1 intend to look at when evaluating provisional
2 ballots and their eligibility to be counted?
3 A. Yes, the signature poll book.
4 Q. Are those signatures also in your
5 county database?
6 A. Do we have a digital signature in
7 the county database?
8 Q. Yes.
9 A. We do.
10 Q. Is that duplicative of what's in
11 the poll book?
12 A. That's where it comes from.
13 Q. Why would you check both pieces of
14 information if they are duplicative?
15 A. Well, it's a lot easier if you're
16 in the database to look at the digital
17 signature on the computer than it is to go look
18 at every signature poll book. What you're
19 looking to the signature poll book to do is
20 make sure they don't vote in their old precinct
21 because if they voted twice, obviously that's
22 an issue.
23 Q. Would you just do that for people
24 who told you they moved and changed their
25 address?
1    A. That's part of the review on a
2    provisional ballot.
3    Q. In addition to signature poll
4    books, is there anything else that you intend
5    to look at?
6    MR. COGLIANESE: Objection. Go
7    ahead.
8    THE WITNESS: I guess -- you know,
9    any documents that were provided to us in the
10   provisional envelope.
11   Q. For instance, if somebody gave you
12   a utility statement or paycheck?
13   A. Right.
14   Q. And what would you be looking at
15   there, just to see that something was provided?
16   A. Yeah, name and, you know, address
17   on a government document or one of the criteria
18   that needs to be met.
19   Q. Let me take the issue of a
20   driver's license number. Do you have access to
21   the BMV records so that you can verify driver's
22   license numbers?
23   A. We do not.
24   Q. Okay. Taking a Social Security
25   number, do you have access to any database,
including but not limited to the Social
Security Administration database, that would
allow you to verify or validate Social Security
numbers?

A. No, we do not.

Q. So does that mean that you do not
have a way of verifying whether someone's
Social Security number or driver's license
number is in fact their number?

A. You know, if the statewide
database is tied into the ability to check that
out, I guess in a fashion perhaps through the
statewide database you do.

Q. Are you speculating?

A. Yes.

Q. It's true, isn't it, that you
don't know as you sit here today of any way
that you can verify a Social Security number or
driver's license number that a voter gives to
you?

A. Yes.

Q. Have there been any discussions
about that that you have been involved in that
don't involve counsel?

A. I'm just trying to think. I can't
recall anything specifically as I sit here. I mean, nothing specifically jumps out at me.

MS. GENTRY: Okay. I think I'm done at this point. Can we take a brief recess for about five minutes and then come back?

THE WITNESS: Sure.

MS. GENTRY: I think Mr. Coglianese will have questions.

(Pause in proceedings.)

CROSS-EXAMINATION

BY MR. COGLIANESE:

Q. Mr. Williams, I've got a few questions for you as well.

A. Okay.

Q. I would like to start talking to you, first of all, about provisional ballots. I know Miss Gentry spent a good portion of the time we've been together today speaking about provisional ballots. You were the director of the Hamilton County Board of Elections for the 2004 election, correct?

A. Yes.

Q. So you probably got quite a bit of experience dealing with provisional ballots, I would assume?
Q. Could you just kind of go ahead and tell me some of the reasons that folks voted provisionally in the 2004 general election?

A. Okay. Probably the biggest is a person who's moved precinct to precinct or county to county and has failed to update their registration. I would say that's the biggest reason. There could be just trying to think what else we saw. I mean, the vast majority that we saw were because of movement. We also saw I think in an instance where a subdivision went in and there was a part of a subdivision and you have a street that perhaps was not in and the person didn't make the signature poll book, person is not listed, so you're voting a person like that provisionally. You know, you have others for whatever other reason didn't get registered and they are voting provisionally. That was another significant number.

We had a lot of groups that were out registering people at that time, very concerned about getting registrations turned
over to us. And we had in Hamilton County, I
don't know, maybe -- I can't remember
specifically, but it was several hundred people
who did not get turned over to the Board of
Elections because of the groups registering
people and so those people were not in the
signature poll book and voted provisionally.

We had some that, you know, you
have difficulty with the addresses, the
legibility of some of these things that were
turned in that made it extraordinarily
difficult to understand where they or what they
had written down, but I would say overall the
biggest was because of movement.

Q. Did you have any folks vote
provisionally because they registered by mail
under the Help America Vote Act and didn't
provide the adequate identification?

A. Can you run that by me again? I'm
sorry, I missed the first part.

Q. Sure. Did you have any folks vote
provisionally in Hamilton County because they
were first time voters who registered by mail
under the Help America Vote Act and did not
provide the last four digits of their Social
1 Security number or other appropriate
2 identification at the time by HAVA?
3        A. We had some, but very, very few.
4 When we get a registration like that we
5 actually follow up with the voter, we try to
6 gain the information from them prior to that so
7 they are not placed in a provisional situation
8 and so we -- I was very happy with the job that
9 we were able to do finding -- you know, I don't
10 know what -- it started out probably a few
11 hundred people maybe and we got it down, I
12 think -- there wasn't that many of them, but
13 that certainly could be a reason that someone
14 would have to vote provisionally if they did
15 not provide that information.
16        Q. As you were talking about the
17 folks moving precinct to precinct or county to
18 county or subdivisions, it seems to me that the
19 overriding theme -- and correct me if I'm
20 wrong -- it seems to me the overriding theme
21 with all those folks was basically when they
22 showed up at the precinct to vote they weren't
23 in that polling book; is that fair to say?
24        A. Yes.
25        Q. And I know this is new
statutorily, I want to go back to reason folks
vote provisionally. I know this is new
statutorily, wasn't around by statute in the
Ohio Revised Code in 2004 general election, but
pursuant to House Bill 3, is it fair to say
someone might vote provisional if they
requested an absentee ballot from the Hamilton
County Board of Elections but did not return
that ballot, are they still able to go to the
polling place on election day and vote
provisional ballot?

A. Absolutely.

Q. Okay. Let's contrast for purposes
of my questions the person who asked for
provisional ballot but didn't vote it -- I'm
sorry, asked for an absentee ballot but didn't
vote it, but the person who just moved from
Warren County into Hamilton County, okay?

A. Okay.

Q. Got two separate provisional
ballots. Would you follow the exact same
procedure when you're trying to validate both
of those provisional ballots or would you
follow a different procedure because they were
provisional ballots for different reasons?
A. The scenario was the first one asked for an AB and didn't get it and what else?

Q. The first one asked for an absentee ballot, didn't turn it in and figured, heck, I'll just go to the polls on election day. That person got a provisional ballot. And let's take voter B who used to reside in Warren County and just moved to Hamilton County, but didn't update their vote registration information.

A. We basically treat them the same way. The absentee voter, obviously you're certainly going to look to make sure they didn't cast an absentee. That would be the first thing you would do in that situation, where the other one you would potentially be looking more back at where they voted previous to make sure they haven't voted there, but you would have to sort of, you know, go back to make sure that all those other things -- that effectively they are not voting twice.

Q. Right. Bottom line, when you are checking provisional ballots to validate them, what is -- what is the Hamilton County Board of
Elections truly trying to determine?

A. Trying to determine?

Q. Yes.

A. Well, we're trying to make sure that the person, you know, voted in the appropriate precinct, didn't vote twice and, you know, we're trying to find out about what each person did individually and with -- I guess the ultimate goal of counting the ballots.

Q. So would it be fair to say then based on that statement that you just made that the end result from the board's standpoint is trying to find out what they can find out in order to count that vote?

A. Sure.

Q. I would just also like to clarify one other thing so it's kind of clear in the record. You said one of the reasons folks had to vote provisional ballots is because registrations didn't get in in time. Are we talking about problems that existed at the Board of Elections or are we talking about independent organizations that were conducting voter registration drives that didn't timely
turn the forms into the Hamilton County Board of Elections thirty days before the election?

A. We had -- it was ACORN specifically that was out registering people and I don't know what the reason was, but for some reason we weren't getting them in a timely fashion and, in fact, many of them didn't come in until days after the registration deadline. We also had another group that were turned over basically the day or a few days before the election that we had an ACORN representative in here and I asked specifically do you have any more, they said they didn't, and then the day before they turned in, I don't know, what, a hundred and sixty or something like that.

Q. So the folks that the registrations were not timely was not the fault of the Board of Elections; it was the fault of a third-party voter registration --

A. Right.

Q. I just wanted to make sure that was clear on the record that wasn't anything you guys did wrong.

A. No.

Q. How many provisional ballots --
and if you don't know the exact number, you can
give me your best estimate. How many
provisional ballots were voted in Hamilton
County in the 2004 general election?
A. About -- I believe just under
fifteen thousand.
Q. And do you know what the
acceptance rate was, either total number of
ballots or as a percentage?
A. You know, I believe, and this is
on memory, I believe it was seventy-six
percent.
Q. Do you know what the major reason
for rejection of provisional ballots for the
2004 general election was?
A. Not being registered and wrong
precinct voting.
Q. And how did you determine folks
were not registered?
A. We would search our registration
database. I believe that they also have a hold
file on ones they can't figure out and then we
looked through those. If there's anything that
was so illegible that we couldn't read them,
those would have also been reviewed that
perhaps were not in the computer. I think there's perhaps a small group of those types of registrations so we sort of looked around anywhere we could think of to try to locate registrations.

Q. That would be both the Hamilton County and statewide voter database; is that right?

A. Yes.

Q. And how would you determine that somebody voted in the wrong precinct, what steps would you take to reach that conclusion?

A. Well, we would look where they are registered, look at the provisional envelope on where they actually voted. If they filled out former residence and the residence was not an appropriate residence for the precinct, they would be voting in the wrong precinct. In other words, if they went to a location, showed up, weren't in the poll book, insisted they were in the poll book, voted there, but came back being registered in another location, that would be a problem.

Q. For example, if somebody who gave you an address on absentee ballot lists City of
1 Cincinnati and that person went to a polling
2 location in the City of Reading because they
3 understood that a great city attorney was up
4 for relocation and they wanted to make sure
5 that they were voting for him, when you looked
6 at the ballot application, envelope, you would
7 know from that that they voted in the wrong
8 precinct? Is that kind of the review you would
9 do?
10 A. Are you talking AB or provisional?
11 Q. I'm talking provisional.
12 A. Yes. If somebody lived outside
13 the City of Reading and went to Reading to vote
14 for their favorite solicitor, that vote would
15 not be counted.
16 Q. How would you determine that they
17 voted in the wrong precinct?
18 A. We have a provisional ballot.
19 First of all, they wouldn't be in the signature
20 poll book. They would vote a provisional
21 ballot. They would put the former address
22 down. We would also look to see where they are
23 registered and try to determine what caused
24 them to go to Reading.
25 Q. Are you planning on following the
same procedures that you followed in the 2004
general election for purposes of the 2006
general election as it relates to the
validation of provisional ballots?
A. Yes. And we obviously have the ID
issue that did not exist then, but, yes.
Q. What extra steps are you going to
take to go ahead and validate anybody who had
to vote a provisional ballot because they
didn't supply appropriate ID at the polling
place?
A. Well, if they had it and didn't
supply it, refused to supply it, something of
that nature, they would have ten days to come
to the board to somehow prove ID and we would
obviously hold ballots like that out.
Provisionals don't get counted in the
unofficial, they get counted in the official,
so there's time after the election to -- like I
always say, each one of them sort of has a
story to tell, so we try to figure that out.
Q. And let me just give you a little
bit of a hypothetical here. Let's say somebody
shows up at the polling place on November 7th
and they don't have any identification -- or
actually let me strike that. Let me do it this
way. Let's say they have a utility bill from
their current address which happens to be
twenty years old, just the only utility bill
that they have left. It was the one when they
moved into the house twenty years ago and for
some reason these folks decided to keep it.
They give that to the pollworker. The
pollworker says even under the most liberal
definition of current -- regardless of
Directive 2006-78, under the most liberal
definition of current -- so they voted
provisional ballot. That person comes to the
Board of Elections to validate their identity.
Would they be obligated to show a utility bill
or can they go through anything else on the ID
list, give you their driver's license, give you
something else that would validate their
identity?

A. Any one of the forms of ID is
absolutely fine.

Q. So they're not limited to what
they show at the polling place on election day?

A. Right.

Q. What type of training have you
1 done for your Hamilton County pollworkers to
2 help folks in voting provisional ballots,
3 filling out the envelope, training them what
4 they need to do in order to validate their
5 ballot?
6 A. Well, let me put it in
7 perspective. Under the punch card system we
8 had about thirty-five training classes. They
9 went for about an hour and a half, perhaps two
10 hours per class. They were taught in a lecture
11 style which one person, Board of Elections
12 employee who was trained would give a
13 presentation to the pollworkers. Obviously we
14 were using punch cards back then. We had a
15 signature poll manual -- a pollworker guide
16 that was distributed. We obviously taught in a
17 lecture style. Now -- and as I indicated, we
18 had about thirty-five classes like that to
19 train around four thousand workers.
20 Now what we do is we have
21 increased our pollworker training classes from
22 thirty-five classes to about a hundred and
23 seventy or more. We have reduced the number of
24 people in a class from about seventy-five,
25 which obviously ranged higher the closer you
got to election because of the late strayglers — but it was about an average of seventy-five, something like that. We have reduced now to twenty-four per class so we have a hundred and seventy classes, twenty-four people to a class, a lead instructor who is trained. We have many of them from the Board of Elections also. We have three additional breakout instructors for what we call these breakout sessions that we actually give pollworkers hands-on training in provisional voting. We give them scenarios. We actually have ballots out there. They have to handle scenarios that we give them.

The pollworker training class now lasts four hours plus. The adult learning techniques are these breakout sessions plus instruction plus the hands-on of the actual doing and setting up machinery. We give them a signature -- excuse me -- a pollworker guide. We have a pollworker guide on our online -- on our website also. We have one of the breakout instructors for every six people in the class so it's a one to six ratio, four hour class, a hundred and seventy classes, six people to the
1 equipment and to the pollworker ID training and
2 all the other scenarios we do. I mean,
3 effectively we take them through an election
4 day and actually have concentrated heavily on
5 the provisional aspects which include ID.
6 Q. So when you're talking about
7 provisional, you're also talking about what's
8 needed to do to comply with the ID requirements
9 under House Bill 3; is that right?
10 A. Yes. But there's also ID training
11 in there too. And that's done in this lecture
12 of twenty-four and then a breakout down to six
13 and it obviously lasts twice as long.
14 Q. How far along are you in training
15 those pollworkers?
16 A. We are about more than halfway
17 through I would say.
18 Q. How tough would it be if a Court
19 were to order you to modify your operation as
20 it relates either to provisional ballots to
21 voter ID to now get those pollworkers ready to
22 the deal with new rules? Let's assume for a
23 second that as a result of this hearing
24 tomorrow the judge were to completely enjoin
25 the ID provision. Let's further assume that as
1 a result of this hearing tomorrow he issues an
2 injunction dealing with provisional ballots
3 changes the manner in which provisional ballots
4 are handled at the polling location and then
5 checked after the election. What effect would
6 that have on you as it relates to those
7 pollworkers?

8 MS. GENTRY: Objection. Compound.
9 Incomplete hypothetical. You can go ahead.
10 THE WITNESS: Well, at this point we
11 can't retrain them. We are on final approach
12 basically for this election. We are very, very
13 proud of our training program. You cannot -- as
14 an election official, you cannot change the rules
15 in the middle of the training and expect to have a
16 successful election where pollworkers are trained.
17 We had a representative from Voter Advancement
18 come to Cincinnati and review our class and
19 everyone I talked to said she walked out smiling
20 and very impressed with Hamilton County's
21 training.

22 It would be very, very difficult, if
23 not impossible to try to change now and to try to
24 give conflicting instruction now. That would only
25 lead to confusion of the pollworkers. I believe