

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 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 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 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 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 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 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 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 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 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 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 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 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

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

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

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