Q   Oh, you said counting, not accounting?
A   That's correct, counting.
Q   But as you sit here today, you are not aware of
any procedures that you expect to apply that will be
different from 2004?
A   That's correct, not at this time.

    MS. GENTRY: Okay.

    Mr. Damschroder, let me --

    THE WITNESS: Vu.

    MS. GENTRY: I'm sorry. I've
been doing too many of these. I know
who you are. I'm sorry.

    Mr. Vu, I think that's all the
questions that I have. I'm going to
let my opposing counsel,
Mr. Coglianese, ask questions. Thank
you very much for your time.

    THE WITNESS: Thank you.

    MR. COGLIANESE: Good morning,
Mr. Vu.

    THE WITNESS: Good morning.

    MR. COGLIANESE: I'm going to be
as brief as possible. I know you guys
have got a heck of a lot of work up
there, biggest county in the state.
And I know everybody is working hard. So I will try to be as expeditious as possible.

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EXAMINATION

BY MR. COGLIANESE:

Q. How many absentee ballot applications has the Cuyahoga County Board of Elections received for the '06 general election?

A. At this stage the total number of individuals that have applied is approximately 102,000 applications.

Q. How many of those have you needed to reject because of insufficient information that came in?

MS. GENTRY: Objection. Go ahead.

A. I don't have the number to that. We have an approximate amount.

Q. Could you go ahead and give that to me.

A. Approximately 500.

Q. And is that for all reasons, including like folks not giving you their date of birth or their, you know, signing in? Or is that only because of failure to provide adequate ID?

A. The belief is that that's just dealing with the identification. The numbers that I received from staff
that dealt with all forms that you've just spoke of is approximately 1300.

Q Okay. And does that 1300 include the 500?
A Yes.

Q Okay. How many of those 102,000 applicants have actually returned absentee ballots to the board at this point?
A I want to say approximately 50,000 as of yesterday.

Q Of those 50,000, do you know how many have, for example, put the photo ID number on the ballot instead of the driver's license number as means of identification?
A I do not, no.

Q Do you have any idea of those approximately 50,000 how many have failed to adequately provide identification as required under Ohio statute?
A The request was made of staff to begin counting the number that do not comply with statute, but I do not have this number at this time. Just for purpose of clarification and because I had the ability to look it up, as of yesterday approximately 42,300 were sent back.

Q Okay. I appreciate that.

Mr. Vu, you did the 60-day mailing?
A We did.
Q And for purposes of the record, could you go ahead and describe what the 60-day mailing is.
A The 60-day mailing is a requirement by House Bill 3, which requires all boards of elections to send out a notification letting them know about a number of things: Polling location, precinct, and the voter identification rules.
Q And that mailing is sent by not forwardable mail; is that correct?
A From my understanding, yes.
Q What was the total number of documents you sent out to voters as a result of the 60-day mailing?
A Approximately over a million pieces of mail.
Q So Cuyahoga County has got more than one million registered voters? Is that what that means?
A That's correct.
Q Of that one million, how many were returned to the Cuyahoga County Board of Elections as undeliverable?
A I believe there was approximately 170,000.
Q I want to make sure that I understood your testimony to Ms. Gentry. Is it your testimony that the Cuyahoga County Board of Elections has not had an issue arise as a result of what "other government documents" means?
A Yes. It hasn't been raised as an issue, at least to the level of the directors. So at this point there has been no questions posed of me as to what "a government document" means.

Q Okay. So would it be fair to say that there are no ballots yet to be segregated into a to-be-rejected pile, because they have not provided adequate documents via the "other government document" route?

A Well, the staff is always instructed to segregate ballots according to whether they provided -- that way we can keep track of them -- as to whether there is any issue with a particular ballot based on a government document. I'm not aware of any. But that's not to say that there isn't.

Q I understand that. And would the same be true about "current" as it's used for, you know, things like "current utility bill"?

A Yes. I don't believe there is any ballots that we have rejected based on the definition of "current."

Q Okay. I'd like to talk to you briefly about the 2004 election. You were the director of the Cuyahoga County Board of Elections for that election?

A I was.

Q How many provisional ballots were voted in Cuyahoga County for that election?
A  I believe the approximate number was around 22 to
23,000.
Q  Of those 22 to 23,000, do you know how many were
accepted or what the acceptance rate was, if you have
it as a percentage?
A  I can't recall the total amount that were -- I
believe that there was 8,000 rejected and 14,000 that
were counted. I could be incorrect about that, though.
Q  Do you recall what the issues were as to why
provisional ballots were rejected, what the problem
that seemed to be most prevalent?
A  The two -- well, the largest reason that I recall
is the person was not registered at that precinct.
That was the largest reason for rejection.
Q  Okay.
A  Not registered at address is what we call it.
Q  Okay. I gotcha.
A  Did Cuyahoga County hold any special election in
August of 2006?
A  Yes.
Q  How many precincts in the county held an election?
A  In August, I believe, there was 57.
Q  57 precincts?
A  I believe it was 57, yes.
Q  Did you have any issues that you are aware of
1 arise as a result of voter ID at the polling place in
2 the August 2006 special election?
3 A I was not made aware of any, no.
4 Q For the 2006 May primary the driver's license
5 and/or Social Security number aspects of identification
6 on absentee ballots were in effect. Are you aware of
7 any problems, any issues that arose as a result of the
8 identification that was required when an absentee
9 ballot was returned for the May 2006 primary?
10 A You are going to have to repeat that question.
11 Q Yeah. I apologize. Let me break it up.
12 A I don't believe that the voter identification
13 rules were applied during the 2006 May primary.
14 Q What I'm talking about is for purposes of no-fault
15 absentee voting. And no-fault absentee voting was part
16 of House Bill 234 --
17 A Oh, yes, yes. Yes.
18 Q Okay. Part of that required when somebody
19 returned an absentee ballot was to list either the last
20 four digits of their Social Security number or their
21 driver's license.
22 A That's correct.
23 Q Okay. So that for purposes of the May '06 primary
24 were you aware of any issues that arose when folks, you
25 know, were returning their ballot to the Cuyahoga
County Board of Elections?

A I can't recall if there were. I can't recall if there were any.

MR. COGLIANESE: Okay. Give us just one second.

Mr. Vu, thank you very much. I'm done.

MS. GENTRY: Mr. Vu, I just have one follow-up issue, probably be a few questions.

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FURTHER EXAMINATION

BY MS. GENTRY:

Q You testified in response to Mr. Coglianese's questions that no ballots have been rejected yet for insufficient identification. Is that a fair summary?

A That I'm aware of, that's correct. Can you read that line again for me or can you repeat that?

Q It's my understanding that you have testified that you have not rejected absentee ballots yet for lack of the proper identification. Is that correct?

A I would say that's correct, because ultimately any rejection of ballots will come during our official canvas, number one, or take place before the board. But at this time we have segregated ballots that are
questionable that need to go to the board of elections
that may deal with identifications.
Q  But as you have said, the reason you haven't
rejected any yet is because of time, not because there
are no problems?
A  That's correct. We haven't rejected any as a
result of timing, as opposed to whether or not someone
forgot to provide an identification or not.
Q  I'm sorry. My question wasn't clear. What I was
trying to ask is, the reason you haven't rejected any
yet is because you will do that later in your canvas
period; you are not doing that now, right?
A  That's correct, yes.
Q  And I believe you said earlier in the deposition
that you haven't opened the envelopes to see, for
instance, how current a utility bill is. Is that
correct?
A  That's correct. Well, I think we probably need to
get that clarified. There is an envelope that -- when
a person delivers back their ballot, their absentee
ballot, the ID envelope is contained in another
envelope. We have opened up that first envelope, but
not the ID envelope. So within that ID envelope they
may not have produced their Social Security number or
driver's license number or some other form of
identification. It might be within that ID envelope.

Q   Okay. So is it fair to say that for many of these

absentee ballots you don't know yet whether there are

ID problems?

A   That could be the case, yes.

Q   And that's because you haven't opened the ID

envelope yet?

A   That's correct.

Q   When will you open those envelopes?

A   Saturday, beginning on Saturday, this Saturday.

MS. GENTRY: Okay. That's all I

have.

MR. COGLIANESE: Actually, I did

forget. Thank you.

Mr. Vu, I apologize.

And, Carolyn, thank you.

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FURTHER EXAMINATION

BY MR. COGLIANESE:

Q   Mr. Vu, how many poll workers are there in

cuyahoga County?

A   For this election there will be over 5700 poll

workers. And then there's going to be what are known

as election day technicians.

Q   Okay. I'm aware of what poll workers are. And my
understanding is those are the folks who work the
tables or sign you in to bring you to the voting
machines.

A Yes.

Q What are the election technicians?

A The election day technicians are essentially
trained on the devices themselves, the electronic
voting unit.

Q Okay. So they will be the ones in case there is a
problem with the DRE's who will be the ones responsible
for fixing those?

A That's correct.

Q Okay. Of the 5700 poll workers, how many have
already gone through training?

A I would say two-thirds of them have.

Q And when do you expect to finish up the last
one-third of the poll workers for their training?

A This week and over the weekend.

MR. COGLIANESE: Thanks.

MS. GENTRY: Mr. Vu -- I'm sorry.

Were you done?

MR. COGLIANESE: Yes.

MS. GENTRY: Just one follow-up

question on that.

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FURTHER EXAMINATION

BY MS. GENTRY:

Q Of the two-thirds of the 5700 poll workers who have gone through training there, have they been trained on Directive 78?

A Again, most of those -- I don't know if it's most or how many individuals, but, again, the directive came out late Thursday. So I would say the majority of the individuals were not trained on Directive 78.

Q Are you planning to provide any supplemental training to those poll workers who have already been trained about Directive 78?

A There was going to be a mailer that is going to be sent out to the poll workers. The question of whether or not we move forward with 78 is yet to be decided as a result of it being in court.

Q So you don't want to make a decision yet until you see how the court proceedings turn out?

A Yes. We don't want to potentially have to reverse course on the poll workers. And we want to want to try to sub-contain it to just the board of elections at this time.

Q When are you planning to mail those instructions out to the poll workers?

A Latter part of this week.
Q  Okay. So from your point of view, when would you like to have a definitive answer?

A  Yesterday.

Q  Okay. What is the very last possible time that you can have a definitive answer and still communicate it to the poll workers?

A  I would say today or tomorrow. That way we can prepare all the documentation.

MS. GENTRY: Okay. Thank you,

Mr. Vu. I have no further questions.

There is one more from one of our counsel here.

MS. CORL: My name is Christina Corl. I'm counsel for Secretary of State Blackwell.

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EXAMINATION

BY MS. CORL:

Q  I want to know a little bit more about your poll workers. What's your turnover rate for poll workers?

A  Can you clarify as to what you mean? Is that on election day? Is it between now and election day?

Q  No. Let me tell you why I'm asking.

Out of the 57 -- let's just take this election, for instance. Out of the 5700 poll workers that you