it is an ascertainable number.

Q. Would that number include problems such as the absentee voter forgetting to sign the ballot, or do you separate those numbers out?

A. We can -- we are in the process of segregating the identification envelopes by all of the different problems or occurrences that we may be observing. So we will be able to know the number of ID envelopes that came back with the wrong form of driver's license number, we will be able to know the number for no ID, no signature, any combination of the things; people that say that the ID -- that the copy is inside, we will be able to know all those numbers.

Q. How many people did you have to go back to because they failed to submit proper identification when they sent in the application for a ballot? You said that number was independent of the 93,000. Do you know how many people fell in that category?

MR. PICCININNI: Objection. Asked and answered.

Go ahead and answer it again.

THE WITNESS: I don't recall the specific number, and would hate to speculate, but
it is an ascertainable number.

BY MR. COGLIANESE:

Q. Okay. Franklin County Board of Elections -- is it your understanding, Mr. Dams Schroder, that the Franklin County Board of Elections is obligated to follow the Directives issued by the Secretary of State?

A. As the Director of the Board, we are obligated to follow the laws of the Ohio Revised Code, the Federal Statutes, and Directives from the Secretary of State.

Q. So it is your understanding, for example, that the Franklin County Board of Elections, generally, as a Board, and you specifically, as Executive Director of that Board, would be obligated to follow Directive 2006-78?

A. Correct.

Q. So, for example, on Page 3 of that Directive --

(Difficulty in telephonic transmission.)

MR. PICCININNI: Please rephrase or repeat the question, Rich.

MR. COGLIANESE: Just waiting for
the feedback to stop so you guys can hear me.

   MR. PICCININNI: Okay.

BY MR. COGLIANESE:

   Q. The Directive, for example, on Page 3, defines current. The Franklin County Board would be obligated to follow that definition, that's your understanding; is that correct?

   A. Unless -- that is correct, with the exception of unless we received counsel from the Franklin County Prosecuting Attorney that's contrary to the Directive, or if a Court orders us to do something other than what the Directive says.

   Q. And the same would be true for the definition of government documents?

   A. Yes, with the exception being counsel to the contrary from the Prosecuting Attorney or direction to the contrary from a Court.

   Q. I don't want to get -- you to get into any discussions that you may have had with Mr. Piccininni, Mr. Soulas, Mr. O'Brien or anyone else from the Franklin County Prosecutor's Office, so forget about that exception. But, currently, there is nothing out there that would
countermand in any way Franklin County from operating under 2006-78; correct?

A. That is my understanding.

Q. Did Franklin County have any Special Elections in August 2006?

A. Yes, within the Reynoldsburg Local School District -- no, I am sorry, it was the City of Reynoldsburg. City of Reynoldsburg had an income tax increase question on the ballot.

Q. Did the Franklin County Board of Elections first apply the absentee ballot laws, as written in House Bill 234 and House Bill 3, to that Special Election?

A. The Franklin County Board of Elections first applied the no-fault absentee provisions of House Bill 234 in the February Special Election in the New Albany Local School District, and first applied the identification -- the election day identification provisions of House Bill 3 at the August Special Election in the City of Reynoldsburg.

MR. PICCININNI: Hold on one second. I need to confer with my client briefly. (Thereupon, an off-the-record discussion was held.)
MR. PICCININNI: Rich?

THE WITNESS: I want to clarify that

statement, if I could.

BY MR. COGLIANESE:

Q. Go ahead.

A. That the -- that the identification

requirements for absentee voters were a part of

House Bill 234, and so they were also in effect

for the May Primary. As I recall, the only

change to -- House Bill 3 made to the absentee

identification requirement was that it added

military ID with name and current address.

Q. And, Mr. Damschroder, as executive

Director of the Franklin County Board of

Elections, are you aware of any problems or

issues that resulted in any of those elections

that you have mentioned as it relates to the ID

provisions for no-fault absentee voters?

A. In the May Primary, approximately 3

percent of the absentee ballots that were

returned to the Board of Elections were not able

to be counted for one reason or another. Those

reasons would have been, you know, not having

signed the ID envelope, not providing the

identification as required, or as providing a
driver's license number other than the proper
driver's license number.

Q. In the August Special Election in
the City of Reynoldsburg, the voter ID provisions
for folks that cast the ballot in person was in
effect?

A. That is correct.

Q. Are you aware of any issues that
resulted from folks having to identify
themselves, as defined in House Bill 3, in
polling places during that election?

A. My only specific knowledge was that
one voter who appeared at the polls had to cast a
provisional ballot, as a result of not having
sufficient identification at the time he
presented himself to vote at the polls on the
election day.

Q. Do you know what kind of
identification that person presented?

A. My recollection is that that person
did not have any of the qualifying forms of
identification on their person at the time they
presented to vote. And at the time they cast a
provisional ballot, it is my recollection that
they provided the last four digits of their
Social Security number.

Q. Do you know if, as a result of providing the last four digits of their Social Security number, if that provisional ballot was counted?

A. That is my recollection.

MR. PICCININNI: Rich, is there a pending question?

MR. COGLIANESE: No, there is not. I am just kind of skimming through my notes right now.

MR. PICCININNI: All right. I just wanted to check. There seemed to be an unusually long lull.

BY MR. COGLIANESE:

Q. Mr. Damschroder, I would like to talk to you a little bit more, actually, about Directive 2006-78. Go ahead and turn to the second page, bottom -- under that no-fault absentee identification.

A. Okay. I have got it in front of me.

Q. Now, when we are dealing in the second category, if the absent voter's ballot is cast in person, and the elector marks the ballot in a voting compartment provided by the Board, I
would like to talk to you about that provision. Currently, can you please tell me how Franklin
County first handles folks who want to vote absent, want to vote early, but show up at the
ballot to get the ballot and drop the ballot off.

A. If the person is going to apply to
vote and vote at the same time, while they are
here, they will complete the application for
absent voter's ballot, as developed by the
Franklin County Board of Elections.

After they have completed that
application, they will give it to one of our
clers, who will then key in that information to
our system, determine their ballot style number,
issue an authority to vote slip.

The voter will then approach one of
the direct recording electronic voting machines,
assisted by one of our clerks, and then will cast
their ballot using that electronic voting
machine.

Q. Okay. So when the voter is filling
the absentee ballot application out, they are
going to need to give the last four digits of
their Social Security number or their driver's
license number on that; is that right?
1. A. The application includes a space for
2. the last four digits of their Social Security
3. number, their -- or their driver's license
4. number, or it advises them that they can provide
5. a copy of one of the other qualifying forms of
6. identification that contains their name and
7. current address.
8. Q. Okay. But they are filling out the
9. exact same form that somebody would fill out if
10. they sent a form to you and said, please mail us
11. a ballot; is that right?
12. A. That is correct.
13. Q. And the identification that they are
14. obligated to provide is the same as the person
15. that would mail a form in and say, send me a
16. ballot; is that correct?
17. A. In practice, yes.
18. Q. Now, you said that if they want to
19. vote in person, they vote on a DRE, an electronic
20. voting machine. I am going to assume that if you
21. mailed a ballot to somebody's house, who happened
22. to live in Franklin County, you probably would
23. not mail a DRE to that person; is that a fair
24. assumption?
25. A. That is an accurate assumption.
Q. What would you mail?
A. We mail a paper ballot that permits the voter to indicate their -- their vote by filling in bubbles. Those paper ballots are then optically scanned at the Board of Elections on the day of the election.
Q. Okay. And then when they mailed that optical scan ballot back to you, they would be obligated to put that ballot in an envelope, fill the envelope out with, again, their identification information and signature; is that right?
A. That is correct. That is called the identification envelope. And then the identification envelope is put inside of a mailing envelope, posted and returned to the Board of Elections.
Q. You can't put an envelope over a DRE for somebody to vote; is that right?
A. That is correct.
Q. So they are still going to have to provide some form of identification at that point; is that fair?
A. I guess -- restate your question.
Q. They are still -- so if there is a
difference, would it be, say, that a difference
would have to exist because you cannot put an
envelope over a DRE and mail it back in to the
Board?
A. That is correct.
Q. Mr. Damschroder, has the Franklin
County Board of Elections done its 60-day
mailing?
A. Yes, it did.
Q. And for clarification in the record, could you please just go ahead and tell us what
the 60-day mailing is.
A. House Bill 3 requires each county
Board of Elections to mail to every registered
voter in their county a notice, no later than the
60th day before elections, specifically stated in
the statute, notifying the voter of the voter
identification provisions contained in House Bill
3.
Q. How many registered voters does
Franklin County currently have?
A. A few more than 760,000. I don't
recall the precise close-of-registration number.
Q. So would it be fair to say that for
purposes of the 60-day mailing, you mailed out
1 about 750,000 pieces of mail?
2
3 A. That would be accurate.
4
5 Q. How many of those pieces of mail
6 came back because they were nondeliverable to the
7 address they were mailed to?
8
9 A. I don't recall the exact number, but
10 it is ascertainable.
11
12 Q. Would it be over a hundred thousand?
13
14 A. Yes, the number was over 100,000.
15
16 Q. Mr. Damschroder, I remember reading
17 some articles in the paper, going up into the
18 2004 election, specifically about Franklin
19 County. I remember reading one article that said
20 Franklin County had more registered voters than
21 it did adults over the age of 18, if one looked
22 at the United States Census figures for this
23 county for 2004. Would you agree with that
24 statement?
25
26 A. I recall seeing those news reports.
27
28 Q. Do you know how many people were
29 registered as voters in Franklin County for the
30 2004 General Election?
31
32 A. 847,000 and change.
33
34 Q. Why are we down about a hundred
35 thousand voters from 2004 to 2006?
A. There is a very long explanation going back to 1999. The Board of Elections changed voter registrations systems, that is, the database and the software system that we used to keep track of our voters. At the time the conversion took place, the transfer of data lost all of the tracking information for voters who were on inactive status under the National Voter Registration Act. At that time, the Board of Elections determined to reset the time for -- the time clock for all NVRA inactive voters. And so in 2004, the rolls were knowingly artificially inflated as a result of carrying a large number of inactive voters that, under normal circumstances, would have been purged under the National Voter Registration Act in 2001 and 2003. 2005 was the first time since that 1999 conversion that we purged any voters in Franklin County under the National Voter Registration Act. And we purged, if memory serves, over 150,000 voters from the roles.

MR. COGLIANESE: Let's go off the record for a second.

MR. PICCININNI: Okay.

(Recess taken.)