MR. COGLIANESE: Just a couple of questions about provisional balloting.

BY MR. COGLIANESE:

Q. First of all, Mr. Damschroder, Franklin County used provisional balloting in the General Election in 2004; is that correct?

A. Correct. We had provisional ballots available to voters at the Board of Elections to vote in person and in the precincts on election day.

Q. Do you know the total number of votes cast in Franklin County in 2004 in the General Election, not counting provisional ballots?

A. I don't remember the specific number and would hate to speculate.

Q. It's an ascertainable number?

A. Yes, absolutely.

Q. And is the number of provisionals cast in Franklin County in 2004 ascertainable?

A. Absolutely.

Q. Do you know what the percentage of provisionals that were ultimately accepted in the 2004 General Election in Franklin County were?

A. I don't know the exact number, but
it is ascertainable. My recollection is, though,
that the percentage counted in Franklin County
was the highest percentage counted anywhere in
the State of Ohio.

Q. Can you describe for me the steps
that the Franklin County Board of Elections took
to ascertain the status of a provisional ballot
in the 2004 General Election?
A. Generally, the process was that we
took the identification envelope in which the
provisional voter had enclosed their voted
ballot, and on which they are provided specific
required information. That information included
their current address, their former address, date
of birth, Social Security or driver's license
number, and a signature affirming the
statement -- the preprinted statement thereon.

When the Board of Elections
evaluated those envelopes, we used the records of
the Franklin County Board of Elections,
specifically, our voter registration database,
and actual physical or actual electronic images
of the voter registration cards provided by the
voters.

We also faxed copies of the
envelopes to other county -- other Ohio county
Boards of Elections that the voter had
represented to us on the envelope as having been
previously registered in that county, and then in
certain instances we also looked to the then very
fledgling state voter registration database to
see if any information could be culled from it.

Q. Do you train your poll workers on
provisional ballots?

A. Yes.

Q. And, in fact, if we went to what had
previously been marked as Damschroder Exhibit 3,
starting on Page 54, we would see what you
trained your precinct workers on regarding
provisional ballots; is that right?

A. Let me turn to Page 54. Yes.

Q. Do poll workers assist a
potential -- let me try that in English. Do poll
workers assist a potential provisional ballot
voter, when he or she comes to the precinct, in
filling out the information on the envelope of
the provisional ballot?

A. They are -- poll workers are
instructed to assist potential provisional ballot
voters in the completion of their application.
Q. And would that include instructing the provisional -- the potential provisional voter about the importance of supplying, if need be, additional information to the Franklin County Board of Elections within ten days after the election?

A. The application for provisional ballot is a two -- is a carbon-copied formed, one copy of the application that is given to the provisional voter. On that form is the Secretary of State-prescribed document that we call the provisional voter's list of rights and responsibilities, that informs the provisional voter in writing of their right to appear in person at the Board of Elections within ten days after the election to provide additional identification information so that their provisional ballot can be counted.

Q. And you did that in November 2004; right?

A. No, the required -- the provision for ten days for -- ten days after the election for a provisional voter to append their information, as I recall, did not exist in 2004.

Q. You're planning on, though,
providing that information to all potential provisional ballot casters, I guess, for purposes of November 2006?

A. That is correct. And the same information was provided to voters in the August Special Election for the City of Reynoldsburg.

MR. COGLIANESE: I don't believe I have any more questions.

Holly is here on behalf of the Intervenor, State of Ohio, and I don't know if she has any more questions.

MS. HUNT: I have no questions.

THE WITNESS: I would like to, if I could, just make the statement for the record that the document to which I referred in my last question about the information provided to the provisional voter about the opportunity to appear at the Board of Elections during the ten days after the election, a copy of that notice appears on Page 122 of the Precinct Election Officials Training Manual.

BY MR. COGLIANESE:

Q. Matt, was that you that said that?

A. That is correct.

Q. Okay. Thank you.
MR. PICCININNI: Now, it's my understanding Holly has no additional questions?

MS. HUNT: I have one follow-up.

Just one issue. I promise to be brief -- I know, but I will be brief.

CROSS-EXAMINATION

BY MS. HUNT:

Q. You described the process you went through in 2004 to validate provisional ballots. At that time the voter identification requirements were not in effect; is that true?

A. That is correct.

Q. Okay. Are you planning to make any changes to that process this year because the voter identification requirements are in effect?

A. No.

MS. HUNT: That's all I have.

MR. PICCININNI: I am sorry, what was that?

MR. COGLIANESE: Thanks a lot, guys.

MR. PICCININNI: He will read.

MS. GENTRY: We are going to need a copy. I understand that you want to read and sign, but we are going to need to use a copy on Wednesday, so we are going to order a transcript
and have it delivered tomorrow.

MR. COGLIANESE: I would like a copy, please.

MS. HUNT: Not at this time, thank you.

(Thereupon, the deposition was concluded at 2:39 o'clock p.m.)
I, MATTHEW M. DAMSCHRODER, do hereby certify that the foregoing is a true and accurate transcription of my testimony.

Dated _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ 

Page 76
STATE OF OHIO

COUNTY OF MONTGOMERY ) SS: CERTIFICATE

I, Beverly W. Dillman, a Notary Public
within and for the State of Ohio, duly
commissioned and qualified,

DO HEREBY CERTIFY that the above-named
MATTHEW M. DAMSCHRODER, was by me first duly
sworn to testify the truth, the whole truth and
nothing but the truth; that said testimony was
reduced to writing by me stenographically in the
presence of the witness and thereafter reduced to
typewriting.

I FURTHER CERTIFY that I am not a
relative or Attorney of either party nor in any
manner interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set
my hand and seal of office at Dayton, Ohio, on
this 31st day of October, 2006.

[Signature]

BEVERLY W. DILLMAN, RPR, CRR
NOTARY PUBLIC, STATE OF OHIO
My commission expires 3-7-2007.
DIRECTIVE 2006-78
October 26, 2006

To: ALL COUNTY BOARDS OF ELECTIONS
   Members, Directors and Deputy Directors

IMPORTANT ELECTION ISSUES

To ensure that the November 7 elections are conducted uniformly throughout the State, I am issuing this directive to instruct the boards on some important election procedures which all election officials must follow and enforce.

Voter Identification on Election Day

On election day, voters must bring identification to the polling place to vote in accordance with R.C. 3505.18(A) in order to verify identity. Identification may include a military identification that shows the voter's name and current address, a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and current address of the voter, except that a notice mailed by a board of elections under R.C. 3501.19 or R.C. 3503.19 cannot be used.

If the voter provides either a driver's license or state identification card issued under R.C. 4507.50 that does not contain the voter's current residence address the voter is to provide the last four digits of the voter’s driver’s license number or state identification number and the precinct election official is to mark the poll list or signature pollbook to indicate that the elector has provided a driver's license number or state identification card number with a former address and record the last four digits of the voter’s driver’s license number or state identification number.

If the voter does not have any of the forms of identification listed above, but the voter has a social security number, the voter may provide the last four digits of the social security number. The voter then will cast a provisional ballot under R.C. 3505.181. The envelope of the ballot shall include the numbers from the social security information.

If the voter has but is unable to provide one of the forms of identification above and is unable to provide the last four digits of the social security number but does have a social security number the voter may cast a provisional ballot under R.C. 3505.181. If the voter does not have any of the forms of identification noted above and cannot provide a social security number because the
voter does not have a social security number, the voter may execute an affirmation under penalty of election falsification that the voter cannot provide the identification required or the last four digits of the voter's social security number for those reasons. Upon signing the affirmation, the voter may cast a provisional ballot under R.C. 3505.181. The affirmation in accordance with R.C. 3505.18(A)(4), must contain spaces for the voter's name, address, current date, date of birth of the voter and signature.

If the voter does not have any of the forms of identification required, cannot provide the last four digits of the voter's social security number because the voter does not have a social security number, and if the voter declines to execute an affirmation, the voter may cast a provisional ballot, the envelope of which shall have the voter's name.

If an elector has but declines to provide the precinct election officials any of the forms of identification required above or the voter has a social security number but declines to provide the information on the last four digits of the social security number, the voter may cast a provisional ballot.

**NO FAULT ABSENTEE IDENTIFICATION AT POLLING LOCATION OR BY MAIL**

Pursuant to R.C. 3509.03 and R.C. 3509.05, a voter voting by absentee ballot must, on the application for absentee ballot, provide the voter's full driver's license number, rather than the last four digits of the driver's license number as required pursuant to R.C. 3505.18; and

If the absent voter's ballot is mailed and the voter does not provide either the driver's license number of the last four digits of the voter's social security number, then the voter must include in the return envelope a copy of the elector's current valid photo identification, a copy of a military identification that shows the elector's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice mailed by a board of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the name and address of the elector (but not necessarily the name and current address of the elector, as is required pursuant to R.C. 3505.18 for voter's voting on election day).

If the absent voter's ballot is cast in person (i.e., it is delivered to an elector at the office of the board and the elector marks the ballot in a voting compartment provided by the board (pursuant to R.C. 3509.05)), the voter must present to the director of the board a current valid photo identification (or a copy of same), a military identification that shows the elector's name and current address (or a copy of same), or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the name and address of the elector (but not necessarily the name and current address of the elector, as is required pursuant to R.C. 3505.18 for voter's voting on election day).
DEFINITIONS OF CERTAIN TERMS USED IN THE ABOVE CITED STATUTES

"Current"

The reference in the statutes to the "current" status for ID documents presented in the statute(s) related to voter identification, including R.C. 3505.18, is a document, which is dated not more than six months from the date that it is presented to the election official. For purposes of those documents that are provided on election day, for instance, the date of the document presented should be no earlier than April 7, 2006.

"Government Document"

As used in the Statutes, "government document" means any local, state or federal government document that shows the voter's name and current address.

CLARIFICATION REGARDING "DRIVER'S LICENSE NUMBER"

A driver's license or state identification card that does not contain the current address of the voter is acceptable for use as an ID document. The procedure as stated above is that the voter is to provide the last four digits of the driver's license number or state identification number and the precinct official is to mark the poll list or signature pollbook to indicate that the elector has provided a driver's license or state identification card number with a former address and record the last four digits of the driver's license or state identification card.

A driver's license contains a field, which states, "License No." on the document. This number is the driver license number. There is another number, which is on the license located on the photograph of the voter, which is not the driver's license number. Upon the receipt of an absentee ballot, which purports to contain the driver's license number but contains the number above the photograph or some other number which is not the driver license number, acceptable proof of identity has not been provided.

If you have any question regarding these instructions, please contact the Elections Division at (614) 466-2585.

Sincerely,

Monty Lobb
Assistant Secretary of State
From: Gorup, Carolyn S
Sent: Thursday, October 26, 2006 3:22 PM
To: Damaschroder, Matthew M.; White, Dennis L.
Cc: Colton, Karen S.; Fielder, Harold E.; Hackett, Mary C.; Howell, Peggy C.; Kico, Renee M.; Patton, Carla D.; Wedekind, Michael
Subject: FW: Directive 78 - Important Election Issues

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From: Ross
Sent: Thursday, October 26, 2006 2:48:30 PM
To: Grady, Judy; All Counties
Cc: Field Staff; Quinl, Gretchen; Scott, Keith; delkona@ag.state.oh.us; Bard, Marly; Bender, Mary; Dill, Paula; Drugan, Zandra; Fields, Robin; Harrison, Alicia; Hawkins, Myra; Henderson, Serena; Lafferty, Karen; Malott, Kathy; Sherrod, Denise; Sigmond, Conni; Washington, Traci; West, Joy; Wolfe, Pat; Adams, Allen; Ashland; Ashland; Athens; Athens; Auglaize; Belmont; Brown; Butler; Carroll; Champaign; Clark; Clermont; Clinton; Clinton; Columbiana; Coshocton; Crawford; Cuyahoga; Darke; Defiance; Defiance; Delaware; Delaware; Erie; Fairfield; Fayette; Franklin; Franklin; Fulton; Gallia; Geauga; Greene; Guernsey; Hamilton; Hamilton; Hancock; Hardin; Harrison; Henry; Highland; Holmes; Huron; Jackson; Jefferson; Knox; Lake; Lake; Lawrence; Licking; Logan; Lorain; Lucas; Lucas; Madison; Mahoning; Mahoning; Marion; Medina; Meigs; Monroe; Miami; Monroe; Montgomery; Montgomery; Morgan; Morrow; Muskingum; Muskingum; Noble; Ottawa; Paulding; Perry; Pickaway; Pike; Portage; Portage; Preble; Putnam; Richland; Ross; Sandusky; Sandusky; Scioto; Seneca; Shelby; Stark; Summit; Summit; Trumbull; Tuscarawas; Union; Van Wert; Vinton; Warren; Washington; Wayne; Williams; Wood; Wyandot
Subject: RE: Directive 78 - Important Election Issues
Auto forwarded by a Rule

You have got to be kidding, this latest directive reads like a Dr. Seuss rhyme and we didn’t understand that either. Now you are saying we have to ask for the entire DL number and also the voting of election day must have a current address, but the absentee doesn’t necessarily need to have a current address. Our entire office has read this directive and are more confused than ever. The rules keep changing. No wonder the poll worker are leaving in droves, we work with this everyday & are confused. They see it a few times a year. Poll worker classes are impossible to teach with any understanding. We have 6 people reading this with 6 different takes on it. I think we all need a conference call on this, I am sure we are not the only confused ones out here in the universe. Clarify the first page, the last # 4 of the drivers license are required, then the second page, 3rd paragraph states full #. Should we be asking for photo ID from voters voting absentee in our office on the machines? Let’s have a conference call ASAP.

------Original Message------
From: Grady, Judy [mailto:jgrady@sos.state.oh.us]
Sent: Thursday, October 26, 2006 1:43 PM
To: All Counties
Cc: Field Staff; Quinl, Gretchen; Scott, Keith; delkona@ag.state.oh.us; Bard, Marly; Bender, Mary; Dill, Paula; Drugan, Zandra; Fields, Robin; Harrison, Alicia; Hawkins, Myra; Henderson, Serena; Lafferty, Karen; Malott, Kathy; Sherrod, Denise; Sigmond, Conni; Washington, Traci; West, Joy; Wolfe, Pat; Adams, Allen; Ashland; Ashland; Athens; Athens; Auglaize; Belmont; Brown; Butler; Carroll; Champaign; Clark; Clermont; Clinton; Clinton; Columbiana; Coshocton; Crawford; Cuyahoga; Darke; Defiance; Defiance; Delaware; Delaware; Erie; Fairfield; Fayette; Franklin; Franklin; Fulton; Gallia; Geauga; Greene; Guernsey; Hamilton; Hamilton; Hancock; Hardin; Harrison; Henry; Highland; Holmes; Huron; Jackson; Jefferson; Knox; Lake; Lake; Lawrence; Licking; Logan; Lorain; Lucas; Lucas; Madison; Mahoning; Mahoning; Marion; Medina; Meigs; Monroe; Miami; Monroe; Montgomery; Montgomery; Morgan; Morrow; Muskingum; Muskingum; Noble; Ottawa; Paulding; Perry; Pickaway; Pike; Portage; Portage; Preble; Putnam; Richland; Ross; Sandusky; Sandusky; Scioto; Seneca; Shelby; Stark; Summit; Summit; Trumbull; Tuscarawas; Union; Van Wert; Vinton; Warren; Washington; Wayne; Williams; Wood; Wyandot

10/28/2006

EXHIBIT

Damaschroder

2

10-3-06