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

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

MS. GENTRY: Same objection.

THE WITNESS: Well, those -- you
know, those are certainly changes. I guess on the
one directive, on 78 I'm not sure whether it's an
omission or not in regard to the AB, but in regard
to the other items, you know, I can -- I guess to
some extent, you know, a six month rule or
something like that is certainly a less
significant change than throwing everything out at
this point. We have not seen the problem of this
old document issue to my understanding in Hamilton
County. My staff is very good about bringing
things to me in regard to stuff and I'm not aware
of seeing this. We had a hundred and twenty-four
precinct election in August. We did not see an
issue with old documentation there. So I think we
have a little bit more experience than some of the
other counties perhaps in what kind is actually
presented out in the polls and we just didn't see
this as a material problem.

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

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

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

A. We have sent a letter in the form
of a card as required by the legislature, but
we have actually done that in prior elections
before it was a mandate. We sent out a card to
every registered voter in the county with their
precinct, their polling location, directions to
the polling location, the -- I think I
mentioned voting districts, ID requirements on
there in big bold print. We actually put a
small picture of the ballot on the piece also
so it's a bit of outreach, in other words, how
to vote correctly.

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

Also there's been heavy media
contact on the ID issues, our system, the means
of voting on our system, from all major media
outlets. I have been on many radio stations
for prolonged periods of time including
actually the Buzz and some other minority radio
stations talking about voter ID, talking about
the appropriate manner to vote, you been, how
to vote the specific ballot, where to vote,
talking about the website that we have, you
know, touching on anything that we can possibly
think of from even going out to Kroger stores
to do outreach. Our outreach has even gone to
the Butler County Justice Center to vote jailed
individuals in Butler County who are there on a
transfer from Hamilton County so I don't think
we spare any expense in Hamilton County with
the lengths we go to help people to vote and to
educate people to vote.

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

A. I think I touched on that with
just my last comments. You know, we have an
outreach program that, you know, goes into the
city, is very effective in presentations. Any
group that we can touch, we attempt to do so.
We have -- as I indicated, the voter piece goes
out to everyone. We have -- I can't tell you
how many community groups, neighborhood groups
that we've been out to physically giving them
demonstrations on our machine, how to vote,
talking about ID requirements, you know, again,
back to the utility bill inserts, the talking
on minority radio stations. I mean, it goes on
and on and on.

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

A. Yes, I did.

Q. Can you just go ahead and explain
to me your experience and the experience of the
Hamilton County Board of Elections as a result
of initially the order that came out from the
district court at I believe 1:00 in the morning

on Monday morning, the day before the election,

and then the stay order from the Board of

Appeals I believe 5:30 the morning of the

election? Can you kind of run me through what

effect that had on the Hamilton County Board of

Elections?

MS. GENTRY: I'll have a continuing

objection on this line of questioning on the basis

of relevance. Go ahead.

THE WITNESS: Thank you. It makes it

extraordinarily difficult for us to manage

through, to give information to the public on what

is and is not allowed. My thought on all of this

is if we don't know what the rules are I can't

educate the public and I can't educate the

pollworkers. Examples of this are when we are in

public situations and the press is asking us about

what happens, you know, the rule is on, the rule

is off, the rule is on. Challenges are in,

challenges are out, challenges are back in.

Observers are in, out, they are back in. It leads

to a very, very bewildering election and it -- it

certainly doesn't engender confidence in our

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

And I'll give you an example. We had
actually some people in the past go on the radio
on certain stations and say on a citywide
ballot -- say vote for all the African-American
candidates on the ballot, and this comes from
people in the community, and the problem is if you
can vote for nine and there are twelve
African-Americans and you vote for twelve, you
create an overvote situation. We actually have to
call out to the media and call them to try to stop
those kinds of things from going on. It creates
very, very difficult times for us, and my belief
is that when these issues exist and there's a
fundamental disagreement, and it could be
absolutely good faith, I don't question anybody's
faith in any of this, but it's the timeliness of
these issues that create great difficulties for
the board. We have a railroad to run and we have
to -- you know, train four thousand people,
distribute to five hundred and fifty polling
locations with eight hundred and eighty precincts.
We have to understand what the rules of the game
are in some fashion to put on an orderly election
and if the rules keep changing, it's not
necessarily fair to anybody in an election and so
we believe that these matters should be handled
way prior to an election or post election so we
can look at this with empirical data and really
come to good understanding of what is and is not
true and what is or what is not -- what are the
problem areas that need to be fixed.

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

Q. Mr. Williams, when in your opinion
as director of the Hamilton County Board of
Elections do you really need to know when the
rules are set so that you can run an orderly
election?

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

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

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

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

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

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

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

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

MR. COGLIANESE: Off the record for one second.
(Thereupon, an off-the-record discussion was had.)

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

A. Over five hundred and sixty thousand pieces.

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

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

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

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

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

A. As I sit here, I do not.

Q. I want to talk to you a little bit about -- Miss Gentry was asking you about a military ID issue.
A. Can I just add one thing to the pollworker issue?

Q. Sure.

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

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

A. Well, I mean --

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

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

Q. I would like to talk to you about
military ID's. Miss Gentry asked you about a
situation where somebody gives a pollworker
military ID and I believe your answer was we'll
give them a provisional ballot. The ID has a
Social Security number on it. What will the
Hamilton County Board of Elections do with that
provisional ballot?

A. If that's a military ID?
Q. Yes, sir.

A. Everything else being --
Q. Everything, he votes in the right
precinct --

A. We'll count it.

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

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

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

A. Absolutely.

Q. Mr. Williams, how many absentee
ballot applications has the Hamilton County Board of Elections received to date for the 2006 general?

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

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

A. We talking application?

Q. Yes, let's start with applications.

A. Like I say, in our form we have in the right-hand corner a box and it says call one and call two and then letter. So we make a point of getting the mail in, the requests in and having people sort out the goods from the bads, you know, if there's an ID issue. We then deliver -- the vast majority are okay. We take the ones we believe there's an issue with and put elections officials on that to try to resolve that at the application stage to try to minimize problems down the road, and so we've been I think pretty effective in that respect.
Obviously not perfect, but I think we do a pretty good job, so we try to at the application stage get a handle on it if we can.

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

A. No.

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

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

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

MS. GENTRY: Objection.

THE WITNESS: No. I mean, I think you have -- there are instances where people fail to sign the ID envelope. We have -- you know, I looked at this the other day and I don't have the actual figure in front of me, but I have thought when I looked at this, in terms of ID issue with the driver's license number on the picture, I want
to say it was like -- you know, I think it's sixty-three, but I just can't -- I'm not sure about that. As I said, I just don't have that in front of me right now.

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

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

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

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

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

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

THE WITNESS: Okay, at the point of the letter we had about eighteen thousand ballots cast -- returned. Excuse me. We had a hundred and thirty-three identification issues at that point total. Seventy where no ID whatsoever was
provided and sixty-three appeared to have an issue
with the photo number on the driver's license.

Q. Mr. Williams, do you know how many
ballots that have been returned failed to
include a signature of the voter?

A. I believe it is a larger number
than one thirty-three, but I don't know what
that is.

Q. And just so it's clear in the
record, even prior to the passage of House Bill
3, an absentee ballot would be rejected by a
county Board of Elections if that absentee
ballot did not have a signature from the
purported absentee voter; is that correct?

A. That's correct, and that was one
of the larger reasons for rejection in 2004.

Q. I apologize for jumping around
with you, but something that kind of intrigues
me a little bit. You said there were a hundred
and twenty-five thousand out of your five
hundred and sixty thousand registered voters
whose mail came back, sixty day notice came
back as not deliverable to that address?

A. Yes.

Q. Have you guys done anything to try
1 and track those folks down?
2 A. No.
3 Q. Are these -- in your experience
4 that hundred and twenty-five thousand, are
5 those folks who generally move county to
6 county, precinct to precinct so they would be
7 in the absentee -- or I'm sorry, in the
8 provisional ballot group?
9 MS. GENTRY: Objection. Calls for
10 speculation. Go ahead.
11 THE WITNESS: Yeah, I would say a lot
12 of those people have certainly moved so, you know,
13 I guess that would put them in a provisional
14 class.
15 MR. COGLIANESE: Can we take just a
16 second?
17 (Pause in proceedings.)
18 MR. COGLIANESE: Mr. Williams, I
19 don't have anything further. Thank you very much
20 for your time.
21 FURTHER CROSS-EXAMINATION
22 BY MS. GENTRY:
23 Q. Mr. Williams, before I begin my
24 questioning, could you please identify Williams
25 Exhibit 1 for the record?
A. Yes, I have it in my hand.
Q. What is it?
A. Directive 2006-78, October 26, '06, a directive from the Secretary of State indicates important election issues.
Q. Thank you. Turning first to the issue of the eighteen thousand ballots, you said seventy don't have ID and sixty-three have a photograph number; is that right?
A. Right.
Q. Is that a comprehensive analysis or is that just based on whatever information you have been able to glean from the outside of the ballots?
A. That would be what's on the outside of the ballot.
Q. And is it true that you haven't opened the ID envelope or opened the ballot to see what people put inside?
A. Correct.
Q. So you don't know as you sit here the total ID problems with the eighteen thousand ballots?
A. It would be -- the ID would be -- numbers would be less than I mentioned.