

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

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 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 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 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

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

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

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

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

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 (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 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 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 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 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 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

1 provided and sixty-three appeared to have an issue
2 with the photo number on the driver's license.

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

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

9 Q. And just so it's clear in the
10 record, even prior to the passage of House Bill
11 3, an absentee ballot would be rejected by a
12 county Board of Elections if that absentee
13 ballot did not have a signature from the
14 purported absentee voter; is that correct?

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

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

24 A. Yes.

25 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?

1 A. Yes, I have it in my hand.

2 Q. What is it?

3 A. Directive 2006-78, October 26,
4 '06, a directive from the Secretary of State
5 indicates important election issues.

6 Q. Thank you. Turning first to the
7 issue of the eighteen thousand ballots, you
8 said seventy don't have ID and sixty-three have
9 a photograph number; is that right?

10 A. Right.

11 Q. Is that a comprehensive analysis
12 or is that just based on whatever information
13 you have been able to glean from the outside of
14 the ballots?

15 A. That would be what's on the
16 outside of the ballot.

17 Q. And is it true that you haven't
18 opened the ID envelope or opened the ballot to
19 see what people put inside?

20 A. Correct.

21 Q. So you don't know as you sit here
22 the total ID problems with the eighteen
23 thousand ballots?

24 A. It would be -- the ID would be --
25 numbers would be less than I mentioned.