talk  
3 about the application process or just the ID  
4 process?

5 Q. No, right now just the balloting  
6 process.

7 A. Yeah, the balloting process, we  
8 would have staff members look at the ID  
9 envelope and make sure that, you know, the ID  
10 fits the requirements basically.

11 Q. When you say look at the ID  
12 envelope, are they actually opening the ID  
13 envelope?

14 A. No.

15 Q. So if somebody put their ID inside  
16 the ID envelope, you haven't opened that yet?

17 A. Correct.

18 Q. And when will you open those ID  
19 envelopes?

20 A. We are looking to engage in acts  
21 of ballot preparation, this is very tentative  
22 at this point, but I would say in the next  
23 several days, and what I mean by that is  
24 opening, you know, stacking all that stuff in  
25 preparation for scanning and then on election

1 day counting.  
 2 Q. And going back to the issue of  
 3 current, do you currently have in effect  
 4 Directive 78 -- strike that. That was a bad  
 5 question. Have you put into effect Directive  
 6 78?  
 7 A. Well, we're certainly aware of 78.  
 8 In regards -- are you speaking in terms of the  
 9 absentee portion of it?  
 10 Q. Yes.  
 11 A. Okay. The -- one of the issues in  
 12 the no fault on the second page of three under  
 13 no fault absentee identification at polling  
 14 place or by mail.  
 15 Q. Yes.  
 16 A. You see that? I think it's the  
 17 third paragraph.  
 18 Q. Okay. I see it.  
 19 A. It talks about presenting director  
 20 current valid photo identification, military  
 21 ID, et cetera, et cetera, et cetera. Our  
 22 understanding is that that does not contain  
 23 Social Security number or full driver's license  
 24 number.  
 25 Q. You mean the last paragraph on the

1 obviously tied up in meetings and I have not  
 2 received word in regard to whether this is a  
 3 change or is an omission in the directive.  
 4 Q. So you're waiting for guidance  
 5 before you apply this portion of the directive?  
 6 A. Correct.  
 7 Q. And it's your understanding that  
 8 early in-person voters should be permitted to  
 9 provide a Social Security number or driver's  
 10 license number in lieu of the required  
 11 identification?  
 12 A. Correct. So I would say as to  
 13 that portion, that would not be in effect.  
 14 Q. Is it correct that before  
 15 Directive 78 was issued, you were allowing  
 16 early in-person voters to show their Social  
 17 Security number or driver's license number  
 18 instead of the required identification?  
 19 A. The required identification in the  
 20 third paragraph in 78?  
 21 Q. Yes.  
 22 A. Yes.  
 23 Q. Mr. Williams, turning to a  
 24 different issue of the phrase other government  
 25 documents in the voter identification laws, are

1 page, early in-person voters cannot provide a  
 2 Social Security number or driver's license  
 3 number under Directive 78?  
 4 A. Yeah. That directive does not  
 5 contain Social Security number or full driver's  
 6 license number as a form of ID.  
 7 Q. And I want to get back to that  
 8 issue. My question was simply with regard to  
 9 Directive 78, are you making it all operative  
 10 as of today including the definition of  
 11 current, including the definition of other  
 12 government documents, all of the provisions of  
 13 Directive 78, are those in effect as of today?  
 14 A. Well, I guess in terms of absentee  
 15 voting, we believe it's appropriate legally to  
 16 have Social Security number and driver's  
 17 license number as a form of identification to  
 18 an in-person absentee voter.  
 19 Q. Does that mean that you're not  
 20 following the directive's guidance on that  
 21 issue currently?  
 22 A. It's not -- I don't know. I've  
 23 actually placed a call immediately upon  
 24 receiving this and asked -- I'm trying to think  
 25 of the gal's name I spoke with. They were

1 you familiar with that phrase?  
 2 A. I am.  
 3 Q. How has the Board of Elections  
 4 been interpreting the phrase other government  
 5 document before Directive 78 was issued?  
 6 A. Very broadly.  
 7 Q. Can you describe what that means?  
 8 A. Yeah. If we receive a document  
 9 that has the name and address of a registered  
 10 voter, we would accept that.  
 11 Q. Regardless of what government it  
 12 was from?  
 13 A. Well, I mean, it had to be an Ohio  
 14 government or the federal government.  
 15 Q. Would you accept local government  
 16 documents?  
 17 A. Yes.  
 18 Q. Let me give you an example. Would  
 19 you accept documents from a state university?  
 20 A. No.  
 21 Q. Okay. Can you give me other types  
 22 of documents that you would or would not accept  
 23 under your definition prior to Directive 78?  
 24 A. Well, we had a county -- a  
 25 county -- I don't know if the individual was

1 engaged in a lawsuit, but there was some sort  
2 of a notice from the courthouse and we accepted  
3 that as identification because it had his name  
4 and current address on it. It wasn't a  
5 subpoena. It was like a notice for court or  
6 something.

7 Q. Okay, so a court -- was that a  
8 state court or federal court, do you remember?

9 A. State court.

10 Q. Are there any other kinds of  
11 documents that come to mind?

12 A. I'm just trying to think of  
13 others. You know, nothing is jumping out at me  
14 right now. I'm sorry.

15 Q. Do you remember anything that you  
16 rejected other than state university documents?

17 A. Well, and I think the reason we  
18 rejected a state university is because we have  
19 not seen documentation, like -- I'm speaking  
20 specifically of a state ID type situation that  
21 does not normally have an ID -- it doesn't have  
22 the second prong like an address on it. At  
23 least any one that I've seen.

24 Q. Are you referring to state  
25 university ID's or state ID's?

1 Mr. Williams, does that change your  
2 interpretation of other government documents at  
3 all or not?

4 A. Hold on. I'm just looking at the  
5 directive here.

6 Q. Sure.

7 MR. STEVENSON: Are you referring to  
8 page three?

9 MS. GENTRY: Yes.

10 THE WITNESS: I don't know if it does  
11 necessarily change.

12 Q. Okay. Turning to the next issue,  
13 Mr. Williams, are you aware on the Ohio  
14 driver's license there's a driver's license  
15 number on the left side and then on the right  
16 side above the picture there's a different  
17 number which we've been calling the photograph  
18 number? Are you aware of that?

19 A. I am now.

20 Q. When did you become aware of that?

21 A. I don't know. Last few weeks, I  
22 guess.

23 Q. How did that come to your  
24 attention?

25 A. I'm not sure if it's through our

1 A. State university ID's. College  
2 ID's.

3 Q. Has anybody attempted to provide a  
4 documentation such as a report card or bill  
5 from a state university that does have a  
6 current address?

7 A. I don't believe we've had anything  
8 like that here.

9 Q. Under the standard you were  
10 applying under Directive 78, would that have  
11 fallen within the acceptable identification?

12 MR. COGLIANESE: Objection. Go  
13 ahead.

14 THE WITNESS: I'm sorry, I lost my  
15 train of thought here.

16 Q. I'll rephrase it. Under the  
17 standards that you applied before receiving  
18 Directive 78, if someone had presented a state  
19 university bill, for example, that had their  
20 name and current address, would that have been  
21 acceptable?

22 MR. COGLIANESE: Objection. Go  
23 ahead.

24 THE WITNESS: Yeah, I believe so.

25 Q. And after Directive 78,

1 absentee voting department or a combination of  
2 our absentee department -- you know, it may be  
3 media or the legal issues.

4 Q. Is it fair to say you don't  
5 remember?

6 A. No. I mean, we have had some  
7 discussions about this here because how this  
8 came to my understanding or my conscious would  
9 have been when we receive an application, our  
10 procedure is to follow up with a call first to  
11 the voter to try to correct identifying  
12 information or other information lacking on the  
13 application form, and if that first call is  
14 unsuccessful, we obviously leave a message,  
15 then we do a second phone call and, you know,  
16 leave a message, you know, with all the  
17 information. If that doesn't get a response,  
18 then we send a letter so we follow up on  
19 improper identifying information at the  
20 application stage and so that's where my  
21 understanding of different numbers and so forth  
22 would have come up. It would have come up more  
23 through staff conversations and follow-up  
24 conversations trying to get ahold of voters and  
25 get that squared away.

1 Q. Mr. Williams, did you or somebody  
2 in your office make the determination that the  
3 photograph number would not be an acceptable  
4 form of identification?

5 A. I think -- I believe we're  
6 following statute on that, I believe.

7 Q. What statute are you referring to?

8 A. Well, that's what I'm trying to  
9 think right now. I don't believe that the  
10 driver's license number on the picture is  
11 actually an identifying number.

12 Q. And what's the basis of your  
13 belief?

14 A. Because the driver's license  
15 number on the driver's license has -- you know,  
16 it's down in -- I could get my driver's license  
17 out, but I think it's a specific number on your  
18 license and it's -- you know, it's identified  
19 on your license as your license number.

20 Q. Am I correct in understanding that  
21 you believe that the photograph number is not a  
22 unique identifier?

23 A. Yes.

24 Q. What's the basis of that belief?

25 A. Well, actually no, my basis is

1 with what the statute says is driver's license  
2 number.

3 Q. So just so I understand, is your  
4 reading of the statute is that it says driver's  
5 license number and when you look at the  
6 driver's license there's a part that says  
7 driver's license number so you believe the  
8 statute specifically is referencing that  
9 number?

10 A. Correct.

11 Q. So then if I didn't ask you this  
12 already, the Board of Elections is not  
13 accepting photograph numbers as identification;  
14 is that correct?

15 A. Correct.

16 Q. And if photograph numbers are  
17 provided with absentee ballots, what will you  
18 do with these ballots?

19 MR. COGLIANESE: Objection. Go  
20 ahead.

21 THE WITNESS: If a driver's license  
22 number is provided on the AB?

23 Q. A photograph number from a  
24 driver's license.

25 A. Well, what we would try to do is

1 that there's a driver's license number on the  
2 driver's license that's identified such as on  
3 your driver's license number. I've heard that  
4 the number on the picture relates to like the  
5 BMV location where the photograph was taken,  
6 but I don't know -- I don't know if it extends  
7 further than that. It might be that -- I don't  
8 know if it's time, place, I'm not sure, but I'm  
9 just looking at -- it's identified in statute  
10 as the driver's license number and it's listed  
11 as such on your driver's license and so that's  
12 the basis of why I believe that's your driver's  
13 license number.

14 Q. Have you received direction from  
15 the Secretary of State's office on this issue  
16 prior to Directive 78?

17 A. I don't believe so.

18 Q. Have you requested guidance from  
19 anybody on this issue of whether a photograph  
20 number is acceptable?

21 A. No, I don't believe we have.

22 Q. And have you contacted the BMV to  
23 find out if the photograph number is a unique  
24 identifier?

25 A. We have not because we have gone

1 obviously follow up at the application stage,  
2 which we're obviously supposed to do, and to  
3 clear up any ID issues at that point. If upon  
4 that effort the voter did not or chose to send  
5 that driver's license or the photo ID number  
6 in, then that ballot would not be counted, at  
7 least at this point.

8 Q. Would there be any effort to  
9 contact the voter so that they could provide  
10 additional identification?

11 A. I can't -- as I sit here right  
12 now, I don't know what the statute number is,  
13 but I'm not aware of anything authorizing call  
14 or follow-up to a voter once the ballot has  
15 been cast. Obviously statutes talk about  
16 following up on the application at that stage  
17 and that's where what we have done is gone to  
18 great efforts to try to get everything squared  
19 away at that stage, but once the ballot has  
20 been dropped we do not follow up because  
21 statutes are silent as to that and the other  
22 ones aren't, so that would seem that the other  
23 ones enabled you to call on the application and  
24 these are silent and they apparently don't  
25 enable you to do so.

1 Q. Okay. Thank you, Mr. Williams.  
2 Move to a different topic which is military ID.

3 A. Right.

4 Q. Are you accepting military ID's  
5 that do not show current addresses?

6 A. In the absentee area we would be  
7 because the military ID has a Social Security  
8 number on it.

9 Q. So that would be true whether or  
10 not the person voted in person or by mail, you  
11 would accept it because it has a Social  
12 Security number on it?

13 A. That's correct.

14 Q. On election day do you intend to  
15 accept military ID's?

16 A. You would accept a military ID  
17 with a Social Security number on it as a  
18 provisional voter.

19 Q. But those voters would not be  
20 permitted to cast a regular ballot if they just  
21 showed their military ID?

22 A. Well, if a military ID had an  
23 address on it in the precinct that's  
24 appropriate for them to be voting in, their  
25 home precinct, we would absolutely count that.

1 Q. Mr. Williams, has your Board of  
2 Elections been accepting driver's licenses with  
3 former addresses?

4 THE WITNESS: Hold on one second.

5 MR. STEVENSON: He forgot to turn off  
6 his cell phone.

7 (Thereupon, an off-the-record  
8 discussion was had.)

9 THE WITNESS: You talked about the  
10 exception for driver's licenses with the former  
11 address; is that correct?

12 Q. Correct.

13 A. Yes, we are accepting that.

14 Now -- yes, we are.

15 Q. Did you have a question about  
16 that?

17 A. No. I mean -- no, that's -- I  
18 don't think that's up to dispute as far as in  
19 regards to that exception.

20 Q. I'm sorry, I didn't hear the last  
21 word, in regards --

22 A. I think that exception exists and  
23 we follow that.

24 Q. Mr. Williams, turning to the issue  
25 of provisional ballots and determining whether

1 Q. Are you aware of whether military  
2 ID's have current addresses or not?

3 A. It depends on I guess what you use  
4 as military ID. Again, is a military ID -- are  
5 we talking a term of art or are we talking if  
6 somebody is staying at a base in Sharonville  
7 and he brings something with a government --  
8 military form of identification that has, you  
9 know, something in Sharonville on it that has  
10 the name and address, and the fact that it's a  
11 military installation or something like that,  
12 we would accept that. So if it's just a photo  
13 ID, I don't believe those have, but if it's  
14 something else, potentially it could, but I'm  
15 not the authority on military ID's.

16 Q. Are you suggesting there could be  
17 a broader definition of military identification  
18 than simply the photo ID issued to military  
19 personnel or dependents?

20 A. Well, I guess it would be covered  
21 in the other government documents if you came  
22 in -- if you are housed somewhere in Hamilton  
23 County in a military installation and you  
24 brought that in, it would probably qualify  
25 under the other government document as well.

1 they are eligible to be counted, it is my  
2 understanding that under Ohio law the Board of  
3 Elections should review its records and any  
4 additional information provided by the voter  
5 when determining whether or not a provisional  
6 ballot is eligible to be counted. Is that also  
7 your understanding?

8 A. In regard to provisionals?

9 Q. Yes.

10 A. Yes.

11 Q. What records will the Board of  
12 Elections examine when determining whether a  
13 provisional ballot is eligible to be counted?

14 MR. COGLIANESE: Objection. Go  
15 ahead.

16 THE WITNESS: Is there like a  
17 specific set of facts or anything you have?

18 Q. No. Let me back up. At the end  
19 of the election, at the end of election day,  
20 you will have a large stack of provisional  
21 ballots?

22 A. Right.

23 Q. How would you determine whether  
24 all of those provisional ballots are eligible  
25 to be counted or not?

1 A. Well, every one of them is  
 2 obviously a case by case basis. We will apply  
 3 certain -- if a provisional voter is a change  
 4 of address and they failed to update at the  
 5 Board of Elections address, coming to their new  
 6 polling location on election day, vote the  
 7 provisional ballot in their new home precinct,  
 8 provide all the appropriate information, we  
 9 look into our VR system, the signature matches,  
 10 they have voted in their new home precinct,  
 11 they didn't vote in their old precinct, the  
 12 identifying information is there, that will  
 13 count and that sort of analysis in general  
 14 applies to most provisional ballots that we  
 15 see, if not all, obviously.

16 Q. However, for voters who simply  
 17 didn't have their ID and wrote down -- couldn't  
 18 remember their Social Security number, they  
 19 have to come back with that information, right?

20 A. Correct.

21 MR. COGLIANESE: Objection.

22 Q. That's another category of  
 23 provisional voters?

24 A. I guess it's a category. We look  
 25 at them all as provisional. I guess it's a

1 government documents that could be applied to  
 2 this, I would say -- I mean, it would be very,  
 3 very large on potential documents that somebody  
 4 could provide.

5 Q. Let me try to come at the question  
 6 a different way.

7 A. And I'm not -- I'm just trying  
 8 to -- I'm not trying to -- I'm just trying to  
 9 get a grip on the scenarios, I guess.

10 Q. I appreciate that. Let me ask it  
 11 a different way. So does Hamilton County have  
 12 a voter registration database for its county?

13 A. We do.

14 Q. Is that one source of records that  
 15 you might consult?

16 A. Sure.

17 Q. Is there a statewide voter  
 18 registration database?

19 A. Yes.

20 Q. Is Hamilton County tied into that?

21 A. We are.

22 Q. Is that another source of records  
 23 you intend to consult when determining at least  
 24 some provisional ballots are eligible to be  
 25 counted?

1 category, I guess you should say.

2 Q. I don't want to limit the question  
 3 to just one fact scenario. For all of the  
 4 provisional ballots, what is the universe of  
 5 potential records that the Board of Elections  
 6 will examine to determine eligibility to be  
 7 counted?

8 MR. COGLIANESE: Objection. Go  
 9 ahead.

10 THE WITNESS: And it's hard to talk  
 11 about that if I don't have specific factual  
 12 scenarios because every provisional has sort of  
 13 its own story to tell. As I indicated prior, we  
 14 will look at identifying information that was  
 15 either placed on the envelope, caused to be inside  
 16 the envelope. We will make sure they haven't  
 17 voted in any other precinct. We will look at the  
 18 signature to see if that is a -- I guess arguably  
 19 close to the signature that we have on file. We  
 20 will look at it and determine based on those  
 21 criteria, the ID and all the other things I  
 22 mentioned whether -- and the fact that they voted  
 23 in the correct precinct, didn't vote in the old  
 24 precinct, so in regard to documentation, it would  
 25 be a case by case basis, but in regard to the

1 A. On some, yes.

2 Q. On what situations would you check  
 3 the statewide voter registration database?

4 MR. COGLIANESE: Objection.

5 THE WITNESS: Well, if you had a  
 6 county to county move, we want to go back to the  
 7 former county and we want to look to make sure  
 8 they haven't voted in their old county and we  
 9 would obviously call the prior county just to make  
 10 sure there's nothing there. You also can look at  
 11 socials or whatever they have internally defining  
 12 them in those universes also.

13 Q. Let me take the first part of your  
 14 answer first. How will you know which voters  
 15 to check to see if they have moved from a  
 16 different county? Will it simply be if they  
 17 have a former address on their license or do  
 18 you try to check everybody to see if they have  
 19 moved from a different county?

20 A. No. What we would do, if you had  
 21 somebody moving in you would look at if they  
 22 had a former address on the provisional ballot.

23 Q. And that's one optional  
 24 information that can be provided by the voter?

25 A. Right.

1 Q. But is it true that the ballot  
2 doesn't ask how long ago you lived at that  
3 address? Not the ballot, the provisional  
4 ballot affirmation form does not ask how long  
5 ago you lived at that former address; is that  
6 correct?

7 A. That's correct.

8 Q. How will you know which ones to  
9 check and which ones not to check?

10 A. Well, because on the -- on the  
11 provisional ballot, it says the former address  
12 and the only way we know where somebody came  
13 from is if they put their former address down.

14 Q. Let me give you an example. Let's  
15 say I moved to Franklin County from Montgomery  
16 County five years ago and I have to vote  
17 provisionally because I forget my ID and my  
18 social so I write down my address from  
19 Montgomery County five years ago, but you don't  
20 know that it was five years ago. It could have  
21 been yesterday for all you know. Do you intend  
22 to check that former address in that  
23 circumstance?

24 A. Were you registered there?

25 Q. Right, correct.

1 are registered in Hamilton County?

2 A. I mean, I guess potentially you  
3 could use it for everything.

4 Q. Let me just -- related to your  
5 question -- I'm sorry, the answer that you  
6 gave, if a voter in Hamilton County votes --  
7 and you said you wouldn't have their Social  
8 Security number in your system; is that right?

9 A. Well, let's just say that wasn't  
10 something we had. We may have, let's say,  
11 driver license number information or something  
12 like that.

13 Q. Rather than speaking  
14 hypotheticals, let me ask, what do you have in  
15 your county database with regard to Social  
16 Security numbers or driver's license numbers?

17 A. Well, it depends on what the voter  
18 gives you. You don't have a Social Security  
19 number for everybody in the database.

20 Q. Do you have an approximation as to  
21 how many Social Security numbers you have in  
22 terms of percentage of the total people in your  
23 database?

24 A. I don't. I don't. I would have  
25 to find that out.

1 A. Yeah, we would look there.

2 Q. So is it your intention then for  
3 everybody who writes down a former address to  
4 run their name through the statewide voter  
5 registration database?

6 A. I believe that would be a good  
7 procedure, yes.

8 Q. Have you thought about it before  
9 today?

10 A. Yes.

11 Q. And is that the plan?

12 A. Yes.

13 Q. Other than that situation, are  
14 there other reasons why you might check the  
15 statewide voter registration database? You  
16 said something about a Social Security number.

17 A. If, let's say as identifying  
18 information we have -- let's say somebody gives  
19 us some other form of ID or something like that  
20 or they give us a driver's license number, we  
21 don't have that number here, maybe that number  
22 would exist on the statewide voter registration  
23 database, you know, so we could arguably match  
24 something up there potentially.

25 Q. And these would be for voters who

1 Q. And is the driver's license  
2 number, is that an optional piece of  
3 information in your database?

4 A. Yes.

5 Q. Again, do you have any idea how  
6 many people have given you their driver's  
7 license number?

8 A. You know, I don't. I would have  
9 to check that out.

10 Q. Let's assume there are some people  
11 at least who have given you those numbers. Is  
12 it your intention to take every provisional  
13 ballot and run the driver's license number or  
14 Social Security number in your database to make  
15 sure it matches?

16 MR. COGLIANESE: Objection.

17 THE WITNESS: Well, it would be my  
18 belief that -- and I guess I'm going back really  
19 in '04 and thinking how in the preceding  
20 elections -- but if everybody on the ID, let's  
21 say, envelope, matches what we have on our VR  
22 system locally, I don't know that we would go that  
23 second step.

24 Q. And is that because at that point  
25 you would be pretty confident the person is who

1 they say they are?  
 2 A. Yes.  
 3 Q. Wouldn't necessarily check to make  
 4 sure they gave you the right Social Security  
 5 number or driver's license number?  
 6 A. Well, yeah, I mean, that would be  
 7 something that we would do. We certainly, you  
 8 know, potentially could look in the statewide,  
 9 but, you know, in some of these, if everything  
 10 seemed to be there and it was a move and we had  
 11 all the information, I think we would probably  
 12 stop at our local database.  
 13 Q. What about if the signature -- it  
 14 was a unique signature and it looked like a  
 15 match? Might you stop there in terms of  
 16 validating the provisional ballot?  
 17 MR. COGLIANESE: Objection. I'm kind  
 18 of getting lost now. Are we talking about if  
 19 signature was an issue?  
 20 Q. No. You pick up a provisional  
 21 ballot to determine if it's eligible to be  
 22 counted and you look at your database and the  
 23 signature is a match. Might people stop there  
 24 under the standards that you're going to apply?  
 25 A. Signatures are an aspect, but I

1 doesn't have a social, but they can vote  
 2 provisionally and sign an affirmation they  
 3 don't have ID or a social. Is that what you're  
 4 talking about?  
 5 A. Yes.  
 6 Q. And in that case you might just  
 7 look at the signature and count the vote?  
 8 A. It depends. I would have to see  
 9 the signature and whatever else we had or if  
 10 any other documentation came in, but, yeah,  
 11 that is -- that would be something that we  
 12 would have to deal with and try to make a  
 13 judgment as to the signature.  
 14 Q. Is it your testimony that that  
 15 would be a case by case decision, you don't  
 16 have a uniform standard?  
 17 A. I think it has to be case by case  
 18 because it's a factual question based on the  
 19 signature and other information that they would  
 20 give you in identifying that specific voter.  
 21 Q. Okay. Let me go at the broader  
 22 question of what records you might look at. We  
 23 have identified the county database. We  
 24 identified the statewide voter registration  
 25 database. Are there other records that you

1 believe that we go farther than that.  
 2 Q. And are there directions or  
 3 instructions written down anywhere to tell  
 4 people at what point they can stop looking to  
 5 validate somebody's identity?  
 6 A. I don't know that we have anything  
 7 written down on that.  
 8 Q. Do you have anything not written  
 9 down but that is a uniform standard you intend  
 10 to apply and communicate to all of your  
 11 workers?  
 12 A. We will discuss the counting of  
 13 provisionals prior to going in and doing so,  
 14 you know, obviously we do that pretty much  
 15 every time we're doing this, but if a -- like  
 16 if somebody doesn't have an ID like if -- they  
 17 don't have ID, they don't have anything else  
 18 and we have a signature, you know, and they  
 19 have the affidavit, you know, that would be a  
 20 situation where, you know, you have an  
 21 affidavit on somebody, you may not have other  
 22 identifying information and so certainly a very  
 23 key thing there would be the signature.  
 24 Q. So just so I'm clear, that's the  
 25 kind of person who walks in, doesn't have ID,

1 intend to look at when evaluating provisional  
 2 ballots and their eligibility to be counted?  
 3 A. Yes, the signature poll book.  
 4 Q. Are those signatures also in your  
 5 county database?  
 6 A. Do we have a digital signature in  
 7 the county database?  
 8 Q. Yes.  
 9 A. We do.  
 10 Q. Is that duplicative of what's in  
 11 the poll book?  
 12 A. That's where it comes from.  
 13 Q. Why would you check both pieces of  
 14 information if they are duplicative?  
 15 A. Well, it's a lot easier if you're  
 16 in the database to look at the digital  
 17 signature on the computer than it is to go look  
 18 at every signature poll book. What you're  
 19 looking to the signature poll book to do is  
 20 make sure they don't vote in their old precinct  
 21 because if they voted twice, obviously that's  
 22 an issue.  
 23 Q. Would you just do that for people  
 24 who told you they moved and changed their  
 25 address?

1 A. That's part of the review on a  
 2 provisional ballot.  
 3 Q. In addition to signature poll  
 4 books, is there anything else that you intend  
 5 to look at?  
 6 MR. COGLIANESE: Objection. Go  
 7 ahead.  
 8 THE WITNESS: I guess -- you know,  
 9 any documents that were provided to us in the  
 10 provisional envelope.  
 11 Q. For instance, if somebody gave you  
 12 a utility statement or paycheck?  
 13 A. Right.  
 14 Q. And what would you be looking at  
 15 there, just to see that something was provided?  
 16 A. Yeah, name and, you know, address  
 17 on a government document or one of the criteria  
 18 that needs to be met.  
 19 Q. Let me take the issue of a  
 20 driver's license number. Do you have access to  
 21 the BMV records so that you can verify driver's  
 22 license numbers?  
 23 A. We do not.  
 24 Q. Okay. Taking a Social Security  
 25 number, do you have access to any database,

1 recall anything specifically as I sit here. I  
 2 mean, nothing specifically jumps out at me.  
 3 MS. GENTRY: Okay. I think I'm done  
 4 at this point. Can we take a brief recess for  
 5 about five minutes and then come back?  
 6 THE WITNESS: Sure.  
 7 MS. GENTRY: I think Mr. Coglianese  
 8 will have questions.  
 9 (Pause in proceedings.)  
 10 CROSS-EXAMINATION  
 11 BY MR. COGLIANESE:  
 12 Q. Mr. Williams, I've got a few  
 13 questions for you as well.  
 14 A. Okay.  
 15 Q. I would like to start talking to  
 16 you, first of all, about provisional ballots.  
 17 I know Miss Gentry spent a good portion of the  
 18 time we've been together today speaking about  
 19 provisional ballots. You were the director of  
 20 the Hamilton County Board of Elections for the  
 21 2004 election, correct?  
 22 A. Yes.  
 23 Q. So you probably got quite a bit of  
 24 experience dealing with provisional ballots, I  
 25 would assume?

1 including but not limited to the Social  
 2 Security Administration database, that would  
 3 allow you to verify or validate Social Security  
 4 numbers?  
 5 A. No, we do not.  
 6 Q. So does that mean that you do not  
 7 have a way of verifying whether someone's  
 8 Social Security number or driver's license  
 9 number is in fact their number?  
 10 A. You know, if the statewide  
 11 database is tied into the ability to check that  
 12 out, I guess in a fashion perhaps through the  
 13 statewide database you do.  
 14 Q. Are you speculating?  
 15 A. Yes.  
 16 Q. It's true, isn't it, that you  
 17 don't know as you sit here today of any way  
 18 that you can verify a Social Security number or  
 19 driver's license number that a voter gives to  
 20 you?  
 21 A. Yes.  
 22 Q. Have there been any discussions  
 23 about that that you have been involved in that  
 24 don't involve counsel?  
 25 A. I'm just trying to think. I can't

1 A. Yes. Back then it was -- yes.  
 2 Q. Could you just kind of go ahead  
 3 and tell me some of the reasons that folks  
 4 voted provisionally in the 2004 general  
 5 election?  
 6 A. Okay. Probably the biggest is a  
 7 person who's moved precinct to precinct or  
 8 county to county and has failed to update their  
 9 registration. I would say that's the biggest  
 10 reason. There could be -- just trying to think  
 11 what else we saw. I mean, the vast majority  
 12 that we saw were because of movement. We also  
 13 saw I think in an instance where a subdivision  
 14 went in and there was a part of a subdivision  
 15 and you have a street that perhaps was not in  
 16 and the person didn't make the signature poll  
 17 book, person is not listed, so you're voting a  
 18 person like that provisionally. You know, you  
 19 have others for whatever other reason didn't  
 20 get registered and they are voting  
 21 provisionally. That was another significant  
 22 number.  
 23 We had a lot of groups that were  
 24 out registering people at that time, very  
 25 concerned about getting registrations turned

1 over to us. And we had in Hamilton County, I  
2 don't know, maybe -- I can't remember  
3 specifically, but it was several hundred people  
4 who did not get turned over to the Board of  
5 Elections because of the groups registering  
6 people and so those people were not in the  
7 signature poll book and voted provisionally.

8 We had some that, you know, you  
9 have difficulty with the addresses, the  
10 legibility of some of these things that were  
11 turned in that made it extraordinarily  
12 difficult to understand where they or what they  
13 had written down, but I would say overall the  
14 biggest was because of movement.

15 Q. Did you have any folks vote  
16 provisionally because they registered by mail  
17 under the Help America Vote Act and didn't  
18 provide the adequate identification?

19 A. Can you run that by me again? I'm  
20 sorry, I missed the first part.

21 Q. Sure. Did you have any folks vote  
22 provisionally in Hamilton County because they  
23 were first time voters who registered by mail  
24 under the Help America Vote Act and did not  
25 provide the last four digits of their Social

1 statutorily, I want to go back to reason folks  
2 vote provisionally. I know this is new  
3 statutorily, wasn't around by statute in the  
4 Ohio Revised Code in 2004 general election, but  
5 pursuant to House Bill 3, is it fair to say  
6 someone might vote provisional if they  
7 requested an absentee ballot from the Hamilton  
8 County Board of Elections but did not return  
9 that ballot, are they still able to go to the  
10 polling place on election day and vote  
11 provisional ballot?

12 A. Absolutely.

13 Q. Okay. Let's contrast for purposes  
14 of my questions the person who asked for  
15 provisional ballot but didn't vote it -- I'm  
16 sorry, asked for an absentee ballot but didn't  
17 vote it, but the person who just moved from  
18 Warren County into Hamilton County, okay?

19 A. Okay.

20 Q. Got two separate provisional  
21 ballots. Would you follow the exact same  
22 procedure when you're trying to validate both  
23 of those provisional ballots or would you  
24 follow a different procedure because they were  
25 provisional ballots for different reasons?

1 Security number or other appropriate  
2 identification at the time by HAVA?

3 A. We had some, but very, very few.  
4 When we get a registration like that we  
5 actually follow up with the voter, we try to  
6 gain the information from them prior to that so  
7 they are not placed in a provisional situation  
8 and so we -- I was very happy with the job that  
9 we were able to do finding -- you know, I don't  
10 know what -- it started out probably a few  
11 hundred people maybe and we got it down, I  
12 think -- there wasn't that many of them, but  
13 that certainly could be a reason that someone  
14 would have to vote provisionally if they did  
15 not provide that information.

16 Q. As you were talking about the  
17 folks moving precinct to precinct or county to  
18 county or subdivisions, it seems to me that the  
19 overriding theme -- and correct me if I'm  
20 wrong -- it seems to me the overriding theme  
21 with all those folks was basically when they  
22 showed up at the precinct to vote they weren't  
23 in that polling book; is that fair to say?

24 A. Yes.

25 Q. And I know this is new

1 A. The scenario was the first one  
2 asked for an AB and didn't get it and what  
3 else?

4 Q. The first one asked for an  
5 absentee ballot, didn't turn it in and figured,  
6 heck, I'll just go to the polls on election  
7 day. That person got a provisional ballot.  
8 And let's take voter B who used to reside in  
9 Warren County and just moved to Hamilton  
10 County, but didn't update their vote  
11 registration information.

12 A. We basically treat them the same  
13 way. The absentee voter, obviously you're  
14 certainly going to look to make sure they  
15 didn't cast an absentee. That would be the  
16 first thing you would do in that situation,  
17 where the other one you would potentially be  
18 looking more back at where they voted previous  
19 to make sure they haven't voted there, but you  
20 would have to sort of, you know, go back to  
21 make sure that all those other things -- that  
22 effectively they are not voting twice.

23 Q. Right. Bottom line, when you are  
24 checking provisional ballots to validate them,  
25 what is -- what is the Hamilton County Board of

1 Elections truly trying to determine?  
 2 A. Trying to determine?  
 3 Q. Yes.  
 4 A. Well, we're trying to make sure  
 5 that the person, you know, voted in the  
 6 appropriate precinct, didn't vote twice and,  
 7 you know, we're trying to find out about what  
 8 each person did individually and with -- I  
 9 guess the ultimate goal of counting the  
 10 ballots.  
 11 Q. So would it be fair to say then  
 12 based on that statement that you just made that  
 13 the end result from the board's standpoint is  
 14 trying to find out what they can find out in  
 15 order to count that vote?  
 16 A. Sure.  
 17 Q. I would just also like to clarify  
 18 one other thing so it's kind of clear in the  
 19 record. You said one of the reasons folks had  
 20 to vote provisional ballots is because  
 21 registrations didn't get in in time. Are we  
 22 talking about problems that existed at the  
 23 Board of Elections or are we talking about  
 24 independent organizations that were conducting  
 25 voter registration drives that didn't timely

1 and if you don't know the exact number, you can  
 2 give me your best estimate. How many  
 3 provisional ballots were voted in Hamilton  
 4 County in the 2004 general election?  
 5 A. About -- I believe just under  
 6 fifteen thousand.  
 7 Q. And do you know what the  
 8 acceptance rate was, either total number of  
 9 ballots or as a percentage?  
 10 A. You know, I believe, and this is  
 11 on memory, I believe it was seventy-six  
 12 percent.  
 13 Q. Do you know what the major reason  
 14 for rejection of provisional ballots for the  
 15 2004 general election was?  
 16 A. Not being registered and wrong  
 17 precinct voting.  
 18 Q. And how did you determine folks  
 19 were not registered?  
 20 A. We would search our registration  
 21 database. I believe that they also have a hold  
 22 file on ones they can't figure out and then we  
 23 looked through those. If there's anything that  
 24 was so illegible that we couldn't read them,  
 25 those would have also been reviewed that

1 turn the forms into the Hamilton County Board  
 2 of Elections thirty days before the election?  
 3 A. We had -- it was ACORN  
 4 specifically that was out registering people  
 5 and I don't know what the reason was, but for  
 6 some reason we weren't getting them in a timely  
 7 fashion and, in fact, many of them didn't come  
 8 in until days after the registration deadline.  
 9 We also had another group that were turned over  
 10 basically the day or a few days before the  
 11 election that we had an ACORN representative in  
 12 here and I asked specifically do you have any  
 13 more, they said they didn't, and then the day  
 14 before they turned in, I don't know, what, a  
 15 hundred and sixty or something like that.  
 16 Q. So the folks that the  
 17 registrations were not timely was not the fault  
 18 of the Board of Elections; it was the fault of  
 19 a third-party voter registration --  
 20 A. Right.  
 21 Q. I just wanted to make sure that  
 22 was clear on the record that wasn't anything  
 23 you guys did wrong.  
 24 A. No.  
 25 Q. How many provisional ballots --

1 perhaps were not in the computer. I think  
 2 there's perhaps a small group of those types of  
 3 registrations so we sort of looked around  
 4 anywhere we could think of to try to locate  
 5 registrations.  
 6 Q. That would be both the Hamilton  
 7 County and statewide voter database; is that  
 8 right?  
 9 A. Yes.  
 10 Q. And how would you determine that  
 11 somebody voted in the wrong precinct, what  
 12 steps would you take to reach that conclusion?  
 13 A. Well, we would look where they are  
 14 registered, look at the provisional envelope on  
 15 where they actually voted. If they filled out  
 16 former residence and the residence was not an  
 17 appropriate residence for the precinct, they  
 18 would be voting in the wrong precinct. In  
 19 other words, if they went to a location, showed  
 20 up, weren't in the poll book, insisted they  
 21 were in the poll book, voted there, but came  
 22 back being registered in another location, that  
 23 would be a problem.  
 24 Q. For example, if somebody who gave  
 25 you an address on absentee ballot lists City of

1 Cincinnati and that person went to a polling  
 2 location in the City of Reading because they  
 3 understood that a great city attorney was up  
 4 for relocation and they wanted to make sure  
 5 that they were voting for him, when you looked  
 6 at the ballot application, envelope, you would  
 7 know from that that they voted in the wrong  
 8 precinct? Is that kind of the review you would  
 9 do?

10 A. Are you talking AB or provisional?

11 Q. I'm talking provisional.

12 A. Yes. If somebody lived outside  
 13 the City of Reading and went to Reading to vote  
 14 for their favorite solicitor, that vote would  
 15 not be counted.

16 Q. How would you determine that they  
 17 voted in the wrong precinct?

18 A. We have a provisional ballot.  
 19 First of all, they wouldn't be in the signature  
 20 poll book. They would vote a provisional  
 21 ballot. They would put the former address  
 22 down. We would also look to see where they are  
 23 registered and try to determine what caused  
 24 them to go to Reading.

25 Q. Are you planning on following the

1 actually let me strike that. Let me do it this  
 2 way. Let's say they have a utility bill from  
 3 their current address which happens to be  
 4 twenty years old, just the only utility bill  
 5 that they have left. It was the one when they  
 6 moved into the house twenty years ago and for  
 7 some reason these folks decided to keep it.  
 8 They give that to the pollworker. The  
 9 pollworker says even under the most liberal  
 10 definition of current -- regardless of  
 11 Directive 2006-78, under the most liberal  
 12 definition of current -- so they voted  
 13 provisional ballot. That person comes to the  
 14 Board of Elections to validate their identity.  
 15 Would they be obligated to show a utility bill  
 16 or can they go through anything else on the ID  
 17 list, give you their driver's license, give you  
 18 something else that would validate their  
 19 identity?

20 A. Any one of the forms of ID is  
 21 absolutely fine.

22 Q. So they're not limited to what  
 23 they show at the polling place on election day?

24 A. Right.

25 Q. What type of training have you

1 same procedures that you followed in the 2004  
 2 general election for purposes of the 2006  
 3 general election as it relates to the  
 4 validation of provisional ballots?

5 A. Yes. And we obviously have the ID  
 6 issue that did not exist then, but, yes.

7 Q. What extra steps are you going to  
 8 take to go ahead and validate anybody who had  
 9 to vote a provisional ballot because they  
 10 didn't supply appropriate ID at the polling  
 11 place?

12 A. Well, if they had it and didn't  
 13 supply it, refused to supply it, something of  
 14 that nature, they would have ten days to come  
 15 to the board to somehow prove ID and we would  
 16 obviously hold ballots like that out.  
 17 Provisionals don't get counted in the  
 18 unofficial, they get counted in the official,  
 19 so there's time after the election to -- like I  
 20 always say, each one of them sort of has a  
 21 story to tell, so we try to figure that out.

22 Q. And let me just give you a little  
 23 bit of a hypothetical here. Let's say somebody  
 24 shows up at the polling place on November 7th  
 25 and they don't have any identification -- or

1 done for your Hamilton County pollworkers to  
 2 help folks in voting provisional ballots,  
 3 filling out the envelope, training them what  
 4 they need to do in order to validate their  
 5 ballot?

6 A. Well, let me put it in  
 7 perspective. Under the punch card system we  
 8 had about thirty-five training classes. They  
 9 went for about an hour and a half, perhaps two  
 10 hours per class. They were taught in a lecture  
 11 style which one person, Board of Elections  
 12 employee who was trained would give a  
 13 presentation to the pollworkers. Obviously we  
 14 were using punch cards back then. We had a  
 15 signature poll manual -- a pollworker guide  
 16 that was distributed. We obviously taught in a  
 17 lecture style. Now -- and as I indicated, we  
 18 had about thirty-five classes like that to  
 19 train around four thousand workers.

20 Now what we do is we have  
 21 increased our pollworker training classes from  
 22 thirty-five classes to about a hundred and  
 23 seventy or more. We have reduced the number of  
 24 people in a class from about seventy-five,  
 25 which obviously ranged higher the closer you

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1 got to election because of the late  
2 stragglers -- but it was about an average of  
3 seventy-five, something like that. We have  
4 reduced now to twenty-four per class so we have  
5 a hundred and seventy classes, twenty-four  
6 people to a class, a lead instructor who is  
7 trained. We have many of them from the Board  
8 of Elections also. We have three additional  
9 breakout instructors for what we call these  
10 breakout sessions that we actually give  
11 pollworkers hands-on training in provisional  
12 voting. We give them scenarios. We actually  
13 have ballots out there. They have to handle  
14 scenarios that we give them.

15 The pollworker training class now  
16 lasts four hours plus. The adult learning  
17 techniques are these breakout sessions plus  
18 instruction plus the hands-on of the actual  
19 doing and setting up machinery. We give them a  
20 signature -- excuse me -- a pollworker guide.  
21 We have a pollworker guide on our online -- on  
22 our website also. We have one of the breakout  
23 instructors for every six people in the class  
24 so it's a one to six ratio, four hour class, a  
25 hundred and seventy classes, six people to the

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1 equipment and to the pollworker ID training and  
2 all the other scenarios we do. I mean,  
3 effectively we take them through an election  
4 day and actually have concentrated heavily on  
5 the provisional aspects which include ID.

6 Q. So when you're talking about  
7 provisional, you're also talking about what's  
8 needed to do to comply with the ID requirements  
9 under House Bill 3; is that right?

10 A. Yes. But there's also ID training  
11 in there too. And that's done in this lecture  
12 of twenty-four and then a breakout down to six  
13 and it obviously lasts twice as long.

14 Q. How far along are you in training  
15 those pollworkers?

16 A. We are about more than halfway  
17 through I would say.

18 Q. How tough would it be if a Court  
19 were to order you to modify your operation as  
20 it relates either to provisional ballots to  
21 voter ID to now get those pollworkers ready to  
22 the deal with new rules? Let's assume for a  
23 second that as a result of this hearing  
24 tomorrow the judge were to completely enjoin  
25 the ID provision. Let's further assume that as

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1 a result of this hearing tomorrow he issues an  
2 injunction dealing with provisional ballots  
3 changes the manner in which provisional ballots  
4 are handled at the polling location and then  
5 checked after the election. What effect would  
6 that have on you as it relates to those  
7 pollworkers?

8 MS. GENTRY: Objection. Compound.  
9 Incomplete hypothetical. You can go ahead.

10 THE WITNESS: Well, at this point we  
11 can't retrain them. We are on final approach  
12 basically for this election. We are very, very  
13 proud of our training program. You cannot -- as  
14 an election official, you cannot change the rules  
15 in the middle of the training and expect to have a  
16 successful election where pollworkers are trained.  
17 We had a representative from Voter Advancement  
18 come to Cincinnati and review our class and  
19 everyone I talked to said she walked out smiling  
20 and very impressed with Hamilton County's  
21 training.

22 It would be very, very difficult, if  
23 not impossible to try to change now and to try to  
24 give conflicting instruction now. That would only  
25 lead to confusion of the pollworkers. I believe

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1 also confusion to the voters so, you know, I think  
2 it would be a very grave mistake and I think  
3 that -- you know, we have trained well here and,  
4 you know, I just think it's a very, very, very bad  
5 idea.

6 Q. Contrast that scenario with me --  
7 for me with the scenario where, for example  
8 Secretary of State issues Directive 2006-78  
9 where the Secretary defines current, defines  
10 other government document. How does something  
11 like that impact with the way you deal with  
12 your pollworkers before election day?

13 MS. GENTRY: Same objection.

14 THE WITNESS: Well, those -- you  
15 know, those are certainly changes. I guess on the  
16 one directive, on 78 I'm not sure whether it's an  
17 omission or not in regard to the AB, but in regard  
18 to the other items, you know, I can -- I guess to  
19 some extent, you know, a six month rule or  
20 something like that is certainly a less  
21 significant change than throwing everything out at  
22 this point. We have not seen the problem of this  
23 old document issue to my understanding in Hamilton  
24 County. My staff is very good about bringing  
25 things to me in regard to stuff and I'm not aware

16 (Pages 58 to 61)

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1 of seeing this. We had a hundred and twenty-four  
2 precinct election in August. We did not see an  
3 issue with old documentation there. So I think we  
4 have a little bit more experience than some of the  
5 other counties perhaps in what kind is actually  
6 presented out in the polls and we just didn't see  
7 this as a material problem.

8 Q. In that hundred and twenty-four  
9 precinct election in August, are you aware of  
10 any problems that Hamilton County had as a  
11 result of voter ID?

12 A. I believe there were -- and, you  
13 know, I don't know the numbers. I don't know  
14 specific. I think there were some. I just  
15 don't know the numbers.

16 Q. What type of steps has Hamilton  
17 County Board of Elections taken to educate its  
18 population about the need to bring  
19 identification to the polling place?

20 A. We have sent a letter in the form  
21 of a card as required by the legislature, but  
22 we have actually done that in prior elections  
23 before it was a mandate. We sent out a card to  
24 every registered voter in the county with their  
25 precinct, their polling location, directions to

1 actually the Buzz and some other minority radio  
2 stations talking about voter ID, talking about  
3 the appropriate manner to vote, you been, how  
4 to vote the specific ballot, where to vote,  
5 talking about the website that we have, you  
6 know, touching on anything that we can possibly  
7 think of from even going out to Kroger stores  
8 to do outreach. Our outreach has even gone to  
9 the Butler County Justice Center to vote jailed  
10 individuals in Butler County who are there on a  
11 transfer from Hamilton County so I don't think  
12 we spare any expense in Hamilton County with  
13 the lengths we go to help people to vote and to  
14 educate people to vote.

15 Q. Hamilton County is obviously one  
16 of the state's urban counties, City of  
17 Cincinnati is one of the largest urban areas.  
18 I would like you to just briefly tell me  
19 specifically what the Board of Elections has  
20 done with the City of Cincinnati, with the  
21 population of the City of Cincinnati to try and  
22 reach out and explain the voter ID provisions.

23 A. I think I touched on that with  
24 just my last comments. You know, we have an  
25 outreach program that, you know, goes into the

1 the polling location, the -- I think I  
2 mentioned voting districts, ID requirements on  
3 there in big bold print. We actually put a  
4 small picture of the ballot on the piece also  
5 so it's a bit of outreach, in other words, how  
6 to vote correctly.

7 Hamilton County is a paper county  
8 so we're filling in a block to the left of the  
9 candidate of your choice or issue of your  
10 choice. Very simple system. So every voter in  
11 Hamilton County has received a piece of  
12 literature. Every registered voter that we  
13 have. We also have Joe Mallory and Melanie  
14 Allen, our Democratic administrator basically  
15 through the distribution, Democratic workers in  
16 the outreach program that are out touching all  
17 aspects of our community with not only events,  
18 but putting things in water bills, local  
19 publications. It's too numerous to mention the  
20 contacts.

21 Also there's been heavy media  
22 contact on the ID issues, our system, the means  
23 of voting on our system, from all major media  
24 outlets. I have been on many radio stations  
25 for prolonged periods of time including

1 city, is very effective in presentations. Any  
2 group that we can touch, we attempt to do so.  
3 We have -- as I indicated, the voter piece goes  
4 out to everyone. We have -- I can't tell you  
5 how many community groups, neighborhood groups  
6 that we've been out to physically giving them  
7 demonstrations on our machine, how to vote,  
8 talking about ID requirements, you know, again,  
9 back to the utility bill inserts, the talking  
10 on minority radio stations. I mean, it goes on  
11 and on and on.

12 Q. Again, I would like to kind of  
13 switch back a little bit to the question when  
14 we're talking about potential disruption as a  
15 result of court orders and, Mr. Williams, you  
16 were the director of the Hamilton County Board  
17 of Elections in the 2004 election and you lived  
18 through the changing of orders as it related to  
19 challengers at the polls on election day for  
20 the 2004 general election; is that correct?

21 A. Yes, I did.

22 Q. Can you just go ahead and explain  
23 to me your experience and the experience of the  
24 Hamilton County Board of Elections as a result  
25 of initially the order that came out from the

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1 district court at I believe 1:00 in the morning  
2 on Monday morning, the day before the election,  
3 and then the stay order from the Board of  
4 Appeals I believe 5:30 the morning of the  
5 election? Can you kind of run me through what  
6 effect that had on the Hamilton County Board of  
7 Elections?

8 MS. GENTRY: I'll have a continuing  
9 objection on this line of questioning on the basis  
10 of relevance. Go ahead.

11 THE WITNESS: Thank you. It makes it  
12 extraordinarily difficult for us to manage  
13 through, to give information to the public on what  
14 is and is not allowed. My thought on all of this  
15 is if we don't know what the rules are I can't  
16 educate the public and I can't educate the  
17 pollworkers. Examples of this are when we are in  
18 public situations and the press is asking us about  
19 what happens, you know, the rule is on, the rule  
20 is off, the rule is on. Challenges are in,  
21 challenges are out, challenges are back in.  
22 Observers are in, out, they are back in. It leads  
23 to a very, very bewildering election and it -- it  
24 certainly doesn't engender confidence in our  
25 ability to instruct in any way intelligently on

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1 very, very difficult times for us, and my belief  
2 is that when these issues exist and there's a  
3 fundamental disagreement, and it could be  
4 absolutely good faith, I don't question anybody's  
5 faith in any of this, but it's the timeliness of  
6 these issues that create great difficulties for  
7 the board. We have a railroad to run and we have  
8 to -- you know, train four thousand people,  
9 distribute to five hundred and fifty polling  
10 locations with eight hundred and eighty precincts.  
11 We have to understand what the rules of the game  
12 are in some fashion to put on an orderly election  
13 and if the rules keep changing, it's not  
14 necessarily fair to anybody in an election and so  
15 we believe that these matters should be handled  
16 way prior to an election or post election so we  
17 can look at this with empirical data and really  
18 come to good understanding of what is and is not  
19 true and what is or what is not -- what are the  
20 problem areas that need to be fixed.

21 MS. GENTRY: Objection. Move to  
22 strike the answer as argumentative and  
23 nonresponsive.

24 Q. Mr. Williams, when in your opinion  
25 as director of the Hamilton County Board of

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1 what exactly we are doing. It seems to me that  
2 those cases are -- in many cases exist for months  
3 and months and months in advance. And to wait  
4 until, you know, ten days, twelve days, fourteen  
5 days before an election is a disservice, not only  
6 to I think very dedicated people throughout Ohio  
7 trying to put on election, and I certainly know  
8 here we are, but I think it's unfair to expect us  
9 to somehow provide good election service when the  
10 rules are constantly changing. And it creates a  
11 less fair election because if you know what the  
12 rules are, you can play by the rules, but if you  
13 don't know what the rules are, it makes it very  
14 difficult.

15 And I'll give you an example. We had  
16 actually some people in the past go on the radio  
17 on certain stations and say on a citywide  
18 ballot -- say vote for all the African-American  
19 candidates on the ballot, and this comes from  
20 people in the community, and the problem is if you  
21 can vote for nine and there are twelve  
22 African-Americans and you vote for twelve, you  
23 create an overvote situation. We actually have to  
24 call out to the media and call them to try to stop  
25 those kinds of things from going on. It creates

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1 Elections do you really need to know when the  
2 rules are set so that you can run an orderly  
3 election?

4 A. Well, I mean, look at just on the  
5 petition issue this year, we have issue one  
6 that's not on the ballot but it's physically on  
7 the ballot. That leads to voter confusion, it  
8 increases the size of the ballot, creates the  
9 fact that you run into a larger, perhaps double  
10 ballot. These things should be changed months  
11 before the election and we should know what's  
12 going on prior to, certainly any close of  
13 registration, any close or opening of  
14 absentee -- excuse me -- and I think that it  
15 does a great disservice to the public as well  
16 as election officials.

17 Q. Has the Hamilton County Board of  
18 Elections decided what to do yet with the  
19 absentee ballots that were cast during the time  
20 that the district court's temporary restraining  
21 order was in effect?

22 A. We have not made any decisions on  
23 any absentee ballots at this point other than  
24 to move, you know, ballots with appropriate ID  
25 into the good pile and ones that don't into the

18 (Pages 66 to 69)

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1 issue pile.

2 Q. And I would assume that the answer  
3 would be similar to folks who had requested an  
4 absentee ballot during the two days or so,  
5 three days that the court TRO was in effect?

6 A. Yes. I mean, I haven't convened a  
7 board meeting specifically on that, but it  
8 seems to me that if a judge issues a TRO on a  
9 law and somebody didn't provide an absentee  
10 ballot because of either, you know, hearing  
11 something about that or reading something about  
12 it or something like that and didn't provide  
13 appropriate ID information, then those ballots  
14 in that window of time absolutely should be  
15 counted.

16 Q. And that's going to be your  
17 recommendation to the board when it meets?

18 A. Absolutely. I mean, that to me  
19 just -- I don't think that's an issue.

20 Q. I want to talk to you a little bit  
21 more about that sixty day notice that you had  
22 mentioned, sending the mail out to everybody in  
23 Hamilton County letting them know about --

24 MR. COGLIANESE: Off the record for  
25 one second.

1 A. Can I just add one thing to the  
2 pollworker issue?

3 Q. Sure.

4 A. One thing about that and one of  
5 the things I realized fairly early on coming  
6 here is that we have pollworkers, many of them  
7 have been here for a number of years and they  
8 are very dedicated, wonderful people and it's  
9 not uncommon when I went out -- I'll never  
10 forget my first pollworker training class when  
11 I saw it, they did sort of that anniversary  
12 thing and who's been married this long and  
13 except the question was how long have you been  
14 a pollworker and I think we have a pollworker  
15 that stood up for like forty years and so we  
16 have -- most of our pollworkers have been  
17 pollworkers in Hamilton County and they are  
18 very, very dedicated people and are certainly  
19 not perfect, but I'm very, very proud of their  
20 efforts and what they do every day.

21 Q. How easy would it be to tell those  
22 folks who have been pollworkers, for example,  
23 for forty years, don't worry about voter ID,  
24 it's been struck as unconstitutional, just go  
25 back and do it the way you have done it for the

1 (Thereupon, an off-the-record  
2 discussion was had.)

3 Q. I would like to talk to you a  
4 little bit about that sixty day notice. How  
5 many notices -- how many pieces of mail did the  
6 Hamilton County Board of Elections send out for  
7 this November, 2006 general election?

8 A. Over five hundred and sixty  
9 thousand pieces.

10 Q. Of that five hundred and sixty  
11 thousand, do you know how many came back to the  
12 board as undeliverable?

13 A. Over a hundred and twenty-five  
14 thousand pieces.

15 Q. For purposes of the 2006 general  
16 election, you said you got approximately four  
17 thousand pollworkers?

18 A. Yeah. It's a little bit shy of  
19 that, but that's about right.

20 Q. Do you know how many of those are  
21 new first time pollworkers?

22 A. As I sit here, I do not.

23 Q. I want to talk to you a little bit  
24 about -- Miss Gentry was asking you about a  
25 military ID issue.

1 last thirty-eight years?

2 A. Well, I mean --

3 Q. If that order were to come out --  
4 let's say the end of the day on Wednesday or  
5 Thursday morning the order were to come out  
6 striking voter ID, how difficult would it be  
7 for pollworkers even if they had been around a  
8 long time to go from we've been trained this  
9 way with this intensive training to just go  
10 back then to the old system?

11 A. Well, we have to do what we have  
12 to do and I'll follow any directive or judge's  
13 order. I certainly am not looking forward to  
14 that, although I think they are very competent.  
15 We have had a very intense training and, in  
16 fact, in Hamilton County we have trained for  
17 the May election, for the August election, for  
18 the November election and so some of these  
19 people have had training for twelve hours.  
20 Obviously not all about ID, but many of them  
21 about ID for the last two races, probably ten  
22 to twelve to fifteen percent, so we'll do what  
23 we have to do, obviously. It would not be easy  
24 though.

25 Q. I would like to talk to you about

1 military ID's. Miss Gentry asked you about a  
 2 situation where somebody gives a pollworker  
 3 military ID and I believe your answer was we'll  
 4 give them a provisional ballot. The ID has a  
 5 Social Security number on it. What will the  
 6 Hamilton County Board of Elections do with that  
 7 provisional ballot?

8 A. If that's a military ID?

9 Q. Yes, sir.

10 A. Everything else being --

11 Q. Everything, he votes in the right  
 12 precinct --

13 A. We'll count it.

14 Q. The only issue specifically with  
 15 this voter is ID and it was a military ID,  
 16 Social Security number on it.

17 A. We would not only count it in the  
 18 military ID, we would count it in every other  
 19 situation of a provisional ballot also under  
 20 those circumstances.

21 Q. So although they're voting a  
 22 provisional, it's your belief that provisional  
 23 will count?

24 A. Absolutely.

25 Q. Mr. Williams, how many absentee

1 Obviously not perfect, but I think we do a  
 2 pretty good job, so we try to at the  
 3 application stage get a handle on it if we can.

4 Q. And are you aware of any  
 5 consistent problems that your board has  
 6 experienced as it relates to just the  
 7 application for absentee ballots?

8 A. No.

9 Q. How many absentee ballots has the  
 10 board received in to date? Not applications,  
 11 but the completed ballots.

12 A. Not an exact figure, but  
 13 twenty-two or twenty-three thousand.

14 Q. And are you aware of any  
 15 consistent problem that the Board of Elections  
 16 has experienced as it relates to those ballots  
 17 coming in?

18 MS. GENTRY: Objection.

19 THE WITNESS: No. I mean, I think  
 20 you have -- there are instances where people fail  
 21 to sign the ID envelope. We have -- you know, I  
 22 looked at this the other day and I don't have the  
 23 actual figure in front of me, but I have thought  
 24 when I looked at this, in terms of ID issue with  
 25 the driver's license number on the picture, I want

1 ballot applications has the Hamilton County  
 2 Board of Elections received to date for the  
 3 2006 general?

4 A. About forty-two, forty-three  
 5 thousand.

6 Q. Are you aware of any issues, any  
 7 problems that the Hamilton County Board of  
 8 Elections has experienced because folks did not  
 9 send in appropriate identification with their  
 10 absentee ballot application?

11 A. We talking application?

12 Q. Yes, let's start with  
 13 applications.

14 A. Like I say, in our form we have in  
 15 the right-hand corner a box and it says call  
 16 one and call two and then letter. So we make a  
 17 point of getting the mail in, the requests in  
 18 and having people sort out the goods from the  
 19 bads, you know, if there's an ID issue. We  
 20 then deliver -- the vast majority are okay. We  
 21 take the ones we believe there's an issue with  
 22 and put elections officials on that to try to  
 23 resolve that at the application stage to try to  
 24 minimize problems down the road, and so we've  
 25 been I think pretty effective in that respect.

1 to say it was like -- you know, I think it's  
 2 sixty-three, but I just can't -- I'm not sure  
 3 about that. As I said, I just don't have that in  
 4 front of me right now.

5 MR. STEVENSON: Rich, do you want me  
 6 to hand him the objections we issued on the  
 7 subpoena to refresh his recollection on that?

8 MR. COGLIANESE: I don't have a  
 9 problem with that. Ms. Gentry, do you --

10 MS. GENTRY: That's fine. If we  
 11 could state for the record what numbers those are.  
 12 I believe at the end you have a number.

13 MR. STEVENSON: Yes, we did. It's an  
 14 objection that I entered with respect to the  
 15 original subpoena duces tecum.

16 MS. GENTRY: If that refreshes his  
 17 recollection, if he could just read that into the  
 18 record.

19 MR. STEVENSON: It's my letter dated  
 20 October 27th, 2006 to you.

21 THE WITNESS: Okay, at the point of  
 22 the letter we had about eighteen thousand ballots  
 23 cast -- returned. Excuse me. We had a hundred  
 24 and thirty-three identification issues at that  
 25 point total. Seventy where no ID whatsoever was