

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
2 IN AND FOR THE COUNTY OF CHELAN

3  
4 TIMOTHY BORDERS, et al,  
5 Petitioners,

6  
7 vs. Cause No. 05-2-00027-3

8  
9 KING COUNTY, et al,  
10 Respondents,

11  
12 and

13  
14 WASHINGTON STATE DEMOCRATIC  
15 CENTRAL COMMITTEE,  
16 Intervenor-Respondent.

17 \_\_\_\_\_

18  
19 DEPOSITION OF CARLOS WEBB  
20 VOLUME I

21 Taken on behalf of Intervenor-Respondent  
22 MAY 6, 2005

23 ---

24 BE IT REMEMBERED THAT, pursuant to the Washington  
25 Rules of Civil Procedure, the deposition of Carlos Webb

1 was taken before JoAnn Bowen, #2695, a Certified  
2 Shorthand Reporter and Registered Professional Reporter,  
3 and a Notary Public for the State of Washington, on May  
4 6, 2005, commencing at the hour of 9:17 a.m., the  
5 proceedings being reported at Perkins Coie, LLP, 1201  
6 Third Avenue, Suite 4800, Seattle, Washington 98101.

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20 Also present: Brad Henry  
21 Mike Snyder  
22 Ryan McBrayer  
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24  
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1 SEATTLE, WASHINGTON; FRIDAY, MAY 6, 2005  
2 9:17 A.M.  
3 CARLOS WEBB,  
4 having been first duly sworn, was examined and testified  
5 as follows:  
6 EXAMINATION  
7 BY-MR.HAMILTON:  
8 Q. Good morning, Mr. Webb.  
9 A. Good morning.  
10 Q. We introduced ourselves off the record. Let  
11 me do so again on the record. My name is Kevin Hamilton.  
12 I represent the Washington State Democratic Central  
13 Committee. We're here today to ask you a few questions  
14 about your work for King County in connection with the  
15 general election in 2004.  
16 I'm going to try and ask the questions as  
17 clearly and simply as I can. But if for some reason, if  
18 it's getting late in the day and questions get tangled up  
19 or you just don't understand what I'm asking, I would ask  
20 you to tell me, and I would be happy to rephrase the  
21 question.  
22 A. Okay.  
23 Q. I appreciate your showing up today. I  
24 appreciate your cooperation. If for any reason you need  
25 a break, this is not intended to be an endurance contest,

6

1 and I'm happy to provide you a break any time. If you  
2 need one, just let me know.

3 A. Okay.  
4 Q. It's important for the court reporter that we  
5 not interrupt each other. So, even if my question is  
6 slow and painfully obvious, please wait until I'm  
7 finished to begin answering a question. And I will try  
8 and resist the temptation to interrupt you when you're  
9 answering. That way the court reporter will be happy.  
10 Is that clear?  
11 A. Yes.  
12 Q. Can you state your name and address for the  
13 record please.  
14 A. I'm Carlos Webb. I live at ----- Washington.  
16 Q. Where are you employed, Mr. Webb?  
17 A. King County Elections.  
18 Q. What is your position with King County  
19 Elections?  
20 A. My position is assistant superintendent of  
21 voter services.  
22 Q. And to whom do you report?  
23 A. I report to Bill; Bill Huennekens.  
24 Q. How long have you been employed by King  
25 County?

7

1 A. A year almost to the day.  
2 Q. Where did you work prior to this one-year  
3 employment with King County?  
4 A. I worked as the elections supervisor in  
5 Snohomish County.  
6 Q. How long did you hold that position?  
7 A. Three years.  
8 Q. Elections supervisor?  
9 A. Yes.  
10 Q. To whom did you report in that position?  
11 A. I had two managers, Scott Konapasek was the  
12 manager when I first started there, and Carolyn  
13 Diepenbrock was my manager when I left.  
14 Q. Prior to working for Snohomish County for  
15 those three years, were you employed by King County?  
16 A. I was.  
17 Q. And in what position?  
18 A. The position I'm in now.  
19 Q. And that is, again, assistant --  
20 A. It was -- at the time it was I believe  
21 assistant superintendent of voter registration, I believe  
22 was the title at the time.

23 Q. And the title today is assistant  
24 superintendent for voter services?  
25 A. Correct.

8

1 Q. Are the responsibilities today substantially  
2 similar to the responsibilities you had approximately  
3 four years ago when you first worked for King County?  
4 A. Different only in that we had a -- we just  
5 acquired a new voter management system. That would be  
6 the DIMS system.  
7 Q. That's the difference today?  
8 A. Correct.  
9 Q. What -- I'm going to ask you some more about  
10 your responsibilities today, but I would like to work  
11 backwards in your employment history. It sounds like  
12 you're currently employed by King County?  
13 A. Correct.  
14 Q. Before that you worked for three years for  
15 Snohomish County?  
16 A. Correct.  
17 Q. Immediately prior to that you worked for King  
18 County?  
19 A. Correct.  
20 Q. And in that earlier period of employment with  
21 King County, how long were you employed?  
22 A. Approximately two years.  
23 Q. And why did you leave to go to Snohomish  
24 County?  
25 A. More responsibility, better job, more pay.

9

1 Q. Prior to working for King County the first  
2 time, where were you employed?  
3 A. At Pierce County.  
4 Q. What was your position at Pierce County?  
5 A. I believe I was called an elections  
6 specialist.  
7 Q. What were your responsibilities as an  
8 elections specialist?  
9 A. I was a warehouse supervisor and a data  
10 processing person.  
11 Q. So, in the warehouse supervising was an  
12 elections-related warehouse?  
13 A. Yes.  
14 Q. Can you describe what sort of materials were

15 kept in that warehouse?  
16 A. The voting machines, all of the supplies, all  
17 of the archived election information and records.  
18 Q. All right. How long were you employed by  
19 Pierce County as an elections specialist?  
20 A. Probably about 18 months.  
21 Q. And why did you leave that position?  
22 A. Better pay, more responsibility.  
23 Q. Prior to working for King County -- I'm sorry  
24 -- Pierce County as an elections specialist, where were  
25 you employed?

10

1 A. I was the data operations supervise in  
2 Maricopa County in Arizona.  
3 Q. Data operations supervisor for Maricopa County  
4 itself?  
5 A. Yes, for elections in their elections office.  
6 Q. How long were you employed by Maricopa County?  
7 A. Probably about ten years.  
8 Q. And prior to working for Maricopa County  
9 elections, where were you employed?  
10 A. I was a -- I have to get my sequence of years.  
11 Prior to Maricopa County I was the -- I worked at a  
12 legislative assistant for a senator in Illinois, state  
13 senator.  
14 Q. What state senator?  
15 A. Her name was Ethel Alexander.  
16 Q. Prior to -- how long did you work for Senator  
17 Alexander?  
18 A. I worked there from '84 to '89 I believe.  
19 Q. And prior to 1984 where were you employed?  
20 A. I was employed in Maricopa County as a --  
21 first as an election person. I don't recall what my  
22 title was back then. And then I went over to the clerk  
23 at the court office and worked there about two years I  
24 think.  
25 Q. Altogether in that period of time when you

11

1 were working in the court clerk's office and in the  
2 elections department at Maricopa County, how long were  
3 you employed?  
4 A. That was about three years total.  
5 Q. Three years?  
6 A. Yes.

7 Q. If we go back one more step, where were you  
8 employed prior to working for Maricopa County at that  
9 time?

10 A. I was shortly out of college. I believe I was  
11 a waiter in a restaurant.

12 Q. I don't think we need to know about that.  
13 Where did you attend college?

14 A. Eastern Illinois University in Charleston,  
15 Illinois.

16 Q. All right. I would like to return to your  
17 current employment with King County as assistant  
18 superintendent of voter services. You report directly to  
19 Bill Huennekens?

20 A. Yes.

21 Q. Who, if anyone, reports directly to you?

22 A. I have two supervisors, Lisa Moore and Vicki  
23 Moore.

24 Q. What are their responsibilities?

25 A. They supervise the data operations process and

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1 customer service and phone bank.

2 Q. They have the same overlapping  
3 responsibilities or they have different responsibilities?

4 A. Well, we're trying to make them equally  
5 responsible for everything, but I think the structure of  
6 the office originally had it set up that one of them was  
7 the supervisor of cancelations and one of them was the  
8 supervisor of voter registration.

9 Q. And which was which?

10 A. Lisa was the supervisor of voter registration,  
11 and Vicki was the supervisor of cancelations.

12 Q. Your answer suggests that that was -- that  
13 there was this division that was originally intended, but  
14 it hasn't really worked out that way. Can you explain?

15 A. No. What happened was our new system allowed  
16 us to merge those two things into one entity that didn't  
17 need to be separated. I believe the processing features  
18 of the old database required different kinds of  
19 supervision and different kinds of instructions.

20 DIMS is pretty much an all-in-one system  
21 where you could do whatever you needed to a voter's  
22 record with regards to cancelations or any transfers or  
23 changes based on the history that you would see when you  
24 reviewed a person's record.

25 Therefore, it wasn't really -- it's not

1 really necessary that we have someone to oversee a  
2 particular part of it. Either of them could oversee all  
3 of it, because they would have all the information about  
4 a voter's record in one place, in the database.

5 Q. The DIMS system is the voter registration  
6 software system that was implemented in the summer of  
7 2004?

8 A. Yes.

9 Q. Created by Diebold?

10 A. I believe that Diebold at some point acquired  
11 DIMS, but it was an independent system prior to --

12 Q. Prior to that?

13 A. -- Diebold becoming involved.

14 Q. At least at the time that King County was  
15 implementing the system, it was owned by Diebold?

16 A. Yes.

17 Q. Were you involved with the implementation of  
18 DIMS at King County Records and Elections?

19 A. I'm not sure I understand what you mean by  
20 implementation. I was not part of the EMVR team that did  
21 the setup and design and testing and so forth. I was  
22 more involved with once the system had been put into  
23 place with training and understanding our part of it,  
24 which would have been the voter registration features.

25 Q. So, it sounds like when you returned to King

1 County about a year ago to assume the position of  
2 superintendent for voter services, King County Records  
3 and Elections was using a different --

4 A. No. They were -- well, I came in May and they  
5 -- I believe we did the last election in May using the  
6 old system.

7 Q. Okay.

8 A. And then we did the conversion during June and  
9 went to the new system thereafter.

10 Q. Were you provided training in the operation  
11 and functions of the new DIMS system as it became  
12 implemented?

13 A. I attended the training. But Snohomish County  
14 and Pierce County both had the DIMS systems, so I was  
15 pretty familiar with it already. The feature -- the  
16 release that King County purchased had some new features  
17 on it that no -- none of the counties had used before.

18 Q. What were those new features?  
19 A. The two that I dealt with would have been the  
20 petition module and the provisional ballot module.  
21 Q. What is the petition module?  
22 A. That's a module that we use to validate  
23 petitions and voters who would have signed the petition.  
24 Q. These are like initiatives or referendums?  
25 A. Correct.

15

1 Q. And the provisional ballot module, can you  
2 describe what you mean by that?  
3 A. This is a module that is used to process  
4 provisional ballots, to do accountability for them and  
5 generate numbers on what was processed.  
6 Q. Is this the failsafe model?  
7 A. Yes.  
8 Q. In some -- we can look at this in a minute.  
9 But in some of the records that we've seen that have been  
10 produced by King County, there appear to be places both  
11 for a provisional ballot and for failsafe. Some other  
12 witnesses -- at least I believe and I'll represent to you  
13 -- have testified that King County uses the failsafe  
14 portion of the DIMS system. Is that right?  
15 A. Failsafe was part of the system that was  
16 actually designed for California, and it incidentally was  
17 dumbed down -- I guess that's a bad choice of words -- it  
18 was modified for us to be able to process provisional  
19 ballots inside.  
20 Originally it was designed for California  
21 for same-day registration and voting. That would allow a  
22 voter to show up at a polling place, register. Even if  
23 they were registered already, they would be able to  
24 obtain a ballot in their new precinct on the day that  
25 they registered. And the failsafe allowed them to track

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1 who those voters were and report on them based on the  
2 registration on that election day.  
3 (Mr. McBrayer enters.)  
4 Q. The version of the DIMS system that you were  
5 familiar with from Snohomish County and Pierce County did  
6 not have this failsafe module?  
7 A. No.  
8 Q. So, at least the operation of the failsafe  
9 module, that part was new to you when you returned to

10 King County about a year ago?  
11 A. Yes.  
12 Q. You received training from someone on that?  
13 A. Yes.  
14 Q. Who provided the training with respect to the  
15 provisional ballot module of the new DIMS system?  
16 A. I believe that would have been done by Kathy  
17 Pal.  
18 Q. Who is Kathy Pal?  
19 A. She is one of the administrators from DIMS.  
20 Q. So, she's not employed by King County?  
21 A. No. She's a DIMS employee. She does all of  
22 their -- well, not all of it -- but a lot of their  
23 training nationwide wherever their system is in use.  
24 Q. We were talking about Lisa Moore and Vicki  
25 Moore. These are two of the supervisors in voter

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1 services that report to you?  
2 A. Yes.  
3 Q. Are there other King County employees within  
4 voter services that report to Lisa Moore or Vicki Moore?  
5 A. The rest of our staff reports to them.  
6 Q. And how many people are on the voter services  
7 staff at King County that report to the two Ms. Moores?  
8 A. I believe there are approximately 15 employees  
9 in voter services. It could be 20.  
10 Q. Do they have -- are they grouped by job  
11 functions or are they all just denoted staff with the  
12 same responsibilities?  
13 A. They were pretty much denoted staff with the  
14 same responsibilities. Certainly there are ones that do  
15 specialized work. And by specialized I mean they have a  
16 particular wing or arm of what we process that they do,  
17 specifically things like the motor voter file and things  
18 that come from the Secretary of State. These are very  
19 large files. And we typically have one or two people  
20 that are responsible for processing those.  
21 Q. Are any of these 15 individuals specifically  
22 responsible for voter cancelations?  
23 A. I am not sure about that. I know someone is  
24 responsible for them, but I'm not sure which part of  
25 these responsibilities the individual people do. I'm not

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1 sure who specifically would do individual parts.

2 (WHEREUPON, a Subpoena Duces Tecum to  
3 Carlos Webb was marked as Exhibit-1 for identification.)

4 Q. Handing you what's been marked as Exhibit No.  
5 1. This is a copy of the Subpoena Duces Tecum that we  
6 issued to you. Have you had a chance to review this  
7 document?

8 A. I did look at it.

9 Q. It calls on Exhibit A for the production of  
10 two different categories of documents. Just before the  
11 deposition started, counsel for King County handed me a  
12 stack of documents. I just want to make sure that I  
13 understand what's being produced and what's not.

14 Under subpart 1 of Exhibit A to the  
15 subpoena, which is Exhibit No. 1 to this deposition, it  
16 calls for "All documents in your possession, custody or  
17 control regarding any investigation into the cancelation  
18 of voter registrations by King County." And then it goes  
19 on to describe that in a little more detail.

20 King County's previously produced some  
21 documents relating to investigations into voter  
22 registration cancelations. Are you familiar with the  
23 documents previously produced by King County with respect  
24 to --

25 A. I have an idea. I don't know what documents

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1 they are exactly.

2 Q. You didn't -- well, strike that. Were you  
3 involved personally in collecting the documents that were  
4 previously produced by King County to us?

5 A. I'm not sure. If I were asked to do it, I'm  
6 sure I did.

7 Q. I take it you don't recall whether you did?

8 A. We've had a whole lot of document requests, so  
9 I couldn't say for sure.

10 Q. When you received this subpoena, what, if any,  
11 steps did you take to ensure that the documents that you  
12 -- or that King County previously produced were all the  
13 documents that would have been responsive to the  
14 subpoena?

15 A. I was shown this particular page, and under  
16 number 1 it had that these things had been done. So, I  
17 didn't look any further for those. And for part 2, I  
18 produced the documents in front of you.

19 Q. Okay. So, at least with respect to part 1,  
20 you relied on counsel for King County's previous efforts?

21 A. Yes.  
22 MR. PORTER: Let me just for the  
23 record, Kevin, tell you that I interpreted the first  
24 sentence in item number 1, all documents in your  
25 possession, custody or control regarding any

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1 investigation into the cancelation of voter registrations  
2 by King County, to be qualified as the second sentence  
3 is, as relating to provisional ballots from the 2004  
4 election. That's consistent with the way we had  
5 previously narrowed the focus.

6 MR. HAMILTON: Sure.

7 MR. PORTER: So, I interpreted that  
8 to be essentially the same type of request --

9 MR. HAMILTON: Exactly.

10 MR. PORTER: -- and passed it on to  
11 Mr. Huennekens who informed me that there were no  
12 additional documents other than we had provided  
13 previously.

14 MR. HAMILTON: And I don't mean to  
15 cast dispersions or raise a question about the scope of  
16 your production. I just want to make sure that somebody  
17 has done a thorough review of all the King County  
18 records. And I didn't know if Mr. Webb had done that  
19 himself.

20 MR. PORTER: I understand.

21 MR. HAMILTON: Your understanding of  
22 the meaning of this is correct. I had previously  
23 understood from you that there's a large volume of  
24 documents relating to cancelations generally. And we're  
25 not interested in those. We're interested in

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1 investigations into provisional ballots not counted on a  
2 account of prior voter cancelation.

3 MR. PORTER: Right.

4 MR. HAMILTON: In the 2004 general  
5 election.

6 Q. All right. With respect to item 2 on Exhibit  
7 A to the subpoena, which is Exhibit 1 to this deposition,  
8 that portion of the subpoena calls for "All documents in  
9 your possession, custody or control regarding the process  
10 through which a voter was credited with receiving and  
11 casting a ballot under the Failsafe Ballot code in the  
12 King County DIMS database."

13           And counsel's handed me a collection of  
14 documents. These are documents that you collected  
15 yourself?

16       A. Yes.

17       Q. Can you describe what these documents are?

18       A. The documents you're looking at, the first  
19 page is what I had on hand and produced with regards to  
20 our general overview of the process. Following that is a  
21 step-by-step how-to instruction given to employees that  
22 process them. And the final document is the user manual  
23 that described various processes with regards to using  
24 the DIMS system.

25           (Mr. McBrayer exits.)

22

1       Q. The last document described -- that you just  
2 mentioned is entitled DIMSNet Guide Provisional Ballot  
3 Processing. In the lower right-hand corner it says:  
4 Last Updated, February 9, 2005.

5           Were you involved in the updating of this  
6 document?

7       A. I was not.

8       Q. Do you know which parts of it have been  
9 updated in 2005 or at any time since the general election  
10 in November of 2004?

11       A. I do not.

12       Q. Are there earlier versions of this document  
13 that exist?

14       A. I'm not sure.

15       Q. Who would know the answer to that?

16       A. Lisa Moore might know the answer. I'm not  
17 sure that this date that's printed on here is not just an  
18 updated computer generated date. So, I couldn't say.  
19 But Lisa has been throughout our conversion process one  
20 of the folks that were involved with producing a manual.  
21 She was involved in some of the training. She was kind  
22 of at the beginning of the project of the implementation,  
23 she was the go-between between DIMS and election staff.

24       Q. I'd like to turn your attention to December of  
25 2004. In December of 2004 there were 735 absentee

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1 ballots discovered that had not been counted that became  
2 the focus of a great deal of public attention involving  
3 one of the King County Council members named Larry  
4 Phillips.

5 Are you familiar with that series of  
6 events?

7 A. I vaguely remember.

8 Q. As I understand in general terms what had  
9 happened is as follows, and I'll describe it and then ask  
10 you if this is in general terms an accurate description.

11 There were 735 absentee ballots as to  
12 which when the verifiers were attempting to look up the  
13 signature on the DIMS system, they were unable to find an  
14 electronic version of the signature, and so they placed  
15 these ballots aside and then mistakenly failed to  
16 continue to process them.

17 Is that, as far as you understand, an  
18 accurate summary of the first step of it?

19 A. I'm not sure about the steps of that problem  
20 because I wouldn't have been involved.

21 Q. You weren't involved in that at all?

22 A. No.

23 Q. As I understand what happened next was,  
24 putting aside all the court proceedings, King County  
25 eventually went back and looked for the original voter

24

1 registration hard copy files either held by King County  
2 or by the Secretary of State's office.

3 Were you involved in that effort to try  
4 and find the hard copy files either held by King County  
5 or the Secretary of State?

6 A. I -- and I'm not tracking the incident itself,  
7 but that would have been something that I would have been  
8 asked. I would have been -- as supervisor of voter  
9 services, I would have been the one that they would have  
10 said, you know, have your crew track down these original  
11 registration forms.

12 Q. I guess I need -- you're answering the  
13 question in kind of a qualified way. Were you asked to  
14 track down the original registration forms in December of  
15 2004?

16 A. I can't recall if I was asked directly. But  
17 just knowing the process, I'm sure it would have come to  
18 me. So, I can say that, that I'm sure that -- if they  
19 were looking to find forms, someone would have asked me  
20 about it.

21 Q. And you do recall that voter services was  
22 involved in actually finding the forms?

23 A. We're always involved in finding the forms.

24 Q. Was one of your supervisors, Vicki Moore or  
25 Lisa Moore, responsible for that effort?

25

1 A. It would have been one or both of them.

2 Q. Do you know which one?

3 A. I couldn't say for sure. I would have sat  
4 down and had a meeting. I'm speculating. But I would  
5 have met with them and said these are forms we need. You  
6 guys need to find them, and they would have decided how  
7 that was done.

8 (Mr. Snyder exits.)

9 Q. You weren't personally going through file  
10 cabinets yourself?

11 A. No.

12 MR. AHEARNE: Kevin, before you mark  
13 another exhibit, since you asked questions about this set  
14 of documents as being responsive to Exhibit 1, would it  
15 make sense to mark this as an exhibit?

16 MR. HAMILTON: I will after a break.  
17 I'm going to make copies so I can take this one and  
18 actually stamp it.

19 MR. AHEARNE: Thanks.

20 MR. HAMILTON: I appreciate it.

21 (WHEREUPON, an e-mail thread was marked as  
22 Exhibit-2 for identification.)

23 Q. I'm handing you what's been marked as Exhibit  
24 No. 2. I will give you a moment to review it. It  
25 appears to be an e-mail exchange between a number of

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1 different people at King County Records and Elections,  
2 and you're included on the CC line, at least the first  
3 couple of messages. I'll give you a moment to review it.

4 My question to you is: Are you familiar  
5 with this e-mail chain?

6 A. Okay.

7 Q. My question is: Are you familiar with the  
8 e-mail chain? Have you seen this before?

9 A. I probably have. I don't recall it.

10 Q. You have no reason to dispute that you  
11 received the first two e-mails in this e-mail chain?

12 A. No, I don't dispute that.

13 Q. If we look at the second page of Exhibit 2,  
14 it's an e-mail from Lisa Moore to Mr. Huennekens copied  
15 to you and to Dean Logan with respect to NSOF file.

16 Do you know what NSOF means?  
17 A. No signature on file.  
18 Q. That's the acronym used to describe this group  
19 of 735 uncounted ballots discovered in December 2004,  
20 right?  
21 A. That's the acronym used to describe any  
22 registration form that did not have a signature or had  
23 one that the image was skewed, blacked out or otherwise  
24 unrecognizable.  
25 Q. Does this e-mail, the one on the second page

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1 of Exhibit 2, refresh your recollection that Lisa Moore  
2 was the person involved in looking for these signatures?

3 MR. PORTER: Let me just ask if you  
4 understand the phrasing of that question? Does it  
5 refresh your recollection? He's asking if you now have  
6 an independent recollection based on this.

7 A. I was going to respond to that. No, it  
8 doesn't refresh any recollection for me. A lot was going  
9 on. So, no, it doesn't.

10 Q. Does it appear then -- whether you have an  
11 independent recollection or not, looking at this,  
12 understanding the roles of your two supervisor, based on  
13 this, does it appear to you that Lisa Moore was the  
14 person who was principally responsible, or is it equally  
15 likely that Vicki Moore was responsible despite this  
16 e-mail?

17 A. I wouldn't say anyone other than Lisa just  
18 based on what it says here. Lisa would have -- Lisa may  
19 have assigned that to anyone. I'm not sure where we're  
20 going with that. Lisa would have gotten this and may  
21 have assigned it to someone or may have done it.

22 Q. I'm just trying to figure out if it's Lisa or  
23 Vicki Moore that's responsible. It appears it me from  
24 Exhibit 2 that Lisa Moore was the person who was  
25 primarily responsible for looking for these registration

28

1 form? Do you agree?

2 A. It appears to me that way as well. But I  
3 don't have anymore knowledge of that.

4 Q. That's fine. You're Lisa Moore's supervisor?

5 A. I am.

6 Q. Given your responsibilities, I was trying to  
7 make sure that my interpretation of the document is

8 consistent with yours, and it sounds like it is.  
9 A. Yes.  
10 Q. Based on page 2 of Exhibit 2, Lisa Moore was  
11 reporting to Mr. Huennekens and copying you and Mr. Logan  
12 on the fact that she had found 566 signatures or images  
13 of signatures; is that correct?  
14 A. That's what it appears to say.  
15 Q. Do you recall that some part of the 735 NSOF  
16 ballots were ultimately counted?  
17 A. I don't recall.  
18 Q. You don't know if any of them were counted or  
19 not?  
20 A. I don't recall. I don't know. I don't recall  
21 the incident, frankly, that this e-mail is pointing to.  
22 There were a lot of things going on at that time, and I  
23 was involved with a lot of things. So this was CC'd to  
24 me as her supervisor.  
25 Q. You recall the uproar --

29

1 A. I do.  
2 Q. You recall there was litigation that  
3 ultimately went to the Washington State Supreme Court  
4 involving this incident?  
5 A. I do.  
6 Q. You remember the incident?  
7 A. Yes.  
8 Q. But you just don't remember the details?  
9 A. I don't remember the details.  
10 Q. Fair enough. If we look at page 1 of Exhibit  
11 2 on the bottom, Dean Logan writes -- second sentence of  
12 the e-mail -- "It appears to me in my quick review, that  
13 all of these were entered for the General Election so  
14 they are new registrations and likely have not voted  
15 before."  
16 Did I read that correctly?  
17 A. Yes.  
18 Q. Do you recall whether Mr. Logan's  
19 understanding was correct that these were new  
20 registrations that were involved in the 735?  
21 A. I don't recall.  
22 Q. We'd have to ask Lisa Moore that question?  
23 A. You might have to ask Dean that question.  
24 (WHEREUPON, a No Signature on File  
25 printout was marked as Exhibit-3 for identification.)

1 Q. I'm handing you what's been marked as Exhibit  
2 No. 3. This is a document that was produced by King  
3 County that specifically identifies the group of 735 no  
4 signature on file ballots and whether they were counted  
5 or not.

6 Are you familiar with this spreadsheet?

7 A. I haven't seen it before.

8 Q. Does it appear in form to be a document of the  
9 sort that's drawn from the DIMS registration database?

10 A. It appears to be, yes, in some form from the  
11 database, perhaps from the tables and not from anything  
12 that we would have access to. It seems to be a report  
13 that would have been produced by our administrators.

14 Q. All right. Under the "counted" column there's  
15 a yes or no which at least from our understanding from  
16 the documents produced by King County indicates which of  
17 the 735 NSOF ballots were counted and which were not.  
18 And I recognize from your prior testimony, you weren't --  
19 or at least don't recall the details of this  
20 investigation.

21 Do you recall the number, just the number,  
22 of how many were actually counted and how many were not  
23 counted?

24 A. I don't.

25 Q. Do you recall, again in general terms, for

1 those ballots in this group that were not counted why  
2 they were not counted?

3 A. I don't recall specifically, no.

4 Q. I can think of several reasons, and I'm going  
5 to throw a few out just to see if you can say, I may not  
6 recall the details, but I know that we didn't have any of  
7 X. So, for example, the most obvious reason why some of  
8 these might not have been counted is it might be that you  
9 couldn't find the registration records. You could only  
10 find 566 of them.

11 Do you know if for those that were  
12 uncounted whether they were uncounted because you  
13 couldn't find or King County couldn't find the  
14 registration records?

15 A. I couldn't speculate on that because I know of  
16 many reasons why ballots in general are not counted. And  
17 I don't know if those are illustrated here.

18 Q. Mr. Huennekens testified that the universe of

19 735 ballots was entirely composed of absentee ballots.  
20 Is that your understanding as well?  
21 A. I don't know. I'm not sure what you're  
22 asking.  
23 Q. What I'm asking you is: Of this universe of  
24 no signature on file ballots, they were all absentee  
25 ballots?

32

1 A. I don't know that to be a fact. I don't know.  
2 Q. Of course they wouldn't have been poll ballots  
3 because they never would have been checking signatures on  
4 a poll ballot; correct?  
5 A. I'm not sure what was in the 735.  
6 Q. I understand that was your answer to my  
7 previous question. Now I'm trying to back into it by  
8 eliminating some other possibilities.  
9 A poll ballot never gets to voter services  
10 for the purposes of checking a signature match against a  
11 registration record, right? Poll ballots are cast at  
12 polling places and fed through the AccuVote machine?  
13 A. That's correct.  
14 Q. And that leaves --so, this universe could only  
15 be either absentees or provisional ballots, right?  
16 A. Possibly, yes.  
17 Q. And your testimony is you just don't know if  
18 some of them were --  
19 A. I'm not sure what the -- where the -- I can't  
20 recall what the source of this 735 ballots were. That  
21 whole time is a blur. I know they came out. I don't  
22 recall where they came from.  
23 Q. To the best of your knowledge, we'd have to  
24 ask either Lisa Moore or Vicki Moore to learn the details  
25 of the investigation into this group of 735 ballots?

33

1 A. Yes. I suspect that they -- they would have  
2 looked at the ballots. And as I recall, this whole  
3 hubbub was about absentee ballots. But I can't verify  
4 that. I don't recall if those were the only ones  
5 involved. But as best as I can recall was that I thought  
6 they were absentee ballots.  
7 Q. That's certainly my understanding as well.  
8 But I appreciate your candor about what you do and don't  
9 recall. Mr. Huennekens testified that you would be the  
10 best person -- I believe he testified that you would be

11 among the best people to talk about the cancelations --  
12 I'm sorry -- to talk about the investigation into these  
13 no signature on file ballots. And I'd like to avoid one  
14 by one going through the entire King County Records and  
15 Elections department asking people.

16 A. I understand.

17 Q. To the best of your knowledge, Lisa Moore is  
18 the person who is most likely to be knowledgeable about  
19 the investigation into these no signature on file  
20 ballots?

21 A. That's probably true.

22 Q. There's nobody else that you can think of  
23 that's more likely to be knowledgeable?

24 A. No, I don't believe so.

25 Q. All right. Well, then, we'll save some

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1 questions for Ms. Moore on that subject.

2 (WHEREUPON, a King County Provisional  
3 Ballot Summary Report, Replacement for Final Report was  
4 marked as Exhibit-4 for identification.)

5 Q. I'm handing you what's been marked as Exhibit  
6 No. 4. This is the Replacement Final Report for the  
7 Provisional Ballot Summary for the November 2, 2004  
8 general election.

9 Have you seen this document before?

10 A. I have.

11 Q. Are you familiar with it?

12 A. I am.

13 Q. I would like to direct your attention  
14 specifically to the category of "Invalid Ballots" and the  
15 subcategory "Canceled." And there's the number 622.

16 Are you familiar with the data on that  
17 line?

18 A. I am.

19 Q. How are you familiar with that?

20 A. I know what it means.

21 Q. What does it mean?

22 A. That we had 622 ballots that we checked and  
23 dispositioned them as canceled.

24 Q. Dispositioned them as canceled. Let me see if  
25 I can translate that into other terms. That means there

35

1 were 622 provisional ballots that were not counted

2 because you determined that the registration for those

3 voters had previously been canceled?

4 A. Correct.

5 Q. Do you know how many of those cancelations  
6 occurred in calendar year 2004?

7 A. I don't.

8 Q. How is it that a ballot is put into this  
9 category of canceled? How do you determine that a  
10 voter's registration has been canceled?

11 A. In our procedure part of the provisional  
12 ballot process is to do a name search in our database for  
13 whoever we believe to be is the person that turned in the  
14 ballot. When you do a name search, that would turn up a  
15 match. And the match would say on file. There would be  
16 a C next to their name. The line would be red, red  
17 color. And that would indicate that person's record had  
18 been canceled.

19 Q. Once it's determined that the registration has  
20 been -- that the DIMS system is reporting that the  
21 registration had been canceled, what's the next step in  
22 the processing of that ballot?

23 A. You would take a look at the history and note  
24 whatever reason that it was canceled for and then track  
25 down the document to verify that.

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1 Q. You would look at the history. What does that  
2 mean? Can you describe what that means?

3 A. When you bring up a record, it comes intact  
4 with everything that's ever been done to that record by  
5 voter services.

6 Q. When you bring up a record, meaning when you  
7 open --

8 A. You do a name search.

9 Q. -- a record on the DIMS system?

10 A. Right.

11 Q. So, is this done by the signature verifier?

12 A. No. This is done by the crew that would have  
13 been processing the provisional ballots.

14 Q. Is that crew part of voter services?

15 A. Yes.

16 Q. So, when the provisional -- maybe we can back  
17 up a step. A provisional ballot comes to the King County  
18 Records and Elections either from the polling place or  
19 from -- well, they come from the polling place in part;  
20 correct?

21 A. Mostly.

22 Q. Mostly. Okay. What other -- where else would  
23 a provisional ballot come to voter services from?

24 A. They would come from other counties. They  
25 routinely send us envelopes with provisional ballots from

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1 their county. Other states. We've found them in the  
2 poll book sometimes. Sometimes they would be in with  
3 supplies. Sometimes they would be in the voter -- the  
4 voter boxes mixed in with absentees that had been dropped  
5 off at the polls.

6 So, basically we have them come in to us  
7 through the canvassing group that goes through supplies  
8 when it's returned on election night. They collect up  
9 the absentee -- I mean the provisionals, and they deliver  
10 them up to us.

11 Q. In the November 2004 general election, there  
12 were just shy of 33,000 provisional ballots that were  
13 processed?

14 A. Yes.

15 Q. When the crew from voter services processes  
16 these ballots, what's the first step of processing?

17 A. They -- we try to do a prep step on them, and  
18 that would have been to go in and make sure information  
19 was written on the envelopes with regards to their voter  
20 ID number, those sorts of things, polling place, ballot  
21 style.

22 Q. This is an investigation of the envelope  
23 itself to confirm that it's either complete or not  
24 complete?

25 A. Right.

38

1 Q. And if it's not complete -- well, let's put  
2 that question aside. If it is complete, then it's put  
3 into a stack for further processing?

4 A. Right.

5 Q. And the next step of the process is to  
6 actually call up a computer file relating to that  
7 particular voter?

8 A. Correct.

9 Q. And on that file, if I understand your  
10 testimony, if a registration's been canceled, there's  
11 something in red on a screen?

12 A. Yeah. You'll see it when you pull up their  
13 name.

14 Q. And then you're able to access additional  
15 information relating to that cancelation?  
16 A. Correct.  
17 Q. Can you describe what additional information  
18 relating to the cancelation might be available on that  
19 computer record?  
20 A. In the history for the voter, there's a  
21 line-by-line track of what happened since that voter came  
22 into the database.  
23 Q. Now, let me just stop you there. That's  
24 voting history about whether they were issued or --  
25 A. That's transaction history.

39

1 Q. What sort of things are in a transaction  
2 history part of this file?  
3 A. If they change their name, if they moved, when  
4 we sent them an ID card, when we sent them a confirmation  
5 card, any hits that they took on their record to update  
6 it, name change, corrections. It shows anything that was  
7 done to their record.  
8 Q. Now, I take it that all of this data was  
9 transferred from King County's old registration database  
10 to the new DIMS system in the summer of 2004?  
11 A. Yes.  
12 Q. So, under what circumstances would a  
13 registration be canceled?  
14 A. If the voter requested it, if we have one that  
15 came across on a -- on what's called a multi-county  
16 report, if we had a death notice, a felony notice, a  
17 voter can request it. If there were a challenge to their  
18 registration that was found valid.  
19 Q. Anything else?  
20 A. Probably. I'd have to look back at what I  
21 just told you.  
22 Q. One of the things you mentioned was notice of  
23 a felony conviction from a court?  
24 A. Right.  
25 Q. Another one was receipt of a death

40

1 certificate?  
2 A. Correct.  
3 Q. Another one would be a voter request?  
4 A. Right.  
5 Q. In each of these instances there's a piece of

6 paper that's associated with that?

7 A. Yes.

8 Q. So, for example, a notice of a felony  
9 conviction, you'd get an actual piece of paper from King  
10 County Superior Court or some other court?

11 A. Yes.

12 Q. And a death notice, you'd get some written  
13 notification of the voter's death?

14 A. Generally it would come from either vital  
15 statistics or a voter who had knowledge that the person  
16 had died, usually a spouse.

17 Q. A voter request would be some kind of a form?

18 A. Yeah. They came in and said, I want to be out  
19 of here, and we either send them a form if they asked in  
20 writing, made the request on the phone, I want to be  
21 canceled in King, we have to have a signature to verify  
22 that so that I couldn't call in for you and say I want  
23 you to cancel my registration.

24 Q. I'm sure you'd never do that.

25 A. Never.

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1 Q. You also mentioned a multi-county report.

2 What's that?

3 A. That comes from the State. It's a comparison  
4 statewide on hits on records where they have reason to  
5 believe it could be the same person. It's not always.  
6 But I think they do their match on birth date and last  
7 known voter registration information, and they also send  
8 a signature, a snapshot of their signature.

9 Q. When you say "from the State," it's from the  
10 Secretary of State's office?

11 A. Yes.

12 Q. How often is that report provided to King  
13 County?

14 A. I believe it's every couple weeks. I'm not  
15 positive about that.

16 Q. Every two weeks all year long?

17 A. I'm not positive if it comes every two weeks.  
18 But it's pretty regular.

19 Q. Okay. And that's on a continual basis?

20 A. Yes.

21 Q. Your understanding is that the matches are  
22 done by name and date of birth?

23 A. Yes. If they provide an address as well, but  
24 addresses are less reliable because a voter could have

25 moved.

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1 Q. So, on typical report that you receive --  
2 multi-county report that you receive from the Secretary  
3 of State's office, how many names would appear on that  
4 list?

5 A. Hundreds.

6 Q. Every two weeks, hundreds?

7 A. But not all for King County. They have a list  
8 -- it's sometimes a three- or four- or five-page document  
9 that has every county on it. Because you have to find  
10 the ones that are related to your county. I believe they  
11 are in alphabetical order. So, you may have some on the  
12 first page, none on the second, some on the fifth, some  
13 on the tenth page.

14 Q. To whom does that go in King County voter  
15 services?

16 A. That would go to Vicki.

17 Q. Vicki Moore?

18 A. Yes.

19 Q. And are you familiar with what she does with  
20 that report when she receives it?

21 A. I believe she assigns it to staff to go  
22 through and verify that those folks that are alleged to  
23 belong to King County are researched, the signature  
24 verification is done on it, and then they would be  
25 canceled, a copy of that portion of the report would be

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1 attached as the document for that record.

2 Q. During the course of this research, it sounds  
3 like staff would call up the voter registration record in  
4 the DIMS system?

5 A. Yes.

6 Q. And they'd be looking to match the date of  
7 birth?

8 A. To start, yes.

9 Q. And name?

10 A. Yes.

11 Q. They try and do a signature match?

12 A. Yes.

13 Q. And if those three data points were  
14 consistent, what would be the next step?

15 A. They would cancel them.

16 Q. Would they notify the voter before the

17 cancelation?

18 A. I'm not sure.

19 Q. Would the voter have any opportunity prior to  
20 the cancelation to be heard about the cancelation of  
21 their registration?

22 A. I'm not sure. I'm not sure that we have a  
23 statutory requirement for that.

24 Q. I want to be clear. I'm not asking you about  
25 whether there's a statutory requirement or not. I'm just

44

1 asking you what King County's process is.

2 A. I couldn't be positive of whether or not we  
3 send notification to voters. Vicki would know that.

4 Q. Is the final decision on canceling the  
5 registrations made at the staff level by Vicki Moore or  
6 by you?

7 A. It's made at the staff level if the staff can  
8 make the decision, meaning, if they have a positive match  
9 on the name and birth date and the signature matches, the  
10 staff person would be authorized to make that  
11 cancelation. If they had questions about it, they're not  
12 sure, they're not sure about the time line on the  
13 registration, then Vicki would take a look at it.

14 Q. How -- this statewide -- I'm sorry --  
15 multi-county report produced by the Secretary of State's  
16 office identifies instances in which a particular voter  
17 is registered in at least two counties?

18 A. Correct.

19 Q. So, if, to use a random name, Joe Smith is  
20 registered in King County and in Spokane County, and the  
21 date of birth matches, that person is going to show up on  
22 this list?

23 A. Right.

24 Q. The purpose is to allow one of the  
25 registrations to be canceled?

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1 A. Correct.

2 Q. When the names appear on both King and Spokane  
3 in the example I used, how do you determine which one to  
4 cancel?

5 A. Based on the date of registration. The latest  
6 registration is the good one.

7 Q. And it's your understanding that this same  
8 report is sent to every county --

9 A. Yes.  
10 Q. -- on a bimonthly basis or at some frequency?  
11 A. At whatever frequency, yes.  
12 Q. Are there instructions that come with these  
13 reports that instruct all of the counties to treat the  
14 multi-state registrations the same way?  
15 A. I'm not sure if there's an instruction on the  
16 report. But we all are very familiar with it.  
17 Q. So, there's no question, at least in your  
18 mind, that all of the counties handle this the same way?  
19 A. I don't know how the other counties handle it.  
20 But I would suspect that they have some similar process.  
21 Q. Where are the multi-county reports kept after  
22 the information on them is used to cancel these  
23 registrations?  
24 A. I'm not sure where they're kept. The document  
25 itself, if they are verifying that a person should be

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1 canceled, a copy of that page would be made and attached  
2 to that person's record.  
3 Q. Okay. In hard copy?  
4 A. Yes.  
5 Q. Attached to that person's record. Is there a  
6 particular record relating to every voter in --  
7 A. There's a file of canceled voters, and I  
8 believe those records are -- when they get a cancel, they  
9 make a copy of it and they put it in this file.  
10 Q. So, again, just to use a random example, Joe  
11 Smith is a voter for whom you receive notification from  
12 vital statistics that he's died, and, therefore, you  
13 determine that this registration is going to be canceled.  
14 At that point someone opens a hard copy file, an actual  
15 manila envelope is created, Joe Smith is written on the  
16 top, and the death notice goes inside?  
17 A. I believe it's done with folders and monthly,  
18 weekly, yearly, something to that affect. And these were  
19 the cancelations that were done in this time frame.  
20 Q. Okay. So, there wouldn't be a file with a  
21 voter's name on it. They would be collected by these are  
22 all the cancelations in the month --  
23 A. Right.  
24 Q. -- of September?  
25 A. Something similar to that.

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1 Q. What would be collected in that file for each  
2 individual cancellation?  
3 A. Whatever document we used to cancel them.  
4 Q. So, in the case of a death notice, it would be  
5 whatever notification you received from vital statistics?  
6 A. Right.  
7 Q. Would there also be a printout of the  
8 registration showing the cancellation that would be  
9 stapled or attached to that?  
10 A. I'm not sure, but that's possible.  
11 Q. For the conviction of a felony cancellation, it  
12 would be whatever notification you receive from the  
13 clerk's office?  
14 A. Correct.  
15 Q. For the voter request, there would be a copy  
16 of the signed request for cancellation?  
17 A. Correct.  
18 Q. For the multi-county cancellation, it would be  
19 the page on which that information appeared?  
20 A. True.  
21 Q. And if there's a challenge to a voter's  
22 registration, there's going to be a piece of paper  
23 associated with that as well?  
24 A. I would suspect, but I believe we keep the  
25 challenges in a separate folder of challenged

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1 registrations, challenged voters.  
2 Q. Another potential basis for canceling  
3 someone's registration is inactivity; is that right?  
4 A. Yes.  
5 Q. When are you -- when does a voter get canceled  
6 for inactivity?  
7 A. After missing two consecutive federal  
8 elections.  
9 Q. And the failure to vote or sign a petition at  
10 any time in between the two federal elections?  
11 A. I'm not sure what you mean.  
12 Q. At least in recent history, there were two  
13 presidential elections, one in November of 2000 and  
14 another in November of 2004. If we have a hypothetical  
15 voter who fails to vote in those two elections but votes  
16 in every interim midterm election, is that voter canceled  
17 for inactivity?  
18 A. I believe so.  
19 Q. So, it doesn't matter how active you are, it's

20 the failure to vote in the two presidential elections  
21 that are going to cause your registration to be canceled.  
22 A. I believe that's true.  
23 Q. What does mean it mean to be -- well, let me  
24 back up.  
25 Obviously there's active registration, and

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1 you've just described a series of events where there's a  
2 canceled registration. Is there an interim status where  
3 you move to inactive?  
4 A. Yes.  
5 Q. When does that happen?  
6 A. That happens when we send the registration  
7 cards, ballots, any official voter information to voters,  
8 if it's returned as undeliverable, we inactivate the  
9 record and send a confirmation card to any known address  
10 for that person.  
11 Q. Confirming that the registration's been --  
12 A. Asking, are you still there? It basically  
13 says, we have reason to believe you may have moved from  
14 King County. If this is not true, please sign this and  
15 send it back. If it is true and you still are within  
16 King County, give us your new address, that sort of  
17 information.  
18 Q. And if you don't get a response to that?  
19 A. They stay inactive until we go through the two  
20 federal election period.  
21 Q. And then they are canceled?  
22 A. Yes.  
23 Q. When a voter's registration is canceled for  
24 inactivity, what, if any, paper documents are created to  
25 document the cancelation?

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1 A. There isn't a paper document. It's done  
2 programmatically.  
3 Q. Again, let me just translate that. When you  
4 say it's done programmatically, you mean the computer  
5 automatically cancels the registration?  
6 A. No. We run a report that says anyone that's  
7 sitting there under these circumstances cancel.  
8 Q. Who's in charge of running that report?  
9 A. I would think the system administrators would  
10 do that.  
11 Q. You don't know?

12 A. The system administrators would do that.  
13 Q. Who is that?  
14 A. Travis Elsom and Scott Turnbull.  
15 Q. When they run that report or that program in  
16 the DIMS system, does it generate a report of who's being  
17 canceled?  
18 A. Yes.  
19 Q. How often is that report or program run?  
20 A. It's supposed to be done every couple years I  
21 believe.  
22 Q. Every two years?  
23 A. Yes.  
24 Q. Do you know if it happens before or after the  
25 elections that occur in November?

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1 A. It would be after the elections in November.  
2 Q. So, that's typically a post-election exercise?  
3 A. Yeah. We would prefer not to do that leading  
4 up to an election.  
5 Q. When that program is run, if I understood you  
6 correctly, a report is generated showing all the  
7 cancelations for inactivity?  
8 A. I believe that's true.  
9 Q. What happens to that report?  
10 A. I don't know. I mean, physically you're  
11 asking me where does it end up? I don't know. I believe  
12 we -- I don't know. I can't say.  
13 Q. I guess the reason I was asking is because  
14 with respect to these other kinds of cancelations, you've  
15 described what sounds like a chronological file that  
16 contains all the cancelations in a given period of time,  
17 month or week, that it's maintained.  
18 Do you know whether these cancelations  
19 when this report is run go into that same series of  
20 files?  
21 A. I don't know.  
22 Q. But you believe that the report is maintained,  
23 kept somewhere?  
24 A. Somewhere.  
25 Q. You just don't know where?

52

1 A. Right.  
2 Q. I'd like to change gears here. We're going to  
3 come back to registration cancelations later today. But

4 I would like to switch gears for a moment.

5 Let me direct your attention again to  
6 Exhibit No. 4. This is the Provisional Ballot Summary  
7 Report. Specifically I would like to direct your  
8 attention to the last line on the page which is "Not  
9 Registered, Needed Further Research." And the number  
10 given is 208.

11 Are you familiar with this category?

12 A. I am.

13 Q. Can you describe what this is or what it  
14 means?

15 A. These are ones that we could not determine for  
16 sure many things about it, whether they were registered,  
17 whether it was the right person, whether we had a name.  
18 It's a hodgepodge of many research-related issues.

19 Q. Can you describe how a ballot ends up being  
20 put into this category?

21 A. As I said, it's a mixture of research-related  
22 issues. An example I would give you is a person signed  
23 the provisional ballot, didn't print their name, gave an  
24 address that we couldn't find on file. And, so, we were  
25 kind of at a standstill trying to figure out.

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1 We have various ways to search for a  
2 voter. And in the case that I just mentioned, if I were  
3 doing it, I would have gone through and looked for if I  
4 had a birth date on this person, anybody with this birth  
5 date. If I had some inkling of what the street said or  
6 what their address was, I may have the first two digits  
7 of that address, you could go through and try to go  
8 through a list of voters all with the same birth date,  
9 and maybe it was a 1642 address. So you're looking for  
10 anyone with this birth date with a 16 in their address.  
11 You didn't find it. You're still looking when it was  
12 time to certify.

13 Q. Okay. So, there are something just short of  
14 33,000 provisional ballots that land in voter services on  
15 election day or after election day. Right?

16 A. Yes.

17 Q. And this team you have working for you, or  
18 this crew I think you described them as, they're going  
19 through these 33,000 ballots trying to find the  
20 registration, confirm it, match the signature, and count  
21 the ballots?

22 A. Right.

- 23 Q. How many people are doing that?  
24 A. Around 40 or so.  
25 Q. So, you described a staff of 15. I assume

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- 1 that this larger group of 40 includes some temporary  
2 people?  
3 A. Yes. As we staff up to an election, we hire a  
4 phone bank, and we have people that we start bringing in  
5 in I guess mid July anticipating the ramp up to an  
6 election cycle. And they're given training on all  
7 aspects of what we do.  
8 Q. Including training on the DIMS registration  
9 system?  
10 A. Yes.  
11 Q. And how to access specific information?  
12 A. Right.  
13 Q. Is there a guideline for how much time these  
14 individuals are supposed to devote to researching a  
15 particular ballot before they move on to the next one?  
16 A. No, there's no time line.  
17 Q. So, an individual researcher could spend the  
18 entire day with one ballot and they wouldn't be in  
19 trouble?  
20 A. That's possible, but not likely. We have too  
21 much work to spend that much time on the record.  
22 Q. And I use an extreme example to try and find  
23 out if -- I can appreciate that if you spend a single day  
24 on every one of the 33,000 ballots, it might be difficult  
25 to meet the certification deadline on November 17.

55

- 1 A. No. It would be impossible.  
2 Q. I'm not good with numbers. And so, again,  
3 I'll ask, is there a guideline? Do the supervisors tell  
4 these 40 people going through this task, if you can't  
5 find it in 10 or 15 minutes, put it aside and move on to  
6 the next one?  
7 A. What we tell them is in the first pass we're  
8 looking for hits. We go through these ballots several  
9 times. And in the first pass, we're looking for quick,  
10 yes, it is, name matches, address matches, birthday  
11 matches, signature matches, good.  
12 Q. Those four examples, any one of them will  
13 confirm a ballot?  
14 A. It's signature ultimately confirms it.

15 Q. Okay. If you've got a signature match but the  
16 address is different, that's okay?

17 A. Circumstances would need to be taken into  
18 consideration. But in most cases if they're voting a  
19 provisional, yes, if the signature matches, and the other  
20 data doesn't, if we can say a hundred percent this is the  
21 -- this is the voter that signed this ballot matches the  
22 signature of a person that was legally registered.

23 Q. So, the first -- when does this process start?  
24 On election day or -- I guess you wouldn't get a  
25 provisional ballot prior to election day?

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1 A. No.

2 Q. So, the first pass at this, the earliest day  
3 it could occur would be the afternoon of election day?

4 A. No. They have to collect these things first.  
5 And it usually takes them a day or so. The canvassing  
6 team that goes through what's returned from the polling  
7 place, they usually take a day or so to gather these  
8 things up, put them on trays for us, and deliver them to  
9 us.

10 Q. And can you describe for us the -- what does  
11 the room look like? You've got 40 people at 40 desks and  
12 these provisional ballots come in and they start going  
13 through the process looking for hits?

14 A. We have 40 stations with computers on them.  
15 The ballots are in mail trays, and they are stacked on a  
16 four-tiered push cart. We have two areas that we would  
17 do this in. One would be in the phone bank. Because  
18 when the election ends, the phone bank ends pretty much.  
19 Then we have those stations available to do data  
20 processing.

21 So, we took staff into the phone bank and  
22 had them do it that way. There are 40 stations up there.  
23 That's why I said 40 plus, because we also have the 15,  
24 20 stations upstairs, and a lot of those employees were  
25 also verifying provisionals.

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1 Q. All right. So, an individual who's verifying  
2 a provisional, they're going to be going through this  
3 mail tray of provisional ballot envelopes trying to  
4 identify a hit and then putting it in an out stack for  
5 further processing and ultimately count it?

6 A. Well, we have several return trays, if you

7 will, ones that are hits, these are all good to go. On  
8 the first pass we were able to identify that these should  
9 be counted. And then we have the various trays of not  
10 registered, canceled, more research, yada, yada.

11 Q. Okay. So, these verifiers are sorting them  
12 into the different categories?

13 A. Yes.

14 Q. Is there some mark or notation made on the  
15 actual envelope after they've fallen into one of these  
16 categories?

17 A. I believe we stripe the ones that were done,  
18 make some check mark on it.

19 Q. It's a stripe with some kind of felt pen?

20 A. I believe so.

21 Q. And different colors mean different things?

22 A. Well, we had green as a color to identify ones  
23 that we had already gone through, made sure that it had  
24 all of the information necessary to process it.

25 Q. It's called green striping?

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1 A. No. It's not called anything. I'm thinking  
2 we have may have done that. But as I recall this  
3 process, I think that when they're -- how you identify  
4 one that's been looked at already is that it would have  
5 the voter information in green, their ID number. For  
6 example, if they found this voter as a registered in the  
7 lookup, they would go in and put the number on it. They  
8 would then check to see if they had the proper ballot  
9 style. Did the poll worker put that information on the  
10 envelope? And if they did not, they would put the  
11 information there. They would also indicate whether or  
12 not the ballot was the one that should be counted or it  
13 should be another ballot style, and they would write that  
14 information on it.

15 Q. And is the envelope striped?

16 A. I'm not sure.

17 Q. Okay. A moment ago you said --

18 A. I was thinking of many processes. So, in  
19 retrospect, I'm not sure if it's striped.

20 Q. You're not sure if it's striped or not?

21 A. No.

22 Q. Okay. However it's marked, it's sorted into  
23 these categories, as you said, good to go or verified?

24 A. Right.

25 Q. Those are ultimately counted?

1 A. Right.

2 Q. And cancelations, where the registration has  
3 been canceled, some of these provisional ballots would go  
4 into a pile marked cancelation; correct?

5 A. Yes.

6 Q. And then research needed?

7 A. Yes.

8 Q. That's sort of when the verifier throws up  
9 their hands and says I'm not sure?

10 A. Right.

11 Q. The research needed, is there a second team  
12 that's devoted to just to focus on those?

13 A. They are looked at a couple more times. As we  
14 pared them down to that category and finished off the  
15 other categories, we would come whack to those and try to  
16 figure them out.

17 Q. Who's responsible for that?

18 A. Individual? What do you mean? Who actually  
19 does it?

20 Q. Well, I'm trying to figure out, is there one  
21 of your supervisors, Lisa or Vicki Moore, who is  
22 specifically given the responsibility for reviewing these  
23 further research needed ballots?

24 A. They both would have reviewed them depending  
25 on -- Vicki was downstairs and Lisa was upstairs. So,

1 downstairs Vicki would do it; upstairs Lisa would.

2 Q. After the -- if I understand your testimony,  
3 as you're going through these 33,000 ballots, you're  
4 looking for hits. If you find them, they're diverted off  
5 to be counted. Otherwise, they're put into these  
6 different categories, cancelations, research needed and  
7 so on; correct?

8 A. Right.

9 Q. If these -- the ones that are put into the  
10 further research needed category, you don't look at those  
11 again until after all of the other provisional ballots  
12 have been processed?

13 A. No. We're constantly looking at all  
14 categories. Any time that there's a question about what  
15 we have done with it, we have someone else look at it.  
16 And then someone else looked at it.

17 Q. All right.

18 A. And that was on a -- the needs further  
19 research is a group that comes and goes. The second team  
20 went through it, pared it back down. Now there are only  
21 12. Then as -- this was an ongoing thing. This went on  
22 right up until election day.

23 MR. PORTER: You mean certification  
24 day?

25 A. Certification day. I'm sorry. Thank you.

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1 Q. I guess what I'm trying to understand is  
2 whether there's particular staff people who were sitting  
3 at a desk to whom all of the research needed ballots come  
4 and spend most of the time between election day and  
5 certification day just driving down that pile?

6 A. No. It would have been several people  
7 depending on who was available on that day and who our  
8 best researchers are. We put our A team on things on the  
9 further research issues.

10 Q. All of your staff are A team, aren't they?

11 A. Yes, they are.

12 Q. So, a particular researcher working in this  
13 group might one day be in charge of a stack of  
14 provisional ballots and doing the initial sorting and on  
15 the next day they come into the office might be in charge  
16 of working on the research needed ballots? It's going to  
17 vary from time to time?

18 A. Probably not. We would probably -- I would  
19 think we would keep our most intuitive people on the  
20 provisionals that were needing more research.

21 Q. And do you know who those most intuitive or A  
22 team people are who worked on that project?

23 A. No, I wouldn't know exactly.

24 Q. Are there documents out there that reflect  
25 that or would we have to ask Lisa or Vicki?

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1 A. You would probably have to ask Lisa or Vicki.  
2 Lisa and Vicki both have lead employees who are kind of  
3 in the food chain just below them with regards to  
4 responsibility. So, they may or may not introduce one of  
5 those guys as someone to look at issues that they didn't  
6 have time to look at.

7 Q. How many lead employees do they have?

8 A. I believe three.

9 Q. And who are they?

10 A. Laci Henry, Sue Polenske, and Chris Rudolph.  
11 Q. What are their responsibilities?  
12 A. You'd have to ask Lisa and Vicki.  
13 Q. Do you know if any of these three individuals  
14 had principal responsibility for the research needed  
15 category?  
16 A. I don't know if any of them or all of them had  
17 that as a specific responsibility. But I would certainly  
18 think that they had an eye to it.  
19 Q. All right. It sounds like this category of  
20 research needed goes up and down between election day and  
21 certification day. Some days it's going to be a larger  
22 number, some days it's going to be a smaller number,  
23 depending on the flow of provisional ballots and the  
24 speed with which you're able to identify the voter in the  
25 registration database?

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1 A. Yes.  
2 Q. Kind of like musical chairs and then it all  
3 stops on the day of certification?  
4 A. I wouldn't use that analogy, but something  
5 similar to that.  
6 Q. Whatever the number is on the date of  
7 certification is reported on the Provisional Ballot  
8 Summary Report?  
9 A. True.  
10 Q. After the date of initial certification, these  
11 208 ballots aren't going to ever be counted for this  
12 election, right?  
13 A. That's true.  
14 Q. So, during the November 2004 general election,  
15 we had a couple of different recounts as I recall. These  
16 208 ballots were not included in any of -- in either the  
17 machine or the hand recounts?  
18 A. No.  
19 Q. It's correct to say, isn't it, that these --  
20 this category of 208 ballots comprises those as to which  
21 the County had not completed its investigation as to  
22 whether the voter was properly registered or not?  
23 A. I would say those were ones that we couldn't  
24 determine that were registered at the time certification  
25 happened.

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1 Q. And as a result of the County being unable to

2 determine whether they were registered or not, the  
3 ballots weren't counted?

4 A. Is that a question?

5 Q. Yes.

6 A. Would you rephrase the question?

7 Q. Sure. As a result of King County's inability  
8 to confirm the registration for these 208 ballots, these  
9 ballots were not counted in the election?

10 A. We could not confirm that these voters were  
11 registered.

12 Q. And, therefore, didn't count them?

13 A. They were not counted because we could not  
14 confirm a registration.

15 Q. During this effort to confirm registration,  
16 were any of the voters contacted?

17 A. No.

18 Q. Why not?

19 A. I can't say why not. They may not have  
20 provided us a way to contact them. We may not have known  
21 what their address was. We may not have known what their  
22 name was.

23 Q. Okay. But if you had a name and an address,  
24 did King County make an effort to contact any of the  
25 voters?

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1 A. If we had a name or an address, we would have  
2 dispositioned them as registered or not and then we would  
3 have relied on the free access system because they would  
4 have appeared in our module.

5 Q. Free access being the DIMS system?

6 A. No. That's our website where there's a coded  
7 number associated with these. If they go out there and  
8 put the number in, it's going to deliver back to them  
9 that they're not registered.

10 Q. But at least with this group of 208, despite  
11 having whatever data the voter provided on the form, you  
12 weren't able to confirm the registration on the DIMS  
13 system?

14 A. Correct.

15 Q. I think of this as kind of a limbo category.

16 You've got the not registered, and you've got the  
17 confirmed registered. These are the ones where we can't  
18 find it yet, but we're still looking?

19 A. We don't even -- in that category, we may not  
20 even know what the voter's name is.

21 Q. Okay. In some cases you know what the voter's  
22 name is?

23 A. In some cases, yes. Or we have a partial name  
24 or something to that effect.

25 MR. PORTER: When you have an

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1 opportunity to break for five minutes, we'd appreciate  
2 it. Is this a good time?

3 MR. HAMILTON: This is fine.

4 (A brief recess was taken.)

5 Q. When we broke I was asking you about the 208  
6 needed further research ballots. Do you recall the  
7 discussion?

8 A. Yes.

9 Q. During the course of the processing of  
10 provisional ballots between election day and  
11 certification on November 17, this crew from your  
12 department was working on trying to confirm the  
13 registration of 33,000 -- or approximately 33,000  
14 provisional ballots?

15 A. Yes.

16 Q. And there was this group that was left as to  
17 which you couldn't confirm registration. And those were  
18 placed on -- in this category of needed further research  
19 on the final Provisional Ballot Summary Report?

20 A. Yes.

21 Q. There's another group on that report of  
22 slightly more than 3,000 that are listed as not  
23 registered?

24 A. Yes.

25 Q. So, it appears -- you tell me if I'm wrong

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1 here -- that when your crew was processing these  
2 provisional ballots, some were registered in which case  
3 they were counted. Some were determined to be not  
4 registered, and therefore they were listed in this not  
5 registered category. And some, specifically 208 of them,  
6 were put in this needed further research, which sounds  
7 like kind of a middle area. You think they might be  
8 registered. And that's the reason they end up on the 200  
9 -- in this category?

10 A. Or we thought they might not be registered.

11 Q. Or might not. But there's some ambiguity. As  
12 to these, you weren't able either to confirm that they

13 were registered or to affirmatively say they're not  
14 registered?

15 A. Again, we may not have even known who they  
16 were. We may not have even known what their name was and  
17 thought that we could track it down at some point.

18 Q. Okay. And that's the distinction between the  
19 not registered and the needed further research. The  
20 needed further research are the ones that you thought you  
21 might be able to track it down based on the information  
22 provided by the voter?

23 A. Restate the question.

24 Q. I'm trying to understand the distinction  
25 between those that are listed as not registered and those

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1 that are listed as not registered needed further  
2 research. What's the distinction?

3 A. We weren't sure about the group in needs  
4 further research. We didn't know what the disposition of  
5 those people were. We could not determine for a myriad  
6 of reasons what the disposition of those voters should  
7 be.

8 Q. It sounds from your testimony like this  
9 category included, during that two-week period between  
10 the election and certification, a large number of  
11 ballots, some of which ultimately was either confirmed to  
12 be not registered or confirmed to be actually registered,  
13 and, therefore, moved out, and this is the final number?

14 A. No. It could have been a much smaller number.  
15 I couldn't say. Again, as I told you before, this was a  
16 moving target. This was up and down. And how far up or  
17 how far down at any point in the process I couldn't tell  
18 you. But I would say that it's equally as possible there  
19 were fewer than more.

20 Q. Okay. And, so, if it were fewer than this,  
21 then that would mean that just before certification,  
22 additional ballots were placed in this category to bring  
23 it up to 208?

24 A. I don't know what that would mean, frankly.  
25 That's speculative. I wouldn't speculate on those lines.

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1 Q. Okay. I'd like to ask you some questions  
2 about the efforts that were taken to research these  
3 particular names and individuals in order to confirm  
4 whether they were registered or not. It sounds like one

5 of the things that this crew did was look at the  
6 registration system itself and do various kinds of  
7 searching within the DIMS registration system?

8 A. Yes.

9 Q. I asked you before and I'm not sure I got an  
10 answer, whether any of these individuals were contacted.  
11 And I think you answered by saying something about, well,  
12 some of them may not have given us information. I  
13 recognize that. But were any of the 208 individuals  
14 contacted?

15 A. I don't know.

16 (Mr. McBrayer enters.)

17 Q. Is that something that King County ever does  
18 in an effort to resolve or address this needs further  
19 research, contact the voters?

20 A. Ever, I don't know. Because we had never used  
21 the module before.

22 Q. Well, King County has always -- Washington  
23 State has always had some form of provisional ballots.  
24 They used to be called special ballots, right?

25 A. Yes.

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1 Q. This isn't a new problem relating to the DIMS  
2 module?

3 A. No.

4 Q. So, I'll return and ask the question again.  
5 At least in your experience or your knowledge, has King  
6 County ever contacted voters in an effort to resolve this  
7 further research needed group of ballots?

8 A. Not to my knowledge, because I don't know if  
9 we ever had this as a category before. In other words,  
10 we didn't -- there were no provisional ballots that I  
11 processed in King County prior to this group.

12 Q. I'm trying to understand if we've got a  
13 disagreement about words here or not. In your experience  
14 at King County, both this current employment as assistant  
15 superintendent for voter services and your earlier work  
16 for King County as assistant superintendent of voter  
17 registration, you're aware that King County received what  
18 used to be called special ballots?

19 A. Yes.

20 Q. And with respect to special ballots, those are  
21 the same as to what we call today provisional ballots?

22 A. Yes.

23 Q. And in those cases you had the same task --

24 King County had the same task of confirming whether the  
25 voter was registered before they could count that special

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1 ballot?

2 A. That's right.

3 Q. And in those -- in that circumstance there  
4 were always some cases of ambiguity where you couldn't --  
5 it wasn't clear whether the voter was registered or not.

6 True?

7 A. That's correct.

8 Q. And in resolving those ambiguities, at any  
9 time in your experience has King County ever contacted  
10 the voters in an effort to find out whether they could  
11 clarify the situation?

12 A. I can tell you this, that King County  
13 employees would have attempted to call a voter under any  
14 category if there was some information that could be  
15 gathered from that voter through a phone call if we had a  
16 phone number.

17 Q. All right. Well, we're going to go through  
18 some specific records, so I'll stop being so abstract and  
19 be more specific. I want to try and understand the  
20 process first. In doing this research, would your  
21 canvassing crew or your A team, would they use telephone  
22 directories to try and look up the individual and confirm  
23 an address?

24 A. I don't know why they would. The address  
25 wouldn't be the issue. What the voter's name would be

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1 the issue. Who the voter is would be the issue.

2 Q. Well, you're familiar with the reverse  
3 telephone directory?

4 A. No.

5 Q. You're aware of telephone directories that  
6 list things by address rather than by name?

7 A. Yes. Thomas Guide kind of things.

8 Q. Right. So, if a voter provided you an address  
9 but not a complete name or the handwriting was illegible,  
10 would your canvassing crew use a reverse directory in  
11 order to try and find the name?

12 A. We do have those in the office, yes.

13 Q. Were they used for this purpose?

14 A. They would have been if it occurred to them,  
15 yes.

16 Q. Well, I'm trying to -- you're answering would  
17 have. I'm trying to figure out if they were. Is that a  
18 tool that the crew was instructed to use in order to  
19 identify a particular voter?

20 A. I don't know if they were instructed to use  
21 it. But in our daily processing of voter registration,  
22 we use it.

23 Q. It would have been permissible for the crew  
24 to use it?

25 A. Sure.

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1 Q. And it was a tool available for them to use?

2 A. Absolutely.

3 Q. What about using online searching, for  
4 example, Google or an online database such as a telephone  
5 directory that's online? Are those permissible tools for  
6 the crew to use to try and identify a voter in the needs  
7 for further research?

8 A. I don't know. I don't know if they were  
9 instructed to use those or not.

10 Q. Putting aside whether they were instructed to  
11 use them or not, are they allowed to use them?

12 A. I don't know. The question has never been  
13 asked of me.

14 Q. How about contacting the Secretary of State's  
15 office? In doing this research on the 208 needs further  
16 research effort, did the crew contact the Secretary of  
17 State?

18 A. I don't know.

19 Q. Was the Secretary of State database available  
20 as a tool?

21 A. The Secretary of State's database they get  
22 from us. So, I'm not sure what that would have bought  
23 us. That was our database that they were using. So, I'm  
24 not sure if that would be something that we would use.

25 Q. Secretary of State also has a database from

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1 all 39 counties in Washington; correct?

2 A. I don't know.

3 Q. It's your understanding they do?

4 A. I don't know. I don't work there. So, I  
5 don't know.

6 Q. I'm only trying to answer your question of  
7 what it would buy you. By checking with the Secretary of

8 State, your crew could have confirmed whether the voter  
9 was registered anywhere in Washington, couldn't they?

10 A. I don't know.

11 MR. PORTER: I guess I'll object. He  
12 already testified to the lack of personal knowledge to  
13 answer your question.

14 Q. Did the crew in your department in working on  
15 these further research needed contact the Washington  
16 State Department of Motor Vehicles?

17 A. No. I don't know. I don't know why they  
18 would.

19 Q. Well, you're aware that the Department of  
20 Motor Vehicles registers Washington citizens to operate  
21 motor vehicles in Washington State?

22 A. Yes.

23 Q. And maintains a database of registered voters  
24 -- or registered drivers?

25 A. Yes.

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1 Q. Contains names and address information?

2 A. Yes.

3 Q. And, so, my question again is: Did they use  
4 -- was that a permissible database for doing the further  
5 research needed that was available to the canvassing crew  
6 doing this work?

7 A. It was never brought up as an option.

8 Q. So, the answer is, no, it was not used?

9 MR. PORTER: Objection. The answer  
10 is the answer.

11 Q. Was it ever used?

12 A. I don't know.

13 Q. How about the Washington State Patrol  
14 database?

15 A. We -- no.

16 Q. Wouldn't use that?

17 A. No.

18 Q. As you approached the certification date, was  
19 it obvious to you that there was going to be some number  
20 of further research needed ballots that just weren't --

21 A. As we approached the election date, nothing  
22 was obvious to me.

23 Q. Thank you for the correction. As King County  
24 approached the certification date, was it obvious to you  
25 that there was going to be some number left in this

1 needed further research?

2 A. It was obvious to me that there would be some  
3 numbers left of provisional ballots but not any specific  
4 category.

5 Q. Was at any point between the election date and  
6 the certification date this list of needs further  
7 research ever publicly disclosed?

8 A. I don't know.

9 Q. It might have been? You don't know?

10 A. I don't know.

11 Q. Who would have been in charge of publicly  
12 disclosing it?

13 A. We have a PIO.

14 Q. PIO means what?

15 A. Public information officer.

16 Q. Is there any reason why this list -- or these  
17 -- information about ballots that fell into this category  
18 would not be publicly available during the period of time  
19 between the election and certification?

20 A. I'm sorry. You'll need to repeat that  
21 question.

22 Q. I'm trying to understand whether you as the  
23 assistant superintendent for voter services would have an  
24 objection to the public release of this list of ballots  
25 as to whom you needed further input?

1 A. I don't get to make those decisions.

2 Q. Who does?

3 A. Dean, ultimately.

4 Q. Dean Logan?

5 A. Yes.

6 Q. Well, we can ask him that question. You  
7 personally in your position as assistant superintendent  
8 of voter services, would you have an opinion on that?

9 A. No.

10 Q. It might be permissible? Might not? You  
11 don't have an opinion?

12 A. I don't have an opinion on it.

13 Q. And you don't know as a fact whether it was or  
14 was not publicly released?

15 A. I don't know.

16 Q. In doing the further research, did you -- as  
17 the assistant superintendent for voter services, did you  
18 or anyone in your department seek to involve either of

19 the -- or any of the political parties in trying to track  
20 down or resolve these ambiguities?

21 A. I don't see a reason why we would do that.

22 So, no.

23 Q. In the course of this litigation, we've  
24 received some documents that suggest that there was some  
25 additional research that went on after certification with

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1 respect to these 208 ballots. Is that true?

2 A. There was some research that went on with  
3 respect to all of the ballots; not those specifically.

4 Q. Okay. I'm only asking about these  
5 specifically. Let's put aside everything else.

6 Was there additional research done after  
7 the date of certification with respect to these 208  
8 needed further research ballots?

9 A. I don't believe so, but I can't say for sure.

10 Q. You don't believe so. So, in your  
11 understanding, all of the research stopped as of  
12 certification?

13 A. Yes.

14 MR. MAGUIRE: Which certification?

15 MR. HAMILTON: November 17th.

16 A. No.

17 Q. Okay. When did the research stop?

18 A. Actually, the research -- I couldn't say a  
19 date. What we were trying to accomplish with this whole  
20 project was to have accountability for all ballots that  
21 we received. So, there was some -- we continued to look  
22 at the numbers that we had and verified what we received.  
23 And any that were not in the module, we put there.

24 Q. I'm sorry. Now, it's my turn to be confused.

25 I don't think I understood your question -- or your

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1 answer. On election day and -- between election day and  
2 November 17, you received a number of these provisional  
3 ballots, and you were doing research to try and confirm  
4 their registration; correct?

5 A. Correct.

6 Q. That's a yes?

7 A. Yes.

8 Q. The research into confirming the registration  
9 continued after November 17?

10 A. We didn't research them. We continued to

11 enter any that we didn't have. And I would specifically  
12 refer to some of the not registered ones. Initially we  
13 discovered that not all of our registrations were being  
14 put into the system.

15 Q. Okay. Again --

16 A. So, we had a category of not registered that  
17 when we looked at the numbers and looked at the volume,  
18 we saw that we -- that these not registereds were not in  
19 our system.

20 Q. I see.

21 A. There was a system --

22 Q. I think you're answering a question I didn't  
23 ask you. But that accounts for the difference between  
24 the initial final report and this amended replacement  
25 final report?

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1 A. I'm referring to that in terms of was anything  
2 further done. That was the only thing further done.

3 Q. Okay. So, let me just make sure I understand.  
4 There was no other research done for the purposes of  
5 trying to confirm whether these people were registered or  
6 not after the date of the November 17 certification?

7 A. True.

8 Q. So, if we look at those -- at the documents  
9 that relate to these 208 provisional ballots in the  
10 needed further research category, the notes that exist  
11 relating to the registration all predate November 17  
12 because no further research was done after that date?

13 A. To my knowledge, I don't believe that's true,  
14 that there were no more -- no further research was done.

15 Q. And, therefore, all the notes must predate  
16 November 17?

17 A. I don't know what that means. My answer is, I  
18 don't believe we did any further research to those after  
19 that day.

20 Q. Since the date of the November 17  
21 certification, do you know whether it has been determined  
22 that some of the ballots that were in this 208 needed  
23 further research category, in fact, should have been  
24 counted?

25 A. I don't know.

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1 Q. Do you know whether there's any documents that  
2 discuss the -- whether any of these 208 needed further

3 research ballots should have been counted?

4 A. I don't have any knowledge of that.

5 (Pause in the proceedings.)

6 (WHEREUPON, a table entitled King County  
7 Uncounted Provisional Ballots was marked as Exhibit-5 for  
8 identification.)

9 Q. I'm handing you what's been marked as Exhibit  
10 No. 5. This is a table that we have prepared, and it  
11 collects at least a subset of the 208 needed further  
12 research. And I've handed it to you so that we can use  
13 it something as a cheat sheet as we move through some  
14 documents relating to some of these names.

15 First, are you familiar with the codes  
16 listed in Exhibit 5 under the column "Reason Rejected"?

17 A. Yes.

18 Q. And the code "RSRCH" means needed further  
19 research?

20 A. Right.

21 Q. What does the code "PNREGm" mean?

22 A. I think that one is not registered and that  
23 they are out of county. I'm not positive about that. We  
24 had not registered and I believe a reason code registered  
25 in another county. I'm not positive about that. But I

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1 think that's what the PNREGm means.

2 (A brief discussion was held off the  
3 record.)

4 (WHEREUPON, a copy of a provisional ballot  
5 envelope was marked as Exhibit-6 for identification.)

**Redacted section involving dozens of specific provsional ballot envelopes and registration information from individual voters**

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2 (A brief recess was taken.)

3 Q. Mr. Webb, thank you for your patience this  
4 afternoon as we've been going through a number of  
5 different records. I know it was sort of tedious, but I  
6 sure do appreciate your assistance.

7 A. You're welcome.

8 Q. I want to switch back to a subject that we  
9 were talking about a little bit this morning, and, that  
10 is, provisional ballots rejected because the registration

11 had previously been canceled by King County.

12 Do you recall that discussion?

13 A. I do.

14 Q. You're familiar -- or maybe I should ask it a  
15 different way. Are you familiar with the statute that  
16 requires an investigation if a voter's registration -- if  
17 a voter's provisional ballot has been rejected on account  
18 of a cancelation?

19 A. Yes.

20 Q. So, you're familiar with the fact that in the  
21 event that a provisional ballot comes in and the County  
22 concludes that the registration has been previously  
23 canceled that the County is under an obligation to  
24 conduct some kind of an investigation?

25 A. Yes.

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1 Q. And the investigation is into the propriety or  
2 the circumstances surrounding the original cancelation?

3 A. Right.

4 Q. If the result of that investigation is that  
5 the cancelation was in error, then the registration has  
6 to be reinstated and the ballot counted?

7 A. Yes.

8 Q. Otherwise, the ballot's not counted?

9 A. Correct.

10 Q. And the voter is afforded an opportunity to  
11 reregister?

12 A. Yes.

13 Q. Is there a person at King County who is  
14 responsible for conducting these investigations or is it  
15 a group of people?

16 A. It would fall to whoever was looking at the  
17 record and discovered the cancel.

18 Q. So, any of this group of I think you just said  
19 40 people who are evaluating these provisional ballots  
20 might do that investigation?

21 A. Yes. But I would suspect that we would have  
22 kept the majority of the group working on ones that  
23 didn't have that as an issue and probably a smaller group  
24 working on investigating the cancelations.

25 Q. So, let me just make sure I understood what

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1 you just said. We have this large group working on these  
2 provisional ballots and trying to confirm the

3 registration?

4 A. Right.

5 Q. Every once in a while, one of them is going to  
6 say, bingo, I've got a canceled registration?

7 A. Right.

8 Q. And then all of those are going to be funneled  
9 to a smaller group that says, okay, now we need to do  
10 this investigation?

11 A. Right.

12 Q. Who was assigned that task?

13 A. Vicki would have been leading that task. And  
14 who she had individually, I couldn't be sure of.

15 Q. Vicki Moore would have been leading that task?

16 A. Yes.

17 Q. Are there specific records kept relating to  
18 the investigation of the cancelation?

19 A. No. There are specific records kept relating  
20 to any cancelation.

21 Q. Okay. And you described those earlier. It  
22 sounds like they're kept chronologically?

23 A. Right.

24 Q. But now we've got a provisional ballot that  
25 comes in. We get a hit that it involves a canceled

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1 registration. It goes to Vicki Moore's group and she's  
2 doing this further investigation into the circumstances  
3 surrounding the original cancelation.

4 Is there some kind of a form or a  
5 checklist to indicate what's she's done or notes that are  
6 kept to document the investigation that she's conducting  
7 pursuant to the statutory requirement?

8 A. I don't think that she would have kept notes.  
9 What she would have done is to go and track down the  
10 documents and attach them to the provisional ballot to  
11 verify that this is why we made this cancelation.

12 Q. So, Vicki Moore, or the people working under  
13 her, would have taken the provisional ballot envelope,  
14 gone back and looked at the original registration  
15 cancelation records and then stapled them together?

16 A. I believe that is what she did.

17 Q. And then where would that compilation go?

18 A. We kept them with the provisional ballots in  
19 the event that this situation came up.

20 MR. HAMILTON: Off the record.

21 (A brief discussion was held off the

22 record.)  
23 MR. HAMILTON: This is a comment to  
24 counsel. In reviewing the documents that were provided,  
25 I've got documents that were apparently copied from the

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1 cancelation files, but they're not attached to particular  
2 ballot envelopes. You don't need to respond. But maybe  
3 if you could talk to your client and figure out why that  
4 is.

5 We had asked for documents relating to the  
6 cancelation investigations as to these 622. But we  
7 didn't -- if I just heard his testimony correctly, we  
8 should have had a provisional ballot envelope stapled or  
9 attach in some manner to a bunch of others -- to a bunch  
10 of the records relating to the cancelation. I think your  
11 witness wants to say something.

12 MR. PORTER: Tell me what you want to  
13 say.

14 (A brief discussion was held between the  
15 witness and his counsel.)

16 MR. PORTER: I'm not sure what you  
17 were asking him. We provided you with the documentation  
18 that established that the great majority of the  
19 previously canceled provisional ballot voters had been  
20 canceled sort of administratively because of having been  
21 on inactive status or there were some other reasons where  
22 -- that the source documents were so old they had been  
23 purged. I think there are only 99 pages -- that number  
24 sticks in my head -- of like original source documents  
25 that applied. Those were provided to you. We didn't

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1 staple them to the provisional ballot envelopes or  
2 anything. The names should correspond.

3 MR. HAMILTON: I don't doubt -- or  
4 rather I don't know whether that's true or not. What I  
5 thought I heard the witness say is that there's  
6 compilation of documents that includes the envelope as  
7 well as the related underlying documentation about the  
8 cancelation earlier. And we got -- it sounds like we got  
9 the latter half of the collection but not the first half,  
10 not the attached related provisional ballot.

11 MR. PORTER: I think he just told me  
12 that he didn't mean to say that they were actually --  
13 A. Attached. They were together. When I knew we

14 had a group of them together, I asked Vicki to make sure  
15 that we had backup documents for those. So, I believe  
16 she went, discovered all of the documents related, and  
17 put them in either a tray next to the ones that were like  
18 that. But they were separated and identified as their  
19 source documents for the canceled. I'm not positive  
20 that they were actually literally stapled.

21 Q. But they're in the same place?

22 A. When I say same place, I mentioned earlier  
23 that we were processing them on these tall push carts  
24 that we -- so, on the bottom row of this push cart, there  
25 were the ones that were designated as canceled. And then

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1 next to them there was a tray of documents related to the  
2 ones that were in the tray that were canceled.

3 Q. Where are those?

4 A. I don't know where they are now. But I think  
5 they -- I believe that they were asked for in a PDR.

6 Q. The envelopes themselves?

7 A. No. The source documents.

8 Q. I've got the source documents. What I'm  
9 trying to find is the related envelopes.

10 MR. PORTER: We already provided all  
11 of the provisional ballot envelopes that were checked.  
12 There were over 4,000 total. And then we gave you a  
13 spreadsheet that had the code for the reason which  
14 included the canceled documents.

15 MR. HAMILTON: All right. Then I'll  
16 find them. Thank you.

17 MR. MAGUIRE: Don, did we get a copy  
18 of that as well?

19 MR. PORTER: Mm-hm. I promise.

20 Q. How many of these sorts of investigations are  
21 typically conducted in connection with a presidential  
22 general election?

23 A. Hundreds.

24 Q. More than a thousand?

25 A. I couldn't speculate that far.

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1 Q. Okay. We'll say hundreds. In -- during the  
2 period of time that you've been employed by King County,  
3 has King County ever as a result of one of these  
4 investigations determined that the original cancelation  
5 was an error?

6 A. Sure, yes.

7 Q. How many times does that happen in connection  
8 with an election?

9 A. I couldn't give a number to an occurrence. I  
10 would say infrequently.

11 Q. Infrequently. How many times did it happen in  
12 connection with the November 2004 general election?

13 A. I couldn't say for sure.

14 Q. Is there a record kept to determine the number  
15 of times as a result of these cancelation investigations,  
16 the investigation results in a conclusion that the  
17 original cancelation was an error?

18 A. No. But we could probably determine that by  
19 running a report of anyone whose record was restored to  
20 active from canceled during that time period.

21 Q. You, meaning King County, could run a report  
22 that shows how many registrations were reactivated from  
23 canceled to active as a result of a cancelation  
24 investigation?

25 A. Not as a result of asking the question, not as

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1 an investigation. When I hear you say that, the image to  
2 me is there's this group of people that are going around  
3 with fingerprint dusting kits and that sort of thing.

4 Really what happens is we go and look in  
5 our files for a source document and try to determine that  
6 this was a good cancel.

7 Q. State law requires an investigation into the  
8 circumstances. So, the reason I'm using the phrase  
9 "investigate the circumstances" is because RCW 29A.08.625  
10 uses that phrase.

11 A. I understand that, and I think that that's a  
12 term that they use. But I'm not sure that everyone  
13 interprets it the same way.

14 Q. Right. King County from time to time restores  
15 canceled registration for other reasons just when they  
16 discover that there's been an error, right?

17 A. Sure.

18 Q. What I'm trying to figure out, is there a way  
19 to identify how many times King County as a result of one  
20 of these registration cancelation investigations has  
21 concluded that the original registration was an error?

22 A. The only way that I can think of that that  
23 could be done is through a date issue where you know this  
24 was election day. Were there any registrations restored

25 after that day and did they vote?

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1 (Mr. McBrayer enters briefly.)

2 Q. Would Vicki Moore know?

3 A. Yes. Well, I believe she would have the same  
4 answer. You would need to ask her.

5 Q. King County from time to time has made  
6 mistakes and canceled voters' registrations in error;  
7 correct?

8 A. Yes.

9 Q. Sometimes you catch them. Sometimes the voter  
10 brings them to your attention?

11 A. Yes.

12 (WHEREUPON, an e-mail thread was marked as  
13 Exhibit-40 for identification.)

14 Q. Handing you what's been mark as Exhibit No.  
15 40. This is series of e-mails between Dean Logan and  
16 Travis Elsom produced by King County in this litigation.

17 Do you know who Travis Elsom is?

18 A. Yes, I do.

19 Q. Who is that?

20 A. He is one of our system analyst database  
21 administrator kind of guys.

22 Q. And December 15, 2004, he wrote:  
23 "Unfortunately or fortunately, depending on how you look  
24 at it, I found 3 voters that a user incorrectly keyed in  
25 the provisional module. Two voters were entered in as

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1 canceled in the provisional module when in fact they are  
2 active. And one voter was entered as canceled who was  
3 actually just on inactive status."

4 That's three instances of voters who were  
5 entered into the system as canceled when they shouldn't  
6 have been, right? Yes?

7 A. Yes.

8 Q. Those are three errors by King County in  
9 connection with these voters' registrations?

10 A. Three voters that were incorrectly keyed is  
11 what he said here. That's what it means.

12 Q. So, given the date of this e-mail, December  
13 15, for these three voters, their votes didn't count.  
14 And by December 15 when the error was caught, it was too  
15 late to count those votes?

16 A. I don't know. I don't know the circumstances

17 of what he found. He may have found them, but he didn't  
18 say here whether it was found in time, were they allowed  
19 to vote, or anything else.

20 Q. You can't identify which 3 out of the 622  
21 canceled provisionals this relates to?

22 A. No.

23 Q. We'd have to ask Mr. Elsom that question?

24 A. Yes.

25 (WHEREUPON, an e-mail thread was marked as

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1 Exhibit-41 for identification.)

2 Q. Handing you what's been marked as Exhibit No.  
3 41. Do you know who Bobbie Egan is?

4 A. I do.

5 Q. Is that the communications specialist for King  
6 County?

7 A. Yes.

8 Q. Exhibit 41 is an e-mail from Bobbie Egan to  
9 somebody named Ralph Thomas. Do you know who that is?

10 A. I don't.

11 Q. She attaches a table showing the number of  
12 provisionals canceled for 2004 versus the prior  
13 presidential election in 2000. Do you see that?

14 A. Yes.

15 Q. I know that -- for 2004 it lists 605. The  
16 actual number is 622; correct?

17 A. I'm not looking at the report. I couldn't  
18 tell you that.

19 Q. Why don't you just take a look for a second at  
20 Exhibit 4.

21 A. Okay.

22 Q. The final number of canceled registration --

23 A. Yes.

24 Q. -- provisionals was 622?

25 A. I see that.

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1 Q. And according to Exhibit 41, the corresponding  
2 number for the year 2000 was 266.

3 A. Okay.

4 Q. Do you know why it is that that number more  
5 than doubled between the two presidential cycles?

6 A. I believe it was generated by high interest in  
7 the election. This was unprecedented numbers that we  
8 processed in this election. We had high totals for

9 everything.  
10 (WHEREUPON, a list of canceled voters was  
11 marked as Exhibit-42 for identification.)

12 Q. Handing you what's been marked as Exhibit 42.  
13 This is one of the documents that was produced in  
14 connection with this litigation by King County relating  
15 to provisional -- identifying the 622 provisional ballots  
16 that were rejected due to prior cancelations.

17 Are you familiar with this document?

18 A. I haven't seen this document itself. But I'm  
19 familiar with what it's saying.

20 Q. In the -- I guess I can understand the meaning  
21 of the columns. "name\_last, name\_first, middle." That's  
22 the voter's first last and middle name; correct?

23 A. Yes.

24 Q. On the far left what is that column  
25 indicating? It appears in every column to have 1204.

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1 What does that mean, if you know?

2 A. It looks like it's been cut off, but it was  
3 "selection\_ID," which I think identifies the report. I'm  
4 not positive about that. If you look at this report,  
5 these fields, you can open that bar out and read what it  
6 says. So, I would do that if I had the opportunity. I'm  
7 not sure what it says there.

8 Q. All right. Next column over is "voter\_ID."  
9 That's the voter registration number?

10 A. Yes.

11 Q. "Status." C is canceled?

12 A. Yes.

13 Q. And then there's three columns for the name.

14 A. Right.

15 Q. The second column from the far right side is  
16 "status"?

17 A. Right.

18 Q. Is that the description or the reason for the  
19 cancelation?

20 A. That's the reason code, yes.

21 Q. So, this first one, "returned voter card  
22 cancel," what does that mean?

23 A. I believe it means that the voter returned  
24 their ID card and signed it and said cancel my  
25 registration. I'm not positive about that.

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1 Q. The next one says, "returned jury  
2 cancellation." What does that mean?  
3 A. We'd had a jury notice returned from this  
4 person and had reason to believe that there was a  
5 cancelation associated with them.  
6 Q. Reason -- if you send a jury service notice to  
7 a voter and it's returned as undeliverable, is the  
8 voter's registration automatically canceled?  
9 A. No. It's deactivated.  
10 Q. Placed on inactive status?  
11 A. Yes.  
12 Q. And if that voter then shows up and votes,  
13 they're allowed to vote; correct?  
14 A. Yes. They are actually printed in the poll  
15 book if they are still active -- if they are still on the  
16 files even if they are inactive. They are still part of  
17 the file, and they would still be eligible for an  
18 election.  
19 Q. Okay. And then the "moved out of county,"  
20 what does that mean?  
21 A. That they moved out of county.  
22 Q. And how would you know that?  
23 A. Because they sent us -- either they sent us  
24 notification or the county that they moved to sent us  
25 notification.

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1 Q. Next one is, "multiple county registration  
2 cancellation." That's that report from the Secretary of  
3 State?  
4 A. Yes.  
5 Q. If we look down, about halfway down it says:  
6 "NCOA out of county cancellation." What does that mean?  
7 A. That's national change of address.  
8 Q. "Washington State felony cancellation," that's  
9 a conviction of a felony?  
10 A. Yes.  
11 Q. Is there a different code for a felony  
12 conviction from someplace other than Washington State?  
13 A. I believe there is.  
14 Q. In the far right column, last transaction,  
15 what does that mean?  
16 A. That was when their record was hit with this  
17 transaction.  
18 Q. Hit with the transaction? Meaning their  
19 registration was canceled?

20 A. Yes. This doesn't necessarily indicate that  
21 on this day they were done. It indicates on this day the  
22 transaction happened. And in the record it would show as  
23 of what date or whatever date information we would have  
24 to drive this.  
25 (WHEREUPON, a list of canceled voters was

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1 marked as Exhibit-43 for identification.)

2 Q. Okay. I'm handing you what's been marked as  
3 Exhibit 43. This is another document produced by King  
4 County in connection with our request relating to voter  
5 cancelations. This appears to be sorted by reason and  
6 then by date.

7 Are you familiar with this document?

8 A. Not the document itself, but I know what it  
9 means.

10 Q. Do you recognize the handwriting?

11 A. No, I don't.

12 Q. In some cases there's a notation, "OOC  
13 envelope." That's the second one down. What does that  
14 mean? Do you see where I'm at? The second one, Brent  
15 Olson.

16 A. I do.

17 MR. PORTER: I'm just going to  
18 suggest it might be DOC.

19 A. No. I think it's out of county. I think it  
20 came off of the multi-county report. That's what it  
21 appears to be, that writing in the "status" where they've  
22 scratched out "office correction." And it says  
23 "multi-county cancel" is what that handwritten note says  
24 there.

25 Q. And then the first and the third line here is

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1 just completely crossed off. Do you know what that  
2 means?

3 A. I don't.

**REDACTED**

23 Q. The next one down says, "DOL OOC  
24 cancellation." What does that mean?

25 A. Department of Licensing out of county cancel.

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1 Q. Can you explain that?  
2 A. That comes in a report.  
3 Q. From the Department of Licensing?  
4 A. Yes.  
5 Q. The motor vehicle licensing?  
6 A. Yes.  
7 Q. So, this is somebody who canceled their  
8 driver's license and moved out of state?  
9 A. I'm not sure what that means.  
10 Q. And then for this whole series of eight  
11 entries here, in the handwriting it says, "inactive to  
12 cancel - no documents." What does that mean?  
13 A. That would have been done with the program.  
14 Q. So, there's no documents that would relate to  
15 that?  
16 A. Right. It would have been done as a result of  
17 -- I'm not sure. But it would have been done with the  
18 program.  
19 Q. Who would know --  
20 A. Vicki would know.  
21 Q. Vicki Moore?  
22 A. Yes.

**REDACTED discussions of canceled voter registrations identifying individual names and voter information**

5 MR. HAMILTON: Let's go off the  
6 record for just a second.  
7 (Pause in the proceedings.)  
8 MR. HAMILTON: I think I'm done. I  
9 have no further questions at this point. Thank you,  
10 Mr. Webb. I appreciate your cooperation today.  
11 THE WITNESS: My pleasure.  
12 MR. HAMILTON: Let's go off the  
13 record here.  
14 (A brief discussion was held off the  
15 record.)  
16 EXAMINATION  
17 BY-MR.EVEN:  
18 Q. Mr. Webb, I have just a few questions dealing  
19 with a couple subjects that I understand came up this  
20 morning. Do you recall this morning a line of questions  
21 dealing with multi-county reports from the Secretary of  
22 State's office dealing with apparent duplicate  
23 registrations between counties?

24 A. Yes.  
25 Q. Do you recall a discussion of how often the

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1 Secretary of State's office produces those reports?

2 A. I do.

3 Q. And what is your understanding as to how often  
4 King County receives those reports from the Secretary of  
5 State?

6 A. I think I was vague in my answer on that  
7 because I'm not sure. I thought it occurred with some  
8 regularity, but I couldn't say for sure what that is.

9 Q. And the reason you're not sure, does that have  
10 to do with whether you see these personally?

11 A. Right. And I don't actually personally see  
12 them, and they don't come directly to me for me to hand  
13 off.

14 Q. If I represented to you that those come maybe  
15 once or twice a year, would that sound accurate to you?

16 A. I would believe that if you said it.

17 Q. And in your understanding, those reports -- I  
18 think you indicated earlier this afternoon that those --  
19 well, let me back up.

20 Let me go back to one of the prior  
21 exhibits. If you could look at Exhibit 44.

22 A. Okay. Yes.

23 Q. Does this appear to be a page from a 2004  
24 multi-county report from the Secretary of State?

25 A. Yes, it does.

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1 Q. And you see there are -- for each of the  
2 voters that are listed here, are there two counties  
3 mentioned?

4 A. Yes.

5 Q. And in each case the top line where it says  
6 "Cancel this registration?" the county name indicated is  
7 King?

8 A. Yes.

9 Q. To your knowledge is that the case for every  
10 page of a report that King County would receive or would  
11 some of the pages be different than this example?

12 A. I couldn't say. I seem to recall -- I can't  
13 say. I'm not sure.

14 Q. That's fine. And in the -- to change subjects  
15 now, in talking about cancelation of registered voters

16 whose status is inactive, are there specific events that  
17 would cause somebody to be classified as an inactive  
18 voter in the first instance?

19 A. Yes.

20 Q. If somebody simply didn't vote for some period  
21 of time, would that by itself cause them to be classified  
22 as inactive?

23 A. No.

24 Q. And then after the voter has been classified  
25 as inactive for some period of time, is it possible to

203

1 get canceled?

2 A. Yes.

3 Q. And what would cause that to happen?

4 A. If they failed to vote in two federal  
5 elections.

6 Q. In two federal elections?

7 A. Yes.

8 Q. For this purpose would a federal election  
9 include an election in which members of congress are on  
10 the ballot but the office of president is not?

11 A. I believe it would -- my understanding is it  
12 would include any election where there were any federal  
13 officers on there.

14 Q. And I think this may be my last area. If you  
15 could take a look at what's been marked as Exhibit No. 5.

16 A. Okay.

17 Q. There's a column -- let's see. The third  
18 column from the left that's headed "Reason Rejected."

19 A. Right.

## REDACTED

2 Q. Do you know what that code means?

3 A. I believe, and I'm not sure, but I believe  
4 that this is a code for not registered. The "m" is not  
5 part of our code. I believe this came across in whatever  
6 -- in however they created this document. But the code  
7 is actually "PNREG," and I believe it's that this person  
8 we have determined as a result of doing the provisional  
9 ballots that they were registered in another county.

10 Q. So, "PNREG" means they are registered  
11 somewhere else in Washington?

12 A. Right.

13 Q. And if that's the case, what is your

14 procedure? What happens to that provisional ballot?  
15 A. We would forward that provisional to the other  
16 county.

17 MR. EVEN: Thank you. I have nothing  
18 else.

19 MR. MAGUIRE: Let's go off the  
20 record.

21 (WHEREUPON, the deposition was adjourned  
22 at 4:24 p.m.)

23 (Signature was reserved.)  
24  
25

205

1 CERTIFICATE

2 I, JoAnn Bowen, do hereby certify that  
3 pursuant to the Rules of Civil Procedure, the  
4 witness named herein appeared before me at the  
5 time and place set forth in the caption herein;  
6 that at the said time and place, I reported in  
7 stenotype all testimony adduced and other oral  
8 proceedings had in the foregoing matter; and that  
9 the foregoing transcript pages constitute a full,  
10 true and correct record of such testimony adduced  
11 and oral proceeding had and of the whole thereof.  
12

13 IN WITNESS HEREOF, I have hereunto set  
14 my hand this 18th day of May, 2005.

15  
16  
17 \_\_\_\_\_  
18 Signature                      Expiration Date

19  
20  
21  
22  
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25

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
2 IN AND FOR THE COUNTY OF CHELAN

3  
4 TIMOTHY BORDERS, et al,  
5 Petitioners,

6  
7 vs. Cause No. 05-2-00027-3

8  
9 KING COUNTY, et al,  
10 Respondents,

11 and

12  
13  
14 WASHINGTON STATE DEMOCRATIC  
15 CENTRAL COMMITTEE,  
16 Intervenor-Respondent.

17 \_\_\_\_\_

18  
19 DEPOSITION OF CARLOS WEBB  
20 VOLUME II

21 Taken on behalf of Intervenor-Respondent  
22 MAY 9, 2005

23 ---

24 BE IT REMEMBERED THAT, pursuant to the Washington  
25 Rules of Civil Procedure, the deposition of Carlos Webb

1 was taken before JoAnn Bowen, #2695, a Certified  
2 Shorthand Reporter and Registered Professional Reporter,  
3 and a Notary Public for the State of Washington, on May  
4 9, 2005, commencing at the hour of 10:40 a.m., the  
5 proceedings being reported at Perkins Coie, LLP, 1201  
6 Third Avenue, Suite 4800, Seattle, Washington 98101.

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208

1 APPEARANCES  
2  
3 ROB MAGUIRE  
4 Attorney at Law  
5 Davis Wright Tremaine, LLP  
6 2600 Century Square, 1501 Fourth Avenue  
7 Seattle, Washington 98101  
8 206-628-7756  
9 Appearing on behalf of the Petitioners  
10  
11 KEVIN J. HAMILTON  
12 Attorney at Law  
13 Perkins Coie, LLP  
14 1201 Third Avenue, Suite 4800  
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16 206-359-8000  
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18  
19 DONALD J. PORTER  
20 Attorney at Law  
21 King County Prosecuting Attorney  
22 500 Fourth Avenue, Suite 900  
23 Seattle, Washington 98104  
24 206-205-1055  
25 Appearing on behalf of King County

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1 APPEARANCES, Continued  
2  
3 Also present: Brad Henry  
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1 SEATTLE, WASHINGTON; MONDAY, MAY 9, 2005

2 10:40 A.M.

3 CARLOS WEBB,

4 having been first duly sworn, was examined and testified

5 as follows:

6 EXAMINATION

7 BY-MR.MAGUIRE:

8 Q. Hello, Mr. Webb. My name's Rob Maguire. I'm

9 one of the lawyers for the petitioners in this case.

10 I've got some questions about some of the things

11 Mr. Hamilton's already asked you about and then some new

12 questions for my clients.

13 First, I would like to talk to you a

14 little bit about provisional ballots and some of the

15 overall procedures and processes that are in place in

16 King County or were in place in the 2004 general election

17 with respect to provisional ballots.

18 First, do you know who trains individual

19 poll workers to work with provisional ballots?

20 A. Between myself, Lisa Moore and Vicki Moore,

21 the three of us are involved in that process.

22 Q. And what is your involvement in the process?

23 A. I initially put together the procedures. Lisa

24 was acting as one of the trainers for the DIMS system, so

25 she had access to the training manual and the procedure

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1 that would be used via the system to process the ballots.

2 Q. So, Lisa's job was more related to using the

3 DIMS system once the provisional ballots had been  
4 returned by voters?  
5 A. Correct.  
6 Q. And was your role more in creating procedures  
7 for the poll workers?  
8 A. My role was creating procedures for my staff  
9 to actually do a step-by-step processing of them.  
10 Q. For the November 2004 election, when did you  
11 start with your step-by-step process?  
12 A. It started in the primary and then I think I  
13 may have done an update or two to them based on what the  
14 primary looked like.  
15 Q. How far in advance of the primary did you  
16 prepare any instructions?  
17 A. I can't recall, but I would say several weeks.  
18 Q. Did you consult with anyone as you prepared  
19 the instructions?  
20 A. I talked with Bill and some of my counterparts  
21 in other counties.  
22 Q. That's Bill Huennekens?  
23 A. Yes.  
24 Q. Did you create any written work product?  
25 A. I did.

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1 Q. What was that?  
2 A. I created a two-piece procedure. One was for  
3 observers to let them know how we had intended to process  
4 them, how we would secure the ballots and so forth. And  
5 then the other one I wrote as a step-by-step how-to for  
6 staff.  
7 Q. How to do what?  
8 A. How to process them step by step using our  
9 provisional ballot module.  
10 Q. Did you conduct any training classes with poll  
11 inspectors with respect to provisional ballots?  
12 A. No. This was strictly with my staff. This  
13 wasn't poll workers at all.  
14 Q. Do you know who conducted the training  
15 sessions with the poll workers?  
16 A. I would suspect it would be Julie, Julie  
17 Moore.  
18 Q. Julie Moore? There's Lisa a Moore, a Vicki  
19 Moore and a Julie Moore?  
20 A. Yes.  
21 Q. Okay. What is Julie Moore's job?

22 A. She's the assistant superintendent of election  
23 services.

24 Q. That's a separate section than your area of  
25 responsibility?

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1 A. Yes.

2 Q. Ms. Julie Moore's section was responsible for  
3 the training of poll workers. And your section, you  
4 trained your workers with respect to the verification  
5 process --

6 A. Right.

7 Q. -- for provisional ballots?

8 A. Yes.

9 Q. What changes did you make in the instructions  
10 given to your staff between the primary and the general  
11 election with respect to provisional ballots?

12 A. I don't recall, but I believe it had something  
13 to do with capturing data for people that were not  
14 registered. I think it had to do with that.

15 Q. What do you mean by that?

16 A. When we go in to put in a voter who does not  
17 exist in our database, we had to create a record for  
18 that, meaning that we would start with the search for the  
19 name. And if the system delivered a name, then we could  
20 process it. If it did not, then that meant they didn't  
21 exist in our system. So, we had to create a record for  
22 that person.

23 Q. So, even if a person submitted a provisional  
24 ballot and had not been registered in King County, during  
25 the verification process election workers would create a

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1 record for that person?

2 A. Right, that would only exist in the  
3 provisional ballot module, and it would only disposition  
4 registrations that didn't exist in the event of -- for  
5 example, someone who wasn't registered.

6 Q. And that would be a necessary step so that  
7 King County could make information about the disposition  
8 available on the free access system for that person?

9 A. That's correct.

10 Q. Was there any other reason for that?

11 A. No.

12 Q. Record keeping?

13 A. No. Well, we wanted accountability for all

14 ballots that we had. And without that step, we wouldn't  
15 have been able to put those in and then report from them.

16 Q. Why did you want accountability for all of the  
17 ballots?

18 A. In the event that questions were asked, what  
19 happened to this particular person or that, with the free  
20 access system, we had to divulge what we did with every  
21 ballot.

22 Q. Did you train any of the individuals with  
23 respect to verifying signatures for provisional ballots?

24 A. I only instructed them on what the process for  
25 verifying signatures in our office. As it stands I

215

1 instructed them on that. I didn't create anything new  
2 for them to verify with.

3 Q. Can you describe the process that a  
4 provisional ballot goes through from the time it is  
5 returned from a poll site to King County until it is  
6 either tabulated or not?

7 A. Yes. It comes in. I believe the canvassing  
8 crew pulls them out of the supplies. They put them on --  
9 put them in trays and stack them on a rolling cart.  
10 Those are brought into the voter registration section  
11 where we would go in and look them up, verify if they  
12 were registered, include information on the envelope that  
13 would be useful in processing them downstream.

14 The first process would be to verify if we  
15 have a person like that registered. They would do a name  
16 search and try to come up with hits on the first pass.  
17 Simple searches. If it's delivered up to the staff  
18 member, a person whose name matched this name and address  
19 matched the address, then those would be -- would move  
20 forward to be processed as registered.

21 Those that they didn't find a name on were  
22 moved down another stream to be looked at again to verify  
23 whether or not we could find a person doing more advanced  
24 searches on both their name and address.

25 Q. Does the verification of the name and the

216

1 address occur at the same time that workers are including  
2 additional information on the envelope that might be  
3 useful downstream?

4 A. It depends. If they looked up a person and  
5 all of the information was there and the poll worker had

6 completed their part of it, then those we would be pretty  
7 confident were ones that were registered, and they  
8 wouldn't be moved downstream to disposition, to count or  
9 not.

10 And the others that didn't come up with a  
11 name on the first hit would go down the stream to be  
12 looked at again by other staff. If they were not  
13 registered, they couldn't have put other information on  
14 there with regards to them being registered. But they  
15 certainly could have included information that would have  
16 been missed by the poll worker.

17 Q. When the provisional ballots first arrive at  
18 -- is this in the admin building that this takes place?

19 A. Yes.

20 Q. When they first arrive at the admin building  
21 and they're stacked on rolling carts, are they organized  
22 in any way on those rolling carts?

23 A. No. I'm not sure. I'm not sure how they are  
24 organized. Julie's group would put them together. So, I  
25 don't know if they had any scheme that they put them

217

1 together in.

2 Q. Is it the same team of people that does the  
3 signature verification that also makes the initial  
4 determination as to whether the name and address match?

5 A. Yes.

6 Q. So, is there one person responsible for a  
7 provisional ballot from start to finish of the process?

8 A. Potentially. If they didn't have a question  
9 about the signature or any of the data, then, yeah, they  
10 would disposition it to its final conclusion whether to  
11 count or not.

12 Q. What kind of information on the envelope would  
13 be useful downstream that workers were expected to fill  
14 out during the sorting stage?

15 A. Well, two pieces that are pretty important.  
16 One would be the voter's ID number that would allow us to  
17 go straight to their record as opposed to searching for  
18 it. The other piece of information would be the ballot  
19 style that was enclosed in the envelope.

20 If the poll worker didn't write that on  
21 there, we would need to have that information. In the  
22 event that the ballot was to be counted, the tabulation  
23 team would need to know what ballot style to dup the  
24 ballot that was inside over to to give them their proper

25 ballot and then assure that they would be allowed to vote

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1 on issues that they were entitled to and not on issues  
2 that they were not.

3 Q. Why would that determination of the ballot  
4 style take place prior to determining whether the ballot  
5 could be tabulated?

6 A. Because they all eventually would need that  
7 data in there whether they would be tabulated or not. It  
8 would be after the fact, but going in we would assume  
9 that they would all count and only eliminate them in the  
10 event that they weren't registered.

11 Q. If during the verification process it was  
12 determined that a particular ballot was cast by someone  
13 who was not registered to vote, would there be any reason  
14 to duplicate that ballot onto a different ballot style?

15 A. No.

16 Q. Who determined that it was appropriate to  
17 investigate the ballot style prior to determining whether  
18 the ballot was cast by a lawful registered voter?

19 A. I don't know who determined it. But  
20 considering that we knew we had 30,000 plus, we thought  
21 that that would be a very good way to speed the process  
22 up. We had a 15-day window to get them done. And we  
23 were concerned that that wasn't enough time.

24 Q. So, at the initial processing stage, if it was  
25 not apparent from the envelope, the particular ballot

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1 style of the ballot contained therein, an election worker  
2 would open up the envelope, look at the ballot; is that  
3 right?

4 A. Well, they would look at the margin and the  
5 footer on the ballot. It actually tells what the ballot  
6 style is. If they were able to pull it out without  
7 taking it completely out, if they just slid the end of it  
8 out and it was folded the proper way, you would only have  
9 to slide it out maybe a half inch in order to see what  
10 the ballot style was. So, that was what they would do in  
11 cases where they could do it that way.

12 If the ballot were folded reverse, then  
13 they would have to pull it out, unfold it, fold it back  
14 the reverse way, and then they could see it.

15 Q. Do you know how frequently election workers  
16 had to open up the envelopes for this purpose?

17 A. I couldn't speak to the frequency. There were  
18 a lot of them that were like that. And when we were  
19 processing them, the observers were both, I think,  
20 observers and there was a reporter down there that came  
21 initially when we first started the process, and they  
22 asked those questions, and we explained it to them.  
23 And it came up once or twice again in the  
24 course of us processing them. But we responded to the  
25 question with what we were doing, and no one asked again.

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1 MR. MAGUIRE: Mark this as the next  
2 exhibit please.  
3 (WHEREUPON, a document entitled DIMSNeT  
4 Guide, Provisional Ballot Processing was marked as  
5 Exhibit-48 for identification.)  
6 Q. Mr. Webb, the court reporter just handed to  
7 you a document marked as Exhibit 48. It's a document  
8 that you and Mr. Porter brought with you to the  
9 deposition in response to the intervener's subpoena.  
10 It's entitled King County Records, Elections and  
11 Licensing Services Division, DIMSNeT Guide, Provisional  
12 Ballot Processing, last updated February 9, 2005. Is  
13 that correct?  
14 A. Yes.  
15 Q. Do you know what this document is?  
16 A. Yes. It's the user guide for the provisional  
17 ballot module.  
18 Q. Who created this document?  
19 A. I believe this was a collaboration by the DIMS  
20 vendor and Lisa.  
21 Q. Lisa Moore?  
22 A. Yes.  
23 Q. Have you reviewed it previously?  
24 A. I have.  
25 Q. Did you approve it?

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1 A. I did.  
2 Q. To whom was it given?  
3 A. It was given to all staff.  
4 Q. All of the permanent staff or everyone who --  
5 A. Everyone that was processing provisional  
6 ballots. I don't believe this is the exact one. I think  
7 there's been some modifications, but it was pretty much  
8 similar, remarkably similar.

9 Q. As we go through here and talk about some of  
10 the items in there, please let me know if there's  
11 anything different in this than you recall existed in  
12 the --  
13 A. That would be difficult. But if I can, I  
14 will.  
15 Q. All right. Do you know whether King County  
16 still has the version that was used for the November 2004  
17 election?  
18 A. I don't know. But I would suspect so.  
19 Q. Who would have that document?  
20 A. Possibly Lisa.  
21 Q. Mr. Webb, if you could turn to pages 7 and 8  
22 of Exhibit 48. This is in a section entitled "Sorting  
23 Provisional Ballots." Are these the categories in which  
24 provisional ballots are sorted: AV Pending, Provisional  
25 OK, Not Registered, Registered in other County, Signature

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1 Miscompares, No Signature, Cancelled Voters, To Canvass,  
2 Absentee Voter Ballot Returned, Blank Envelope, Illegible  
3 and Fatal Pend?  
4 A. Yes. Those are the reason codes for  
5 dispositioning the different ballots.  
6 Q. Are the ballots physically put into containers  
7 matching each reason code?  
8 A. Yes.  
9 Q. The last one is on page 8 is "Fatal Pend."  
10 What does Fatal Pend mean?  
11 A. It means that when we went to put this  
12 person's registration form into our system, it had  
13 critical information that prevented us from moving  
14 forward with their registration.  
15 Q. It's something that's discovered at the time  
16 the person tries to register?  
17 A. Yes.  
18 Q. Is an example of that if an individual failed  
19 to sign their registration card?  
20 A. Correct.  
21 Q. Exhibit 48 on page 8, it says that the "Fatal  
22 pend for a missing signature cannot be corrected without  
23 a signature attesting to the oath on a voter registration  
24 application."  
25 A. Right.

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1 Q. Is that a true statement?

2 A. As far as I know, yes.

3 Q. So, it would not be sufficient to simply call  
4 up a person, ask them whether they are a registered  
5 voter, and count their ballot if they had not submitted a  
6 signature with the oath?

7 A. That's correct.

8 Q. So, when Mr. Hamilton was asking you questions  
9 about calling voters during the provisional ballot  
10 verification process, it is the case that simply calling  
11 voters would not be enough to determine whether those  
12 ballots should be counted; is that right?

13 A. That's correct.

14 Q. The person would have to submit new  
15 registration information and sign a document under oath?

16 A. Correct.

17 MR. PORTER: I'm just going to object  
18 to the form of the question. Rob, two questions ago was  
19 your question directed and limited to Mr. Hamilton's  
20 questions involving circumstances in which the issue was  
21 a missing signature as opposed to any of the other issues  
22 of various types of problems with provisional ballots  
23 that they were reviewing?

24 MR. MAGUIRE: Let's go one by one.

25 Q. If a signature could not be found on file for

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1 a person submitting a provisional ballot, would it be  
2 sufficient for an election worker to call the person who  
3 had submitted the ballot and receive an oral  
4 representation that they were a registered voter and  
5 their ballot -- that they cast that particular ballot?

6 A. No, I don't believe that would be sufficient.

7 Q. And if the person's address did not match  
8 between the provisional ballot envelope or poll book  
9 signature page and the original voter registration  
10 records in DIMS, would it be sufficient to call and rely  
11 on an oral representation from the person who had  
12 apparently cast the provisional ballot that they were, in  
13 fact, the same person who was in the DIMS system?

14 MR. HAMILTON: Object to the form of  
15 the question. It's an incomplete hypothetical. It  
16 doesn't give the witness enough information to answer.  
17 You get to answer anyway.

18 A. An address would be a different situation  
19 because we could have in the fatal pend file an

20 incomplete address, and a phone call would be just  
21 constitute what's the rest of your address, and that we  
22 could confirm over the phone. But not the signature.  
23 Q. What if the address was difference between the  
24 provisional ballot envelope and the original voter  
25 registration address?

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1 A. That shouldn't have any bearing on their  
2 registration, if we had their form in time. They can  
3 vote a provisional, and we could verify the address after  
4 the fact. The fact that they are a registered voter or  
5 not is what's important. And where they live, as long as  
6 they are in King County, we could verify the address over  
7 the phone.

8 Q. The critical part is to determine whether the  
9 person who actually cast the provisional ballot is the  
10 same person who is lawfully registered in King County's  
11 registration system; is that right?

12 A. What's the question?

13 Q. The critical part of processing the ballot is  
14 to make sure that the person who actually submitted the  
15 ballot is the same as the person who is registered to  
16 vote?

17 A. Right.

18 Q. And it's the signature that is the key item in  
19 the comparison?

20 A. Correct.

21 Q. What about date of birth, if dates of birth  
22 are different but the name is the same?

23 A. If the date were -- if the date of birth were  
24 different and we had reason to believe that it could have  
25 been a different person, then if we couldn't make that

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1 determination, then we would have sent those to the  
2 canvass board.

3 Q. On page 6 on Exhibit 48, there's a reference  
4 to sending some information to a canvassing board.

5 MR. HAMILTON: Which page, Counsel?

6 MR. MAGUIRE: Page 6.

7 Q. I thought it was on page 6. But it doesn't  
8 appear to be on page 6.

9 A. Page 7. Second from the end.

10 Q. There we go. There's a category entitled "To  
11 Canvass: Any Provisional Ballots that the county deems

12 the Canvass Board needs to look at to determine the  
13 outcome of the ballot."

14 What kinds of provisional ballots were  
15 sent to the canvassing board for the November 2004  
16 election.

17 A. Ones where we couldn't determine -- we  
18 couldn't make a call on the signature. We couldn't be  
19 sure of the identification of the voter. Incomplete  
20 name. Things that we couldn't make a positive ID on.

21 Q. Were any of the 208 provisional ballots that  
22 were identified on the Provisional Ballot Final Report as  
23 not registered needed further research sent to the  
24 canvassing board?

25 A. I don't think so. I'm not sure.

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1 Q. Who would know the answer to that question?

2 A. Probably Bill.

3 Q. Who makes the determination as to whether a  
4 provisional ballot should be brought to the canvassing  
5 board's attention?

6 A. It eventually comes to me. If they bring me  
7 an issue that I can't figure out, then those would be  
8 ones I would forward to the canvass board, cases where  
9 the name was unintelligible but there was a person at  
10 that address and they were registered but the signature  
11 didn't match but it could have been that person. They  
12 registered 25 years ago and their signature may have  
13 deteriorated beyond recognition.

14 Q. Did you send some provisional ballots to the  
15 canvassing board in the November election?

16 A. Yes.

17 Q. Do you remember how many?

18 A. No.

19 Q. Approximately?

20 A. No.

21 Q. Thousands?

22 A. No.

23 Q. Dozens?

24 A. Hard to say.

25 Q. And to bring a provisional ballot to the

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1 attention of the canvassing board, what was the process  
2 for you to follow?

3 A. If we couldn't figure it out, I would give

4 them over to Bill.

5 Q. You would provide them to Mr. Huennekens, and  
6 Mr. Huennekens would determine whether it should be  
7 brought to the canvassing board's attention?

8 A. Yes.

9 Q. Do you know whether any of the 208 in the not  
10 registered needed further research were brought to  
11 Mr. Huennekens' attention?

12 A. I don't know if any of the 208. But I suspect  
13 when there were more, some of them made it out of that  
14 group to the canvass board as we figured -- or as we  
15 figured them out or could not figure them out. Some we  
16 would have been able to at least make that determination.  
17 This is something the canvass board needs to look at  
18 because we have exhausted all of our resources for  
19 researching.

20 Q. So, why would the 208 not be brought to the  
21 canvassing board's attention?

22 A. We probably didn't get to them in time. That  
23 was a moving target as we processed them. Some came in,  
24 some came out. There were fewer, there were more. As  
25 the progress of processing kind of went along, some would

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1 come out of there that we could determine should be --  
2 that we were at the end of our ropes on those. And those  
3 we did forward to the canvass board.

4 As you can tell, there were several that  
5 we could not figure out and did not get back to in time  
6 to get them to the canvass board, if indeed there was  
7 something the canvass board could do with them. Some of  
8 them I would suspect just didn't have enough information  
9 to move them forward.

10 Q. If I understood the process you described  
11 previously with respect to the need further research  
12 ballots, they went through an initial pass like any other  
13 ballot?

14 A. Yes.

15 Q. Were set aside into a bin for further  
16 research; is that right?

17 A. They would have migrated from several areas.  
18 Some that may not have been registered, initially we  
19 couldn't figure out if they were registered or not. So,  
20 they may have started off as not registered.

21 Q. Let me make sure I understand that. The  
22 provisional ballot goes through the verification process.

23 The person verifying the ballots cannot identify a  
24 registered voter to match with the provisional ballot  
25 envelope?

230

1 A. Quickly.

2 Q. Quickly. It could not be sorted -- was it  
3 then sorted into a particular category as the reason why  
4 it could not be verified?

5 A. Yes.

6 Q. And those are the categories on pages 7 and 8  
7 of Exhibit 48?

8 A. Yes.

9 Q. And then a second team would go through those  
10 categories?

11 A. Right.

12 Q. When did the category of not registered needed  
13 further research get created?

14 A. I believe it was there at the inset -- or  
15 outset I should say.

16 Q. What's confusing me, Mr. Webb, is whether the  
17 need further research category had its own bin to which  
18 ballots were immediately directed after the first pass,  
19 or whether after the first pass the ballots were sorted  
20 into the categories on pages 7 and 8, and then there was  
21 a second pass for those categories that resulted in  
22 selecting the need further research into its own bin at  
23 that time?

24 A. There would have been some that at the outset  
25 at first glance you go, gee, this one will need further

231

1 research, and they would have put it in there  
2 immediately. Then there would have been ones that would  
3 have come from other groups as people went through them  
4 and started trying to figure them out beyond the initial  
5 first pass where it was initially dispositioned as not  
6 registered.

7 They went through and found people  
8 registered at a particular address off of one of the  
9 envelopes, but they couldn't determine which of these 12  
10 people at this apartment complex were the ones -- was the  
11 one that cast this ballot. So, that would have gone to  
12 needs further research.

13 So, when someone had time, they could go  
14 through and look at every signature at every person at

15 that complex and try to get a match on this name that  
16 potentially was only signed and not printed and it was  
17 unintelligible like my signature.

18           It would have initially been in not  
19 registered because they couldn't make the name out and  
20 there were too many choices to say, yes, it's one of  
21 these people. And because there was people registered at  
22 that address, and this could be one of them, needs  
23 further research would help us eliminate that possibility  
24 or confirm.

25     Q.   So, for ballots that went through that

232

1 process, by the time they ended up in the need further  
2 research pile, they had been reviewed twice by election  
3 workers?

4     A.   Yes.

5     Q.   And once they were in the need further  
6 research category, they were reviewed a third time?

7     A.   Yes. Some a fourth time. Someone would look  
8 at them and go, you know, I can't figure this out. We  
9 were reluctant to not do anything with it. A more  
10 senior, more experienced staff member would have taken  
11 that last look at the things that were in there.

12     Q.   So, the ballots that fell into the category of  
13 not registered need further research weren't ballots that  
14 were simply set aside and ignored after they had been  
15 looked at once by election workers?

16     A.   No.

17     Q.   They were ballots that had been reviewed  
18 multiple times by election workers?

19     A.   Some of them, yes.

20     Q.   Were some only reviewed once?

21     A.   The ones that we found a match on, yeah.  
22 Those would have been only looked at once, but then they  
23 would have been processed on down the line.

24     Q.   They wouldn't be part of the 208?

25     A.   No.

233

1     Q.   So, the 208 were all reviewed multiple times  
2 by election workers?

3     A.   Yes.

4     Q.   Prior to certification?

5     A.   Yes.

6     Q.   On Exhibit 48, the DIMSNeT Guide Provisional

7 Ballot Processing, page 14 has a description of a  
8 searching. It says first to find a voter by name. Is  
9 that the first step that workers were instructed to  
10 follow?  
11 A. Yes.  
12 Q. And the workers had the ability to use wild  
13 cards in their searches?  
14 A. Yes.  
15 Q. And a wild card is a character that can  
16 substitute for a variety of other letters?  
17 A. Yes.  
18 Q. And then if a person -- election worker could  
19 not find a voter by name, the election worker is  
20 instructed to search by voter ID number; is that right?  
21 A. Right.  
22 Q. Or by address?  
23 A. Correct.  
24 Q. How many people are in King County's voter  
25 registration database?

234

1 A. Over a million.  
2 Q. So, there are potentially thousands of people  
3 born on the same day?  
4 A. Absolutely.  
5 MR. HAMILTON: Calls for speculation  
6 and lack of foundation. Objection.  
7 Q. People share the same month and day? There  
8 could be thousands of people in King County's  
9 registration database with the same month and day in  
10 their birthday?  
11 MR. HAMILTON: Same objection. You  
12 mean to exclude the year?  
13 MR. MAGUIRE: Yes.  
14 MR. HAMILTON: Same objection. Calls  
15 for speculation. Lack of foundation.  
16 A. Yes.  
17 Q. And thousands of people born in the same year?  
18 A. Yes.  
19 Q. When election workers are instructed to search  
20 by date of birth, are they instructed to find an exact  
21 match?  
22 A. They are instructed to attempt to find the  
23 voter, not necessarily an exact match, but with enough  
24 evidence to confirm that this is the same voter.  
25 Q. So, the election worker has the discretion to

1 say this is the same person even though the birth date is  
2 different?

3 A. Yes.

4 Q. Do they have to first contact the voter to  
5 make sure that it is, in fact, the same person?

6 A. No. If there were a question whether to go  
7 forward with it or not, those would likely end up with  
8 the canvass board.

9 Q. The discretion by an election worker to move a  
10 ballot forward in the process without a date of birth  
11 that matches, is that discretion given to the workers who  
12 look at the first pass of these ballots?

13 A. Yes. It's given to all of them.

14 Q. Mr. Webb, on page 20 of Exhibit 48, it's a  
15 discussion about checking to see whether a person had  
16 voted or returned an absentee ballot.

17 Do you see that section?

18 A. Yes.

19 Q. Was part of the process of verifying  
20 provisional ballots to check to see whether the same  
21 person had returned an absentee ballot?

22 A. Yes.

23 Q. Why was that?

24 A. Because when we go to disposition them, we can  
25 look and see if they've received an absentee ballot. And

1 if they have received one, we wanted to postpone or delay  
2 processing this one and wait for their absentee ballot to  
3 be returned.

4 Q. How would an election worker know that an  
5 absentee ballot had been returned when processing the  
6 provisional ballots?

7 A. It would say -- there's a message on their  
8 record that would say it had been returned. Absentee  
9 ballot issued is what it will say if it had not been  
10 returned. And then if it had been returned, it will say  
11 returned and the date.

12 Q. Is that something different than the voter  
13 history lines?

14 A. Yes. This is available in a drop-down when  
15 you bring up the voter and you bring them up in the  
16 provisional ballot module. I believe this on page 20,  
17 those are the two drop-downs that you will see. If it

18 had not been returned, it would say, AV entered and not  
19 the returned message. And if it was returned, you would  
20 see the date that it was returned.

21 Q. Do you know how the information as to an  
22 absentee ballot was returned is entered into DIMS?

23 A. I'm not sure how that -- that's not my area.

24 Whereas I do know how, I'm not an expert in that area. I  
25 wouldn't speak for their area.

237

1 Q. Is that Mr. Fell's area?

2 A. Yes.

3 Q. Do you know whether it's the same information  
4 from which voter crediting is determined?

5 A. It is I believe.

6 Q. Are absentee ballots processed at the same  
7 time as provisional ballots?

8 A. Yes.

9 Q. Does your team provide information to the  
10 absentee team indicating that a particular voter had cast  
11 a provisional ballot?

12 A. Not directly. But they can look -- I believe  
13 on the absentee side of their process, they can see --  
14 and I could be wrong. Because we can see when they're  
15 processing. We can see on the provisional ballot module  
16 when someone has been issued. But I don't know if they  
17 can see from our side when we're processing provisionals.

18 Q. If your team identifies a person as having  
19 returned an absentee ballot and also casting a  
20 provisional ballot, the provisional ballot is not  
21 tabulated?

22 A. It's coded as pending verification of the  
23 absentee ballot.

24 Q. So, it would be counted if the absentee ballot  
25 is rejected in the verification process?

238

1 A. Or was not returned.

2 Q. If a person returns an absentee ballot and it  
3 is verified and also submits a provisional ballot, which  
4 one gets counted?

5 A. I believe we would have counted the ballot  
6 that we sent in every case.

7 Q. The absentee ballot?

8 A. Yes.

9 Q. If the absentee ballot would be counted in

10 every case, shouldn't the processing of provisional  
11 ballots wait until the processing of the absentee ballots  
12 is completed?

13 A. We do.

14 Q. So, when does the processing of provisional  
15 ballots begin?

16 A. A couple days after the election. All of  
17 those with outstanding absentee ballots are put in a pend  
18 -- they are not processed at that time. It's coded to  
19 wait until the absentee comes back or it's determined  
20 it's not coming back.

21 Q. I see. So, if an election worker working  
22 provisional ballots sees in the DIMS system that a person  
23 has been issued an absentee ballot, the provisional  
24 ballot is set aside until it is determined whether the  
25 voter returns the absentee ballot?

239

1 A. Right. And it's not necessarily set aside.  
2 It's actually coded as AV pending so that they could look  
3 report-wise and see who has an outstanding absentee  
4 ballot and then look at who has returned and then run the  
5 report that says if they have returned to not count the  
6 others. And then they programmatically flip it so that  
7 all of the ones that were pending now will say do not  
8 count the provisional ballot.

9 Q. That's the "AV Pending" category --

10 A. Yes.

11 Q. -- on page 7 of Exhibit 48? Does your team  
12 wait a couple of days after the election to begin working  
13 with all provisional ballots?

14 A. Yes.

15 Q. So, for the November 2004 election, your team  
16 worked with about 30,000 ballots between approximately  
17 November 4th and November 17th?

18 A. Yes.

19 Q. How many were on the team?

20 A. Forty or so. A little more than 40 I'm pretty  
21 sure.

22 Q. Did your team work weekends during that  
23 stretch?

24 A. Yes. Ten hour days, 7 days a week, with  
25 observers just for fun.

240

1 Q. So, your team would handle more than 2,000

2 ballots a day on average?

3 A. Yes.

4 Q. Do you remember the procedures for dealing  
5 with provisional ballots where there was no original  
6 voter registration signature on file?

7 A. Yes.

8 Q. What was the procedure?

9 A. We would try to locate a signature in our  
10 records and go back and look at the original registration  
11 forms or go back to the poll book and see if they had  
12 signed there.

13 Q. If the person had signed the poll book but did  
14 not have an original voter registration signature on  
15 file, election workers would match the signature in the  
16 poll book to the signature on the envelope?

17 A. Yes.

18 Q. And if those matched, election officials would  
19 count the ballot?

20 A. Yes.

21 Q. Did someone provide workers with instruction  
22 to do that?

23 A. I think they were given a verbal instruction.

24 Q. By whom?

25 A. It would have been myself or Lisa or Vicki.

241

1 Q. Why did you or Lisa or Vicki give that  
2 instruction?

3 A. We were -- I asked -- I had a conversation  
4 with Bill with regards to an observer asked a question  
5 about would we process these the same as absentee ballots  
6 when we didn't have a signature on file. And I didn't  
7 have an answer for the observer.

8 So, I went and asked Bill about it. And I  
9 don't really remember the conversation except for that I  
10 asked -- told him an observer had asked us about this,  
11 and we agreed that this was not the voter's fault. And I  
12 think -- I don't recall how it -- how that conversation  
13 ended. But I came away from that conversation with the  
14 understanding that we would count them.

15 Q. Did that conversation occur prior to the  
16 initial certification of the election or was that during  
17 the recounts?

18 A. I can't be clear. I don't recall. But I -- I  
19 don't recall.

20 Q. Do you remember who the observer was?

21 A. I don't.  
22 Q. Or from which party?  
23 A. I don't.  
24 Q. Mr. Hamilton asked you questions about your  
25 recollection of the approximately 735 absentee ballots

242

1 with no signature on file that became the issue of a  
2 Supreme Court decision in December.  
3 Do you remember that discussion?  
4 A. I do.  
5 Q. Was your conversation with Mr. Huennekens  
6 prior?  
7 A. I believe it was.  
8 Q. Was it prior to the discovery of the 735  
9 absentee NSOFs?  
10 A. I can't recall. I don't recall exactly when  
11 the 735 -- there were so many things that came up. They  
12 all blur into just a whole bunch of bad stuff. So, all I  
13 remember, right after the election a whole bunch of bad  
14 stuff was going on, and I don't recall the individual  
15 issues anymore.  
16 Q. Did anyone else participate in the  
17 conversation between you and Mr. Huennekens?  
18 A. I don't recall if anyone else was present.  
19 Q. Do you remember telling anybody about that  
20 conversation?  
21 A. I don't recall, but I suspect that I had a  
22 conversation with Lisa and Vicki shortly thereafter.  
23 Q. Prior to the instruction from Mr. Huennekens  
24 with respect to matching the signature in the poll book  
25 with the signature on the envelope and counting those

243

1 ballots, how were those ballots being disposed of?  
2 A. I believe we had them aside. I don't  
3 remember.  
4 Q. Exhibit 48 might refresh your recollection.  
5 It does talk about the NSOFs a little bit. On page 15 --  
6 A. Fifteen?  
7 Q. Fifteen. In the middle of the page, it says:  
8 "If there is no signature or the wrong signature in DIMS  
9 (No Signature On File), initial the top left-hand corner,  
10 write NSOF on the Provisional Ballot envelope and place  
11 it into the NSOF bin." Is that right?  
12 A. Yes.

13 Q. Was that the procedure?  
14 A. Yes.  
15 Q. Is that what King County actually did?  
16 A. Yes.  
17 Q. And on page 30 of Exhibit 48, there's  
18 additional discussion of the no signature on file. The  
19 second item on this page says: "Lead staff will review  
20 the NSOF to insure that there is not a signature or  
21 better signature somewhere else in the system or by  
22 pulling the original registration to compare the  
23 signature with. If there is not a signature, lead staff  
24 will need to enter the information from the Provisional  
25 Ballot envelope into the Provisional module as an NSOF."

244

1 Is that right?  
2 A. Yes.  
3 Q. That was the procedure that King County  
4 followed in the 2004 election?  
5 A. I don't believe so.  
6 Q. How did King County's procedure in the  
7 November 2004 election differ?  
8 A. I think that -- and, again, I don't recall  
9 details, but I believe we had them in the no signature on  
10 file and identified as no signature as opposed to wrong  
11 or miscompared signature. I believe -- as best as I can  
12 recall, I would think that based on my conversation with  
13 Bill we would have gone through those and taken the ones  
14 where we didn't have a signature on file out. I don't  
15 recall that that happened. But I would suspect that  
16 that's what we would have done.  
17 Q. Prior to the conversation with Mr. Huennekens,  
18 what was done?  
19 A. They would have been going into the no  
20 signature on file bin because there was no signature on  
21 file.  
22 Q. And did the lead staff go through the no  
23 signature on file bin to search for original  
24 registrations?  
25 A. Yes.

245

1 Q. Prior to Mr. Huennekens' --  
2 A. Yes. That would have been the process. If  
3 there were no signature on file, we would have tried to  
4 track it down. We would have gone and looked in the poll

5 books and looked in the records to see if we had an older  
6 record or a record that we could pull a signature from.

7 Q. Do you know how many provisional ballots did  
8 not have a signature on file?

9 A. No, I don't.

10 Q. Who would know?

11 A. I don't think anyone would be able to pull out  
12 an exact number. But we could run a report on it.

13 Q. How did the issue come to your attention that  
14 caused you to go talk to Mr. Huennekens?

15 A. An observer asked me the question: Would we  
16 process these the same as they did absentee ballots?

17 Q. At that time did you investigate how absentee  
18 ballots had been processed with no signature on file?

19 A. I knew how they had been processed.

20 Q. What was your understanding of how absentee  
21 ballots had been processed?

22 A. That they would send out a letter to try to  
23 capture the signature.

24 Q. Did you send out a letter to individuals with  
25 respect to provisional ballots?

246

1 A. No.

2 Q. Because the information was on the free access  
3 website?

4 A. Right.

5 Q. And also available on a hot line?

6 A. That's true.

7 Q. So, any voter who checked the disposition of  
8 his or her ballot would know that it had not been counted  
9 because of a lack of a signature?

10 A. Yes.

11 Q. And if a voter came in prior to certification  
12 and updated his or her registration signature, would King  
13 County have accepted that?

14 A. I believe we would have, but I don't think  
15 that that happened.

16 MR. MAGUIRE: I will ask Mr. Porter  
17 if he wouldn't mind running a report of the NSOFs on the  
18 provisional causing that to occur.

19 MR. PORTER: Off the record.

20 (A brief discussion was held off the  
21 record.)

22 Q. Mr. Webb, on page 21 of Exhibit 48, there's  
23 some bullet items dealing with canceled voters. Have you

24 found that page?

25 A. Yes.

247

1 Q. Is the information on this page consistent  
2 with what King County did in the November 2004 election?

3 A. Yes.

4 Q. And it includes: "Lead staff will need to  
5 pull the original document to show that the cancellation  
6 was accurately done ..."?

7 A. Yes.

8 (Mr. Henry exits.)

9 Q. Is there any kind of notation in DIMS to  
10 confirm that the lead staff had pulled the original  
11 documents?

12 A. Well, we had the original document.

13 Q. Attached to the envelopes?

14 A. I don't think they were attached to the  
15 envelope. I misspoke the other day with regards to that.  
16 I believe that we had a tray of the canceled ones and a  
17 tray of the backup documents. I want to say there was a  
18 copy made of the envelope and attached to those. I'm  
19 still not positive on that.

20 But I think that's -- so that we had two  
21 trays, one with the canceled provisional ballot envelopes  
22 and one with, I believe, a copy of the envelope and the  
23 backup record that went with it.

24 Q. Was your department responsible for notifying  
25 registered voters when their registrations were canceled?

248

1 A. Yes. That would be a responsibility of my  
2 unit, yes.

3 Q. Can you describe that process?

4 A. As best as I can recall, I believe that we  
5 only respond -- and Vicki would be better able to answer  
6 this. I believe we only respond to felons with regards  
7 to they're canceled, because the others are people who  
8 are deceased, people who have requested that their  
9 registration be canceled, and registration cancelations  
10 that have come from other counties, which the assumption  
11 is that the other county would have made that. If they  
12 registered there, they fill out on their form where they  
13 were previously registered and the other county contacts  
14 us and lets us know.

15 So, it would have been -- I don't think

16 that we would have responded in any of those cases  
17 because the voter themselves has either instituted the  
18 cancelation or it would have been to someone who couldn't  
19 respond.

20 Q. What about individuals who are moved from  
21 inactive to canceled?

22 A. Those I do not believe that we send  
23 notification to. But, then, I'm not the bottom line on  
24 that. Vicki would know if that occurred. I don't recall  
25 a statutory obligation to do it. So, I'm not sure if

249

1 we're doing anything on that front.

2 Q. Vicki Moore is the person who would know?

3 A. Yes.

4 Q. Mr. Webb, on page 29 of Exhibit 48, the first  
5 bulleted item describes what happens if a person has not  
6 signed the oath on a provisional ballot envelope.

7 Do you see that bullet?

8 A. Yes.

9 (Mr. Henry enters.)

10 Q. It says: "There is an oath that the voter  
11 needs to sign in order to count the ballot. If there is  
12 not a signature on the Provisional Ballot envelope, we  
13 cannot count the ballot." Is that right?

14 A. That's what it says.

15 Q. Is that the procedure that King County  
16 followed in the November 2004 election?

17 A. I'm not sure. I'm not sure if this was added  
18 into the procedures. I'm not sure if this was the same  
19 instruction on the ones that we originally had.

20 Q. Do you remember what King County actually did  
21 in the November 2004 election?

22 A. I believe I already testified that I believe  
23 we counted those.

24 Q. Who did the updating of the instructions?

25 A. I'm not sure. I believe Lisa Moore and Julie

250

1 wise may have done some more work on this.

2 Q. Who is Julie Wise?

3 A. She's Bill's administrative assistant.

4 Q. Do you know what happens to provisional  
5 ballots that are rejected?

6 A. I don't understand the question.

7 Q. If a provisional ballot goes through the

8 verification process and it's determined that the ballot  
9 was not cast by a lawful registered voter, what happens  
10 to the ballot?

11 A. I don't know. That would be something that  
12 would come out of the canvass board's recommendation I  
13 would suspect.

14 Q. Do you know whether the ballots are  
15 maintained?

16 A. You mean stored, kept somewhere?

17 Q. (Nodding.)

18 A. Yes. I believe statutorily we have to keep  
19 all related election materials intact for 22 months for a  
20 federal election.

21 Q. Are the provisional ballots stored in the same  
22 categories in which they were sorted by election workers?

23 A. No. They were put into -- because we were  
24 preparing them for archives, I believe they were put into  
25 two categories; ones that counted and ones that didn't.

251

1 Q. The ones that counted and the ones that --

2 A. Well, we have the envelopes of the ones that  
3 counted and the envelopes of the ones that did not.

4 Q. Are they stored in the same place?

5 A. Yes.

6 Q. Where is that?

7 A. That's in our vault in the administration  
8 building.

9 Q. Where are the ballots themselves that were  
10 tabulated?

11 A. The ballots are kept at our MBOS facility on  
12 first avenue.

13 Q. Have you heard the term "no label" in the  
14 context of a provisional ballot?

15 A. I think I've heard that.

16 Q. You're not sure?

17 A. I'm not sure what it meant.

18 Q. From whom did you hear it?

19 A. I believe I heard it from some of the  
20 canvassing crew that took the ballots out of the --  
21 wherever it is they get them. They come back in the  
22 supplies. There are various means through which these  
23 ballots are returned. Sometimes they come back as they  
24 should in the supply bags with the poll workers. At the  
25 depot they return their stuff.

1 Sometimes they come back, they're in the  
2 machines themselves when the warehouse crew goes out and  
3 collects the machines back from all of the polling  
4 places. Part of their process is when they bring them  
5 back, they inspect them to make sure no ballots were left  
6 inside. And sometimes they find them there.

7 Sometimes they come through other  
8 counties. We get envelopes almost daily leading up to  
9 the certification where other counties have forwarded  
10 ballots to us, both within the state and from out of  
11 state.

12 Q. When you say that there were ballots in the  
13 machines, are you talking about provisional ballots?

14 A. Sometimes.

15 Q. And the machine is the AccuVote machine?

16 A. Yes, the storage bin. They have a bin in them  
17 that people who want to drop their absentee ballot off at  
18 the polls can come in, and there's a little side door  
19 that you can put them in. And those are all gathered up  
20 and brought back. And sometimes there's a provisional in  
21 there as well, or two.

22 Q. Where else should the provisionals be placed  
23 at the polling site?

24 A. I don't know. I'm not sure. I don't work  
25 there. I believe the process is they are -- the poll

1 workers at the end of the night go through the side bins,  
2 and they have another bag to secure absentee ballots that  
3 they know are in there. And when they find these other  
4 things, I believe they put them into another bag that  
5 also comes back with their supplies.

6 Q. Is your department responsible for giving out  
7 materials to the inspectors for election day?

8 A. No.

9 Q. Whose department is?

10 A. What kind of materials?

11 Q. The ballots themselves and polling supplies.

12 A. That would be Julie Moore's group.

13 Q. Is her group also responsible for delivering  
14 AccuVote machines to polling places?

15 A. No. That would be Alicia -- I can't think of  
16 her last name. She'll be mad at me about that. Alicia  
17 is the warehouse supervisor. And her staff would have  
18 been responsible for all of the polling place hardware,

19 if you will.  
20 Q. To whom does she report?  
21 A. She reports to Garth.  
22 Q. Mr. Webb, if you could turn to Exhibit 4, this  
23 is the Provisional Ballot Summary Report.  
24 A. Okay.  
25 Q. This is the King County Provisional Ballot

254

1 Summary Report for the November 2004 Election. It's  
2 entitled Replacement For Final Report, dated January 18,  
3 2004; is that right?  
4 A. Yes.  
5 Q. Do you know who authored this document?  
6 A. I don't.  
7 Q. Do you know who identified the categories that  
8 are listed on this document?  
9 A. I would suspect our system administrators  
10 would have been able to pull these stats out.  
11 Q. Who chose the categories to be listed?  
12 A. I don't know.  
13 Q. Is this something that comes from your  
14 department?  
15 A. Initially. But I don't believe that it was  
16 structured this way in the original.  
17 Q. Your department created something similar to  
18 this?  
19 A. Yes.  
20 Q. And provided it to whom?  
21 A. For the original report for the summary  
22 report, I provided that to Dean and Bill -- or Bill who  
23 turned it over to Dean.  
24 MR. MAGUIRE: Mark that please.  
25 (Exhibit No. 49 marked for

255

1 identification.)  
2 Q. Mr. Webb, the court reporter just handed you a  
3 document marked as Exhibit 49, entitled King County  
4 Provisional Ballot Summary Report, November 2, 2004,  
5 General Election. I gave you the wrong one. Let me back  
6 up. I gave you the same document, didn't I?  
7 A. Yes.  
8 MR. MAGUIRE: Let's make this 49.  
9 (WHEREUPON, a Meeting Agenda for  
10 Wednesday, November 17, 2004 was marked as Exhibit-49 for

11 identification.)

12 Q. Okay. Mr. Webb, this time the court reporter  
13 has handed you a document marked Exhibit 49. The front  
14 page is a Meeting Agenda from the Canvassing Board in  
15 King County, November 17, 2004. The third page with the  
16 Bates number B/KING 004871 is entitled "King County  
17 Provisional Ballot Summary Report, November 2, 2004,  
18 General Election, Final Report." Is that right?

19 A. Yes.

20 Q. Is this a document you prepared?

21 A. Yes.

22 Q. This is the one you were just referring to in  
23 your testimony?

24 A. Yes.

25 Q. How did you determine which categories to list

256

1 on this report?

2 A. It was a historical report that King County  
3 had always used that had some of these same headings on  
4 it.

5 Q. You looked at previous provisional ballot  
6 reports and used the same categories?

7 A. As best I could. We had with the opportunity  
8 to give different stats because of the way the module  
9 would report those stats. So, we included them.  
10 Whereas, historically, I don't believe some of these  
11 things were included.

12 Q. Do you know why a replacement report was  
13 created in January 2004?

14 MR. PORTER: I believe it would have  
15 been 2005. I think there's a typo on that initial  
16 replacement report.

17 MR. MAGUIRE: Right.

18 A. I couldn't speculate why.

19 Q. You weren't involved in the replacement  
20 report?

21 A. No.

22 Q. Even though you had created the first report?

23 A. Right.

24 Q. Did you have any discussions with  
25 Mr. Huennekens or Mr. Logan with respect to the initial

257

1 report?

2 A. With respect to?

3 Q. The initial report in Exhibit 49?  
4 A. I'm sure we did.  
5 Q. Do you remember any of the discussions?  
6 A. I don't.  
7 Q. Did anyone ever suggest to you that there were  
8 errors in that report?  
9 A. No.  
10 Q. Are you aware of any errors in that report?  
11 A. Well, I don't see an error, but I see a  
12 difference in the numbers that eventually came into the  
13 updated one.  
14 Q. Do you know why the numbers are different?  
15 A. For some of the categories I do.  
16 Q. Which ones?  
17 A. Not registered.  
18 Q. In the original report, that was 771. And in  
19 the replacement report it's 3013; is that right?  
20 A. Yes.  
21 Q. Why are they different?  
22 A. As we were going through processing, we  
23 realized pretty late and pretty close to certification  
24 that the records that were labeled not registered were  
25 not being put into the system. We thought they were. We

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1 keyed them in. But when we ran a report on them, it  
2 should have said 3,000 and it said 700.  
3 Q. Would the 3,000 have shown up somewhere else  
4 on the initial report?  
5 A. No. They would have shown up there as 3,000.  
6 Q. The original report had 771. The replacement  
7 report has 3,013. That's a difference of just over 2,200  
8 ballots. But the total number of provisional ballots has  
9 only changed by 1,500.  
10 Did some other ballots drop off the  
11 report?  
12 A. There were some, I believe, that were not  
13 listed in the ballots to other county category. There  
14 were ballots that when we keyed them in, the  
15 understanding was to key the ones to other counties in to  
16 account for them and then to send them to the other  
17 counties. And I believe that some of them were sent  
18 directly to the other counties and were not put into the  
19 system.  
20 Q. They were in the system at one time? Because  
21 you have 877 on the first report. And that number drops

22 to it look likes 554 on the replacement report.

23 A. Right. That was resolution between ones we  
24 that received and ones that we set out.

25 Q. I didn't understand that. What do you mean?

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1 A. Some of them that we couldn't -- we didn't put  
2 them in and they were sent to the other counties, we had  
3 a report of what we had sent that, I believe, they  
4 balanced it out from there. I'm not sure. We had  
5 ballots that were received from other counties and  
6 ballots that were sent to other counties that were not  
7 always accurately put in.

8 Q. On the first report, some of the 877 listed as  
9 provisional ballots to other counties might have been  
10 original ballots from other counties?

11 A. I'm not sure. I haven't looked at the  
12 comparison of the numbers. So, I'm not really sure how  
13 that happened.

14 Q. You mentioned that there were some other  
15 categories that you knew about. What other categories?

16 A. No. Those were all that I know of personally.

17 Q. Other than the question about the no signature  
18 on file provisional ballots, did you raise any other  
19 questions with Mr. Huennekens as to whether particular  
20 provisional ballots should be tabulated?

21 A. No.

22 Q. Do you recall Mr. Huennekens directing you to  
23 tabulate certain provisional ballots?

24 A. No. We didn't do -- I mean, my group doesn't  
25 do tabulation. So, he would have never directed us to

260

1 tabulate anything.

2 Q. Do you remember him directing you to treat any  
3 ballots as verified?

4 A. No. I mean, other than ones that were. I  
5 mean, I don't recall him saying that specifically in any  
6 case. But he may have at some point said, you know, you  
7 tabulate the valid ballots at some point. I don't know.

8 Q. Do you know when in the canvassing period  
9 provisional ballots are tabulated?

10 A. I don't.

11 Q. Who would know?

12 A. Garth.

13 Q. Did Mr. Huennekens at any time give you

14 instructions to move provisional ballots along to  
15 tabulation that had not been through all of the required  
16 processing and research steps?

17 A. No.

18 Q. Do you remember have been any conversations  
19 with Mr. Huennekens as to the appropriate time to  
20 tabulate provisional ballots under Washington law?

21 A. I wouldn't have had any discussions with Bill  
22 with regards to tabulating ballots. That's actually out  
23 of my purview.

24 Q. Do you know who performed the reconciliation  
25 of provisional ballots for the election?

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1 A. No, I don't.

2 Q. Was your group involved in the poll site  
3 reconciliation?

4 A. I think we had a very small part in that. We  
5 actually, one, we used the scanner to scan the names in  
6 the poll books.

7 Q. That's part of the -- the scanning is part of  
8 the crediting process?

9 A. It's part of the reconciliation process, yes.  
10 I believe that crediting does come from the scanning  
11 process. But that's -- it's applied after the fact and  
12 from the data that's accumulated on the Wandas, Wandas  
13 being the scanners.

14 Q. Who's the most knowledgeable person about poll  
15 site reconciliation in King County?

16 A. I would say that would probably be Linda  
17 Sanchez.

18 Q. When did your staff conduct the poll book  
19 Wanda-ing for the reconciliation?

20 A. Right around the same time we were processing  
21 provisional ballots.

22 Q. Was this prior to certification?

23 A. Yes.

24 (WHEREUPON, a document entitled The  
25 Canvassing Process was marked as Exhibit-50 for

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1 identification.)

2 (Pause in the proceedings.)

3 Q. Mr. Webb, the court reporter just handed you a  
4 document marked as Exhibit 50. It's a fairly lengthy  
5 document, Bates numbers B/KING 9316 through 9355. It has

6 a title "The Canvassing Process." Is that right?

7 A. Yes.

8 Q. Are you familiar with this document?

9 A. I've seen it before.

10 Q. Is this a document that came from the  
11 Secretary of State's office?

12 A. I don't know where it came from.

13 Q. Where did you see it?

14 A. I don't recall.

15 MR. MAGUIRE: Let's go off the record  
16 and take a lunch break here.

17 (A lunch recess was taken at 12:08 p.m.  
18 and the proceedings resumed at 12:51 p.m.)

19 (WHEREUPON, a document entitled King  
20 County Elections, Provisional Ballot Process was marked  
21 as Exhibit-51 for identification.)

22 EXAMINATION

23 BY-MR.MAGUIRE:

24 Q. The court reporter just handed you a document  
25 marked as Exhibit 51 entitled King County Elections,

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1 Provisional Ballot Process. This is another one of the  
2 documents that you brought with you to your deposition on  
3 Friday in response to the subpoena; is that right?

4 A. Yes.

5 Q. What is this document?

6 A. This is the one that I put together for staff.

7 Q. This accompanied the document marked Exhibit  
8 48?

9 A. It did. There were parts of this document,  
10 document Exhibit 48, excerpts from 48 are referred to in  
11 this.

12 Q. Why did you put this together?

13 A. To use it as a tool to train staff.

14 Q. It's meant to be a summary of the key parts of  
15 Exhibit 48?

16 A. Yes.

17 Q. When were the dispositions of provisional  
18 ballots uploaded to the free access system?

19 A. They were done on a schedule. They updated  
20 it. I don't know what the schedule was, but it was  
21 updated regularly because we were constantly adding  
22 voters to it. I believe they updated it daily.

23 Q. Was the disposition of all of the provisional  
24 ballots available in the free access system prior to

25 certification of the election?

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1 A. Yes.

2 Q. Who did the uploading?

3 A. I'm not sure. It would have been a  
4 combination of administrative staff and the IS department  
5 for the County's website.

6 Q. Mr. Webb, is your department responsible for  
7 maintaining the voter registration database between  
8 elections?

9 A. Yes.

10 Q. Did your department receive a large number of  
11 new registrations leading up to the November 2004  
12 election?

13 A. Yes.

14 Q. Did your team have enough time to process all  
15 of the voter registrations that were presented in the  
16 months of September and October 2004?

17 A. It was close, but, yes, I believe we got it  
18 done.

19 Q. Do you remember approximately how many new  
20 registrations came in in September and October?

21 A. I just released those numbers to the Secretary  
22 of State, but I think I did it October to October. It  
23 was somewhere in the 150,000 range.

24 Q. Do you know how many registrations are  
25 canceled each year -- or the year 2004?

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1 A. I don't.

2 Q. Do you know when the last of the new  
3 registrations were entered into DIMS for the November  
4 2004 election?

5 A. Well, they would have need to have been before  
6 -- I couldn't say. I don't know.

7 Q. Who would know?

8 A. I don't know of anyone if you sat them down  
9 and asked them the question could tell you that. But any  
10 one of us could find it out pretty easily.

11 Q. How would you find it out?

12 A. We would run a report that says show me the  
13 last registration that was active for prior to election  
14 day.

15 Q. When King County receives a new voter  
16 registration, are workers instructed to look up that

17 person in the database to determine whether they're  
18 already registered?  
19 A. Well, what happens with our database is when  
20 you do a name search and you don't find them and then you  
21 go to key it as new, in the course of you keying some key  
22 information, last name, date of birth, driver's license  
23 number, if the system matches that to another voter, it  
24 brings you up a menu called "Pick A Dup" and says to you  
25 there's a potential that there's a duplicate record for

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1 this person. And then you would look at that record and  
2 you could do the quick signature verification on it right  
3 then to determine if it was a duplicate.

4 Q. Does your department create or run duplicate  
5 voter reports?

6 A. We do.

7 Q. How often?

8 A. I couldn't say, but pretty frequently.

9 Q. By frequently is that once a month or --

10 A. Or couple months.

11 Q. Several times a year?

12 A. Yes.

13 Q. Do you know when the last duplicate report was  
14 run prior to the November 2004 election?

15 A. I don't, but I know we were concerned about  
16 running the dup list between elections because we were  
17 concerned that it would somehow complicate our numbers.  
18 We didn't want to take someone off and not be able to  
19 verify a registration. Once we merge them together, it's  
20 hard to find what the original one said without the  
21 document, without the source document.

22 Q. So, between the primary and the general, you  
23 were concerned about conducting a duplicate report?

24 A. Yes.

25 Q. Was a duplicate report run during that time

267

1 period?

2 A. I don't recall. I don't recall what came out  
3 of that discussion.

4 Q. Who was involved in the discussion?

5 A. I think it was mentioned at a staff meeting  
6 where all of the supervisors and managers I think were  
7 there.

8 Q. Supervisors and managers in your department?

9 A. Yes.  
10 Q. From any other department?  
11 A. From Elections in its entirety.  
12 Q. Including Mr. Huennekens and Mr. Logan?  
13 A. I don't know if Mr. Logan was there, but Bill  
14 would have been.  
15 Q. When a duplicate report is created, what does  
16 your department do with it?  
17 A. Go through it and verify if these are true  
18 dups. It's based on recognition by the computer that  
19 these are potential dups. It isn't absolute that it is a  
20 duplicate. I think they match it on certain criteria  
21 that would pull people who are exact dups as well as some  
22 that may not match.  
23 Q. Do you know what the criteria is?  
24 A. I believe it's -- and I'm -- no, I don't know  
25 for sure.

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1 Q. Do you know generally?  
2 A. I believe it's on last name, first initial and  
3 date of birth. Some combination of those.  
4 Q. If an election worker determines that a record  
5 might be a duplicate, what does the election worker do  
6 next?  
7 A. Determine which is the record that should  
8 stand, meaning, the latest registration. Provided it  
9 isn't different from the other, we try to keep the  
10 histories of the two intact in the event that they had  
11 voted on one and not the other.  
12 So, when we go back through, we have to  
13 merge the records and make sure that we have the oldest  
14 one first so that the history will remain chronological,  
15 and to maintain their original voter registration. If we  
16 overlay it with the earlier one, it obliterates the older  
17 dates.  
18 Q. Do election officials contact the individuals  
19 to confirm that it is a duplicate registration?  
20 A. Not necessarily.  
21 Q. Do they sometimes?  
22 A. I don't think -- I can't really think of a  
23 case where they would need to, except for if they  
24 couldn't confirm it as a dup. And if that were the case,  
25 then they wouldn't pursue it as a duplicate.

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1 Q. So, if they're not sure it's a duplicate,  
2 they'll just leave both in there?  
3 A. (Witness nods head.)  
4 Q. Are you aware of the voter database  
5 information that was produced in this lawsuit on CDs in  
6 December and in January?  
7 A. I don't know exactly what it is, no.  
8 Q. Do you know who would have taken the  
9 information from DIMS and saved them onto CDs?  
10 A. That would depend on what kind of information  
11 it was.  
12 Q. If it was a download of voterfiles including  
13 voter history?  
14 A. Several of us are authorized to do that, me  
15 being one of them. Lisa would be able to do it. I  
16 believe one of her leads would do it. And then both  
17 system administrators.  
18 Q. The system administrators are Travis Elsom and  
19 Scott Turnbull?  
20 A. Correct.  
21 Q. You didn't do it for the production of  
22 anything in this case?  
23 A. No. And I would suspect Lisa wouldn't have  
24 either. I would think they would have -- if the request  
25 came through some official chains, it probably would have

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1 been handled by Travis or Scott.  
2 Q. How about we turn to Exhibit 8, if you don't  
3 mind.  
4 A. Exhibit 8?  
5 Q. Yes, please. Yesterday -- or Friday  
6 Mr. Hamilton took you through a series of the provisional  
7 ballot envelopes in the needs further research category.  
8 I would like to talk to you again about some of those  
9 examples he provided.

**REDACTED discussion of provisional ballots identifying voter personal information**

18 Q. Do you know whether the information on these  
19 databases comes from the database as it existed for the  
20 November 2004 election?  
21 MR. HAMILTON: I'll object to the  
22 form of the question. The footer is the date that it was  
23 printed, the exhibit was printed, by the Washington State  
24 Democrats. The witness has no foundation to answer with

25 respect to that information.

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1 Q. Let me ask you. The top of the document says  
2 King County voterfile database January 8, 2005. Do you  
3 know whether the voterfile database that existed on  
4 January 2005 was the same as what existed for the  
5 November 2004 election?

6 MR. HAMILTON: I'll object to that  
7 question for lack of foundation since the witness just  
8 answered five minutes ago that he doesn't know about the  
9 production of the database. You can answer.

10 A. I suspect that it wouldn't be the same because  
11 at some point after the election, after certification, we  
12 would have continued to get prepared for February.

13 Q. After certification of the November 2004  
14 election, King County updates records in its database?

15 A. Right.

16 Q. And the database is a dynamic database?

17 A. (Witness nods head.)

18 Q. So, when records are updated, it replaces  
19 previous records; is that right?

20 A. Yes.

21 Q. So, the voterfile database on January 8, 2005  
22 may contain information about the individuals in the need  
23 further research category that did not exist in the  
24 database when election workers were trying to verify the  
25 information for the November 2094 election?

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1 MR. HAMILTON: Object to the form of  
2 the question. It calls for speculation. The witness has  
3 no foundation. You can answer the question. And it  
4 calls for speculation.

5 A. We would have been in prepare-for-February  
6 mode right after the election, and we would have had  
7 records that needed to be updated if they were involved  
8 in any upcoming election in the next two or three months.  
9 So, we would have been scrambling to -- we would have had  
10 a cutoff date 30 days prior to the February election that  
11 would have compelled us to get started as soon as we  
12 could on updating records.

13 Q. On Friday when we came back from the lunch  
14 break, I think you mentioned that you had talked to one  
15 of your subordinates about the process they undertook in  
16 January to conduct further research on the need further

17 research provisional ballots; is that right?

18 A. Yes.

19 Q. Would the workers in January have information  
20 available to them in the database that was different than  
21 the information available to the workers in November?

22 MR. HAMILTON: Same objection. Calls  
23 for speculation. Lack of foundation.

24 A. Potentially, yes, they would have had  
25 information that came back from the voters. There was a

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1 lot of attention to this November election. So, right  
2 after the election, we were inundated with a lot of  
3 updates from people who, whether they knew or not or were  
4 sure or not, just wanted to make sure that we had any  
5 information that they had updated in the last who knows  
6 how long. We were getting a lot of phone calls for  
7 confirmation of where we were showing people registered.

8 And with the upcoming spring elections,  
9 I'm sure it was on a lot of people's radar that they  
10 needed to update their registration. They certainly  
11 would have found out at the polling places and through  
12 the provisional ballot process that they had different  
13 data than we did.

14 Q. King County did, in fact, receive updates of  
15 registration information after the November 2004  
16 election?

17 A. Yes. We always do right after an election.

### **REDACTED discussion of provisional ballots including confidential voter information**

7 Q. Mr. Webb, Exhibit 40 was an e-mail dated  
8 December 15 from Travis Elsom to Dean Logan with an  
9 e-mail chain below. There was a discussion about three  
10 voters that a user incorrectly keyed into the provisional  
11 module. Two voters were entered in as canceled when, in  
12 fact, they were active, and one was entered as canceled  
13 who was actually just on inactive status.

14 Do you remember discussing this exhibit  
15 with Mr. Hamilton?

16 A. I do.

17 Q. Mr. Logan's e-mail below says: "Thank you.  
18 That will be a great resource in responding to some of  
19 the issues before the canvass board this afternoon." Is  
20 that right?

21 A. Yes.

22 Q. Does it appear to you that Mr. Logan was  
23 looking for information to provide to the canvassing  
24 board, with respect to provisional canceled voters?

25 A. I'm not sure if he was just providing

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1 information to Dean in the event that he would be asked  
2 about these, or did Dean initiate the conversation by  
3 asking him about the provisional ballots. So, I couldn't  
4 speculate any further than that.

5 Q. The e-mail exchange beginning on Bates number  
6 KC 00459 begins with Travis Elsom e-mailing Bill  
7 Huennekens with a copy to you indicating that "Attached  
8 is the list of Canceled voters that voted a provisional  
9 ballot. All 605 them." Is that right?

10 A. Yes.

11 Q. Did you receive that e-mail?

12 A. I did.

13 Q. And then it appears that Mr. Elsom forwarded  
14 the information to Mr. Logan?

15 A. Right.

16 Q. Mr. Logan responded: "Travis - Is it possible  
17 to include the reason for cancellation on this  
18 spreadsheet. Do we have any reference to that?"

19 A. Right.

20 Q. And Mr. Elsom replies: "Hummm.... Yes, I  
21 think I can work out something like that. It might take  
22 me a little time, but I will get cracking on it right  
23 away. I will let you as soon as I get something."

24 A. Right.

25 Q. To which Mr. Logan responds: "Thank you.

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1 That will be a great resource in responding to some of  
2 the issues before the canvass board this afternoon." Is  
3 that right?

4 A. Yes.

5 Q. Do you know whether Mr. Logan discussed  
6 canceled provisional ballots with the canvassing board?

7 A. It appears he did.

8 Q. December 15th was prior to the certification  
9 of the hand count results?

10 A. I believe that's true.

11 Q. Earlier you in your deposition you testified  
12 that DIMS is locked down during the election; is that  
13 right?

14 A. Yes.  
15 Q. For the November 2004 election, do you know  
16 when it was locked down?  
17 A. I don't recall.  
18 Q. Who would know that?  
19 A. Lisa might, but Travis and Scott would because  
20 they're the ones that lock it down.  
21 Q. Do you know when it was unlocked after the  
22 election?  
23 A. I don't recall. But we were pretty frantic  
24 about getting our data in for February.  
25 Q. Travis and Scott would know the answer?

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1 A. Yes, they would. Lisa may know as well.  
2 Q. Is your department responsible for receiving  
3 information from courts with respect to felony  
4 convictions?  
5 A. Yes.  
6 Q. Is there a particular person in your  
7 department tasked with that responsibility?  
8 A. Yes.  
9 Q. Who?  
10 A. That would be Vicki Moore.  
11 Q. Are you involved in that process?  
12 A. Only that she reports to me, that we have  
13 received them, and the usual -- there's not many hits on  
14 it is usually the comment that she makes to me with  
15 regards to that.  
16 Q. What does she mean by not many hits?  
17 A. The list doesn't -- that we don't often find  
18 matches on those records because oftentimes they're not  
19 complete enough to do a positive ID on person.  
20 Q. The record provided by the courts aren't  
21 complete enough to run against the DIMS system?  
22 A. Yes.  
23 Q. What information is missing?  
24 A. Sometimes we only get a name and an address.  
25 Q. What other information do you require?

310

1 A. We like to have a birth date and a signature.  
2 As you mentioned earlier there are a lot of people in our  
3 County, and we often find the same birth date with the  
4 same name. And without something further to confirm it  
5 with, we're very reluctant to whack someone with a felony

6 on their registration and not be as sure as we can be  
7 about it.

8 Q. If a name and address matched but you don't  
9 have date of birth information or a signature, is any  
10 further investigation done to see whether that's the same  
11 person?

12 A. I'm not sure about that. You would have to  
13 ask Vicki about that. I don't see where there would be a  
14 lot more information or research that we could do.

15 Q. Do you know how often King County Elections  
16 receives reports of felons' convictions?

17 A. I believe from the County, we receive them  
18 pretty much weekly. The others are less than weekly. I  
19 don't know what the frequency of those would be. Vicki  
20 would know.

21 Q. Do you know whether King County Elections  
22 receives reports from federal courts of federal  
23 convictions?

24 A. We do.

25 Q. Do you know how often?

311

1 A. I don't. But less frequently than the county  
2 ones.

3 Q. Do you know how many felons were removed from  
4 King County's registration rolls in 2004?

5 A. I was handed a report with that data on it,  
6 but I don't recall the number.

7 Q. Who provided you the report?

8 A. I believe Vicki had the report. I suspect she  
9 may have gotten it from Travis or Scott. But she may  
10 have received it from another source.

11 Q. I believe you told Mr. Hamilton that you had  
12 read part of Mr. Logan's deposition transcript?

13 A. Yes.

14 Q. In preparation for this deposition?

15 A. Sort of.

16 Q. It was sort of preparation or you sort of read  
17 it?

18 A. I sort of read it for -- well, I didn't read  
19 it for preparation. I read it because he's our boss, and  
20 I figured I would have to answer questions for him.

21 Q. Was there anything in the transcript that you  
22 read in which Mr. Logan provided inaccurate testimony?

23 A. I believe I read some things in there that  
24 weren't exactly correct.

25 Q. What --

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1 A. I don't remember what it was. But there were  
2 a couple things that I thought I'd better bone up on  
3 whatever the answer it was he gave because I knew it  
4 wasn't accurate.

5 Q. Do you remember generally the area?

6 A. I did this morning. But I don't recall now.  
7 I don't recall.

8 Q. Is there a document that would refresh your  
9 recollection?

10 A. Maybe. I don't know.

11 Q. You can't think of a particular document that  
12 would do so?

13 A. I know that there was something that he said  
14 that I was -- I believe it's subsequently come up that it  
15 was inaccurate, but I don't remember what it was now.

16 Q. Was it with respect to provisional ballots  
17 with no signature on file?

18 A. I don't think it was that.

19 Q. Was it something within your department?

20 A. I think it had to do with some type of  
21 reporting. But, again, I don't recall.

22 Q. Did you also read Mr. Huennekens' deposition  
23 transcript?

24 A. I did.

25 Q. Was there anything in Mr. Huennekens'

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1 transcript where his testimony was inaccurate?

2 A. There were some things, and I don't recall  
3 what they were. But I did go through his carefully and  
4 just pulled out all of the questions that you guys asked  
5 him that made reference to me.

6 Q. Did you make any notes as you were going  
7 through Mr. Huennekens' transcript?

8 A. I did.

9 Q. Do you still have those notes?

10 A. I don't have them here.

11 Q. Do they still exist?

12 A. I believe they do.

13 Q. And when you went through Mr. Logan's  
14 transcript, did you make any notes?

15 A. Just mentally.

16 Q. Nothing written?

17 A. No, because I suspected that Bill would try to  
18 answer for Dean where he wasn't correct and then I would  
19 only need to answer for Bill.

20 Q. Do you remember in comparing the transcripts  
21 whether Mr. Huennekens had cleared up the inaccurate  
22 statements that you noticed in Mr. Logan's transcript?

23 A. I think he did because -- I'm pretty sure he  
24 did because I wasn't concerned about Dean's deposition  
25 after I read Bill's. I was more concerned about Bill's.

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1 Q. What was it about Bill's that concerned you?

2 A. Well, Bill oversees, but he doesn't -- he  
3 doesn't do it. So, often he just responds based on what  
4 us as the superintendents give him as information, which  
5 I believe is how it should happen.

6 It was unfortunate that Bill was asked  
7 questions that in my opinion he shouldn't know the answer  
8 to. But it didn't come off real clean for him because it  
9 looked to the untutored eye as if he didn't have a good  
10 grasp of what we do as a business. And that's not true.

11 Bill does the big picture. Myself and  
12 Garth and Julie are the fine-tuners of the big picture.  
13 So, I can talk about my part, but I can't talk about  
14 Julie's part. And Bill can only ask us with regards to  
15 details how things are done. He's never sitting around  
16 when we're doing data entry. He's not solving those  
17 daily problems. We are.

18 So, I believe all of us would minimize  
19 Bill having to respond to things when it was incumbent  
20 upon us to provide those answers. And our duty is to  
21 make sure Bill has the answers.

22 But you guys were asking him very  
23 difficult questions with regards to process, and he just  
24 wasn't familiar enough with it because, again, he isn't  
25 doing the work, nor is he necessarily even witnessing the

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1 work being done.

2 Q. On which processes do you feel his testimony  
3 wasn't accurate?

4 A. Just in general, just a lot of the procedure  
5 things that he was saying. The -- you know, how many  
6 widgets a day or being produced by a certain individual.  
7 He wouldn't have any idea of how those kinds of things  
8 panned out.

9 MR. MAGUIRE: Let's go off the record  
10 for a moment.

11 (A brief recess was taken.)

12 Q. Mr. Webb, while we were in a break, did you  
13 have any opportunity reflect further on Mr. Huennekens'  
14 deposition transcript testimony?

15 A. I didn't think another minute about it.

16 Q. Mr. Huennekens testified that the Department  
17 of Licensing provides some information to King County  
18 regarding voter registrations. Is that true?

19 A. That is true.

20 Q. What information does the Department of  
21 Licensing provide?

22 A. They send us registration forms that they have  
23 asked people when they go in to update their license if  
24 they want to use the data for voter registration.

25 Q. Do those come in on a rolling basis or is

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1 there a monthly report?

2 A. They come in almost weekly I believe.

3 Q. Do you know how many registrations King County  
4 gets through the Department of Licensing?

5 A. Thousands.

6 Q. Thousands each year?

7 A. Yes.

8 MR. MAGUIRE: Mark this as the next  
9 exhibit please.

10 (WHEREUPON, a document entitled WSR  
11 04-18-028, Emergency Rules, Secretary of State was marked  
12 as Exhibit-52 for identification.)

13 Q. Mr. Webb, the court reporter just handed you a  
14 document marked as Exhibit 52 entitled WSR 04-18-028,  
15 Emergency Rules, Secretary of State, filed August 24,  
16 2004 and effective the same day; is that right?

17 A. Yes.

18 Q. Do you recognize these as emergency Washington  
19 Administrative Code sections?

20 A. I do.

21 Q. That were promulgated prior to the November  
22 general election?

23 A. Yes.

24 Q. Did you see these before the November  
25 election?

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1 A. I did.  
2 Q. Did you use these in preparing instructions  
3 for your staff in processing provisional ballots?  
4 A. I think I had already done -- I'm not sure,  
5 but I think I had already written the procedures and just  
6 compared to it to see if it was in compliance with this.  
7 Q. Did you determine that the procedures were in  
8 compliance?  
9 A. Yes.  
10 Q. Did you provide a copy of any of these  
11 Washington Administrative Code sections to the staff  
12 involved in the verification process?  
13 A. No. But I believe that Lisa and Vicki would  
14 have been on the receive list when this was sent from the  
15 Secretary of State.  
16 Q. Do you know of any instances in which the  
17 practice in King County for the November 2004 election  
18 deviated from the procedures set forth in the Washington  
19 Administrative Code sections?  
20 A. Not that I can recall.  
21 Q. Do you keep handwritten notes?  
22 MR. PORTER: Objection. Vague. Just  
23 in a general sense or related to something in particular?  
24 Q. Are you a note taker at the office?  
25 A. I write down instructions. I write down when

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1 someone asks me to do something in a task list.  
2 Q. So, when problems arise during the election,  
3 do you tend to make notes of those?  
4 A. It would depend on what the problem was and  
5 whether it was something that would be something that I  
6 should solve at my level.  
7 Q. If it's a problem you should solve at your  
8 level, you'd write a note about it?  
9 A. I might.  
10 Q. And if it was a problem that should be solved  
11 above your level, what would you do?  
12 A. I would talk to my superiors about it and kind  
13 of give it to them.  
14 Q. Do you have a practice of writing down what  
15 your superiors told you to do?  
16 A. Sometimes. If it was something I thought I  
17 might forget.  
18 Q. Do you know if you took any notes of the  
19 conversation with Mr. Huennekens regarding processing of

20 the no signature on file provisional ballots?

21 A. No, I did not.

22 Q. Mr. Huennekens also testified about the way  
23 information about felony convictions is contained in the  
24 DIMS record. He suggested that you might be more  
25 knowledgeable on that subject.

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1 In DIMS when a voter registration file is  
2 pulled up, can one see on the first screen that the  
3 registration has been canceled?

4 A. Yes. They would see in the name search when  
5 the person's name came up on the list, if you gave a John  
6 Smith with a birth date or a middle initial, that would  
7 limit it to showing all of the John Smiths. It would  
8 show a smaller number of them.

9 But you could look at their status. It's  
10 available in the name lookup before you even bring up the  
11 record. If it were canceled, it would say C, the line  
12 would be red. If it were inactive, it would say I, and  
13 the line would be yellow. If they were active, it would  
14 just -- it wouldn't have a color or it would be colored  
15 blue.

16 Q. And DIMS also contains information as to the  
17 reason for a cancelation?

18 A. Yes.

19 Q. And is that information located on the same  
20 top screen or do you have to tab to get to it?

21 A. Well, what I was just telling you would come  
22 up on a list of names, and you could tell just right  
23 there, because it shows their name, their birthday. And  
24 if you widen the screen, it actually shows a data stream  
25 with their address and their date of reg, and I believe

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1 their voter ID number.

2 But you have to open the screen up full  
3 screen to see all of the data. The screen appears small,  
4 but you can see the voter's name and their status.

5 Q. And it will be red if the person was canceled?

6 A. Right. So, then, you click on the one you're  
7 looking at, and it brings up the data sheet. And the  
8 sheet with the three tabs, the initial sheet you're  
9 looking at, tells also what the voter's status is. So,  
10 if they were canceled, it would say canceled for whatever  
11 reason right then.

12 Q. Okay. It doesn't just say canceled. It says  
13 canceled and the reason why?  
14 A. Right.  
15 Q. Do you know whether provisional ballots were  
16 counted on election day at polling sites without first  
17 going through your verification process?  
18 A. I wouldn't know that. I wouldn't have known  
19 it. I have heard rumblings about that.  
20 Q. From where?  
21 A. From various sources, the newspaper. We have  
22 had PDR requests.  
23 Q. Have you ever discussed that issue with  
24 Mr. Huennekens?  
25 MR. HAMILTON: That issue?

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1 Q. Provisional ballots counted on election day  
2 without first being verified?  
3 A. Not directly. But it's been mentioned at  
4 meetings that I was present at.  
5 Q. When were these meetings?  
6 A. They weren't specifically for this. It  
7 probably came up in our staff meetings. We have them  
8 weekly.  
9 (Mr. McBrayer enters.)  
10 Q. When did they first come up in the staff  
11 meetings?  
12 A. I couldn't recall that.  
13 Q. Was it prior to certification?  
14 A. I don't recall. It may have been.  
15 Q. Prior to certification of the hand recount?  
16 A. Again, that was a very busy time for us. So,  
17 I wasn't necessarily involved in discussions about the  
18 things that were turning up daily. I was pretty much  
19 dealing with the things that were already on my plate.  
20 Q. Does Linda Sanchez report to you?  
21 A. No. She reports to Julie Moore.  
22 Q. Are you familiar with the Ballot On Demand  
23 system?  
24 A. Yes.  
25 Q. Is that something that your department has

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1 responsibility for?  
2 A. Yes.  
3 Q. Can you describe the Ballot On Demand system?

4 A. Actually, I think there's a trademark on it,  
5 that it's Ballot On Request, because Ballot On Demand has  
6 a trademark, so we don't use that term. But that's when  
7 a voter shows up and for whatever reason they want to get  
8 an absentee ballot right then.

9 Q. They show up at the admin building?

10 A. Yes.

11 Q. And in King County election workers will print  
12 an absentee ballot for them to take?

13 A. Yes.

14 Q. Is any record kept of the ballots that are  
15 printed through the Ballot On Demand or Request system?

16 A. I'm not sure what you mean "record kept"?

17 Q. Is there any indication as to how many ballots  
18 are printed on the Ballot On Request system?

19 A. No.

20 Q. Or for what precincts they were printed?

21 A. No.

22 Q. Are there records as to the identity of the  
23 individuals who take a ballot from the Ballot On Request?

24 A. Well, I believe that it could be that we could  
25 get that data maybe. We might be able to run a report

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1 that says ballots that were issued from the counter.  
2 They are tagged that way; counter ballots. But we also  
3 use the counter to print ballots for Julie's duplication  
4 process.

5 Q. So, there is a record of the number of counter  
6 ballots given out to individuals at the admin building?

7 A. Yes.

8 Q. Who keeps that record?

9 A. No one keeps it. It exists in our database I  
10 believe. And I'm not sure if that's reportable, but it's  
11 a reason code on the absentee side of the equation. So,  
12 I would think that we could run a report off of the  
13 counter ballots that were issued. Only it's also going  
14 to show the ballots that were printed for Julie.

15 (Mr. McBrayer exits.)

16 Q. The report will have ballots that were used  
17 for duplication as well as ballots that were handed out?

18 A. I believe so. I'm not sure about that. That  
19 hasn't been asked for before. So, it may not even be  
20 possible.

21 Q. Is there another printer for the Ballot On  
22 Demand system besides the one in the admin building?

- 23 A. I don't know. Not that I know of.  
24 Q. One at MBOS?  
25 A. There may be one at MBOS. I don't know. We

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- 1 inherited that responsibility in this last election  
2 cycle.  
3 Q. Inherited it from whom?  
4 A. The absentee group.  
5 Q. For the primary, was it still with the  
6 absentee group?  
7 A. No, it was with us for both elections. When  
8 we re-orged the office, it seemed to make more sense that  
9 my staff that does the customer service piece should also  
10 do that. Otherwise, it would have required some members  
11 from the absentee processing team to be in the office as  
12 opposed to be at the MBOS facility.  
13 Q. Who has access to the Ballot On Demand system?  
14 A. Supervisory staff and those that they assign  
15 the ability and a password to do it.  
16 Q. How about how many people is that?  
17 A. I think it was about five or six people.  
18 Q. Can the Ballot On Demand system be accessed  
19 remotely via a modem or a network?  
20 A. No.  
21 Q. It's a stand-alone?  
22 A. It is.  
23 Q. Did you read portions of Mr. Logan's testimony  
24 in which he discussed problems in the culture of the King  
25 County Elections Office?

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- 1 A. Probably not.  
2 Q. Have you ever heard him refer to a culture of  
3 problems in the elections office?  
4 MR. PORTER: I object to the form of  
5 the question. I think it misstates Mr. Logan's phrasing  
6 of that general topic area.  
7 A. I have.  
8 Q. And what have you heard him say?  
9 A. That basically we have an issue with old ideas  
10 and old philosophies that existed in the office prior to  
11 he and Bill coming aboard and that that was something  
12 that we have all been working on correcting.  
13 Q. Do you agree with Mr. Logan that there's a  
14 problem with old ideas and philosophy?

15 A. I have an opinion about what I think are some  
16 of the challenges there, yes, but not exactly in -- not  
17 exactly in the terminology and the way that Dean sees it.  
18 I think he's looking at something different than I would  
19 be as a supervisor as opposed to the manager.  
20 Q. What is it that you're looking at?  
21 A. Cooperation.  
22 Q. Cooperation by whom?  
23 A. The entire office. By having worked in other  
24 offices, I understand how important it is that you apply  
25 the team concept. My favorite is: We are the flock of

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1 geese, and those that can lead should lead. And when  
2 they are beyond their ability, they should let those that  
3 have the ability lead.

4 Q. Are there some people who are leading who  
5 can't?

6 A. That's true in every organization I would  
7 think.

8 Q. And in King County Elections Office that's  
9 true?

10 A. I couldn't answer that question. I'm not  
11 working with those people, so I wouldn't know. I hear  
12 rumblings.

13 Q. What are the rumblings you hear?

14 A. That there might not be the cooperation that  
15 people would like to see.

16 Q. With respect to who not cooperating with --

17 A. I don't know what that means other than that's  
18 just some things that I've heard over the years from King  
19 County.

20 Q. Earlier you said you had an opinion as well  
21 that was slightly different from Mr. Logan's. What is  
22 your opinion?

23 A. My opinion is that we probably went too  
24 quickly on implementing this system. I would think that  
25 anyone that knows about databases would have been

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1 reluctant to take on a project like this.

2 Q. That's implementing DIMS?

3 A. And it's not DIMS itself. It's the timing of  
4 it with the presidential election. That might not have  
5 been the best choice at the time. I think the turnaround  
6 was six months on that, and that was a pretty short

7 window to process, as we see in hindsight, more than  
8 anyone expected with regards to election turnout for  
9 2004.

10 Q. Were there any adverse consequences that arose  
11 from moving too quickly implementing DIMS?

12 A. The consequence was the amount of work that we  
13 had to process. We processed record volumes. And I said  
14 in many meetings, if I had an opportunity to do it again,  
15 I would have planned my unit's work flow better. I would  
16 have paid more attention to the feeling that we had that  
17 this was going to be bigger than it turned out to be. We  
18 were all concerned about the numbers, but we didn't have  
19 any way to project what they actually turned out to be.

20 Q. What would you have planned differently with  
21 your work flow?

22 A. More staff.

23 Q. Anything else?

24 A. Started earlier.

25 Q. Started doing what earlier?

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1 A. Getting prepared for the general -- I mean,  
2 for the primary/general cycle. That wouldn't have been  
3 possible because we couldn't implement until June. But  
4 if it were my choice and I was the boss and I had the  
5 ability to make all decisions, I would have started in  
6 the year before.

7 Q. Did you express any concerns to your superiors  
8 with respect to the speed at which King County was trying  
9 to implement DIMS?

10 A. No. That decision was already made by the  
11 time I started. I started in May. So, the decision had  
12 already been made. I didn't see any benefit in hammering  
13 on something that was already a decision. But my goal  
14 was to get it done as best I could.

15 Q. Did the short time to implement DIMS have any  
16 effect on the handling of ballots?

17 A. Not necessarily directly.

18 Q. Did it have any effect on whether ballots were  
19 tabulated or not tabulated?

20 A. I don't think so. The biggest effect was in  
21 voter registration increase and of the associated work  
22 flow that was a result of that.

23 Q. It was just harder to get everyone up to speed  
24 to process all the new registrations in time?

25 A. There was just more of it. There were -- we

1 just had a lot of work. It wasn't work that we weren't  
2 familiar with or didn't know how to process. It was just  
3 ten times what we were normally used to seeing, even in a  
4 high volume election. This exceeded that.

5 Q. So, even if King County had not converted to  
6 DIMS, King County would have had the same problems --

7 A. And all counties, if you polled all counties,  
8 would, I'm sure, say the same thing, that the numbers  
9 were huge, and it made it very difficult to process the  
10 election.

11 Q. Do you know of any errors committed by  
12 elections officials in the November 2004 election in King  
13 County?

14 MR. PORTER: Objection to the form of  
15 the question as to the definition of "errors." For  
16 vagueness.

17 A. Every election cycle has challenges, and every  
18 county felt those challenges in this past election cycle.

19 Q. Do you remember any specifically in King  
20 County?

21 A. No. I remember a lot of challenges that we  
22 had, none specifically, but certainly a lot of them.

23 Q. You remember the challenges but not any  
24 errors?

25 A. No. I remember that we had a lot of

1 challenges, and I would suspect some errors resulted.

2 But I don't remember any specifically.

3 Q. Does your department handle the crediting of  
4 absentee ballots?

5 A. No.

6 Q. Or the reconciliation of absentee ballots?

7 A. No.

8 Q. Do you know how much the DIMS system cost?

9 A. I don't.

10 Q. Do you have a ballpark?

11 A. I don't.

12 Q. Is it a mainframe system or a network of  
13 computers?

14 A. It's not a mainframe.

15 Q. Who is responsible for backing up DIMS?

16 A. Backing up the data?

17 Q. Yes.

18 A. I believe ITS runs the backup; the County ITS  
19 group.  
20 Q. Do you know how frequently they do backups?  
21 A. I believe they back up every night.  
22 Q. Do you know what they do with the backup?  
23 A. I don't.  
24 Q. Or for how long they store them?  
25 A. I don't.

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1 Q. Do you know of any instances in which King  
2 County election workers tried to retrieve a file from  
3 backup copies of DIMS information?  
4 A. Not that I can recall.  
5 Q. Was the DIMS system customized for King County  
6 or was it an off-the-shelf purchase?  
7 A. It's an off-the-shelf purchase, but it has  
8 some custom features that King required going in.  
9 Q. What were the custom features?  
10 A. I wouldn't know that.  
11 Q. Who would know?  
12 A. Harry Sanders might know.  
13 Q. He's in ITS?  
14 A. No. He was the EMVR project manager.  
15 Q. Is he still with King County?  
16 A. He is.  
17 Q. Can King County in-house staff modify any of  
18 the DIMS software or do you need to go to the vendor to  
19 do that?  
20 A. No. Only the vendor can modify it. We can  
21 configure it.  
22 Q. In the DIMS records, is the data registration  
23 in the file the date the voter registration form was  
24 signed or the date it was received by King County?  
25 A. I believe both dates are there.

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1 Q. Take a look at one of these provisional ballot  
2 envelope printouts, Exhibit 14 for example, the printout  
3 that Mr. Hamilton had provided has a registration date on  
4 it, \_\_\_\_\_ **REDACTED**.  
5 MR. HAMILTON: Sorry. Hold on. Just  
6 a second, Counsel.  
7 MR. MAGUIRE: 14.  
8 MR. HAMILTON: Got it. Thank you for  
9 waiting.

10 A. Yes.  
11 Q. Is that the date the registration information  
12 was keyed into the computer or is that the date on the  
13 signature card?  
14 A. That would be the date that it was keyed in.  
15 Q. There might be another field that's not shown  
16 here that has the date of the signature card?  
17 A. That would have either the date of the  
18 signature card or the date that it was received in the  
19 office.  
20 Q. In terms of determining whether a person's  
21 eligible to vote in the November election, which is the  
22 operative date?  
23 A. The date of reg which would be the date we  
24 received it.  
25 Q. Date of reg as opposed to reg date?

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1 A. Right. The date of reg would be if it's  
2 postmarked -- it doesn't matter what they've signed on  
3 it, it's driven by when we receive it and through  
4 whatever means we receive it.  
5 So, if we receive it through the mail,  
6 it's the postmark. If we can't read the postmark, then  
7 it comes down to when they signed it sometimes. Those  
8 are usually military ones that are received at some kind  
9 of attachT delivery. But generally we go on the postmark  
10 date.  
11 I believe in the old system they had a  
12 field for when the voter signed it, and some of that data  
13 was carried over. So, I believe they had to put a field  
14 into DIMS to accommodate a second date. That's why I  
15 said I believe there's two dates that are attached to  
16 every record. One would be the date we received it, and  
17 one would be the date we keyed it. I believe.  
18 Q. If a person updates their registration  
19 information, does that result in changing the date of reg  
20 or reg date?  
21 A. No.  
22 Q. It's only for new registration that that  
23 information is put in?  
24 A. Yes.  
25 Q. Do you know how the voter ID number is

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1 assigned?

2 A. I think it's just random. I think DIMS, the  
3 system assigns the number. The converted records would  
4 have come across with whatever number they had on them.  
5 And then DIMS creates a new number with each new entry.

6 Q. Can a voter ID number ever be reused for a  
7 different person?

8 A. I don't believe so.

9 Q. Even if a person's canceled, they hold onto  
10 their voter ID number?

11 A. Yes, I think those numbers are gone once  
12 they're used.

13 Q. Can one voter have more than one voter ID?

14 A. If he's registered more than once.

15 Q. Those are the people who would be identified  
16 in the duplicate check?

17 A. Hopefully, yes. If there was no match -- if  
18 we didn't have a positive hit to call them a dup, then  
19 they would exist as same person, same address, different  
20 birth dates. That would happen. We wouldn't have reason  
21 to look at an address for a search looking for a dup. We  
22 have to look for a name to look for a dup. There are  
23 fathers and sons at the same address.

24 Q. Can a voter ID number be manually changed by  
25 an election worker?

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1 A. I'm not sure. I assume when you say "manually  
2 changed," by anyone, can anyone -- can anyone manually  
3 change it? I would think that maybe one of the  
4 administrators if there were something high security  
5 would be able to do it. But I'm not sure.

6 MR. MAGUIRE: Well, thank you,  
7 Mr. Webb. Those are all my questions today. Appreciate  
8 you coming back.

9 MR. HAMILTON: I have a few. I  
10 assume you don't have anything?

11 MR. HENRY: No.

12 EXAMINATION, Continued

13 BY-MR.HAMILTON:

14 Q. I'd like to start with some of these ballot  
15 envelopes, and I will resist the temptation to go back  
16 and walk through and point out all the places where date  
17 of birth and other information match. But I do have a  
18 few questions for you. So, if you could get in front of  
19 you the exhibits beginning with Exhibit No. 7.

20 A. (Witness complies.)

21 Q. Actually, let's start with Exhibit 9. You can  
22 just place the whole stack in front of you there, and we  
23 will work through them.

24 A. Okay.

25 Q. When King County's processing provisional

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1 ballots, one of the first steps it to check the voter's  
2 name to see if you can locate the registration for the  
3 voter who submitted the provisional ballot. True?

4 A. Yes.

5 Q. In addition to the printed name, the verifier  
6 would also look to former last name; correct?

7 A. Yes.

**REDACTED discussion of provisional ballots containing confidential voter information**

18 Q. And Mr. Maguire asked you, it's possible that  
19 the person got an absentee ballot, right?

20 A. Yes.

21 Q. That's true of every provisional envelope that  
22 came in. It's always a possibility that a provisional  
23 ballot voter could have either previously voted at the  
24 polls or previously voted a provisional ballot envelope;  
25 correct?

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1 A. Yes. But --

2 Q. In part -- go ahead.

3 A. There's a note here from the poll worker that  
4 apparently the voter told them that they did not get an  
5 absentee ballot.

6 Q. Fair enough. So, but, if I understood your  
7 testimony correctly, in processing a provisional ballot,  
8 one of the steps is to see whether there's this notation  
9 on the envelope or not whether a voter has been issued an  
10 absentee ballot previously; correct?

11 A. Well, they wouldn't check for it. When they  
12 pull up the name, it would show them that.

13 Q. Right.

14 A. That would just automatically appear in front  
15 of them.

16 Q. And that would appear in front of them whether  
17 there's a notation on the envelope itself or not?

18 A. Yes.

19 Q. And if such a notation appears either in the

20 DIMS system when they pull it up or appears on the face  
21 of the provisional ballot envelope, it's going to be  
22 treated exactly the same way if there's an indication  
23 from either source that this voter has received an  
24 absentee ballot previously?  
25 A. Yes.

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1 Q. In both cases the County's going to put it  
2 aside and wait to see if the absentee is returned?

3 A. No. If there's no record indication when they  
4 pull up the record that they had been sent an absentee  
5 ballot, that wouldn't hold it up, no matter what was  
6 here.

7 Q. Okay. But if there's an indication that  
8 they'd been sent one, then it would hold it up until the  
9 County verified that they did not receive an absentee  
10 ballot back?

11 A. Yes.

12 Q. And only after that would it be counted?

13 A. Yes.

14 Q. Let me direct your attention to Exhibit 17.  
15 There were several of these envelopes that Mr. Maguire  
16 pointed out the voter signed with a first initial and  
17 full last name. There's no prohibition imposed by King  
18 County on the way that a voter signs their name; correct?

19 A. I don't understand the question.

20 Q. Well, some people use their full name, middle  
21 initial and last name, other people use their first  
22 initials, middle initial and last name. Some people just  
23 write their last name.

24 People sign their names in all different  
25 ways; correct?

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1 A. That's true.

2 Q. Sometimes people print them, sometimes they  
3 use cursive writing?

4 A. That's true.

5 Q. How a voter signs their name is completely up  
6 to the voter; correct?

7 A. Yes.

8 Q. And then the County's job is to make sure that  
9 the signature, whatever it is, on the provisional ballot  
10 matches the signature, whatever it is, on the  
11 registration, right?

12 A. Yes.

13 Q. So, the fact that they signed with a first  
14 initial or have a short name is largely irrelevant to the  
15 signature match?

16 A. Well, it would depend on the person who was  
17 doing the dispositioning of the signature. Again, I  
18 mentioned that some people are very nitpicky about it.  
19 If it didn't match exactly, they would -- this doesn't  
20 match. And that would include whether or not they used a  
21 first name or not. They could very easily say there's no  
22 question about this and process it as signature doesn't  
23 match.

24 Q. But the application of the three-point match  
25 test by the verifier is going to be looking at the

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1 signature used by the voter on the ballot envelope as  
2 well as in the registration database?

3 A. Yes.

4 Q. Let me ask you -- let me ask you another  
5 question on a different subject here that Mr. Maguire did  
6 touch on. With respect to the processing of provisional  
7 ballot envelopes -- actually, maybe it will be more  
8 helpful if we look at Exhibit 4, summary sheet.

9 A. Okay.

10 Q. You have it there in front of you?

11 A. Yes.

12 Q. The top line shows the total number of  
13 provisional blots processed as 3299 -- it's either a 6 or  
14 an 8. Do you see that?

15 A. Yes.

16 Q. Now, when it says "Provisional Ballots  
17 Processed," that means the sum total of all the ballots  
18 counted in King County, sent to other counties, and not  
19 counted because they were invalid, right?

20 A. I believe that's true.

21 Q. So, in this case there were 554 sent to other  
22 counties. There were just more than 28,000 -- actually,  
23 exactly 28,010 -- found to be valid, and there were 4,432  
24 held to be invalid; correct?

25 A. That's what it says, yes.

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1 Q. So, these subcategories under invalid --  
2 canceled, not registered, signature match and so on --  
3 these were all different categories of ballots that were

4 never counted?  
5 A. Yes.  
6 Q. Because if they were counted, then they would  
7 have been included in the valid ballot number; correct?  
8 A. True.  
9 Q. These were all categories of ballots that were  
10 not sent to other counties; correct?  
11 A. That appears to be true.  
12 Q. Because otherwise it would be in the 554  
13 number, right?  
14 A. That sounds true.  
15 Q. So, let me ask you about the process in  
16 evaluating a provisional ballot that has come to King  
17 County. When the validator looks at the name, address,  
18 date of birth, puts it in the registration database and  
19 comes up with a match, I believe you testified that the  
20 computer is going to tell the validator whether the  
21 registration has been canceled or not; correct?  
22 A. They will see the red record, yes.  
23 Q. It will be a red line or a red record  
24 indicating canceled?  
25 A. Yes.

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1 Q. And it will also indicate for the validator  
2 the reason for the cancelation?  
3 A. If they bring up the record.  
4 Q. They're supposed to bring up the record --  
5 A. Yes.  
6 Q. -- when they find a canceled registration;  
7 correct?  
8 A. Yes.  
9 Q. And, then, if there's a paper record, they're  
10 going to go find the paper record to look at it; correct?  
11 A. Yes.  
12 Q. That's the procedure and that's what's  
13 supposed to happen?  
14 A. Yes.  
15 Q. In some cases there's no paper record?  
16 A. True.  
17 Q. For example, a canceled because of inactive?  
18 A. Inactive to cancel, yes.  
19 Q. Thank you. But in other cases, for example a  
20 multi-county registration, there's going to be a piece of  
21 paper?  
22 A. Yes.

23 Q. And in those cases where there's a piece of  
24 paper, the validator is going to walk from the computer  
25 terminal to the filing cabinet, open it up, and actually

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1 physically exam that piece of paper?

2 A. It may not happen as they're doing it, but  
3 they would have called this record canceled. They would  
4 have been in a tray of other canceled. And then we  
5 would have had a team go through those and find the  
6 documents for each one.

7 Q. Okay. So, whether it's the person who  
8 actually walks away from the computer terminal or hands  
9 it off to another team, somebody from King County is  
10 going to take that stack of canceled absentee ballots and  
11 go physically look for the document?

12 A. Yes.

13 Q. And once they find the document and confirm  
14 that, yep, this was canceled because of, for example, a  
15 multi-county cancelation, then they're going to put this  
16 absentee ballot and envelope in the do-not-count pile?

17 A. Yes. They would put the envelope in the -- it  
18 stays in the cancels because cancels -- we didn't say,  
19 you know, everything on this side of the room do not  
20 count, everything on this side count.

21 What we had were categories that would not  
22 count which would have been all of these things and  
23 categories that would count which would have been the  
24 pending one waiting on the response. So, those would  
25 have been ones that would not have been in the no count

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1 ones. They were in the don't-count-yet group and the  
2 ones that were good to count.

3 (WHEREUPON, a letter dated April 11, 2005,  
4 with enclosures, to Mr. Hamilton from Mr. Porter was  
5 marked as Exhibit-53 for identification.)

6 Q. Handing you what's been marked as Exhibit 53.  
7 The top two pages are a letter from Mr. Porter to me in  
8 response to a Public Disclosure Act request we submitted  
9 on behalf of the Washington State Democrats. Mr. Porter  
10 was kind enough to provide a number of documents relating  
11 to the 622 provisional ballots that have not been counted  
12 in King County in connection with the November 2004  
13 general election.

14 As you'll see from the very first

15 paragraph, second sentence, and I'll read it: "Your  
16 March 8 request was subsequently modified to request only  
17 the cancellation documents for provisional ballot voters  
18 in the November 2004 general election whose provisional  
19 ballots were rejected for the reason that their voter  
20 registrations had been canceled."

21 I cite that just so you know what you're  
22 looking at. I have -- this is I will represent to you is  
23 a selection of the documents provided by Mr. Porter to  
24 me. In the interest of conservation of paper, I have not  
25 produced everything.

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1 I would like to look at just a few of  
2 these to ask you about the King County process here. If  
3 you could turn to page 3 of Exhibit 53.

4 A. The actual third page?

5 Q. The actual third page. Down at the bottom it  
6 says KC 11637.

7 A. Okay.

8 Q. Are you familiar with the form of this  
9 document?

10 A. I'm familiar with it. Although I've never  
11 really looked at it.

12 Q. It's a "Juror Qualification Form," right?

13 A. Yes.

### **REDACTED discussion of canceled registrations for specific voters**

2 A. Well, I don't see any date on this document  
3 itself. So, I would just be -- this could have been  
4 sitting out there for years. This registration number  
5 indicates that they were registered in '96. So, I mean,  
6 I don't know how long this sat around.

7 Q. Would the answer be different if the date were  
8 -- if this was received in the summer of 2004?

9 A. The answer would be the same. They would not  
10 be looking for information to forward a ballot on on a  
11 record that was sitting out in a file as canceled. They  
12 would only be looking for a valid reason for canceling  
13 the voter.

14 And when we start taking dates and records  
15 from another document that was sent to us for  
16 verification, we kind of get into an area where we don't  
17 know where that data came from.

18 Q. Well, so, the answer is it doesn't matter what

19 the date on the document was, you'd never use this  
20 document to forward a provisional ballot to another  
21 county?

22 A. We would never look to see if there were a  
23 forwarding address on the document. We only look to see  
24 do we have a document that canceled this record. That's  
25 what we would be looking for.

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1 Q. And you'll agree with me that looking at this  
2 document would reveal that the reason for the cancelation  
3 was that this voter returned a jury summons in King  
4 County by indicating that they'd moved to \_\_\_\_\_County?

5 A. I couldn't state that from what I'm looking at  
6 here.

7 Q. You only keep records relating to voter  
8 cancelations for 22 months; correct?

9 A. That's the rule on retention, yes.

10 Q. And that's the rule King County follows?

11 A. Sometimes we have them longer, but that would  
12 depend on whether or not we could schedule someone to  
13 come and remove them from our presence. We have  
14 thousands of records, and we share storage spaces with  
15 other offices. So, it becomes a storage issue.

16 Q. They're organized chronologically?

17 A. Yes.

18 Q. Let's turn to page 2 then of this.

19 MR. MAGUIRE: Page 4?

20 Q. I'm sorry. Page 4. The second page of the  
21 actual document attached to Mr. Porter's letter. This  
22 one is KC 11639. This is an ongoing absentee request;  
23 correct?

24 A. Actually, it's a registration form with the  
25 request on it.

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**REDACTED discussion of canceled registrations including specific voter information**

22 MR. HAMILTON: Thank you. No further  
23 questions.

24 MR. PORTER: Let me just have a  
25 minute.

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1 (Pause in the proceedings.)

2 MR. MAGUIRE: I just have two minutes  
3 of questions.

4 EXAMINATION, Continued

5 BY-MR.MAGUIRE:

6 Q. Mr. Webb, do you know how King County  
7 determines when it receives a provisional ballot whether  
8 the person is registered in another county?

9 A. Typically they'll put on the ballot, and I  
10 think we had an example of one in here that it is from  
11 another county or it will come and the other counties  
12 will have their own envelope that says Snohomish County,  
13 whatever.

14 Q. And if King County receives a provisional  
15 ballot envelope where the voter has written down an  
16 address that's in another county, does King County send  
17 that provisional ballot envelope to the other county?

18 A. After we are verified that they are not in our  
19 county, yeah.

20 Q. So, even if the registration could be canceled  
21 in King County, it would go to the address that the  
22 person had put on the provisional ballot envelope?

23 A. Yes.

24 Q. Mr. Hamilton asked you a few questions about  
25 Exhibit 4, Provisional Ballot Summary Report, as to what

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1 information is contained in the Total Provisional Ballots  
2 Processed.

3 Is the total number of provisional ballots  
4 processed the total number issued to voters?

5 A. No.

6 Q. What's the difference between the number  
7 issued and the number processed?

8 A. Not all the ones that are issued would be  
9 ours, for one, or would they necessarily come back to us.

10 Q. Some of them could have been placed into the  
11 AccuVote machine at a polling site on election day?

12 A. That's possible.

13 Q. And those would not be reflected in the Total  
14 Provisional Ballots Processed on the Provisional Ballot  
15 Summary Report?

16 A. That's true.

17 Q. In the "Invalid Ballots" categories, is it  
18 possible that some of these ballots -- excuse me -- some  
19 of these were provisional ballot envelopes that did not  
20 contain ballots?

21 A. Yes.  
22 Q. Your team did see instances in which envelopes  
23 came back without the provisional ballot inside?  
24 A. Yes.  
25 Q. How frequent was that?

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1 A. There weren't very many of them. There wasn't  
2 an extraordinary number of them. I couldn't say what  
3 that number is.

4 MR. MAGUIRE: Thank you. Those are  
5 all my questions.

6 MR. PORTER: Thanks guys.

7 MR. MAGUIRE: Off the record.

8 (WHEREUPON, the deposition concluded at  
9 3:55 p.m.)

10 (Signature was reserved.)  
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1 CERTIFICATE  
2 I, JoAnn Bowen, do hereby certify that  
3 pursuant to the Rules of Civil Procedure, the  
4 witness named herein appeared before me at the  
5 time and place set forth in the caption herein;  
6 that at the said time and place, I reported in  
7 stenotype all testimony adduced and other oral  
8 proceedings had in the foregoing matter; and that  
9 the foregoing transcript pages constitute a full,  
10 true and correct record of such testimony adduced  
11 and oral proceeding had and of the whole thereof.  
12

13           IN WITNESS HEREOF, I have hereunto set  
14 my hand this 19th day of May, 2005.

15

16

17

18           \_\_\_\_\_  
Signature                      Expiration Date

19

20

21

22

23

24

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