

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**LEAGUE OF WOMEN VOTERS OF
OHIO, A. PHILIP RANDOLPH
INSTITUTE OF OHIO, GEORGE W.
MANGENI, and CAROLYN E.
CAMPBELL,**

Plaintiffs,

v.

**FRANK LAROSE, in his official capacity
as Secretary of State of Ohio,**

Defendant.

CASE NO. 20-cv-3843-MHW-KAJ

JUDGE MICHAEL WATSON

MAGISTRATE JUDGE KIMBERLY
JOLSON

MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs League of Women Voters of Ohio, A. Philip Randolph Institute of Ohio, George W. Mangeni, and Carolyn E. Campbell (collectively, “Plaintiffs”) respectfully move the Court, pursuant to Federal Rule of Civil Procedure 65, for a preliminary injunction that:

- (1) enjoins Ohio Secretary of State Frank LaRose (“Defendant LaRose”) from enforcing provisions of Ohio law that require election officials to conduct signature matching on absentee ballots without providing adequate time to cure a purportedly mismatched signature before the date by which Ohio boards of elections must complete the canvass of returns; and
- (2) enjoins Defendant LaRose from permitting county boards of elections from conducting signature matching on absentee ballot applications, or, in the alternative, to direct Defendant LaRose to confirm that Directive 2020-11, issued

by Defendant LaRose on July 6, 2020, requires boards of elections to promptly contact voters by telephone and email in sufficient time to correct absentee ballot applications rejected on the basis of signature mismatch.

With the November 3, 2020 election approaching, Plaintiffs respectfully request the Court to schedule a status conference to set an expedited briefing schedule as soon as possible. Plaintiffs further respectfully request a ruling on this motion by no later than September, 22, 2020, to permit six weeks for any appeal and to ensure that relief from Ohio's deficient notice-and-cure process in signature matching is implemented prior to the General Election.

As set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Injunction, Plaintiffs have established that they are likely to succeed on the merits, that Plaintiffs will suffer irreparable harm if the Court declines to issue this preliminary injunction, that the issuance of this preliminary injunction would cause no substantial harm to others, and that the public interest will be served by the Court's granting of this preliminary injunction.

DATED: August 24, 2020

Respectfully submitted,

/s/ Freda J. Levenson

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

In every election, Ohio erroneously rejects thousands of absentee ballot applications and absentee ballots based upon perceived signature mismatches. These rejections result from nonuniform and standardless decisions by various officials across the state, without giving voters adequate notice of or opportunity to cure the rejection. About 85% of Ohioans who voted in the 2020 Primary Election did so by mail-in absentee ballot, and with the continuing COVID-19 pandemic, election officials are expecting an avalanche of mail-in absentee ballots in November. As a result, the number of applications and ballots rejected because of a purported signature mismatch will likely climb to tens of thousands in the November General Election.

Signature matching, as practiced in Ohio, is notoriously inaccurate. Research demonstrates that election officials are prone to deciding erroneously that authentic voter signatures do not match file signatures. Certain classes of voters—non-English speakers, the disabled, and older voters among them—are most likely to produce inconsistent-appearing signatures and are therefore especially susceptible to being disenfranchised. Although fraud prevention is often touted as a reason for signature matching, the risk of erroneous rejection of a legitimate ballot is staggeringly greater than that of the erroneous acceptance of a fraudulent one. At least one expert estimates that there is a 97% probability that a ballot that has been rejected because of a purported signature mismatch has been wrongly rejected.

This motion for a preliminary injunction—and this litigation more broadly—does not seek a declaration that signature matching cannot comport with the Constitution. Rather, this motion aims to ameliorate two constitutional problems with Ohio's current procedures for signature matching.

First, when absentee ballots are rejected because of a purported signature mismatch there

is no adequate procedure or practice under Ohio law for voters to learn of purported signature mismatches and to cure them. Ohio law directs boards of elections to give notice to voters whose absentee ballots were rejected, but the notice periods fail to provide adequate opportunity to cure. Boards of elections stop notifying voters of signature mismatches on their ballots six days after Election Day, and voters have until only seven days after Election Day to cure a mismatched signature. These deadlines not only guarantee that not all voters will be able to address perceived signature irregularities, but they are also entirely unnecessary. Ohio could provide additional notice and opportunity to cure deficient ballots without impacting statutory election certification deadlines: Mail-in ballots may be received by a board of elections within ten days after Election Day, and Ohio boards of elections need not complete the canvass of votes until twenty-one days after Election Day. With the deepening crisis of U.S. postal mail delivery, it is imperative that Ohioans have a full opportunity to receive notice and opportunity to cure ballots flagged for signature mismatch. Ohio's failure to provide adequate opportunity to cure absentee ballot rejections unconstitutionally deprives Plaintiffs of procedural due process and their right to vote.

Second, although Ohio law does require boards of elections to conduct signature matching on absentee ballots, it does not require matching on *applications* for absentee ballots. Yet in practice, many counties do reject applications on that basis. Further, Ohio law provides no standard or procedure applicable to or followed by any particular county for signature matching. The norms and criteria for matching, and the level and nature of training for analysis vary widely from county to county, as do the number and identity of which election officials in a county are to make the matching or rejection decision. As a result, Ohioans' fundamental right to vote is subject to the whims of different county election officials, increasing the likelihood of

erroneous rejections. Treating different voters differently in ways that affect whether they will be allowed to vote and whether their votes will be counted violates the Equal Protection Clause.

Ohio Secretary of State Frank LaRose—the defendant here—has recognized many of these problems with signature matching but has failed to correct them. On July 6, 2020, Defendant LaRose issued Directive 2020-11, which instructed county boards of elections to provide specific notice of certain defects on applications and ballots. With respect to *applications*, the directive requires boards of elections to notify voters promptly via telephone or email, whenever possible, if voters submit applications that “do[] not contain all the required information.” With respect to *ballots*, the directive requires boards of elections to notify voters by phone and email when those voters submit ballots with a “deficiency on their ID envelope.”

Although recognizing the problems, the directive does not solve them. *First*, it does not direct counties to cease signature matching on applications, which is nowhere provided for in Ohio statutes or regulations. *Second*, even assuming signature matching on applications were appropriate, the directive does not provide notice procedures for boards of elections when there is a supposedly a *mismatched* application signature, as opposed to an application that is simply *missing* a signature. *Third*, Directive 2020-11 does not address Ohio’s deficient cure deadlines for cast ballots. It does not narrow the two-week gap between the last day a voter may cure a mismatch (seven days after Election Day) and the date when the boards of elections must finish their canvass (twenty-one days after Election Day).

The situation is urgent. Given the certainty that mail-in voting in the upcoming General Election will be significantly higher than in past general elections because of the COVID-19 pandemic, without judicial intervention now, these constitutional violations threaten to disenfranchise tens of thousands of Ohio voters. For this reason, Plaintiffs ask the Court to issue

a preliminary injunction:

- (1) to enjoin Defendant LaRose from enforcing provisions of Ohio law that require election officials to conduct signature matching on absentee ballots without providing adequate time to cure a purportedly mismatched signature before the date by which Ohio boards of elections must complete the canvass of returns;
- (2) to enjoin Defendant LaRose from permitting county boards of elections from conducting signature matching on absentee ballot applications, or, in the alternative, to direct Defendant LaRose to confirm that Directive 2020-11 requires boards of elections to promptly contact voters by telephone and email in sufficient time to correct absentee ballot applications rejected on the basis of signature mismatch.

STATEMENT OF FACTS

The COVID-19 pandemic will increase reliance on voting by mail in the upcoming General Election. Potentially millions of voters will choose not to risk the dangers of voting in person, given that health experts and federal, state, and local government officials emphasized the importance of protective measures such as avoiding large gatherings and social distancing. Indeed, in the 2020 Primary Election, Ohio saw a significant increase in mail-in absentee voting. In Ohio's 2016 Primary Election, only 8.7% of the ballots cast were mail-in absentee ballots.¹ In

¹ Absentee voting statistics reported on the Secretary of State website include a breakdown of absentee ballots "cast by mail (or dropped off at BOEs)" and absentee ballots "requested & cast in person." The figure above includes only the former and not the latter. In total, 287,817 of the 3,302,832 total votes cast in the Spring 2016 Primary Election were mail-in absentee ballots. Ohio Secretary of State, 2016 Official Elections Results, <https://www.sos.state.oh.us/elections/election-results-and-data/2016-official-elections-results/> (last visited Aug. 20, 2020).

the 2020 primary, that figure was 85.3%.²

Significantly greater numbers of Ohioans will vote by mail this November than in prior general elections and in the 2020 Primary Election. In the 2016 General Election, only 21.2% of the approximately 5.6 million Ohio voters casting ballots voted by mail-in absentee ballot, or approximately 1.2 million voters.³ It is safe to assume that at least double that number will vote by mail in November, given that the vast majority of voters in the Spring 2020 Primary Election voted by mail. Accordingly, on June 15, 2020, Defendant LaRose announced that the Ohio Controlling Board had authorized the use of federal funds to permit him to mail absentee ballot applications to all 7.8 million registered Ohio voters. Defendant LaRose has encouraged Ohio voters to vote by mail, stating in an interview that:

[W]e expect turnout in the 2020 election to be the highest we've seen, bar-none. What that means is that for us to have that safe and secure experience on Election Day, we need to have a lot of Ohioans take advantage of early voting and vote by mail. Of course, it's a safe option for those who are concerned about leaving their house (due to COVID-19). . . . Voting by mail is a secure process in Ohio.⁴

Because, as Defendant LaRose has conceded, many more Ohioans than usual will likely vote by mail in the upcoming election, even more voters will face the prospect of having their absentee ballot application or absentee ballot erroneously disqualified because of the deficiencies in

² 1,565,792 of the 1,834,465 total votes cast in the Spring 2020 primary Election were mail-in absentee ballots. Ohio Secretary of State, 2020 Official Election Results for the March 17, 2020 Election, <https://www.sos.state.oh.us/elections/election-results-and-data/2020/> (last visited Aug. 20, 2020).

³ Ohio Secretary of State, 2016 Official Elections Results, <https://www.sos.state.oh.us/elections/election-results-and-data/2016-official-elections-results/> (last visited Aug. 20, 2020).

⁴ WTOL Newsroom, *Is Mail-In Voting Safe? Yes, and Ohio's System Is Among the Best in the Country, LaRose Says*, WTOL 11 (Aug. 4, 2020), <https://www.wtol.com/article/news/special-reports/88-counties/is-mail-in-voting-safe/512-904800d1-1758-4ac8-a739-9c3556b44733>

Ohio's signature-matching process described below.

A. Ohio Fails to Provide an Adequate System for Notice and Cure of Defects on Absentee Ballots.

Ohio's procedures of notifying voters of signature mismatches on mail-in ballots and its deadlines to cure those mismatches are inadequate to prevent voters from losing their ability to cast absentee ballots.

When a board of elections receives an absentee ballot, "election officials . . . compare the signature of the elector on the outside of the identification envelope with the signature of that elector on the elector's registration form." Ohio Rev. Code § 3509.06(D)(1). Ohio gives broad authority to election officials to challenge absentee ballots because of a perceived mismatched signature but provides no process or standards by which they should do so. According to statute, "[a]ny of the precinct officials may challenge the right of the elector named on the identification envelope to vote the absent voter's ballot upon the ground that the signature on the envelope is not the same as the signature on the registration form." *Id.* § 3509.06(D)(2)(a) (emphasis added).⁵

Ohio law also provides no meaningful guidance on what it means for an official to "compare" the signatures on a ballot and registration form, Ohio Rev. Code § 3509.06(D)(1), or for those signatures to be "not the same," *id.* § 3509.06(D)(2). No Ohio statute, regulation, or Secretary of State directive specifies how election officials should compare a voter's ballot signature to the signature on their voter registration form. The Secretary of State's Office does not appear to provide training for election officials in handwriting analysis or signature

⁵ Ohio statute and the Ohio Election Manual do not specify the number of precinct officials who must or may review any given ballot, nor does either source of law dictate what must happen when a precinct official "challenge[s]" a ballot on signature-mismatch grounds. *See id.* § 3509.06(D); Ohio Election Manual 5-33–35.

matching. Declaration of Jeremy Patashnik (Patashnik Decl.) ¶ 17. No Ohio law requires that election officials receive such any training.

The lack of statewide standards for signature matching results in significantly different procedures across Ohio with respect to several key features of the signature-matching analysis. *Id.* ¶¶ 10–16.⁶ Notably, procedures used by boards of elections across Ohio diverge in terms of the number and source of signatures that their personnel use to perform a match.⁷ These differences increase the likelihood of erroneous rejections because of perceived signature mismatches.

Once Ohio election officials have determined that a signature does not match, the process set by statute for notifying voters of the rejection of their absentee ballots has historically been slow. A county board must notify voters by “written mail” if their absentee ballot is rejected

⁶ For example, Brown County’s clerks compare signatures by eye to a voter’s prior signatures on file, referring any potential mismatches to the Director and Deputy Director for a determination. Only if the staff cannot decide do they refer the ballot to the full board of elections. *Id.* ¶ 15. Yet, in Butler County, all signature mismatches go to the Board of Elections for review. *Id.* ¶ 11. In Carroll County, an election official need only determine that a signature bears some similarity to the file signatures to be accepted. *Id.* ¶ 16.

⁷ Sixty-eight of Ohio’s eighty-eight boards of elections own and/or use software capable of capturing a voter’s signature made by a stylus on a pad when voters sign in to vote absentee in person, although not all of the boards have invested in the pads or styluses for this yet. Patashnik Decl., Ex. 13 (Transcript, Meeting of the Ohio Board of Voting Machine Examiners (June 12, 2020)), at 49–50. Several, but not all, boards currently collect and keep several signatures from a variety sources, such as from voter documents and from online registrations at the Bureau of Motor Vehicles. *Id.* at 59–60. These boards maintain a file of these signatures as “reference signatures,” so that when they perform signature-matching, they are doing it against a variety of samples instead of a single exemplar. They do this despite the clear language of Ohio’s statute requiring that the absentee ballot signature match “the”—singular— “of that elector *on the elector’s registration form.*” Ohio Rev. Code § 3509.06 (D)(1) (emphasis added). The Franklin County Board of Elections “typically” compares a voter’s signature to “what’s on the registration form.” Patashnik Decl., Ex. 13 at 69. Stark County keeps a catalogue of signatures but “update[s] the signature” it uses to compare with a more recent one, when available. *Id.* at 69–70. Some, but “not all,” counties update their voter registration signature from what they have collected from electronic pollbooks, even though what is captured on a pad “is going to vary somewhat” from a wet signature on paper. *Id.* at 71–72

because of a mismatched signature or any other defect with the voter's ballot identification envelope. Ohio Rev. Code § 3509.06(D)(3)(b). U.S. Postal Service mail takes several days at a minimum and is increasingly subject to delays. Secretary of State Directive 2020-11 addresses a few, but not all, of the notice issues, and only with respect to the November 2020 General Election. The directive provides that “[b]oards must utilize telephone and email addresses” to “notify voters that have a deficiency on their ID envelope [for a cast mail-in ballot] as quickly as possible.” Ohio Sec’y of State, Directive 2020-11, at 13 (July 6, 2020). The directive does not alter the deadlines to cure a defective signature but notes that a forthcoming directive regarding the November 2020 election will “include additional information regarding the cure period for absentee and provisional ballots.” *Id.*

Boards of elections must “give the voter an opportunity to supplement the voter’s identification envelope” to cure a defect, including a signature mismatch. Ohio Sec’y of State, Election Official Manual, at 5-30 (Dec. 18, 2019) [hereinafter, Ohio Election Manual]. But the timeline that Ohio has set to cure a mismatched signature fails to provide many Ohio voters with adequate time or opportunity to cure a purportedly mismatched signature. To cure a deficient ballot, a voter must provide the missing information “to the board of elections in writing and on a form prescribed by the secretary of state not later than the seventh day after the day of the election.” Ohio Rev. Code § 3509.06(D)(3)(b). Ohio law establishes a needlessly early deadline for an Ohio voter to cure a mismatched signature. While a deficient absentee ballot must be cured by the seventh day after the election, *id.*, county boards may continue to receive ballots up until the tenth day after an election, *id.* § 3509.05(B). A voter whose ballot arrives at the board of elections after the seventh and until the tenth day—perfectly in time—will receive no notice or opportunity *at all* to cure a perceived mismatch. What is more, county boards of elections are

not required to begin canvassing election returns until the fifteenth day after the election, *id.* § 3505.32(A), and boards are not required to complete their canvass until twenty-one days after the election. *Id.* Boards may even amend a canvass up to eighty-one days after the election. *Id.* Thus, there is a full two week period between when mismatched signatures may be cured and when boards of elections must finish their canvass. Voters whose absentee ballots have been rejected because of signature mismatch cannot try to cure the rejections during that period.

Further, in some instances, due to apparent errors at the county boards of elections, Ohio's signature-match system fails to provide voters who timely submitted ballots *any* notice that their ballots were rejected. For example, Plaintiff George W. Mangeni mailed an absentee ballot in the 2020 Primary Election on April 22, 2020—five days before the postmark deadline in that election and twelve days before the deadline to cure a mismatched signature. Declaration of George W. Mangeni ¶ 8. Although there may have been time for Mr. Mangeni to cure the defect—even with Ohio's current narrow cure window—Mr. Mangeni never received notice that his ballot had been rejected because of a purported signature mismatch. *Id.* ¶ 9.

B. Signature Matching on Absentee Ballot Applications and Absentee Ballots Is Grossly Inaccurate.

Adequate notice of and opportunity to cure a mismatched signature on an absentee ballot application or absentee ballot is all the more important in light of the fact that signature matching—especially when performed by non-specialists—is inherently prone to errors. Those errors will inevitably multiply in a nearly all-mail election in which boards of elections will receive significantly more applications and absentee ballots as in a typical general election.

As Plaintiffs' expert Dr. Linton Mohammed explains, lay individuals are highly likely to make mistakes in signature-comparison determinations and are particularly prone to conclude that signatures do not match when they were written by the same person. One study found that

lay individuals erroneously rejected genuine signatures in over 26% of cases, more than 3.5 times the error rate of trained forensic document examiners. Declaration of Dr. Linton A. Mohammed (“Mohammed Declaration”) ¶ 33. Professional document examiners work under special conditions, using magnification and correct lighting, *id.* ¶ 40, and have been screened for vision problems that election officials are not even aware they might have—such as “form blindness.” *Id.* ¶ 28. Signature comparison by lay people is unlikely to be performed with this rigor. The risk of disenfranchisement through a false signature-mismatch determination is especially high among young, old, disabled, ill, and non-native English signatories because those populations have high signature variability, *id.* ¶ 27, and Ohio’s system requires election officials to compare the signature on a voter’s absentee ballot to the *one* signature on the voter’s registration form on file with the county board of elections.⁸ Ohio Rev. Code § 3509.06(D)(1). Even trained handwriting analysts require *multiple* comparison samples to determine whether a signature is authentic. Mohammed Decl. ¶¶ 29, 52. In addition, years—perhaps even decades—may have elapsed between when the voter signed a registration form and when the voter votes an absentee ballot, over which time natural variations in a voter’s signature may have emerged.

The predictable result of asking untrained election officials to conduct signature matching is that the vast majority of absentee ballots rejected due to signature mismatches are, in fact, genuine votes. Expert Report of Alex Street (“Street Report”) ¶¶ 18–20. As Plaintiffs’ expert Dr. Alex Street estimates, because the underlying rate of false signature rejection is so high and the number of fraudulent ballots is so low, “for every one invalid ballot that is correctly rejected for signature mismatch, an additional 32 valid ballots are wrongly rejected due to errors by the

⁸ Despite the statutory requirement that election officials use a single comparator signature, some counties collect and use multiple signature samples. *See supra* note 7.

non-experts trying to verify signatures.” *Id.* ¶ 19. This high rate of false rejection illustrates the paramount importance that Ohio’s notice and cure procedures must give all voters a realistic opportunity to make sure erroneously rejected ballots are counted.

C. The Unnecessarily Short Period to Receive Notice of and Cure a Mismatched Signature Is Undercut by Ohio’s Reliance on the U.S. Postal Service for Communications Concerning Absentee Ballot Applications and Absentee Ballots.

Because Ohio’s absentee ballot process depends upon the mail at every stage, mail delays will prevent many voters from curing signature mismatches. For Ohio voters who have signature-match problems on their applications or ballots, paperwork may have to travel through the U.S. mail system up to *eight times* before those voters’ ballots may be ultimately counted.⁹ While Defendant LaRose’s Directive 2020-11 potentially eliminates one of those mailings by permitting the boards of elections to contact voters by phone and email of a signature mismatch on an absentee ballot (when the voter chooses to provide such contact information), that still leaves up to seven separate mailings—the last of which must be received within seven days of the election—required for some voters to have their ballot counted.

Even before the COVID-19 pandemic, the U.S. Postal Service was experiencing

⁹ Those eight mailings are: (1) the state or county board of elections mails each voter a mail-in ballot application; (2) the voter fills out the application and mails it to the board of elections; (3) if the board of elections challenges the signature on the application, the board may mail the voter a notice of the defect and a form to cure it; (4) the voter signs the cure form and mails it back; (5) the board of elections mails an absentee ballot to the voter; (6) the voter fills out the ballot, signs it, and returns it via U.S. mail; (7) if the board of elections determines the voter’s signature does not match the signature on file, the board must mail the voter a Form 11-S to cure the problem; and (8) the voter then fills out and signs Form 11-S and mails it back to the board of elections, and that ballot is counted only if Form 11-S is received by seven days after Election Day (even though ballots are accepted until ten days after the election). Expert Report of Daniel C. McCool (McCool Report) ¶¶ 15–16.

significant delays in mail delivery.¹⁰ COVID-19 has intensified these mail problems. The U.S. Postal Service has seen significant delays both due to increase in demand and limited capacity, as nearly 3,000 postal employees have tested positive for COVID-19.¹¹ By the Defendant’s own admission, the U.S. Postal Service—overwhelmed and underfunded during the pandemic—cannot ensure that voters will receive their ballots in enough time to comply with deadlines. Defendant LaRose reported that “we are finding that the delivery of the mail is taking far longer than what is published by the United States Postal Service as expected delivery times. Instead of first-class mail taking 1-3 days for delivery, we had heard widespread reports of it taking as long as 7-9 days.”¹² Defendant LaRose informed state lawmakers that such “delays mean it is very possible that many Ohioans who have requested a ballot may not receive it in time.”¹³ The Ohio Association of Election Officials reported that their organizational members also informed them of “outrageous” postal delays during the Spring primary.¹⁴

As Professor McCool observes, “[g]iven these problems, there is a mismatch between the timetables set out in Ohio election law for the signature match curing process, and the realities of

¹⁰ As Professor McCool explains: “Starting in 2011, the [United States] Postal Service began closing post offices and processing centers. In Ohio, nine processing facilities were closed in 2012. . . . As a result, some mail from Ohio had to be sent to Michigan to be sorted, then sent back to Ohio.” McCool Report ¶ 18.

¹¹ Jennifer Smith, *Postal Package Deliveries ‘Bogged Down’ With Delays, Backlogs*, Wall Street Journal (June 1, 2020) <https://www.wsj.com/articles/postal-package-deliveries-bogged-down-with-delays-backlogs-11590836400>.

¹² Letter from Frank LaRose, Ohio Sec’y of State, to Ohio Congressional Delegation (Apr. 23 2020), <https://www.ohiosos.gov/globalassets/media-center/news/2020/2020-04-24.pdf>.

¹³ *Id.*

¹⁴ Ryan McCarthy & Maryam Jameel, *The Postal Service Is Steadily Getting Worse – Can It Handle a National Mail-In Election?*, ProPublica (June 15, 2020), <https://www.propublica.org/article/the-postal-service-is-steadily-getting-worse-can-it-handle-a-national-mail-in-election>.

mail delivery in the current era.” McCool Report ¶ 25. The Ohio Election Manual assumes that “point-to-point delivery of First-Class Mail is 2 to 5 days.” Ohio Election Manual, at 5-24. Even under the best of circumstances, the timeline for a voter who submits a ballot close to Election Day, to receive Form 11-S, and return it by the seventh day after the election leaves little room for delay. *See* McCool Report ¶ 27. In a COVID-19 world where mail takes up to nine days, voters who submit ballots a full week before the election have no chance of having their ballot reach the board of elections in time to provide a cure period should their signature be determined not to match. *Id.* ¶¶ 25–27. The U.S. Postal Service itself warned Defendant LaRose in a July 30, 2020 letter that “there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.”¹⁵

The experience of Ohio voters in the 2020 Primary Election bears this out. In that primary, 317 ballots—which otherwise would have been counted if they had been delivered on time—were not delivered to the Butler County Board of Elections until two weeks after the deadline and thus were not counted.¹⁶ The same delay prevented timely submitted ballots from being counted in Geauga and Lucas Counties.¹⁷ With the types of delays acknowledged by the State, large swaths of voters will never receive notice in time to cure signature mismatches, or if they do cure, the ripple effect of having to do those additional mailings, means that their ballot

¹⁵ Patashnik Decl., Ex 14 (Letter from Thomas J. Marshall, U.S. Postal Service General Counsel, to Frank LaRose, Ohio Sec’y of State (July 30, 2020)).

¹⁶ Ryan McCarthy & Maryam Jameel, *The Postal Service Is Steadily Getting Worse – Can It Handle a National Mail-In Election?*, ProPublica (June 15, 2020), <https://www.propublica.org/article/the-postal-service-is-steadily-getting-worse-can-it-handle-a-national-mail-in-election>.

¹⁷ *Id.*

ultimately arrives too late to be counted. This is particularly true for those voters who temporarily reside outside Ohio or overseas.

Plaintiff Campbell was disenfranchised in the Spring 2020 Primary Election because her application was erroneously rejected due to a purported signature mismatch, and the time taken by the resulting mailings prevented her from curing the problem in time to vote. Ms. Campbell mailed her absentee ballot application in mid-February 2020. Declaration of Carolyn E. Campbell ¶ 6. Her application was denied for signature mismatch on March 5, 2020. *Id.* at ¶ 7. After being notified of the denial, Ms. Campbell promptly cured the application and resubmitted it; her application was accepted on April 23, 2020. *Id.* ¶ 9. She was sent an absentee ballot the next day, but she did not receive it until *after* the April 27, 2020 postmark deadline for the Primary Election. *Id.* ¶ 9–10. Nevertheless, Ms. Campbell submitted her ballot, but it was not counted in that election. *Id.* at ¶ 11.

D. Ohio Lacks Any Policy or Procedure for Whether and How Absentee Ballot Applications Will Be Rejected, What Notice Is Provided, and How Purported Defects May Be Cured.

An Ohio voter must submit a new absentee ballot application before every election in which they choose to vote absentee. Ohio Rev. Code § 3509.03(A). The application must be signed by the voter, *id.* § 3509.03(A), but Ohio statutes and regulations neither require nor authorize county boards of elections to conduct signature matching on absentee ballot applications, *see id.* § 3509.03. Accordingly, Ohio law does not provide any standards or procedures by which local boards of elections should compare signatures on absentee ballot applications to those on file, nor has the Secretary of State issued any directives or guidelines governing that process. By the same token, no statewide statute, permanent regulation, or guidance governs when, how, or even if, election officials must notify an applicant that their application has been rejected because of a signature mismatch. *See id.* § 3509.04(A). Nor does

any such provision govern how an application mismatch may be cured. *See id.* The Ohio Election Official Manual, issued by the Secretary of State, is silent on the process for signature matching, notice, and cure for absentee ballot applications. *See* Ohio Election Manual, at 5-1–4.

Nevertheless, many of Ohio’s eighty-eight county elections boards compare voter signatures on absentee ballot applications to a signature or multiple signatures on file for the voter and routinely disqualify absentee voter applications based on a board employee’s perception of a signature discrepancy. According to responses to Plaintiffs’ records requests from seventy-six Ohio boards of elections, twenty-seven counties in Ohio have confirmed that they reject absentee ballot applications for signature mismatch, including Franklin County and Cuyahoga County, Ohio’s two largest counties by population. Patashnik Decl. ¶ 7. Of the remaining counties that replied to Plaintiffs’ records requests, none denied conducting signature matching on absentee ballot applications. *Id.* ¶ 8. Adding to the confusion and lack of uniformity, some counties do not track their rejections of absentee ballot applications or their reasons for rejections. *Id.* ¶ 9. Absent clear state directives, county boards have developed local *ad hoc* procedures for matching signatures on absentee ballot applications, and these procedures vary between counties. *Id.* ¶ 10–16.¹⁸ Ohio counties that engage in signature matching on absentee ballot applications also lack a uniform procedure for providing notice and allowing voters to cure purported mismatches, creating discrepancies in the likelihood that Ohio voters in

¹⁸ For example, Butler County’s local procedures instruct election officials to look for a “3-point match” for application signatures. Patashnik Decl. ¶ 11. In Wyandot County, the Director, Deputy Director, and two clerks review mismatched signatures, though it is not clear if all of those officials review every signature. *Id.* ¶ 12. In Hardin County, a single election official may declare a mismatch but the application is rejected only when the entire election staff reaches a consensus or, failing that, the entire board of elections decides. *Id.* ¶ 13. Delaware County requires that every mismatch be reviewed by a Republican election official and a Democratic election official. *Id.* ¶ 14.

various counties will have their absentee votes counted.¹⁹ Even if a county board of elections notifies a voter of a signature mismatch on an absentee ballot application, there is no uniform procedure for the voter to cure that mismatch.²⁰

While no permanent regulation provides for a uniform process for the notice or cure of signature mismatches on absentee ballot applications, Directive 2020-11 provided some guidance to election officials for the handling of an absentee ballot application that “does not contain all of the required information.” Ohio Sec’y of State, Directive 2020-11, at 12 (July 6, 2020). Directive 2020-11 provides that, for the November 2020 election, “[i]f a board of elections receives an absentee ballot application that does not contain all of the required information, the board must promptly notify the voter of the additional information required to be provided by the voter to complete the application.” *Id.* The directive further requires that “[b]oards must utilize telephone and email addresses” to provide such notice. *Id.* at 13.

But this directive does *not* provide that boards of election must notify voters whose application is rejected because of a signature *mismatch*—as opposed to voters whose applications

¹⁹ Some, but not all, counties attempt to notify voters whose absentee ballot applications have been rejected via letter, email, or phone call, or a combination of all three. For example, Butler County has a form letter it sends to voters whose applications it rejects. *Id.* ¶ 19. Knox County sends a letter and a copy of the rejected application. *Id.* ¶ 20. Richland County attempts to contact a voter by phone, mail, and email. *Id.* ¶ 21. While most county boards of elections use an online tracking system that allows voters to track the status of their absentee ballot application and ballots, those tracking systems do not automatically notify a voter that a ballot or application has been rejected unless the voter affirmatively queries that system, nor do they provide a voter with the reasons such as signature mismatch that a ballot is rejected. *Id.* ¶ 23. Some counties that responded to Plaintiffs records requests apparently do not track efforts to notify voters of rejected absentee ballot applications at all. *Id.* ¶ 18.

²⁰ Some county elections boards require voters whose applications have been rejected to submit a form correcting the problem. *Id.* ¶ 19–21. Hardin County apparently sends voters with mismatched signatures on absentee ballot applications provisional ballots rather than asking them to resubmit applications for normal ballots, a process nowhere authorized by Ohio law or regulation. *Id.* ¶ 22.

are rejected because they are *missing* signatures or other “required information.” This omission matters because the absentee ballot scheme set forth in the Ohio Revised Code distinguishes between ballots that do not contain complete information and ballots that are rejected for signature mismatch. *See, e.g.*, Ohio Rev. Code § 3509.06(D)(3)(b) (“If the election officials find that the identification envelope statement of voter is incomplete *or* that the information contained in that statement does not conform to the information contained in the statewide voter registration database concerning the voter” (emphasis added)); *id.* § 3509.07 (distinguishing between a ballot being “incomplete” and a ballot having signatures that “do not correspond with the person’s registration signature”).

E. A Significant Number of Ohio Voters Have Lost the Right To Vote Because of Perceived Signature Mismatch.

The United States Election Assistance Commission’s Election Administration and Voting Survey publishes data from Ohio and around the country that demonstrate the real risks of disenfranchisement due to signature mismatch.²¹ The survey reports that in the 2016 General Election, 324 absentee ballots were rejected because of signature mismatch, and in the 2018 midterm General Election, 225 ballots were rejected for signature mismatch.²² The numbers for the 2020 Primary Election have not yet been reported, but Plaintiff Mangeni is an example of a voter disenfranchised in 2020 because of purported signature mismatch on an absentee ballot.

The scope of the problem is much larger than the Election Assistance Commission data show because Ohio does not report the number of absentee ballot *applications* rejected for purported signature mismatches. Street Report ¶ 27 (“By studying data on the application stage I

²¹ *See Election Administration and Voting Survey (EAVS) Comprehensive Report*, U.S. Election Assistance Comm’n (last visited July 29, 2020), <https://www.eac.gov/research-and-data/studies-and-reports>.

²² Street Report, tbl.A1 & tbl.A2.

am revealing what I believe was a previously invisible layer of the issue. The data show that, much like an iceberg, this previously hidden layer is much bigger than the layer which was already visible.”). It is likely that thousands of absentee ballot applications are rejected because of signature mismatch every election cycle. *Id.* at ¶ 26.²³ Indeed, according to boards of elections’ responses to Plaintiffs’ records requests, there have been *at least* 10,038 instances of absentee ballot applications being rejected for “signature issues” since the 2016 General Election, and in only 26% of those cases was a rejected applicant confirmed to have been able to resolve the problem and receive an absentee ballot or cast a provisional ballot at a polling location. *Id.* at ¶ 30.²⁴ Because only a “relatively small number” of Ohio’s eighty-eight counties “provided data in a format amenable for analysis,” it is likely that many more voters had applications rejected due to purported signature mismatches, but it is not known precisely how many more. *Id.*

All told, when one considers the number of absentee ballot applications and absentee ballots that were erroneously rejected, and not cured, because of a purported signature mismatch during past election cycles—as well as the fact that the 2020 General Election will be conducted largely by mail—potentially tens of thousands of Ohioans could be disenfranchised because of Ohio’s constitutionally deficient signature-matching procedures.

²³ As the Associated Press reported in December, 2019, “[t]housands of Ohio voters were held up or stymied in their efforts to get absentee ballots for [the 2018] general election because of missing or mismatched signatures on their ballot applications.” See Julie Carr Smyth, *AP Exclusive: Thousands of Ohio Absentee Applications Denied*, Associated Press (Dec. 16, 2019), <https://apnews.com/ddfed70e98d79cf0bee49eb1d9fd85b9>.

²⁴ Boards of elections that provided data on rejected applications sometimes used a generic description like “signature issues” to describe all problems related to signatures on applications, including mismatched signatures and missing signatures. Street Report ¶ 26. In cases in which data clearly delineate between mismatched and missing signatures, 45% of applications were rejected due to purportedly mismatched signatures and 55% of applications were rejected because of missing signatures.

STANDARD OF REVIEW

On a motion for a preliminary injunction, this Court must balance four factors: “(1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury without the injunction; (3) whether issuance of the injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuance of the injunction.” *Blue Cross & Blue Shield Mut. of Ohio v. Blue Cross & Blue Shield Ass’n*, 110 F.3d 318, 322 (6th Cir. 1997).

ARGUMENT

I. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS.

“At the preliminary injunction stage, ‘a plaintiff must show more than a mere possibility of success,’ but need not ‘prove his case in full.’” *Ne. Ohio Coal. for Homeless v. Husted*, 696 F.3d 580, 591 (6th Cir. 2012). “[I]t is ordinarily sufficient if the plaintiff has raised questions going to the merits so serious, substantial, difficult, and doubtful as to make them a fair ground for litigation and thus for more deliberate investigation.” *Id.* (citations omitted). Plaintiffs are likely to succeed on the merits of their claims and prove that Ohio’s procedures for signature matching on absentee ballot applications and absentee ballots are constitutionally deficient because those procedures (1) impermissibly infringe on Plaintiffs’ constitutional right to vote, (2) violate the Fourteenth Amendment’s protections of procedural due process, and (3) violate the Fourteenth Amendment’s guarantee of equal protection under the law.

A. Ohio’s Signature-Matching Processes Infringe upon Plaintiffs’ Fundamental Right to Vote.

The right to vote is a “‘precious’ and ‘fundamental’ right.” *Obama for Am. v. Husted*, 697 F.3d 423, 428 (6th Cir. 2012) (quoting *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 670 (1966)). The right to vote “is protected in more than the initial allocation of the franchise. Equal

protection applies as well to the manner of its exercise.” *Hunter v. Hamilton Cty. Bd. of Elections*, 635 F.3d 219, 234 (6th Cir. 2011) (quoting *Bush v. Gore*, 516 U.S. 98, 104 (2000)). The right to vote may not be “unjustifiably burdened.” *Obama for Am.*, 697 F.3d at 431. To demonstrate their voting rights have been unjustifiably burdened, “Plaintiffs [do] not need to show that they were legally prohibited from voting, but only that ‘burdened voters have few alternate means of access to the ballot.’” *Id.* (citations omitted).

Laws that burden the franchise are subject to the sliding-scale *Anderson-Burdick* test. That analysis requires courts to “weigh the ‘character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate’ against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule,’ taking into consideration ‘the extent to which those interests make it necessary to burden the plaintiffs’ rights.’” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)).

As set forth below, because of the burdens—individually and collectively—that Ohio’s signature-matching processes place on voters, Ohio’s system fails the *Anderson-Burdick* test. Allowing election officials to reject absentee ballot applications and absentee ballots based on Ohio’s inaccurate signature-matching procedures, without providing voters adequate notice and a sufficient opportunity to cure the rejection, deprives voters of their right to vote. There is no state interest sufficiently weighty that justifies that burden.

1. Ohio’s Signature Match Processes Impose a Substantial Burden on Plaintiffs’ Right to Vote.

When assessing the burden on Plaintiffs’ right to vote under *Anderson-Burdick*, courts assess both “the character and magnitude of the asserted injury.” *Obama for Am.*, 697 F.3d at 429 (quoting *Burdick*, 504 U.S. at 434). Courts must view the restriction “from the perspective

of only affected electors—not the perspective of the electorate as a whole.” *Mays v. LaRose*, 951 F.3d 775, 785–86 (6th Cir. 2020); *see also Frank v. Walker*, 819 F.3d 384, 386–87 (7th Cir. 2016) (Easterbrook, J.) (“The right to vote is personal and is not defeated by the fact that 99% of other people can secure the necessary credentials easily.”). Which is why even if signature matching regimes where “a comparatively small number of voters are likely to be disenfranchised based on a signature mismatch each election cycle” courts have found that they violate the right to vote. *Frederick v. Lawson*, No. 119-CV-01959, 2020 WL 4882696, at *16 (S.D. Ind. Aug. 20, 2020). The touchstone of the analysis is how significantly the restriction threatens the right to vote for those voters who are harmed. The Sixth Circuit has found substantial burdens when evaluating laws that fell far short of complete disenfranchisement. *See, e.g., Mich. State A. Philip Randolph Inst. v. Johnson*, 833 F.3d 656, 664 (6th Cir. 2012) (finding substantial burden where measures indirectly increased wait times at the polls or caused voter confusion that increased the risk of voters incorrectly marking their ballot); *Obama for Am.*, 697 F.3d at 430–31 (finding substantial burden where Ohio eliminated three days of early voting, even though Ohio still offered voters full week of early voting and in-person voting on Election Day).

In first assessing the *character* of the burden, Ohio’s restrictions constitute an absolute bar to certain Ohioans’ right to vote in two respects. *First*, Ohio’s signature-match scheme completely disenfranchises voters whose absentee ballots are erroneously rejected because of signature mismatches but who are not provided sufficient notice or time to cure their ballots before the deadline. Under current law, some Ohio voters will not even receive any notice of a mismatched signature. Absentee ballots can be received as late as the *tenth* day after the election and still be counted, provided they were postmarked on or before the day before Election Day.

Ohio Rev. Code § 3509.05(B). However, voters are only afforded notice of a mismatch of a ballot received up to *six* days after an election and only have up until *seven* days after an election to cure mismatched signatures or other defects with their absentee ballots. *Id.*

§ 3509.06(D)(3)(b). As a result, boards of elections continue to receive timely absentee ballots for *three days* after the opportunity to cure has already elapsed. In analogous circumstances, the Eleventh Circuit “ha[d] no trouble finding Florida’s scheme impose[d] at least a serious burden on the right to vote” in large part because “voters whose signatures were deemed a mismatch might not learn that their vote would not be counted until it was too late to do anything about it.” *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1320-21 (11th Cir. 2019); *see also Fla. Democratic Party v. Detzner*, No. 4:15-cv-607-MW/CAS, 2016 WL 6090943 (N.D. Fla. Oct. 16, 2016) (finding unconstitutional a Florida statutory scheme providing the opportunity to cure for no-signature ballots but denying that opportunity to mismatched signature ballots).

Even voters who might receive timely notice of a purportedly mismatched signature may not have any practical opportunity to cure. Because Ohio relies on the U.S. Postal Service and because the State provides a needlessly short window to cure mismatched signatures—leaving a two-week gap between when a ballot must be cured, and when boards of elections must finish their canvass—the cure period is inadequate for many Ohio absentee voters. *See* Ohio Rev. Code § 3509.06(D)(3)(b) (setting the deadline to cure an absentee ballot at seven days after Election Day); *id.* § 3505.32(A) (setting the deadline for county boards of elections to complete their canvass twenty-one days after Election Day). This short cure period is particularly burdensome in light of the serious delays in delivery time the U.S. Postal Service is currently experiencing, with First-Class Mail taking as long as nine days to reach its destination, as

Defendant LaRose acknowledged earlier in the pandemic.²⁵ Once a voter has received a ballot (a process that requires several mailings), three pieces of mail must be exchanged to cure a purported signature mismatch on that ballot: (1) the voter must mail the ballot; (2) the board of elections must receive the ballot, determine there is a purported mismatch, and mail the voter Form 11-S; and (3) the voter must return the completed Form 11-S. If each mailing takes nine days to deliver and signature mismatches must be cured by seven days after the election, a voter must mail their ballot *twenty days* before the election to cure a potential signature mismatch under current Ohio procedures. Under this scenario, the huge numbers of Ohio voters who mail their absentee ballots within twenty days of the General Election would have no opportunity to cure a purported signature mismatch. *See* McCool Report ¶¶ 25–27; Street Report ¶¶ 43–47.

Second, Ohio’s signature-match regime constitutes absolute disenfranchisement for those voters whose absentee ballot *applications* are erroneously rejected for signature mismatch and who are either not notified in sufficient time to cure or not notified at all. No state law or regulation compels or expressly permits county election officials to conduct a signature match analysis for applications for absentee ballots. Yet, at least twenty-seven Ohio counties conduct signature matching at the application stage and deny applications based on a perceived mismatch. *See* Patashnik Decl. ¶ 7. There are no state laws or regulations that require that counties inform voters whose applications are rejected on account of signature mismatch, set a timeframe for notice to those voters, or lay out how voters can cure any perceived signature mismatch on an absentee ballot application. For personal and public health reasons, many voters in the upcoming General Election—particularly elderly voters and those with pre-existing

²⁵ Letter from Frank LaRose, Ohio Sec’y of State, to Ohio Cong. Delegation (Apr. 23 2020), <https://www.ohiosos.gov/globalassets/media-center/news/2020/2020-04-24.pdf>.

medical conditions—will have no practical choice but to vote by mail. If their absentee ballot applications are denied because of an erroneous signature mismatch and they do not receive notice or a meaningful opportunity to cure the mismatch, such voters will be completely disenfranchised.

The *magnitude* of the burden—*i.e.*, the number of Ohioans who will be disenfranchised without notice or opportunity to cure—is also substantial with respect to the upcoming General Election both because the signature-match process itself yields highly inaccurate results and because there will be unprecedented levels of mail-in absentee voting in November. In the 2018 General Election—a midterm election conducted before the COVID-19 pandemic drastically increased the rate of mail-in voting—thousands of Ohio voters’ absentee ballot applications were rejected because of purported signature mismatches.²⁶ Boards of elections across Ohio have confirmed that they have rejected more than 10,000 absentee ballot applications for “signature issues” since the 2016 General Election—with the actual number potentially much higher, given that relatively few counties submitted usable data in response to Plaintiffs’ records requests. Street Report ¶ 30.

As Defendant LaRose has acknowledged, mail-in voting in the 2020 Ohio General Elections will be significantly higher than it has been in all past general elections because many Ohioans will seek to avoid voting in-person at crowded, indoor polling places during the pandemic.²⁷ With the large influx of additional mail-in voters, and a U.S. Postal System that is already struggling to deliver mail on-time, *see* McCool Report ¶¶ 18–27, it is eminently

²⁶ Julie Carr Smyth, *AP Exclusive: Thousands of Ohio Absentee Applications Denied*, Associated Press (Dec. 16, 2019), <https://apnews.com/ddfed70e98d79cf0bee49eb1d9fd85b9>.

²⁷ WTOL Newsroom, *Is Mail-In Voting Safe? Yes, and Ohio’s System Is Among the Best in the Country, LaRose Says*, WTOL 11 (Aug. 4, 2020), <https://www.wtol.com/article/news/special-reports/88-counties/is-mail-in-voting-safe/512-904800d1-1758-4ac8-a739-9c3556b44733>

foreseeable that tens of thousands of Ohio voters who timely apply for and submit mail-in ballots will, through no fault of their own, fail to cure a purportedly mismatched signature on absentee ballot application in time to receive a ballot for the General Election or fail to cure a purportedly mismatched signature on an absentee ballot before Ohio's arbitrary seven-day deadline. This more than satisfies the need to establish a substantial burden on Plaintiffs' fundamental right to vote under *Anderson-Burdick*.

2. Ohio's Interest in Having Its Current Signature Matching Processes Is Not Sufficiently Weighty to Justify the Burden on Plaintiffs' Right to Vote.

In conducting the *Anderson-Burdick* analysis, "courts will weigh the burden on the plaintiffs against the state's asserted interest and chosen means of pursuing it." *Mich. State A. Philip Randolph Inst.*, 833 F.3d at 662–63. Plaintiffs acknowledge that the State has an interest in verifying voters' identify in order to combat voter fraud. However, Ohio has no interest in a signature-matching scheme that lacks adequate notice and an opportunity to cure for two reasons: (1) absentee ballot fraud is exceedingly rare, and (2) the current scheme, wherein the state has set unreasonable deadlines that will not allow for notice and opportunity to cure, is irrational and thus not sufficiently tailored to justify the disenfranchisement that signature matching errors can cause. Ohio has no legitimate interest in refusing to establish a system that guarantees voters will receive timely notice and an adequate opportunity to cure a purported signature mismatch on an absentee ballot application or absentee ballot.

First, while isolated incidents of absentee voter fraud may exist, all evidence suggests that it is exceptionally rare in practice, both in Ohio and the country more broadly. *See* Street Report ¶¶ 16–17; McCool Report ¶¶ 28–33.²⁸ Experts agree that absentee ballot fraud "amounts

²⁸ One recent study found fewer than 500 incidents of absentee voter fraud in the entire United States between 2000–2012, a period during which billions of ballots were cast. Richard L.

to only a tiny fraction of the ballots cast by mail.”²⁹ There is also no evidence that increasing absentee voting during the COVID-19 pandemic will increase incidents of fraud.³⁰ Further, expert testimony in a recent signature-match case in North Dakota found that election officials without handwriting training are “likely to accept *invalid* absentee ballots.” *Self Advocacy Sols. N.D. v. Jaeger*, No. 3:20-cv-00071, 2020 WL 2951012, at *9 (D.N.D. June 3, 2020) (emphasis added). Not only is there is barely any absentee-ballot fraud to detect, but also Ohio will be ineffective at detecting even those precious few ballots that may be fraudulent.

Second, whether or not Ohio has a legitimate interest in conducting signature matching in general—a question that is not the subject of this litigation and not before this Court—Ohio certainly has no legitimate interest in providing voters only seven days after an election to cure mismatched signatures on absentee ballots, Ohio Rev. Code § 3509.06(D)(3)(b), when ballots can be received up to ten days after the election and Ohio statute does not require boards of elections to complete their canvasses until twenty-one days after the election, *id.* § 3505.32(A). Nor does Ohio have any legitimate interest in allowing county boards of elections to reject absentee ballot applications on the basis of mismatched signature without providing voters adequate notice or opportunity to cure, when Ohio law does not even provide for signature matching on absentee ballot applications. The state has no legitimate interest in maintaining

Hasen, *Opinion: Trump Is Wrong About the Dangers of Absentee Ballots*, Wash. Post (Apr. 9, 2020) <https://www.washingtonpost.com/opinions/2020/04/09/trump-is-wrong-about-dangers-absentee-ballots/>.

²⁹ Robert Farley, *Trump’s Latest Voter Fraud Misinformation*, FactCheck.org (Apr. 10, 2020) <https://www.factcheck.org/2020/04/trumps-latest-voter-fraud-misinformation/> (quoting Justin Levitt, voter fraud expert and professor of law).

³⁰ Indeed, all evidence available suggests the opposite: “[f]ive states ... now conduct all elections almost entirely by mail. They report very little fraud.” Stephanie Saul & Reid J. Epstein, *Trump is Pushing a False Argument on Vote-by-Mail Fraud. Here Are the Facts*, N.Y. Times (Apr. 11, 2020) <https://www.nytimes.com/article/mail-in-voting-explained.html>.

those aspects of its signature-matching scheme that threaten to erroneously disenfranchise thousands of eligible voters without proper notice or ability to cure. Notice and cure and allowing citizens to confirm their identity would in fact promote election integrity and lessen the already minuscule probability of fraud. *Frederick*, 2020 WL 4882696, at *15. Ohio’s senseless system will harm public confidence in elections. *See Democratic Exec. Comm. of Fla.*, 915 F.3d at 1324 (“[V]ote-by-mail voters who followed the ostensible deadline for their ballots only to discover that their votes would not be counted and that they would have no recourse were the ones to experience a clash with their expectations and fundamental fairness”); *see also Fish v. Schwab*, 957 F.3d 1105, 1135 (10th Cir. 2020) (“[T]his disproportionate impact on qualified registration applicants also may have the inadvertent effect of eroding, instead of maintaining, confidence in the electoral system.”) (internal quotations omitted).

Ohio cannot identify any “fraud-prevention interest that justifies depriving legitimate vote-by-mail and provisional voters of the ability to cure the signature mismatch.” *Democratic Exec. Comm. of Fla.*, 915 F.3d at 1322; *see also Frederick*, 2020 WL 4882696, at *17 (holding that “the State’s reasons for the signature verification requirement do not outweigh the burden the challenged statutes place on the fundamental right to vote of Indiana voters entitled to vote by mail-in absentee ballot”). Ohio’s current signature-matching scheme fails *Anderson-Burdick* scrutiny.

B. Ohio’s Signature Matching Process Denies Plaintiffs Procedural Due Process.

The Due Process Clause of the Fourteenth Amendment prohibits states from “depriv[ing] any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1. Courts “engage in a two-step analysis when resolving due process issues”—first, “determine whether a protected property or liberty interest exists,” and second, “determine what procedures are required to protect that interest.” *Johnston-Taylor v. Gannon*, 907 F.2d 1577,

1581 (6th Cir. 1990). Under this analysis, Ohio’s signature-matching scheme violates Plaintiffs’ due process rights.

1. Plaintiffs Have a Protected Liberty Interest that Is Owed Due Process.

Plaintiffs have clearly defined liberty interests that implicate the due process analysis: their right to vote and their right to vote by absentee ballot. Rights codified in statute, like Ohio’s grant of no-excuse absentee voting for all Ohio voters, are “statutory entitlement[s] for persons qualified to receive them” and cannot be viewed as “a privilege” for which due process is inapplicable. *Goldberg v. Kelly*, 397 U.S. 254, 262 (1970); *see also Paul v. Davis*, 424 U.S. 693, 710-11 (1976) (determining private interests protected by due process are those “recognized and protected by state law”); *Frederick*, 2020 WL 4882696, at *12 (“We therefore hold, in line with the vast majority of courts addressing this issue, that, having extended the privilege of mail-in absentee voting to certain voters, the State ‘must afford appropriate due process protections to the use of [mail-in] absentee ballots.’” (quoting *Democracy N.C. v. N.C. Bd. of Elections*, No. 1:20CV457, 2020 WL 4484063, at *53 (M.D.N.C. Aug. 4, 2020))); *Martin v. Kemp*, 341 F. Supp. 3d 1326, 1338 (N.D. Ga. 2018) (“[T]he Supreme Court has long held that state-created statutory entitlements can trigger due process”); *Raetzl v. Parks/Bellefont Absentee Election Bd.*, 762 F. Supp. 1354, 1358 (D. Ariz. 1990) (finding that voting absentee “is deserving of due process”). Due process is plainly implicated where, as here, the state has granted citizens the right to vote absentee. *See Ga. Muslim Voter Project v. Kemp*, 918 F.3d 1262, 1269–71 (11th Cir. 2019).

2. All Three *Mathews* Factors Weigh Heavily in Plaintiffs’ Favor.

Once a valid liberty interest has been established, a Court looks to the *Mathews* balancing test to determine whether a plaintiff’s due process rights have been violated, considering: (1) “the private interest that will be affected by the official action,” (2) “the risk of an erroneous

deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards,” and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.” *Kratt v. Garvey*, 342 F.3d 475, 483 (6th Cir. 2003) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). In this case, all three *Mathews* factors point to the same conclusion: Ohio’s current scheme for signature matching on absentee ballot applications and absentee ballots violates voters’ procedural due process rights.

The first *Mathews* prong examines “the private interest that will be affected by the official action.” *Mathews*, 424 U.S. at 335. The private interest at issue here is the “fundamental right to vote, which is “entitled to substantial weight” under the *Mathews* analysis. *Self Advocacy Sols. N.D.*, 2020 WL 2951012, at *9 (internal quotation marks omitted); *see also Martin v. Kemp*, 341 F. Supp. 3d 1326, 1338 (N.D. Ga. 2018). Even if the private interest at issue is the right to vote by *absentee ballot*, that interest is similarly owed significant weight for several reasons.

First, courts have recognized the connection between the right to vote and the right to vote absentee. *See Ga. Muslim Voter Project*, 918 F.3d at 1270–71 (noting that, because “the interest in voting by absentee ballot implicates the fundamental right to vote,” the interest in voting absentee should be afforded “more than modest weight”); *see also Democracy N.C.*, 2020 WL 4484063, at *53.

Second, the right to vote absentee is awarded more weight “where . . . an absentee ballot is the sole available voting method.” *Self Advocacy Sols. N.D.*, 2020 WL 2951012, at *8. During the COVID-19 pandemic, large numbers of voters are requesting absentee ballots to avoid risking their health and the health of their neighbors and loved ones by voting in-person. For

many Ohioans—including older people and those with underlying conditions that make them at higher risk for severe illness or death from COVID-19—voting absentee is the only way they can exercise their fundamental right to vote in elections taking place during the pandemic. *See Democracy N.C.*, 2020 WL 4484063, at *54 (“[T]he private interest of a voter being able to vote absentee is weighty . . . *particularly in the circumstances present with this pandemic.*” (emphasis added)).

Third, those who choose to vote absentee, and whose ballots or applications are erroneously rejected without notice or opportunity to cure, are fully disenfranchised. “It cannot be emphasized enough that the consequence of a moderator’s decision—disenfranchisement—is irremediable.” *Saucedo v. Gardner*, 335 F. Supp. 3d 202, 218 (D.N.H. 2018); *see also Democracy N.C.*, 2020 WL 4484063, at *54 (finding signature mismatch, without notice or opportunity to cure, “facially effect[s] a deprivation of the right to vote”) (quoting *Self Advocacy Sols. N.D.*, 2020 WL 2951012, at *9). However this Court precisely defines the private interest, it should be awarded significant weight.

The second *Mathews* factor—“the risk of erroneous deprivation” of the liberty interest at issue, *Mathews*, 424 U.S. at 335—also weighs in Plaintiffs’ favor. Plaintiffs face a high risk of erroneous deprivation of their liberty interest if Ohio’s signature-matching system is not modified. As noted above in Section I.A.1, Ohio’s current signature-matching scheme threatens to erroneously deprive Plaintiffs and Ohio voters of their right to vote because Ohio does not provide adequate notice and opportunity to cure purported signature mismatches on absentee ballot applications and absentee ballots. *See Democracy N.C.*, 2020 WL 4484063, at *54. What is more, election officials conduct signature matching without any guidance or uniform procedures promulgated under state law or regulation, without any technical training on how to

analyze handwriting or compare signatures, and without decisions being subject to an internal review process. *See Saucedo*, 335 F. Supp. 3d at 217-18 (finding “[t]he absence of functional standards is problematic, and the likelihood of error resulting therefrom is only compounded by the lack of meaningful review or oversight”); *Democratic Exec. Comm. of Fla.*, 915 F.3d at 1320 (finding that, absent statewide standards or guidance, “counties may do very little to ensure even and accurate application of the signature-match requirements”). The result of these erroneous rejections has led to the disenfranchisement of thousands of Ohio voters in each election—a figure that will surely be much higher in the 2020 General Election, which will be conducted largely by mail.

The final *Mathews* factor also weighs in Plaintiffs’ favor. As noted above in Section I.A.2, the State’s interest in its current procedures is slim. If anything, the State’s interest in verifying voters’ identities to safeguard against voter fraud, and preserve public confidence in elections, would be *promoted* by providing proper notice and opportunity to cure, which would improve accuracy. *See Self Advocacy Sols. N.D.*, 2020 WL 2951012, at *10 (“[T]he purpose of the signature-matching requirement is to ensure the same person that signed the ballot application is the person casting the ballot. Notice and cure procedures do exactly that . . .”).

All three factors under the *Mathews* test strongly favor Plaintiffs. As such, the failure to provide sufficient notice and an adequate opportunity to cure the rejections of absentee ballot applications and absentee ballots for signature mismatch constitutes a violation of Plaintiffs’ right to procedural due process.

C. Ohio’s Signature-Matching Process Violates Plaintiffs’ Equal Protection Rights.

“[A] citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.” *Obama for Am.*, 697 F.3d at 428 (quoting *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972)). “Having once granted the right to vote on equal terms,

the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Id.* at 428 (quoting *Bush v. Gore*, 531 U.S. 98, 104-05 (2000)). The *ad hoc* procedures adopted by county boards of elections for signature matching on absentee ballot applications and absentee ballots, a result of the State's failure to impose uniform standards, violate the equal protection rights of Plaintiffs and Ohio voters.

The Supreme Court has held that "[a]t a minimum . . . equal protection requires 'nonarbitrary treatment of voters.'" *League of Women Voters of Ohio v. Brunner*, 548 F.3d 463, 477 (6th Cir. 2008) (quoting *Bush*, 531 U.S. at 105). That is because voting rights "cannot be obliterated by the use of laws . . . which leave the voting fate of a citizen to the passing whim or impulse of an individual registrar." *Louisiana v. United States*, 380 U.S. 145, 153 (1965). "A citizen's right to a vote free of arbitrary impairment by state action [is] secured by the Constitution" *Baker v. Carr*, 369 U.S. 186, 208 (1962); *see also Hunter v. Hamilton Cty. Bd. of Elections*, 635 F.3d 219, 234 n.13 (6th Cir. 2011) ("The Supreme Court has held in cases since *Snowden* [*v. Hughes*, 321 U.S. 1, 8 (1944)] that the Equal Protection Clause protects the right to vote from invidious and arbitrary discrimination. . . . Of great importance, a showing of intentional discrimination has not been required in these cases.").

Bush v. Gore made clear that states must impose uniform electoral rules because only "specific standards" and "uniform rules" provide "sufficient guarantees of equal treatment." 531 U.S. at 106–07. The Sixth Circuit has applied this rule in many cases. *See, e.g., League of Women Voters of Ohio*, 548 F.3d at 477–78 (noting that "a 'lack of statewide standards effectively denied voters the fundamental right to vote' and holding that insufficient allocation of machines to certain Ohio jurisdictions 'deprives its citizens of the right to vote or severely burdens the exercise of that right depending on where they live in violation of the Equal

Protection Clause”); *Hunter*, 635 F.3d at 235 (holding that Ohio had to institute “specific standards for reviewing provisional ballots . . . otherwise [there could be] ‘unequal evaluation of ballots’” (quoting *Bush*, 531 U.S. at 106)); *Ne. Ohio Coal. for Homeless*, 696 F.3d at 598 (joining “the parties and the district court in finding that the consent decree’s different treatment of similarly situated provisional ballots likely violates equal protection...”).

Ohio’s signature-matching scheme—a patchwork of *ad hoc* procedures that vary significantly between counties—is a textbook violation of the Equal Protection Clause’s prohibition against “arbitrary and disparate treatment of the members of [the] electorate.” *Bush*, 531 U.S. at 105. Defendant LaRose has failed to provide any guidance at all as to whether and how signature matching should be conducted on absentee ballot *applications*, leaving counties to devise their own inconsistent practices.³¹ Uncontroverted expert testimony credited in two recent federal court cases found that “election officials are likely to make erroneous signature-comparisons” when “neither state law nor any guidance from state agencies sets forth functional standards for comparing signatures and assessing variations.” *Saucedo*, 335 F. Supp. 3d at 217–18; *see also Self Advocacy Sols. N.D.* 2020 WL 2951012, at *9. Given the lack of standards and disparate treatment of absentee ballot applications and absentee ballots across the State, Plaintiffs and millions of Ohioans voting by mail in the General Election face the prospect of being disenfranchised based on the whims of elections officials making arbitrary signature-match

³¹ At least one county requires individuals from both major political parties to review signatures. Patashnik Decl. ¶ 14. Some counties provide for multiple rounds of signature review, and some do not. *Id.* ¶¶ 10–16. The means of notice and cure for mismatched signatures on ballot applications also differ from county to county. *Id.* ¶¶ 18–22. Similarly, Ohio and Defendant LaRose provide no procedure by which signatures should be matched on absentee ballots themselves. As a result, counties vary on the number of signatures compared to identify a mismatching signature. *See supra* footnote 7. Counties also differ when it comes to who reviews a signature and what it means for a signature to not “match.” Patashnik Decl. ¶¶ 10–16.

determinations unless this Court forces Defendant LaRose to provide votes with sufficient notice and a meaningful opportunity to cure mismatched signatures on absentee ballot applications and absentee ballots.

II. PLAINTIFFS WILL SUFFER IRREPARABLE HARM IF DEFICIENCIES IN OHIO’S SIGNATURE MATCH PROCESS ARE NOT CORRECTED.

“When constitutional rights are threatened or impaired, irreparable injury is presumed.” *Obama for Am.*, 697 F.3d at 436, *see also Mich. State A. Philip Randolph Inst.*, 833 F.3d at 669; *Overstreet v. Lexington-Fayette Urban Cty. Gov’t*, 305 F.3d 566, 578 (6th Cir. 2002) (“[A] plaintiff can demonstrate that a denial of an injunction will cause irreparable harm if the claim is based upon a violation of the plaintiff’s constitutional rights.”). “A restriction on the fundamental right to vote therefore constitutes irreparable injury.” *Obama for Am.*, 697 F.3d at 436. This is particularly true because, once an election comes and goes, “there can be no do-over and no redress. The injury to these voters is real and completely irreparable.” *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014)). The harm that Individual Plaintiffs and members of Organizational Plaintiffs will suffer absent a preliminary injunction is by definition irreparable. The Sixth Circuit, therefore, regularly grants preliminary injunctions in voting cases where, as here, they are necessary to prevent irreparable injury to plaintiffs. *See, e.g., Obama for Am.*, 697 F.3d 423; *Mich. State A. Philip Randolph Inst.*, 833 F.3d 656.

“This is not a case where failing to grant the requested relief would be a mere inconvenience to Plaintiffs.” *Fla. Democratic Party*, 2016 WL 6090943, at *8. As noted above, absent preliminary injunctive relief, Individual Plaintiffs, members of Organizational Plaintiffs, and other eligible Ohio voters face *total* disenfranchisement because they will have limited ability to cure an erroneous signature mismatch on their absentee ballots or applications. Plaintiffs and Ohio voters face grave threats to their right to vote when county election officials

fail in their efforts to notify voters of their absentee ballot application rejection, given that most counties do not track these efforts; or voters—particularly given the expected huge increase in absentee voting, U.S. Postal Service delays, and public health risks from COVID-19—struggle to properly cure their ballots or ballot applications under the unnecessarily short deadlines Ohio provides.

Organizational Plaintiffs will also likely suffer irreparable injury to their organizational missions. In response to potential mass disenfranchisement of its members and Ohio voters, Plaintiff League of Women Voters of Ohio has been forced to put aside voter registration efforts in the crucial months leading up to an election and instead focus time and resources on educating voters about how to avoid having their applications or ballots rejected because of a purported signature mismatch. Declaration of Jen Miller ¶¶ 25–35; *see also League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 9 (D.C. Cir. 2016) (finding irreparable harm to organizational plaintiffs because challenged “obstacles unquestionably make it more difficult for the [organizations] to accomplish their primary mission of registering voters.”); *District of Columbia v. U.S. Dep’t of Agriculture*, No. 20-119, 2020 WL 1236657, at *29 (D.D.C. Mar. 13, 2020) (“These harms from the forced diversion of resources are similar to those recognized as irreparable harm in other suits”). The A. Philip Randolph Institute is having to dilute its historic voter registration efforts because of the necessity to devote volunteer resources instead to helping voters anticipate and navigate the absentee ballot process, with its signature match detours and booby traps. Declaration of Andre Washington ¶¶ 13–15.³²

³² To the extent that Defendants challenge the standing of Organizational Plaintiffs to bring this claim, “[t]he Supreme Court and this Circuit have found that a drain on an organization’s resources . . . constitutes a concrete and demonstrable injury for standing purposes.” *Miami Valley Fair Hous. Ctr., Inc. v. Connor Grp.*, 725 F.3d 571, 576 (6th Cir. 2013); *see also Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982) (“Such concrete and demonstrable injury to

III. THE PUBLIC INTEREST AND THE LACK OF HARM TO OTHERS FAVOR A PRELIMINARY INJUNCTION.

The balance of equities weighs in favor of granting a preliminary injunction. The public interest “favors permitting as many qualified voters to vote as possible.” *Obama for Am.*, 697 F.3d at 437; *see also Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1355 (11th Cir. 2005) (an “injunction’s cautious protection of the Plaintiffs’ franchise-related rights is without question in the public interest”). “[I]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *G&V Lounge, Inc. v. Mich. Liquor Control Comm’n*, 23 F.3d 1071, 1078 (6th Cir. 1994). “There is no contest between the mass denial of a fundamental constitutional right and the modest administrative burdens to be borne by [the Secretary of State’s] office and other state and local offices involved in elections.” *Fish v. Kobach*, 840 F.3d 710, 755 (10th Cir. 2016); *see also Self Advocacy Sols. N.D.*, 2020 WL 2951012, at *10 (“[A]ny fiscal or administrative burden is miniscule when compared to the palpable threat of disenfranchisement”); *United States v. Georgia*, 892 F. Supp. 2d 1367, 1377 (N.D. Ga. 2012) (describing administrative burdens on State Defendants as “minor when balanced against the right to vote, a right that is essential to an effective democracy”).

Further, the relief Plaintiffs seek imposes minimal, if any, burden on the State and counties. Plaintiffs’ requested injunction entails two pieces of relief: (1) enjoining Defendant LaRose from enforcing provisions of Ohio law that require signature matching on absentee ballots without extending the period of time during which voters must be notified of and allowed

the organization’s activities—with the consequent drain on the organization’s resources—constitutes far more than simply a setback to the organization’s abstract social interests”). Organizational Plaintiffs also have standing to assert the rights of their members who will vote in the upcoming election. *Sandusky Cty. Democratic Party v. Blackwell*, 387 F.3d 565, 574 (6th Cir. 2004) (“Appellees have standing to assert, at least, the rights of their members who will vote in the November 2004 election.”).

to cure purportedly mismatched signatures, and (2) enjoining Defendant LaRose from permitting county boards of elections from engaging in signature matching on absentee ballot applications, or in the alternative, to confirm that his July 6, 2020 Directive 2020-11 requires boards of elections to promptly contact voters by telephone and email in sufficient time to correct their rejected absentee ballot applications.

With respect to absentee *ballots*, election officials are already required under state law and current guidance from the Secretary of State to provide notice to voters of a purported signature mismatch and allow voters to cure those mismatches. Accordingly, every board of elections already has a set of policies in place to (1) provide notice to voters of mismatched signatures through the sixth day following an election and (2) allow voters to cure mismatched signatures through the seventh day following an election. The Secretary of State or boards of elections would face minimal, if any, burden to simply extend those existing processes through the twenty-one days following an election that boards have to complete the canvass.

With respect to absentee ballot *applications*, the relief would *ease* the burden on county election boards, because they would no longer have to devote time and resources to signature matching on applications, to the extent that boards currently engage in that process. The burden under the alternative relief, similarly, is minimal. Defendant LaRose would need only to clarify that his previously issued Directive 2020-11 applies to signature mismatches, and boards of elections would simply have to extend the notice processes already called for by that directive to applications with purported signature mismatches.

There is simply no contest in weighing these miniscule burdens against the benefit of allowing tens of thousands Ohioans—whose applications or ballots might otherwise be thrown out because of purported signature mismatches—to have their votes counted. The balance of

equities and the public interest weighs clearly in favor of granting this injunction.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court issue a preliminary injunction, pursuant to Federal Rule of Civil Procedure 65:

- (1) to enjoin Defendant LaRose from enforcing provisions of Ohio law that require election officials to conduct signature matching on absentee ballots without providing adequate time to cure a purportedly mismatched signature before the date by which Ohio boards of elections must complete the canvass of returns;
- (2) to enjoin Defendant LaRose from permitting county boards of elections from conducting signature matching on absentee ballot applications, or, in the alternative, to direct Defendant LaRose to confirm that Directive 2020-11 requires boards of elections to promptly contact voters by telephone and email in sufficient time to correct absentee ballot applications rejected on the basis of signature mismatch.

DATED: August 24, 2020

Respectfully submitted,

/s/ Freda J. Levenson

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CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2020, I filed a copy of Plaintiffs' Motion for Preliminary Injunction and Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Injunction using the Court's Electronic Filing System, and that counsel for all parties received electronic notice through that system.

/s/ Freda J. Levenson
Freda J. Levenson

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**LEAGUE OF WOMEN VOTERS OF
OHIO, A. PHILIP RANDOLPH
INSTITUTE OF OHIO, GEORGE W.
MANGENI, and CAROLYN E.
CAMPBELL,**

Plaintiffs,

v.

**FRANK LAROSE, in his official capacity
as Secretary of State of Ohio,**

Defendant.

CASE NO. 20-cv-3843-MHW-KAJ

JUDGE MICHAEL WATSON

MAGISTRATE JUDGE KIMBERLY
JOLSON

**DECLARATION OF JEREMY PATASHNIK IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

I, Jeremy Patashnik, state and declare as follows:

1. I am an associate at the law firm of Covington & Burling LLP, counsel for Plaintiffs League of Women Voters of Ohio, A. Philip Randolph Institute of Ohio, George W. Mangeni, and Carolyn E. Campbell (collectively, "Plaintiffs"). I am a member of the bar of the State of New York and am admitted *pro hac vice* in this matter. I submit this declaration based on my own knowledge. I am competent to testify about the matters stated herein, and if called to do so, I would testify freely and competently thereto.

2. Pursuant to the Ohio Open Records Law, Ohio Rev. Code § 149.43(A)(1), Plaintiffs' counsel sent to the Ohio Secretary of State's Office and to all eighty-eight Ohio boards of elections requests for records related to procedures by which Ohio's signature-match requirements for absentee ballots are applied (the "ORL Request").

3. I attach as **Exhibit 1** to this declaration a true and correct copy of the ORL Request letter sent to the Ohio Secretary of State's Office.

4. I attach as **Exhibit 2** to this declaration a true and correct copy of the ORL Request letter sent to the Adams County Board of Elections. Plaintiffs' letters to the other eighty-seven Ohio boards of elections followed the form of this letter.

5. On August 21, 2020, Nick Eippert, Assistant Chief Legal Counsel in the Office of the Secretary of State, sent Plaintiffs' counsel a letter responding to the ORL Request. I attach as **Exhibit 3** a true and correct copy of Mr. Eippert's letter.

6. As of the date of this declaration, seventy-six boards of elections have provided substantive responses to at least some of Plaintiffs' records requests. The responses vary in terms of the number of requests to which each board of elections provided a response as well as the amount of detail provided in response to each records request.

7. Responses from twenty-seven boards of elections confirm, either explicitly or by implication, that those boards of elections conduct signature matching of absentee ballot applications and reject applications on the basis of signature mismatches. The following county boards of elections confirmed that they conduct signature matching on absentee ballot applications: Ashland, Auglaize, Brown, Butler, Carroll, Crawford, Cuyahoga, Darke, Defiance, Delaware, Erie, Franklin, Hardin, Henry, Knox, Logan, Lorain, Mahoning, Medina, Morgan, Pike, Portage, Richland, Summit, Union, Warren, and Wyandot.

8. Of the remaining forty-nine boards of elections that responded to Plaintiffs' ORL Request, none explicitly denied conducting signature matching on absentee ballot applications.

9. The responses to the ORL Request further reflect that some boards of elections that conduct signature matching on absentee ballot applications do not maintain records of the numbers

of applications they reject (on any basis), the names of the voters whose applications they reject, or the reasons they reject particular applications (for signature mismatches or other reasons). At the same time, other boards of elections do maintain such records.

10. The boards of elections' responses to Plaintiffs' ORL Request reveal that those boards have developed their own procedures for matching signatures on absentee ballot applications and on absentee ballots. These procedures vary, *inter alia*, as to: (1) the number and position of election officials who review signatures to determine whether they match, (2) the criteria (if any) for what constitutes a matched or mismatched signature, and (3) the extent to which the boards of elections store more than one signature sample for each voter and whether they use such additional samples to compare a voter's signature from a ballot or ballot application.

11. For example, Butler County's Early Voting Manual instructs election officials to conduct signature matching on absentee ballot *applications* and "if [they] can not find 3-point match reject the application." Ex. 4 at 12. Butler County's responses do not provide further explanation as to the meaning of the term "3-point match." On absentee *ballots*, Butler County procedures require at least two rounds of signature matching: "All ballots the staff deemed as signature mis-compares the four Board members are given copies of all documentation for the board to make the final determination." Ex. 4 at 8. I attach as **Exhibit 4** a true and correct copy of a June 11, 2020 email from Mickey Smith, Election Services Manager for the Butler County Board of Elections, sent in response to Plaintiffs' ORL Request. Exhibit 4 includes two documents attached to that email titled "Public Records Request (Butler County)_1.docx" and "Early Voting Manual - Entering Applications_1.pdf."

12. In Wyandot County, the Director of the Board of Elections, Deputy Director, and two clerks are responsible for reviewing signatures on absentee ballot applications and absentee

ballots. It is not clear, however, how many of those four officials will review a given voter's application or ballot and whether the process the Wyandot Board adheres to is the same with respect to applications and ballots. Ex. 5 at 1. I attach as **Exhibit 5** a true and correct copy of a June 3, 2020 email from Jenise J. Derr, Wyandot County Board of Elections Director, sent in response to Plaintiffs' ORL Request.

13. According to the response submitted by the Hardin County Board of Elections, that Board "does not have wording in any of our policies that talks about matching of signatures." Ex. 6 at 5. Notwithstanding the lack of written policies, the Hardin County Board's response further states that: "If there is a signature in question, as to whether it matches the signature on file, all staff reviews the signature and a general consensus is formed. If a decision is still unable to be made by the staff, it is presented to the Board for review." *Id.* The Hardin County Board of Elections uses "the *signature* [singular] on file" for comparison," implying that it does not use multiple signature samples. *Id.* (emphasis added). I attach as **Exhibit 6** a true and correct copy of a June 5, 2020 email from Becky L. Stevenson, Hardin County Board of Elections Director, sent in response to Plaintiffs' ORL Request.

14. According to the Delaware County Board of Elections' response to Plaintiffs' record requests, the Board requires that "[a]ll signatures are reviewed by both a Republican and Democrat before a ballot or application is processed." Ex. 7 at 4. "[A]ny non-matching signatures are then reviewed by a manager, both Directors and finally, [the] four Board Members by vote at a public meeting before a ballot is not counted due to a signature mismatch." *Id.* I attach as **Exhibit 7** a true and correct copy of a June 26, 2020 email from Anthony P. Saadey, Delaware County Board of Elections Deputy Director, sent in response to Plaintiffs' ORL Request, along with a document attached to that email titled "Covington Records Request Delaware County Responses.pdf."

15. The Brown County Board of Elections’ response does not differentiate between the Board’s signature-matching procedures on absentee ballot applications and absentee ballots.

According to the Board:

Our office matches signature by eye. The clerk compares the current signature with previous *signatures* [plural] received from the voter. If the clerk is unable to verify that the signature is legit, the deputy director and director will then check the signature. At that point, if the signature is still unable to be verified, the Board will then make the decision if it is legit.

Ex. 8 at 3 (emphasis added). I attach as **Exhibit 8** a true and correct copy of a June 12, 2020 email from Dinha Malone, Elections Clerk at the Brown County Board of Elections, sent in response to Plaintiffs’ ORL Request, along with a document attached to that email titled “Covington.docx.”

16. The Carroll County Board of Elections “do[es] not have recorded policy or procedures for matching signatures.” Notwithstanding the lack of recorded policy or procedures, according to the Board’s response to Plaintiff’s record request, “[i]f we can see some similarities in the two signatures even if there are other obvious differences we accept the signature. . . . No ballot or application is ever marked as having a signature issue without first consulting with at least one other member of our team.” Ex. 9 at 2. I attach as **Exhibit 9** a true and correct copy of a June 18, 2020 email from Nicole R. Mickley, Carroll County Board of Elections Deputy Director, sent in response to Plaintiffs’ ORL Request.

17. The ORL Request asked the Secretary of State and the eighty-eight boards of elections for “[r]ecords reflecting any training that your office conducted or participated in regarding the matching of signatures on absentee ballot applications and absentee ballots.” Ex. 1 at 5; Ex. 2 at 5. The Secretary of State’s response stated that it “do[es] not maintain any records” reflecting any such training. Ex. 3 at 11. Most boards of elections provided no substantive response to this request. Several counties responded that they have not conducted or participated in

any training related to signature matching. Ex. 5 at 1 (Wyandot County: “We do not have any official training on signature matching.”); Ex. 6 at 5 (Hardin County: “No training and therefore no records to reflect it.”); Ex. 10 at 1 (Coshocton County: “There is no specific training that covers the matching of signatures.”). Based on these responses, it appears that the Secretary of State and the boards of elections do not regularly conduct or organize training for county election officials in handwriting analysis or signature matching. I attach as **Exhibit 10** a true and correct copy of a July 9, 2020 email from Kirsten Ross, Coshocton County Board of Elections Deputy Director, sent in response to Plaintiffs’ ORL Request.

18. The responses to Plaintiffs’ ORL Request further reflect that boards of elections lack uniform procedures for notifying voters of or allowing voters to cure mismatched signatures on absentee ballot applications. Some boards of elections attempt to notify voters whose absentee ballot applications have been rejected via letter, email, or phone call, or a combination of all three. However, some boards of elections do not maintain records of their efforts to notify voters of rejected absentee ballot applications.

19. For example, the Butler County Board of Elections has a form letter it sends to voters whose applications it rejects. Ex. 4 at 8.

20. The Knox County Board of Elections “do[es] not track deficient absentee ballot applications” but does “send the applicant a letter and a copy of the deficient app[lication].” Ex. 11 at 1. I attach as **Exhibit 11** a true and correct copy of a June 8, 2020 email from Kim Horn, Knox County Board of Elections Director, sent in response to Plaintiffs’ ORL Request.

21. The Richland County Board of Elections says that applications with “missing information” are “immediately dealt with by contacting the voter via mail, email and/or phone.” Ex. 12 at 1. Although the Board does not explicitly state whether applications with mismatched

signatures are treated the same as applications with “missing information,” the Board further says that “every effort is made by the staff to address any questions of signature immediately by contacting [the] voter to clarify any concerns.” *Id.* I attach as **Exhibit 12** a true and correct copy of a June 9, 2020 letter from Jane Zimmerman, Richland County Board of Elections Deputy Director, sent in response to Plaintiffs’ ORL Request

22. The Hardin County Board of Elections apparently sends voters with mismatched signatures on absentee ballot applications provisional ballots rather than asking them to resubmit applications for normal absentee ballots. *See* Ex. 6 at 2 (noting that eight of the nine voters with mismatched signatures on absentee ballot applications before the 2020 Primary Election “were sent provisional ballots”).

23. While most or all county boards of elections maintain an online tracking system that allows voters to track the status of their absentee ballot application and ballots, those tracking systems do not automatically notify a voter that a ballot or application has been rejected unless the voter affirmatively queries that system, nor do they provide a voter with the reasons such as signature mismatch that a ballot is rejected.

24. I attach as **Exhibit 13** a true and correct copy of the transcript of the Board of Voting Machine Examiners’ June 12, 2020 meeting.

25. I attach as **Exhibit 14** a true and correct copy of the letter sent from Thomas J. Marshall, U.S. Postal Service General Counsel, to Defendant LaRose on July 30, 2020, downloaded from the *Washington Post*’s website. *See U.S. Postal Service Letters to States*, Wash. Post (Aug. 17, 2020), https://www.washingtonpost.com/context/u-s-postal-service-letters-to-states/b50799f2-25ad-40ed-ba1e-9d648b1814ad/?itid=lk_interstitial_manual_6.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on August 24, 2020 in Brooklyn, New York.

/s/ *Jeremy Patashnik*

JEREMY PATASHNIK

Exhibit 1

COVINGTON

BEIJING BRUSSELS DUBAI FRANKFURT JOHANNESBURG
LONDON LOS ANGELES NEW YORK PALO ALTO
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Via U.S. Mail and Email

June 1, 2020

Ohio Secretary of State's Office
Attn: Public Records Custodian
22 North Fourth Street, 16th Floor
Columbus, OH 43215

Re: Public Records Request

Dear Public Records Custodian:

Pursuant to the Ohio Open Records Law, Ohio Rev. Code § 149.43, I write to request records related to the procedures by which Ohio's signature-match requirement for absentee ballots is applied. To that end, please provide public records relating to the processing of absentee ballots and absentee ballot applications, responsive to the descriptions below. The term "public record" shall be defined as in Ohio Rev. Code § 149.43(A)(1).

Relevant Time Frame: For each request, please provide records for both the April 28, 2020 Primary Election *and* the November 4, 2016 General Election.

1. Records Related to Absentee Ballot Applications

- a. Records reflecting the total number of absentee ballot applications mailed to Ohio voters.
- b. Records reflecting the total number of absentee ballot applications returned by Ohio voters.
- c. Records reflecting the number of absentee ballot applications returned by Ohio voters with no signature.
 - i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot application was returned with no signature.
 - ii. Records reflecting the number of no-signature absentee ballot applications that were cured before Election Day.
 1. Records reflecting the voter record data, including name and contact information, for each such individual.

COVINGTON

Public Records Custodian
June 1, 2020
Page 2

- iii. Records reflecting the number of no-signature absentee ballot applications still not cured by on Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
- iv. Records reflecting the number of no-signature absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.
 - 1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.
- d. Records reflecting the number of absentee ballot applications returned by Ohio voters with a signature mismatch.
 - i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot application was returned with a signature mismatch.
 - ii. Records reflecting the number of signature-mismatch absentee ballot applications that were cured before Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iii. Records reflecting the number of signature-mismatch absentee ballot applications still not cured by Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iv. Records reflecting the number of signature-mismatch absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.
 - 1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.
- e. Records reflecting any log or record of any rejected and/or returned absentee ballot applications.

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- i. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot application was rejected or returned.

2. Records Related to Absentee Ballots

- a. Records reflecting the total number of absentee ballots mailed to Ohio voters.
- b. Records reflecting the total number of absentee ballots returned by Ohio voters.
- c. Records reflecting the number of absentee ballots returned by Ohio voters on the last day for which a ballot would qualify to be counted.
- d. Records reflecting the number of absentee ballots returned by Ohio voters with no signature.

- i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot was returned with no signature.
- ii. Records reflecting the number of no-signature absentee ballots that were cured before Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

- iii. Records reflecting the number of no-signature absentee ballots still not cured by Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

- iv. Records reflecting the number of no-signature absentee ballots that were cured after Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

- v. Records reflecting the number of no-signature absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.

1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot voter who

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voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.

- e. Records reflecting the number of absentee ballots returned by Ohio voters with a signature mismatch.
 - i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot was returned with a signature mismatch.
 - ii. Records reflecting the number of signature-mismatch absentee ballots that were cured before Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iii. Records reflecting the number of signature-mismatch absentee ballots still not cured by Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iv. Records reflecting the number of signature-mismatch absentee ballots that were cured after Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - v. Records reflecting the number of signature-mismatch absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.
 - 1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot voter who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.
- f. Records reflecting any log or record of any rejected and/or returned absentee ballots.
 - i. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot was rejected or returned.

3. Records Related to Signature Matching

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- a. Records reflecting any policies or procedures regarding the matching of signatures on absentee ballot applications and absentee ballots, and how any such policies or procedures were promulgated.
- b. Records reflecting any training that your office conducted or participated in regarding the matching of signatures on absentee ballot applications and absentee ballots.
- c. Records reflecting the qualifications of each person in your office who has conducted or designed signature matching training for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election *and/or* the November 3, 2016 General Election.
- d. Records reflecting the equipment and materials used by each person in your office to conduct signature matching training for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election *and/or* the November 3, 2016 General Election.

4. Records Related to Notice

- a. Records reflecting any policies or procedures regarding how notice is provided to voters with signature issues related to their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated.
- b. Records reflecting any method(s) by which your office contacted voters affected by signature-related issues with their absentee ballot applications or absentee ballots.
- c. Records reflecting any communications with voters regarding signature-related issues with their absentee ballot applications or absentee ballots.

5. Records Related to Curing Signature Issues

- a. Records reflecting any policies or procedures regarding the ability of voters to cure signature-related issues with their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated.

6. Records Related to the Conduct of Elections

- a. Records reflecting any manual(s) or other guidance promulgated by your office and distributed to the county boards of election pertaining to the conduct of elections.

Pursuant to Ohio Rev. Code § 149.43(B)(1) please provide the requested records promptly. *See also State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Educ.,*

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97 Ohio St. 3d 58, 65 (2002). I am happy to receive records in batches and as they are identified. In any event, all requested records should be provided on or before June 8, 2020.

If the requested records exist in electronic form, please provide them in such form. If not, please provide hard copies of the requested materials. If there is a copying or production fee that exceeds \$100, please contact me to let me know the total cost before proceeding. If you determine that some portions of the requested records are exempt from disclosure, please specify the basis for redaction and provide all non-exempt portions of the record. Additionally, if specific data or documents are not available or not available in the format requested, please provide documents that contain as much of the requested information as is available and/or the closest approximation to this information that is available.

Should you have any questions or need any information regarding the above request, please contact me at (212) 841-1107 or jnelson@cov.com. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink that reads "John Nelson". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

John Nelson

Exhibit 2

COVINGTON

BEIJING BRUSSELS DUBAI FRANKFURT JOHANNESBURG
LONDON LOS ANGELES NEW YORK PALO ALTO
SAN FRANCISCO SEOUL SHANGHAI WASHINGTON

John F. Nelson

Covington & Burling LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
T +1 212 841 1107
jnelson@cov.com

Via U.S. Mail and Email

June 1, 2020

Board of Elections
Adams County
215 N. Cross St., Room 103
West Union, OH 45693
adams@ohioSOS.gov

Re: Public Records Request

Dear Public Records Custodian:

Pursuant to the Ohio Open Records Law, Ohio Rev. Code § 149.43, I write to request records related to the procedures by which Ohio's signature-match requirement for absentee ballots is applied. To that end, please provide public records relating to the processing of absentee ballots and absentee ballot applications, responsive to the descriptions below. The term "public record" shall be defined as in Ohio Rev. Code § 149.43(A)(1).

Relevant Time Frame: For each request, please provide records for both the April 28, 2020 Primary Election *and* the November 4, 2016 General Election.

1. Records Related to Absentee Ballot Applications

- a. Records reflecting the total number of absentee ballot applications mailed by your office to voters.
- b. Records reflecting the total number of absentee ballot applications returned to your office by voters.
- c. Records reflecting the number of absentee ballot applications returned to your office with no signature.
 - i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot application was returned to your office with no signature.
 - ii. Records reflecting the number of no-signature absentee ballot applications that were cured before Election Day.
 1. Records reflecting the voter record data, including name and contact information, for each such individual.

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- iii. Records reflecting the number of no-signature absentee ballot applications still not cured by Election Day.
 - 1. Records reflecting the voter data, including name and contact information, for each such individual.
- iv. Records reflecting the number of no-signature absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.
 - 1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.
- d. Records reflecting the number of absentee ballot applications returned to your office with a signature mismatch.
 - i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot application was returned to your office with a signature mismatch.
 - ii. Records reflecting the number of signature-mismatch absentee ballot applications that were cured before Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iii. Records reflecting the number of signature-mismatch absentee ballot applications still not cured by Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iv. Records reflecting the number of signature-mismatch absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.
 - 1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.
- e. Records reflecting any log or record maintained by your office of any rejected and/or returned absentee ballot applications.

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- i. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot application was rejected or returned.

2. Records Related to Absentee Ballots

- a. Records reflecting the total number of absentee ballots mailed by your office.
- b. Records reflecting the total number of absentee ballots returned to your office.
- c. Records reflecting the number of absentee ballots returned to your office on the last day for which a ballot would qualify to be counted.
- d. Records reflecting the number of absentee ballots returned with no signature.

- i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot was returned to your office with no signature.

- ii. Records reflecting the number of no-signature absentee ballots that were cured before Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

- iii. Records reflecting the number of no-signature absentee ballots still not cured by Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

- iv. Records reflecting the number of no-signature absentee ballots that were cured after Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

- v. Records reflecting the number of no-signature absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.

1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot voter who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.

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- e. Records reflecting the number of absentee ballots returned with a signature mismatch.
 - i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot was returned to your office with a signature mismatch.
 - ii. Records reflecting the number of signature-mismatch absentee ballots that were cured before Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iii. Records reflecting the number of signature-mismatch absentee ballots still not cured by Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iv. Records reflecting the number of signature-mismatch absentee ballots that were cured after Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - v. Records reflecting the number of signature-mismatch absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.
 - 1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot voter who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.
- f. Records reflecting any log or record maintained by your office of any rejected and/or returned absentee ballots.
 - i. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot was rejected or returned.

3. Records Related to Signature Matching

- a. Records reflecting any policies or procedures regarding the matching of signatures on absentee ballot applications and absentee ballots, and how any such policies or procedures were promulgated.

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- b. Records reflecting any training that your office conducted or participated in regarding the matching of signatures on absentee ballot applications and absentee ballots.
- c. Records reflecting the qualifications of each person in your office who conducted signature matching for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election *and/or* the November 4, 2016 General Election.
- d. Records reflecting the equipment and materials used by each person in your office to conduct signature matching for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election *and/or* the November 3, 2016 General Election.

4. Records Related to Notice

- a. Records reflecting any policies or procedures regarding how notice is provided to voters with signature issues related to their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated.
- b. Records reflecting any method(s) by which your office contacted voters affected by signature-related issues with their absentee ballot applications or absentee ballots.
- c. Records reflecting any communications with voters regarding signature-related issues with their absentee ballot applications or absentee ballots.

5. Records Related to Curing Signature Issues

- a. Records reflecting any policies or procedures regarding the ability of voters to cure signature-related issues with their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated.

Pursuant to Ohio Rev. Code § 149.43(B)(1) please provide the requested records promptly. *See also State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Educ.*, 97 Ohio St. 3d 58, 65 (2002). I am happy to receive records in batches and as they are identified. In any event, all requested records should be provided on or before June 8, 2020.

If the requested records exist in electronic form, please provide them in such form. If not, please provide hard copies of the requested materials. If there is a copying or production fee that exceeds \$100, please contact me to let me know the total cost before proceeding. If you determine that some portions of the requested records are exempt from disclosure, please specify the basis for redaction and provide all non-exempt portions of the record. Additionally, if specific data or documents are not available or not available in the format requested, please provide documents that contain as much of the requested information as is available and/or the closest approximation to this information that is available.

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Should you have any questions or need any information regarding the above request, please contact me at (212) 841-1107 or jnelson@cov.com. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink that reads "John Nelson". The signature is written in a cursive, slightly slanted style. It is positioned above a solid black rectangular redaction box.

John Nelson

Exhibit 3



August 21, 2020

John Nelson
Covington & Burling LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018
jnelson@cov.com

Sent via email

Mr. Nelson,

This email is to respond to your amended request for public records, which was received by this office on June 1, 2020. Specifically, you have requested the following records:

“please provide public records relating to the processing of absentee ballots and absentee ballot applications, responsive to the descriptions below.

Relevant Time Frame: For each request, please provide records for both the April 28, 2020 Primary Election and the November 4, 2016 General Election.

1. Records Related to Absentee Ballot Applications

- a. Records reflecting the total number of absentee ballot applications mailed to Ohio voters.
- b. Records reflecting the total number of absentee ballot applications returned by Ohio voters.
- c. Records reflecting the total number of absentee ballot applications returned by Ohio voters with no signature.
 - i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot application was returned with no signature.
 - ii. Records reflecting the number of no-signature absentee ballot applications that were cured before Election Day.
 1. Records reflecting the voter record data, including name and contact information, for each such individual.

- iii. Records reflecting the number of no-signature absentee ballot applications still not cured by on Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iv. Records reflecting the number of no-signature absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.
 - 1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.
 - d. Records reflecting the number of absentee ballot applications returned by Ohio voters with a signature mismatch.
 - i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot application was returned with a signature mismatch
 - ii. Records reflecting the number of signature-mismatch absentee ballot applications that were cured before Election Day.
 - 1. Records reflecting the voter record data, including name and contact information for each such individual.
 - iii. Records reflecting the number of signature mis-match absentee ballot applications still not cured by Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual.
 - iv. Records reflecting the number of signature-mismatch absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.
 - 1. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot application was rejected or returned.
2. Records Related to Absentee Ballots
- a. Records reflecting the total number of absentee ballots mailed to Ohio voters.
 - b. Records reflecting the total number of absentee ballots returned by Ohio voters.

c. Records reflecting the number of absentee ballots returned by Ohio voters on the last day for which a ballot would qualify to be counted.

d. Records reflecting the number of absentee ballots returned by Ohio voters with no signature.

i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot was returned with no signature.

ii. Records reflecting the number of no-signature absentee ballots that were cured before Election Day.

1. Records reflecting the voter record data, including the name and contact information, for each such individual.

iii. Records reflecting the number of no-signature absentee ballots still not cured by Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

iv. Records reflecting the number of no-signature absentee ballots that were cured after Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

v. Records reflecting the number of no-signature absentee ballot voters who voted on Election Day; the number who voted provisionally, the number of their votes that were counted; and the number of their votes that were not counted.

1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot voter who voted on Election Day, who voted provisionally; whose vote was counted; and whose vote was not counted.

e. Records reflecting the number of absentee ballots returned by Ohio voters with a signature mismatch.

i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot was returned with a signature mismatch.

ii. Records reflecting the number of signature-mismatch absentee ballots that were cured before Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

iii. Records reflecting the number of signature-mismatch absentee ballots still not cured by Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

iv. Records reflecting the number of signature-mismatch absentee ballots that were cured after Election Day.

1. Records reflecting the voter record data, including name and contact information, for each such individual.

v. Records reflecting the number of signature-mismatch absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.

1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot voter who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.

f. Records reflecting any log or record of any rejected and/or returned absentee ballots.

i. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot was rejected or returned.

3. Records Relating to Signature Matching

a. Records reflecting any policies or procedures regarding the matching of signatures on absentee ballot applications and absentee ballots, and how many such policies or procedures were promulgated.

b. Records reflecting any training that your office conducted or participated in regarding the matching of signatures on absentee ballot applications and absentee ballots.

c. Records reflecting the qualifications of each person in your office who has conducted or designed signature matching training for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election and/or the November 3, 2016 General Election.

d. Records reflecting the equipment and materials used by each person in your office to conduct signature matching training for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election and/or the November 3, 2016 General Election.

4. Records Related to Notice

a. Records reflecting any policies or procedures regarding how notice is provided to voters with signature issues related to their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated.

b. Records reflecting any method(s) by which your office contacted voters affected by signature-related issues with their absentee ballot applications or absentee ballots.

c. Records reflecting any communications with voters regarding signature-related issues with their absentee ballot application or absentee ballots.

5. Records Related to Curing Signature Issues

a. Records reflecting any policies or procedures regarding the ability of voters to cure signature-related issues with their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated.

6. Records Related to the Conduct of Elections

a. Records reflecting any manual(s) or other guidance promulgated by your office and distributed to the county boards of election pertaining to the conduct of elections.”

In response to each item of your request, please consider this a request for clarification because our office cannot reasonably identify the specific records, which you desire, as each item of your request is overly broad for purposes of the Public Records Act. See R.C. § 149.43(B)(2). The Ohio Public Records Act requires that a requester identify the records he or she is seeking with “reasonable clarity” so that the public office can identify responsive records based on the manner in which it ordinarily maintains and accesses the public records it keeps. See *State ex rel. Glasgow v. Jones*, 119 Ohio St.3d 391, 2008-Ohio-4788; *State ex rel. Morgan v. New Lexington*, 112 Ohio St. 3d 33, 2006-Ohio-6365, 857 N.E.2d 1208.

In the items that you have requested, you have not identified the records you are seeking with reasonable clarity. Here, while you have identified specific information that you desire to be contained within records maintained by our office, you have not, however, identified specific records. A request to search for information “regarding,” or “relating” to, a topic is generally improper. See *Hicks v. Newton*, 2017-Ohio-8952. You have described the records you are seeking as “records related to...” and “records reflecting...” which are vague terms of expansion rather than specificity. See *Neff v. Knapp*, 2018-Ohio-2357. It is important to remember, when making request for public records, that Ohio courts have found similar requests for broad ranges of records containing subject matters to be impermissible requests for information as opposed to requests for specific records. The Ohio Public Records Act provides for access to records, but it does not obligate a public office to search for records containing selected information. “A public office is not obligated to seek out and retrieve those records, which would contain the information of interest to the requestor.” See *State ex rel. Fant v. Tober*, 1993 Ohio App. Lexis 2591; *State ex rel. Kesterson v. Kent State Univ.*, 156 Ohio St. 3d 22, 2018-Ohio-5110; *State ex rel. Dillery v. Icsman*, 92 Ohio St.3d 312, 314, 2001 Ohio 193. Furthermore, a public office is under no duty to create new records by searching for and compiling information that may be of interest to the requester. *State ex rel. White v. Goldsberry*, 85 Ohio St.3d 153, 707 N.E.2d 496 (1999). “The dilemma for the public office may not be whether the public office can identify any responsive records to the request, but whether the terms of the request permit it to reasonably identify all responsive

records.” See *Kanter v. City of Cleveland Heights*, 2018-Ohio-4592. As such, this office has no public records responsive to your request.

In the interest of transparency, after conducting a reasonably diligent search based on the implied context of your request, we have identified records which may be responsive to some of the items of your request. For each item of your request, below, we have indicated if our office collects and maintains the information you are seeking.

1. Records Related to Absentee Ballot Applications

a. Records reflecting the total number of absentee ballot applications mailed to Ohio voters. In response to this item of your request, our office does not collect this information from the county boards of elections, therefore we do not maintain any records which contain the total number of applications mailed for either the 2016 General or 2020 Primary. We have located records, which may contain some of the information that you are seeking, specifically, attached are three postage invoices that contain the number of absentee applications for the 2016 General, which were mailed by a vendor contracted with the Secretary of State’s office.

b. Records reflecting the total number of absentee ballot applications returned by Ohio voters. Attached to this email are the Weekly Reports for the 2020 Primary and 2016 General Election which may contain the information that you are seeking. Additionally, I have provided a link below to our DropBox account which will allow you to view and download the daily absentee reports. The individual records contained within these folders are the reports created by the county boards of elections and submitted to the Secretary of State’s Office. These reports are provided by the Secretary of State’s office in accordance with Amended Substitute House Bill 197 (133rd GA) and have not been reviewed for accuracy.

<https://www.dropbox.com/sh/j8notflpg95xxyd/AABEzBjj93BTqqpP0KVTWX97a?dl=0>
Password: 2020Absentee

c. Records reflecting the total number of absentee ballot applications returned by Ohio voters with no signature. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot application was returned with no signature. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

ii. Records reflecting the number of no-signature absentee ballot applications that were cured before Election Day. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

1. Records reflecting the voter record data, including name and contact information, for each such individual. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

iii. Records reflecting the number of no-signature absentee ballot applications still not cured by on Election Day. In response to this item of your request, our office does not collect this information nor maintain do we any records responsive to this item of your request.

1. Records reflecting the voter record data, including name and contact information, for each such individual. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

iv. Records reflecting the number of no-signature absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

d. Records reflecting the number of absentee ballot applications returned by Ohio voters with a signature mismatch. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot application was returned with a signature mismatch. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

ii. Records reflecting the number of signature-mismatch absentee ballot applications that were cured before Election Day. In response to this item of your request, our office does not maintain any records containing this information.

1. Records reflecting the voter record data, including name and contact information for each such individual. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

iii. Records reflecting the number of signature mis-match absentee ballot applications still not cured by Election Day. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

1. Records reflecting the voter record data, including name and contact information, for each such individual. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

iv. Records reflecting the number of signature-mismatch absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

1. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot application was rejected or returned. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

2. Records Related to Absentee Ballots

a. Records reflecting the total number of absentee ballots mailed to Ohio voters. Attached to this email are the Absentee Reports for the 2020 Primary and 2016 General Election which contain the information that you are seeking.

b. Records reflecting the total number of absentee ballots returned by Ohio voters. This information is also contained within the 2020 Primary and 2016 General Election Absentee Reports.

c. Records reflecting the number of absentee ballots returned by Ohio voters on the last day for which a ballot would qualify to be counted. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.

d. Records reflecting the number of absentee ballots returned by Ohio voters with no signature. Attached to this email are the Full Absentee Reports for the 2020 Primary and 2016 General elections which contain the information that you are seeking.

i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot was returned with no signature. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

- ii. Records reflecting the number of no-signature absentee ballots that were cured before Election Day. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.
 - 1. Records reflecting the voter record data, including the name and contact information, for each such individual. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.
- iii. Records reflecting the number of no-signature absentee ballots still not cured by Election Day. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.
- iv. Records reflecting the number of no-signature absentee ballots that were cured after Election Day. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.
- v. Records reflecting the number of no-signature absentee ballot voters who voted on Election Day; the number who voted provisionally, the number of their votes that were counted; and the number of their votes that were not counted. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.
 - 1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot voter who voted on Election Day, who voted provisionally; whose vote was counted; and whose vote was not counted. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.
- e. Records reflecting the number of absentee ballots returned by Ohio voters with a signature mismatch. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request. Attached to this email are the Full Absentee Reports for the 2020 Primary and 2016 General Election which contain the information that you are seeking.
 - i. Records reflecting the voter record data, including name and contact information, for each Ohio voter whose absentee ballot was returned with a signature mismatch. In

response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.

ii. Records reflecting the number of signature-mismatch absentee ballots that were cured before Election Day. In response to this item of your request, our office does not collect this information nor maintain any records responsive to this item of your request.

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iii. Records reflecting the number of signature-mismatch absentee ballots still not cured by Election Day. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

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iv. Records reflecting the number of signature-mismatch absentee ballots that were cured after Election Day. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

1. Records reflecting the voter record data, including name and contact information, for each such individual. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

v. Records reflecting the number of signature-mismatch absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot voter who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted. In response to this item of your request, our office does not collect this information, nor do we maintain any records responsive to this item of your request.

f. Records reflecting any log or record of any rejected and/or returned absentee ballots. Attached to this email are the Full Absentee Reports for the 2020 Primary and 2016 General Election, which may contain the information that you are seeking.

i. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot was rejected or returned. Attached to this email are the Full Absentee Reports for the 2020 Primary and 2016 General Election, which may contain the information that you are seeking.

3. Records Relating to Signature Matching

a. Records reflecting any policies or procedures regarding the matching of signatures on absentee ballot applications and absentee ballots, and how many such policies or procedures were promulgated. Attached to this email is Chapter 5 of the Elections Officials Manual, which may contain the information that you are seeking.

b. Records reflecting any training that your office conducted or participated in regarding the matching of signatures on absentee ballot applications and absentee ballots. We do not maintain any records responsive to this item of your request.

c. Records reflecting the qualifications of each person in your office who has conducted or designed signature matching training for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election and/or the November 3, 2016 General Election. We do not maintain any records responsive to this item of your request.

d. Records reflecting the equipment and materials used by each person in your office to conduct signature matching training for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election and/or the November 3, 2016 General Election. We do not maintain any records responsive to this item of your request.

4. Records Related to Notice

a. Records reflecting any policies or procedures regarding how notice is provided to voters with signature issues related to their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated. Attached to this email is Chapter 5 of the Elections Official Manual, which may contain the information that you are seeking.

b. Records reflecting any method(s) by which your office contacted voters affected by signature-related issues with their absentee ballot applications or absentee ballots. Again, Chapter 5 of the Elections Official Manual may contain information that you desire.

c. Records reflecting any communications with voters regarding signature-related issues with their absentee ballot application or absentee ballots. We do not maintain records responsive to this item of your request.

5. Records Related to Curing Signature Issues

a. Records reflecting any policies or procedures regarding the ability of voters to cure signature-related issues with their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated. Again, Chapter 5 of the Elections Official Manual, attached to this email, may contain information that you are seeking.

6. Records Related to the Conduct of Elections

a. Records reflecting any manual(s) or other guidance promulgated by your office and distributed to the county boards of election pertaining to the conduct of elections.” I have provided a link below to our website which contains records of Directives and Advisories issued by our office, which may contain the information you are seeking.

<https://www.ohiosos.gov/elections/elections-officials/rules/>

Therefore, after conducting a reasonably diligent search we were able to determine that information you are seeking in the items of this request is not collected and maintained by our office, and we were able to identify some records which may be responsive to your request, however, as stated above, “the dilemma for the public office may not be whether the public office can identify any responsive records to the request, but whether the terms of the request permit it to reasonably identify all responsive records.” See *Kanter v. City of Cleveland Heights*, 2018-Ohio-4592. Thus, our office cannot properly respond to your request as currently presented, without your clarification. If you wish to revise your request and provide greater specificity (*i.e.*, specific classification of records that you are seeking), our office will be better able to assist you in identifying the records you seek. For your reference, to aid you in identifying records kept by this office, you may view the current retention schedules for the Ohio Secretary of State, which are maintained by the Ohio Department of Administrative Services (DAS); these records may be accessed at the following location: <https://apps.das.ohio.gov/RIMS/GeneralSchedule/Search>.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nick Eippert', is written over the typed name.

Nick Eippert
Assistant Chief Legal Counsel
Ohio Secretary of State

Exhibit 4

From: Mickey Smith <Mickey.Smith@bcoho.us>
Sent: Thursday, June 11, 2020 4:44 PM
To: Nelson, Jack F
Subject: Public Records Request (Butler County)_1 2016 requested information
Attachments: Public Records Request (Butler County)_1.docx; 1 applications mailed 2016.pdf; 2 All Rejected applications 2016.xlsx; 3 valid apps returned 2016.pdf; 4 all ballots returned and not returned 2016.pdf; 5 absentee only ballots mailed returned and not returned 2016.pdf; 6 challenged returned ballots 2016.pdf; 7 all provisionals.csv; 8 missing sign and miscompares provisionals.csv; Early Voting Manual- Entering Applications_1.pdf

[EXTERNAL]

Please find the response to your public request dated 6.1.2020 for the 2026 General Election attached below.

I will be sending the 2020 files under separate cover.
Thank you,



Mickey Smith
Election Services Manager

1002 Philadelphia Road
Suite 800
Hamilton, OH 45011
O: 513 867 7910

elections.bcoho.us

COVINGTON
BEIJING BRUSSELS DUBAI FRANKFURT JOHANNESBURG

John F. Nelson
Covington & Burling LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
T +1 212 841 1107
jnelson@cov.com

Via U.S. Mail and Email

June 1, 2020

Board of Elections
Butler County
Princeton Road
Campus
1802 Princeton Rd., Suite 600
Hamilton, OH 45011
butler@OhioSoS.gov

Re: Public Records Request

Dear Public Records Custodian:

Pursuant to the Ohio Open Records Law, Ohio Rev. Code § 149.43, I write to request records related to the procedures by which Ohio's signature-match requirement for absentee ballots is applied. To that end, please provide public records relating to the processing of absentee ballots and absentee ballot applications, responsive to the descriptions below. The term "public record" shall be defined as in Ohio Rev. Code § 149.43(A)(1).

Relevant Time Frame: For each request, please provide records for both the April 28, 2020 Primary Election *and* the November 4, 2016 General Election.

1. Records Related to Absentee Ballot Applications

- a. Records reflecting the total number of absentee ballot applications mailed by your office to voters. [See report #1 in both file for 2020 & 2016](#)
- b. Records reflecting the total number of absentee ballot applications returned to your office by voters. [For total applications add report totals from #2 + #3 for the corresponding year.](#)
- c. Records reflecting the number of absentee ballot applications returned to your office with no signature. [See report #2 for the corresponding year](#)
 - i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot application was returned to your office with no signature. [See report #2 for the corresponding year.](#)

- ii. Records reflecting the number of no-signature absentee ballot applications that were cured before Election Day. [We do not track by reason code.](#)

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1. Records reflecting the voter record data, including name and contact information, for each such individual. [See report #2 for the corresponding year.](#)
- iii. Records reflecting the number of no-signature absentee ballot applications still not cured by Election Day. [We do not track by reason code but if you compare reports #2 versus #4 for the corresponding year and a name is on both reports the voter cured the issue.](#)
 1. Records reflecting the voter data, including name and contact information, for each such individual. [See report 2 for corresponding year.](#)
- iv. Records reflecting the number of no-signature absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted. [See reports #2 versus #4 for absentee numbers. The provisional report#7 includes all provisional voters for the entire election. We do not have a report indicating which voters cast a provisional ballot specifically on election day. Report #8 shows how many voters were invalid due to missing signature or signature mis-compares.](#)
 1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted. [Information provided in the above 'iv' request.](#)
- d. Records reflecting the number of absentee ballot applications returned to your office with a signature mismatch. [See report #2 for the corresponding year.](#)
 - i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot application was returned to your office with a signature mismatch. [See report #2 for the corresponding year.](#)
 - ii. Records reflecting the number of signature-mismatch absentee ballot applications that were cured before Election Day. [We do not track cured by reason code but comparing reports #2 vs #4 will give the names of voters who cured their issue.](#)

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1. Records reflecting the voter record data, including name and contact information, for each such individual. [We do not track.](#)
- iii. Records reflecting the number of signature-mismatch absentee ballot applications still not cured by Election Day. [Reports #2 versus #4 if names are not on report #4 issue was not cured by Election Day.](#)
 1. Records reflecting the voter record data, including name and contact information, for each such individual. [See report #2 for corresponding year for the names that were not on report #4.](#)
 - iv. Records reflecting the number of signature-mismatch absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted. [See reports #2 versus #4 for absentee numbers. The provisional report#7 includes all provisional voters for the entire election. We do not have a report indicating which voters cast a provisional ballot specifically on election day. Report #8 shows how many voters were invalid due to missing signature or signature mis-compares.](#)
 1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted. [Information provided in above 'iv' request.](#)
- e. Records reflecting any log or record maintained by your office of any rejected and/or returned absentee ballot applications. [See report #2 for corresponding year.](#)
1. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot application was rejected or returned. [See report #2 for corresponding year.](#)
2. Records Related to Absentee Ballots
 - a. Records reflecting the total number of absentee ballots mailed by your office. [See report #5 for corresponding year.](#)
 - b. Records reflecting the total number of absentee ballots returned to your office. [See report #5 for corresponding year.](#)
 - c. Records reflecting the number of absentee ballots returned to your office on the last day for which a ballot would qualify to be counted. [See report #5 for corresponding year.](#)

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- d. Records reflecting the number of absentee ballots returned with no signature.
 - i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot was returned to your office with no signature. [See report #6 for corresponding year.](#)
 - ii. Records reflecting the number of no-signature absentee ballots that were cured before Election Day. [We do not track cured ballots by reason code.](#)
 1. Records reflecting the voter record data, including name and contact information, for each such individual. [We do not track cured ballots by reason code.](#)
 - iii. Records reflecting the number of no-signature absentee ballots still not cured by Election Day. [Report #6 for corresponding year.](#)
 1. Records reflecting the voter record data, including name and contact information, for each such individual. [Report #6 for corresponding year.](#)
 - iv. Records reflecting the number of no-signature absentee ballots that were cured after Election Day. [We do not track cured ballots by reason code.](#)
 1. Records reflecting the voter record data, including name and contact information, for each such individual. [We do not track cured ballots by reason code.](#)
 - v. Records reflecting the number of no-signature absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted. [Reports #6 versus #4 for the absentee voters. Report # 7 has all the provisional voters for entire election and report #8 has all the provisional voters who had a signature issue.](#)
 1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot voter who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted. [Reports #6 versus #4 for absentee voters. Report # 7 has all the provisional voters for entire election and report #8 has all the provisional voters who had a signature issue.](#)

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- e. Records reflecting the number of absentee ballots returned with a signature mismatch.
 - i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot was returned to your office with a signature mismatch. [Report #6 for corresponding year.](#)
 - ii. Records reflecting the number of signature-mismatch absentee ballots that were cured before Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual. [We do not track cured ballots by reason code.](#)
 - iii. Records reflecting the number of signature-mismatch absentee ballots still not cured by Election Day.
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual. [Report #6 versus report #4.](#)
 - iv. Records reflecting the number of signature-mismatch absentee ballots that were cured after Election Day. [We do not track cured ballots by reason code.](#)
 - 1. Records reflecting the voter record data, including name and contact information, for each such individual. [We do not track cured ballots by reason code.](#)
 - v. Records reflecting the number of signature-mismatch absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.
 - 1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot voter who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted. [Reports #6 versus #4 for absentee voters. Report # 7 has all the provisional voters for entire election and report #8 has all the provisional voters who had a signature issue. There isn't a report distinguishing provisional election day voters.](#)
- f. Records reflecting any log or record maintained by your office of any rejected and/or returned absentee ballots.

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- i. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot was rejected or returned. Adding total of reports #4 and #6 for corresponding year.

3. Records Related to Signature Matching

- a. Records reflecting any policies or procedures regarding the matching of signatures on absentee ballot applications and absentee ballots, and how any such policies or procedures were promulgated. We have written instructions and have department huddles to go over procedures. All ballots the staff deemed as signature mis-compares the four Board members are given copies of all documentation for the board to make the final determination. See Page 19 on Early Voting manual attachment
- b. Records reflecting any training that your office conducted or participated in regarding the matching of signatures on absentee ballot applications and absentee ballots. We do not document our department huddles.
- c. Records reflecting the qualifications of each person in your office who conducted signature matching for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election and/or the November 4, 2016 General Election. We do not have any type of records.
- d. Records reflecting the equipment and materials used by each person in your office to conduct signature matching for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election and/or the November 3, 2016 General Election. We do not have any type of records.

4. Records Related to Notice

- a. Records reflecting any policies or procedures regarding how notice is provided to voters with signature issues related to their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated. Written and verbal instructions. If staff finds a signature issue they code the record as such. Another team of staff members, assigned to mail rejection letters (absentee ballot applications) and/or 11-S notice (absentee ballots), do a second check. If the second check team still doesn't find the signature matching, a notification is mailed. If second check team does find a signature match application and/or ballot is processed as valid.
- b. Records reflecting any method(s) by which your office contacted voters affected by signature-related issues with their absentee ballot applications or absentee ballots.

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- c. Records reflecting any communications with voters regarding signature- related issues with their absentee ballot applications or absentee ballots.

5. Records Related to Curing Signature Issues

- a. Records reflecting any policies or procedures regarding the ability of voters to cure signature-related issues with their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated.

Pursuant to Ohio Rev. Code § 149.43(B)(1) please provide the requested records promptly. *See also State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Educ.*, 97 Ohio St. 3d 58, 65 (2002). I am happy to receive records in batches and as they are identified. In any event, all requested records should be provided on or before June 8, 2020.

If the requested records exist in electronic form, please provide them in such form. If not, please provide hard copies of the requested materials. If there is a copying or production fee that exceeds \$100, please contact me to let me know the total cost before proceeding. If you determine that some portions of the requested records are exempt from disclosure, please specify the basis for redaction and provide all non-exempt portions of the record. Additionally, if specific data or documents are not available or not available in the format requested, please provide documents that contain as much of the requested information as is available and/or the closest approximation to this information that is available.

Should you have any questions or need any information regarding the above request, please contact me at (212) 841-1107 or jnelson@cov.com. Thank you for your assistance with this matter.



Sincerely,



John Nelson

Working on the Floor

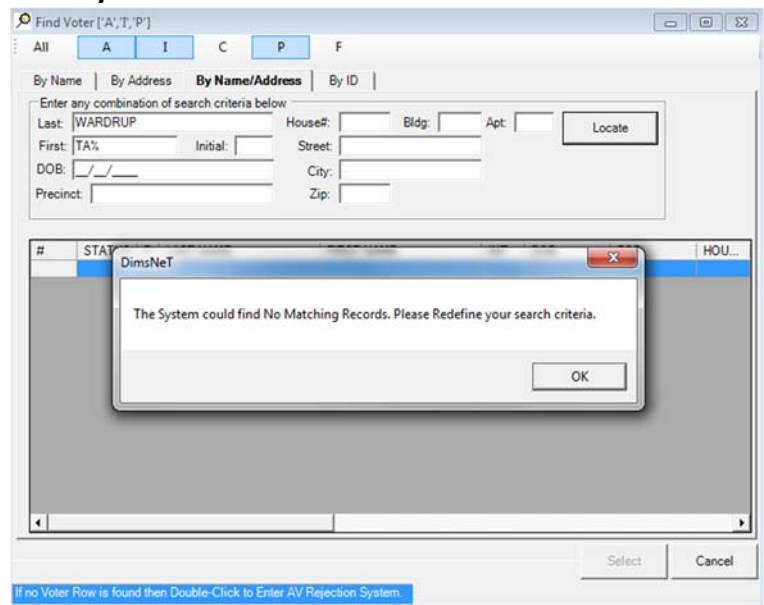
Entering Absentee Applications

1. In DIMS, open the Absentee Module 
2. Find the voter in DIMS. Detailed instructions on page 51
 - 2.1. If entering before EV has started Click Yes on the screen that says application too early
 - 2.2. "Warning. This Voter has already received an AV Ballot"
 - 2.2.1. "Do you want the system to issue a Rejection Notice?" Click- NO
 - 2.2.2. Write down the AVID and DUP on the application
 - 2.2.3. Put the application in the Duplicate Application Tray
 - 2.3. "Voter is Not Active. Access Voter's Record" Click Yes. Review status.
 - 2.3.1.  "FATAL PENDING" or "CANCELLED" (BLACK/RED) - exit out & put application aside. (Never enter an application in a cancelled or fatal pending voter record). See the rejection instructions on page 18
 - 2.3.2. If the voter's reason code is "VNC RtnD 8D 2 Card Sent", reject the application and choose the rejection code "VNC Returned Undeliverable." See the rejection instructions on page 18
 - 2.3.3. If the voter's reason code is anything else, activate the voter by changing their reason code to – "ABS APPL UPDATE", click OK and go to the next step
3. Put a red check mark by all information that is correct and if there is a mailing address highlight it in yellow
4. Verify the name and registered address listed on the application match DIMS
 - 4.1. If they do not match, reject the application. See the rejection instructions on page 18
5. If there is a mailing address on the application, different from the voters address or from the mailing address in DIMS: (Exception: Seven Mile- All seven mile mail goes to a PO Box. If there is a PO Box in DIMS and not on the application, keep the PO Box in the ABS Module and write it in red on the application)
 - 5.1. Highlight the Mailing Address in yellow
 - 5.2. Click on the "Mailing Add" button in DIMS
 - 5.3. Type the Mailing Address in the fields and click OK
6. Verify the identification information listed on the application matches DIMS (SSN/DL #/Copy of accepted ID)
 - 6.1. If the voter provided a copy of ID, attach it to the application with tape
 - 6.2. If the identification is not in DIMS, circle the information that needs to be updated/added, copy the application and put the copy in the bin for updates
 - 6.3. If the identification does not match reject the application. See the rejection instructions on page 18
7. Verify the correct election is listed on the application.
 - 7.1. If the correct election is not on the application see Common Application Problems on page 19
8. Verify party (Primary Election Only)
 - 8.1. If there is no party indicated, reject the application. See the rejection instructions on page 18
 - 8.2. Use a corresponding highlighter to highlight the party and in the top right corner of the application write the letter of the party
9. Verify the voters signature matches the signature in DIMS
10. Select the category (NO FAULT)
11. Select the source (MAIL) and Click OK
12. Write the AV ID on the top right corner of the application
13. Place applications in designated bins

Rejecting an Application

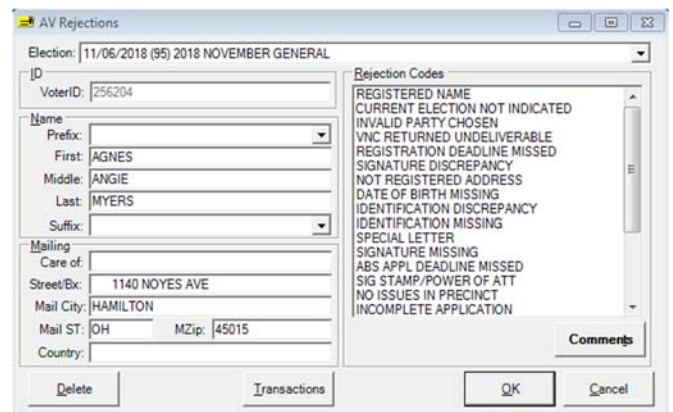
If the voter is not found in DIMS by name, address, or birthday.

1. There will be a blue line at the bottom left side of the window, "If no voter row is found then Double-Click to Enter AV Rejection System" double click it. The "AV Rejections" screen will pop up.
2. Enter the voter's name and address on the left side of the screen.
3. In the "Rejection Codes" section, select NOT REGISTERED and any additional codes that apply.
 - 3.1. For definitions of each code, see page 21
4. Add comments if needed.
5. Click "OK."
6. Circle any missing information on the application. A copy will be sent to the voter.
7. In the bottom left corner, write "R" for rejection.
8. Place the application in alphabetical order in the alpha stick.



The information on the application does not match DIMS.

1. Click on the "Reject" button; the "AV Rejections" screen will pop up.
2. If the Mailing Address on the application does not match DIMS it needs to be entered manually on the left side of the AV Rejections screen under the Mailing section so that the problem letter will be delivered there.
3. In the "Rejection Codes" section, **select all the reasons the application is being rejected.** To select more than one code, hold down the "Ctrl" button while selecting the codes with the mouse.
 - 3.1. For definitions of each code see page 21
 - 3.2. Add comments if needed.
 - 3.3. Click "OK."
4. Put the voter ID on the top of the application.
5. Circle the problem on the application, a copy will be sent to the voter.
6. In the bottom left corner write "R" for rejection.
7. Now you will be on the main application screen.
8. Click the "Cancel" button.
 - 8.1. **Do not click "OK". This will give the voter an AVID number.**
 - 8.2. If a rejected voter is issued an AVID number email a manager to have the AVID number removed.
9. Place the application in alphabetical order in the alpha stick.



Common Application Problems

Name and address problems

- Name does not match
 - If the first name is a natural derivative of the registered name - accept the application
 - Middle initials are not required - accept the application
 - If the last name does not match - reject the application. (Reject Code: REGISTERED NAME)
- Address does not match - reject the application. (Reject Code: NOT REGISTERED ADDRESS)

Not registered

- If the voter is not found in DIMS by name, address, or birthday. - Reject the application. (Reject Code: NOT REGISTERED)

Birthday problems

- Missing - reject the application. (Reject Code: DATE OF BIRTH MISSING)
- If the date of birth does not match what we have in DIMS - reject the application. (Reject Code: DATE OF BIRTH DISCREPANCY)

Identification problems

- If there are two (2) forms of identification on the application and ONLY ONE OF THEM MATCHES what is in DIMS and the other has a discrepancy- accept the application
 - **Note: after processing and receiving AVID then:**
 - Go to the BMV WEBSITE:
 - SSN and DL on the applications MATCHES Dims – do nothing with the abs application
 - SSN and DL MATCHES what is on the ABS APPLICATION - copy ABS APP, place in the tray/box by Angie's desk, **"ABS Processed – Problem Letter**
- Neither Driver's License nor the last four digits of Social Security Number match DIMS - reject the application. (Reject Code: IDENTIFICATION DISCREPANCY)
- Alternate form of identification
 - A copy of a current and valid photo identification, a military identification, or a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of voter registration mailed by a board of elections, that shows the voter's name and address.
 - If the alternate form of identification **is listed above** - accept the application.
 - If the alternate form of identification **is not listed** above - verify with a full time staff member and reject the application. (Reject Code: IDENTIFICATION MISSING)
- If there is No Identification in DIMS, as long as it is on the application – accept the application
 - On the application by the ID, write ADD. Then copy application and place in ABS Update tray/box

Signature problems

- Signature Missing - reject the application. (Reject Code: SIGNATURE MISSING)
- Signature Discrepancy - if can not find 3-point match reject the application. (Reject Code: SIGNATURE DISCREPANCY)

Signed date problems

- Missing – accept the application.
- Future – accept the application.

Election date and election type problems

- Election date is missing but election type is correct – accept the application.
- Election date is correct but election type is missing or inconsistent – accept the application.
- Correct date and more than one type of election is selected – accept the application.
- Voter indicated party for a general election – accept the application.
- Incorrect date and more than one type of election is selected – reject the application. (Reject Code: CURRENT ELECTION NOT INDICATED)
- Missing election date and election type – reject the application (Reject Code: CURRENT ELECTION NOT INDICATED)

Party problems (Primary Election Only)

- Voter indicated party for a general election - accept the application.
- Voter did not select a party- (Reject Code: NO PARTY INDICATED)
- Voter selected more than one political party- (Reject Code: MULTIPLE PARTIES)
- Voter requested “Independent Party”- reject the application (Reject Code: INVALID PARTY CHOSEN)

Explanation of Rejection Codes

APPLICATION ISSUES

NO ISSUES IN VOTER'S PRECINCT

We have received your request for an absentee ballot. There are no issues or candidates on the ballot in your precinct for this election. For a complete list of issues for this election please visit our website.

IDENTIFICATION MISSING/DISCREPANCY

- Your ID is missing on your application. Complete the missing information, **Sign, date and return**.
- There is a discrepancy with the ID you provided; it does not match our records. Confirm **OR** correct ID, **Sign, date and return**.

BIRTH DATE MISSING/DISCREPANCY

- Your birthdate is missing on your application. Complete the missing information, **Sign, date and return**.
- There is a discrepancy with the birth date listed on your absentee application; it does not match our records. Confirm or correct your date of birth, **Sign, date and return**.

APPLICATION RECEIVED VIA E-MAIL/FAX

We are unable to accept/process an absentee ballot application received by fax or e-mail, please complete the enclosed blank absentee application and return to our office via the United States Postal Service.

MISSED ABSENTEE APPLICATION DEADLINE

The deadline for having a ballot mailed was 12:00 noon on 11/02/2019. You must go to your polling place on Election Day.

SIGNATURE MISSING/DISCREPANCY

- Your signature is missing on your application. Please **Sign, date and return**.
- There is a discrepancy with the signature on your application; it does not match our records. **Re-sign** the enclosed copy of your absentee application to update our records.

SIGNATURE STAMPED/POWER OF ATTORNEY

We are not permitted to accept absentee applications with stamped signatures and/or Power of Attorney signatures. The voter must make an "X" or a mark on the signature line and have the person who witnessed you make the mark put his/her signature and "witnessed by" under the signature line. Return your completed absentee application.

INCOMPLETE APPLICATION

The request you submitted for an absentee ballot is incomplete. Therefore, we are enclosing an Early Voting Application prescribed by the Ohio Secretary of State so that you may resubmit your completed application.

NO PARTY INDICATED

- Indicate the type of ballot you wish to vote and select only **one** of the following parties: **Democratic**, **Republican**, **Libertarian** or **Issues Only** (no candidates). **Sign, date and return**

INVALID PARTY CHOSEN

- Independent is **not** a valid party in the State of Ohio. If you do not wish to be affiliated with a particular party you may choose an Issues Only ballot which does not have any candidates. Valid party choices for this election are Democratic, Republican and Libertarian. **Sign, date and return**

MULTIPLE PARTIES CHOSEN

- You may only select only one party affiliation you would like to vote. Select only one of the following parties: Democratic, Republican, Libertarian or Issues Only (no candidates). **Sign, date and return**

DAMAGED APPLICATION

Your absentee application was damaged in transit. Complete the enclosed application using the postage paid envelope and return to our office.

CURRENT ELECTION NOT INDICATED

Your absentee application did not specify the date of the election in which you wish to vote. Add the date of the election and **Sign, date and return**.

REGISTRATION ISSUES

REGISTRATION DEADLINE MISSED

The registration deadline for the 2019 GENERAL ELECTION was 10/07/2019 at 9:00 pm. Voters who have not registered and/or updated their registration with name and/or address changes by this date will not be able to receive an absentee ballot in the mail. If you are currently a registered voter in Ohio, regardless of an address or name change, you may vote a provisional ballot at your designated polling location on Election Day or you may come to our office during early voting hours. To find your polling location for your current address, visit our website at elections.bcoho.us and select **Where do I vote?** Enter your new address. If you do not have access to the internet, please call (513) 887-3700 or (513) 424-0469 (Middletown area) for assistance.

NOT REGISTERED

We cannot confirm that you are registered in Butler County. Visit our website and update your registration online or complete the enclosed registration form. **Sign and date the copy of your absentee application and return both forms.**

NOT REGISTERED NAME

The name provided on your application does not match our records. Complete the enclosed registration form. **Sign and date the copy of your absentee application and return both forms.**

NOT REGISTERED ADDRESS

The address listed on your application does not match our records. Visit our website to update your address online or complete the enclosed registration form. **Sign and date the copy of your absentee application and return both forms.**

VOTER NOTIFICATION CARD RETURNED UNDELIVERABLE

We are unable to accept your absentee ballot request to vote by mail because your voter's notification of registration

Exhibit 5

From: [Wyandot](#)
To: [Nelson, Jack F](#)
Subject: RE: Public Records Request
Date: Wednesday, June 3, 2020 12:29:54 PM
Attachments: [November 8 2016 General Absentee Certification.pdf](#)
[March 17 2020 Primary Absentee Certification.pdf](#)
[November 8 2016 Official Provisional Certification.pdf](#)
[March 17 2020 Official Provisional Certification.pdf](#)

[EXTERNAL]

Dear Mr. Nelson,

I have attached our official certification for absentee and provisional ballots for both requested elections. This should give you the majority of the information you are seeking.

Please note our records indicate the last Primary Election as the March 17, 2020 Primary Election (not April 28, 2020 Primary Election) and I am assuming you are requesting the November 8, 2016 General Election and not the November 4, 2014 General Election (your request says November 4, 2016 General Election).

Wyandot County is a very small, rural county so if somebody does not have their signature on their application we contact them and have them come to our office to sign it. This is done by either phone or by letter. We do not have any official training on signature matching. We compare the signatures on their applications to the signatures in our voter registration database (we use PowerProfile). This is done by me, our Deputy Director, and two of our clerks.

During the cure period we mail out form 11-S as prescribed by the Ohio Secretary of State. As you can see we only had three provisional ballots and one absentee ballot that were not counted in the requested elections due to no signature. We did have one absentee voter that did return his form 11-S to us during the cure period for the March 17, 2020 Primary. We had no response from the others.

If you need any more information than provided please let me know and I will do my best to provide it.

Thank you and have a great day,

Jenise J. Derr
Director
Wyandot County Board of Elections
PH: 419-294-1226

From: Nelson, Jack F <jnelson@cov.com>
Sent: Monday, June 1, 2020 9:25 PM
To: Wyandot <Wyandot@OhioSOS.Gov>
Subject: Public Records Request

Good evening,

Please see the attached public records request.

Thank you,

John F. Nelson

Covington & Burling LLP
The New York Times Building, 620 Eighth Avenue
New York, NY 10018-1405
T +1 212 841 1107 | jnelson@cov.com
www.cov.com

COVINGTON

Exhibit 6

From: [Hardin](#)
To: [Nelson, Jack F](#)
Subject: RE: Public Records Request
Date: Friday, June 5, 2020 12:05:27 PM
Attachments: [ExhibitO.csv](#)
[ExhibitP.csv](#)
[ExhibitA.pdf](#)
[ExhibitB.pdf](#)
[ExhibitC.pdf](#)
[ExhibitD.pdf](#)
[ExhibitE.pdf](#)
[ExhibitF.pdf](#)
[ExhibitG.pdf](#)
[ExhibitH.pdf](#)
[ExhibitI.pdf](#)
[ExhibitJ.pdf](#)
[ExhibitK.pdf](#)
[ExhibitL.pdf](#)
[ExhibitM.csv](#)
[ExhibitN.pdf](#)

[EXTERNAL]

Mr. Nelson:

In response to your records request, our answers are in red:

1. Records Related to Absentee Ballot Applications

- a. Records reflecting the total number of absentee ballot applications mailed by your office to voters. **Our office does not and is not required to track the Absentee Ballot Applications mailed out by our office.**
- b. Records reflecting the total number of absentee ballot applications returned to your office by voters. **Our office does not and is not required to track whether the Absentee Ballot Applications are the ones we sent out or the ones the voter sent us on their own. The Absentee Ballot Applications we received are: 2020 Primary-3604, 2016 General-2112**
- c. Records reflecting the number of absentee ballot applications returned to your office with no signature. **2020 Primary-2, 2016 General-0**
 - i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot application was returned to your office with no signature. **The 2 voters for 2020 Primary is on Exhibit A, attached (the ones with no signatures are marked)**
 - ii. Records reflecting the number of no-signature absentee ballot applications that were cured before Election Day. **We have no way printing off a report for Absentee Ballot Applications we originally received that had a signature deficiency and then cured by the election, because if we got a correction, it is now recorded as sufficient**
 1. Records reflecting the voter record data, including name and contact information, for each such individual. **N/A**
 - iii. Records reflecting the number of no-signature absentee ballot applications still not cured by Election Day. **See Exhibit A attached**
 1. Records reflecting the voter data, including name and contact information, for each such individual. **See Exhibit A attached**
 - iv. Records reflecting the number of no-signature absentee ballot applicants who voted on Election Day **2020 Primary-0, 2016 General-0**; the number who voted

provisionally 2020 Primary-0, 2016 General-0; the number of their votes that were counted 2020 Primary-0, 2016 General-0; and the number of their votes that were not counted 2020 Primary-0, 2016 General-0.

1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted. N/A

d. Records reflecting the number of absentee ballot applications returned to your office with a signature mismatch. 2020 Primary-9, 2016 General-0

i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot application was returned to your office with a signature mismatch. 2020 Primary-See Exhibit A attached for 1 Absentee Ballot Application that it looks like the wife signed his name. Also see Exhibit B attached for the rest of the 8 voters, who were sent provisional ballots.

ii. Records reflecting the number of signature-mismatch absentee ballot applications that were cured before Election Day. 2020 Primary-0, because they were either contacted or sent provisionals.

1. Records reflecting the voter record data, including name and contact information, for each such individual. N/A

iii. Records reflecting the number of signature-mismatch absentee ballot applications still not cured by Election Day. 2020 Primary-1 (the one signed by his wife in Exhibit A)

1. Records reflecting the voter record data, including name and contact information, for each such individual. See Exhibit A Attached

iv. Records reflecting the number of signature-mismatch absentee ballot applicants who voted on Election Day 2020 Primary-0, 2016 General-0; the number who voted provisionally 2020 Primary-8-see Exhibit B attached, 2016 General-0; the number of their votes that were counted 2020 Primary-8 (see Exhibit B that all were "accepted", 2016 General N/A; and the number of their votes that were not counted. 0 for both elections

1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted (see Exhibit B)

e. Records reflecting any log or record maintained by your office of any rejected and/or returned absentee ballot applications. 2020 Primary-97, 2016 General-13

i. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot application was rejected or returned. 2020 Primary-see Attached Exhibits A (3-No signature), C(74-late), D(1-Mackenzie Phillips-no ID), E(17-No party), F(2-Not registered address), 2016 General-see Attached Exhibits G (4-Not registered address), H(2-DOB missing, I(2-no ID), J(5-late)

2. Records Related to Absentee Ballots

a. Records reflecting the total number of absentee ballots mailed by your office. 2020 Primary-3507-See Exhibit K, 2016 General-2099-See Exhibit L

b. Records reflecting the total number of absentee ballots returned to your office. 2020

Primary-See Exhibit K, 2016 General-See Exhibit L

c. Records reflecting the number of absentee ballots returned to your office on the last day for which a ballot would qualify to be counted. 2020 Primary-See Exhibit M, 2020 General-None, so there is no report

d. Records reflecting the number of absentee ballots returned with no signature. 2020 Primary-1-See Exhibit A, 2016 General-4-See Exhibit N-This is the only report we have reflecting how many were returned with no signature-in our system, all ballots not counted were only marked uncountable

i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot was returned to your office with no signature. 2020 Primary-See Exhibit A, 2016 General-no record-See Exhibit N

ii. Records reflecting the number of no-signature absentee ballots that were cured before Election Day. Our records would only show no-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

1. Records reflecting the voter record data, including name and contact information, for each such individual. Our records would only show no-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

iii. Records reflecting the number of no-signature absentee ballots still not cured by Election Day. 2020 Primary-1-See Exhibit A, 2016 General-4-See Exhibit N-This is the only report we have reflecting how many were returned with no signature-in our system, all ballots not counted were only marked uncountable

1. Records reflecting the voter record data, including name and contact information, for each such individual. 2020 Primary-1-See Exhibit A, 2016 General-4-See Exhibit N-This is the only report we have reflecting how many were returned with no signature-in our system, all ballots not counted were only marked uncountable

iv. Records reflecting the number of no-signature absentee ballots that were cured after Election Day. Our records would only show no-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

1. Records reflecting the voter record data, including name and contact information, for each such individual. Our records would only show no-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

v. Records reflecting the number of no-signature absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted. 2020 Primary-No voters who did not sign their absentee ID envelope voted on Election Day in any way, 2016 General- No voters who did not sign their absentee ID envelope voted on Election Day in any way

1. Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot voter who voted on Election Day; who voted provisionally; whose vote was counted; and whose

vote was not counted. N/A

e. Records reflecting the number of absentee ballots returned with a signature mismatch.

2020 Primary-1-See Exhibit A, 2016 General-1-See Exhibit N-This is the only report we have reflecting how many were returned with mismatched signature-in our system, all ballots not counted were only marked uncountable

i. Records reflecting the voter record data, including name and contact information, for each individual whose absentee ballot was returned to your office with a signature mismatch. 2020 Primary-1-See Exhibit A, 2016 General-1-See Exhibit N- This is the only report we have reflecting how many were returned with mismatched signature-in our system, all ballots not counted were only marked uncountable

ii. Records reflecting the number of signature-mismatch absentee ballots that were cured before Election Day. Our records would only show mismatched-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

1. Records reflecting the voter record data, including name and contact information, for each such individual. Our records would only show mismatched-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

iii. Records reflecting the number of signature-mismatch absentee ballots still not cured by Election Day. Our records would only show mismatched-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

1. Records reflecting the voter record data, including name and contact information, for each such individual. Our records would only show mismatched-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

iv. Records reflecting the number of signature-mismatch absentee ballots that were cured after Election Day. Our records would only show mismatched-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

1. Records reflecting the voter record data, including name and contact information, for each such individual. Our records would only show mismatched-signature, if they were never cured. We have no way of knowing which ones were deficient prior to marking them sufficient.

v. Records reflecting the number of signature-mismatch absentee ballot voters who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.

2020 Primary-No voters who had a mismatched signature on their absentee ID envelope voted on Election Day in any way, 2016 General- No voters who had a mismatched signature on their absentee ID envelope voted on Election Day in any way

1. Records reflecting the voter data, including name and contact information, for each signature-mismatch absentee ballot voter who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.

2020 Primary-No voters who had a mismatched signature on their absentee ID

envelope voted on Election Day in any way, 2016 General- No voters who had a mismatched signature on their absentee ID envelope voted on Election Day in any way

f. Records reflecting any log or record maintained by your office of any rejected and/or returned absentee ballots. 2020 Primary-See Exhibit K, 2016 General-See Exhibit L

i. Records reflecting the voter data, including name and contact information, for each voter whose absentee ballot was rejected or returned. 2020 Primary-See Exhibit O, 2016 General-See Exhibit P

3. Records Related to Signature Matching

a. Records reflecting any policies or procedures regarding the matching of signatures on absentee ballot applications and absentee ballots, and how any such policies or procedures were promulgated. Our Board of Elections does not have wording in any of our policies that talks about matching of signatures. The Ohio Secretary of State Election Official Manual (https://www.ohiosos.gov/globalassets/elections/directives/2019/eom_12-2019/eom_ch5_2019-12-18.pdf) beginning on page 5-30 shows the information provided by them on guidance with signatures. Of course, if the signature is printed, we first must see if a printed signature is the signature on file for the voter—otherwise it is not a match. If there is a signature in question, as to whether it matches the signature on file, all staff reviews the signature and a general consensus is formed. If a decision is still unable to be made by the staff, it is presented to the Board for review.

b. Records reflecting any training that your office conducted or participated in regarding the matching of signatures on absentee ballot applications and absentee ballots. No training and therefore no records to reflect it.

c. Records reflecting the qualifications of each person in your office who conducted signature matching for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election and/or the November 4, 2016 General Election. No such records exist.

d. Records reflecting the equipment and materials used by each person in your office to conduct signature matching for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election and/or the November 3, 2016 General Election. No such records, and/or equipment and materials exist.

4. Records Related to Notice

a. Records reflecting any policies or procedures regarding how notice is provided to voters with signature issues related to their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated. Our Board of Elections does not have wording in any of our policies that talks about such notices to voters. As required by the Ohio Secretary of State in the Election Official Manual in Chapter 5 (https://www.ohiosos.gov/globalassets/elections/directives/2019/eom_12-2019/eom_ch5_2019-12-18.pdf) beginning on page 5-30, we send an 11-S form to be completed by the voter.

b. Records reflecting any method(s) by which your office contacted voters affected by signature-related issues with their absentee ballot applications or absentee ballots. As required by the Ohio Secretary of State in the Election Official Manual in Chapter 5 (https://www.ohiosos.gov/globalassets/elections/directives/2019/eom_12-2019/eom_ch5_2019-12-18.pdf) beginning on page 5-30, we send an 11-S form to be

completed by the voter.

c. Records reflecting any communications with voters regarding signature related issues with their absentee ballot applications or absentee ballots. No tracking of 11-S forms sent to voters is currently done in our system

5. Records Related to Curing Signature Issues

a. Records reflecting any policies or procedures regarding the ability of voters to cure signature-related issues with their absentee ballot applications or absentee ballots, and how any such policies or procedures were promulgated. As required by the Ohio Secretary of State in the Election Official Manual in Chapter 5

(https://www.ohiosos.gov/globalassets/elections/directives/2019/eom_12-2019/eom_ch5_2019-12-18.pdf) beginning on page 5-30, we send an 11-S form to be completed by the voter.

Sincerely,

Becky L. Stevenson

Director
Hardin County Board of Elections
One Courthouse Square, Suite 40
Kenton, OH 43326
Phone: 419.674.2211

From: Nelson, Jack F <jnelson@cov.com>

Sent: Monday, June 1, 2020 8:56 PM

To: Hardin <Hardin@OhioSOS.Gov>

Subject: Public Records Request

Good evening,

Please see the attached public records request.

Thank you,

John F. Nelson

Covington & Burling LLP
The New York Times Building, 620 Eighth Avenue
New York, NY 10018-1405
T +1 212 841 1107 | jnelson@cov.com
www.cov.com

COVINGTON

Exhibit 7

From: [Saadey, Anthony](#)
To: [Nelson, Jack F](#)
Cc: [Herron, Karla](#); [Fowler, Mark](#)
Subject: Re: Public Records Request
Date: Friday, June 26, 2020 9:16:11 AM
Attachments: [Covington Record Request.pdf](#)
[Covington Records Request Delaware County Responses.pdf](#)

EXTERNAL

Mr. Nelson,

Please find the attached PDF for the responses to your records request. This should complete your June 1, 2020 records request to our Board.

Thank you,

Anthony P. Saadey
Deputy Director
Delaware County Board of Elections
PH (740) 833-2082
asaadey@co.delaware.oh.us

DISCLAIMER NOTICE

This e-mail, together with any attachments or files transmitted with it, may contain confidential information belonging to the sender, or constitute non-public information that is not subject to disclosure under O.R.C. Section 149.43, Ohio's Public Records Act.

Additionally, if the sender is an employee of the Delaware County, Ohio Prosecuting Attorney's Office, this e-mail, together with any attachments or files transmitted with it, may contain information that is protected by the attorney-client privilege or other applicable privileges. The information in this e-mail is intended solely for the use of the individual or entity to whom it is addressed. If you are not the named addressee, you should not disseminate, distribute, or copy this e-mail. If you have received this e-mail in error, please immediately notify the sender by e-mail and delete this e-mail from your system. If you are not the intended recipient, do not disclose, copy, distribute, or re-distribute this e-mail or take any action in reliance on the contents of the information contained in this e-mail. Nothing contained in this disclaimer notice by itself exempts, nor should it be interpreted to by itself exempt, this e-mail from disclosure as a public record upon the proper submission of a request for public records pursuant to O.R.C. Section 149.43, Ohio's Public Records Act.

1) Records related to Absentee Ballot Applications:

- a. We do not track the number of absentee ballot applications mailed by our office. We have no records responsive to this request.
- b. Because we do not track the number of incomplete absentee ballot applications received, we have no records responsive to this request. The number of valid requests can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
- c. Records reflecting the number of absentee ballot applications returned to our office with no signature.
(Applications are not entered into our system until voter supplies our office with their signature. Once an application is cured by the voter, the application becomes a valid request. Because we cannot enter invalid applications, our system cannot track how many are cured or how many are not.)
 - i. We have no records responsive to this request. See above under 1.c.
 - ii. We have no records responsive to this request. See above under 1.c.
 1. We have no records responsive to this request. See above under 1.c.
 - iii. We have no records responsive to this request. See above under 1.c.
 1. We have no records responsive to this request. See above under 1.c.
 - iv. We have no records responsive to this request. See above under 1.c. However, provisional ballots were sent, in accordance with Secretary of State Directive 2020-07, to all voters who sent in an absentee request with a missing signature for the April 28th Primary.
 1. We have no records responsive to this request. See above under 1.c.
- d. Records reflecting the number of absentee ballot applications returned to your office with a signature mismatch.
 - i. We have no records responsive to this request. See above under 1.c.
 - ii. We have no records responsive to this request. See above under 1.c.
 1. We have no records responsive to this request. See above under 1.c.
 - iii. We have no records responsive to this request. See above under 1.c.
 1. We have no records responsive to this request. See above under 1.c.
 - iv. We have no records responsive to this request. See above under 1.c. However, provisional ballots were sent, in accordance with Secretary of State Directive 2020-07, to all voters who sent in an absentee request with a non-matching signature for the April 28th Primary.
 1. We have no records responsive to this request. See above under 1.c.
- e. Records reflecting any log or record maintained by your office of any rejected and/or returned absentee ballot applications.
 - i. We have no records responsive to this request. See above under 1.c.

2) Records Related to Absentee Ballots

- a. Total number of absentee ballots mailed by our office can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
- b. Total number of absentee ballots returned to our office can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>

- c. Total number of absentee ballots returned to our office on the last day for which it would qualify to be counted can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
 - d. Records reflecting the number of absentee ballots returned with no signature.
 - i. Records for each individual whose ballot was returned to our office with no signature can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
 - ii. Records reflecting the number of no-signature absentee ballots that were cured before Election Day.
Once a ballot is cured by the voter, it is changed in our system to countable. Our system does not track how many ballots are cured. We have no records responsive to this request.
 - 1. We have no records responsive to this request. See above.
 - iii. Records reflecting the number of no-signature absentee ballots still not cured by Election Day can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
 - 1. Records reflecting the voter data for each such individual can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
 - iv. We have no records responsive to this request. See above, under 2.d.ii.
 - 1. We have no records responsive to this request. See above, under 2.d.ii.
 - v. We have no records responsive to this request.
 - 1. We have no records responsive to this request.
 - e. Records reflecting the number of absentee ballots returned with a signature mismatch.
 - i. Records reflecting the voter data for each individual whose ballot was returned to our office with a signature mismatch can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
 - ii. We have no records responsive to this request. See above, under 2.d.ii.
 - 1. We have no records responsive to this request. See above, under 2.d.ii.
 - iii. Records reflecting the number of absentee ballots with a signature mismatch still not cured by Election Day can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
 - 1. Records reflecting the voter data for each such individual can be found on our website:
<https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
 - iv. We have no records responsive to this request. See above, under 2.d.ii.
 - 1. We have no records responsive to this request. See above, under 2.d.ii.
 - v. We have no records responsive to this request.
 - 1. We have no records responsive to this request.
 - f. Records reflecting any log or record maintained by our office of any rejected and/or returned absentee ballots.
 - i. Records reflecting the voter data for each such individual can be found on our website: <https://lookup.boe.ohio.gov/vtrapp/delaware/avreport.aspx>
- 3) Records Related to Signature Matching

- a. We follow the guidelines laid out in Ohio's Election Official Manual (https://www.sos.state.oh.us/globalassets/elections/directives/2019/eom_12-2019/eom_fullversion_2019-12-18.pdf) and any Secretary of State Directives that we receive. All signatures are reviewed by both a Republican and Democrat before the application or ballot is processed. All records that we have on file are reviewed to give the voter as much opportunity as we can provide for their application or ballot to be processed.
 - b. We have no records responsive to this request. Most of our staff has 5 years of experience checking signatures at the very least, while other staff members have over 20 years of experience. New employees are trained by the experienced staff.
 - c. We have no records responsive to this request. Our office consists entirely of sworn in Election Officials who have garnered much experience throughout the years. As stated in 3.a, each signature is reviewed by a bipartisan team and any non-matching signatures are then reviewed by a manager, both Directors and finally, our four Board Members by vote at a public meeting before a ballot is not counted due to a signature mismatch.
 - d. We have no records responsive to this request. All signatures are matched by hand in a bipartisan fashion. Materials consist of our Election Official Manual, any Directives laid out by the Secretary of State and our Voter Registration Database which contains anything that the voter may have signed for our office.
- 4) Records Related to Notice
- a. Notices are provided to voters with signature issues in accordance with Ohio's Election Official Manual (https://www.sos.state.oh.us/globalassets/elections/directives/2019/eom_12-2019/eom_fullversion_2019-12-18.pdf) and any Directives that may accompany it.
 - b. See 4.a.
 - c. We have no records responsive to this request.
- 5) Records Related to Curing Signature Issues
- a. The voter's ability to cure signature-related issues is laid out in Ohio's Election Official Manual (https://www.sos.state.oh.us/globalassets/elections/directives/2019/eom_12-2019/eom_fullversion_2019-12-18.pdf).

Exhibit 8

From: Dinha Malone <DMalone@BrownCountyOhio.gov>
Sent: Friday, June 12, 2020 8:36 AM
To: Nelson, Jack F
Cc: Bethany Phillips; Connie Ayers
Subject: FW: Public Records Request
Attachments: 11-s.pdf; 12-A identification envelope.pdf; 12-h provisional ballot notice.pdf; 2016 late return.pdf; 2016 missing id info.pdf; 2016 no id envelope.pdf; 2016 no signature.pdf; 2016 not received back into office.pdf; 2016 rejected provisional ballots.pdf; 2016 signature does not match.pdf; 2020 primary ballot statistic.pdf; absentee application.pdf; absentee ballot applications returned.pdf; ballots returned with a signature mismatch.pdf; Absentee_Request_11-A.pdf; ballots returned with no signature.pdf; boe@browncountyohio.gov_20200605_130054.pdf; boe@browncountyohio.gov_20200605_130122.pdf; boe@browncountyohio.gov_20200605_130149.pdf; boe@browncountyohio.gov_20200605_130204.pdf; boe@browncountyohio.gov_20200605_153112.pdf; boe@browncountyohio.gov_20200605_153154.pdf; Rejected or returned absentee ballot application.pdf; form 12-1 instructions.pdf; absentee file IN OFFICE.csv; absentee file.csv; ABSENTEE BALLOT APPLICATIONS RETURNED.docx; Covington.docx

[EXTERNAL]

Good Afternoon,

Please find attached the requested information. I apologize for the delay in getting back with you. If you have any questions, please let me know.

Have a blessed day!



Dinha Malone
Elections Clerk
Brown County Board of Elections
Administration Building
800 Mt Orab Pike, Suite 111
Georgetown OH 45121
(937)378-3008

June 5, 2020

Covington & Burling LLP
The New York Times Building
620 Eighth Avenue
New York NY 10018-1405
John F Nelson

RE: Public Records Request

Dear Mr. Nelson,

Please find attached the requested records.

1. Applications

- a. We do not track the number of absentee ballot applications mailed to the voters
- b. Attached-absentee ballot applications returned to our office
- c. Attached-absentee ballot applications returned with no signature
 - i. Attached
 - ii. Attached
 - iii. Attached
 - iv. n/a
- d. We do not record the number of signature mismatch applications received prior to the correction
 - i. Attached
 - ii. Attached
 - iii. Attached
 - iv. n/a
- e. attached

2. Ballots

- a. Attached
- b. Attached
- c. Check with Bethany
- d. Attached
 - i. Attached
 - ii. Attached
 - iii. Attached
 - iv. n/a

- v. n/a
 - e. Signature mismatch
 - 1. N/A
 - 2. N/A
 - 3. N/A
 - 4. N/A
 - 5. N/A
 - f. Attached
- 3. Signature matching
 - a. Our office matches signature by eye. The clerk compares the current signature with previous signatures received from the voter. If the clerk is unable to verify that the signature is legit, the deputy director and director will then check the signature. At that point, if the signature is still unable to be verified, the Board will then make the decision if it is legit.
 - b. n/a
 - c. n/a
 - d. n/a
- 4. Records related to Notice
 - a. attached
 - b. attached
 - c. attached
- 5. Records Relating to Curing Signature Issues
 - a. Attached

The forms from 2016 has since changed and we do not have a blank copy on file.

Exhibit 9

From: [Nicole](#)
To: [Nelson, Jack F](#)
Subject: RE: Public Records Request
Date: Thursday, June 18, 2020 5:52:03 PM
Attachments: [2016 UNCOUNTABLE.pdf](#)
[2020 Sig Issue.pdf](#)
[2016 Signature Issue.pdf](#)
[2020 UNCOUNTABLES.pdf](#)
[2016 LAST DAY.pdf](#)
[ABSENTEE TOTALS 2020p.pdf](#)
[ABSENTEE TOTALS 2016.pdf](#)

[EXTERNAL]

Good Afternoon Mr. Nelson,

I am attaching several reports for 2016 and 2020 that should answer several of the questions you are asking. I will do my best to go through your entire request and explain which report goes with which specific question and if there is no record for a question I will explain that as well.

1 a. We do not specifically track the number of requests that we send out. We do a physical hand count everyday of all mail going out but there may other mail mixed in. Those counts also would not take into account if we put more than one absentee request in a envelope. These totals are recorded in our handwritten log but it is not tracked by our absentee system and there is not a report already created to fulfill this request.

1 b. The first column of the Absentee Totals reports titled Num Req is the number of requests we received in our office.

1 c - d. On the Absentee Totals Report the column header Sig indicated how many requests had a signature issue, but we do not have the ability to distinguish here between No Signature or No Matching Signature. Both of them are categorized as signature issue. The 2016 Absentee Totals report does not list out the application issues but there were two for 2016 and 2020 which you can see by looking at the Sig Issue report for each respective year.

1 e. We do not log or record all rejected and or returned absentee ballot applications we receive in our Absentee tracking system. However, we do collect and keep all of those applications in a separate folder. As voters return a corrected application we pull the rejected apps and match them with the corrected. They are then filed with all the other accepted and processed applications. I could potentially scan in those applications and email them to you if that would help fulfill this specific request.

2 a. Absentee Totals, Column 2 – Num Sent tabulates the number of Absentee ballots sent or handed out by our office and breaks down the method in which they were distributed. In office is how voters who did In-Person Early voting would be categorized, these voters do not have a physical absentee application as we use a Absentee Fast Check in system for in office voting. Hand Carry means these voters came into our office to submit their application in person and then took their ballot with them to complete at home. This option was not available during the extension of the 2020 Primary. Nursing home voters have their ballots taken to their nursing home and they are assisted by our board members if they so choose.

2 b. Absentee Totals, Column 3 – Num Recv would be the number of ballots we received in our office.

2 c. In 2020 we did not receive any ballots on the last day to receive but there was one in 2016 which I have included the report titled 2016 Last Day

2 d – e. In 2020 we had no signature issues with returned ballots. In 2016 there were 2 No Signature Match which you can see on the 2016 Uncountable Report. This directly reflects the number of signature issues we had that were not resolved before, on or after election day during the 7 day cure period. Initially there may have been more signature issues but those voters would have been sent an 11-s form letting them know of the issue. Once they sent those back in the received method for those voters would have changed from S – No Signature Match to M – Mail or H – Hand carry.

2 f. A report for both 2016 and 2020 has been provided with a list of all voters with rejected or, as we refer to them, uncountable ballots. Please see the last page of 2020 Uncountable report for a list of the Issued and Received codes and their meaning.

3. We do not have recorded policy or procedures for matching signatures. However, as an office we all understand that we are not signature/ handwriting experts and that there are many factors which could play a part in altering a persons signature. We look for similarities between what we have on record and what had been provided to us. If we can see some similarities in the two signatures even if there are other obvious differences we accept the signature. An example of this would be my M in Mickley is almost always the same or very similar, what comes after may vary depending on how much of a rush I am in, but 99% of the time someone should be able to look at two of my signatures and see that similarity. If we have questions or do not feel confident one way or the other then we call on other members of our team to weigh in. No ballot or application is ever marked as having a signature issue without first consulting with at least one other member of our team.

4. Again while we do not have a recorded or written policy specific to our office on how we communicate issues to the voter we have specific procedures that we are all taught and follow. If the issue is with the Absentee Ballot Request Application we first attempt to contact the voter by phone if we have a working number. If we can we resolve the issue over the phone and send their ballot out with a new application for them to fill out and send back so that we have a correct and complete copy on file. If we are unable contact the voter by phone or if it is an issue that we must receive a corrected application for before sending a ballot then we mail the voter a letter explaining the issue along with a new application for them to fill out and send back. If the issue is with the ballot then then voter is sent an 11-s form that explains what the issue with their Identification Envelope was and what information we need to process their ballot. If we are nearing the deadline for accepting ballots then we will attempt to call the voter if we have contact information to see if they are willing or able to come in and fix the issue in our office so as to avoid the delay that comes with using the mail.

5. Our office follows all Ohio Secretary of State directives and Advisories in the policy and procedure regarding the ability of voters to cure signature related issues.

I hope that the information I have provided is sufficient in answering your request. I will be out of the office until July 1st but if there is anything else I can help you with or anything you need clarification on I would be happy to help you upon my return.

Thank you for your interest in the Absentee Voting Process and for protecting voters rights.

Sincerely,

Nicole R Mickley

Deputy Director

Carroll County Board of Elections

119 S. Lisbon St., Suite 102

Carrollton, OH 44615

Phone: 330-627-2610

Fax: 330-627-5387

nmickley@carrollcountyohioelections.gov

This message and its contents are confidential. If you received this message in error, do not use or rely upon it. Instead, please inform the sender and then delete it. Thank you.

From: Nelson, Jack F <jnelson@cov.com>

Sent: Monday, June 1, 2020 8:44 PM

To: Carroll <Carroll@OhioSOS.Gov>

Subject: Public Records Request

Good evening,

Please see the attached public records request.

Thank you,

John F. Nelson

Covington & Burling LLP

The New York Times Building, 620 Eighth Avenue

New York, NY 10018-1405

T +1 212 841 1107 | jnelson@cov.com

www.cov.com

COVINGTON

Exhibit 10

From: Coshocton <COSHECTO@OhioSOS.Gov>
Sent: Thursday, July 9, 2020 3:36 PM
To: Nelson, Jack F
Subject: Re: Public Records Request
Attachments: Absentee Report.pdf; Absentee Survey 9.pdf

EXTERNAL

Good Afternoon,

In response to your attached records request:

1. Records Related to Absentee Ballot Applications:
 - a. Not tracked
 - b. See attached Absentee Survey and Report
 - c. Not tracked
 - d. Not tracked
 - e. Not tracked
2. Records Related to Absentee Ballots:
 - a. See attached Absentee Survey and Report
 - b. See attached Absentee Survey and Report
 - c. This information can be found on our website at <https://lookup.boe.ohio.gov/vtrapp/coshocton/avreport.aspx>
 - d. Section iii information, see attached report. Of the 10 ballots listed, 4 had a missing form of ID, 5 were missing a signature, 1 was completely blank. I do not have a report that provides the voters names and contact information. Others, not tracked.
 - e. Not tracked
3. Records Related to Signature Matching:
 - a. Policies and procedures regarding signature matching are contained in Chapter 5 of the Ohio Election Official Manual which can be found on the Ohio Secretary of State's website.
 - b. There is no specific training that covers the matching of signatures.
 - c. Our office consists of two full time employees, the Director and Deputy Director. Upon appointment to these positions, it is required that the appointee attend and complete the New Election Official Training Program, which is provide by the Ohio Secretary of State's office. Employees must then receive continuing education which is provided in the form of conference sessions and webinars, a minimum of 8 credits is required per year. The Ohio Secretary of State's office determines what constitutes a credit. The Director and Deputy Director of the Coshocton County Board of Elections are both Ohio Registered Election Officials and members of the Ohio Association of Election Officials.
 - d. Signatures on Absentee Ballot applications are matched with the digitally scanned signature on file in the Voter's registration record. Coshocton County utilizes TRIAD Governmental Systems, Inc. for the management of its voter registration data.
4. Records related to notice:
 - a. These procedures are covered in Chapter 5 of the Ohio Election Official Manual, specifically Sections 1.05 and 10.6, which can be found on the Ohio Secretary of State's website.

- b. Not tracked
- c. Not tracked
- 5. Records related to Curing Signature Issues:
 - a. These procedures are covered in Chapter 5 of the Ohio Election Official Manual, which can be found on the Ohio Secretary of State's website.

I believe I have addressed all questions that I have data for; if I have missed anything or you have any issues with the attached reports, please let me know. Thank you.

Kirsten Ross
Deputy Director
Coshocton Co. Board of Elections
kross@coshocton.boe.ohio.gov
(740) 622-1117

From: Nelson, Jack F <jnelson@cov.com>
Sent: Monday, June 1, 2020 8:46 PM
To: Coshocton <COSHOCTO@OhioSOS.Gov>
Subject: Public Records Request

Good evening,

Please see the attached public records request.

Thank you,

John F. Nelson

Covington & Burling LLP
The New York Times Building, 620 Eighth Avenue
New York, NY 10018-1405
T +1 212 841 1107 | jnelson@cov.com
www.cov.com

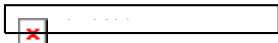


Exhibit 11

From: [Knox](#)
To: [Nelson, Jack F](#)
Subject: Re: Public Records Request
Date: Monday, June 8, 2020 1:59:05 PM
Attachments: [06082020125559.pdf](#)
[06082020125533.pdf](#)

[EXTERNAL]

Mr. Nelson,

We actually do not track deficient absentee applications.

Other than we send the applicant a letter and a copy of the deficient app.

We hold the application until correction is mailed back.

Kim Horn, Director
Knox County Board of Elections
104 E. Sugar St.
Mount Vernon, Oh. 43050
740 393 6715

From: Nelson, Jack F <jnelson@cov.com>
Sent: Monday, June 1, 2020 9:00 PM
To: Knox <Knox@OhioSOS.Gov>
Subject: Public Records Request

Good evening,

Please see the attached public records request.

Thank you,

John F. Nelson

Covington & Burling LLP
The New York Times Building, 620 Eighth Avenue
New York, NY 10018-1405
T +1 212 841 1107 | jnelson@cov.com
www.cov.com

COVINGTON

Exhibit 12



**BOARD of ELECTIONS
RICHLAND COUNTY, OHIO**



**1495 W. LONGVIEW AVE, SUITE 101
MANSFIELD, OHIO 44906**

OFFICIALS:

PAULETTE HANKINS.....DIRECTOR
JANE ZIMMERMANN.....DEPUTY DIRECTOR

Telephone: 419-774-5530
FAX Number: 419-774-5534

www.richlandcountyoh.us/boe
boardofelections@richlandcountyoh.us

BOARD MEMBERS:

WILLIAM R. FREYTAG.....CHAIRMAN
JOSEPH H. MUDRA.....MEMBER
LYDIA J. REID.....MEMBER
KAREN J. BROWNING.....MEMBER

June 9, 2020

John Nelson
Covington & Burling, LLP
The New York times Building
620 Eighth Ave
New Your, NY 10018-1405

In response to your Public Records Request please find enclosed the information you requested regarding the records for both the March 17, 2020 Primary Election and the November 8, 2016 General Election in Richland County, Ohio.

PLEASE NOTE: Ohio's 2020 Primary was converted to Mail Only Election. In-person early voting concluded on March 16, 2020. Voters had until April 28, 2020 to return absentee ballots. In-person voting on April 28th was extremely limited to a certain category of voters –disabled voters, voters with no residential address or voters who had applied for an absentee ballot but did not receive ballot by April 28th.

It is very important to note that a Voter's Application information is only entered into our database once a completed absentee ballot application is returned to our office by the voter. Any Applications received with missing information were immediately dealt with by contacting the voter via mail, email and/or phone. Voters have multiple choices as to how to obtain an application. In addition to BOE mailing applications voters may obtain an application from libraries, schools, print offline, printed in a newspaper, social service agencies, political organizations, BOE websites, handwritten requests to name a few.

As to the Signature Mismatch records requests for applications and/or ballots, every effort is made by the staff to address any question of signature immediately by contacting voter to clarify any concerns before anything is entered/processed to ensure the voter's application / ballot is verified and counted. The category of 'mismatch' is not a statistic that occurs at a high rate.

With regards to the March 2020 Primary, for example, far more problematic with processing a voter's application was the missing Party on the ballot request information. Out of 133 problem applications, as of April 28, 2020:

*16 were missing signatures and were contacted and never supplied their signature,
18 did not want a party ballot & did not qualify for an issues- only,
1 signed as POA and was not the attorney on file in our office,
98 neglected to fill in which party ballot they chose or did not qualify for an issues-only ballot.
Our office contacted the voter and they never responded to our office.*

1. ABSENTEE BALLOT APPLICATIONS

Absentee Ballot Applications mailed out of our office:

2020 Primary over 15,700 applications were mailed. (Since Applications mailed is not a statistic that is required to be kept track of, the number was calculated based off of ballots issued, late applications, duplicate requests and applications with missing information. Absentee Applications can be issued to voters at any time.)
2016 General approximately 9500 applications were issued

Absentee Ballot Applications returned:

2020 15634 returned (includes 395 late apps)
2016 9323 returned

Absentee ballot applications returned to our office with no signature.

2020 no signature apps = 40 24 cured before Election Day
2016 no signature apps = 7 2 cured before Election Day

(See enclosed roster of Absentee Ballot Applications with no signature for March 2020)

Records reflecting the number of no-signature absentee ballot applicants who voted on Election Day; the number who voted provisionally; the number of their votes that were counted; and the number of their votes that were not counted.

No records for 2020 & 2016 reflecting no-signature absentee ballot applicants who voted on Election Day.

Records reflecting the voter data, including name and contact information, for each no-signature absentee ballot applicant who voted on Election Day; who voted provisionally; whose vote was counted; and whose vote was not counted.

N/A

Records reflecting Signature mismatch.

No records for 2020 & 2016 reflecting Signature mismatch.

2. ABSENTEE BALLOTS

Total number Absentee Ballots mailed:

2016 9323
2020 15106

Total number of Absentee Ballots that were mailed returned:

2016 6673
2020 13883

Total number Absentee Ballots returned with no Signature:

2016 11
2020 4

(See enclosed roster of voters with no signature absentee ballots for 11/2016 and 03/2020)

No signature Absentee Ballot Voters who voted on Election Day.

None in 2020

Records reflecting the number of absentee ballots returned with a signature mismatch.

No records reflecting any mismatch for 2016 or 2020

3. Records Related to Signature Matching

Policy & procedures for processing absentee applications and absentee ballots are outlined in the Ohio Secretary of State's Election Official's Manual Chapter 5: Absentee Voting. In addition to the Ohio SOS Election Official Manual BOE staff also participates in ongoing educational seminars/webinars conducted by the Ohio SOS office.

Richland County's Voter Registration Database captures the voter's signature as a part of the permanent registration information and has the ability over the years to store many versions of the voter's signature as it matures. Again, as mentioned previously, any question of 'mismatch' is addressed as soon as possible to ensure voter's application / ballot is processed by contacting the voter.

Records reflecting the equipment and materials used by each person in your office to conduct signature matching for ballot applications and/or absentee ballots for either the April 28, 2020 Primary Election and/or the November 3, 2016 General Election.

Staff utilized the voter registration database – ES&S DIMs Voter Registration System -with the voter's Signature(s) on file and the Ohio Secretary of State Voter Database for processing Absentee Applications and Ballots.

4 & 5 Records Related to Notice and Curing Signature Issues

In addition to the above mentioned vehicles, any issues with a voter's signature were addressed by sending Ohio Secretary of State's Form 11-S.

Please address any questions or concerns to our office.

Sincerely,



Jane Zimmermann, Deputy Director
Richland County Board of Elections

encl.

Exhibit 13

BEFORE THE BOARD OF VOTING MACHINE EXAMINERS

- - -

PROCEEDINGS

before the Board of Voting Machine Examiners, at the
Secretary of State's Office, Continental Plaza, 180
East Broad Street, 15th and 17th Floors, Columbus,
Ohio, called at 10:00 a.m. on Friday, June 12, 2020.

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481

- - -

PRESENT:

BOARD OF VOTING MACHINE EXAMINERS:

Jeffrey A. Matthews, Chairman
Anthony Perlatti, Member
Edward Leonard, Member
Shawn Stevens, Member

SECRETARY OF STATE:

Frank LaRose

SECRETARY OF STATE STAFF:

Matthew Tlachac, Elections Administrator.
Jeff Hobday, Senior Elections Counsel.
Amanda Grandjean, Director of Elections.
Spencer Wood, Chief Information Officer.

- - -

Friday Morning Session,
June 12, 2020.

- - -

CHAIRMAN MATTHEWS: Good morning. It is
10:03 a.m. on June 12, 2020. And I would like to
call this meeting to order of the Board of Voting
Machine Examiners of Ohio. This meeting has been
properly noticed. So we do have a quorum present.

Is there any unfinished business to come
before this Board?

Hearing none, we will move on to new
business. We have a review of the Hart InterCivic
Verity 2.4 Voting System, a modification to the
certified Verity 2.3 Voting System.

And if you could announce yourself and
who will be presenting today.

MR. GOSCH: I am Tyson Gosch with Hart
InterCivic. I work with the certification department
with the states getting the system certified.

CHAIRMAN MATTHEWS: Okay. Would you like
to give us an overview of the modifications, the
system itself.

MR. GOSCH: I have got a little
presentation. It goes over the system and the
changes from 2.3 to 2.4. So we will kind of go over

1 just some highlights of the company and the
2 certification status in other places where this is
3 also being certified, talk a little bit about our
4 security highlights, our system overview, kind of
5 what each device that you see up here does and each
6 piece of software, and then I will go into the change
7 from 2.3 to 2.4.

8 This is just a little overview of where
9 we are -- I hope I am not standing in front of
10 anybody but a little bit of an overview where we are
11 at across the United States, two statewide
12 implementations in Oklahoma and Hawaii.

13 So our federal certifications began back
14 in 2015 all the way up to just this year with the
15 version you are seeing today, which is the EAC
16 certified, became certified on the 21st of February
17 of this year. There's just a list of state
18 certifications briefly of other versions. And then
19 the version you are going to see today is currently
20 certified in Tennessee, Michigan, and Kentucky;
21 ongoing certifications in Texas and Ohio. We are
22 also taking it into Indiana, Oregon, Washington,
23 other states as we speak so.

24 So some brief security highlights. This
25 is all stuff that was presented in 2.3. None of this

1 has changed. There's a -- this is device security so
2 the devices are what you see here, the white cases.
3 They all have keyed locks, tamper seals, nonstandard
4 ports so nothing can be plugged into it, data
5 backups, custody procedures that everybody is trained
6 on as far as getting these out to the locations. And
7 then, of course, they don't connect to the internet
8 in any way, wireless or wire.

9 The software security, that would be on
10 the workstations you see over here on the sidewall.
11 Again, no internet connectivity to these. They can't
12 be accessed by anyone, by Hart or anyone else. They
13 run only in kiosk mode, so you can only access the
14 Verity software. The operating system in the
15 background that's running is non-accessible to the
16 user unless there's troubleshooting going on; in
17 which case they would be in contact with our support
18 team.

19 Brief overview of our software. We
20 have -- and we have all that set up here as well.
21 Data and build is where we create the election, is
22 where you enter all the election information. The
23 candidates and polling locations, all that
24 information goes into data.

25 Once all that's been proofed and verified

1 that it's correct, it moves over to build which is
2 the software that outputs ballots or any electronic
3 media that's going to go with the devices to the
4 polling location.

5 And then once it gets in a build -- or
6 out of build, again it gives you your paper ballots,
7 goes to the polling locations, the ballots get voted
8 and scanned. What we call the vDrive or USB device
9 inside the unit that's secure comes back to central
10 location and it goes into our tabulation software.
11 That's count, called count. And it takes the casted
12 vote records and tabulates them and prints reports.

13 So kind of went over what each one of
14 these does but this is your ballot layout,
15 customizable templates, stuff like that. Give you
16 some screenshots what it looks like when you are in
17 the user interface.

18 Build is the same thing. You can look at
19 what your reports are going to look like. You are
20 going to look at exactly what your ballots are going
21 to look like on the screen before you print them out.
22 So you can make a PDF or print them for proofing.

23 And central is our central scanning
24 solution, high speed scanning for absentee ballots or
25 by mail ballots, and we have that set up over here on

1 the far left.

2 And one of the upgrades from 2.3 to 2.4,
3 I will cover this in a little bit when I talk about
4 the change notes, but we have upgraded scanners. So
5 right now 2.3 has Canon scanners, 1100 and 1130.
6 Those went out of -- Canon stopped making those so we
7 have the next version which is the 2140 and 2110.

8 Just give you a little screenshot of what
9 it looks like to review a ballot on the screen, how
10 you go in and adjudicate voter intent, stuff like
11 that. So we have got Verity count. Once you are all
12 done with central or polling location, the vDrives
13 come back into count. The vDrives are read into the
14 system, and at the appropriate time they are
15 tabulated.

16 This is a shot of our election dashboard,
17 kind of gives you a real-time system kind of status,
18 how many you have read in, how many vDrives, how many
19 polling locations that come in, stuff like that,
20 precinct reporting. You can kind of see that ongoing
21 throughout the night.

22 And there is just a shot of our auditing
23 dashboard. You can do audits, filter by polling
24 location, by serial number on the device, things like
25 that if you need to do that.

1 So real quickly our voting system
2 configurations, and that's what we have set up here,
3 there's two different options, the touch writer which
4 is our -- our hand-marked solution and that's over
5 here, includes the touch writer which is the ADA
6 compliant device which is already being used here in
7 the state.

8 Verity print is the ballot on demand
9 system, prints blank ballots on demand for a voter
10 that comes in and, of course, the scanner that will
11 be there at the precinct to read the ballots.

12 The second option is the what we call our
13 hybrid option, and it's a controller touch writer duo
14 and a scan device. So the touch writer duo is
15 essentially the same thing as touch writer except it
16 doesn't have the external printer. It's got the
17 internal printer built right into the unit, and it
18 prints what's called a PVR, a printed vote record.
19 So it doesn't print a ballot like you would see that
20 comes out of this system. It would print a summary
21 ballot that then goes over into the scanners as you
22 would over here.

23 Now, I went through all this stuff
24 already. This is how our duo system works.

25 You can go to the changes. So the change

1 notes, and these are just some new features, just a
2 few new features into the system. This is a
3 modification from what you already have. There is no
4 new hardware. Get that out of the way. Last year we
5 brought in this whole system over here, was new in
6 2.3 to -- it was new to the state, so we've seen all
7 this before last year so anything -- any of the
8 changes are just new features. It went to the EAS as
9 a modification as well.

10 So new features, we have some things that
11 we improved, enhancements. So just a few of those
12 you can see here on the screen, set the number of
13 tally reports that print out of the scan device when
14 the end of the night comes. You can program three
15 tally reports to print or one or whatever you want or
16 none.

17 High scale configuration for Verity
18 central, I didn't mention that earlier, but you can
19 have up to eight in its own little network, a server
20 and eight clients to scan ballots at the high speed
21 scanners and have eight scanners run at once if you
22 would like.

23 CHAIRMAN MATTHEWS: What was it before?

24 MR. GOSCH: It was four. So larger
25 jurisdictions might find that -- a lot of places they

1 are just too small. They are not going to need that,
2 but it has an expanded configuration to do more.

3 So improvements on the audio, when you
4 are listening to the ballot --

5 CHAIRMAN MATTHEWS: Excuse me. Go back
6 to the previous slide. What was the new and improved
7 Verity count write-in interface?

8 MR. GOSCH: So the Verity count on the
9 workstation at the end of the night the way you do
10 write-in resolution has been updated so the process
11 is quicker so -- I am trying not to stand in anyone's
12 way. It's just an improved workflow for resolving
13 write-ins. It's always been able to do the write-in
14 resolution. It just improved how it works. It's a
15 little more --

16 CHAIRMAN MATTHEWS: Support for new
17 hardware?

18 MR. GOSCH: New hardware is new scanners,
19 new printers. That's the Oki printers.

20 CHAIRMAN MATTHEWS: So it's not --

21 MR. GOSCH: It's COTS. It's off the
22 shelf stuff.

23 CHAIRMAN MATTHEWS: So it's not an actual
24 modification. It's necessary.

25 MR. GOSCH: These -- yeah. The COTS

1 stuff goes end of life, so they upgrade it to the
2 next whatever Oki or Canon comes out with, a new
3 scanner, drivers installed for that.

4 All right. So each of the new releases,
5 when we do this, we try to address things we hear
6 from customers and any other feedback we get on what
7 works, what doesn't, what could be improved. So
8 that's what these enhancements are. So improved
9 audio playback, so on the touch writer ADA device,
10 when you are listening to the ballot, you can set the
11 speed faster or slower, so they've improved the speed
12 playback.

13 Ballots issue report for print, touch
14 writer and duo listing the unique IDs, so if you have
15 unique IDs on your ballots, you can get a report
16 printed out at the end for what that is. There's a
17 connectivity report for the duo devices, the ones
18 over here. This system over here isn't currently
19 being used in any counties. It's certified but it's
20 not being used but there is a new report for that
21 system. It corrects an issue with the communication
22 between the touch writer and the printer. If the
23 printer went to sleep, sometimes the touch writer
24 would not see it there any more, so if the printer
25 goes to sleep, it doesn't lose connection.

1 And then support for the new -- I said
2 the new Oki 844 printer. That's a large ballot
3 printer that would be used.

4 And just a few workstation improvements.
5 Some of the best ones here you can set how many
6 copies of the tally report should automatically print
7 on devices. It's kind of what I mentioned earlier in
8 the system over here. You can tell it at the end of
9 the night what you want to happen, how many tally
10 reports you would like to be printed.

11 Verity data, when you are entering the
12 polling place information, everything is associated
13 by all parties by default. Device report reports
14 signature text, the maximum length, that is extended
15 from 300 to 500 characters. Removed redundant data
16 and improved audio screens and again added support
17 for additional Oki printers that went into play.

18 The central improvements, again I
19 mentioned earlier, are the added scanners and any
20 number of scanners. You can use up to eight network
21 clients per server. And again, I mentioned earlier
22 the count, Verity count improvements, redesigning and
23 improving the write-in candidates and assignment
24 workflow.

25 All right. So that's the end of the

1 presentation. Are there any questions on any of the
2 changes or any of the hardware we kind of went over?

3 MR. WOOD: So from a cybersecurity point
4 of view, you guys are running Windows 7 embedded.

5 MR. GOSCH: Windows 7 embedded.

6 MR. WOOD: Are you signed up for the
7 support program through Microsoft?

8 MR. GOSCH: We have support through 2024.
9 The next version that's coming out, 2.5, is Windows
10 10 and that's in the EAC right now.

11 MEMBER LEONARD: I did see some reference
12 to Verity relay, I guess remote transmission.

13 MR. GOSCH: Yes.

14 MEMBER LEONARD: Is the capability built
15 into both the software and hardware even if it may
16 not be utilized in Ohio necessarily? Is that
17 hardware, that capability built in?

18 MR. GOSCH: It is not. Like this
19 scanning device here, so the relay -- relay is in the
20 scan devices. So at the end of the night when you
21 close polls on the scans, it has a modem that
22 communicates with a base station at a central
23 location. These don't even have that capability.

24 MEMBER LEONARD: So it's nothing the
25 equipment is in there, and it can be turned on and

1 off.

2 MR. GOSCH: You actually have to have
3 hardware, a piece of hardware Michigan would have
4 because they use that.

5 MEMBER LEONARD: Okay.

6 MR. GOSCH: I don't know, Michigan --
7 Michigan is the big one, but any other state that
8 doesn't have it, they won't even have the ability.

9 MEMBER LEONARD: That's what I wanted to
10 clarify.

11 MS. GRANDJEAN: Are you aware of any
12 interoperable issues with your system with other
13 vendors that manufacture pollbooks or other items?

14 MR. GOSCH: I am not aware of any. I
15 know that our system will work -- so we use the touch
16 writer to print. You get your poll ticket or
17 pollbook either from Tenex or KNOWiNK prints out.
18 You can scan that barcode with a scanner that can be
19 connected that will automatically bring up the
20 correct ballot style, so if that's what you are
21 asking.

22 MS. GRANDJEAN: Yeah.

23 MR. GOSCH: I don't know all the ones,
24 but I know for sure KNOWiNK and Tenex work with the
25 system.

1 MS. GRANDJEAN: How about ES&S?

2 MR. LEACH: We have worked with ES&S and
3 TRIAD before. I don't know if we have worked with
4 TRIAD. I take that back. Yeah, I guess when
5 Williams County went with TRIAD. One thing to note
6 is we always have an airgap between the pollbook and
7 our system.

8 MS. GRANDJEAN: Okay.

9 MR. LEACH: So we will either connect
10 either through a wire or wirelessly. We always have
11 an airgap. That's why we need the pollbooks to like
12 print some type of code and then we can scan that
13 code.

14 MS. GRANDJEAN: We just experienced other
15 interoperability issues between e-pollbook and voting
16 systems, and it has created a lot of tension and a
17 lot of issues to which this Board has had to
18 intervene. And so I just wanted to know if that's
19 part of your testing at all, to test the capabilities
20 between the different manufacturers of e-pollbooks
21 and your system.

22 MR. LEACH: We do and it is -- I mean, it
23 is something we would have to build and work with the
24 poll workers. We don't build our system to
25 inherently work with every pollbook, but most of the

1 pollbooks seem to work in the same way, and we only
2 need certain bits of information from those
3 pollbooks. So we just need to know how they are
4 providing it so we can create what we need. So there
5 is a little bit of integration that has to go on but
6 we have a very good relationship with the pollbooks
7 out there and haven't run into any issues but it's
8 something that -- it is an integration.

9 MEMBER LEONARD: That's what I was
10 wondering, if there were other points of
11 interoperability besides -- because pollbooks is a
12 fairly simple one because it's a barcode for the most
13 part.

14 MS. GRANDJEAN: Right, right. When would
15 they ask ES&S though?

16 MEMBER LEONARD: But the idea is if there
17 are other points of interoperability that we need to
18 make sure are addressed.

19 MS. GRANDJEAN: Yeah.

20 CHAIRMAN MATTHEWS: More to the point the
21 systems that are certified in Ohio, you are
22 compatible with all of them.

23 MR. LEACH: Let me look at your list
24 here. I know I saw it somewhere. I know we are
25 compatible in the counties we are working. And I

1 could look at the other.

2 CHAIRMAN MATTHEWS: Is that something you
3 could find out for us?

4 MR. LEACH: Definitely. I will look at
5 your map here.

6 MS. GRANDJEAN: The e-pollbook ones are
7 over here, FYI.

8 MR. LEACH: I know we have worked with
9 ES&S, definitely KNOWiNK, definitely VOTEC, and
10 definitely Tenex. We are compatible, yes, with all
11 of the ones that are represented there.

12 CHAIRMAN MATTHEWS: Okay.

13 MR. LEACH: I have worked with them in
14 other states.

15 CHAIRMAN MATTHEWS: Okay. As they
16 develop new things, then obviously that's
17 unanswerable completely, but at least with what's
18 certified and used in Ohio, you are compatible. I
19 think that's...

20 MS. GRANDJEAN: Yeah. Thank you,
21 Mr. Chair. That's great.

22 MR. GOSCH: Any other questions?

23 MS. GRANDJEAN: I guess I have one more,
24 if you don't mind. Is there -- with your ADA
25 technology did a person with a disability give you

1 that feedback, or was it somebody else?

2 MR. GOSCH: For like the audio playback?

3 MS. GRANDJEAN: Yeah.

4 MR. GOSCH: I don't know where that came
5 from. I'm guessing -- we do take the system and have
6 it tested by different groups with different
7 disabilities, and I'm assuming that came back from
8 feedback that they -- that they received or from our
9 product management team, but I don't know -- I can't
10 say for sure. Usually those things do come from
11 actual use in the field or testing and try to build
12 them into a system.

13 MS. GRANDJEAN: What groups do you work
14 with and represent, people with disabilities?

15 MR. GOSCH: Do you know, Lawrence? I
16 know we've been to the National Federation of the
17 Blind in Baltimore.

18 MR. LEACH: Yeah.

19 MR. GOSCH: And have our stuff tested
20 there. There is a group in Austin we use and I don't
21 know the name but they take and they will set up a
22 system and have people come through and use it and
23 fill out feedback forms and things like that.

24 MR. LEACH: I could get you a list we
25 work with. I don't want to --

1 MR. GOSCH: I don't have the names off
2 the top of my head, but we can find that out.

3 MS. GRANDJEAN: Thank you.

4 CHAIRMAN MATTHEWS: Does anybody wish to
5 address Attachment G? Discrepancies that were
6 apparently rectified, identified in the testing and
7 rectified? Does anybody have any questions on that?
8 Is there anything on the matrix that you appear to
9 highlight that -- that represents a modification
10 impact on the already certified system?

11 MR. GOSCH: Well, I went through the
12 matrix. There was no changes to anything on that. I
13 think we met all the -- each line on the matrix in
14 2.3 and 2.4.

15 CHAIRMAN MATTHEWS: Modifications, did
16 they impact anything on the matrix --

17 MR. GOSCH: No.

18 CHAIRMAN MATTHEWS: -- is what I am
19 asking.

20 Does anybody else have any questions
21 about the matrix as completed?

22 MEMBER PERLATTI: No.

23 CHAIRMAN MATTHEWS: Are there any other
24 questions? The Board or Secretary of State's staff?

25 MR. TLACHAC: Mr. Chair, if you don't

1 mind, maybe it would be good for Tyson and for Hart
2 to demonstrate scanning of ballots. I know we had
3 discussed yesterday that you had the general election
4 kind of queued up and ready to go so that if we could
5 be provided with that demonstration.

6 MR. GOSCH: Absolutely.

7 MR. TLACHAC: I'm sorry. One other thing
8 to add, you mentioned that some of the enhancements
9 affect the reporting mechanism of your count system,
10 I believe.

11 MR. GOSCH: Uh-huh.

12 MR. TLACHAC: If you could maybe
13 demonstrate some of those report functionality
14 differences, that would be helpful for us to see.

15 MR. GOSCH: All right. So I have the
16 general -- a general election loaded on the devices
17 up here. I will definitely go through them and show
18 you how that works. So we have -- I have got these
19 all turned on. I am going to go ahead and take down
20 a privacy shield so you can see a little bit better.

21 When the devices get taken out to a
22 polling location, they are already predefined by
23 county staff back at the central location. When they
24 get out to the polling place, the poll worker will
25 set it up and turn it on. It will ask them to print

1 a zero report. So back at the county office it's
2 going to print a zero report whenever they did this,
3 whether it was the week before, two weeks before.
4 Whenever they got these devices ready, it is going to
5 print a zero report. When they get to the polling
6 location, it is going to require them to print
7 another zero report just to make sure that between
8 the time the units were turned on and tested by the
9 county staff nothing changed.

10 So I am going to go ahead and print that
11 second zero report on these two devices. So all of
12 those are printing. Our ballot on demand system is
13 over here. It's right now set up and ready to issue
14 a ballot.

15 So voter comes in, they get all checked
16 in through the pollbook system, go through that
17 process. The poll worker will then issue a ballot.
18 So at this point they can scan that barcode that we
19 were talking about comes out of a pollbook system,
20 and it would automatically bring up the print ballot
21 style. If they are doing it manually, they will have
22 to choose precinct, confirm that everything is
23 correct, and then print the ballot.

24 And it will print on the attached
25 printer. It will print out just like this. It is

1 just a regular ballot, blank ballot. A voter takes
2 it to a voting booth and completes the ballot. The
3 one I just did now is printing. So they would make
4 their -- their selections, and they would bring it
5 over to the scan device and scan it.

6 So these two are now ready to go. I
7 would open the polls on this. Now it is ready to
8 accept ballots. This is going to be a blank ballot
9 but I would just put it in there. We will process
10 the ballot, and it is going to kick it back and tell
11 us it is a blank ballot, kind of give you a chance
12 whether you meant to do that or not. You can take it
13 out and complete it or cast the ballot. That's up to
14 the voter, cast a blank ballot. So once it accepts
15 it, it drops it down into the ballot box and is ready
16 now for the next ballot to be scanned.

17 The touch writer works much the same way
18 as the ballot on demand system here in that you can
19 plug in the barcode scanner and scan the barcodes
20 that come out of a pollbook, and it will
21 automatically bring up the correct ballot. If they
22 don't have that, the poll worker would just do it
23 manually, and they will just activate a ballot. And
24 again, they will choose the precinct and the ballot
25 style manually and ask you to confirm this is

1 correct.

2 And we will just activate the ballot.
3 And at that point it's turned over to the voter.
4 Voter has the option of either using the touchscreen
5 or the internal ATI device, the new wheel and buttons
6 for selecting or choosing help, and this is also
7 where the headphones would be plugged in to hear the
8 audio of the ballot. So this does give the voter an
9 option to either skip straight to voting or go into
10 the system to change some of the settings as far as
11 maybe they want to turn the volume up or change the
12 contrast of the screen, things like that.

13 We will go ahead and skip straight to
14 voting. They can also make those changes in the
15 middle of the ballot. They don't have to do this at the
16 beginning. If they decide in the middle they need to
17 turn up the audio, they can do that.

18 Begin voting. So now it takes me through
19 each contest. Here we have got a vote for -- vote
20 for two so make two selections. If you make a third,
21 it won't let you overvote, but it does tell you that
22 you have made more choices than is allowed and that a
23 previous choice will be removed and it's removing --
24 it tells us what it is removing and what it is
25 adding. So it removes the first choice you made.

1 So you hit okay. You can see the new
2 choice we made is now selected and removed the first
3 choice. If you decide that's wrong, you can make
4 more changes.

5 There is propositions. Write yes, no.
6 And at the end it gives you a review screen and this
7 is where you review all your choices before you
8 print. So it tells you for each contest it has got a
9 checkmark for which candidates you chose and just
10 move through the ballot and you can see you can
11 make -- this one hear says you have made no choices.
12 You can either go back to that by tapping on the
13 contest, it will take you back to that, and you can
14 make the change; or you can just leave it as it is,
15 just warning you you have made no choices on that,
16 that you've undervoted.

17 All right. So this saw the vote, the
18 contest. Hit print and it wants to confirm you are
19 ready to print. Say, yes, we are, so it's going to
20 print on this ballot -- or on this ballot printer
21 here. Once that prints the voter still has not cast
22 their ballot. Just because they hit print doesn't
23 mean their vote is cast. They can review their
24 ballot. If they see a mistake there, they can go to
25 the poll worker. They can go to the spoil ballot

1 process and go through the process again. It's not
2 until it's scanned that the vote is cast.

3 So the ballot prints. You can see it's
4 got the marks in the option boxes for what we chose
5 on the screen. This ballot is identical to the one
6 that prints out of the ballot on demand device, and
7 it's also identical to any ones that are preprinted.
8 Say someone uses a printer and they just have their
9 ballots there. They don't use ballot on demand.

10 It's an identical ballot. There is no difference in
11 the ballot. Just makes the marks with the printer.

12 So they can confirm that everything is
13 correct, the way they wanted to vote. They feed it
14 into the scanner. It will accept the ballot. If
15 there is any issues with the ballot, it can take it
16 back and allow them to correct those changes.

17 When there's -- when they are loading
18 with the ADA device, it won't go -- have overvotes so
19 there -- unless they went and made a mark after the
20 mark, it's never going to have an overvote, but if it
21 did, it would kick it back and wouldn't accept it.
22 It would accept it only if -- they have a choice to
23 accept it, but it won't count that vote.

24 MR. TLACHAC: Mr. Chair, if I might just
25 ask a question of Tyson. You presented on the screen

1 earlier two options that are in use. One is that
2 sometimes a summary of the votes that were chosen by
3 the voter is printed. Why go with that route versus
4 just printing the full ballot? Is there a reason
5 that a jurisdiction might choose that option?

6 And the second part of that is are any of
7 the customers you currently serve in Ohio using that
8 as the option, or are they all doing the full ballot?

9 MR. GOSCH: Everyone in Ohio is using
10 this system here. The ones using the summary ballot
11 system -- I will go ahead -- I had this down, so I
12 will go ahead and turn this on so we can see it in a
13 minute. The summary ballot is -- is just for you to
14 review it, is a way to get a paper trail, and you can
15 review your choices before you actually cast your
16 ballot again. And then once it's cast you got that
17 paper -- you still have the electronic voting, but
18 you have the paper to go along with it.

19 MR. TLACHAC: So the marker itself in
20 that does store the votes that were cast in that
21 machine?

22 MR. GOSCH: It does not.

23 MR. TLACHAC: It does not. It is still
24 just a marking device.

25 MR. GOSCH: It is. It doesn't -- and the

1 reason it doesn't store the votes is that it
2 essentially makes it a DRE.

3 MR. TLACHAC: Correct. That's what I was
4 getting at and then my question to you is is it
5 mainly a paper issue like it uses less paper so
6 that's why somebody might decide to go that route?

7 MR. GOSCH: Lawrence, do you have any
8 information on why would someone choose --

9 MR. LEACH: Well, one of the
10 manufacturers is -- we put -- on the duo we put the
11 printer with the device.

12 MR. TLACHAC: Okay.

13 MR. LEACH: And you have paper size
14 issues if you are going to print a full ballot, paper
15 weight issues, things like that so that's the main
16 factor is what kind of ballot comes out. The
17 printers that we use for the touch writer on the left
18 there, they are able to print up to a 20-inch ballot,
19 so it's really kind of the printer technology and --
20 is a limiting factor.

21 MR. TLACHAC: Such as jurisdictions that
22 have multiple languages perhaps on a ballot, that
23 would be a system that they might use because it
24 accommodated that -- that allows the ballot to be
25 shorter.

1 MR. LEACH: Correct, correct.

2 CHAIRMAN MATTHEWS: You said something
3 interesting, at least I found it interesting. You
4 said that they may want to go this route to review
5 it. Did I hear that correctly?

6 MR. GOSCH: This here? So it allows the
7 voter to review their ballot before it is -- before
8 it is cast the same as this one does as well. So
9 this system when it printed out here --

10 CHAIRMAN MATTHEWS: What happens to that
11 piece of paper though?

12 MR. GOSCH: It prints out and gets
13 scanned into the scanner here just like the one over
14 there and drops into the secured off box.

15 CHAIRMAN MATTHEWS: Okay. I don't quite
16 understand how it printing this whole ballot versus
17 printing the summary is -- is allowing anything other
18 than --

19 MR. GOSCH: Well, another thing instead
20 of -- you would have ADA compliant devices at
21 every -- they would be using the electronic voting,
22 so if people prefer that, they would go this route.
23 If they prefer hand-marked paper ballots, they are
24 going to be using the system over here. So this is
25 not going to use hand-marked paper ballots at all.

1 You would use the screen just like I did on the touch
2 writer. It's the exact same interface. You would
3 vote here, and I can show you, as soon as this boots
4 up, it looks identical to the touch writer over
5 there.

6 The only difference when it prints the
7 summary ballot, all -- it's just a summary. It tells
8 you president and who you voted for, what your
9 selection is, and goes just down the list. It caps
10 it just like it does the other ballot, but it gives
11 you that electronic interface.

12 MEMBER PERLATTI: I am trying to remember
13 from last time when you actually brought that piece.
14 Is it also different in that so the one to your
15 right, our left, that looks like a ballot, it's
16 reading the oval positions and scanning that; and is
17 that one there actually reading the words and
18 tabulating based off of the actual words?

19 MR. GOSCH: Yes.

20 CHAIRMAN MATTHEWS: Or is it a code?

21 MR. GOSCH: It's using OCR technology to
22 read the actual text. It reads your --

23 CHAIRMAN MATTHEWS: It is not a QR code
24 or barcode on there?

25 MR. GOSCH: There is a QR code on there.

1 All that does to hash -- to validate the fact the
2 ballot can be scanned here. The scanner reads it and
3 says, yeah, that's a ballot for this election,
4 everything is correct, everything matches up. But
5 the text, there is no votes stored in that at all.
6 The text is what's read by OCR technology so there is
7 a column in there, and we can print one out, I can
8 show you, there is a column that has all the
9 selections. It's kind of in the middle of the page
10 and that's what's read. If you make a mark, someone
11 took a pen and made a slight mark to one of the
12 characters, it wouldn't read it. You can't go in
13 there and change that.

14 MEMBER PERLATTI: The difference is this
15 one is only printing your selections because that's
16 what it's tabulating off of.

17 CHAIRMAN MATTHEWS: Right. It's saving
18 paper, I get that. What's the -- what's the
19 percentage of OCR accuracy versus other scanning?

20 MR. GOSCH: I haven't heard any accuracy
21 issues with our OCR technology. Lawrence?

22 CHAIRMAN MATTHEWS: Well, with oval
23 technology there exists some --

24 MR. GOSCH: Like the location, yeah,
25 because it uses like a grid.

1 CHAIRMAN MATTHEWS: So there is a
2 percentage and I realize things have improved but are
3 you saying that is 100 percent?

4 MR. GOSCH: I don't have a percentage.

5 MR. LEACH: Yeah. I would have to check
6 on the actual percentages.

7 CHAIRMAN MATTHEWS: I mean, just to me,
8 QR versus barcode versus OCR, I just -- off the top
9 of my head I think OCR could be different.

10 MR. LEACH: Well, some of the advantages
11 of OCR is it doesn't have the technicality that a
12 ballot has. So when a ballot goes through and you
13 are reading certain positions, you know, if your
14 ballot is not printed correctly or skewed and those
15 positions are not where the system is expecting it,
16 there could be issues there with OCR. Some of that
17 is taken away because it's -- it's -- there's more
18 flexibility in how it prints, but I don't know those
19 numbers. I can get what those are.

20 CHAIRMAN MATTHEWS: Is that tested
21 anywhere?

22 MR. GOSCH: The testing to get the
23 accuracy?

24 CHAIRMAN MATTHEWS: Is that part of the
25 testing?

1 MR. GOSCH: I am sure it's been tested.
2 I have to find out once -- the numbers on that.

3 MR. LEACH: Yeah, the EAC would test
4 10,000, 12,000 ballots sometimes for accuracy.

5 MR. GOSCH: So this is all booted up and
6 ready to go now. This is what our -- we call a
7 controller. It's connected to this device here, a
8 daisy chain cable, and so you have this -- the poll
9 worker would set up, it issues an access code, you
10 hand that to the voter, and the voter goes over to
11 the booth and begins by putting in their access code.
12 You can have up to 12 of these connected to one
13 controller.

14 See how this one says booth 1 is ready?
15 You have 12 -- up to 12 of them here. It gives you
16 the status of it. It says ready now. It's ready for
17 voting. In use, it would say in use. If it was
18 printing the ballot, it would say printing. If there
19 was an error message, it would say there is an error
20 message and give the poll worker an indication what's
21 going on, if they need to help or step in or
22 something like that.

23 So we would create an access code. Here
24 again, the integration with the pollbook is where
25 this would happen here. You can scan that barcode

1 and bring up the ballot style, but if not, you go
2 through the same process you did over there, select
3 your precinct, confirm the precinct is correct.

4 The poll worker is going to give the
5 voter a piece of paper and issue the access code. So
6 this is the paper that's going to print out. You're
7 going to take this piece of paper and the access code
8 over to the booth and this is what it's going to
9 print out. This is an access code, five-digit
10 number. You walk over to their voting booth or put
11 this number in. So it tells you to go ahead and
12 insert the paper. It's got -- visually it tells
13 you -- shows you exactly how the paper goes in with
14 the arrow on the end. So it feeds the paper in just
15 a bit, tells them -- gives the voter some
16 information, the paper is not going to go all the way
17 in if it's bedded correctly. For some reason if it's
18 skewed or if they accidentally put in two sheets, it's
19 going to tell them no at this point, that something
20 is wrong.

21 So we'll say next. You get the same
22 screen that we did on the touch writer to go in and
23 change any of the audio settings or visual settings
24 you have if you need help with that. Skip straight
25 to voting and begin again. Go through the ballot

1 just like you did on the touch writer.

2 MS. GRANDJEAN: Mr. Chair, sorry.

3 CHAIRMAN MATTHEWS: No.

4 MS. GRANDJEAN: Does it tell you to pick
5 two?

6 MR. GOSCH: Yes. So if I go back --

7 MS. GRANDJEAN: I just can't see it.

8 MR. GOSCH: It says for not more than
9 two. It tells you remaining number of choices you
10 can mark is zero. If I take one off, it now told me
11 I have one more choice to make. If someone needed
12 the headphones would hear they have one more choice
13 to make if they want to.

14 So we are going to go ahead and review
15 our choices, look at everything, tells me what I have
16 done, what I haven't done, and go ahead and hit print
17 record. Yes, I want to print. Again, this is not
18 casting your ballot. Voters would need to be
19 educated this is not your receipt. Don't take this
20 home. This has to be cast into the -- using the scan
21 device.

22 So here is the summary ballot QR code I
23 was mentioning. Tells you the -- on the left here
24 the contest and then the choices that were made. If
25 anybody wants to look at that, you can.

1 MR. TLACHAC: Can I ask you a question?

2 Mr. Chair, if you would permit me?

3 CHAIRMAN MATTHEWS: Sure.

4 MR. TLACHAC: The printer in there, it's
5 thermal paper, I'm assuming.

6 MR. GOSCH: Yes.

7 MR. TLACHAC: It is special thermal paper
8 that needs to be put in there.

9 MR. GOSCH: It is.

10 MR. TLACHAC: The controller that you are
11 using, that's the only device that can be used to
12 actually activate that ballot; is that correct?

13 MR. GOSCH: I can't walk up here and --
14 unless I have that code.

15 MR. TLACHAC: That capability then
16 couldn't be done through any pollbook either so
17 electronic pollbooks would not allow for a voter
18 session to be activated through the printing of any
19 kind of --

20 MR. GOSCH: No. The pollbook would be
21 used in conjunction with the control only to activate
22 the --

23 MR. TLACHAC: Ballot style.

24 MR. GOSCH: -- ballot style. The access
25 code is going to bring it up here. So the access

1 code, when you type in that access code, it brings up
2 that ballot style. This is the ballot style for this
3 voter.

4 MR. TLACHAC: So during testing it was
5 noted by the test lab that the initial -- one --
6 multiple controllers, at least more than one
7 controller, that were provided for the testing, and
8 the first controller had some issues where the screen
9 appeared pixilated and there was like -- it wasn't
10 operable. So my question was that was sent back to
11 Hart. Are you familiar with what the issue was upon
12 further testing? Was it just a connection issue
13 internally or something like that?

14 Because I guess I am just thinking if
15 that's the only way to actually get a ballot
16 activated, you would want to make sure every
17 jurisdiction, if anybody in Ohio decides to use that,
18 that you have multiple at each location.

19 MR. GOSCH: I am not familiar with that
20 exact you are talking about.

21 MR. TLACHAC: Okay. On the test report,
22 Attachment G, it's the only discrepancy, if I recall,
23 that was significant. However, it was a hardware
24 failure that was corrected because there was a
25 backup. I was curious if there was any additional

1 testing that Hart performed maybe as a follow-up.

2 MR. GOSCH: I would have to check on that
3 and get back with you on that. Yeah, if this -- if
4 there was an issue with the controller, there would
5 have to be one brought in to replace if it wasn't
6 correctable by restarting it.

7 MR. TLACHAC: Is there any kind of
8 contingency plan if such a situation would happen? I
9 mean, would voters basically have to wait until a
10 controller was used?

11 MR. GOSCH: Either that or they could
12 move to hand-marked paper.

13 MR. TLACHAC: Preprinted paper ballots
14 would be printed?

15 MR. GOSCH: Yeah. Those would have to
16 be -- they could be scanned here. The scanner would
17 just have to -- just restart the scanner. You could
18 tell it to accept this type of ballot or the other
19 type of ballot. It just has to be told which one to
20 expect.

21 MR. TLACHAC: Okay. So it can't at any
22 time take any type. It takes one at a time.

23 MR. GOSCH: It takes one kind or the
24 other at a time, yes.

25 MEMBER PERLATTI: What about the central

1 count, can it take --

2 MR. GOSCH: No. Central count only takes
3 the hand marked, the traditional looking ballot.
4 Now, I believe the next version, 2.5, is going --
5 they are working on central scanning for the printed
6 vote records, and also the scanners, they will be
7 able to go both ways on the fly essentially without a
8 restart. But, right now, this would have to be
9 restarted and you tell it to accept a ballot that
10 would be hand marked and it would do it.

11 Is our ballot still out there?

12 MR. TLACHAC: It's right here.

13 MR. GOSCH: I will run it through the
14 scanner. We can pull it back out, or I can print
15 another one. This can be read, you know, any which
16 way. It doesn't matter. Just like those ballots
17 over there, they don't have to be put in face up or
18 anything like that. You have got to open polls
19 first. Once it processes that ballot, it will drop
20 it into the ballot box and can be used for auditing
21 or anything.

22 MS. GRANDJEAN: So this is the marking
23 device?

24 MR. GOSCH: Yes.

25 MS. GRANDJEAN: And this is what it's

1 casting.

2 MR. GOSCH: Yeah. So now the cast vote
3 record is now on what we call the vDrive inside this
4 locked compartment. So at the end of the day that
5 vDrive is going to be taken back to the central
6 location and read into the --

7 MS. GRANDJEAN: So you can't mark your
8 ballot on this device.

9 MR. GOSCH: No.

10 MS. GRANDJEAN: You can only mark it on
11 this device and only cast it on this device.

12 MR. GOSCH: Yes.

13 MS. GRANDJEAN: Matt, what were you
14 getting at?

15 MR. TLACHAC: The device in the middle is
16 used to actually activate the session. When the
17 voter puts the ballot in there, it pulls up the
18 appropriate ballot for that voter. So the only
19 way --

20 MS. GRANDJEAN: Right. But were you
21 saying that it could be used as a DRE essentially?

22 MR. TLACHAC: No, it is not used as a DRE
23 because it doesn't actually -- the ballot marker
24 doesn't actually store the choices at all.

25 MS. GRANDJEAN: Right, because it's on

1 paper.

2 MR. TLACHAC: Right. It's just a ballot
3 marker and that's what I wanted to confirm.

4 MS. GRANDJEAN: Okay.

5 MR. GOSCH: Just like -- think of it just
6 like this device here that prints the ballot with an
7 external device. It's the same exact thing. That
8 one doesn't store even though it prints the voter's
9 intentions. It doesn't store those until you put it
10 into the scanner. So these do have vDrives.

11 Actually this one doesn't. The vDrives are locked in
12 here. You could put those in the count, and it will
13 tell you there are no cast vote records in that. It
14 will take the audit logs and reports and stuff like
15 that but there is not any cast vote records there.

16 MS. GRANDJEAN: What's the receipt?
17 What's the -- I mean, obviously I understand the
18 paper record and the audit trail. And what is this
19 we are in?

20 MR. GOSCH: I zeroed a report earlier so
21 normally this would be torn off as sort of the
22 procedure at the polling location. When I opened the
23 polls, it printed out a poll report. It doesn't
24 actually use this during the -- when the voter is
25 using it.

1 MS. GRANDJEAN: The election official.

2 MR. GOSCH: It would be torn off and
3 filed beginning -- at the beginning of the day, and
4 then when the polls are closed, it's going to print a
5 closed poll report and tally report, so it's going to
6 print like a zero report except it's going to have
7 numbers there.

8 MS. GRANDJEAN: Okay.

9 MR. GOSCH: And that's where I was
10 telling you you can tell it to print -- say you want
11 five of those. You can tell it in the system when
12 you are building your election when the polls close,
13 just automatically print five of these because one
14 will go here, one will go here. People need more of
15 those than one. So it is causing people to forget to
16 do it because you can print more than one. You just
17 have to tell it to do it over and over again.

18 And it's easy to forget to do. A poll
19 worker may not do that as EA -- or whoever is setting
20 up the election, we want to make sure we get however
21 many copies we need. I don't know Ohio. Some places
22 require you post it on the door at the end of the
23 night, and also one has to go into -- in the envelope
24 to be filed so.

25 MS. GRANDJEAN: Right.

1 MR. GOSCH: There is multiple records
2 that are needed so you can tell it how many you want.

3 MS. GRANDJEAN: Is that part of your
4 customers training like to -- letting them know they
5 don't have to manually do it? They can program the
6 election to do it multiple times?

7 MR. GOSCH: Yeah. Our project manager
8 that does implementation of the system out in the
9 county would train on the system from the very
10 beginning building all the way to the end, and they
11 would cover all that. They have training materials
12 for each version that comes out, has new features.
13 They are going to have all that information. They
14 have PowerPoint presentations. They could be with
15 the county. All the documentation stays there so
16 counties can do their own training later for poll
17 workers working the election, for example, and do
18 that.

19 MS. GRANDJEAN: Thank you.

20 MR. TLACHAC: Mr. Chair, if I may.

21 CHAIRMAN MATTHEWS: Yeah.

22 MR. TLACHAC: One question I had for you
23 back to kind of the interoperability question that
24 Director Grandjean raised earlier, interoperability
25 between a ballot on demand system and the actual VR

1 system, so absentee voting which occurs, you know,
2 for a length of time prior to each election in Ohio,
3 boards vote people in person, they often use their
4 voter registration in conjunction with a ballot
5 printing system to print the ballots as folks come in
6 instead of having the preprint. Does that currently
7 work for like Williams County who might have TRIAD,
8 or is there -- is that something that's not
9 interoperable at this point?

10 MR. GOSCH: Do you know, Lawrence? You
11 worked with Williams quite a bit.

12 MR. LEACH: I would have to rethink that.
13 So I know in Hamilton County the first time we used
14 the print they were doing it off their voter
15 registration, and we did not do a scan of that
16 barcode. They had a process where they would
17 write -- at the precinct written down. I can't
18 remember if something printed from there or whether
19 it was written, but they would basically tell the
20 print operator, you know, this is the ballot you need
21 to be printing. I do know they've moved for their
22 early voting process, absentee in-person process to
23 Tenex now, so they do that off the barcode.

24 So if there's -- to answer your question,
25 I will have to double-check to see if it's totally

1 operable with the scanning device, you know, type of
2 scanner off a barcode, but otherwise the process
3 would be to just train them appropriately how to take
4 that information that you want and get it to an
5 operator and then have some kind of double-check
6 after that to make sure the ballot printed, more of a
7 process operation than a digital, if that makes
8 sense.

9 MR. TLACHAC: That's something that's
10 been an issue not necessarily with Hart but just in
11 the vendor community in general to make sure that
12 interoperability goes. It's a real important
13 process.

14 MS. GRANDJEAN: Yeah. And it's something
15 I think we want to eventually rework into our matrix
16 as we update that, of course, but it's currently not
17 in there but it's something we are pressing vendors
18 to look into because it has created a lot of
19 consternation and wasted taxpayer dollars.

20 MEMBER LEONARD: I want to make sure I am
21 correct in this. You had indicated that the
22 centralized scanner wouldn't process those -- the
23 summary ballot that's printed from it.

24 MR. GOSCH: Yeah. We couldn't take those
25 ballots there and print them over here to this

1 central scanner and scan them.

2 MEMBER LEONARD: You can or cannot.

3 MR. GOSCH: You cannot.

4 MEMBER LEONARD: So then in the event you
5 are utilizing those at the precinct level and your
6 precinct scanner fails on you, what's your backup?
7 What's your failsafe?

8 MR. GOSCH: So if there is a scanner
9 available, they can have another scanner put in. If
10 not, they would use this emergency ballot slot here,
11 this little door, and they can slide the ballot in
12 there.

13 MEMBER LEONARD: It separates it from the
14 ballots that have already been scanned?

15 MR. GOSCH: Yeah. There is a ballot bag
16 in there. It might be hard to see but there is a bag
17 it falls into, keeps it separate from any ballots
18 that may have been scanned that fell into the other
19 ballot box.

20 MEMBER LEONARD: Right.

21 MR. GOSCH: Yeah. So later on you could
22 go in and access just those ballots. There is a door
23 on the back and unlock it with a key, reach, grab the
24 ones that have not scanned yet, and you can scan
25 those into another scanner.

1 MS. GRANDJEAN: Mr. Chair, the Secretary
2 has joined us for the meeting.

3 SECRETARY LaROSE: Hi there. Sorry to
4 interrupt. Just wanted to really stop by and say hi.
5 And all you guys should know the Sunset Review
6 Commission reviewed this organization's continued
7 operation, and you guys are still in operation. So
8 that's good news. The State of Ohio saw reason to
9 keep us running as the Board of Voting Machine
10 Examiners. So that's a good thing.

11 CHAIRMAN MATTHEWS: It is.

12 SECRETARY LaROSE: Yeah.

13 CHAIRMAN MATTHEWS: All right. Are there
14 any other questions from the Board members or the
15 staff, Secretary of State's Office?

16 If not, I entertain a motion to approve
17 the Verity 2.4 Voting System certified -- as modified
18 for the certified Verity 2.3 Voting System and
19 recommend that the system be certified for use in
20 Ohio elections.

21 MEMBER STEVENS: So moved.

22 MEMBER LEONARD: I'll second.

23 CHAIRMAN MATTHEWS: Any discussion on
24 that motion?

25 Hearing none, all those in favor signify

1 by saying aye. Opposed?

2 Motion carries. Congratulations.

3 MR. GOSCH: Thank you.

4 MR. LEACH: Thanks, guys. That's
5 awesome.

6 MEMBER LEONARD: Is there any signature
7 requirement?

8 MR. TLACHAC: Yes. I am passing it
9 around right now.

10 CHAIRMAN MATTHEWS: At this point we will
11 go into recess and reconvene on the 17th Floor.

12 (Recess taken.)

13 CHAIRMAN MATTHEWS: It's 11:17 a.m., and
14 we are back on the record. And we have TRIAD
15 Governmental Services with us.

16 And, Matt, would you like to introduce
17 this section?

18 MR. TLACHAC: Yeah. Thank you,
19 Mr. Chair. Board of Voting Machine Examiners, TRIAD
20 GSI is here today. Shean Martin and Brett Rapp,
21 President of TRIAD GSI, is before you today to allow
22 you the opportunity to review a process that's set up
23 within their system.

24 Just to be clear, TRIAD GSI is a voter
25 registration system vendor in the state of Ohio. I

1 will allow Brett to expand upon that some more in his
2 presentation, but I wanted to provide to you some
3 background. Sometime ago TRIAD approached us and
4 some of its customers approached us to inform us that
5 there is a system design for the checking in of
6 in-person absentee voters in Ohio. Obviously that's
7 a critical component of election administration.

8 And upon review of the process, the
9 Secretary of State's staff determined that the Board
10 of Voting Machine Examiners should review this
11 process simply because there are elements of this
12 process which are similar to elements that are
13 consistent with your review of an electronic pollbook
14 system.

15 So to that end, TRIAD has agreed, upon
16 our request of them, to come before you and to
17 outline certain system components that are similar to
18 any pollbook and are providing you with that
19 information.

20 In the paperwork that you have there is a
21 two-page document that outlines the requirements that
22 we provided to them for assessment and then their
23 response back to you. And during the presentation
24 today, Brett will share that information with you.
25 But I wanted to give you that information so that you

1 have an understanding because this is something that
2 you wouldn't normally do, but because of the
3 similarities as I outlined, we ask that you review
4 this today.

5 Are there any questions before I turn it
6 over to Mr. Rapp?

7 Okay. Thank you. Mr. Rapp.

8 MR. RAPP: Thank you. As Matthew said,
9 TRIAD Governmental Systems currently has developed a
10 software pack, and this software pack that we have is
11 running in 68 counties for the complete voter
12 registration system, so we have added components, and
13 we actually added these components probably four to
14 five years ago when we started talking about
15 in-office absentee check in that was like the polls.

16 So this process that we do now with being
17 able to check in an absentee voter actually started
18 four or five years ago. So it's a feature and a
19 function that has been in our software for a long
20 time, but with the law changes, it's not been a
21 situation where we've been -- that Boards of
22 Elections have been allowed to use this particular
23 check-in method because of the wording and the way
24 the State interpreted the electronic pollbook.

25 So that's when the State asked if we

1 would come up here, give this presentation to show
2 you what our software does, what our streams do, and
3 how this signature is displayed and stored within our
4 system.

5 So go ahead and go to the next slide. We
6 currently deal with 68 out of the 88 counties for our
7 voter registration system. So what I'm talking about
8 is actually a software package that was used in these
9 counties for this last set of elections. All the
10 counties used the same software. A few of the
11 counties used the check-in. They actually used the
12 signature pad in addition to the sign-in sheet, so
13 they captured the voter's absentee signature on
14 paper, and then they did allow them to sign on the
15 signature pad too just to make sure that they had the
16 flow down.

17 And what we are really talking about is
18 replacing the piece of paper for in-office check-in
19 voting with this electronic signature pad. So
20 instead of providing a piece of paper at the
21 in-office voting process, the voter can sign here,
22 store that information on the screen, store it within
23 the database, and then produce an electronic report
24 at the end of the day showing everybody who signed,
25 okay?

1 Go to the next slide. So our voter
2 information system contains all of these functions,
3 so the complete EVIS system uses a user name
4 password, and a multifactor authentication. So all
5 of our software, any of the components that we have,
6 already contain two-factor authentication for going
7 in and out of the system.

8 Once they enter the system, they actually
9 get to a screen where we can do the searching
10 functions. Searching for voters can be done by
11 registrations, birthdates, Social Security numbers,
12 BMV IDs, address, name, or any combinations thereof.
13 So we have the full power of the voter registration
14 available to us at this time.

15 This voter registration is running on the
16 secure networks. Everybody knows what we went
17 through in the state of Ohio. This is designed to
18 work specifically on those networks. We are not
19 taking this workstation off of the network. We are
20 not taking this data anywhere else. So everything is
21 running on the secure system.

22 When we are presented voters, you'll see
23 that we have different colored voters here, and the
24 red voters are your voters that are deleted or no
25 voting rights. Our yellow voters are going to be our

1 voters that we need to be cautious of, okay? Those
2 are people that have been sent confirmation notices,
3 items that make us wonder or make us think we need to
4 check IDs. We need to check the addresses to make
5 sure that they are all good, okay?

6 So from this screen, like I said, we are
7 able to find all the voters using the different
8 criterias that we have at the top. We also have the
9 ability to expand that to what we call our extended
10 search which allows us to find names and people based
11 upon individual criteria, all the Johns that were
12 born on a certain date, all the Js that were born
13 within a certain month, okay?

14 And then the other part that we have is
15 what we call our street search. Go back to that
16 screen one more time. We have a street search that
17 lets us find voters based upon residential address.
18 So when the voter walks in and says I now live at 25
19 Main Street, and you look at that voter, you find out
20 they lived at 1052 Overlook, you have to find their
21 new precinct, their new polling location so that you
22 can vote them into the new place. And that's what we
23 have at the top for the street search.

24 So once we find a voter, we get to our
25 next stream and this is what we have as the complete

1 voter registration data and that each portion of the
2 bottom screen is broken into voter data and then what
3 we call our absentee tab.

4 So at this point we are now tracking the
5 person who has walked in to vote in office. So we
6 are tracking the election date that they are voting
7 in. We are tracking the type of voter, all the ones
8 that walk in that are considered to be in-office
9 voters. This same system keeps track of the mail-out
10 voters, the nursing home voters, okay? The reason
11 for voting absentee which in Ohio we don't really
12 vote for a reason, but we do keep track of reasons
13 based upon military, overseas, and different
14 statistic processes that we need after the election.
15 So we keep track of that here, okay?

16 And then we have the complete mail to
17 address which an in-office voter would be blank
18 because they are voting right here and right now.

19 So once we verify this data, we then go
20 to the next process which is capturing the signature.
21 And on this screen right here, the standard Topaz
22 unit, we are actually going to present the voter's
23 name and the address that they are registered at, so
24 when they are signing their name, they are seeing
25 their name and their signature to verify that they

1 are the correct person. They are going to sign their
2 name, and they are going to click okay.

3 Once they click that okay button or
4 during the signature process, the operator, who would
5 be Shean, is actually looking at the signature that
6 they captured from the device, and they are looking
7 at the signature that is on file. So the BOE
8 operator is actually going to get to review the
9 signature before that is saved to do the signature
10 comparison from that side of the desk, not from the
11 voter side of the desk, okay?

12 Once they save that record, it is then in
13 the system, and all our data is filled out in the
14 absentee record and that same signature that we
15 captured is then displayable right here on the
16 screen.

17 So now I am looking at the signature that
18 is captured from this election from this device, and
19 this is a signature that was already on file at the
20 Board of Elections, okay? At the end of the day,
21 during the day, we have what we call our absentee
22 signature report. This is the printing of the
23 periodic reports of who voted so that we get the
24 voter's name, address, we get the signature that was
25 on file, and we get the signature that was signed for

1 this election, okay? So these would be what was on
2 file at the Board of Elections. This is what they
3 captured for this particular election. So you would
4 have a report, throw it into a binder at the end of
5 the day, you flip through that binder, and now you
6 see everybody who signed in election day. This
7 replaces the pieces of paper that are currently being
8 used at the Board of Elections. Currently you walk
9 in, you do voting, you are presented with some piece
10 of paper. It gives you your name, address, and you
11 sign with a wet signature. So we are trying to
12 replace that one process with this process right
13 here. Now, we also have for the person that's in the
14 front lines, everybody who has a Board of Elections
15 Office knows there is a set of absentee variance
16 where all I do is deal with in-office walk-in voters,
17 have all my traffic. So we have a more streamlined
18 screen we call our absentee fast check-in. This fast
19 check-in gives the operator who is sitting there a
20 little easier set of buttons, something that's
21 streamlined to exactly what they are doing so they
22 don't have all of the other screens of the voter
23 registration system.

24 So at this point we can choose -- again,
25 we can find by name, driver's license, voter ID,

1 birthdate, and birthdate/first name. A lot of
2 counties find that once they know the birthdate and
3 first name you are going to get an exact match
4 whether that lady has changed her last name or not.
5 Birthdate/first name gets you right to where you need
6 to be, okay?

7 So once we pick a view button, it is
8 presented in a screen here. Again we have our colors
9 telling us whether that person is allowed to vote or
10 cautious to vote, okay? Once we select that
11 particular voter, we are given another screen that
12 gives us all of the data that we need to see about
13 the voter. We need to see the voter's name, address,
14 county ID, license, birthdate. Those are all the key
15 data you need to check for absentees.

16 We also have the ability to look at the
17 status of that voter and what they are. You will see
18 on this screen we have green buttons, and green means
19 go. So the green buttons mean this is a regular
20 voter that I can process with no problem. So I go
21 ahead and go to the next screen.

22 Again, when I get to the next screen, I
23 have the ability to sign my signature, save my
24 signature. Then when I get done with that segment of
25 the signature, it comes back to the screen and shows

1 me the actual screen that this is now turned to red
2 telling me that this person has already voted. So
3 when I am in my fast check-in when I am in my
4 absentee system, the system is going to prompt and
5 tell us if this person has already voted and not
6 allow us to vote a second time.

7 This system is also going to tell us
8 right here if we are a 17-year-old voter, if we are a
9 merged voter, we are a voter that is in some criteria
10 that's not allowed to vote, what the exact status of
11 that voter is going to be right here too so. And we
12 do not let an operator hit the add button on a voter
13 that already has a signature or already has a voted
14 absentee request.

15 Now, this system is designed to be
16 working at the Board of Elections network.
17 Therefore, in a large county we may have 30, 40 of
18 these machines over there. All of this data is
19 getting updated in real time. It's connected
20 directly to the server, directly to the database.
21 Therefore, if I walk up and process my absentee here,
22 I can't walk to the next station and process my
23 absentee there, okay? If I'm an absentee clerk and
24 I'm processing mail outs, this record would tell me
25 that they had already voted a mail out ballot, would

1 not let me add it at the in office.

2 That is the general description, the
3 general flow of how this system works, how we process
4 in-office voters, how we store and capture this
5 signature using the signature pad. And then at the
6 end of the day again we would run this report.
7 Doesn't have to be at the end of the day. It could
8 be during the day, middle of the day, whatever part
9 of the day, and then we would grab this report to
10 show all the daily in-office absentee voters so.

11 CHAIRMAN MATTHEWS: Could you show us how
12 a driver's license would work to initiate the
13 process?

14 MR. RAPP: And we will go into the fast
15 check-in program. We will actually use a driver's
16 license. We have another device that is an actual
17 driver's license reader. It is a USB device that
18 gives us a keyboard input of the data that's on the
19 driver's license. So we can do two things. We could
20 simply type the driver's license number in on the
21 keyboard and press the enter key, or we could use a
22 swipe your device which is a driver's license reader
23 and pop up.

24 Okay. This is good because for some
25 reason it did not read the data on the actual

1 magnetic strip. That could happen. It will switch
2 over to a name search. So if it can't read the strip
3 on a driver's license, it will go with last name,
4 first name, okay?

5 CHAIRMAN MATTHEWS: So you have Amanda
6 Martin's driver's license?

7 MR. MARTIN: I plugged my driver's
8 license number into her record so it would pull her
9 up.

10 MR. RAPP: Shean is actually
11 describing -- is giving you his driver's license
12 there.

13 MR. MARTIN: Right on the camera.

14 MR. RAPP: Right on the camera for
15 everybody to see but he has actually used his
16 driver's license and used his driver's license number
17 in this record. So that is -- yes, this is Amanda L.
18 Martin we see sitting right here.

19 MS. GRANDJEAN: May I ask a question? Is
20 that signature from the license? Is that, the
21 signature that's saved in the system, the one from
22 the license?

23 MR. RAPP: It depends on the source of
24 the signature to begin with. This is the source of
25 the signature that's at the Board of Elections, okay?

1 So the Board of Elections the voter registration
2 system either gathered the signature from a voter
3 document or gathered the signature from an online
4 registration which would have been the driver's
5 license.

6 MS. GRANDJEAN: From the BMV.

7 MR. RAPP: Right, but because the voter
8 registration is the source you are seeing right here
9 the signature that the Board of Elections has on
10 file.

11 MS. GRANDJEAN: Okay. And when you have
12 the check-in signature, is there a way that
13 inadvertently a Board of Elections' member could
14 replace the signature and may have been sloppily done
15 with the originating signature?

16 MR. RAPP: Not at this point. From this
17 screen here we do not have the ability to update this
18 signature.

19 MS. GRANDJEAN: But on the one you were
20 going through previously.

21 MR. RAPP: From any of the screens. At
22 the end of the election process we have the ability
23 to post all of the voter history for those people
24 that voted, and we have the ability to update the
25 voter signature from the captured absentee signature,

1 but it's not done automatically at the time we enter
2 the absentee data. It is a function and a process
3 that happens later.

4 MS. GRANDJEAN: Why would the Board do
5 that?

6 MR. RAPP: It's the Board's call if they
7 wanted to update the signature. Maybe they don't
8 like the signature that they got from the last piece
9 of data, and they believe the signature that they've
10 got from this scan is cleaner, so they would want
11 this signature to be updated because they like it
12 better than the old voter registration.

13 MS. GRANDJEAN: Of course, this is the
14 signature that's being checked against a lot of other
15 things in the electoral process, correct? So that's
16 why I am asking these questions as to how easy it
17 would be to replace a signature. I mean --

18 MR. RAPP: There is a -- there is a nice
19 thing about the way our system works is that while
20 they are checking petitions in these other documents,
21 this signature that they signed for this election is
22 also available to see. So this is what we call the
23 voter signature, what's stored at the voter record,
24 but we can still --

25 MS. GRANDJEAN: There is like a catalog

1 of all of the signatures.

2 MR. RAPP: We can still see all the
3 signatures whether they came in from an electronic
4 pollbook, whether they came in the absentee process,
5 so there is multiple signatures available at the
6 voter registration level that may not be available at
7 other sources.

8 MEMBER LEONARD: Now, that being said,
9 will -- you're only comparing it to what you would
10 classify as the signature on file. So now that you
11 have other signatures that may not be classified as
12 the signature on file but can that person who is
13 working the front desk at the in-person absentee
14 check-in, can they compare it against other
15 signatures other than what is classified as the
16 signature on file for verification purposes?

17 MR. RAPP: This particular screen right
18 here is going to show them only the one that is on
19 file, okay? We are running in a Windows environment.
20 Therefore, they can have two screens, two different
21 programs up and running, and they can go and find if
22 they don't -- do not feel comfortable that that
23 signature was correct and they are going to second
24 guess it, they could switch over to the voter
25 registration system itself, and then they could do

1 their different basic functions. They could do their
2 petitions underneath each election that they voted
3 in. They could look at their different signatures
4 because they have the power of the whole voter
5 registration system right there at their workstation.
6 So they could do all of that.

7 MEMBER LEONARD: The nice feature of that
8 then if you are slow at the absentee center, you
9 could be doing other work in the voter registration
10 system during downtime, I would assume.

11 MR. RAPP: That is correct. This same
12 screen has what we call our absentee tab. So person
13 walks in and they -- you know, they're done over
14 here, but somebody just dropped off a BMV stack of
15 voter registration documents. The same screen that I
16 am working at here has the basic tab. That's where I
17 do my adds, my updates from the top screen, switch
18 right back over to absentee when somebody walks over,
19 I am able to process absentee.

20 MEMBER LEONARD: Have you done load
21 testing to determine if I am doing all this activity
22 at the same time it's not in any way going to
23 impair --

24 MR. RAPP: Summit County; Montgomery
25 County; Toledo, Lucas County; all those counties.

1 Some counties have been in our system since 2002,
2 Montgomery County since 1996. Load testing, they
3 process 65 computers on their system. They use 25
4 absentee -- fast absentee check-in centers so that
5 they can process. They take about 35 seconds. From
6 the time the person sits down to the time they get up
7 and vote is 35 seconds for the whole process.

8 MEMBER LEONARD: That Topaz gadget, are
9 you limited to only using the stylist that is
10 attached to it or can any stylist be -- in this COVID
11 environment do you really want people to continue to
12 handle that?

13 MR. RAPP: The Topaz has a hard tip. I
14 am not able to use the soft-tip stylist we have, but
15 we can get additional stylists so that there would be
16 more than just one at the desk. But it is a hard
17 tip, not the soft tip that you would see on the back
18 of a pen.

19 MEMBER LEONARD: I know you can buy
20 disposable stylists now --

21 MR. RAPP: That is correct.

22 MEMBER LEONARD: -- so you don't have to
23 deal with cleaning.

24 MR. RAPP: More things are available now
25 than they were six months ago.

1 MEMBER LEONARD: I wanted to make sure it
2 wasn't bound because of the cable.

3 MR. RAPP: Yeah.

4 MEMBER LEONARD: It is only recognizing
5 that stylist for purposes of --

6 MR. RAPP: No. This is only to hold it
7 into the unit, and it is only a hard plastic stylist.
8 It is not that it's -- it's not actually wired into
9 it.

10 MEMBER LEONARD: Okay. Thank you.

11 MR. RAPP: That is correct.

12 MR. TLACHAC: Mr. Chair, let me just ask
13 the question.

14 CHAIRMAN MATTHEWS: Yes.

15 MR. TLACHAC: If a voter comes and signs
16 the Topaz signature pad and the person that's
17 monitoring the check-in process determines that that
18 signature doesn't look like the signature on the
19 file, could they ask the voter to clear it out, or
20 can the system clear it out? And maybe you
21 demonstrated that, and I missed that. I apologize.

22 MR. RAPP: Yes. If we go back to the
23 screen, go ahead and do that, there is the ability on
24 the screen itself for them to click okay or clear.

25 MR. TLACHAC: Okay.

1 MR. RAPP: Okay. So if I am halfway
2 through it and I realize I am not signing a check or
3 I am not at the grocery store doing my bill and maybe
4 I want this signature to be better, any time they can
5 hit clear so. And in that clear button it would
6 clear the full screen, and they could start over
7 typing again. The voter itself has the okay button.
8 When they are complete with their signature, they
9 click the okay, and then the operator, BOE operator,
10 is actually doing the scanning.

11 MR. TLACHAC: If they click okay though,
12 the voter, and it's already kind of saved in the
13 system, is there a way for the operator then to clear
14 that out?

15 MR. RAPP: If they -- well, first of all,
16 the voter when they say okay, that doesn't save it at
17 this record.

18 MR. TLACHAC: Okay.

19 MR. RAPP: The operator, me being the BOE
20 operator, I have to make a determination if those --
21 if I am comfortable that person is who they are based
22 upon the signature.

23 MR. TLACHAC: I understand. Okay. Thank
24 you.

25 MR. RAPP: Then I click save and that

1 saves directly. If I save that record, that person
2 has now been marked as an absentee in-office voter.

3 MS. GRANDJEAN: Got it.

4 MEMBER LEONARD: In the instance then if
5 the operator rejects it, would you sign this again,
6 and just rejects it, and does that give the voter the
7 opportunity to try again?

8 MR. RAPP: They would hit the capture
9 button again. Now, their -- their screen is
10 activated, and now he is able to sign, yes.

11 MR. TLACHAC: If for some reason the
12 operator did save and did realize suddenly, oh, wait
13 a second, I used your maiden name or maybe there is a
14 name change or something, could you go back and kind
15 of redo that process or is that something --

16 MR. RAPP: You could. At this point you
17 are in a situation where you've done something that
18 would probably, No. 1, you would want to talk to a
19 supervisor, somebody there, they could go into the
20 EVIS tab, update, correct, recapture, and change any
21 of that data that they needed to change.

22 MR. TLACHAC: Okay. Just a more manual
23 process.

24 MR. RAPP: Yes.

25 MR. TLACHAC: More steps.

1 MR. RAPP: The fast check-in is designed
2 for the line of computers or counters to try to get
3 that person through there as quickly and as
4 efficiently as you can. But then, of course, the
5 EVIS, which is the full tab in the full screen, is
6 where you would do all of your administration work
7 so.

8 MS. GRANDJEAN: I have a question. Is
9 there -- do you guys provide training -- well, you
10 provide training to the counties that will use this?

11 MR. RAPP: Yeah. Every county we would
12 provide training.

13 MS. GRANDJEAN: Okay.

14 MR. RAPP: All of the screens we have
15 looked at here already have been used by the counties
16 for many years. The only feature function that we
17 are adding is the ability for them to hit the capture
18 button and store the signature, so it's only one or
19 two screens different than what they are already
20 using.

21 MS. GRANDJEAN: Okay.

22 MR. RAPP: But, yes, we would definitely
23 provide training.

24 MS. GRANDJEAN: Can I ask a question to
25 the Board, Chair?

1 CHAIRMAN MATTHEWS: Yeah.

2 MS. GRANDJEAN: Do you guys feel like
3 there is enough of an understanding of the importance
4 of the signature at that level of the folks that
5 are -- that are in the Board operating the -- to the
6 point of if -- if it doesn't match, you know, what
7 that means? Okay. How would you guys as, you know,
8 Board employees and members utilize the record of
9 signatures, the record of various signatures?

10 MEMBER STEVENS: We use it all the time.
11 It's helpful to adjudicate certainly on petitions.

12 MS. GRANDJEAN: How do you pick which one
13 though? Like from which -- like if he has, for
14 example, a record of, you know, signatures dating
15 back to, you know, however long, how do you choose?
16 How does the Board choose that?

17 MEMBER LEONARD: Typically from ours
18 what's on the registration form.

19 MS. GRANDJEAN: So that original, I mean,
20 like the bottom would be the one that you would be
21 utilizing.

22 MEMBER LEONARD: Right.

23 CHAIRMAN MATTHEWS: Well, if you -- if
24 you registered to vote in 1960 and you've
25 subsequently started voting absentee or even at the

1 polls, we update that signature. It rotates into the
2 newer spot.

3 MS. GRANDJEAN: Right.

4 CHAIRMAN MATTHEWS: What's really strange
5 is when you get -- you start to see the signature
6 deteriorating and then one year all of a sudden it's
7 perfect. Now that's the question. Wonder drug. So
8 I guess I am unclear because you were -- I start to
9 understand some of this now, that these are screens
10 your clients are already using. So you've
11 repeatedly -- you know, we are kind of intermixing
12 this function with the current functions.

13 MR. RAPP: Okay. Right now --

14 CHAIRMAN MATTHEWS: Has anybody used this
15 fast check-in?

16 MR. RAPP: Yes. 68 counties in Ohio
17 currently use this absentee fast check-in screen, the
18 absentee voter registration screen, and the voter
19 registration absentee tab. That is currently in use
20 in every county in the state of Ohio, processed all
21 of the absentees for the last election, this screen
22 right here.

23 What they do not have because they do not
24 have a Topaz signature pad they do not have the
25 ability to do this one button right there. They

1 don't have the ability to capture the signature. So
2 what we are really talking about is the ability to
3 capture the signature, store the signature, and
4 reproduce it at the end of the day on a signature
5 report. That's the one feature they don't have right
6 now.

7 CHAIRMAN MATTHEWS: Okay. I want to go
8 back to Director Grandjean's question because that's
9 really important. That's where I was going with this
10 is that my signature does not look the same on a
11 Topaz pad or any other pad than it does on paper. It
12 looks similar, but it doesn't look the same. So my
13 signature on a pad does not look the same as it looks
14 on a petition. Well, I don't get to sign petitions
15 any more, but it wouldn't look the same. So is that
16 where you are going with this and what -- what -- I
17 think from our perspective we look at all the sources
18 available to us, and we recognize that if it's
19 captured on a pad, it's going to vary somewhat.

20 MS. GRANDJEAN: Yeah.

21 CHAIRMAN MATTHEWS: But we love it when
22 it's an absentee application.

23 MS. GRANDJEAN: Because it's on -- right.

24 CHAIRMAN MATTHEWS: That would
25 potentially go away. That's where we get -- but I

1 still think the benefits outweigh, just to be clear.
2 But that would go away. We use that for a lot of our
3 updates because it's the most current, and it's a
4 more realistic signature than it is on the pads.

5 And I -- I've seen all of them with the
6 tilt pads and everything else. You know, it's not
7 just -- I remember going into certain stores where
8 you had to hold your arm out like this and kind of
9 free hand it. Oh, that looks like -- a lot like it.
10 It doesn't. So I guess that's my attempt at
11 answering your question. This is not the sole
12 reliance for objection of a signature.

13 MS. GRANDJEAN: Right.

14 CHAIRMAN MATTHEWS: At least in my
15 county. I hope for others.

16 MR. RAPP: I don't believe it would be
17 for all other counties, and not all other counties
18 update their voter registration signature from what
19 they get from the electronic pollbooks either for the
20 same reason, because when I am at the polls, I am
21 looking at a good, clean voter registration
22 signature. As soon as I sign on the pollpad or
23 pollbook at the precinct, now I have that same
24 problem; it's just reversed. Now I have signed on
25 the pad, and I have got the other one, so it is the

1 county's discretion when they want to update that
2 voter document or the voter signature that they
3 stored.

4 MS. GRANDJEAN: It was more of a question
5 about, you know, developing policies surrounding new
6 technology, signature matching, and what maybe the
7 unintended consequences or good things that are
8 surrounding that, but I totally understand the ease
9 of it, and I also have COVID-related concerns because
10 people are not going to want to touch something any
11 more than they have to. And so it's going to be
12 scribble, scribble, scribble as quickly as possible,
13 not take your time to, so I just wanted to raise that
14 for the Board's consideration as well.

15 MEMBER LEONARD: The acceptance of the
16 new signature, is that -- can that -- is that done in
17 bulk or is that done --

18 MR. RAPP: That would be --

19 MEMBER LEONARD: You could look at each
20 voter and determine, yeah, that's -- that seems like
21 a good updated signature versus somebody who signs
22 like they are at Kroger with their first letter looks
23 like it and the rest is scribble.

24 MR. RAPP: Right now, it's done in bulk,
25 but we have had that request right there, that once

1 we get to this point, can we just present these to a
2 user and they could say yes or no because it's pretty
3 easy to see whether it's just somebody that it was
4 easy to do it quickly or whether they didn't.

5 So we do believe that in the future we
6 are going to give them the ability to review those,
7 but right now it's done all of the absentees in bulk
8 and then go from there. So that's just like when we
9 get signatures from the pollpads imported into here.
10 It's either all in bulk, or they have no paper to
11 choose, it gives us all the signatures. So, right
12 now, it is in bulk.

13 MEMBER STEVENS: That's just to capture,
14 not to necessarily change what you consider the
15 signature on file.

16 MR. RAPP: That would be to move what we
17 would see on the signature from the absentee to make
18 it the signature on file.

19 MEMBER STEVENS: All or nothing.

20 MR. RAPP: Right now, it is all of the
21 absentees or nothing. But the one thing too is that
22 our system, because it's storing all this data within
23 each election, when I go in and vote absentee for the
24 last March election and I do my signature, that
25 signature is stored with that election. When I sign

1 for this upcoming November election, when I sign for
2 my absentee, that signature is stored with that
3 election, so I am actually storing the signature with
4 each and every election as we go on. So those --
5 those signatures are always going to be available for
6 the person to look at at a future time.

7 MR. TLACHAC: Mr. Chair, if I may ask a
8 question.

9 CHAIRMAN MATTHEWS: Yes.

10 MR. TLACHAC: Brett, one point to raise,
11 and you had mentioned you have materials, that you
12 provided documentation to the Board as well as just
13 general training that you will provide.

14 MR. RAPP: Right.

15 MR. TLACHAC: For a voter who does have a
16 physical disability, especially a physical disability
17 where they might be visually impaired, can't see the
18 Topaz signature pad or where to put it, is there a
19 guidance you provide to the Boards how to capture a
20 signature in those circumstances? I know it's going
21 to be similar to how they would interact with the
22 voter on election day who has an accessibility issue.

23 MR. RAPP: It's going to be kind of the
24 same way they would deal with that voter right now
25 because what they would present to this voter right

1 now would be some sort of piece of paper. They would
2 have to sign within the box or the label or whatever
3 it is they are currently providing.

4 MR. TLACHAC: Or the actual application
5 if the voter decided to go that route.

6 MR. RAPP: That is correct, or the actual
7 application itself so I don't know of any way to --
8 with our current law to say that we cannot -- we have
9 to get a signature of some sort. So there has to be
10 some place to put that signature.

11 MR. TLACHAC: And the law also allows for
12 a voter to use a stamp if they have such a device,
13 you know, so that there would have to be a way --

14 MR. RAPP: And we would still have for
15 the purpose of the time frame in which we couldn't --
16 actually if the system was to go down, we would still
17 have our paper backups of our lists, our paper
18 backups for reports. We would still have an
19 alternative method.

20 The system allows us to print right now,
21 which is the way they do it right now, allows them to
22 print the little signature box, or the paper, okay?
23 So we are not going to take that feature away from
24 them. We are going to continue to allow that feature
25 to occur but this is just another method to hopefully

1 streamline the people to get them to store the
2 signature instead of having that paper trail.

3 It's really more about the end of the day
4 and the retrieval after the process. At the end of
5 the day right now they have this stack of paper that
6 they have to deal with. Four days from now when I
7 need to see that signature again, I have got to go
8 find it in that paper. This is just another method
9 to give it to us right on the screen.

10 MR. TLACHAC: Thank you.

11 MS. GRANDJEAN: I have no further
12 questions, sir.

13 CHAIRMAN MATTHEWS: Any questions?

14 MR. RAPP: I would like to thank you guys
15 for your time, allowing us to come up here and do
16 this. So first presentation in a mask. Just gotta
17 love it so.

18 CHAIRMAN MATTHEWS: There is a lot of
19 firsts in masks. If there are no other questions or
20 comments, entertain a motion to recommend for
21 approval the absentee fast check-in process for use
22 in Ohio elections.

23 MEMBER STEVENS: So moved.

24 CHAIRMAN MATTHEWS: So moved by Shawn.
25 Second?

1 MEMBER LEONARD: Second.

2 CHAIRMAN MATTHEWS: Seconded by Ed.

3 Any further discussion?

4 All those in favor signify by saying aye.

5 Opposed. Motion carries.

6 Thank you very much. Congratulations.

7 MR. RAPP: Thank you.

8 MR. TLACHAC: Thank you.

9 CHAIRMAN MATTHEWS: Looks like the next
10 business is the approval of minutes from the
11 February 7, 2020, meeting of the Board. Is there a
12 motion to approve the minutes as submitted?

13 MEMBER LEONARD: I'll so move.

14 MEMBER STEVENS: Second.

15 CHAIRMAN MATTHEWS: Any discussion?

16 Hearing none, all those in favor signify
17 by saying aye.

18 Motion to adjourn.

19 MEMBER LEONARD: So moved.

20 MEMBER STEVENS: Second.

21 CHAIRMAN MATTHEWS: We are adjourned.

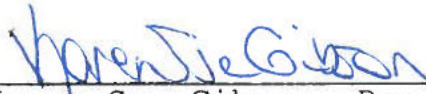
22 (Thereupon, at 11:55 a.m., the meeting
23 was concluded.)

24 - - -

25

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Friday, June 12, 2020,
and carefully compared with my original stenographic
notes.


Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6917)

- - -

Exhibit 14

THOMAS J. MARSHALL
GENERAL COUNSEL
AND EXECUTIVE VICE PRESIDENT



July 30, 2020

Honorable Frank LaRose
Ohio Secretary of State
22 North 4th Street, Floor 16
Columbus, OH 43215-3668

Dear Secretary LaRose:

Re: Deadlines for Mailing Ballots

With the 2020 General Election rapidly approaching, this letter follows up on my letter dated May 29, 2020, which I sent to election officials throughout the country. That letter highlighted some key aspects of the Postal Service's delivery processes. The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Ohio's election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.

As I stated in my May 29 letter, the two main classes of mail that are used for ballots are First-Class Mail and USPS Marketing Mail, the latter of which includes the Nonprofit postage rate. Voters must use First-Class Mail (or an expedited level of service) to mail their ballots and ballot requests, while state or local election officials may generally use either First-Class Mail or Marketing Mail to mail blank ballots to voters. While the specific transit times for either class of mail cannot be guaranteed, and depend on factors such as a given mailpiece's place of origin and destination, most domestic First-Class Mail is delivered 2-5 days after it is received by the Postal Service, and most domestic Marketing Mail is delivered 3-10 days after it is received.

To account for these delivery standards and to allow for contingencies (e.g., weather issues or unforeseen events), the Postal Service strongly recommends adhering to the following timeframe when using the mail to transmit ballots to domestic voters:

- **Ballot requests:** Where voters will both receive and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.
- **Mailing blank ballots to voters:** In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters. Using Marketing Mail will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-1100

(b)(6); (b)(3)-39

FAX: 202-268-6981

(b)(6); (b)(3)-39 USC

www.usps.com

- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. In states that require mail-in ballots to be *both* postmarked before Election Day *and* received by election officials by a specific date that is one week or more after Election Day, voters may generally mail their ballot up until November 2, the day before the 2020 general election. However, voters who mail in their ballots on November 2 must be aware of the posted collection times on collection boxes and at the Postal Service's retail facilities, and that ballots entered after the last posted collection time on a given day will not be postmarked until the following business day.

Under our reading of your state's election laws, as in effect on July 27, 2020, certain state-law requirements and deadlines appear to be incompatible with the Postal Service's delivery standards and the recommended timeframe noted above. As a result, to the extent that the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.

Specifically, it appears that a completed ballot must be postmarked before Election Day and received by election officials within 10 days after the election. If that understanding is correct, voters who choose to mail their ballots may do so on or before Monday, November 2. However, it further appears that state law generally permits voters to apply by mail for a ballot as late as 3 days before the election. If a voter submits a request at or near the deadline, and the ballot is transmitted to the voter by mail, there is a significant risk that the ballot will not reach the voter before the state's postmark deadline of November 2, and accordingly that the voter will not be able to use the ballot to cast his or her vote. That risk is exacerbated by the fact that the law does not appear to impose a time period by which election officials must transmit a ballot to the voter in response to a request.

To be clear, the Postal Service is not purporting to definitively interpret the requirements of your state's election laws, and also is not recommending that such laws be changed to accommodate the Postal Service's delivery standards. By the same token, however, the Postal Service cannot adjust its delivery standards to accommodate the requirements of state election law. For this reason, the Postal Service asks that election officials keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail (including mail-in ballots) so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

We remain committed to sustaining the mail as a secure, efficient, and effective means to allow citizens to participate in the electoral process when election officials determine to utilize the mail as a part of their election system. Ensuring that you have an understanding of our operational capabilities and recommended timelines, and can educate voters accordingly, is important to achieving a successful election season. Please reach out to your assigned election mail coordinator to discuss the logistics of your mailings and the services that are available as well as any questions you may have. A list of election mail coordinators may be found on our website at: <https://about.usps.com/election-mail/politicalection-mail-coordinators.pdf>.

We hope the information contained in this letter is helpful, and please let me know if you have any questions or concerns.

Sincerely,

(b)(6); (b)(3):39 USC 410 (c)(2)

Thomas J. Marshall

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**LEAGUE OF WOMEN VOTERS OF
OHIO, A. PHILIP RANDOLPH
INSTITUTE OF OHIO, GEORGE W.
MANGENI, and CAROLYN E.
CAMPBELL,**

Plaintiffs,

v.

**FRANK LAROSE, in his official capacity
as Secretary of State of Ohio,**

Defendant.

CASE NO. 20-cv-3843-MHW-KAJ

**DECLARATION OF JEN MILLER IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**
(Pursuant to 28 U.S.C. § 1746)

I, Jen Miller, am over the age of 18 and fully competent to make the following declaration. The facts in this declaration are based on my personal knowledge. If called upon as a witness, I would testify to these facts. Under penalty of perjury, I declare and state the following:

Personal Background

1. I serve as the Director of the League of Women Voters of Ohio ("LWVO"). I have served in this capacity for 2 years.
2. LWVO is a membership organization affiliated with the League of Women Voters of the United States—we recruit and develop members and provide support to thirty-three local leagues in Ohio.

3. LWVO is a non-partisan peoples' organization that has fought since it was founded in 1920 by the suffragettes, after the enactment of the Nineteenth Amendment of the U.S. Constitution granting women's suffrage, for the goal of helping citizens exercise their right to vote, to improve our government, and engage all Americans in the decisions that impact their lives. LWVO has fulfilled this goal for decades by registering new voters, providing nonpartisan voter guides, helping to educate citizens about when and how they may cast a ballot, and advocating in favor of positive voting reforms.

4. In typical election years, LWVO provides many voter services and educational projects, such as conducting voter registration drives, publishing in journals and brochures, holding nonpartisan candidate and issue forums, publishing online electronic voter information and candidate guides, and providing rapid response emergency support to local leagues in times of crisis, among other activities.

5. Before election day in past years, LWVO typically engages in voter protection work, helps voters learn and locate their polling places, provided information to voters on their registration, inform voters about what types of identification are required at the polls, or helping prospective voters navigate the absentee voting process.

6. LWVO members work with state officials and local county officials to ensure that they are ready for Election Day and have trained poll workers. LWVO's local league members also attend local county board meetings to watch county elections officials decide whether to accept or reject absentee ballot applications.

7. Before the primary election fiasco on March 17 and April 28, LWVO worked directly with local leagues and members to educate the public on the State's new process and timeline for

casting absentee ballots, ways to avoid mail delays, and many issues around prepaid postage, late postmarks, and misinformation by local election officials.

8. In preparation for the November 2020 election, LWVO has devoted resources, including volunteer time to these efforts and plans to devote more to educating the public about the barriers to voting and also to help Ohioans cast absentee ballots as a voting option.

Harms to LWVO Members from Ohio's Signature Matching Processes

9. LWVO is aware that Ohio counties apply different processes and practices when it comes to signature matching on absentee applications and absentee ballots.

10. LWVO is aware that some county boards of elections conduct signature matching on absentee applications, requiring elections officials to determine whether the signature on the voter's application matches the signature on the file. LWVO is aware that some county boards do not conduct signature matching on absentee applications.

11. In the counties that do conduct signature matching on absentee applications, LWVO has received reports that some counties provide notice and opportunity to voters to cure mismatches. LWVO has also received reports from members that they have not consistently received notice and opportunity to cure mismatches on their applications.

12. LWVO is aware that the lack of uniform practices concerning signature matching on absentee applications leads to arbitrary outcomes and uneven handling for LWVO members and members of the public—depending on their county of residence.

13. As an example, one LWVO member, Barbara Ebright, who lives in Cuyahoga County, experienced multiple barriers with her absentee application in the primary election. Ms. Ebright is ninety years old. She has had poor eyesight for the past few years and reads with an

electric reader. She cannot vote in person because her eyesight is too poor to allow her to read the ballot.

14. Ms. Ebright telephoned the Cuyahoga County Board of Elections to request an application for an absentee ballot well before the March 17 primary election. When the application arrived, she promptly filled it out and mailed it back to the Board. She received a letter back from the Board that her application was rejected because it had missing information. She telephoned the Board and requested another application. Because the rejection letter for her original application did not specify the reason for rejection, she took great care to fill out a new application using her electronic reader. She mailed in the second application and received another letter rejecting the second application without providing a reason. She telephoned her Board and was informed that her signature had not matched. She requested a third application and the Board finally mailed her a ballot.

15. While Ms. Ebright's ballot was counted in the primary election, her story shows how difficult it is to request and cast an absentee ballot in Ohio given the State's inconsistent signature matching processes for absentee applications. These obstacles also discourage many voters and de-motivate them from voting by mail.

16. But for her own self-advocacy, Ms. Ebright would not have been able to navigate the system and request an application three times to vote in the primary election. If Ms. Ebright had not started the mail-in voting process more than a month in advance, her vote would not have been counted.

17. LWVO is also aware that Ohio counties follow different procedures for signature matching on absentee ballots leading to arbitrary results depending on the county of residence. Some counties have one election official review absentee ballots for signature discrepancies and

will reject based on that official's determination. Other counties have multiple election officials review before rejecting ballots. The Secretary of State's Office does not provide training or guidance to county officials to help them standardize their processes. The lack of uniformity has led to arbitrary outcomes for LWVO members who vote absentee—depending on which county they live in.

18. LWVO is also aware that Ohio statutes do not contemplate pre-deprivation notice and cure processes for those absentee ballots with the ten-day period under statute but after the seven-day timeframe for providing notice and cure opportunities for voters whose absentee and provisional ballots were rejected. A lack of procedure means that counties can exercise unfettered discretion in deciding whether and how to provide opportunities for notice and cure on those ballots that arrive in the three to four days after the end of the official seven-day cure period.

19. Moreover, during the primaries LWVO saw members struggling to meet the postmark deadlines because USPS did not deliver their ballots at all or delivered their ballots the day before election day causing members to rush to get their ballots postmarked and mailed in time. Because of these delays, many LWVO members, through no fault of their own, mailed their ballots the day before election or on election day—and again, because of USPS delays, their respective county boards received these absentee ballots in the last three days before election day. Many LWVO members called to report that their absentee ballots were never counted and they never learned the reason—if LWVO members' ballots were rejected because of signature discrepancies, then they did not receive pre-deprivation notice or cure even though their ballots arrived within the ten-day period and they would have no way of knowing the reason for rejection or how to cure.

20. Ohio's inconsistent practices and procedures on signature matching for absentee applications and ballots harm LWVO's members. A majority of LWVO members are older (above

60 years old). Because of sickness, arthritis, and other conditions, members' handwriting differs. And because of a lack of uniform procedures, members are at the mercy of their local election officials and the policies of their local boards of elections.

21. Also, the lack of any pre-deprivation notice and opportunity to cure signature-mismatched ballots in the three remaining days after the seven-day cure period under statute harm LWVO's members because they have no way of knowing the reason why their ballots were rejected (whether signature discrepancies or other reasons and how to cure).

LWVO's Voter Education and Engagement Around Ohio's Signature Matching Practices

22. Since the COVID-19 pandemic and the increase in vote by mail in Ohio, LWVO has been forced to put aside voter registration efforts in the crucial months leading up to an election and instead focus time and resources on educating voters about how to avoid having their applications or ballots rejected because of a purported signature mismatch.

23. In past election cycles, LWVO has focused less on absentee voting and absentee ballot rejections and more on providing in-person voting services such as election protection.

24. Since the pandemic, LWVO anticipates that more members, volunteers, and individuals that it serves will attempt to vote by mail to avoid voting in person. In fact, during the primary election, LWVO saw an increase in the number of members who chose to vote absentee by mail so that they could avoid exposure to COVID-19. With Ohio transitioning to a predominantly vote-by-mail general election, LWVO anticipates that record numbers of its membership will elect to vote absentee by mail.

25. Given this anticipated shift in method of voting, LWVO not only has increased education around the absentee voting process but has conducted virtual membership workshops on barriers to voting by mail.

26. During these workshops, LWVO warns attendees that their signatures on absentee ballot identification envelopes must match their signatures on file with their county election commissions. LWVO has discussed in detail the absentee application and ballot return process including that counties have different procedures around signature matching. LWVO has advised workshop attendees to exercise caution when signing absentee ballots. LWVO has also warned members that if their ballots arrive at their boards of elections after the seventh day, if rejected, members may never receive notice and the chance to cure.

27. For example, LWVO has advised members to practice their signature on separate pieces of paper before signing their ballots.

28. LWVO has also advised its members to follow up with their county boards of elections to check whether their absentee ballots were counted and ask for opportunities to cure their ballots if they were rejected.

29. LWVO has had to update its website to place members of the public on notice that if they are voting by mail, they must sign their absentee ballot applications. The website also encourages voters to contact county boards of elections within three to five days of sending in their applications and ballots to ensure that boards of elections received and processed them.

30. Without LWVO's education and engagement around signature mismatch around absentee application and ballot rejections generally, many prospective members will remain in the dark that such processes exist.

31. Members will not know that they must exercise caution and follow up with their county boards to ensure that their absentee applications and ballots have been counted, and they may have to request their county boards to allow them to cure their applications and ballots so that their vote is counted.

32. While LWVO is encouraging more eligible individuals to vote by mail, the organization has also been mindful of the deficiencies in the vote-by-mail process.

33. The organization would not have to expend its staff time and resources educating voters about ballot rejections due to signature mismatch if the State provided for uniform training and guidance to local election officials and meaningful notice and an opportunity to cure rejected ballots that arrive after the seventh day.

34. The lack of procedures, patchwork of signature-related policies, and lack of meaningful notice and opportunity to cure makes eligible voters less likely to trust the absentee voting system and less likely to vote during the pandemic because they believe their absentee ballot will not count.

35. To that end, the organization feels it is our duty to educate voters on absentee rejections because of signature mismatch and provide tools for voters to make sure their signature does match.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on August 23, 2020.

A handwritten signature in dark ink, appearing to read "Jen Miller", is written above a horizontal line.

Jen Miller

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**LEAGUE OF WOMEN VOTERS OF
OHIO, A. PHILIP RANDOLPH
INSTITUTE OF OHIO, GEORGE W.
MANGENI, and CAROLYN E.
CAMPBELL,**

Plaintiffs,

v.

**FRANK LAROSE, in his official capacity
as Secretary of State of Ohio,**

Defendant.

CASE NO. 20-cv-3843-MHW-KAJ

DECLARATION OF ANDRE WASHINGTON

Now comes declarant Andre Washington, who having been first duly cautioned and sworn,
deposes and states as follows:

1. I am over the age of 18 and fully competent to testify to the statements and facts contained herein, and I have personal knowledge of all of them.
2. I am a resident and elector of the State of Ohio.

3. I am the President of the Ohio Chapter of the A. Philip Randolph Institute (“APRI”), which is a plaintiff in the above-captioned matter.

4. Ohio APRI is the Ohio Chapter of APRI, an historic national organization devoted to political, social, and economic justice for all working Americans. We focus on access to voting rights through voter education and registration, civic engagement, and voter outreach. We arose out of the Black Labor Alliance, a coalition of civil rights and labor leaders who helped to pass the Voting Rights Act of 1965. Today, we work in our communities to continue ensuring that people have the right to vote and participate in the political process.

5. Ohio APRI has hundreds of members and volunteers throughout the state, organized into ten chapters, including in Columbus, Cleveland, and Cincinnati. Although its activities are funded in small part by membership dues, its most significant resource consists of the volunteer work performed by its members.

6. Ohio APRI’s work includes voter education, registration, and civic engagement and outreach. This work includes educating voters on absentee voting requirements and assisting voters with the absentee ballot application and mailing process. We organize, for example, voter registration drives, educational events, and “get out the vote” activities. We have typically done this through door-to-door canvassing and community events like group meetings and clam bakes.

7. When Ohio APRI’s efforts to accomplish our work have been impeded by voter-repressive practices, we have also served to advocate for the voting rights that we protect. Under my presidency, Ohio APRI has stood up and taken the role of plaintiff in litigation to protect and enforce the voting rights of its members and other Ohioans including in: *NAACP v. Husted* (to protect early voting), *APRI v. Husted* (to challenge Ohio’s purge of infrequent voters), *APRI v.*

Smith (to challenge Ohio's gerrymandered congressional map), and *LWV v. LaRose* (to secure voters' ability to participate in Ohio's 2020 primary).

8. In preparation for the November 2020 election, Ohio APRI is again allocating its resources, which in this case consist predominantly of volunteer hours, to efforts including its historic voter registration and education endeavors.

9. Nearly all, if not all, Ohio APRI members are registered to vote and intend to vote in the November 2020 election. Nearly all, if not all, intend to vote in this election by sending in applications for mail-in absentee ballots, and mailing in their ballots.

10. In my experience, many African American voters have preferred the tradition of voting in person, sometimes even as part of organized events such as souls-to-the-polls.

11. In the November 2020 election, however, I and my organization anticipate that, due to the coronavirus pandemic, unprecedented numbers of Ohioans will instead be voting by mail, many for the first time.

12. But many voters, including Ohio APRI members, will face disenfranchisement due to the State's failure to provide sufficient notice or opportunities to cure signature mismatches on rejected absentee ballot applications or on absentee ballots.

13. Due to the vagaries and infirmities of Ohio's signature matching processes, and the variations in the processes among Ohio counties, Ohio APRI will need to expend volunteer resources on educating and encouraging voters to anticipate that they might have to cure rejections, and teach, remind and encourage them to be vigilant and proactively track their ballot applications and their mailed-in ballots, at the expense of our organization's other efforts.

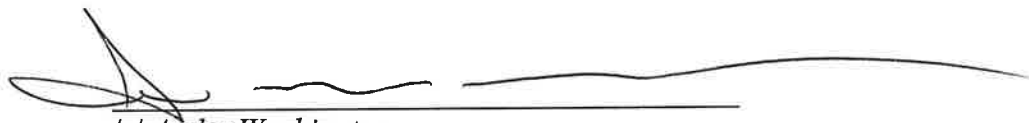
14. To try to avert the mass disenfranchisement that could result from Ohio's signature match requirements, we have organized "virtual phone banks" in which approximately 100 of

our members will make calls from their living rooms to registered voters living in zipcodes that are substantially African American, to shepherd voters through the process of requesting absentee ballot applications, completing applications, and voting by mail – by calling them repeatedly to check on their status and helping them pursue the steps of the process. It is our experience that when a voter encounters an impediment, such as a rejected application, or an overly-long delay, he or she will feel defeated and give up. Our phone banking operation will coach voters through the process and encourage them to be proactive, to try to overcome the hurdles and delays of Ohio's signature matching processes.

15. Ohio's signature match requirements are forcing Ohio APRI to expend resources that it would otherwise use for its other voter registration and education activities.

I declare under penalty of perjury that the foregoing is true and accurate.

Executed on August 18 2020



/s/ Andre Washington

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**LEAGUE OF WOMEN VOTERS OF
OHIO, A. PHILIP RANDOLPH
INSTITUTE OF OHIO, GEORGE W.
MANGENI, and CAROLYN E.
CAMPBELL,**

Plaintiffs,

v.

**FRANK LAROSE, in his official capacity
as Secretary of State of Ohio,**

Defendant.

CASE NO. 20-cv-3843-MHW-KAJ

**DECLARATION OF CAROLYN ELIZABETH CAMPBELL IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**
(Pursuant to 28 U.S.C. § 1746)

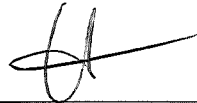
My name is Carolyn Elizabeth Campbell, and I am over the age of 18 and fully competent to make this declaration. Under penalty of perjury, I declare the following:

1. I am 37 years old.
2. I have lived in Mayfield Heights, Ohio since on or around 2006. I am registered to vote at my permanent home address, which is within Cuyahoga County.
3. My right to vote has been increasingly valuable to me in recent years, and I attempt to use that right wisely. I vote in my local elections as well as state and federal elections, and I plan to continue to do so in the future.
4. I first registered to vote in Ohio in or around 2001. My signature has changed and evolved since that time. I intentionally changed my signature from my full name in cursive to a stylized version of my initials at age 25 to distinguish it from my mother's signature, as she has a similar name.

5. In 2006, I moved to my current permanent address in Mayfield Heights. This is my primary residence.
6. On or about February 19, 2020, I applied to vote by mail in the 2020 primary election. I chose to vote by mail because it is not practical for me to drive to my voting location in person during the work week.
7. I understand that Cuyahoga County records show that my absentee ballot application was rejected on or around March 5, 2020 because my signature was rejected for a non-matching signature. I received information regarding my application being invalid.
8. Following receipt of this information, I provided corrected information.
9. According to the "Track My Ballot" website, my application was accepted on April 23, 2020. According to this website, my absentee ballot was mailed to me on April 24, 2020.
10. I received this absentee ballot on April 29th, 2020. I completed the ballot and returned it by mail on or about April 30th, 2020.
11. My ballot was not counted. I was not provided with any opportunity to further cure any deficiency in my ballot.
12. I only learned that my ballot was rejected when I was contacted by the League of Women Voters of Ohio on or about July 28, 2020. I confirmed this with the "Track My Ballot" website which shows that my ballot was not returned, even though I mailed my ballot on or about April 30, 2020.
13. When I discovered that my ballot was rejected, I was disappointed with the State of Ohio and with the State officials who conduct elections in Ohio due to the lack of communication to the public generally about the process of mail voting and the potential for disenfranchisement. I was also saddened by the fact that no election

official communicated to me in particular regarding the status of my ballot. This experience has left me frustrated. I am also disappointed that the "Track My Ballot" website doesn't show that my application was rejected. The website does not contain complete information about my attempt at voting in the 2020 Primary Election.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 24, 2020.

A handwritten signature in black ink, appearing to be "CE Campbell", written over a horizontal line.

Carolyn Elizabeth Campbell

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LEAGUE OF WOMEN VOTERS OF
OHIO, A. PHILIP RANDOLPH
INSTITUTE OF OHIO, GEORGE W.
MANGENI, and CAROLYN E.
CAMPBELL,

Plaintiffs,

v.

FRANK LAROSE, in his official capacity
as Secretary of State of Ohio,

Defendant.

CASE NO. 20-cv-3843-MHW-KAJ

DECLARATION OF GEORGE WASHINGTON MANGENI IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION
(Pursuant to 28 U.S.C. § 1746)

My name is George Washington Mangeni and I am over the age of 18 and fully competent to make this declaration. Under penalty of perjury, I declare the following:

1. I am 44 years old.
2. I believe voting is a key part of the political process. I try to vote in every election and, as a parent, I try to show my daughter the importance of voting by example.
3. I first registered to vote in Ohio in or around 2015. I am sure that my signature has not been consistent since that time, as I occasionally sign my full name in cursive and occasionally print my first name.
4. At the time of the 2020 Primary Election, I registered to vote at my home address in Franklin County. I still reside at this address. I am presently registered to vote at my home address and was registered there as of the 2020 Primary Election.
5. On or about April 1, 2020, I mailed a paper application form to the Franklin County

Board of Elections requesting a mail ballot for the 2020 primary election.

6. I voted by mail because of the threat of the ongoing COVID-19 pandemic. I normally vote in person.
7. About three weeks after I submitted my application for a mail-in ballot, I received my ballot in the mail. Because I received my ballot after submitting an application, I have no reason to believe that the Franklin County Board of Elections questioned my signature on the ballot application.
8. I submitted my mail-in ballot by postal mail on or about April 22, 2020, using my printed first name as my signature. I took photographs of my ballot before sending it.
9. The Franklin County Board of Elections never indicated to me that there was an issue with my ballot. I never received notification that I needed to correct my ballot. I carefully review my mail and email, and I have no record or recollection of any communication from the Board of Elections regarding the status of my ballot.
10. I only learned that my ballot was rejected when I was contacted by the League of Women Voters of Ohio on or about July 14, 2020. They told me that public records showed that my ballot had been rejected due to a signature mismatch.
11. When I discovered that my ballot was rejected, I was very upset. It is highly discouraging to know that my vote was not counted, and it seems unfair and unreasonable that it should be rejected on the basis of my signature. My identity is easy to verify, and it would be simple for the Board of Elections to contact me and notify me of the issue. Voting is a critical component of a democracy, and it should be made easy to do. Having my vote rejected makes me feel like the government does not want my voice to be heard.
12. I plan to continue to reside in Ohio and to vote in future elections. I am concerned

that the Franklin County Board of Elections could reject my absentee ballot again due to alleged issues with my signature and that I might not even be notified if my vote is not counted. I am losing trust in the process.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 20, 2020.



George Washington Mangeni

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**LEAGUE OF WOMEN VOTERS OF
OHIO, A. PHILIP RANDOLPH
INSTITUTE OF OHIO, GEORGE W.
MANGENI, and CAROLYN E.
CAMPBELL,**

Plaintiffs,

v.

**FRANK LAROSE, in his official capacity
as Secretary of State of Ohio,**

Defendants.

Case No. 20-cv-3843-MHW-KAJ

**DECLARATION OF DR. LINTON A.
MOHAMMED**

DECLARATION OF DR. LINTON A. MOHAMMED

I, Linton A. Mohammed, declare as follows:

1. I am a Forensic Document Examiner (“FDE”), certified by the American Board of Forensic Document Examiners. I have been engaged in this matter on behalf of Plaintiffs to opine on the reliability of the procedures and techniques of the Ohio signature verification process for absentee ballot applications and absentee ballot envelopes as set forth in Ohio elections laws and guidance.

I. QUALIFICATIONS

2. I am a U.S.-certified and internationally recognized FDE, and the focus of my research and professional experience is on handwriting and signature identification and the scientific approach to analyzing questioned signatures. I am, and since 1998 continuously have been, certified by the American Board of Forensic Document Examiners (“ABFDE”), the certifying board for FDEs in North America. I am also certified in document examination by the

Chartered Society of Forensic Sciences (United Kingdom). I specialize in the forensic science of analyzing genuine, disguised, and simulated signatures.

3. I co-founded and I am currently the principal at Forensic Science Consultants, Inc., where I conduct forensic document examination casework and research on handwriting and signature examination as well as other forensic document examination (e.g., document alterations, obliterations, indented impressions, or pages added or removed). I am also an adjunct professor at Oklahoma State University, where I teach graduate courses on the scientific examination of questioned documents.

4. During and prior to my time with Forensic Science Consultants, Inc., and for nearly fourteen years, I worked as Forensic Document Examiner and Senior Document Examiner for the San Diego Sherriff's Department Regional Crime Laboratory. There, I conducted examinations of signatures and handwriting for cases investigated by San Diego County agencies as well as by local police, state, and federal agencies. I also served as Technical Lead of the Questioned Documents Section of the Regional Crime Laboratory, trained investigators and attorneys, provided expert testimony, conducted research, and produced the Questioned Documents Section Quality Manuals. Prior to that, I worked internationally as an FDE at the Laboratory of the Government Chemist (England), the Caribbean Institute of Forensic Investigations Ltd. (West Indies), and the Trinidad and Tobago Forensic Science Center (West Indies). In those roles, I conducted forensic document examinations and testified in criminal and civil cases for multiple police forces and other government agencies.

5. I am a Fellow of the Questioned Documents Section of the American Academy of Forensic Sciences ("AAFS"), a Fellow and diplomate of the Chartered Society of Forensic Sciences, and a member of the Canadian Society of Forensic Science. I served as the Chair of the

AAFS Questioned Documents Section from 2016 to 2018. I am an appointed member and Chair of the Academy Standards Board, which was formed by the AAFS to develop consensus-based standards for the forensic sciences. I served as a member of the National Institute of Standards and Technology's Expert Working Group on Human Factors in Handwriting Examination, the National Institute of Standards and Technology Organization of Scientific Area Committees' Physics/Pattern Interpretation Scientific Area Committee, and the Scientific Working Group on Documents. I have previously served as President, Vice President, Treasurer, and Director of the American Society of Questioned Document Examiners ("ASQDE").

6. I am the editor of the Journal of the American Society of Questioned Document Examiners. I served on the editorial review board of the Journal of Forensic Sciences from 2005-2020, served on the editorial review board of Forensic Science and Technology from 2015-2020. I am a guest reviewer for the following journals: Forensic Science International, Science & Justice, Australian Journal of Forensic Science, Egyptian Journal of Forensic Sciences, and IEEE Transactions on Cybernetics.

7. I have published sixteen (16) peer-reviewed articles on signature and handwriting examination, and forensic document examination. Many of my articles focus on the analysis of genuine, disguised, and forged signatures, and handwriting examination. I have also given numerous presentations and workshops on signature and document examination worldwide, including the United States, Australia, Brazil, Canada, China, Latvia, Poland, Saudi Arabia, Scotland, and Turkey.

8. In 2019, I authored a book titled *Forensic Examination of Signatures*, which describes and discusses state of the art techniques and research in signature examination.¹ I co-

¹ Mohammed, L. (2019). *Forensic Examination of Signatures*. San Diego: Elsevier.

authored a book in 2012 titled *The Neuroscience of Handwriting: Applications for Forensic Document Examination*, which integrates research in the fields of motor control, neuroscience, kinematics, and robotics to evaluate questioned signatures and handwriting.² The book sets forth, among other things, the scientific fundamentals of motor control as relevant to handwriting; the impact of age, disease, and medication on handwriting; and a quantitative approach to signature authentication, including kinematic and laboratory analyses of genuine versus disguised versus forged signatures.

9. In 2012, I received the American Board of Forensic Document Examiners' New Horizon Award "In Recognition of His Exceptional Contributions in Scientific Research for the Advancement of Forensic Document Examination." In 2019, I received the American Academy of Forensic Sciences Questioned Documents Section Ordway Hilton Award "In Recognition of Outstanding Contributions to Forensic Document Examination."

10. I have testified as an expert witness in court and depositions more than 150 times on issues of signature, handwriting, and document examination in both civil and criminal cases, including cases in the United States, England, Trinidad & Tobago, and St. Vincent.

11. I received a Ph.D. from La Trobe University in Melbourne, Australia in human biosciences, where I wrote my thesis on signature identification: "Elucidating static and dynamic features to discriminate between signature disguise and signature forgery behavior." Prior to that, I received my undergraduate degree in science at the University of West Indies; underwent a two-year training program in document examination at the Trinidad and Tobago Forensic

² Caligiuri, M.P., & Mohammed, L.A. (2012). *The Neuroscience of Handwriting: Applications for Forensic Document Examination*. Boca Raton: CRC Press/Taylor & Francis Group.

Science Center; and received a master's degree in forensic sciences at National University in San Diego, California.

12. My *curriculum vitae* is attached as Exhibit A. I am being compensated at a rate of \$400.00 per hour. My compensation in this matter is not in any way contingent on the content of my opinion or the outcome of this matter.

II. BACKGROUND

13. For this Declaration, I reviewed the State of Ohio statutes § R.C 3501.01; 3501.22; 3505.32; 3509.03; 3509.04; 3509.05; 3509.06, 3509.07; Plaintiffs' Complaint for Declaratory and Injunctive Relief; Election Official Manual; Responses to Requests from Brown, Butler, Carroll, Delaware, Hardin, Knox, Richland, and Wyandot Counties; Directives 2020-09 and 2020-11; Form 11-S; and relevant academic literature. Ohio, like many states, has a signature match requirement for mail-in absentee ballots. A signature match requirement means that election officials will only accept and count an absentee ballot if they determine that the signatures of the voter on the ballot "correspond" with the signature of the voter on file with election officials.

14. Based on these statutes and instructions provided in the Election Official Manual (EOM), the election officials are being asked to conduct an examination of signatures on the outer envelope and the detachable flap with the signature of the voter that appears on their registration card which is an image taking up no more than 32 kilobytes³ which means a low resolution.

15. Under Ohio statute § R.C. 3509.06 D(1) "The election officials shall compare the signature of the elector on the outside of the identification envelope with the signature of that

³ Election Official Manual Ch. 3-39, (1).

elector on the elector's registration form and verify that the absent voter's ballot is eligible to be counted under section 3509.07 of the Revised Code.” No guidance is given as to how the election officials should compare and verify these signatures.

16. Furthermore, under Ohio statute § R.C. 3509.06 D(2)(a) “Any of the precinct officials may challenge the right of the elector named on the identification envelope to vote the absent voter's ballots upon the ground that the signature on the envelope is not the same as the signature on the registration form,…”

17. Under Ohio statute § R.C. 3509.07 “a ballot shall not be accepted or counted” if “The signatures do not correspond with the person's registration signature”. § R.C. 3509.07 (B).

18. Chapter 5-2 of the Election Official Manual states, “Generally, an absentee ballot application in any form is sufficient if it contains ALL of the following pieces of information:

- i. The voter's name;
- ii. The voter's signature;
- iii. The address at which the voter is registered to vote;
- iv. The voter's date of birth;
- v. One of the following:
- vi. The voter's driver license number;
- vii. The last four digits of the voter's Social Security number; or
- viii. A copy of a current and valid photo identification, a military identification, or a current (within the last 12 months) utility bill, bank statement, government check, paycheck, or other government document (other than a notice of voter registration mailed by a board of elections) that shows the voter's name and address.
- ix. A statement identifying the election for which the absentee ballot is requested;

- x. A statement that the person requesting the ballot is a qualified elector;
- xi. If the request is for a primary election ballot, the voter's party affiliation; and
- xii. If the voter desires a ballot to be mailed to the elector, the address to which that ballot shall be mailed."

19. Based on Plaintiffs' Complaint for Declaratory and Injunctive Relief, "Ohio law does not require the rejection of absentee ballot applications based on signature mismatches. But most, if not all, Ohio counties do reject such applications for that reason. Furthermore, there are no uniform statewide procedures governing the matching process. Ohio's 88 county boards of elections differ as to the standards they use to analyze signature matching, the procedures they follow to reject perceived mismatches, the timing, method and content of the notice they provide to voters whose applications are rejected, the opportunity they give to cure absentee ballot applications that have been rejected on the basis of signature mismatch, and the record keeping they do to document this activity."

20. For absentee ballots, the EOM states, "The absentee voter's signature must correspond with the signature that appears in the voter's registration file. If the absentee voter's signature on the absentee identification envelope or Secretary of State Form 11-S does not correspond with the signature in the voter's registration record, the board must reject the absentee ballot." Ohio law provides no guidance as to what is meant by "correspond".

21. No such guidance, nebulous as it is, is even provided for the signatures on the voter's application.

22. Based on my understanding, Ohio election officials are lay individuals, meaning they are not required to have any training, certification, or experience in document examination or signature comparison.

23. Based on my understanding, there are no further written statewide standards or procedures to guide election officials in evaluating whether the signature on the absentee ballot application matches the signature(s) in the voter's registration file.

III. SUMMARY OF CONCLUSIONS

24. The Ohio signature match statutes and the EOM do not set forth sufficient standards for determining reasonably whether a signature on a ballot return envelope matches the voter signature displayed in the voter's file, which I believe can result in errors. Based on my review of the election statutes, Ohio also does not require election officials to have any training in signature examination, and does not require that election officials be provided with equipment for effective document examination and signature comparison, such as proper light sources and microscopes.

25. Based on my experience and my review of the academic literature, it is my opinion that in these circumstances, Ohio election officials are likely to make erroneous signature-comparison determinations.

26. Determining whether a signature is genuine or not is a difficult task for even a trained FDE, as signatures are written in different styles with varying levels of readability and variability. Laypersons, such as Ohio election officials, have a significantly higher rate of error in determining whether signatures are genuine. Laypersons are also more likely to wrongly determine that authentic signatures are *not* genuine than to make the opposite error. In other words, Ohio election officials are significantly more likely than trained examiners to make an incorrect signature comparison determination and are particularly likely to incorrectly decide that the signatures are *not* signed by the same person.

27. The high rate of error among laypersons generally results from the inability to distinguish between normal “variations” in one individual’s signatures as opposed to “differences” resulting from multiple signers. An individual’s signatures may vary for myriad reasons, including age, health, native language, and writing conditions. Laypersons lack the tools and training to properly account for signature variation, which leads to erroneous mismatch determinations that are particularly pronounced in populations with greater signature variability, such as the elderly, disabled, individuals suffering from poor health, young voters (ages 18 to 21), and non-native English speakers.⁴

28. These signature-determination errors are further compounded for Ohio election officials with diminished eyesight or “form blindness” (a type of impairment in visual perception defined below)—both of which impact an individual’s ability to make accurate handwriting authenticity determinations. While FDEs are screened for these traits, Ohio law and guidance regarding signature comparison do not require election officials to undergo such screening.

29. Based on my review of the relevant statutes and guidance, Ohio does not require election officials to compare the signatures on the ballot return envelope to other signatures available on file beyond the absentee ballot application, or spend any minimum threshold of time in comparing signatures. These omissions are likely to lead to additional errors. At a minimum, multiple signature samples are required for an accurate signature determination to account for an individual’s signature variability, given proper examination conditions.⁵ For writers who are elderly or have poor health, a larger number of signature samples may be required to determine

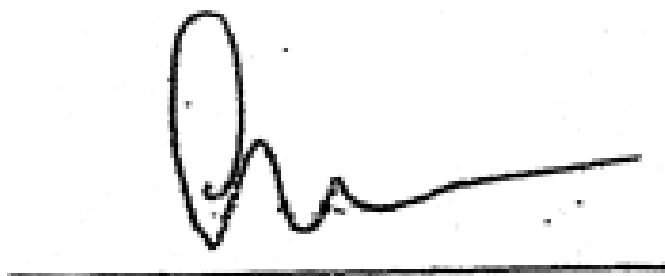
⁴ See Hilton, O. (1969). Consideration of the writer’s health in identifying signatures and detecting forgery. *Journal of Forensic Sciences*, Vol. 14, No. 2, pp. 157-166.

⁵ Hilton, O. (1965). A further look at writing standards. *The Journal of Criminal Law, Criminology and Police Science*, Vol. 56, No. 3, p. 383 (recommending a minimum of ten signature samples for accurate signature comparison determinations).

their range of variation. Yet Ohio does not require election officials to compare the voter's signatures on the ballot application and return envelope to more than one reference signature. In my experience, given optimum conditions such as complex signatures (see Figure 1) which are the product of a combination of the formation, concatenation, intersection of the strokes, and number of turning points that comprise the signature, original documents, and an adequate number of specimen signatures, a minimum of two hours is required to conduct a signature comparison. The examination requires that the signatures be sketched, and the fine and subtle details of the questioned and reference signatures be examined and compared in detail. Usually, examinations are conducted more than once as a check and balance. Election officials with insufficient time to evaluate the signature on the ballot return envelopes are likely to make additional errors. Based on my review of the relevant Ohio statutes, election officials are not allotted the required minimum amount of time to examine and compare the voters' signatures.



(a)



(b)

Figure 1 *Examples of a complex signature (a), and a simple signature (b).*

30. In sum, it is my opinion that Ohio’s current signature matching rules and procedures, which allow individuals without adequate training—and without guidance—to reject the signatures on the absentee ballot envelopes, will result in a significant number of erroneous rejections. In other words, Ohio election officials are likely to reject properly cast ballots, signed by the voter to whom the ballot belongs, because of their incorrect determination that the signatures on the absentee ballot envelopes are not genuine.

IV. ANALYSIS AND OPINIONS

A. Ohio election officials are likely to make erroneous signature comparison determinations.

31. Individuals untrained in signature examination, like Ohio election officials, are highly likely to make mistakes when comparing signatures, particularly by erroneously rejecting signatures as inauthentic or non-matching when they are in fact written by the same individual. These rejections are considered “Type II” errors, and laypersons are more likely than FDEs to make such errors for several reasons. First, untrained election officials cannot reliably determine whether signatures are written by different individuals, or whether the signatures are written by one person but exhibit natural variations. Second, untrained reviewers do not account for the many reasons for naturally varying signatures, causing them to erroneously reject authentic signatures. This is particularly true for writers who have less formal education, learned English as a second language, are elderly, disabled, young, or have adverse health conditions. Third, untrained elections officials also fail to account for the different signature styles and features, leading to erroneous rejections. Lastly, Ohio election officials are not tested for form blindness, a condition that can impact their ability to accurately review signatures.

B. Untrained laypersons are more likely than FDEs to erroneously determine authentic signatures are inauthentic.

32. There are two types of errors in signature examination. Type I errors occur when a non-genuine signature is deemed to be genuine, and a Type II error occurs when a genuine signature is concluded to be non-genuine. In Ohio's vote by mail system, a Type II error would be an election official making a determination that the ballot signatures and the reference signature for one voter are not "in order" or not "regular", when in fact, all these signatures were written by the voter. With this Type II error, the voter's ballot would be rejected due to a perceived signature mismatch, and therefore the voter would be disenfranchised through no fault of their own.

33. Compared to FDEs, laypersons have higher Type II error rates. In a 2001 study reviewing the error rates of FDEs and laypersons in comparing six genuine signatures with six non-genuine signatures, laypersons made Type II errors in 26.1% of cases while trained signature FDEs made such errors in 7.05% of cases.⁶ That means that laypersons are more than 3 ½ times more likely to declare an authentic signature non-genuine—which, in the case of signatures on ballot return envelopes, would mean that election officials would reject more than 3 ½ times the number of ballots than FDEs. It should be noted that for this study, six (6) specimen signatures were used. If, as in Ohio elections, only two genuine signatures are used for comparison, it is highly likely that the error rate for both experts and laypersons would increase significantly.

⁶ Kam M., Gummadidala K., Fielding G., Conn R. (2001). Signature Authentication by Forensic Document Examiners, *Journal of Forensic Science*, 46(4):884-888.

C. Ohio election officials cannot determine reliably whether signatures are written by different individuals, or by one individual exhibiting natural variation.

34. Determining whether signatures are made by the same or different individuals requires a reviewer to discern whether a feature or combination of features in signatures are “differences” or “variations.” Signatures are the product of a motor program developed in the brain after practice, and then executed with neuro-muscular coordination. Many factors can influence an individual’s motor program and neuro-muscular coordination. These factors cause variations in each person’s signature.⁷ Variations are deviations of personal, subconscious characteristics normally demonstrated in the habits of each writer. Individuals may have narrow, moderate, or wide ranges of natural variation. A writer’s range of variation can be determined when an adequate amount of specimen signatures is examined. A significant “difference” is a characteristic that is structurally divergent between handwritten items, is outside the range of variation of the writer, and that cannot be reasonably explained.⁸

35. In the field of signature examination, unexplainable “*differences*” between signatures suggest that different individuals wrote the signatures, whereas “*variations*” between signatures mean that one individual wrote the signatures. Determining whether signature features are “differences” or “variations” is one of the most difficult determinations in signature examinations, even for experienced FDEs.

36. Ohio statute § R.C. 3501.011 (A) defines a signature as “that person's written, cursive-style legal mark written in that person's own hand.” It further states in Section B, “(B) For persons who do not use a cursive-style legal mark during the course of their regular business

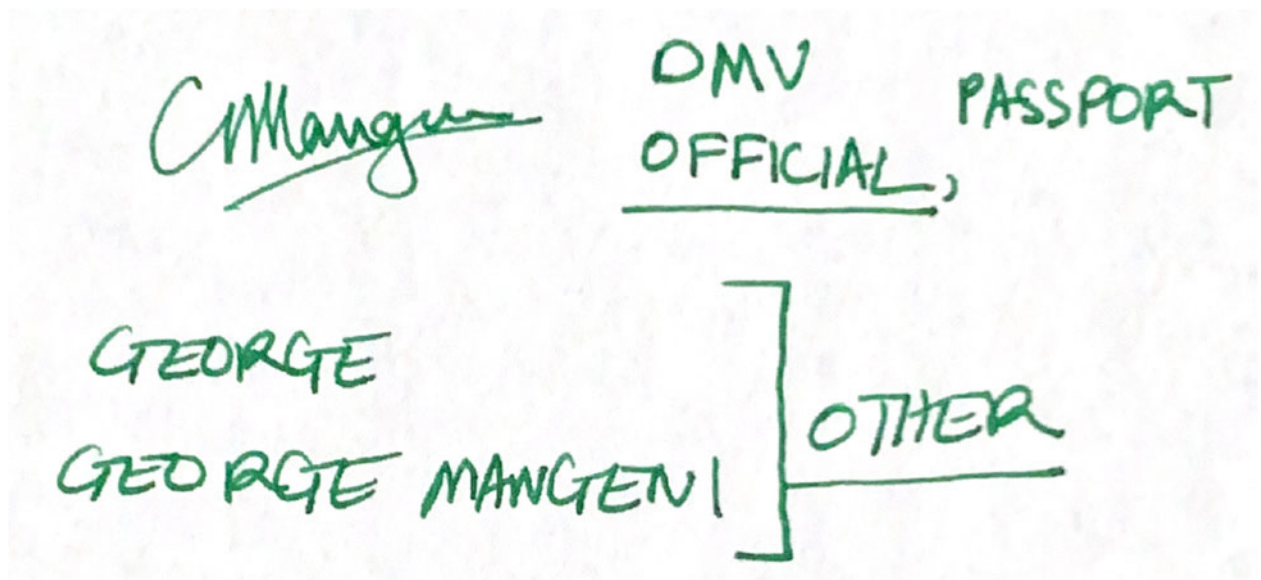
⁷ Mohammed, *supra* note 1. Pp. 5-11.

⁸ SWGDOC Standard for the Examination of Handwritten Items, www.swgdoc.org.

and legal affairs, 'sign' or 'signature' means that person's other legal mark that the person uses during the course of that person's regular business and legal affairs that is written in the person's own hand."

37. Section C states, "Any voter registration record requiring a person's signature shall be signed using the person's legal mark used in the person's regular business and legal affairs. For any purpose described in division (A) of this section, the legal mark of a registered elector shall be considered to be the mark of that elector as it appears on the elector's voter registration record." This is a very restrictive statement as it fails to consider that the signature in the voter's registration record may just be an example of the voter's range of variation.

38. Some voters' range of variation may be so wide, that their signature not only varies in style, but in content as well. For example, signatures of an Ohio voter which are written cursively, printed with only the first name or the full name on various types of documents are illustrated below in Figure 2. The voter's application signature which had only his printed first name, was rejected.



(a)

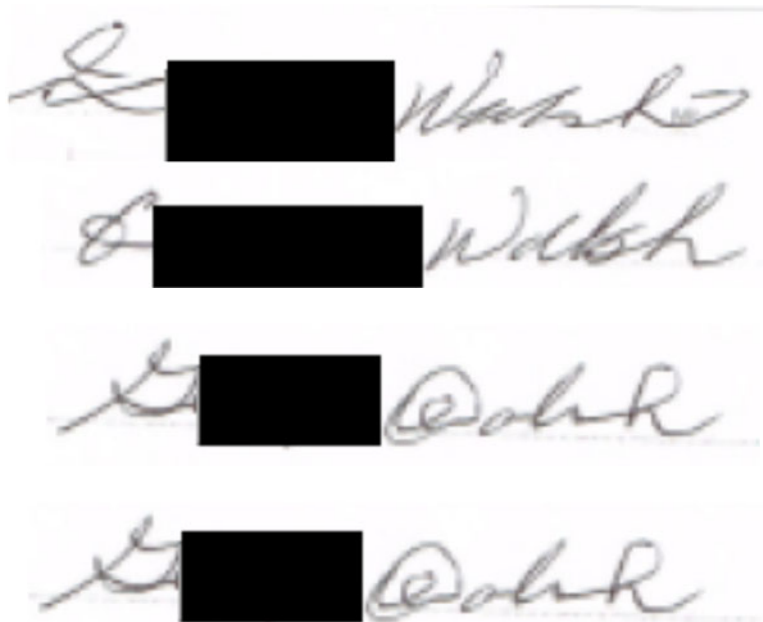


X GEORGE
SIGNATURE OF VOTER

(b)

Figure 2 *Variations in the signature style of an Ohio voter (a) compared with rejected application signature (b).*

39. Some writers may have a very wide range of variation. Figure 3 illustrates four signatures of one writer (redacted) that exhibit wide variation, and if compared, may easily be mistaken as signatures written by four different individuals. Any one signature compared with the other three could be determined not to “correspond” by a lay Election Official.



Four handwritten signatures of the same individual, each with a redacted name, showing significant variation in style. The signatures are arranged vertically. The first signature is 'L [redacted] Wabk'. The second is 'L [redacted] Wabk'. The third is 'L [redacted] @ohk'. The fourth is 'L [redacted] @ohk'.

Figure 3 *Four signatures of one individual exhibiting a wide range of variation.*

40. To reliably make such a judgment requires, at a minimum:

- Extensive training with different types of signatures: Becoming an FDE requires at least two⁹, and typically three, years of full-time training with an experienced examiner, with at least eighteen (18) months of training in the examination of signatures and handwriting. FDEs learn the science of signature examination, gain experience in casework, and are tested for proficiency.
- Adequate magnification and lighting equipment.
- Excellent eyesight.
- Adequate contemporaneous specimen signatures.
- Adequate time: Insufficient time examining signatures is conducive to making errors. For example, one study found that FDEs spent more time looking at the questioned and known signatures than laypersons, and their evaluations were more accurate.¹⁰

Without these elements, Ohio election officials are likely to mistake legitimate and expected “variations” between one individual’s signatures for “differences” in signatures between two individuals and conclude incorrectly that someone other than the registered voter signed the ballot return envelope.

⁹ SWGDOC Standard for Minimum Training Requirements for Forensic Document Examiners, www.swgdoc.org.

¹⁰ Merlino, M., Freeman, T., Dahir, V., Springer, V., et al. (Jan. 2015). *Validity, Reliability, Accuracy, and Bias in Forensic Signature Identification*. Department of Justice Grant 2010-DN-BX-K271, Document 248565, <https://www.ncjrs.gov/pdffiles1/nij/grants/248565.pdf>.

D. Untrained reviewers erroneously reject authentic signatures because they do not account for the many reasons for naturally varying signatures.

41. Further, an individual's signatures may vary for myriad reasons, and to properly determine whether signatures are written by the same individual, one must consider the various reasons why features of the same individual's signatures may visually appear different. To do so, reviewers must possess an adequate number of sample signatures to demonstrate the writer's range of variation. In one of the leading textbooks on handwriting examination, authors Roy Huber & A.M. Headrick identified twenty common reasons why individuals' signatures may appear to show variations:

- Adequacy of standards (or samples)—inadequate standards in terms of quantity and contemporaneousness will not be representative of the writer's range of variation. Variations may therefore be interpreted as differences.
- Accidental occurrences—i.e., these are one-off variations that will not appear in the specimen signatures.¹¹ Misinterpretation may lead to a decision of difference versus variation.
- Alternative styles—i.e., some writers have alternate signature styles. This may not be represented in the specimens.
- Ambidexterity.
- Carelessness or negligence.
- Changes in the health condition of the writer.
- Changes in the physical condition of the writer—e.g., fractures, fatigue, or weakness may alter features of an individual's signature.

¹¹ A specimen signature is a signature that is known to have been written by a person. It is not disputed. Typical specimens are Driver's Licenses and Identification Cards.

- Changes in the mental condition or state of the writer.
- Concentration on the act of writing.
- Disguise or deliberate change.
- Influence of drugs or alcohol.
- Influence of medications.
- Intentional change for later denial.
- Nervous tension.
- Natural variations—i.e., inherent variation as a result of differences in neuro-muscular coordination.
- Writing conditions—e.g., the writer’s place or circumstances, such as in a moving vehicle or at a stationary table.
- Writing instrument—e.g., a pen versus a stylus.
- Writing position—e.g., the writer’s stance.
- Writing surface—e.g., paper versus electronic screen.
- Writing under stress.

Examiners must consider each of these reasons in determining whether a feature is a “difference” created by different writers or whether the feature is simply a “variation” from the same writer. It is very unlikely that Ohio election officials will have the knowledge, training, and experience to properly account for these factors. And the Ohio signature matching statutes do not require election officials to consider adequate samples, as would be necessary for even an expert to distinguish a “difference” from a “variation.”

42. Studies have shown that illiterate writers, writers for whom English is a second language, elderly writers, disabled writers, and writers with health conditions tend to have less

pen control than most other writers, and therefore would have a greater range of variation in their signatures.¹² And the increased variation in the signatures of these groups only compounds laypersons' tendencies to err on the side of incorrectly finding authentic signatures to be non-genuine.

43. Since signatures are developed as a motor program in the brain, the signatures of writers for whom English is a second language are more likely to exhibit wide ranges of variation, as these writers will have to discard their former learned motor program and develop a new one for their new signature style.¹³ For instance, a writer who first learned to write in a non-Latin-based script, such as Chinese, will naturally show more variation when signing a document in English than a native writer. Likewise, where the writer's native language is written right to left, such as Urdu, the writer's signature may also be more likely to show variations in letter slanting. Cherokee is a Native American tribe that has its own syllabary.¹⁴ Signatures written by individuals who learned to write using the Cherokee syllabary may appear different to an untrained eye. Qualified, experienced experts in the area of signature verification would know of and account for these factors in evaluating signatures. Ohio election officials, even if put through a short training session, are unlikely to be able to accurately account for these differences,

¹² See, e.g., Hilton, O. (1969). Consideration of the writer's health in identifying signatures and detecting forgery. *Journal of Forensic Sciences*, Vol. 14, No. 2, pp. 157-166; Hilton, O. (1965). *A further look at writing standards*. *Journal of Criminal Law, Criminology, and Police Science*, Vol. 56, No. 3, pp.383; Hilton, O. (1956). Influence of serious illness on handwriting identification, *Postgraduate Medicine*, Vol. 19, No. 2.

¹³ Mohammed, *supra* note 1 at pp. 5-11.

¹⁴ Encyclopedia Britannica, *Cherokee Syllabary*, <https://www.britannica.com/topic/Cherokee-syllabary>.

particularly in an expedient time frame or when only one or a few specimen signatures are available for comparison.

44. Furthermore, young voters (ages 18 to 21) are not likely to have fully developed signatures. According to one study, “the development and progress of one’s handwriting passes through four stages in the course of a lifetime: (1) the formative stage, (2) the impressionable or adolescent stage, (3) the mature stage, and (4) the stage of degeneration.”¹⁵ The signatures of young voters will fall between stages 2 and 3. The U.S. Postal Service has reported that “writer[s] achieve graphic maturity by the 20th birthday.”¹⁶ Handwriting was developed as a means of communication, whereas signatures are developed as a means of identification.¹⁷ Signatures tend to be more personalized and can therefore be considered as an over-developed form of handwriting. Young writers today will likely not have developed signatures until later in life. This is exacerbated as young writers will presumably need to sign less often due to the increased use of personal identification numbers (“PINs”) and other non-handwritten forms of identification. Thus, it follows that their signature development can reasonably be expected to take longer than for previous generations. This will lead to an increased range of variation in a young writer’s signature. The handwriting of adolescents can cause difficulties even for trained

¹⁵ Huber, R.A. & Headrick, A.M. (1999). *Handwriting Identification: Facts and Fundamentals*. Boca Raton, FL: CRC Press.

¹⁶ Bureau of the Chief Postal Inspector (1966), *20th Century Handwriting Systems and Their Importance to the Document Analyst*.

¹⁷ Plamondon, R., Srihari, S. (2000). *Online and off-line handwriting recognition: a comprehensive survey*. IEEE Transactions on Pattern Analysis and Machine Intelligence Volume: 22, Issue:1, Jan; Srihari S.N., Srinivasan H., Chen S., Beal M.J. (2008). *Machine Learning for Signature Verification*. In: Marinai S., Fujisawa H. (eds) *Machine Learning in Document Analysis and Recognition*. Studies in Computational Intelligence, vol 90. Springer, Berlin, Heidelberg, p. 389.

FDEs. Comparisons by untrained individuals of young voters' signatures on the ballot return envelopes will exacerbate the potential for error in rejecting their ballots.¹⁸

E. Ohio election officials may fail to account for increased variation in signatures of voters with disabilities.

45. Signatures are executed by means of neuromuscular coordination. A motor program developed in the brain signals the muscles to produce handwriting movements. Any disability, illness, or drug that affects neuromuscular coordination will influence the production of signatures. Various diseases that affect motor neurons and neurological pathways can affect the appearance of signatures of the afflicted individual.

46. It is highly likely that writers with disabilities will exhibit a wider range of variation in their signatures than might normally be seen in the signatures of a healthy, skilled writer. This increased variation will not only present a challenge to a trained FDE, but will present an impossible task to a layperson who has to compare one signature on a ballot with one signature on an application for a ballot, and make a determination of authenticity.

47. In Ohio, the ballot signatures are compared with one reference signature on file with election officials. For voters with disabilities, the lack of an adequate number of specimen signatures to compare against will exacerbate the error rate. Evaluation of signatures executed by ill or disabled writers requires the evaluator to have wide experience with different types of signatures and accurate knowledge of the physical conditions of the individual as this relates to their handwriting.¹⁹

¹⁸ Cusack, C.T & Hargett, J.W. (1989). A Comparison Study of the Handwriting of Adolescents. *Forensic Science International*, 42(3):239-248.

¹⁹ Hilton, O. (1969). Considerations of the writer's health in identifying signatures and detecting forgery. *Journal of Forensic Sciences*, Vol. 14, No2, 2, pp. 157-166.

F. Ohio elections officials also fail to account for the different signature styles and features, leading to erroneous rejections.

48. One of the reasons that accurate signature comparison determinations prove difficult, even for a trained FDE, is that signatures are written in three different styles²⁰ as illustrated in Figure 4:

- Text-based: Nearly all the letters can be interpreted.



- Mixed: More than two, but not all, letters can be interpreted.



- Stylized: No letters can be interpreted.



Figure 4 *Examples of three signature styles.*

These signature styles exhibit significantly different characteristics that impact the signature-matching analysis, and by extension, the determination of whether signatures are genuine. For example, kinematic features of signatures, such as size, velocity, changes of acceleration, and pen pressure are important in determining whether a signature is genuine. Yet these kinematic

features vary between the same individual's signatures, with the degree of variations often dependent on the signature style. The kinematic features of stylized signatures, for example, vary more significantly than the kinematic features of text-based signatures. And the less legible a signature becomes, the more the election official depends on their pattern recognition ability. Thus, signature styles can have an impact on the determination of genuineness or non-genuineness. Unfamiliarity with the different signature styles may impact a reviewer's ability to determine whether two signatures come from the same person, and would likely cause a lay person to decide that the compared signatures exhibit "differences" when the changes in features are simply "variations."

49. To determine whether signatures are made by the same individual, a reviewer should focus on holistic features of signatures, such as alignment, slant, pen lifts, rhythm, the size of writing, the slope or slant of the letters, or other characteristics that are diagnostic of the process used to create signatures. These features are subtle, and a writer is usually unaware of the features, as they are excited by the writer's subconscious motor program. These subtle features provide significant evidence of genuineness because they occur in natural handwriting. Lay persons, however, often focus instead on more eye-catching features in evaluating signatures. For example, an eye-tracking study on signature examination found that "lay participants focused to a greater extent on individual features such as arches, eyelets, hooks, shoulders, connections, troughs, or other individual features" that catch the eye, and "appear[ed] less likely to use holistic features" when evaluating signatures.²¹ Focusing on these eye-catching features is problematic because these are the types of features that a simulator will try to capture. Therefore,

²¹ Merlino, *supra* note 13.

if the ballot signatures and the specimen signature are pictorially similar, the election official may improperly accept the ballot signatures based on the similarities in eye-catching features without realizing that the signatures are good simulations. A trained FDE should be able to detect subtle features that are indicative of simulation. Properly utilizing the subtle, holistic features of signatures to determine genuineness, however, requires both training and adequate time for review.

G. Ohio election officials are not tested for form blindness, increasing the risk of erroneous signature match determinations.

50. A laypersons' ability to make consistently correct determinations as to the genuineness of a signature may also be impacted by a condition known as "form blindness," which impairs "the ability to see minute differences in angles, forms, and sizes."²² Most ophthalmologists agree that form perception is not an eye problem but rather a translational problem. That is, "it is a perceptual inability to distinguish the small differences between shapes, colors, and patterns."²³ Therefore, in most cases, form blindness goes undetected, but diminishes a reviewer's ability to make accurate determinations of a signature's genuineness.²⁴ The problem of form-blindness is discussed in detail in Chapter 24 of *Questioned Document Problems*,²⁵ and while FDEs must pass a form blindness test before being trained in handwriting identification,

²² Bertram, D. (2009). Univ. of S. Miss. *Form Blindness Testing: Assessing the Ability to Perform Latent Print Examination by Traditional Versus Nontraditional Students* Dissertations. 996, p. 33; Byrd, J. & Bertram, D. (2003). Form-Blindness. *Journal of Forensic Identification*, 53(3):315-341.

²³ Moody, Meredith G., "Form-Blindness and Its Implications: A Verification Study" (2016); Honors Theses; Paper 388.

²⁴ *Id.*, p. 32.

²⁵ Osborn, A.S. (1946). *Questioned Document Problems. The Discovery and Proof of the Facts*, 2nd. Ed. Boyd Printing Company: Albany, NY. Pp. 218-250.

Ohio requires no such test for election officials. There is a risk that some election officials have form blindness, and which would make them particularly prone to making erroneous signature judgments.

H. Even trained FDEs are likely to make erroneous signature comparison determinations under Ohio's signature matching procedures.

51. Even for trained FDEs, Ohio's signature matching process would be prone to erroneous determinations due to the limited number of comparison signatures and the lack of proper equipment.

52. Normally, FDEs require multiple specimen signatures for comparison with a questioned signature, and often more if issues such as age or illness are involved. These specimens are required to adequately determine the range of variation of the writer and properly account for the reasons for variation within an individual's signatures discussed above. Indeed, nobody signs the same way twice: no two complex, skillfully written, genuine signatures of one writer have ever been found to be exactly alike, but such a statement should be understood to be true speaking microscopically, and not as the carpenter measures.²⁶ Inadequate standards, or failure to use adequate specimens fully representing the range of variation in a writer's signature, is a well-known source of error.²⁷

53. Features observed in the questioned signature(s) may not be observed in the inadequate specimens. This may lead to an erroneous interpretation of a feature as a difference (two writers) not a variation (one writer). Because Ohio election officials are only required to

²⁶ Osborn, A. (1910). *Questioned Documents*. The Lawyers' Publishing Co.: Rochester, NY, p. 281.

²⁷ Huber, R.A. & Headrick, A.M. (1999). *Handwriting Identification: Facts and Fundamentals*. Boca Raton, FL: CRC Press.

compare the two signature on the absentee ballot return envelope with one or more reference signatures on file, they cannot distinguish accurately between features, variations, or differences. Furthermore, Ohio election officials will need to compare a voter's original "wet-ink" signature on the ballot return envelopes with the voter's registration signature which is kept on file electronically. Comparing a digitized signature with an original "wet-ink" signature has many inherent limitations, some of which are caused by the resolution of the digitized signature, whether the digitized signature is being viewed on a monitor or as a printed item, and the writing instruments used for each signature. If the monitor's resolution is low, or if the digitized signature is a poor copy of the original signature to begin with, this would make it very difficult for an untrained examiner to assess the line quality of the signature. Striations made by ballpoint pens may appear to be gaps in the writing line, and may be interpreted mistakenly as evidence of simulation or forgery. One study found that trained FDEs had similar error rates in evaluating the authenticity of electronic signatures when compared with signatures written with a ballpoint pen as they did in studies when comparing only "wet ink" signatures. It follows that the error rates for untrained election officials will be similar or greater than the errors found in studies cited above for laypersons comparing only "wet ink" signatures.²⁸

54. Finally, as discussed above, Ohio does not require election officials to use or be provided with proper equipment to conduct signature comparisons, such as magnification and lighting equipment. "[T]he microscope is the instrument which makes it possible to see physical evidence directly that otherwise may be invisible. . . ."²⁹ Without this type of equipment, even a

²⁸ Kam, et al. *supra* note 5; Merlino, et al. *supra* note 9.

²⁹ Osborn, A. S. (1929). *Questioned Documents*. 2nd. Ed. Boyd Printing Company, Albany, N.Y., USA.

well-trained eye may make errors in a signature authenticity determination.

V.CONCLUSION

55. For the reasons stated herein, it is my professional opinion that Ohio election officials are likely to make erroneous signature match determinations when reviewing absentee ballots. In particular, Ohio election officials are significantly more likely to erroneously conclude that authentic signatures are *not* genuine than they are to make the opposite error—to accept inauthentic signatures as genuine. These erroneous determinations result from the inherent difficulty in making reliable signature authenticity determinations, particularly where, as here, the reviewer lacks training, is provided with an insufficient number of comparison signatures, and does not have access to proper equipment. The use of one registration signature as the sole reference sample for comparison with two ballot envelope signatures will most likely exacerbate the error rate. In this context, Ohio's signature matching procedures are all but guaranteed to result in the erroneous rejection of properly cast ballots.

* * *

Executed on August 22, 2020 at San Bruno, California.

I declare under penalty of perjury the foregoing is true and correct.



Linton Mohammed, Ph.D., D-ABFDE

Exhibit A

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Linton A. Mohammed CURRICULUM VITAE

WORK EXPERIENCE

Forensic Science Consultants, Inc., 01/2012 - present

San Francisco, CA

Duties: Forensic Document Examination, expert testimony; research; management.

dba Rile, Hicks, & Mohammed, Forensic Document Examiners, 10/2010 – 01/2012

Long Beach, CA; San Francisco, CA

Duties: Forensic Document Examination, expert testimony; research; management.

dba Associated Document Examiners, 10/1997 – 09/2010

[with approval of San Diego County Sheriff's Department]

San Diego, CA

Duties: Forensic Document Examination, expert testimony; research; management.

San Diego County Sheriff's Department Regional Crime Laboratory, 08/1996 – 10/2010

San Diego, CA

Senior Forensic Document Examiner, (2002 – 2010)

Forensic Document Examiner, (1996 – 2002)

Duties:

Conducted examinations in the most complex cases involving: signatures, handwriting, typewriting, machine printing, commercial printing, photocopies, hand stamps, ink, paper, indented impressions, binding materials; restoration and decipherment of alterations, erasures, and obliterations.

Technical Lead - Questioned Documents Section.

Provided training and mentorship for junior examiners. Principal trainer in Forensic Document Examination for Marie Durina (07/2003- 08/2006) and Brenda Lanners (10/2009- 09/2010).

Provided training for investigators and attorneys.

Provided expert testimony in courts of law.

CURRICULUM VITAE – LINTON A. MOHAMMED

Conducted research, presented results at forensic science conferences, and published in peer-reviewed journals.
Produced and maintained the Questioned Documents Section Quality Manuals.
Oversaw the Questioned Documents Section's ASCLD-LAB accreditation status.
Acted as an Audit Team Captain or part of audit teams as per the Laboratory's ASCLD-LAB accreditation protocols.
Participated in proficiency testing.

Laboratory of the Government Chemist, 07/1993 – 07/1996

Teddington, Middlesex, England
Forensic Document Examiner

Caribbean Institute of Forensic Investigations Ltd., 06/1992 – 07/1993

Forensic Document Examiner
Trinidad, West Indies

Trinidad and Tobago Forensic Science Center, 01/1989 – 06/1992

Forensic Document Examiner; Safety Officer
Trinidad, West Indies

Trinidad and Tobago Forensic Science Center, 12/1986 – 12/1988

Chemist 1

Two-year full-time training program in Document Examination. (December 1986-December 1988) at the Trinidad and Tobago Forensic Science Center, Port of Spain, Trinidad. Mr. Robert Fawcett (Staff Sergeant [retired], Royal Canadian Mounted Police) conducted the training, which included the examination of: signatures, handwriting, typewriting, machine printing, commercial printing, photocopies, hand stamps, ink, paper, indented impressions, binding materials; restoration of alterations, erasures, and obliterations, photography, and court testimony.

EDUCATION

Ph.D. (Human Biosciences)

La Trobe University, Melbourne, Australia, 2012 Thesis: "*Elucidating spatial and dynamic features to discriminate between signature disguise and signature forgery behavior*"
Supervisors: Assoc. Prof. Doug Rogers and Dr. Bryan Found

Master of Forensic Sciences

National University, San Diego, CA, 2005

Bachelor of Science (General) [Honors]

University of the West Indies, St. Augustine, Trinidad & Tobago, 1984

CURRICULUM VITAE – LINTON A. MOHAMMED

TEACHING EXPERIENCE

Oklahoma State University, 2006 – present:

Adjunct Assistant Professor

Master of Forensic Sciences Administration and Graduate Certificate in Questioned Documents (online programs)

- Graduate course: Historical Aspects of Questioned Documents (4 hours per week during a semester)
- Graduate course: Technical Aspects of Questioned Documents (4 hours per week during a semester).

PROFESSIONAL CERTIFICATIONS

- Certificate of Qualification in Forensic Document Examination (No. 298) *American Board of Forensic Document Examiners, Inc.*, 1998 (re-certified every 5 years since 1998 to present).
- Diploma in Document Examination *Chartered Society of Forensic Sciences*, 1996 (re-certified every 5 years since 1996 to present).

TESTIMONY EXPERIENCE

Testified over 150 times as an expert witness in Forensic Document Examination in USA (Federal & State courts, depositions), England (High Court & Magistrates' Court), and the Caribbean (High Court & Magistrates' Court).

AWARDS

2019: **Ordway Hilton Award** – American Academy of Forensic Sciences Questioned Documents Section (In Recognition of Outstanding Contributions to Forensic Document Examination).

2012: **New Horizon Award** – American Board of Forensic Document Examiners, Inc. (In Recognition of Exceptional Contributions in Scientific Research for the Advancement of Forensic Document Examination).

PUBLICATIONS

Books

Mohammed, L. *Forensic Examination of Signatures*. Elsevier, 2019.

Caligiuri, M. & Mohammed, L. *The Neuroscience of Handwriting: Applications for Forensic Document Examination*. Taylor & Francis: Boca Raton, 2012.

CURRICULUM VITAE – LINTON A. MOHAMMED

Papers

1. Caligiuri, M., & Mohammed, L. (2019). *Signature Dynamics in Alzheimer's Disease*. Forensic Science International 302 (2019)109880.
2. Ascicioglu, F., Tekin, T., Ozbek, N., Cevik, F., Ozcan, F., Mohammed, L. (2019). *Prepared Disappearing Ink and Decipherment of Documents*. J. Forens. Sci. doi: 10.1111/1556-4029.14084
3. Caligiuri, M., Mohammed, L., Lanners, B., Hunter, G. (2018). *Kinematic Validation of FDE Determinations about Writership in Handwriting Examination: A preliminary study*. Journal of the American Society of Questioned Document Examiners, Vol, 21, No. 1.
4. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2015). *Dynamic Characteristics of Signatures: Effects of Writer Style on Genuine and Simulated Signatures*. Journal of Forensic Sciences, January 2015, Vol. 60, No.1.
5. Mohammed L.A. (2013). *History of the Forensic Examination of Documents*. In: Siegel JA and Saukko PJ (eds.) Encyclopedia of Forensic Sciences, Second Edition, pp. 386-390. Waltham: Academic Press.
6. Caligiuri, M., Mohammed, L., Found, B., & Rogers, D. (2012). *Nonadherence to the Isochrony Principle in Forged Signatures*. Forensic Science International 223 (2012) 228–232.
7. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2011). *The Dynamic Character of Disguise Behavior for Text-Based, Mixed, and Stylized Signatures*. J Forensic Sci, January 2011, Vol. 56, No. S1 pp. S136-141).
8. Mohammed, L., Ostrum, B. (2010). *Using Adobe Photomerge™ for Demonstrative Evidence*, Journal of the American Society of Questioned Document Examiners, Vol. 13, No. 1.
9. Mohammed, L.A. (2009). *Alterations, Erasures, and Obliterations of Documents*, in Wiley Encyclopedia of Forensic Science, Jamieson, A., Moenssens, A. (eds). John Wiley & Sons Ltd., Chichester, UK, pp. 128-134.
10. Mohammed, L., Found, B., Rogers, D. (2008). *Frequency of Signature Styles in San Diego County* – Journal of the American Society of Questioned Document Examiners, Vol. 11 (1).
11. Mohammed, L., Richards, G. (2006). *Thinking Outside the Box* – Journal of the American Society of Questioned Document Examiners, Vol. 9 (2).

CURRICULUM VITAE – LINTON A. MOHAMMED

12. Mohammed, L., Jenkinson, G. (2002). *Association of counterfeit documents to a printing plate by means of half tone dots* – Journal of the American Society of Questioned Document Examiners, Vol. 5 (1).
13. Mohammed, L. (1999). *Write-On™: A new tool for handwriting comparison* - Journal of the American Society of Questioned Document Examiners, Vol. 2 (2).
14. Mohammed, L. (1999). *An evaluation of documents produced by a high-speed, high-volume scanning process* - Forensic Science Communications, Vol. 1 (3).
15. Mohammed, L. (1998). *Sequencing writing impressions and laser printing or ink-jet printing using the ESDA* - Journal of the American Society of Questioned Document Examiners, Vol. 1 (1).
16. Mohammed, L. (1993). *Signature disguise in Trinidad and Tobago* - Journal of the Forensic Science Society, Vol. 33 (1).

PRESENTATIONS

Workshops

- *Dispelling the Myths About the Forensic Examination of Handprinting*
 - Co-presented with Brett Bishop, Katelyn Bruno, Lloyd Cunningham, and Linda Mitchell at the 72nd Annual Conference of the American Academy of Forensic Sciences, Anaheim, CA 2020.
 - Co-presented with Lloyd Cunningham at the Southwestern Association of Forensic Document Examiners (SWAFDE), Denver, CO 2019.
- *Non-Destructive Examination of Inks (4 hours).*
 - Co-presented with Peter V. Tytell and Derek J. Hammond at the 77th Annual General Meeting of the American Society of Questioned Document Examiners, Cary, NC 2019.
- *The Forensic Examination of Genuine, Disguised, and Simulated Signatures with an Introduction to the Neuroscience and Kinematics of Handwriting (2 days)*
 - Presented at the Scottish Police Authority, Glasgow, Scotland 2018.
- *The Forensic Examination of Original and Copied Signatures*
 - Presented at The Midwestern Association of Forensic Sciences Conference, Cincinnati, OH 2017.
- *Likelihood Approach and Document Examination: What For?*
 - Co-presented with Liv Cadola and Tobin Tanaka at the 21st Triennial Meeting of the International Association of Forensic Sciences, Toronto, Canada 2017.

CURRICULUM VITAE – LINTON A. MOHAMMED

- *The Examination of Skillfully Simulated Arabic Signatures*
 - Presented at the 2nd Saudi International Conference on Forensic Medicine and Sciences, Riyadh, Kingdom of Saudi Arabia 2017.
- *The Forensic Examination of Genuine, Disguised, and Simulated Signatures with an Introduction to Kinematics of Handwriting*
 - Presented at the Midwestern Association of Forensic Sciences Conference, Branson, MO 2016.
- *Genuine, Disguised, and Simulated Signatures; Kinematics of Handwriting; Formal and Informal Signatures*
 - Co-presented with Lloyd Cunningham at the Australasian Society of Forensic Document Examiners, Inc., Sydney, Australia 2016.
- *Document Examination in the USA*
 - 2-day seminar presented at the Institute of Forensic Science Seminar, Beijing, China 2015.
- *Are Fountain Pens Back in Vogue? Characteristics of Fountain Pen Writing and Aqueous Ink Analysis*
 - Co-presented with Lloyd Cunningham, Dr. Valery Aginsky, & William J. Flynn at the 73rd Annual Meeting of the American Society of Questioned Document Examiners, Toronto, Canada 2015.
- *The Forensic Examination of Genuine, Disguised, and Simulated Signatures – with an introduction to the Neuroscience and Kinematics of Handwriting (2 days)*
 - 2-day workshop conducted at the II Brazilian Symposium on Forensic Science, Brazilia, Brazil 2015.
- *The Examination of Skillfully Simulated Signatures*
 - Presented at the 67th Annual Meeting of the American Academy of Forensic Sciences, Orlando, FL 2015.
 - Presented at Canada Border Services Forensic Laboratory, Ottawa, Canada, 2015.
- *Skillful Freehand Signature Simulation* - co-presented with Lloyd Cunningham at the Joint Meeting of the American Society of Questioned Documents Examiners, Inc. & the Australasian Society of Forensic Document Examiners, Inc., Honolulu, HI 2014.
- *Skillfully Simulated Signatures (1/2 day)* – presented at the European Network of Forensic Handwriting Examiners (ENFHEX) meeting, Riga, Latvia, 2013.
- *Signature Examination of Healthy and Impaired Writers (1 day)* - co-presented with Prof. Michael Caligiuri, UCSD, at the American Academy of Forensic Sciences Annual Conference, Washington DC, 2013.

CURRICULUM VITAE – LINTON A. MOHAMMED

- *Neural Bases and Characteristics of Signature Formation in Writers with Dementia* (1/2 day)
 - Co-presented with Prof. Michael Caligiuri, UCSD, at the 70th Annual General Meeting of the American Society of Questioned Document Examiners, Charleston, SC 2012.
- *Signature Examination - Translating Basic Science into Practice* (1 day)
 - Co-presented with Prof. Michael Caligiuri, UCSD at the American Academy of Forensic Sciences Annual Conference, Seattle, WA 2010.
 - Co-presented with Prof. Michael Caligiuri, UCSD at the American Society of Questioned Document Examiners 68th Annual General Meeting, Victoria, BC, Canada, 2010.
- *Genuine, Disguised, and Forged Signatures* (1/2 day)
 - Presented at the 1st Eurasian Congress on Forensic Sciences, Istanbul, Turkey, 2008.
 - Presented at the Victoria Forensic Science Centre, Melbourne, Australia, 2008.
 - Presented at the European Network of Forensic Handwriting Experts (ENFHEX) Meeting, Krakow, Poland, 2009.

Papers

1. Do, D., & Mohammed, L. (2019). *An Evaluation of the Efficacy of an Electrostatic Detection Device as a Screening Tool for Latent Prints*. Presented at the 1st Joint Meeting of the European Network of Forensic Handwriting Experts (ENFHEX) and the European Fingerprint Working Group (EFP-WG), Porto Portugal; the 77th Annual General Meeting of the American Society of Questioned Document Examiners, Cary, NC, and the California State Division of the International Association for Identification Meeting, Burlingame, CA.
2. Caligiuri, M., Ommen, D., Fuglsby, C., Saunders, C., Mohammed, L., Morris, J., Bird, C. (2019). *The Kinematic Modeling of FDE Writership Opinion*. Presented at the 1st Joint Meeting of the European Network of Forensic Handwriting Experts (ENFHEX), and the European Fingerprint Working Group (EFP-WG), Porto Portugal; and the 77th Annual General Meeting of the American Society of Questioned Document Examiners, Cary, NC.
3. Ommen, D., Fuglsby, C., Saunders, C., Caligiuri, M., Mohammed, L., Buscaglia, J. (2019). *Pairwise Comparison Scores for Handwritten Questioned Documents*. Presented at the American Academy of Forensic Sciences 71st Annual Scientific Meeting. Baltimore, MD.

CURRICULUM VITAE – LINTON A. MOHAMMED

4. Fuglsby C, Mohammed L, Saunders C, Ommen D, Buscaglia J, Caligiuri M. (2018). *FDE Conclusion Scales Parts 1 & 2: Reverend Bayes or Professor Kirk?* Presented at the 76th Annual Conference of the American Society of Questioned Document Examiners, Park City, UT.
5. Ommen, D., Fuglsby, C., Saunders, C., Caligiuri, M., Mohammed, L., Buscaglia, J. (2018). *Pairwise Scores for Designing Handwritten Document Comparisons*. Poster presented at Forensics @NIST, Gaithersburg, MD.
6. McClary, C., Mohammed, L., Caligiuri, M. (2018). *An Analysis of Forensic Document Examiner (FDE) Aptitude in Determining Velocity Rates of Strokes*. Presented at the American Academy of Forensic Sciences Conference, Seattle, WA.
7. Fuglsby, C., Mohammed, L., Buscaglia, J., Saunders, C. (2018). *Sufficiency and Complexity Factors in Handwriting Examination*. Presented at the Impression, Pattern, & Trace Evidence Symposium, Washington, DC.
8. Caligiuri, M., Mohammed, L. (2018). *Error Rates in Handwriting Examination*. Presented at the CSAFE Error Rates Symposium, Arlington, VA.
9. Caligiuri, M., Mohammed, L., Lanners, B. & Hunter G. (2017). *Kinematic Validation of FDE Determinations About Authorship in Handwriting Examination*. Presented at the 75th Annual Conference of the American Society of Questioned Document Examiners, San Diego, CA.
10. Mohammed, L. (2017). *The Kinematics of Signatures and Handwriting*. Presented at the 2nd Saudi International Conference on Forensic Medicine and Sciences, Riyadh, Kingdom of Saudi Arabia.
11. Domitrovich, S. Judge, Seaman Kelly, J., Mohammed, L. (2017). *A Review of the Almeciga V. Center for Investigative Reporting, Inc. Decision: Analysis and Counter-Analysis*. Presented at the American Academy of Forensic Science Conference, New Orleans, LA.
12. Mohammed, L. (2016). *Document Examination – not just handwriting*. Presented to the Young Forensic Scientists Forum, American Academy of Forensic Science Conference, Las Vegas, NV.
13. Mohammed, L. (2014). *Kinematic approach to signature analysis*. Presented at the 3rd. International Workshop on Automated Forensic Handwriting Analysis, Honolulu, HI.
14. Mohammed, L. (2013). *Handwriting stroke kinematics*. Presented at the Measurement Science and Standards in Forensic Handwriting Analysis conference, NIST, Gaithersburg, MD.

CURRICULUM VITAE – LINTON A. MOHAMMED

15. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2012). *Dynamics of stroke direction in genuine and forged signatures*. Presented at the American Academy of Forensic Sciences Conference, Atlanta, GA.
16. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2009). *Pen pressure as a discriminating feature between genuine and forged signatures* – Presented at the International Graphonomics Society Conference, Dijon, France.
17. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2009). *Can dynamic features be used to discriminate between genuine, auto-Simulated, and simulated signatures?* - Presented at the 61st Annual Conference of the American Academy of Forensic Sciences, Denver, CO.
18. Mohammed, L. (2008). *Judicial challenges to expert witness testimony in the USA: The Daubert Trilogy* -Presented at the 1st. Eurasian Congress on Forensic Sciences, Istanbul, Turkey.
19. Mohammed, L., Found, B., Rogers, D. (2008). *Genuine and disguised signatures – An empirical approach* - Presented at the 60th Annual Conference of the American Academy of Forensic Sciences, Washington, DC.
20. Mohammed, L., Williams, D. (2006). *Preparing demonstrative charts with the use of Adobe Photomerge®* - Poster presentation, American Academy of Forensic Sciences, Seattle, WA.
21. Mohammed, L. (2005). *The Edge of Light™ Scanner* - Presented at the American Academy of Forensic Sciences Conference, New Orleans, LA.
22. Mohammed, L. (2003). *Daubert and documents* – Presented at the California Association of Criminalists Fall Conference, San Diego, CA.
23. Mohammed, L. (2003). *A standardized training program for Forensic Document Examiners – A proposal*- Presented at the 61st Annual Conference of the American Society of Questioned Document Examiners, Baltimore, MD.
24. Mohammed, L. (2001). *Demonstrative evidence and multi-media technology* - Presented at the 59th Annual Conference of the American Society of Questioned Document Examiners, Des Moines, IA.
25. Mohammed, L., Buglio, J., Shafer, A. (2000). *The influence of paper on the performance of the VSC-2000 spectrometer* - Presented at the 58th Annual Conference of the American Society of Questioned Document Examiners, Ottawa, Ontario, Canada.
26. Mohammed, L., Buglio, J. (2000). *The Association of Forensic Document Examiners* - Prepared for the 58th Annual Conference of the American Society of Questioned Document Examiners, Ottawa, Ontario, Canada.

CURRICULUM VITAE – LINTON A. MOHAMMED

27. Mohammed, L. (1992). *Cocaine and handwriting* - presented at the 50th Annual Conference of the American Society of Questioned Document Examiners, Milwaukee, WI.
28. Mohammed, L. (1991). *Signature disguise in Trinidad and Tobago* - presented at the 49th Annual Conference of the American Society of Questioned Document Examiners, Orlando, FL.

PROFESSIONAL AFFILIATIONS

- American Society of Questioned Document Examiners
 - President, 2010 – 2012
 - Vice-President, 2008 – 2010
 - Treasurer, 2006 – 2008
 - Director, 2004 – 2006
 - Annual Conference Program Chair, 2006 & 2017
 - Chair, Evaluation and Examination Committee, 2002 – 2006
 - Annual Conference Site Chair, 2002
 - Member (1991 -)
- American Academy of Forensic Sciences
 - Fellow – Questioned Documents Section
 - Chair – Questioned Documents Section, 2016 – 2018
 - Chair – Inter-Disciplinary Symposium 2018
 - Co-Chair – Inter-Disciplinary Symposium 2017
 - Secretary – Questioned Documents Section, 2014 – 2016
- Fellow – Chartered Society of Forensic Sciences
- Member – Canadian Society of Forensic Science

PROFESSIONAL ACTIVITIES

- Chair – Academy Standards Board, 2020 –
- Member – Academy Standards Board, 2017 – 2020
- Member – Expert Working Group on Human Factors in Handwriting Examination, National Institute of Standards and Technology, 2015 – 2017.
- Member – Physics/Pattern Scientific Area Committee within the National Institute of Standards and Technology Organization of Scientific Area Committees (NIST/OSAC), 2014 – 2016.
- Participant in the General Forensics Technology Working Group, National Institute of Justice, 2011
- Participant in Scientific Working Group on Documents (SWGDOC), 2009 – present

CURRICULUM VITAE – LINTON A. MOHAMMED

- Grant reviewer for the National Institute of Justice and affiliated agencies, 2009 – present
- Editor - Journal of the American Society of Questioned Document Examiners
- Editorial Review Board Member:
 - Journal of Forensic Sciences (2005-2020)
 - Forensic Science and Technology (China) (2015-2020)
- Guest reviewer:
 - Forensic Science International
 - Science & Justice
 - Australian Journal of Forensic Science
 - Egyptian Journal of Forensic Sciences
 - Arab Journal of Forensic Sciences & Forensic Medicine
 - IEEE Transactions on Cybernetics

CONTINUING EDUCATION

- American Society of Questioned Document Examiners, Park City, UT 2018
 - Write-On 3.0 Workshop
 - The Greatest Forger to Ever Get Caught
- American Society of Questioned Document Examiners, San Diego, CA 2017
 - Forensic Science Research: Your Mission to Propose, Innovate, and Collaborate
 - Preparing a Digital Signature File for Forensic Analysis
 - Chinese Handwriting and Signatures Workshop: Hanzi Through the Eyes of the Forensic Document Examiner
 - Write or Wrong? Bias, Decision-Making, and the Use of Contextual Information in Forensic Document Examination
- American Society of Questioned Document Examiners, Pensacola, FL 2016
 - Measuring Frequency Occurrence in Handwriting and Hand Printing Characteristics
 - Sequence of Entries Determination – New Approach to Additional Print
- American Society of Questioned Document Examiners, Toronto, Canada 2016
 - Principles of Forensic Examination of Arabic Signatures
- American Society of Questioned Document Examiners, Honolulu, HI 2014
 - Adobe - Digital Media & Evidence
- American Academy of Forensic Sciences, Seattle, WA 2014
 - Science, Law, and the Inferential Process: The Epistemology of Scientific Conclusions
- National Institute of Standards and Technology (NIST), Gaithersburg, MD 2013.
 - Measurement Science and Standards in Forensic Handwriting Analysis

CURRICULUM VITAE – LINTON A. MOHAMMED

- American Academy of Forensic Sciences, Atlanta, GA 2012
 - Paper Fundamentals for Forensic Document Examiners
 - Digital Photography for Forensic Document Examiners
- American Society of Questioned Document Examiners, Philadelphia, PA 2011
 - Printing Process Identification for Forensic Document Examiners
 - Using Adobe Photoshop in a QD Workflow
- American Society of Questioned Document Examiners, Victoria, BC, Canada 2010
 - Electronic Recording and Analysis of Handwritten Signatures & Writing
- Cedar Crest College, Allentown, PA 2010
 - Multivariate Analysis for Forensic Scientists: Statistical Pattern Recognition for Physical Evidence Analysis and Chemometrics
- American Academy of Forensic Sciences, Denver, CO 2009
 - Estimation of Uncertainty – Is Anyone Certain What This Means?
 - Security Documents before and After the Crime: REAL ID, Physical and Electronic Security Features, Developments in Commercial Printing Technology, and an Introduction to Counterfeit Link Analysis
- American Academy of Forensic Sciences, Washington DC 2008
 - The Applications of Color Analysis and Light Theory in the Forensic Examination of Documents Workshop
- American Society of Questioned Document Examiners, Portland, OR 2006
 - Fine and Subtle Features of Handwriting Workshop
 - Signature Workshop
- Southeastern Association of Forensic Document Examiners, Atlanta, GA 2006
 - Disguised and Forged Signatures Workshop
- American Academy of Forensic Sciences, New Orleans, LA 2005
 - State of the Art Infrared and Ultraviolet Examinations of Documents by the Video Spectral Comparator
- California Criminalistics Institute, Sacramento, CA 2005
 - Technical Writing for Criminalists
- American Board of Forensic Document Examiners, Las Vegas, NV 2004
 - Daubert Seminar
- American Academy of Forensic Sciences, Chicago, IL 2002
 - Note Taking for Forensic Document Examiners Workshop
- Rochester Institute of Technology, Rochester, NY 2002
 - Printing Process Identification and Image Analysis for Forensic Document Examiners

CURRICULUM VITAE – LINTON A. MOHAMMED

- Limbic Systems, Inc., Bellingham, WA 2001:
 - Measurement of Internal Consistencies Software (MICS)
- American Board of Forensic Document Examiners, Norcross, GA 2000:
 - Canon Photocopier and Facsimile Training Workshop
- California Criminalistics Institute, Sacramento, CA 2000:
 - Special Topics in Questioned Documents
- Southwestern Association of Forensic Document Examiners, Las Vegas, NV 1999:
 - Typewriter Examination & Classification Workshop
- American Board of Forensic Document Examiners, Las Vegas, NV 1998:
 - Examination Techniques in Handwriting & Rubber Stamp Cases Seminar
- Canadian Society of Forensic Science 44th Annual Conference, Regina, Saskatchewan, Canada 1997:
 - Digital Image Processing Workshop
- California Criminalistics Institute, Sacramento, CA 1997:
 - Courtroom Presentation of Evidence
- American Society of Questioned Document Examiners 55th Annual Conference, Scottsdale, AZ 1997:
 - Handwriting Workshop
- American Society of Questioned Document Examiners 51st Annual Conference, Ottawa, Canada 1993:
 - Laser Printer Workshop
 - Miscellaneous Document Examination Workshop
- American Society of Questioned Document Examiners 50th Annual Conference, Milwaukee, WI 1992:
 - Signature Workshop
- American Society of Questioned Document Examiners 49th Annual Conference, Orlando, FL 1991:
 - Canon Fax Workshop
 - Deposition Testimony Workshop
 - Expert Witness Workshop
 - Signature Comparison Workshop

August 5, 2020

Expert Witness Report
In the case of
League of Women Voters v. LaRose
U.S. District Court for the Southern District of Ohio, Eastern Div.
Filed by
Dr. Daniel C. McCool, Professor Emeritus
Political Science Department, University of Utah
August 21, 2020

I. INTRODUCTION

A. Research Questions

1. The plaintiffs asked me to address the following research questions regarding Ohio elections and voting behavior:

1. What are the voter costs associated with the curing process for ballots rejected due to signature mismatch?
2. Do potential delays in Postal Service mail delivery increase those voter costs?

B. Summary of Conclusions

2. “Voter costs,” explained in greater detail below, can be influenced by many factors, but one of the most important factors is the design of an electoral system. Design features that increase voter costs make casting a ballot more difficult, especially among certain groups of voters. In my professional opinion, the inadequate time allowed to cure problems with signature mismatches on absentee ballots in Ohio is the type of design feature that increases voter costs and reduces turnout. This inadequate time frame is exacerbated by delays in Postal Service mail delivery. Furthermore, the burdensome costs created by the signature mismatch curing process affect some groups of voters more than others.

C. Qualifications

3. I am Professor Emeritus of Political Science at the University of Utah. I received a B.A. in Sociology from Purdue University, and a Ph.D. in Political Science from the University of Arizona. I have a doctoral minor in Latin American History. For over thirty-five years I have conducted research on voting rights. In 2007 I co-authored *Native Vote: American Indians, The Voting Rights Act, and the Right to Vote* (Cambridge University Press). In 2012 I edited a book titled *The Most Fundamental Right: Contrasting Perspectives on the Voting Rights Act* (Indiana University Press). I also have several peer-reviewed publications that focus on public policy methodology and theory. I serve as an academic advisor to the Native American Voting Rights Coalition, and co-authored the 2020 report, “Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters” (Tucker, De León, and McCool. 2020). I also assisted in the design of a four-state survey of Native American voters.¹ I utilized “qualitative methods,” described below, for nearly all of the ten books, 25 articles, and 19 book chapters that I have published. From 1998 to 2007 I directed the American West Center, which conducted research on behalf of rural people in Utah and the West. I have served as an expert witness in 17 voting rights cases:

- > *U. S. v. South Dakota*. 615 NW 2d 590 U.S. Dist. Ct. SD (2000)
- > *U.S. v. Blaine County*. 157 F. Supp. 2d 1145 U.S. Dist. Ct. MT (2001)
- > *Bone Shirt v. Hazeltine*. 336 F. Supp.2d 976 U.S. Dist. Ct. SD (2004)
- > *Cottier v. City of Martin*. No. CIV. 2002-5021 U.S. Dist. Ct. SD (2005)
- > *Koyukak v. Treadwell*. Case No. 3:13-cv-00137-JWS U.S. Dist. Ct. AK (2014)
- > *Navajo Nation v. San Juan County, Utah*. Case No. 2:12-cv-00039-RJS-DPB. U.S. Dist. Ct.

¹ See: <https://vote.narf.org/wp-content/uploads/2018/10/2017NAVRCsurvey-full.pdf>.

UT (2016)

- > *Brakebill v. Jaeger*. I. Civ. 1: 16-CV-08 U.S. Dist. Ct. ND (2016)
- > *Brakebill v. Jaeger*. II. Civ. 1: 16-CV-08 U.S. Dist. Ct. ND (2018)
- > *Sanchez et. al. v. Cegavske*. Case No. 3:16-cv-00523-MMD-WGC U.S. Dist. Ct. NV (2016)
- > *Navajo Nation Human Rights Commission v. San Juan County, Utah*. Case No. 2:16-cv-00154-JNP-BCW U.S. Dist. Ct. UT (2017)
- > *Voto Latino v. Hobbs*. CV-05685-PHX-DWL. U.S. Dist. Ct. AZ (2019)
- > *DSCC v. Simon*. 2nd Jud. Dist. Minn. (Jan. 2020, Supp Rept. April, 2020)
- > *Western Native Voice v. Stapleton*. Mont. 13th Jud. Dist. (March, 2020)
- > *Corona et. al. v. Cegavske et. al.* 1st Jud. Ct. in and for Carson City, NV (April, 2020)
- > *Crossey v. Bookckvar*. In the Commonwealth Court of Pennsylvania (May, 2020)
- > *LaRose v. Simon*, 2nd Jud. District of Minnesota (July, 2020)
- > *Corona et. al. v. Cegavske et. al.* II 1st Jud. Ct. in and for Carson City, NV (July, 2020)

4. Six of these cases were filed in state courts, and the others involved federal claims under Section 2 or Section 203 of the Voting Rights Act. The six most recent cases dealt with issues regarding vote-by-mail, Election Day receipt deadlines, and ballot delivery assistance. I applied the same methodology, described below, in all of these reports. My reports and my testimony have never been rejected by a court. My vita is attached. I have been hired by the plaintiffs for this case and I am compensated at the rate of \$200/hour. The conclusions I present in this report are mine alone, are not related to or endorsed by the University where I have an appointment, and were reached through an independent process of research and inquiry.

D. Qualitative Methods

5. In this report I utilize a well-recognized methodology known as “qualitative methods” (Denzin and Lincoln, 2000, 2011). Qualitative methods are used to analyze “how people experience aspects of their lives, how individuals and/or groups behave, how organizations function, and how interactions shape relationships” (Teherani, et. al. 2015: 669). This is the same methodology I have used in nearly all my academic work, as well as all of my previous expert witness reports. I employ this methodology by using data and information gleaned from multiple

and overlapping sources. For this report I relied primarily on the political science literature focusing on voting behavior and the design of electoral systems.

6. Qualitative methods are well recognized in the social sciences. The Consortium on Qualitative Research Methods was established in 2001 (Consortium on Qualitative Research Methods, n.d.). The American Political Science Association organized a section titled Qualitative Methods in 2003 (American Political Science Association, n.d.). By 2003 almost half of all peer-reviewed articles in Political Science journals utilized qualitative methods (Bennett, Barth, and Rutherford 2003). Syracuse University, with funding from the National Science Foundation, established a “Qualitative Data Repository” to assist researchers who utilize this method (Qualitative Data Repository, n.d.).

7. Qualitative methods are well-suited for expert analysis in voting rights cases because they are adept at analyzing phenomena that are complex, long-term, multi-dimensional, and subject to rapid change. Furthermore, this approach is “color-blind” in that the application of the methodology is not limited to any particular social or ethnic group. Lamont and White note that qualitative methods are “particularly useful for studying timely topics such as group identities and boundaries [and] race, class, gender...” (2009: 5). They are also particularly useful to study phenomena that occur over long periods of time, due to the large number of variables and factors that change over time (see, for example: Bartolini 2013).

8. There are many methodology textbooks that focus on qualitative methods; most are written by political scientists but others are by authors in fields such as public health, anthropology, sociology, and increasingly the humanities. The widespread use and acceptance of qualitative methods, along with its applicability to large-scale analytical problems, is why I have consistently relied on that methodological approach for both my academic work and my expert witness reports.

9. In this report I begin by introducing the concept of “voter costs” and its variable impact on turnout. I then explain how voter costs are impacted by Ohio’s process for curing signature mismatches on absentee ballots.

II. THE CONCEPT OF VOTER COSTS

10. A large body of research has found that many variables affect voter behavior and voter turnout. One of the most important trends in the literature concerns “voter costs,” a concept that is well-defined in the political science literature (Berinsky. 2005). As Brady and McNulty note, “costs do matter to voter turnout” (2011: 115). Rosenstone and Hansen put it in blunt terms: “Participation in politics...has a price, a price that is some combination of money, time, skill, knowledge, and self-confidence” (1993:12-14). As Brady, Verba and Schlozman note, “time, money and civic skills” are “essential to political activity” (1995: 271). These voter costs have a direct impact on voter behavior and turnout. Even the weather can affect the costs of voting (Hansford and Gomez. 2010). The key point is that certain attributes of an electoral system can increase, or decrease, those costs. Any attribute of an electoral system that increases voter costs tends to decrease voter turnout because it creates additional burdens for the voter. Thus, if the goal is to increase participation, inclusivity, and turnout, then voter costs should be minimized.

III. UNEQUAL IMPACT

11. Increased voter costs can drive down turnout, but this effect is not equal across all groups of voters. Some voters have greater capacity to adjust to and absorb increased voter costs than others. This unequal impact is driven primarily by three factors: income, education, and access.

A. Income

12. It is well established in political science that socio-economic well-being correlates positively with political participation: “The SES [socio-economic status] model does an excellent job predicting political participation” (Brady, Verba and Schlozman. 1995: 272). This is especially true for voting (Wolfinger and Rosenstone. 1980; Brady and McNulty. 2011; Leighley and Nagler. 2014). This fact has particular relevance to minorities that tend to have lower income than their White counterparts: “In general, minority participation can be suppressed by socioeconomic factors such as less education and lower income” (Lien. 2000). Another political scientist framed the SES/participation link as “the issue of our time” (Williams. 2004). Thus, unequal financial resources—money, access to high-quality schools, an internet connection, time to develop a knowledge of the system and civic skills, and an understanding of the complexities of election laws—result in unequal opportunities to participate in the electoral process. In Ohio, 13.9 percent of the people live in poverty (U.S. Census. 2019). Individuals with lower income levels are less able to absorb and adjust to increased voter costs.

B. Education

13. Another demographic element that affects voting is a voter’s level of education, which correlates positively with turnout rates. Tenn notes: “Numerous studies demonstrate that the highly educated are more likely to vote” (2007: 446). Sondheimer and Green make a similar statement: “The powerful relationship between education and voter turnout is arguably the most well-documented and robust finding in American survey research” (2010: 174). In Ohio, ten percent of the population did not graduate from high school, and only about a quarter have a bachelor’s degree or higher (U.S. Census. 2019). Individuals with less education have greater difficulty understanding the complexities of voting law and procedures.

C. Access

14. Access is affected by several variables: distance to the polls or mailbox, availability of transportation, mobility, the availability of high-speed internet,² language skills, and familiarity and comfort with the electoral process (Gerber, Green, and Shachar. 2003; Kwak, Shah, and Holbert. 2004; Brady and McNulty. 2011; McNulty, Dowling, and Ariotti. 2017). Voter costs increase when these variables present obstacles to accessing the electoral process, especially when there are sudden changes to electoral procedures (Haspel and Knotts. 2005; Stein and Vonnahme. 2012; Yoder. 2018; Gimpel and Schuknecht. 2003; Dyck and Gimpel. 2005).

IV. OHIO'S SIGNATURE MATCHING PROCESS

15. In states with efficient vote-by-mail systems (i.e. lower voter costs), all registered voters³ are mailed a ballot well before the election. The voter need only to fill out the ballot, sign it and place it in the return envelope, and mail it in time to be counted. It is a simple, straightforward process. In contrast, the Ohio absentee ballot system is considerably more complex and convoluted, with multiple steps. Chapter Five of the Ohio Election Official Manual describes this process. First, a ballot application is mailed to voters who apply to vote by absentee ballot.⁴ For the Primary, voters must apply no earlier than January 1 of the election year (p. 5). The voter fills out the application and mails it to the election board. There is no requirement that the signature on the application be verified, but some counties do that anyway; that adds another step.

² Twenty percent of Ohio households do not have a broadband internet subscription (U. S. Census. 2019).

³ In some states, ballots are mailed to all *active* registered voters.

⁴ Per the Secretary of State's Directive of July 17, for the 2020 general election, his office will "mail an absentee ballot application by non-forwardable mail to every registered Ohio voter in 'active' or 'confirmation' status" (LaRose. 2020a).

If the signature on the application is challenged by a county election board, the board may then choose to notify the voter and send them a form to fill out. The voter fills it out with the proper signature, and mails it back. At this point, the relevant official documents have traveled through the U.S. mail system up to four times.

16. Then, within a specified time period, the state mails an absentee ballot to the voter. The voter fills it out, signs it, and returns it via U.S. mail. If the signature is determined to not sufficiently match the signature on-file, the county election board must mail to the voter Form 11-S to cure the problem (Ohio Election Official Manual. 2019: 30; LaRose. 2020b). The voter then fills out this form, and mails it back, hopefully in time to count. At this point, the paperwork necessary for an individual to actually have their absentee ballot count has gone through the U.S. mail system up to eight times. Some of these trips through the mail system can be eliminated if the voter wants to deliver paperwork in-person, but during a pandemic that creates the additional voter cost of a significant threat to a person's health.

17. This system of administering absentee balloting significantly increases voter costs; it requires knowledge of a rather arcane process, persistence, and a considerable amount of the voter's time. It also requires a lengthy back-and-forth through the U.S. mail system that may consume so much time that it is difficult for the voter to actually complete the process in time for his/her ballot to count; current problems with mail delivery, described below, exacerbate this problem.

V. POSTAL SERVICE PROBLEMS

18. In the last fifteen years, the volume of first-class mail has decreased so dramatically that the Postal Service was forced to downsize (Bipartisan Policy Center. 2016: 6). As a result, mail takes longer to deliver, especially in rural areas, and it becomes more difficult to predict how

long it takes for a mailed ballot to arrive at the county recorder's office. Starting in 2011, the Postal Service began closing post offices and processing centers. In Ohio, nine processing facilities were closed in 2012 (Eaton. 2012; NBC News. 2012). As a result, some mail from Ohio had to be sent to Michigan to be sorted, then sent back to Ohio. These cutbacks came at a time when vote-by-mail and absentee voting were growing dramatically in popularity, resulting in a potential mismatch between demand and capacity. This can result in a back-up in mail processing (Bipartisan Policy Center. 2016: 13). A Caltech/MIT study noted: "The closure of mail processing facilities will only serve to increase these numbers [of ballots rejected for being late]" (CALTECH. n. d.: 39). The Republican Secretary of State in Colorado recently said: "The Postal Service is cutting back services for cost-cutting measures. You're seeing some disenfranchisement of voters where the post office is just so slow" (Wilson. 2014).

19. The issues regarding Postal Service delivery times may be greatly exacerbated by the pandemic—precisely at a time when the Postal Service is unprepared to handle a sudden increase in demand. Due to the pandemic and long-standing funding concerns, the Postal Service is facing dramatic budgetary shortfalls, and some postal workers are being infected with COVID-19 (Bogage. 2020a; Goodkind. 2020; Pecorin. 2020). As an article in *The Hill* noted, "The coronavirus pandemic has hampered post office operations and led to delays in mail delivery" (Easley. 2020). The Postmaster General noted this problem: "At a time when America needs the Postal Service more than ever, the reason we are so needed is having a devastating effect on our business" (quoted by Fandos and Tankersley. 2020). The fiscal problems of the Postal Service grew even worse this spring with dramatic reductions in the volume of first-class and marketing mail, which are significant sources of revenue. This has led to projections that the agency could be bankrupt by this fall (Bogage. 2020b).

20. Delays in mail delivery affected recent primaries. In Michigan, some voters received ballots just before the election—too late to mail them back (Viebeck, Gowen, and Ruble. 2020). One of Michigan’s senators then launched an investigation into mail delivery delays (Daly. 2020). In the Wisconsin primary there were considerable delays, absentee ballots that were not delivered, and ballots that were not properly postmarked (Easley. 2020; Inspector General. 2020). In Pennsylvania, tens of thousands of mail-in ballots arrived too late to be counted (Lai. 2020; Lai and Rushing. 2020).

21. The new postmaster general, Louis DeJoy, implemented new procedures that may slow down mail delivery even further. These changes prompted the President of the American Postal Workers Union to say: “I’m actually terrified to see election season under the new procedure” (Lee and Bogage. 2020). The problems facing the Postal Service are sufficiently severe that there is concern that a dramatic increase in mailed ballots for the 2020 general election could significantly slow delivery.⁵ These potential delays prompted the Inspector General of the Postal Service to issue a warning concerning upcoming elections:

We also identified nationwide issues integrating election offices’ vote by mail processes with the Postal Service processes which could impact future elections. Specifically, for ballots processed in the Milwaukee area, we found issues related to the timeliness of ballots being mailed to voters, correcting misdelivery of ballots, an inability to track ballots, and inconsistent postmarking of ballots. Nationally, we noted potential concerns with the deadlines set by the states to requires absentee ballots, ballots [sic] postmarks, ballots mailed without mail tracking technology, and the ratio of Political and Election Mail coordinators to election offices in certain locations (Inspector General. 2020).

⁵ For example, In Utah, which has an established history of all-mail voting, the state elections director was informed by the Postal Service to allow “at least one week” for the delivery of ballots for the 2020 general election (Davidson. 2020).

That warning was followed by letters sent by the Postal Service to 46 states (Slodysko. 2020; Cox, Viebeck, Bogage and Ingraham. 2020), including Ohio, explaining that their state election calendars did not allow sufficient time for mail delivery:

The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Ohio's election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them (Marshall. 2020).

22. In recent weeks the controversy over slow mail delivery has grown more intense as more states experience problems in their primaries, and the Postal Service faces continuing funding shortfalls (Gardner, Lee, and Cox. 2020). This could portend problems for the general election. Norm Ornstein of the American Enterprise Institute warned direly: "American voters face a nightmare in November. The recent stretch of primary elections has raised a slew of red flags of glitches, missteps, incompetence, and worse that could plague the national elections in November" (Ornstein. 2020). Another prominent writer sees a "disaster ahead" because "The widespread failures during the primary elections foreshadow a potentially disastrous November election" (Harris. 2020). Fears of slow mail delivery and election disasters led 20 states and the District of Columbia as well as several advocacy organizations to sue the Postal Service and Postmaster General DeJoy (*Washington v. Trump*. 2020; *Commonwealth of Pennsylvania v. DeJoy*. 2020; *National Urban League v. DeJoy*. 2020; Murray. 2020; Broadwater. 2020; Gardner and Cox. 2020).⁶

⁶ The 20 states are: Pennsylvania, California, Delaware, Maine, Massachusetts, North Carolina, Washington, Colorado, Connecticut, Illinois, Maryland, Michigan, Minnesota, Nevada, New Mexico,

23. The issue is not whether the mail and absentee ballots will be delivered; the Post Office is not throwing away bags of mail. Rather, the issue is that it is more difficult than in the past to judge how long it takes for mail to get delivered, and there are potentially significant delays.

24. These delays are much in evidence in Ohio: “[W]e are finding that the delivery of the mail is taking far longer than what is published by the United States Postal Service as expected delivery times. Instead of first-class mail taking 1-3 days for delivery, we had heard widespread reports of it taking as long as 7-9 days” (LaRose. 2020c). A spokesperson for the Postal Service claimed that “most” first-class mail is delivered in “two to five days,” but admitted that they are constrained by “operational capabilities” (Rouan. 2020). U.S. Congressman Bob Latta from Bowling Green was sufficiently concerned about the delays that he requested the Postal Service to process all Ohio mail in Ohio instead of sending some of it to Michigan because the Postal Service has “failed to reliably deliver mail” (Dupont. 2020a; *Sentinel-Tribune*. 2020). These delays caused problems for the Ohio 2020 primary, with one group reporting that they had heard “reports from around the state of delayed ballots” (Tobias. 2020; Dupont. 2020b).

25. Given these problems, there is a mismatch between the timetables set out in Ohio election law for the signature match curing process, and the realities of mail delivery in the current era. The Ohio Election Official Manual sets out timelines based on the assumption that first-class mail delivery takes “2 to 5 days” (2019: 24). Form 11-S, the form sent to absentee voters with a signature mismatch problem, states that the form must be postmarked by the seventh day after the election and received by the tenth day after the election (Ohio Rev. Stat.). That is obviously impossible if mail requires five days, and perhaps as “long as 7-9 days” or “at least a week.” For

Oregon, Rhode Island, Vermont, Virginia, Wisconsin. The advocacy organizations are the National Urban League, Common Cause, and the League of Women Voters.

the 2020 primary on April 28th, voters had until May 5 to cure any problems (LaRose. 2020d). If a voter mailed their ballot the day before the election, it would be impossible for the election board to receive it in time to then mail a Form 11-S to the voter and get it back within that time frame.

26. There are additional timing issues caused by unrealistic deadlines in the current absentee voting regulations. Election boards can mail out absentee ballots (*after* they have received the necessary application in the mail) until the Saturday before Election day (Ohio Election Official Manual. 2019. p. 5). If mail takes more than three days, it would not arrive on-time for the voter to mail back their ballot. The recent report by the Inspector General identified 11 states that have deadlines to request absentee ballots that “do not provide sufficient time for election offices to generate a ballot and for the Postal Service to process and deliver the ballots to voters before the election” (Inspector General. 2020). Ohio is one of those 11 states. A recent letter from the Postal Service to state and local election officials contained a warning: “Most domestic First-Class Mail is delivered in 2-5 days.... *However, the Postal Service cannot guarantee a specific delivery date or alter standards that comport with individual state election laws*” [emphasis in the original] (U.S. Postal Service. 2020). In other words, it is incumbent upon states to conform to the lengthened delivery times for U.S. mail.

27. In sum, the deadlines established in the Ohio election code do not reflect the realities of contemporary mail service. The current curing period after the election cannot possibly accommodate the time-frame required for documents to be mailed multiple times. If a voter mails an absentee ballot on Election Day, it requires 2-9 days to arrive, according to the sources that I have cited in this report. The election office then needs a day to count ballots and separate out those that require curing. It takes another 2-9 days to send the curing form to the voter, and then another 2-9 days to mail it back, assuming the voter mails it back right after receiving it. This is a

time period ranging from seven days to 28 days. Even the rosier scenario of two days on every leg of the journey cannot meet the current curing time-frame. This mismatch could be exacerbated by the pandemic and a sudden and dramatic increase in the number of Ohio voters who switch to absentee voting for the 2020 general election.

VI. THE ISSUE OF “VOTER FRAUD”

28. The usual rationale provided for requiring burdensome requirements such as the signature matching on ballot *applications* that is done by some counties in Ohio, and limited curing procedures, is to prevent voter fraud (Chaffetz. 2020; Blood and Ohlemacher. 2018; Morefield. 2018; *The Federalist*. 2018; Eggers. 2018). But there is virtually no evidence of significant and widespread voter fraud in Ohio. The most complete compendium of actual convictions for voter fraud is compiled by the conservative think tank, The Heritage Foundation (2020). Their total count of “proven instances of voter fraud” is 1,290, out of a data bank that covers local, state, and federal elections beginning in the early 1980s and through the 2018 election (i.e. hundreds of millions of votes). They found 50 cases in Ohio covering many decades.⁷ Of those cases, seven involved absentee ballots; half of those cases involved a voter filling out an absentee ballot for a family member or friend. Half of the 50 cases involved improper registrations or ballot petitions, not actual voter fraud with a proven result that an illegal ballot being cast. In each general election in Ohio, about 4.5 million people vote (more in presidential years, less in off-year elections). Thus, out of dozens of elections, with tens of millions of votes cast, only seven people have actually been convicted of absentee voter fraud (Heritage Foundation. 2020). Obviously, “voter fraud” has never

⁷ The official tally on their website is actually 52, but they double-counted two of the cases.

changed the result of an election in the state, and there is no evidence of any systematic partisan scam. In short, voter fraud is stunningly rare in Ohio, and when it occurs, it is prosecuted.

29. The near-absence of intentional voter fraud in Ohio reflects national data; the number of cases of actual voter fraud is infinitesimally small compared to the number of votes cast.⁸ A recent analysis of the total votes cast in the elections covered by the Heritage Foundation data set calculated that the occurrence of voter fraud was “about 0.00006 percent of the total votes cast” (McReynolds and Stewart. 2020). Another recent analysis of three states with all-mail elections calculated that the number of “possible cases” of voter fraud was 0.0025 percent of all votes cast (Viebeck. 2020). In a recent case in Nevada, the plaintiffs contended that voting by mail would inevitably result in voter fraud; the U.S. District Court found: “To be sure, while Plaintiffs present this case as one about voter disenfranchisement due to purported vote dilution as a result of voter fraud; their claim of voter fraud is without any factual basis” (*Paher v. Cegavske*. 2020).

30. These rare cases of voter fraud occur in all types of voting systems, including traditional in-person polls, and sometimes involve election officials and not voters. In recent years, the only significant case of coordinated voter fraud involved absentee ballots in North Carolina in

⁸ For complete nation-wide analyses regarding the extreme rarity of voter fraud, see: Chapter 2 of *The Voting Wars*, by Richard Hasen (2012); *Election Meltdown*, by Richard Hasen (2020); chapter 6 of *Stealing Democracy*, by Spencer Overton (2006); and *The Myth of Voter Fraud*, by Lorraine Minnite (2010). Also see: McReynolds and Stewart (2020); Barreto, et. al. (2020); Gilbert. 2015; Urbina (2010), and Levitt (2007). Even the U.S. Justice Department under President George W. Bush could not find evidence of significant voter fraud; see: Lipton and Urbina (2007) and Levitt (2007). One legal scholar calculated that the likelihood of voter fraud was more than 12 times less likely than being struck by lightning (Sobel 2014: 7). For a list of studies confirming the absence of widespread voter fraud, see: <https://www.brennancenter.org/our-work/research-reports/debunking-voter-fraud-myth>.

2018. In that case a Republican operative for a congressional candidate ran an absentee ballot scam. He and his team filled out ballots illegally and then mailed them. He was easily caught and charged with multiple felonies for “deceit and intent to defraud, obstruct public and legal justice by submitting or cause to be submitted by mail absentee ballots and container-return envelopes for those ballots... in such a manner so as to make it appear those ballots had been voted and executed” (*North Carolina v. Dowless*. 2019. Also see: Blinder. 2019; Brosseau et. al. 2019). The offenses were so egregious that the State Board of Elections ordered a new election, noting that the original election “was corrupted by fraud, improprieties, and irregularities so pervasive that its results are tainted” (*In the Matter of: Investigations of Election Irregularities*. 2019).⁹

31. Voter fraud is a serious crime and should be fully and energetically prosecuted, but the data presented in this report and dozens of the others sources cited reveal that there are many safeguards in place to protect the integrity of the electoral process without incurring the additional voter costs created by unnecessary signature matching on absentee ballot applications, and there is certainly no advantage in election integrity gained by having an inadequate curing process.

32. So, does “voter fraud” occur in America and in Ohio? Yes, but it is extremely rare and a tiny fraction of actual votes cast. Those who claim that “massive” voter fraud is occurring resort to arguments that may be best described as *conditionalized conjecture*:

- “Mr. Schmidt also predicted that *if* Pennsylvania were to study the problem statewide, they *would expose* a much higher level of bogus registration...” (Dinan. 2017).
- “A Republican consultant says he found ‘thousands’ of *suspicious* mail-in ballots” (Garcia. 2016).
- “*Imagine* an election where a ballot is sent to a person regardless of eligibility...” (McDaniel. 2020).

⁹ Kansas Congressman Steve Watkins was recently indicted on felony voter fraud charges, but that case has not gone to trial yet. He blamed the charges on his primary opponent (Bresnahan and Mutnick. 2020).

- “The *potential* for misuse [of ballot collection] first became apparent in a special election in Los Angeles....” (*Los Angeles Times*. 2018).
- “...the highly questionable practice [of ballot collection in Arizona]...provides the *opportunity* for fraud” (Arizona Independent News Network. 2014).
- “[Ballot collection] expos[es] the ballot to *potential* manipulation by campaign operatives or nonprofit political groups. They *could* harass voters to turn in ballots, ‘assist’ them in filling them out, and *potentially* ‘lose’ ballots....” (Chaffetz. 2020).
- “[Ballot collection in California] has *opened the door* to endless forms of fraud” (Morefield. 2018).
- “[Ballot collection in California] amounts to an *open invitation* to large-scale vote buying, voter coercion, ‘granny farming,’ and automated forgery” (Counted as Cast. 2017).
- “It’s ballot harvesting, a long-disputed practice *implicated* in fraud....” (Eggers. 2018a).
- “[Senator Harry] Reid... would go on to win, though not without other *suggestions* of voter fraud.... It’s reasonable to *wonder* how many noncitizen voters ended up contributing to that win” (Eggers. 2018b: 69).
- “State Rep. Michelle Ugenti-Rita (R-Scottsdale) said she introduced House Bill 2023 to ban the practice of ballot collection...[she] cited *concerns* about voter fraud” (Nevarez. 2016).
- “Vote harvesting *a recipe* for coercion and election fraud” (von Spakovsky. 2019).
- “...it is *likely* that far more double voters, absentee-ballot fraudsters, and ineligible voters get away scot-free...” (Snead. 2017).
- “...Vote-by-mail increases the *chances* of election fraud.... President Trump is right. What’s happening in Nevada is *an invitation* to fraud” (Joecks. 2020).
- “*I think* there were some shenanigans pulled [in the 2018 Nevada elections]” (McDonald. Quoted in Lochhead and Scott. 2018).¹⁰
- “She asks you to sign on the envelope and says she’ll take care of the rest. That’s one *scenario*... *Maybe* they find the package... *Maybe* you never vote...” (Celeste. 2017).
- “The problem is *most certainly* exponentially worse.... The list includes hundreds of non—citizen registrants, all of whom had *likely* committed felonies....” (Public Interest Legal Foundation. 2016: 2, 6).¹¹
- “These represent 28 million *opportunities* for someone to cheat” (Public Interest Legal Foundation. n.d.).
- “A Florida state attorney is investigating thousands of *potentially* fraudulent voter registrations...in what *appears* to be widespread voter registration fraud” (epionline. 2004).
- “Colorado’s move to an all-mail voting system means illegal ballots *can slip* through the cracks” (*Colorado Spring Gazette*. 2016).
- “Island County officials have caught two [cases of voter fraud] in the last few years, but we can only *wonder* how many they are missing” (*Whidbey News-Times*. 2009).

¹⁰ The conspicuous gap between claims and data are evident with that comment. The same article in which Mr. McDonald made this claim was head-lined: “No Credible Reports of Election Fraud in Nevada” (Lochhead and Davidson. 2018).

¹¹ For problems with this report and its sequel, see: *League of United Latin American Citizens v. Public Interest Legal Foundation* (2018).

- “Mail-in voting *will lead* to massive fraud and abuse” (Trump. 2020).
- *If* a Democrat finds a ballot lying around...he *can* fill it out and send it in, no questions asked” (Hinderaker. 2020).
- “When government, state governments, start adopting these practices like mail-in ballots that *open the floodgates to potential fraud...*” (Barr, quoted in Beckwith. 2020).
- Stapleton acknowledged that no one in Montana has ever been convicted of voter fraud, but he *suggested* it routinely happens...” (Calvan. 2017).
- “Ralson said he meant that widespread absentee voting in the May primary *could lead* to election fraud” (Niesse. 2020).
- “Ballots would be mailed to addresses of individuals who have moved or passed away. The new residents *may* not be eligible to vote but *could* see the ballots in the mail and *try* to vote anyway.... Practices like these raise many red flags and leave our election systems *ripe for* fraud” (Davis. 2020).
- “...ballots would inevitably be sent to wrong addresses or inactive voters, putting millions of blank ballots into circulation—an *invitation* for fraud” (Thiessen. 2020).
- “Unlawful expansion of mail-in voting... *facilitates[s]* fraud” (Paxton. 2020).

33. Those making such claims argue that the small number of cases that have been uncovered are “just the tip of the iceberg” (Public Interest legal Foundation. 2017: 3; EpiOnline. 2004; *Whidbey News-Times*. 2009; *Colorado Springs Gazette*. 2016). But no one has ever found the iceberg. There are numerous laws that can be used to prosecute these extremely rare cases of registration fraud and voter fraud; the evidence collected for this report indicates that electoral features such as unnecessary signature matching on absentee ballot applications, and inadequate curing procedures, do not contribute to those laws.

VII. CONCLUSION

34. Ohio, like many other states, will likely experience a dramatic increase in the use of absentee voting for the 2020 general election (Cass. 2020). This increase in ballot mail volume comes precisely at a time when the Postal Service is least prepared to handle it. As Law Professor Richard Pildes recently argued, “[state voting calendars] were not designed with this anticipated new flood of absentee ballots in mind” (Pildes. 2020). Voting by mail has many advantages, and tends to lower voter costs for most voters (Dyck and Gimpel. 2005; Baretto et. al. 2006; Kousser and Mullin. 2007; Gronke and Miller. 2012; Hernandez. 2014; Menger, Stein, and Vonnahme.

2017). However, the extent to which those costs are lowered depends upon both the design of the vote-by-mail system, and the attributes of the voter. Design features of the system that increase voter costs, such as the complex method of absentee voting and the signature match curing process employed in Ohio, tend to reduce turnout. This is especially true for people with lower income levels, less education, and problems with access to the electoral system. *If* the public policy goal is to design an electoral system that is fair and equally accessible to all eligible voters, then the absentee voting process should be simplified and the signature match curing process must take into account potential delays in Postal Service mail delivery.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and ability.

Dated: August 21, 2020



Daniel C. McCool

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Exhibit A

VITA

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EDUCATION

Ph.D. (1983) University of Arizona (Political Science)
Dissertation: "Indian and Non-Indian Water Development."

Independent Doctoral Minor: Latin American Studies, awarded by the Latin American Area Center, University of Arizona.

M.A. (1978) University of Arizona (Political Science)
M.A. Thesis: "The Budgeting Problems of the National Park Service."

B.A. (1973) Purdue University (Sociology).

Major Fields of Research: voting rights, water resources, public lands, American Indian policy

Language Training: Spanish

WORK EXPERIENCE

2017-present	Professor Emeritus, Political Science, University of Utah
1996-2017	Professor of Political Science, University of Utah
2003-2015	Director, Environmental and Sustainability Studies Program
2011-2014	Co-Director, University of Utah Sustainability Curriculum Development
1998-2007	Director, American West Center
1989-1996	Associate Professor of Political Science, University of Utah
1990-1993	Associate Dean, College of Social and Behavioral Science
1987-1990	Director of Public Administration Education, Center for Public Policy and Administration, University of Utah
1987-1989	Assistant Professor of Political Science, University of Utah
1983-1987:	Assistant Professor, Texas A&M University
1982-1983:	Visiting Lecturer, Texas A&M University

Spring, 1981:	Lecturer for the American Indian Education Program, University of Arizona
1978-1982:	Research and Teaching Associate, Political Science Department, University of Arizona
June--Oct., 1978:	Volunteer English Instructor for Project Ayuda in Cunen, Guatemala (7th, 8th, and 9th grade Mayan Indian students).
1976-1978:	Research Assistant, Political Science Department, University of Arizona.
1973-1974:	Research Assistant, Southwest Indian Youth Center, Tucson, Arizona.

PUBLICATIONS

Books:

Vision and Place: John Wesley Powell & Reimagining the Colorado River Basin (edited), with Jason Robison and Thomas Minckley. University of California Press, forthcoming. This book is divided into three parts: water, public lands, and Native Americans. Each chapter is divided into three sections: historic, contemporary, and prospective. The editors wrote an introductory chapter to the book and an introduction to each of the three parts.

River Republic: The Fall and Rise of America's Rivers. Columbia University Press, 2012 (paperback 2014). This book tells the story of America's rivers and the movement to bring them back to health and vigor. I develop the theme of a "river republic" by focusing on citizens who become politically active to save a local river. Runner-up, Science Category, Green Book Festival.

The Most Fundamental Right: Contrasting Perspectives on the Voting Rights Act (edited). Indiana University Press, 2012. The book is a "debate in print" over the future of the Voting Rights Act. The chapter authors are the leading voices in that debate.

Native Vote: American Indians, the Voting Rights Act, and the Right to Vote, with Susan Olson and Jennifer Robinson. Cambridge University Press, 2007. This book provides a history and analysis of Indian voting rights, with emphasis on cases brought under the Voting Rights Act. Three case studies are used to illustrate the legal issues in such cases. The final chapter describes contemporary efforts by American Indians to participate in the political system.

Native Waters: Contemporary Indian Water Settlements and the Second Treaty Era. University of Arizona Press, 2002. This book analyzes the first fourteen negotiated settlements that attempted to resolve conflicts over Indian water rights. I argue that these water settlements constitute a second treaty era, analogous to the first treaty era of the Nineteenth Century.

Contested Landscape: The Politics of Wilderness in Utah and the West, with Doug Goodman. University of Utah Press, 1999. This edited book consists of chapters written by graduate and undergraduate students from the University of Utah. My contributions include the Preface, co-authorship of the final chapter ("The Community Context Approach"), and an introduction to each of the four sections of the book.

Staking Out the Terrain: Power Differentials Among Natural Resource Management Agencies, second edition, with Jeanne Nienaber Clarke. SUNY Press, 1996. This book formulates a model of agency power focusing on the ability of agencies to expand resources and jurisdiction. A detailed analysis of seven federal agencies provides support for the model. They are: the Army Corps of Engineers, the Forest Service, the Bureau of Reclamation, the National Park Service, the Fish and Wildlife Service, the Natural Resource Conservation Service, and the Bureau of Land Management. We are currently working on a third edition.

Public Policy Theory, Concepts, and Models: An Anthology. Englewood Cliffs, NJ: Prentice Hall, 1995. This semi-edited book provides a comprehensive overview of the most influential theories, concepts, and approaches in policy studies. It is an anthology of previously published work arranged into conceptual categories. My contributions include: Section One: "The Theoretical Foundation of Policy Studies;" Section 6: "Conflict and Choice in Policy Theory;" and an "Introduction" and "Discussion" to accompany Sections Two through Five.

The Waters of Zion: The Law, Policy, and Politics of Water in Utah. University of Utah Press, 1995. This edited book consists of chapters written by graduate and undergraduate students from the University of Utah. My contributions include: Chapter One: "Politics, Water And Utah;" Chapter Nine: "The CUP Completion Act of 1992;" and an "Introduction" to each of the four sections of the book.

Command of the Waters: Iron Triangles, Federal Water Development, and Indian Water. University of California Press, 1987, re-issued in paperback with a new chapter, 1994, by the University of Arizona Press. This book is concerned with differential rates of water development on Indian and non-Indian lands. Chapter one identifies factors that affect the political viability of iron triangles. The book then examines a traditionally weak iron triangle -- the water development program of the Bureau of Indian Affairs, and a traditionally powerful iron triangle- the federal water development program.

Journal Articles:

"Evolution of Water Institutions in the Indus River Basin: Reflections from the Law of the Colorado River." With Erum Sattar and Jason Robison. *Michigan Journal of Law Reform* 51 (Issue 4 Summer 2018): 715-776 (ranked #94 out of 1,549 law journals).

"Indigenous Water Justice." With Jason Robison, Barbara Cosens, Sue Jackson, and Kelsey Leonard. *Lewis and Clark Law Review*: 22 (No. 3, 2018): 841-922 (ranked #40 out of 1,549 law journals).

"Integrated Water Resources Management and Collaboration: The Failure of the Klamath Water Agreements." *Journal of Policy History*. 30, Issue 1 (Jan. 2018): 83-104.

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"Social Science Expert Witness Testimony in Voting Rights Cases," with Richard Engstrom, Jorge Chapa, and Gerald Webster. *National Political Science Review*. 17, No. 1 (2015).

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Book Chapters:

"We Must Either Protect Him or Destroy Him." With Weston C. McCool. In *Vision and Place: John Wesley Powell & Reimagining the Colorado River Basin*. Forthcoming, University of California Press.

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"Negotiating Water Settlements: Ten Common Themes," in *Indian Water in the New West*, edited by Thomas McGuire, William Lord, and Mary Wallace. University of Arizona Press (1993): 88-102.

"The Watering of the Reservation: Native Americans and their Water," in *Environmental Politics and Policy in the West*, edited by Zachary Smith. Kendall-Hunt Publishers (1993): 219-236.

"Water and the Future of Non-Indian Federal Lands in the Southwest," in *Water and the Future of the Southwest*, edited by Zachary Smith. University of New Mexico Press (1989): 113-32.

"Indian Voting," in *American Indian Policy in the Twentieth Century*, edited by Vine Deloria, Jr. University of Oklahoma Press (1985): 105-134.

"The Relevance of Management Information Systems to Policy Choices: Lessons for the Bureau of Land Management" with Helen Ingram, in *Developing Strategies for Rangeland Management*, edited by the National Research Council and the National Academy of Science, Westview Press, Boulder, Colorado (1984): 1785-1809.

Report:

"Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters," with James Tucker and Jacqueline De León. Published by the Native American Rights Fund.
https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf

Encyclopedia Articles:

"American Indians, 1975-Present." *Encyclopedia of US Political History*, CQ Press, 2011.

"Dam Removal and River Restoration." *Encyclopedia of Water Politics and Policy in the United States*. CQ Press, 2011.

"Applied Behavioral Science." *The International Encyclopedia of Public Policy and Administration*, edited by Jay Shafritz. Westview Press (1997).

MEDIA PUBLICATIONS

"Utah's Outstanding Rivers Deserve Recognition," with Tim Palmer. *The Salt Lake Tribune* (Sept. 9, 2017).

- <http://www.sltrib.com/opinion/commentary/2017/09/09/commentary-utahs-outstanding-rivers-deserve-recognition/>
- “Choose to Be Powerful.” *Field Report*, Southwest Region, National Parks Conservation Association (Summer/Fall 2017).
<https://www.npca.org/resources/3094-southwest-regional-office-field-reports>
- “Op-Ed: We’ve Been Here Before, and the Result Was Devastating.” *The Salt Lake Tribune* (Oct. 30, 2016).
<http://www.sltrib.com/opinion/4515090-155/op-ed-weve-been-here-before-and>
- “The Solution to Utah’s Water Problems.” Op-Ed, *Deseret News* (Jan. 5, 2016).
<http://www.deseretnews.com/article/865646997/The-solution-to-Utahs-water-problems.html>
- “Utah Rules of the Road.” *Salt Lake City Weekly* (Oct. 28, 2015).
<http://www.cityweekly.net/utah/utah-rules-of-the-road/Content?oid=3047281>
- “3 Myths Power Effort to Give Federal Lands to Utah.” Op-Ed, *Salt Lake Tribune* (July 3, 2014).
<http://www.sltrib.com/csp/cms/sites/sltrib/pages/printerfriendly.csp?id=58143192>
- “What Gettysburg Means to America Today.” Op-Ed, *Salt Lake Tribune* (July 12, 2013).
- “The Big Shakeout and a New Water Ethic.” *RMS Journal* 26, No. 3 (Fall, 2013): 18-19.
<http://www.river-management.org/assets/Journals-Newsletters/2013fall.pdf>
- “A Coalition to Stop Water Grab.” Op-Ed, *Salt Lake Tribune* (April 2, 2013).
- “Saving for the Future: Making a Commitment Now to Preserve Great Salt Lake.” *Friends of Great Salt Lake Newsletter* (Fall, 2011, # 4): 7.
- “Warning: Water Policy Faces an Age of Limits.” *High Country News* (April 22, 2010), Reprinted in the *Salt Lake Tribune*, the *Summit Daily News*, the *Aspen Times*, and the *Cortez Journal*.
- “Fall Creek.” *American Rivers* (Fall, 2009): 13.
- “If I Were President....” *The Canyon Country Zephyr* vol. 20, no. 4 (Oct/Nov 2008): 18.
- “Native Vote in 2008.” ACLU Blog of Rights, Voting Rights Symposium, October 17, 2008.
- “Perfect Moments.” *The Canyon Country Zephyr*, vol. 19, no. 5 (Dec/Jan): 14.
- “A Walking Tour of Washington’s Civil War Statuary.” *Civil War Historian* 3 (March/April 2007): 20-25.
- “As Dams Fall, a Chance for Redemption.” *High Country News* (June 21, 2004): 12.
- “Funding the Water System with Property Taxes Is Unfair.” *Salt Lake Tribune*, editorial (Sept. 2, 2001): AA2.
- “Indian Reservations: Environmental Refuge or Homeland?” *High Country News* (10 April 2000): 10.
- “Learning Vision.” *Continuum* (Winter, 1998-99): 54.
- “Want Less Government and Lower Taxes? Stop the Spanish Fork-Nephi Irrigation Project.” *The Salt Lake Observer* (July 17-30, 1998): 6.
- “Wasteful Irrigation Subsidies Are All Wet.” *Salt Lake Tribune*, editorial (February 15, 1998): AA8.
- “A River Between Two Cultures.” *Catalyst* (August, 1997): 14-15. (Awarded second place, “Excellence in Journalism Award,” by the Utah Society of Professional Journalists, 1998).

"Salt Lake's Water Needs are Real, but Let's Think Before Paying More." *Salt Lake Tribune*, editorial (August 3, 1997): AA6.

"Indian Water Settlements: Negotiating Tribal Claims to Water." *Red Ink* (Spring, 1996): 10-14.

"Utah and the Ute Tribe are at War." *High Country News* (June 27, 1994): 12. Reprinted in the *Ute Bulletin* (July 26, 1994): 5, and again (September 5, 1995): 4.

"Return to Bittersweet Memories: A Family Vacation to WWII." *The Purdue Alumnus*, (Summer, 1993): 24-29.

"Welcome Floaters, to River City." *High Country News* (Dec. 30, 1991): 15.

"The Northern Utes' Long Water Ordeal." *High Country News* (July 15, 1991): 8-9. Reprinted in the *Ute Bulletin* (Aug. 13, 1991): 6.

"The New Politics of the Environment and the Rise of 'Green Pork'," *Free Perspectives IV* (Dec., 1990): 5-7.

"Indians Defend Tribes from Attack," *High Country News* (May 21, 1990): 14. Reprinted in the *Ute Bulletin* (June 27, 1990): 4.

"New Coalition Lobbies for Indians," *High Country News* (Feb. 26, 1990): 3.

"Pilgrimage to the Sacred Mountain," *Ascent: The Mountaineering Experience in Word and Image*, Sierra Club Books, 1989.

"Let Taxpayers Devise Budget," *Salt Lake Tribune*, Common Carrier column (Mar. 26, 1989): A18.

"Who's to Blame for \$3.12 Trillion Debt Limit? Look in Mirror," *Salt Lake Tribune*, editorial (Dec. 16, 1989): A14. Also published in *The Park Record* as "The Debt-Makers: Who Are Those Guys?" (Dec. 28, 1989): A20.

"To Save a Sacred Mountain," *The Canyon Echo* (April, 1982): 4.

"Climbing Tongue-in-Cheek," *Summit* (April-May, 1980).

"Baboquivari Endures as Center of World," with Richard Harding, *The Indian Trader* (Aug., 1979): 3, 16.

"Orizaba: The Other Side of the Mountain," *Summit* (June-July, 1979).

EXPERT WITNESS REPORTS IN VOTING CASES

- > *U. S. v. South Dakota*. 615 NW 2d 590 U.S. Dist. Ct. SD (2000)
- > *U.S. v. Blaine County*. 157 F. Supp. 2d 1145 U.S. Dist. Ct. MT (2001)
- > *Bone Shirt v. Hazeltine*. 336 F. Supp.2d 976 U.S. Dist. Ct. SD (2004)
- > *Cottier v. City of Martin*. No. CIV. 2002-5021 U.S. Dist. Ct. SD (2005)
- > *Koyukak v. Treadwell*. Case No. 3:13-cv-00137-JWS U.S. Dist. Ct. AK (2014)
- > *Navajo Nation v. San Juan County, Utah*. Case No. 2:12-cv-00039-RJS-DPB. U.S. Dist. Ct. UT (2016)
- > *Brakebill v. Jaeger*. I. Civ. 1: 16-CV-08 U.S. Dist. Ct. ND (2016)
- > *Brakebill v. Jaeger*. II. Civ. 1: 16-CV-08 U.S. Dist. Ct. ND (2018)
- > *Sanchez et. al. v. Cegavske*. Case No. 3:16-cv-00523-MMD-WGC U.S. Dist. Ct. NV (2016)
- > *Navajo Nation Human Rights Commission v. San Juan County, Utah*. Case No. 2:16-cv-00154-JNP-BCW U.S. Dist. Ct. UT (2017)
- > *Voto Latino v. Hobbs*. CV-05685-PHX-DWL. U.S. Dist. Ct. AZ (2019)
- > *DSCC v. Simon*. 2nd Jud. Dist. Minn. (Jan. 2020, Supp Rept. April, 2020)
- > *Western Native Voice v. Stapleton*. Mont. 13th Jud. Dist. (March, 2020, Supp. Rept. Aug. 2020)
- > *Corona et. al. v. Cegavske et. al.* I. 1st Jud. Ct. in and for Carson City, NV (April, 2020)

- > *Crossey v. Bookckvar*. In the Commonwealth Court of Pennsylvania (May, 2020)
- > *LaRose v. Simon*, 2nd Jud. District of Minnesota (July, 2020)
- > *Corona et. al. v. Cegavske et. al.* II. 1st Jud. Ct. in and for Carson City, NV (July, 2020)

BOOK REVIEWS

Unredeemed Land: An Environmental History of Civil War and Emancipation in the Cotton South, by Erin Stewart Mauldin. *Journal of American History*, forthcoming.

Water: Abundance, Scarcity, and Security in the Age of Humanity, by Jeremy Schmidt. *The American Historical Review*, 2018.

The Blue, The Gray, and the Green, edited by Brian Allen Drake. *Journal of American History*, 2015.

Integrating Climate, Energy, and Air Pollution Policies, by Gary Bryner with Robert Duffy. *Perspectives in Politics*, 2013.

The New Politics of Indian Gaming, by Kenneth Hansen and Tracey Skopek. *American Review of Politics*. 2012.

Stealing the Gila, by David DeJong. *Pacific Historical Review*, Vol. 80, No. 1, 2010.

Dividing Western Waters, by Jack August. *Western Historical Quarterly*, 2009.

The Silver Fox of the Rockies: Delphus E. Carpenter and the Western Water Compacts, by Daniel Tyler. *The Journal of American History*. June 2004.

Fuel for Growth: Water and Arizona's Urban Environment, by Douglas Kupel. *The Journal of American History*. June 2004.

Indian Reserved Water Rights: The Winters Doctrine in Its Social and Legal Context, by John Shurts. *Pacific Historical Review* (Nov. 2001).

The Struggle for Water: Politics, Rationality, and Identity in the American Southwest, by Wendy Nelson Espeland. In *The American Political Science Review*, (Fall, 1999).

A Sense of the American West: An Anthology of Environmental History. Edited by James E. Sherow. In *Utah Historical Quarterly*, (1999).

The Weber River Basin: Grass Roots Democracy and Water Development, by Richard Sadler and Richard Roberts. In *The Journal of American History*, (Sept., 1995).

The Last Water Hole in the West, by Daniel Tyler. In *Western Historical Quarterly*, (Aug., 1993).

Senate Elections and Campaign Intensity, by Mark Westlye. In *Political Studies*, (1993).

Water Resources Management, by David Feldman. In *Policy Currents* (Aug., 1992).

American Indian Water Rights and the Limits of Law, by Lloyd Burton. In *Pacific Historical Quarterly* (May, 1992).

The Logic of Congressional Action, by R. Douglas Arnold. In *Political Studies* (1992).

Breaking the Iron Bonds, by Marjane Ambler. In *Natural Resources and Environmental Administration* (June, 1991): 6-7.

Environmental Politics and Policy: Theories and Evidence, edited by James P. Lester. In *Journal of Politics* (Aug., 1991): 889.

A Budget Quartet: Critical Policy and Management Issues, by Donald Axelrod. In *Western Governmental Researcher* (1990).

Envisioning a Sustainable Society, by Lester Milbrath. In *Rivers*, (1991).

Native American Estate: The Struggle Over Indian and Hawaiian Lands, by Linda S. Parker. In *The National Political Science Review* (1992).

A Life of Its Own: The Politics and Power of Water, by Robert Gottlieb. In *American Political Science Review* (Dec., 1989): 1382-83.

As Long as the Rivers Run: Hydroelectric Development and Native Communities in Western Canada, by James B. Waldrum. In *Western Historical Quarterly* (Feb., 1989): 87-88.

Controversies in Environmental Policy, edited by Sheldon Kamieniecki, Robert O'Brien, and Michael Clarke. In *The American Review of Public Administration* (June, 1988).

Water in New Mexico, by Ira G. Clark. In *New Mexico Historical Review* (1989).

INVITED TALKS

Invited Participant, "Colorado River Conversations: Integrating Science and Identifying Solutions Conference." University of Arizona, Oct. 28-30, 2019.

Invited Speaker, "The Arid Lands and the Legacy of John Wesley Powell." The Biennial Conference on the Science and Management of the Colorado Plateau & Southwest Region, Flagstaff, AZ, Sept. 9, 2019.

Invited Speaker, "John Wesley Powell Sesquicentennial Symposium." Page, AZ, July 10, 2019.

Invited Speaker, "John Wesley Powell Sesquicentennial Symposium." Moab, UT, June 21, 2019.

Invited Speaker, Groundwater Management Districts Association, Summer Conference, Salt Lake City, June 6, 2019.

Keynote Speaker, "John Wesley Powell Sesquicentennial Symposium." Green River WY, May 23, 2019.

Invited Speaker, "Native American Participation in U. S. Elections." The Carter Center, Atlanta, GA, Dec. 11-12, 2018.

Invited Testimony, The Native American Voting Rights Coalition, public hearing, Phoenix, AZ, Jan. 11, 2018.

Participating Scientist, "The Colorado River Basin Workshop: Building a Science Agenda" Funded by the National Science Foundation and the Janet Quinney Lawson Foundation, Tucson, AZ, Oct. 12-14, 2017.

Keynote Speaker, Constitution Day, East Central University, Ada, OK, Sept. 17, 2017.

Invited Speaker, Symposium on Native Voting Rights, the Carter Center, Atlanta, GA, Dec. 4-5, 2016.

Speaker, Restoring the West Conference, Utah State University, October 18, 2016.

Speaker, Martz Summer Conference, panel on Indigenous Water Justice, University of Colorado, June 9, 2016.

Moderator, Indigenous Water Justice Symposium, University of Colorado, June 6, 2016.

Participant, "Upstream Downstream Voices: Protecting the Colorado River, Moab, UT, May 24, 2016.

Speaker, Utah History Symposium, Salt Lake City, UT, May 12, 2016.

Speaker, Great Salt Lake Issues Forum, Salt Lake City, UT, May 11, 2016.

Speaker, Interagency Regional Wilderness Stewardship Training, St. George, UT, April 26, 2016.

Speaker, Spring Runoff Conference, Utah State University, Logan, UT, April 5, 2016.

Speaker, State of the Rockies Annual Speaker Series, Colorado College, Colorado Springs, CO, Mar. 28, 2016.

Speaker, Intermountain Sustainability Summit, Weber State University, Nov. 24, 2016.

Keynote speaker, Salt Lake County Water Symposium, Nov. 18-19, 2015.

Speaker, Native Symposium, Weber State University, Ogden UT. Nov. 4, 2015.

Plenary Speaker, National Congress of American Indians, National Conference, San Diego, CA. Oct. 2015.

Keynote Speaker, Indian Voting Rights Symposium. Washington, D.C. May 27-28, 2015.

Debate on Public Lands. Speaker of the House Rebecca Lockhart and Representative Ken Ivory vs. Robert Keiter and Daniel McCool. Southern Utah University, Sept. 18, 2014.

<https://www.youtube.com/watch?v=1m631pbW6iU&feature=youtu.be>

Debate on "Who Should Manage Utah's Public Lands?" Speaker of the House Rebecca Lockhart and Representative Ken Ivory vs. Pat Shea and Daniel McCool. Salt Lake City, May 14, 2014.

<https://www.youtube.com/watch?v=GEOgBkotvA>

Speaker, National Commission on Voting Rights, Las Vegas, NV, April 26, 2014.

Speaker, River Rendezvous, Moab, UT Nov. 9, 2013.

Speaker, Upper Colorado River Conference, Colorado Mesa University, Nov. 7, 2013.

Guest Speaker, Texas Tech University, Lubbock, TX, April 17, 2013.

Keynote Speaker, River Management Society annual conference, Grand Junction, CO, Mar. 12, 2013.

Guest Speaker, the Wild and Scenic Film Festival, Nevada City, CA. Jan. 11-13, 2013.

Guest Lecturer, Carleton College, April 19-20, 2011.

Speaker, League of Women Voters, Panel on the proposed Las Vegas Pipeline, Salt Lake City, UT, Sept. 15, 2010

Speaker, Utah State History Conference, panel on Oral History, Salt Lake City, UT, Sept. 10, 2010.

Speaker, Redistricting Institute, Duke University, July 28, 2010.

Census and Redistricting Institute, Participating Scholar, Atlanta, GA, July 20, 2009

Spring Runoff Conference, Keynote Speaker, Utah State University, April 3, 2009.

Law and Justice Center, Salt Lake City, UT, Feb. 5, 2009.

Special Collections Omnibus Lecture, Brigham Young University, Provo, UT, Nov. 5, 2008

Salt Lake Countywide Watershed Symposium, Salt Lake City, Oct. 29, 2008.

The *Winters* Centennial, Tamaya Resort, Santa Ana Pueblo, NM June 11, 2008.

Panel on Indian voting rights, National Indian Gaming Association, annual conference, San Diego, CA, April 22, 2008.

Panel on "Voting Rights in Indian Country," at the Indigenous Law and Policy Center, Michigan State University College of Law, Jan. 31, 2008.

Conference, "Overview of the Reauthorization and Amendment of the Federal Voting Rights Act." University of California, Los Angeles, Jan. 25-26, 2008.

Symposium on the future of the Colorado River, College of Law, University of Utah, Oct. 25, 2007

Water Resources Seminar, Oregon State University, Corvallis, OR, Oct. 10, 2007.

American Comenius, University of Groningen, the Netherlands, U. S. program, Oct. 2, 2007.

"Native Water Law & Public Policy: Critical Issues in the Great Lakes and St. Lawrence Watersheds." Keynote Speaker, Cornell University, School of Law, Ithaca, NY, Nov. 17-18, 2006.

American Comenius, University of Groningen, the Netherlands, U. S. program, 2006.

Harvard University Law School symposium, "Preserving and Promoting the Native American Vote: A New Look at the Voting Rights Act Renewal Process." Cambridge, MA, April 5, 2006.

American Comenius, University of Groningen, the Netherlands, U. S program, 2005.

Testimony before the National Committee for the Voting Rights Act, Rapid City, SD, September 9, 2005.

River Management Society, annual conference, Keynote speaker, Salt Lake City, UT May 10, 2005.

Colorado Plateau River Guides, annual conference. Cataract Canyon, May 2-5, 2005.

Invited speaker, National Congress of American Indians, national convention , panel on Native Voting Rights, Tulsa, OK, November 2005.

Invited speaker, Biannual Symposium on the Colorado River, sponsored by the Water Education Foundation. Bishop's Lodge, Santa Fe, NM. Sept. 29, 2005.

Symposium: "Changing Directions in Water Law." University of Texas School of Law. Feb. 4-5, 2005.

Mni-Sose Intertribal Water Coalition, board of directors meeting, Rapid City, SD. September 2004

"Water in Utah," sponsored by the Utah Science Center, Public Dialogue Series, September 2004 (aired on KCPW radio, September 20, 2004).

BLM Recreation/Wilderness/Cultural/VRM Workshop, Moab, Utah. September 2004.

Utah State Historical Society, annual meeting, panel on Lake Powell. September 2004.

Mni-Sose Intertribal Water Coalition, Annual conference, Denver, CO. January 2004.

The Utah Environmental Symposium, Salt Lake City, UT, Nov. 2003.

Utah State University, Natural Resources and Environmental Policy Program, November 28, 2001.

U. S. Department of the Interior, Office of Indian Water Rights, annual negotiation teams meeting, Seattle, WA, November, 2000.

Conference on "Rivers, Dams and the Future of the West." Sponsored by the Utah Wetlands and Riparian Center, Salt Lake City, UT, November, 1999.

Symposium on "Where the Rivers Flow," sponsored by the Wallace Stegner Center, Salt Lake City, Utah, April, 1999.

Symposium on Tribal Survival, sponsored by Dine' College, Flagstaff, Arizona, April, 1999.

Symposium on "Changing Water Regimes in Drylands," sponsored by the Desert Research Institute. June 10-12, 1997, Lake Tahoe, CA.

Indian Water Rights Symposium sponsored by the All-Indian Pueblo Council, Indian Pueblo Cultural Center, Albuquerque, NM, April, 1994.

Symposium on the Future of the Colorado River Plateau, University of Utah School of Law, Sept., 1993.

"Arizona Water 2000," sponsored by the Commission on the Arizona Environment, Sedona, Arizona, Sept. 1992.

Invited Speaker, conference titled "A River Too Far: Water in the Arid West." Sponsored by the Nevada Humanities Committee, Reno, Nevada, 1991.

Symposium on "Water in the 20th Century," Phoenix, Arizona, 1990.

Bureau of Land Management, "Image Enhancement Seminar," Park City, Utah, 1989.

Workshop on Indian Land and Water Rights sponsored by the American Indian Lawyer Training Program, Albuquerque, N. M., 1987.

CONFERENCE PAPERS

"Integrated Water Resources Management: A Typology of Collaborative Processes, Applied to the Utah Governor's Water Strategy Advisory Team." International Conference on Interdisciplinary Social Science, Hiroshima, Japan, July 2017.

"Indigenous Water Justice in the Colorado, Columbia, and Murray-Darling Basins." With Jason Robison and Kelsey Leonard. The Waterkeeper Alliance, Park City, UT, June 2017.

"The Voting Rights Act and the Potential for 'Bail-in' After *Shelby County v. Holder*." The Midwest Political Science Association, Chicago, IL, April 2016.

"Pockets of Discrimination: The Voting Rights Act and the Role of 'Bail-in' After *Shelby County v. Holder*." The International Social Sciences Conference, Split, Croatia, June 2015.

"Creating a 'Water BRAC' Commission to Evaluate Existing Water Projects." American Water Resources Association, Vienna, VA, November, 2014.

"River Policy in Crisis: the Klamath River." American Political Science Association, Washington, D. C. August, 2014.

"Social Science Expert Witness Testimony in Voting Rights Act Cases." With Richard Engstrom, Jorge Chapa, and Gerald Webster. Eighth International Conference on Interdisciplinary Social Science, Charles University, Prague, The Czech Republic, August, 2013.

"Campus Sustainability in the U. S.: A Comparison of a Research and a Teaching University," with Janet Winniford. 2010 Conference on Environmental, Cultural, Economic and Social Sustainability University of Cuenca, Cuenca, Ecuador January 5-7.

"Rivers of the Homeland: River Restoration on Indian Reservations." International Congress of Americanists, Sevilla, Spain, July, 2006.

"From Insanity to Enlightenment: Changing Perceptions of River Restoration and River Restorationists." Transatlantic Workshop on "Restoring or Renaturing." Zurich, Switzerland, July, 2006.

"The Community Context Approach: Cross-Boundary Management and the Protection of Parks and Wild Lands." International Symposium on Society and Resource Management, Sardinia, Italy, 2002.

"The Wilderness Debate in Utah: Using Community Values and Education to Resolve Conflict." International Symposium on Society and Resource Management. Indiana University, 2002.

"Evolving Political Institutions: A New Water Policy and its Impact on the Border Region" Southwest Center for Environmental Research and Policy, Bi-National Water Program. Rio Rico, AZ, 2002.

"Indian Water Rights in the Settlement Era." American Political Science Association, Washington, D. C. 2000.

"Land Use, Borders, and Environmental Policy: Tribal Autonomy and Ecosystem Management." International Conference on "Nature, Society and History," Vienna, Austria, 1999.

"Two Cultures, Two Communities, One County: Devolution and Retrenchment in Indian Country." With F. Ted Hebert and Doug Goodman. American Political Science Association, 1998.

"Subsystem Theory and the Hierarchy of Conflict." Western Political Science Association, 1997.

"Environmentalists, Tribes, and Negotiated Water Settlements," with Laura Kirwan. American Political Science Association, 1995.

"Successes and Failures of Policy Theory." Western Political Science Association, 1992.

"Indian Water Rights: The End of the Negotiation Era?" Western Political Science Association, 1991.

"Indian Water Rights: Negotiation; Agreement; Legislative Settlement." American Water Resources Association, 1989.

"Using Measures of Budgetary Success to Evaluate Subgovernment Theory: The Case of Federal Water Resource Development." Western Political Science Association, 1988.

"Policy Theory, Policy Typologies, and Decision-making." Midwestern Political Science Association, 1987.

"Federal Water Development: Changing Theoretical Assumptions." Western Political Science Association, 1987.

"Subgovernments, Political Viability, and Budgetary Constraints." Western Political Science Association, 1986.

"Subgovernments, Autonomy, and Stability: The Case of Federal Water Resource Development." Western Social Science Association, 1986.

"Western Water Policy and Federalism: Two Conflicting Doctrines." Southwestern Social Science Association, 1984.

"Contemporary Federal Water Policy: The Battle Over Water Project Expenditures During the Carter and Reagan Administrations." Western Social Science Association, 1983.

"Indian and Non-Indian Water Development: Competition for Water and Water Projects." Western Social Science Association, 1983.

"The Theoretical Origins of the *Winters* Doctrine." Southwestern Social Science Association, 1982.

"For Richer or for Poorer: A Comparative Approach to the Study of Bureaucracy," with Jeanne Nienaber. Western Political Science Association, 1981.

"Indian Water Rights: The Bureaucratic Response." Arizona Section of the American Water Resources Association, 1981.

"Indian Water Rights, The Central Arizona Project, and Water Policy in the Lower Colorado River Basin." Western Social Science Association, 1980.

"Federal Indian Policy and the Sacred Mountain of the Papago Indians." Southwestern Social Science Association, 1980.

OTHER CONFERENCE ROLES

Roundtable participant, "John Wesley Powell and the Colorado River Basin." Western History Association, Las Vegas, October, 2019.

Discussant, panel on "The Most Fundamental Right: Voting Now and Then, Here and There." The Midwest Political Science Association, Chicago, IL, April 2016.

Moderator, panel on "Flood Management." American Water Resources Association, Vienna, VA, November 2014.

Delegate, NASPA Exchange Program with Deutsches Studentenwerk (Germany), February 2014, focusing on campus sustainability.

Presenter, American Water Resources Association, annual meeting, panel on dam removal and river restoration, Seattle, WA, November 2005.

Discussant, panel on "Native Americans in the Twenty First Century." Western Social Science Association. April 2005.

Chair, panel on "Revisions in Policy Subsystem Theory." Western Political Science Association, 1997.

Invited Participant, Moscow State University Symposium on Training Public Administrators, Moscow, Russia, March 1993.

Chair, panel on "Public Policy Theory: Past, Present, Future." Western Political Science Association, 1992.

Invited Discussant, conference on "Innovation in Western Water Law and Management," University of Colorado School of Law, 1991.

Delegate, Citizen Ambassador Program, Environmental Technology Delegation to the Soviet Union, 1990.

Organizer and Moderator, panel on "Hosting the Olympics," National Association of Schools of Public Affairs and Administration, 1990.

Invited Discussant, Symposium on "Indian Water Rights," University of Colorado School of Law, 1990.

Invited Discussant, Arizona Historical Society, symposium on Water, Tucson, Arizona, 1989.

Chair, panel on "Executive MPA Programs," National Association of Schools of Public Affairs and Administration, 1989.

Discussant, Sixth Annual Women in Public Administration Conference, Salt Lake City, Utah, 1989.

Chair, panel on "Models of Policy Analysis." Western Political Science Association, 1989.

Discussant, panel on "Natural Resource Management in the Post-Reagan Era." American Society for Public Administration, 1989.

Convener and discussant, panel on "Administrative Practice and Organization Theory." Public Administration Theory Symposium, American Society for Public Administration, 1989.

Participant, Minnowbrook II Conference on the Future of Public Administration, Syracuse University, Sept., 1988.

Discussant, panel on "Limited Perspectives: Traditional Methods and Models and the Study of Native American Political Participation." American Political Science Association, 1988.

Chair, panel on "Alternative Models of Environmental Policy Formulation and Implementation." Western Political Science Association, 1988.

Chair, panel on "Policy Models and Theories." American Political Science Association, 1986.

Chair, panel on "Environmental Policy," Western Political Science Association, 1986.

Chair, panel on "Subsystems and Natural Resource Policy." Western Social Science Association, 1986.

Discussant, panel on "Environmental Politics and Policy: A Synthesis and Critique." Western Political Science Association, 1985.

Discussant, panel on "The Political Context of Environmental Policy." Western Political Science Association, 1984.

Chair, panel on "Indian Water Rights and Water Development." Western Political Science Association, 1982.

PUBLIC COMMUNICATIONS

On-air interview, KCPW radio, Sept. 9, 2019 (topic: Colorado River Basin).
<http://kcpw.org/blog/in-the-hive/2019-09-12/unquenchable-3-the-fate-of-the-colorado-river/>

Quoted interview, Utah Public Radio, Aug. 21, 2018 (topic: Lake Powell Pipeline).
<http://www.upr.org/post/loving-our-lands-thirsty-cities-and-lake-powell-pipeline>

Quoted interview, *Outside Magazine*, Aug. 14, 2018 (topic: Lake Powell Pipeline).
<https://www.outsideonline.com/2333236/utah-pipeline-water-shortage-st-george>

On-air interview, Native America Calling Radio Program, Aug. 14, 2018 (topic: Native American voting rights).

Quoted interview, *ThinkProgress*, June 20, 2018 (topic: Native American voting rights).

Quoted interview, *Arizona Republic*, Jan. 24, 2018 (topic: public lands).

On-camera interview, America Divided TV show, Jan. 19, 2018 (topic: San Juan County, UT).

Quoted interview, *The New York Times*, Jan. 4, 2018 (topic: American Indian voting rights).

<https://www.nytimes.com/2018/01/04/us/native-american-voting-rights.html>

Quoted research, *Governing Magazine*, July 2017 (topic: Navajo water development).

Quoted interview, *High Country News*, Sept. 4, 2017 (topic: The Bear River Project).

Quoted interview, *Salt Lake Tribune*, April 28, 2017 (topic: American Indians and the Census).
<http://www.sltrib.com/news/5216761-155/does-the-us-census-undercount-utah>

Quoted Interview, Colorado Public Radio, Feb. 23, 2017 (topic: public lands).

Quoted interview, *Mother Jones*, Mar. 25, 2016 (topic: Indian voting rights).

NPR, All Things Considered, recorded interview, Jan. 18, 2016 (topic: Marketing Indian water).
<http://www.npr.org/2016/01/18/463503934/arizona-tribes-wade-into-the-water-business>

Market Place, Oregon Public Broadcasting, quoted interview, Jan. 4, 2016 (topic: public lands).
<http://www.marketplace.org/2016/01/04/world/how-feds-came-own-west>

KRCL, Radioactive Show, on-air interview, Sept. 20, 2015 (topic: Navajo water).
<http://www.krcl.org/tag/dan-mccool/>

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Quoted interview, *Environment*, Dec. 11, 2014 (topic: Utah water).

KSUB, Cedar City, UT, Sept. 18, 2014 (topic: public lands).

KUER, Radio West, Salt Lake City, on-air guest, April 23, 2014 (topic: public lands grazing).
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KUER, Radio West, Salt Lake City, on-air guest, Sept. 3, 2013 (topic: Colorado River).
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Quoted interview, *Anchorage Press*, July 18, 2013 (topic: The Voting Rights Act).

Blog post for Indiana University Press, June 28, 2013 (topic: The Voting Rights Act).
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Indian Country Today, quoted interview, June 28, 2013 (topic: The Voting Rights Act).

Quoted interview, *DebtWire*, May 1, 2013 (topic: Las Vegas pipeline).

Quoted interview, *Huffington Post*, April 8, 2013 (topic: Las Vegas pipeline).

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KUER, Radio West, Salt Lake City, on-air guest, April 4, 2013 (topic: Las Vegas pipeline).

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New York Times, quoted interview, Mar. 26, 2013 (topic: the Pecos River and western drought).

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New Books in Political Science, blog, interview with Heath Brown. Feb. 26, 2012 (topic: *The Most Fundamental Right*).

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River Management Society Journal, book review of *River Republic*, Winter, 2012 (Topic: *River Republic*).

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Suburban Wildlife Magazine Blog, interview, January 13, 2013. (topic: *River Republic*).

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KDVS Radio, Davis, CA, interview, Jan. 5, 2013 (topic: The Wild and Scenic Film Festival).

Western Water, quoted interview, Nov/Dec 2012 (topic: the Colorado River).

Salt Lake Tribune, Editorial, "Protect our Rivers." Dec. 22, 2012.

KSFR Radio, interview with Diego Mulligan on the "Journey Home" Show, Albuquerque, NM, Dec. 11, 2012 (topic: *River Republic*).

KCPW Radio, interview, Oct. 23, 2012 (topic: *The Most Fundamental Right*).

<http://redthread.utah.edu/take-a-longer-view-of-election-day/7780>

The King's English Bookstore, reading, Oct. 18, 2012 (topic: *River Republic*).

Salt Lake Tribune, featured column, Oct. 4, 2012 (topic: *River Republic*)

<http://www.sltrib.com/sltrib/entertainment2/54996363-223/rivers-america-mccool-utah.html.csp>

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Interview, The Park Visitor, Sept. 10, 2012 (topic: *River Republic*).

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Page 99 Blog, September, 2012 (topic: *River Republic*).

<http://page99test.blogspot.com/2012/09/daniel-mccools-river-republic.html>

KCPW Radio, interview, Aug. 20, 2012 (topic: *River Republic*).

Indian Country Today, quoted interview, June 15, 2012 (topic: Indian voters).

Salt Lake City Weekly, quoted interview, May 9, 2012 (topic: Las Vegas Pipeline).

The New York Times, quoted interview, April 11, 2011 (topic: Indian water rights).

KSL TV News, interview, April 1, 2011 (topic: Colorado River).

Associated Press, quoted statement, Sept. 29, 2010 (topic: Navajo water settlement).

Salt Lake Tribune, quoted statement, Sept. 17, 2010 (topic: proposed Green River pipeline).

Tooele Transcript Bulletin, quoted statement, Sept. 16, 2010 (topic: proposed Las Vegas pipeline).

USA Today, quoted statement, Aug. 24, 2010 (topic: Grand Canyon). This article was picked up by 75 newspapers.

The Salt Lake Tribune, quoted statement, Aug. 24, 2010 (topic: Grand Canyon).

KUER Radio, quoted statement, Aug. 23, 2010 (topic: Grand Canyon).

KSL TV news, interview. April 21, 2010 (topic: reservoirs in Utah).

Fox News Utah, news coverage, Feb. 14, 2010 (topic: climate change).

Indian Country Today, quoted interview, Feb. 4, 2010 (topic: Indian voting rights).

Indian Country Today, quoted interview, Oct. 20, 2009 (topic: Indian voting rights).

High Country News blog, quoted interview. Oct. 15, 2009 (topic: Indian voting rights).

KUED “Utah Now” television program, August 21, 2009 (topic: western water policy).

Salt Lake Tribune, quoted interview, Nov. 28, 2008 (topic: Navajo water rights).

Indian Country Today, quoted interview, Oct. 26, 2008 (topic: American Indian voting).

KCPW Radio, interview, Oct. 22, 2007 (topic: western water policy).

KUER Radio, interview, Oct. 2, 2007 (topic: water policy in Utah).

Calibre, quoted interview, June 11, 2007 (topic: Indian voting rights).

Los Angeles Times, quoted interview, April 22, 2007 (topic: federal public lands)

The New Standard (national on-line news publication), quoted interview, January 22, 2007 (topic: American Indian water rights).

Salt Lake Tribune, quoted interview, Oct. 30, 2006 (topic: global warming and water).

KUSU Radio interview, August 31, 2006. (topic: Utah water).

Salt Lake Tribune, quoted interview, August 8, 2006. (topic: Utah water).

KUER, Radio West program, live interview, March 7, 2006 (topic: Women war veterans).

KCPW Radio, live interview, March 7, 2006 (topic: Women war veterans).

Salt Lake Tribune, quoted interview, February 16, 2006 (topic: American Indian voting rights).

Native American Times, secondary quote, November 1, 2005 (topic: American Indian voting).

Time Magazine, quoted interview, July 18, 2005 (topic: dam removal).

Salt Lake Tribune, quoted interview, June 23, 2005 (topic: river restoration).

Los Angeles Times, quoted interview, April 26, 2005 (topic: National Park Service).

Associated Press, quoted interview, October 25, 2004 (Nov. 2 in *Tri-Valley Central*) (topic: dam removal).

Deseret Morning News, quoted interview, Aug. 8, 2004 (topic: the law of the river).

East Valley Times (Arizona Tribune), secondary quote, June 4, 2004 (topic: the drought).

Los Angeles Times, quoted interview, May 22, 2004 (topic: American Indian voting rights).

Weather Notebook, Public Radio program, Boise, ID, interview, May 24, 2004 (topic: the impact of drought on western water policy).

Airtalk, KPCC Southern California Public Radio, interview, May 6, 2004 (topic: western water policy).

New York Times, quoted interview, May 2, 2004 (Topic: western water policy).

Rapid City Journal, quoted interview, April 12, 2004 (Topic: Indian voting rights).

High Country News, quoted interview, March 2004 (Topic: Indian water settlements).

Fox News, interview, Sept. 2, 2003 (Topic: Leavitt's appointment to EPA).

KUED Public Affairs Television presentation, "The Price of Water," April 22, 2003.

AP Wire Service, interview, Aug. 29, 2003 (Topic: Leavitt's appointment to EPA).

KSL TV News, interview, Aug. 28, 2003 (Topic: water use in Salt Lake City).

City Weekly, interview, Feb. 13, 2003 (Topic: water policy).

High Country News Radio, interview, Aug. 19, 2002 (Topic: wilderness policy).

Associated Press, June 1, 2002, feature story (Topic: irrigation subsidies).

KSL TV News, May 6, 2002, interview (Topic: water use in Salt Lake City).

KUED Radio interview, April 17, 2002 (Topic: water policy in the Salt Lake Valley).

KUED Radio interview, Nov. 19, 2001 ("Radio West" special program on water policy in Utah).

KRCL Radio interview, Sept. 13, 2001 (topic: Utah water policy).

KCPW Radio interview, Aug. 23, 2001 (topic: Utah water policy).

KCPW Radio interview, August 27, 1999 (topic: BLM wilderness policy).

KUER Radio interview, August 20, 1999 (topic: Utah water policy).

KUED, Civic Dialogue, televised interview, June 20, 1997 (topic: Utah water policy).

ABC Evening News, televised interview, June 4, 1997 (topic: The CUP).

KUER Radio interview, May 23, 1997 (topic: Poverty on Indian reservations).

KRCL Radio interview, January 8, 1996 (topic: Utah water policy).

KCPW Radio interview, January 2, 1996 (topic: Utah water policy).

KRCL Radio interview, August 20, 1995 (topic: American Indian Resource Center).

KUER Radio interview, August 14, 1995 (topic: Northern Ute tribal government).

KTALK Radio interview, May 6, 1995 (topic: taxes).

KCPW Radio interview, July 6, 1994 (topic: the Northern Ute jurisdiction case).

KUER Radio interview, Feb. 16, 1994 (topic: the Northern Ute jurisdiction case).

Special Feature article in the *Utah Government Connection* titled: "The Moscow Kremlin: Closed for Cleaning." Oct., 1993.

Deseret News, quoted interview. April 18, 1993 (topic: Russia).

The Public's Capital, quoted interview, April, 1993 (topic: federal water policy).

Las Vegas Review -Journal, quoted interview, Oct. 31, 1992 (topic: Western Water Policy).

Testimony before the State and Local Affairs Interim Committee of the Utah State Legislature, Jan. 8, 1992 (topic: Utah Navajo Royalty Trust Fund).

Los Angeles Times, quoted interview, Aug. 27, 1990 (topic: Navajo voting rights).

Congressional Quarterly Weekly Report, quoted interview, Jan. 13, 1990 (topic: federal Indian policy).

High Country News, quoted interview, July 30, 1990 (topic: Navajo voting rights).

"The Central Utah Project: A Legacy of Promise and Controversy." *Public Policy Perspective* (newsletter of the Center for Public Policy and Administration, University of Utah), Spring, 1990.

"Recent Events in Treaty Rights." *Native American Policy Network Newsletter*, July, 1990.

KRCL Radio interview, June 5, 1990 (topic: The Central Utah Project).

KSL Radio interview, Sept. 5, 1989 (topic: Indian water rights).

KTKT Radio interview, Dec. 27, 1989 (topic: taxes).

KUED Television, "Civic Dialogue," Dec. 19, 1989 (topic: Indian water rights).

COURSES TAUGHT

Graduate Level:

- Water Policy
- Public Policy: Analysis and Theory
- Environmental and Sustainability Policy
- Administrative Theory
- American Institutions Seminar: Subsystem Theory
- Survey of American Politics and Government
- The Politics of Western Water
- Special Topics: Wilderness Policy in Utah and the West
- The Politics of Public Lands Management

Undergraduate Level:

- Water Policy
- Bureaucracy and Politics
- Environmental and Sustainability Policy
- Minority Group Politics
- Introduction to American Government
- Introduction to Public Administration
- Senior Seminar: Who Rules America?
- Introduction to Environmental and Sustainability Studies
- Public Land Management in Costa Rica
- Environmental and Sustainability Studies Field Seminar
- Environmental and Sustainability Studies Capstone

GRANTS

Co-Principle Investigator, U. S. Geological Survey, Small Grants Program. 2015-18. \$31,480.

Senior Consultant, USAID-funded Pakistan Centers for Advanced Studies in Water, 2014-2016.

Faculty Consultant, "The Western Waters Digital Library: The Foundations of American Water Policy." National Endowment for the Humanities, 2007-2009. Funding = 5% time

Tanner Humanities Center, University of Utah. Research Interest Group grant to create a "Nuclear Utah" educational forum, 2006-07. Funding = \$1,200.

Applied Ethics and Human Values, University of Utah. 2005-06. Grant proposal: "Environmental Ethics and the Costa Rican Model of Ecotourism." \$6,200. With Professor Anya Plutynski.

National Endowment for the Humanities, program to create and preserve access to Humanities Collections, to digitize and archive 1,814 oral history interviews of American Indians, 2005-06. \$127,518 matching grant.

Quality Initiative Grant, University of Utah. To perform a complete program assessment of the Environmental Studies Program. 2003-2004. Funding = \$14,200.

Southwest Center for Environmental Research and Policy, Border Tribes Program. Co-P.I. This federally funded project developed a GIS Environmental Baseline for the Tohono O'odham Nation. 1999-2002. Funding = \$140,000.

Quality Initiative Grant, University of Utah. To create a new curriculum and program for the Red Rock Institute. 2001-2002. Funding = \$17,000.

U.S. Geological Survey, Water Resources Research Act Grant Program. Principle Investigator. "Negotiating Indian Water Rights Settlements: The Efficacy of Negotiation as a Dispute Resolution Strategy." 1992-1995. Funding = \$189,394.

University of Utah Teaching Committee. Awarded in 1996 to fund field trip for Wilderness Policy Class, \$1,200.

College of Social and Behavioral Science, University of Utah. Proposal Initiative Grant. \$4,000. Awarded summer, 1995.

University of Utah Research Committee. Grant to facilitate research on Indian Water Settlements: \$4,409. Awarded 1992.

Rural Utah Grant Program, Center for Public Policy and Administration, University of Utah. Project Title: "Ute and Navajo Water Rights: The Impact on Rural Utah." \$10,000. Awarded 1992-1993.

National Institute for Dispute Resolution, Higher and Professional Education Program, research grant for comparing negotiation and litigation as dispute resolution forums for Indian water rights: \$4,000. Awarded 1990.

University Teaching Grant to develop new course on water policy. University of Utah. Awarded 1989.

The Dean's R&D Fund. Project Title: "Conflict over Western Water: The Impact of 'Landmark' Decisions." College of Social and Behavioral Science, University of Utah. Awarded 1988.

Texas A&M University, Summer Research Grant, for project entitled "Water on the Hill: Subcommittees, Subgovernments, and Federal Water Development": \$5,000. Awarded 1986.

AWARDS

Runner-up, Science Category, Green Book Festival, for *River Republic: The Fall and Rise of America's Rivers*, 2013.

Finalist, College of Social and Behavioral Science, Superior Research Award, 2008, 2009

Finalist, College of Social and Behavioral Science Superior Teaching Award, 2011

Indigenous Day Dinner, Annual Awards, 2007, for "providing leadership for the American West Center on behalf of American Indians in the State of Utah."

University of Utah 2004 Diversity Award, presented to the American West Center.

Second place, "Excellence in Journalism Award," by the Utah Society of Professional Journalists, 1998 for "A River Between Two Cultures." *Catalyst* (August, 1997): 14-15.

Superior Research Award for Junior Faculty, College of Social and Behavioral Science, University of Utah, 1989.

ADMINISTRATIVE INITIATIVES

As co-Director of Sustainability Curriculum Development at the University of Utah:

Created, with my co-directors, the Undergraduate Certificate in Sustainability

Created, with my co-directors, the Graduate Certificate in Sustainability

As Director of the Environmental and Sustainability Studies Program:

Created a new Environmental and Sustainability Studies Minor

Directed the administration of an extensive program assessment and evaluation

Redesigned the Introductory course, ENVST 2100, required of all majors

Designed a new introductory field course, ENVST 2000, now required of all majors

Initiated the first Study Abroad program (Costa Rica) for Environmental and Sustainability Studies

Developed a new teaching curriculum, the Red Rock Institute, which explores environmental issues in the West.

Led the development of five new courses that focus on: sustainability science, environmental justice, global sustainability, leadership, and a senior capstone course

As Director of the American West Center:

Organized the 2006 Siciliano Forum. Topic: The Reauthorization of the Voting Rights Act

Negotiated numerous contracts for studies of Indian hunting and fishing rights and tribal archives.

Organized an annual conference called “Women at War,” that featured female veterans.

Initiated a new oral history project of Utah’s WWII veterans, “Saving the Legacy,” with over 500 interviews completed.

Wrote a successful NEH grant application to digitize the entire oral history collection of the Center—approximately 3,000 tapes.

As Associate Dean:

Initiated the effort that led to the establishment of the American Indian Resource Center on campus.

Created a new College grants program, the Proposal Initiative Grant, to help generate externally funded grants for College faculty.

Implemented a computerized search process to help College faculty find potential sources of external funding.

Created a Faculty Research Compendium that identified the major research activities of college faculty.

As Director of Public Administration Education:

Executive MPA: designed a new MPA program for middle- and upper-level administrators.

Public Administration Workshop for the Ute Indian Tribe: designed and implemented an annual intensive-session workshop for Ute tribal administrators.

Conference for Minority Public Administrators: designed and implemented Salt Lake City's first conference for minorities in the public sector work force.

COMMUNITY SERVICE AND CONSULTING

Regional Council, National Parks Conservation Association, Southwest Regional Office, 2009-present.

Member, Governor’s Water Strategy Advisory Team, 2013-2017.

http://www.envisionutah.org/images/FINAL_Recommended_State_Water_Strategy_7.14.17_5b15d.pdf

Co-author, *amicus* brief, in *Northwest Austin Municipal Utility District Number One v. Holder*, U. S. Supreme Court, No. 08-322, 2009.

Volunteer Tutor, Guadalupe Schools, 2007-2009.

Advisor, Rocky Mountain American Indian Economic and Education Foundation, 2003-2006.

Member, National Council of Scholars, Presidents Park, Williamsburg, VA. 2002-2004.

Consultant, National Oceanic and Atmospheric Administration, research project investigating the use of long-range weather data in water management planning for water conservancy districts and Indian reservations, 1999-2002.

Participating author and consultant, contract to facilitate meetings and research a proposal to divide San Juan County, UT. Final Report titled: "San Juan County Division Study," Prepared by the Center for Public Policy and Administration, University of Utah, 1997.

Member, Board of Directors, the Indian Walk-In Center, Salt Lake City, Utah, 1994-2000.

Advisory Committee for the American Indian Resource Center, University of Utah, 1990-2000.

Report of Alexander Street, Ph.D.
in the case of
League of Women Voters of Ohio et al. v. LaRose
United States District Court: Southern District of Ohio
August 24, 2020

1. Background, qualifications and purpose

1. I am an Associate Professor of Political Science at Carroll College in Helena, Montana. I hold a Ph.D. in Political Science from the University of California, Berkeley, conferred in 2011. I also hold a First Class undergraduate degree in Politics, Philosophy and Economics from the University of Oxford. I have held postdoctoral fellowships at the European University Institute, Cornell University, and with the Max Planck Society. I have published nine peer-reviewed articles, in addition to several book chapters, reviews and reports. I am attaching a copy of my Curriculum Vitae to this report. My published research uses statistical analysis of data from voter files, the census bureau, election returns, and public opinion surveys. This work has appeared in leading scholarly journals in my field and I have won Best Paper and Best Article awards from organized sections of the Western Political Science Association and the American Political Science Association, respectively.

2. My research using data from voter files has been cited favorably in a court case on the effects of voter registration deadlines in the state of Massachusetts. I have been retained as an expert and submitted an expert report in *N.Y. League of Women Voters et al. v. N.Y. State Board of Elections et al.*, No. 160342/2018 in New York state court concerning New York's registration deadline. Likewise, I have also been retained as an expert and submitted an expert report in *Western Native Voice v. Stapleton*, in the Montana 13th Judicial District Court, concerning the effects of a prohibition on ballot collecting for voters living on Indian Reservations in Montana.

3. I have been asked by the plaintiffs to analyze the effects of requiring election officials to verify signatures on absentee ballot applications and on absentee ballot return envelopes in Ohio. I have also been asked to address the adequacy of opportunities for Ohio electors whose application or ballot is rejected for signature mismatch to resolve the issue so that they can register or vote absentee. To do this, I have used publicly available evidence on Ohio elections in addition to documents provided to counsel for the plaintiffs in response to public records requests.¹ The plaintiffs asked me to address these questions using the same techniques of

¹ At points in this report I refer, for the sake of brevity, to absentee ballot signature checking, even though the signature is required on the returned "identification envelope" rather than the ballot itself. In addition, as I will show, the same logic applies to the efforts of election officials to verify signatures on ballot *applications* as well.

analysis, data collection and statistical testing that I use in my scholarly research. I am being compensated at a rate of \$200 per hour for my work on this matter. This compensation is not in any way contingent on the nature of my findings or on the outcome of this litigation.

4. I will make three main points. First, I apply mathematical principles to illuminate problems inherent in the process of election officials seeking to verify signatures on absentee ballots. Second, I present new evidence on the rate at which absentee ballot *applications*, even more often than absentee ballots, are rejected for perceived signature mismatch. And third, I explain how the inherent problems with attempts to verify signatures in this context align with data on the practicality of electors “curing” wrongly rejected applications or ballots in order to exercise the right to vote, given the time constraints at work. As I will explain, election officials in Ohio follow very different practices in recording information on absentee ballot and ballot application rejections for signature mismatch, which has forced me to rely on often incomplete and sometimes incommensurate evidence. I will present baseline estimates showing the minimum extent of the problem, while allowing that the full extent of the problem is difficult to assess but is certainly greater.

2. Previous research on the problems that arise due to absentee ballot signature checking

2a) Mathematical statement of the problem

5. Ohio law requires that election officials verify the signatures submitted with returned absentee ballots: “election officials shall compare the signature of the elector on the outside of the identification envelope with the signature of that elector on the elector's registration form and verify that the absent voter's ballot is eligible to be counted.”² There is no requirement that the signatures on absentee ballot *applications* must also be verified, but many county elections offices around Ohio do also seek to verify those signatures. I have not seen evidence that the Ohio election officials who check signatures are formally trained in recognizing handwriting, or trained to be aware of the range of natural variation that can arise across signatures written by the same person. I know of no evidence that these officials have access to equipment such as microscopes that would enhance the precision of their work, and I believe that they are often under pressure to check hundreds or thousands of signatures in little time. I will therefore refer to the officials doing this work as untrained, under-resourced and time-pressured lay people.

6. There are inherent problems in asking untrained, under-resourced and time-pressured lay people to check voter signatures. When an error-prone process of this kind is applied to a set of documents with many, many more valid signatures than invalid signatures, the inevitable result

² Ohio Revised Code § 3509.06 (D) (1).

is that many valid signatures will be wrongly rejected for each invalid signature that is correctly rejected. The logic of the problem can be clarified using a well-known mathematical theorem.

7. Bayes' Theorem, a mathematical insight dating back to the 18th century, has been widely used by scientists across academic disciplines (and has inspired an entire branch of modern statistics). Bayes' Theorem provides a consistent logic for updating one's beliefs based on evidence. The theorem is often stated as follows, where P stands for probability, the symbol $|$ means "given," and $*$ indicates multiplication:

$$P(A|B) = \frac{P(B|A) * P(A)}{P(B)}$$

8. One way to put this in words is that the probability of A given B can be calculated by considering how much one has learned about the chance of seeing A from the fact that one observes B , given one's *prior* expectation of the chance of seeing A , while accounting for all of the other ways that one could have observed B . In this case, we can calculate how useful it is to ask untrained, under-resourced and time-pressured lay people to verify signatures on absentee ballots (or ballot applications) by asking what share of the signatures that are rejected by such people are actually instances of ballots signed by the wrong person. For the sake of brevity, I will refer to ballots signed by the person eligible to do so as "valid" and to ballots signed by someone else as "invalid."

9. We can use Bayes' Theorem to calculate $P(\text{ballot invalid}|\text{ballot rejected})$. Given that an absentee ballot (or ballot application) was rejected for signature mismatch, what is the probability that the signature was actually invalid? Bayes' Theorem implies that this conditional probability can be calculated as follows:

$$P(\text{ballot invalid}|\text{ballot rejected}) = \frac{P(\text{ballot rejected}|\text{ballot invalid}) * P(\text{ballot invalid})}{P(\text{ballot rejected})}$$

10. The denominator on the right side of the above equation can be fleshed out as follows, to account for all of the ways in which ballots can be rejected by signature checkers, which also includes the possibility that some valid ballots are improperly rejected:

$$= \frac{P(\text{ballot rejected}|\text{ballot invalid}) * P(\text{ballot invalid})}{P(\text{ballot rejected}|\text{ballot invalid}) * P(\text{ballot invalid}) + P(\text{ballot rejected}|\text{ballot valid}) * P(\text{ballot valid})}$$

11. As I will show, this probability, $P(\text{ballot invalid}|\text{ballot rejected})$, can be calculated for a plausible range of real-world conditions using evidence gathered by scholars who have studied

errors in handwriting recognition, and by drawing on evidence on the rates at which voters submit invalid signatures due to mistakes or attempted fraud.

2b) Evidence on the errors that arise, even when experts assess handwriting

12. Even experts make errors in assessing whether a signature is genuine. In experimental tests, errors are committed by trained Forensic Document Examiners (FDEs) who are presented with both a series of genuine variants of a person's signature, and a series of signatures written by other people aiming to simulate the genuine versions. This is notable because these errors occur even among experts working under ideal conditions: with multiple versions of the genuine signature (making it easier to distinguish natural variation for a single signer), with tools such as microscopes, and with plenty of time. In contrast, election officials typically lack training, tools and time, and typically compare the signature on an absentee ballot with just a single version of the voter's signature that was recorded when the person registered to vote—which may have been many years in the past.

13. For example, Kam et al. (2001) find that even FDE experts wrongly reject valid signatures at a rate of 7.05%, and wrongly accept invalid signatures at a rate of 0.49%. Sita, Found and Rogers (2002) report that FDEs wrongly reject valid signatures at a rate of 5.31% and wrongly accept invalid signatures at a rate of 1.52%. In each case, the scholars running these tests found that FDEs are much more accurate than lay people without training.³ Still, in order to illustrate the inherent problems with requiring absentee ballot (and ballot application) signature checks, for the sake of argument I will show that the problems are acute, even under absolute best-case assumptions about the accuracy of election workers in taking on this task. This also allows for the possibility that election officials do acquire some expertise in their work (e.g. through formal or informal training, or by practice), and may in some cases be able to take the time to work carefully rather than rushing to certify the election results. For example, taking the numbers from the first study by Kam et al., one may infer that, if election officials are as accurate as FDE experts, $P(\text{ballot rejected}|\text{ballot valid}) = 7.05\%$, and $P(\text{ballot rejected}|\text{ballot invalid}) = 99.51\%$. This makes it possible to clearly illustrate why even experts would be likely to make many mistakes when confronted with far more valid than invalid signatures. The only number remaining in order to complete the Bayesian calculation, as described above, is an estimate of the true prevalence of invalid signatures on absentee ballots, i.e., $P(\text{ballot invalid})$.⁴

³ Kam et al. find that lay people wrongly reject 26.1% of valid signatures, and wrongly accept 6.47% of invalid signatures. Sita, Found and Rogers do not report these rates separately for genuine/simulated signatures for the lay people in their study, but do report much higher error rates, with an overall error rate of 25.3% wrong opinions.

⁴ $P(\text{ballot valid})$ is simply $1 - P(\text{ballot invalid})$, since the full set of probabilities must sum to 1.

2c) Previous research on the low prevalence of voter ballot errors and voter fraud

14. Invalid signatures on absentee ballots (or absentee ballot applications) could arise either through error or through fraud. Voters do make errors, of course. For instance, some voters think it is acceptable to sign for a family member, and some neglect to sign the envelope when returning their own absentee ballots. In fact, the former group are not wholly wrong, since election officials in some places will substitute the signatures of spouses if they are in possession of both ballots, on the assumption that the spouses mistakenly signed for each other after having placed the ballots in envelopes.⁵

15. To my knowledge there is no comprehensive record of the rate at which voters make mistakes in signing absentee ballots. Many election offices do, however, record the number of absentee ballots that are rejected because there is no signature on the return envelope. The U.S. Election Assistance Commission (EAC) surveys state and county election officials after each federal general election. Recent EAC reports show state and county officials reporting that, in 2018, 0.182% of the 30 million absentee ballots returned by voters, around 55,000 in total, were rejected because they lacked a signature.⁶ And in the 2016 general election, 0.2% of the 33 million absentee ballots returned by voters were rejected because there was no voter signature (around 66,000 no-signature ballot rejections).⁷ I expect that voters make the mistake of signing someone else's ballot, such as that of a family member or housemate, at a roughly similar rate to the rate at which voters neglect to sign their ballot. In other words, I believe that this rate of around 0.2%, or one in five hundred ballots, provides a credible starting point for estimating the prevalence of voters mistakenly signing the wrong ballot. Using the Bayesian terminology, this is a first step to arriving at a reasonable *prior* belief for $P(\text{ballot invalid})$.

16. Likewise, there is no universally accepted estimate of the rate at which voters seek to commit fraud by signing someone else's ballot. The rate at which absentee ballot fraud is detected and prosecuted is *extremely* low, even though some states such as Oregon now have decades of experience with all-mail voting. A prominent research and advocacy organization whose

⁵ This is the practice of election officials in the county where I live, in Montana. The official who told me this said that this is based on statewide training, which in turn is based on training in the state of Colorado.

⁶ These numbers are for domestic absentee voters. The EAC reports also show that, in 2018, uniformed and overseas citizens returned an additional 344,392 absentee ballots, of which 0.71% (around 2500 ballots) were rejected for "signature issues," a category that may include missing signatures or signatures deemed not to match the original on record. See https://www.eac.gov/sites/default/files/eac_assets/1/6/2018_EAVS_Report.pdf

⁷ The 2016 EAC report shows that a further 633,613 ballots were returned by uniformed and overseas citizens, of which around 0.5% (about 3,000 ballots) were rejected under the broader category of "signature issues." See https://www.eac.gov/sites/default/files/eac_assets/1/6/2016_EAVS_Comprehensive_Report.pdf

employees have raised alarm on this issue maintains a database of alleged and prosecuted cases of voter fraud, but even this yields very low estimates of the rate of fraud, because the appropriate denominator is such a large number.⁸ There are indeed occasional instances in which ballot fraud is detected, and these tend to get a lot of media attention. But to calculate the prevalence of the problem one must also account for the fact that many thousands of elections are held each year—for units from the special district, municipal, county, and state to the federal level, for offices ranging in scope from local mosquito control to the U.S. Presidency, and on issues ranging from local taxes to state constitutional amendments—featuring hundreds of millions of valid ballots. Using such numbers, one academic expert estimates that the rate of fraud involving absentee ballots is 0.00006%, or about one in 1.7 million absentee ballots.⁹

17. It is possible, of course, that there are additional hidden cases of absentee ballot voter fraud. Those who raise alarm over voter fraud claim that there are many as-yet-undetected cases, but these claims ring hollow after decades in which the activists, organizations and even elected officials making these claims have failed to provide substantial evidence to support their claims.¹⁰ The most plausible research from academic experts indicates that the prevalence of voter fraud is very low (see, e.g., Ahlquist, Mayer and Jackman 2014; Levitt 2011; Minnite 2010). In order to illustrate the inherent problems with requiring untrained, under-resourced and time-pressured lay people to check absentee ballot (and ballot application) signatures, however, I will show that even if one takes the very highest estimate of the prevalence of any form of voter fraud of which I am aware, the result is still that many valid ballots are wrongly rejected for each invalid ballot that is correctly rejected.¹¹ The highest estimate that I have seen on the prevalence of voter fraud, in academic research using plausible data sources and methods, concerns the prevalence

⁸ The Heritage Foundation database also presents more specific information on alleged instances of fraud involving absentee ballots. Using the full database range from 1979 through 2020, for all U.S. States, and searching for civil penalties/criminal convictions/diversion program/judicial findings/official findings, and for “fraudulent use of absentee ballot”, I find 206 cases, over a period in which *billions* of votes were cast (see https://www.heritage.org/voterfraud/search?combine=&state=All&year=&case_type=All&fraud_type=24489).

⁹ See <https://thehill.com/opinion/campaign/494189-lets-put-the-vote-by-mail-fraud-myth-to-rest> Accessed August 20, 2020. Prof. Stewart has also written on votes lost due to ballot rejections (Stewart 2010).

¹⁰ For example, in a recent court case featuring prominent alarmists a federal judge in Kansas found the claims of former Kansas Secretary of State Kris Kobach and the experts whom Kobach had recruited in the case to be unpersuasive. See <https://www.propublica.org/article/kris-kobach-voter-fraud-kansas-trial>

¹¹ In general, in a research field in which scholars have produced a range of estimates, the way to get the most credible estimate would be to take a (perhaps weighted) average of the estimates. But that is not what I am trying to do. Rather, for the sake of argument, I am taking the very highest estimate in research on *any* form of voter fraud to illustrate the point that, even in the worst-case scenario in which absentee ballot fraud is *much* more common than most experts think, trying to stop fraud by verifying signatures is liable to create more problems than it solves.

of double voting (i.e., one person voting in multiple districts). The authors (Goel et al., 2020) estimate that as many as one in four thousand (0.025% of) voters may have cast two ballots in the 2012 general election.¹² To illustrate my argument that there are inherent problems with asking untrained, under-resourced and time-pressured lay people to check absentee ballot signatures, I will show that these problems arise even if one allows for the strongest possible case in favor of signature checking. So I will use this highest remotely plausible estimate on the prevalence of voter fraud to take the next step towards arriving at a reasonable upper limit for the *prior* belief over $P(\text{ballot invalid})$.

2d) Wrongful rejections of ballots with valid signatures are far more common than correct rejections of ballots with invalid signatures

18. Taking together these illustrative numbers on the rate of absentee voter signature errors and absentee ballot signature fraud, I propose that a reasonable upper limit *prior* concerning the prevalence of ballots with invalid signatures is 0.2% (rate of error) plus 0.025% (worst-case rate of fraud), or 0.225%.¹³ In the Bayesian logic outlined above, then, I propose to calculate the probability that a ballot is actually invalidly signed given that it is rejected by signature checkers, i.e., $P(\text{ballot invalid}|\text{ballot rejected})$, using the following estimates:

$$P(\text{ballot rejected}|\text{ballot valid}) = 0.0705 \text{ (estimate from Kam et al., 2001)}$$

$$P(\text{ballot rejected}|\text{ballot invalid}) = 0.9951 \text{ (estimate from Kam et al., 2001)}$$

$$P(\text{ballot invalid}) = 0.00225 \text{ (allowing error rate of 0.002, fraud rate of 0.00025); thus}$$

$$P(\text{ballot invalid}|\text{ballot rejected}) = \frac{(0.9951 * 0.00225)}{((0.9951 * 0.00225) + (0.0705 * 0.99775))} = 0.0308$$

19. This means that there is only a 3% probability that an absentee ballot which has been rejected for signature mismatch actually features an invalid signature. There is a 97% probability that the ballot has been wrongly rejected. To put it another way, for every one invalid ballot that is correctly rejected for signature mismatch, an additional 32 valid ballots are wrongly rejected due

¹² Verifying signatures would not prevent this form of attempted fraud, since a person registered in two jurisdictions could just use their true signature. I suspect that attempted voter *impersonation*, which is where signature checks might help, is even rarer. For the sake of argument, however, I am using the highest estimate that I have seen on any form of voter fraud. It might be possible to prevent double-voting by deleting names from lists of registered voters if those names appear in more than one jurisdiction. As Goel et al. (2020) explain, however, sometimes, just by chance, different people happen to share a name and even a birthday. And indeed, there may be far more such cases, than there are attempts at double voting. As a result, as Goel et al. (2020, 456) argue, “one suggested strategy to reduce double voting—removing the registration with an earlier registration date when two share the same name and birthday—could impede approximately 300 legitimate votes for each double vote prevented.”

¹³ This is a rate of 1 in 444 invalid signatures. It also implies that the remaining 99.775% of signatures are valid.

to errors by the non-experts trying to verify signatures.¹⁴ Bayes' Theorem clarifies the logic. The reason for the problem is that since invalidly signing an absentee ballot is a very rare event, even if election officials are fairly good (92.95% accurate) at recognizing valid signatures and are really quite good (99.51% accurate) at identifying invalid ones, there are just *so many* cases of valid signatures that a considerable number of those will be wrongly rejected, and *so few* cases of invalid signatures that even if most of them are detected they will only make up a tiny share of all the ballots rejected.¹⁵ This is the problem of trying to measure instances of a rare outcome using imprecise procedures, a problem well known to scholars in other fields, such as those studying rare diseases (see, e.g., Altman and Bland 1994).

20. The above calculation serves to illustrate the logic of the problem. To show the implications of a wider set of conditions under which errors in signature checking will occur, I now provide a range of estimates to show how the number of wrongful rejections for every correct rejection can be expected to vary, depending on a range of variation in the accuracy of the signature checkers and depending on a range of estimates of the prevalence of invalid signatures. To do this I take estimates on ballot checking accuracy for both lay people and FDEs from the paper by Kam *et al.* (2000), and I allow the assumed prevalence of invalidly signed absentee ballots to vary from one in forty thousand to one in a hundred.¹⁶ The results are shown in Table 1.

Table 1. Number of wrongly rejected valid ballots for every correctly rejected invalid ballot, under varying levels of signature checker accuracy, and varying rates of invalidly signed absentee ballots

Estimated prevalence of invalidly signed absentee ballots	Ballots wrongly rejected for each correctly rejected: If ballot checkers as accurate as lay people in Kam <i>et al.</i>	Ballots wrongly rejected for each correctly rejected: If ballot checkers as accurate as FDE experts in Kam <i>et al.</i>
One in forty thousand	11,163	2,835
One in ten thousand	2,791	709
One in four thousand	1,117	284
One in four hundred	112	29
One in one hundred	29	8

¹⁴ Note that the number of wrongful rejections for each correct rejection is 1 over the Positive Predictive Value, here $1/P(\text{ballot invalid}|\text{ballot rejected})$.

¹⁵ To put it yet another way, 0.49% of a very large number is much more than 92.95% of a very small number. I would rather have 0.49% of \$4,000 (about \$20) than 92.95% of a dollar (about 93 cents).

¹⁶ Note that I consider an invalid signature rate of 1/100 to be utterly implausible, far too high. My purpose here is to illustrate the dynamics of this problem.

21. Table 1 shows that both the accuracy of the signature checkers and the prevalence of invalidly signed ballots matters, as shown by the variation across columns and rows, respectively. Crucially, the table also shows that even assuming that election officials are able to obtain the best-case level of accuracy shown by FDE experts, and even if the prevalence of invalidly signed absentee ballots were wildly, implausibly high at a rate of one in a hundred, one would still expect to see about eight valid ballots wrongly rejected for each invalid ballot that is correctly rejected. Even under those extreme conditions, requiring under-resourced and time-pressured election officials to check voter signatures would result in those workers substituting their own errors for voter errors (or attempted fraud) at a rate of about eight to one. It is worth emphasizing that even if election officials are cautious in rejecting ballots, their caution would itself be exercised with imprecision. If *any* absentee ballots, or ballot applications, are rejected for signature mismatch, it is probable that most of the rejections will be due to errors by election officials.

22. In some contexts, it may be worth using tests that yield high numbers of false positives (in this case, falsely rejecting a validly signed ballot). To use a current example, in the case of a viral pandemic, it might be acceptable to mistakenly tell a lot of people that they should self-quarantine for two weeks, while only correctly telling a relatively small number of people who are infected that they should self-quarantine. Self-quarantine is disruptive but it is not generally a great hardship, whereas even relatively small reductions in the rate at which the virus is passed along can have great social benefits (reducing the “reproduction number” to the point that each infection results in less than one additional infections would eventually cause an epidemic to end). But in the case of untrained, under-resourced and time-pressured lay people wrongly rejecting absentee ballot (and ballot application) signatures, the cost is high and the benefits are dubious. Dozens or even hundreds of people risk having their ballot rejected, and may have their confidence in the electoral system shaken, for each correctly rejected invalid ballot.

23. One possible benefit of requiring that absentee ballot (and ballot application) signatures be checked is that, if it is public knowledge that signatures are checked, this could deter people who might otherwise be tempted to sign and return someone else’s ballot.¹⁷ This must be balanced against the cost: the high rate of wrongful rejections that must be expected based on the calculations above, the risk of substituting poll worker errors for voter errors, and the risk of reduced political trust among those whose ballots are rejected. The ratio of costs to benefits would be more reasonable if voters whose ballots are rejected for signature mismatch have convenient and timely opportunities to receive notification and to resolve the issue. In the

¹⁷ I am not aware of survey data on the question of whether it is well-known that absentee ballot signatures are checked, or well-known how they are checked. Not all states require elections workers to check absentee ballot signatures (see <https://www.ncsl.org/research/elections-and-campaigns/verification-of-absentee-ballots.aspx>).

following sections of this report I will present evidence on whether or not this is the case in the state of Ohio. To do this, I will draw together evidence from various sources on the prevalence of absentee ballot (and ballot application) signature mismatch rejections in the state, on the proportion of these rejections that voters who actually submitted validly signed ballots (or applications) were able to resolve, on the timing of absentee ballot applications, and on the timing of ballot delivery and return.

3. Evidence on signature mismatch rejections for absentee ballot *applications* in Ohio

24. Ohio allows no-excuse absentee voting¹⁸ but, unlike some states, does not allow voters to opt into permanent absentee status so that they can cast all votes by mail. Instead, voters must submit a new application to vote absentee for each election.¹⁹ This application can be submitted as early as the beginning of the calendar year in which the election is held, or three months in advance, whichever is earlier, and as late as three days before the election.²⁰ Upon information from counsel for the plaintiffs it is my understanding that at least some (and perhaps a clear majority of) Ohio counties require that the signatures on absentee ballot *applications* be verified against the original signature on record from when each voter registered, even though signature verification at the application stage is not required under Ohio law. This extra layer of signature checks risks causing two additional problems. First, this additional check can be expected to increase the rate at which an error on the part of the election officials seeking to verify signatures will impose the burden of resolving the problem upon the would-be voter.²¹ Well-established scholarship in the field of political science shows that, even if some voters are able to lift the burden, this kind of additional inconvenience tends to reduce turnout (see, e.g., Brady and McNulty 2011; Holbein and Hillygus 2016; McNulty, Dowling and Ariotti 2009). Second, a signature check at the absentee ballot *application* stage risks introducing delays that make it hard for voters to resolve the issue, obtain an absentee ballot, and return it, all in time for their vote

¹⁸ Ohio Revised Code § 3509.02 (A).

¹⁹ Ohio Revised Code § 3509.02.

²⁰ Ohio Revised Code § 3509.03 (D).

²¹ If election officials mistakenly reject validly signed ballots due simply to chance variation in voter signatures, or chance pressures on the officials e.g. due to varying time constraints, then doubling the number of times each voter's signature must be checked would roughly double the number of rejections. If random factors were at work then the likelihood of a given person being rejected twice would be low, so long as the overall rate of rejection is low. If, on the other hand, there are systematic patterns in the factors affecting mistaken rejections in addition to an element of chance, e.g., if certain sets of voters are more likely to have their signatures deemed invalid, then doubling the number of signature checks could result in a wider range of combined rates of rejection. I cannot, however, imagine circumstances under which doubling the number of signature checks by checking at both the application and ballot stage would fail to lead to an increase in the number of valid signatures mistakenly rejected.

to be counted. This is especially likely if there are inadequate procedures for notifying voters of a mismatch rejection at this stage. Electors whose absentee ballot *applications* are rejected might be able to resolve the issue by casting an absentee ballot in-person, although, under the current pandemic conditions this may result in exposure to the very health risks that they were trying to avoid when they applied to vote absentee.

25. As noted in Section 1, a recurring theme of this report is that Ohio counties collect and report idiosyncratic and often incomplete data related to the process of absentee voting in general, and relating to signature mismatch rejections in particular. By necessity, the evidentiary basis for my analysis is incomplete and results from different counties are not always directly comparable. Nonetheless, there is much that we can learn from studying the available data. Social scientists are well-used to the necessity of drawing inferences from limited data, and I will follow standard academic practice in explaining how I organized and analyzed the available data, what we can learn, and which possibilities may be ruled out.

26. My first finding, based on the available evidence, is that in recent federal elections, thousands of absentee ballot applications in Ohio have been rejected because of “signature issues,” i.e., either a missing signature or a signature mismatch. Although many of the electors affected were able to resolve the issue and receive an absentee ballot, most of whom went on to vote, the available evidence suggests that thousands more were not able to do so. As I will discuss in the next section of my report, the timing was often tight enough to make this difficult. There appear to be many more signature related rejections at the absentee ballot *application* stage than at the absentee ballot stage.

27. State and county officials in Ohio provide uniform information on absentee ballot rejections but not, to my knowledge, on absentee ballot *application* rejections. By studying data on the application stage, I am revealing what I believe was a previously invisible layer of the issue. The data show that, much like an iceberg, this previously hidden layer is much bigger than the layer which was already visible. My main sources for this analysis are the responses of county election officials to public records requests submitted by counsel for the plaintiffs, who asked for the number of absentee ballot and absentee ballot application rejections in recent years. Unfortunately, the election officials of Ohio’s 88 counties responded in wildly different ways. Some wrote short notes to the effect that they did not have the information. Some appear to have ignored parts of the request and have provided data only on the electors who successfully registered to vote absentee (i.e., they provided no information about rejections at the application stage). Others provided pdf files, some hundreds of pages long, showing the names and addresses of voters whose applications had been rejected. Some sent digital scans of individual absentee ballot applications (with some details redacted). Even those counties that did report

relevant evidence often did so using different categories, e.g., some only reported a generic category of “signature issue” while others distinguished between “no signature” and “signature mismatch.” Some provided evidence on which voters were able to resolve the issue to receive an absentee ballot, and when that happened, while others did not. Some counties provided information only for the 2020 federal primary election, while others provided information going back to the 2018 and/or 2016 general elections. Some provided information in different formats or at different levels of detail for each election. In many cases, the data were provided without explanation of the abbreviations or categories used in the files, or without details on exactly which classes of applicants they covered (e.g., it was not always clear if the officials had opted only to show information on rejected applicants who had *not* been able to resolve the issue).

28. Given the often opaque, inconsistent and incomplete nature of the evidence, I decided that the best strategy was to limit my analysis to the counties that reported data in a format amenable to statistical analysis, i.e., those that provided individual-level data using a spreadsheet format (not including the unhelpful pdf-format copies of a spreadsheet). As it happens, this included several of the most populous counties in the state, along with several suburban or rural counties with smaller populations. The problem with this approach is that I have no way to assess whether the information available is representative of the entire state. This makes it impossible to offer a numerical estimate of the extent of the problem, state-wide. I present these results as a baseline. With this evidence, for instance, we know that there were at least 10,038 cases in which absentee ballot applications were rejected for “signature issues” (often alleged mismatch) for federal elections over recent years. There must have been more, in the other counties that did not provide (readily interpretable) evidence. I don’t know how many more.

29. Table 2 presents my results for recent federal elections. I show the numbers of rejections, and calculate the proportion of rejections from all applications received by mail. Where possible I present evidence on both domestic absentee ballot applications and applications under UOCAVA, the Uniformed and Overseas Citizens Absentee Voting Act (not all counties noted whether they included both categories, but where they do, I include both). For the sake of comparability, I report rejections for “signature issue” since several counties provide only this broad designation. Where possible, I distinguish between “no signature” and “signature mismatch” rejections in the footnotes.

Table 2. Evidence on absentee ballot *application* rejections from Ohio counties that provided accessible data for the 2020 federal primary election

County	Number (and percentage) of absentee ballot applications ²² rejected for “signature issue”	Number (and percentage) of voters whose absentee ballot application was rejected for “signature issue,” but who cured
Butler ²³	324 (0.77% of applications)	219 (61% of the rejected)
Clinton ²⁴	18 (0.4% of applications)	6 (33% of the rejected)
Cuyahoga ²⁵	1,305 (0.66% of ballots)	772 (62% of the rejected)
Franklin ²⁶	2,159 (1.30% of applications)	Not available

²² Percentages are calculated using the total number of absentee ballot applications sent remotely (mostly by mail). I assume that no in-person absentee voters cast ballots that were rejected for signature mismatch since, in those cases, the election official could simply ask for ID. In Ohio, beginning “the day after the close of voter registration, all registered voters may request and vote an absentee ballot in person at their county board of elections or early voting center as designated by the county.” See <https://www.ohiosos.gov/elections/voters/absentee-voting/#inPerson> Accessed August 20, 2020. See Ohio Revised Code § 3509.051.

²³ Butler County reported separate data at this stage for “signature missing” and “signature discrepancy.” For the 2020 federal primary, 253 absentee ballot applications were rejected for the former reason, and 71 for the latter.

²⁴ Officials from Clinton County provided unusually full information for the 2020 federal primary. For that election, in addition to the 6 people whose absentee ballot applications were rejected for signature issues but who were able to resolve the issue in advance, a further 7 people cast provisional ballots, albeit, potentially, at a risk to their health.

²⁵ Cuyahoga County provided a file including the names and addresses of 598 electors whose absentee ballot applications were rejected as “signature invalid” and another 707 rejected for “signature not provided.” To calculate the percentage of ballots rejected, in this case, I used the number of absentee ballots cast in the election, as reported by the Ohio Secretary of state’s website absentee reports (regrettably, the county did not provide information on the number of applications rejected for other reasons, so the denominator is smaller than it should be, but, from what I have seen in other counties, this would not greatly affect the percentage). An email from the county said that none of these people cured. But I was able to match 96% of them with names and addresses in the county voter file. I calculated that 772 of the people (62%) did vote in the 2020 federal primary, and using a county absentee report I also found that 562 of them had been able to register and were sent or given an absentee ballot. Of those, 498 sent their absentee ballot in for counting. An additional 274 voted in-person; presumably, most of them did so as early absentee voters in March, although a few who qualified to vote in person on April 28 may have done so (this information is not reported in the files).

²⁶ Franklin County reported separate data at this stage for “No Sig” and “MisMatch SIG.” For the 2020 federal primary election 1,542 absentee ballot applications were rejected for the former reason, and 617 for the latter. A further 85 applications were rejected for additional reasons that also included “No Sig” or “MisMatch SIG,” e.g., they also lacked an address. Since few other counties report signature issue rejections in a way that allows me to count the additional reasons for rejections, in an effort to facilitate comparisons I do not include the additional 85 in the total here. However, Franklin County did not provide information on whether these applicants were able to cure, nor does the information on those rejected include information such as a unique voter ID that would allow me to match the applicants with voter history data to determine whether they were able to register absentee or vote.

Hamilton ²⁷	290 (0.18% of applications)	10 (3% of the rejected)
Lucas ²⁸	118 (0.24% of applications)	0 (0% of the rejected)
Summit ²⁹	782 (1.04% of applications)	448 (57% of the rejected)
Warren ³⁰	75 (0.19% of applications)	3 (4% of the rejected)
2018 general election		
Butler ³¹	348 (1.40% of applications)	Not available
Clermont ³²	72 (0.27% of applications)	Not available
Summit ³³	1,224 (2.13% of applications)	250 (20% of the rejected)
Warren ³⁴	45 (0.12% of applications)	Not available
2016 general election		
Butler ³⁵	299 (1.1% of applications)	168 (56% of the rejected)
Franklin ³⁶	2,023 (1.29% of applications)	Not available

²⁷ For the 2020 federal primary, Hamilton County reported 244 absentee ballot applications rejected because of a missing signature, and another 46 that were missing a signature in addition to other problems. Hamilton County but did not report any absentee ballot *applications* rejected for signature mismatch for this election.

²⁸ It is possible that Lucas County officials interpreted the public records request to refer only to those whose applications were rejected and were unable to resolve the issue. This would account for the finding that none of them were able to cure; it would also imply a higher number of applications may initially have been rejected.

²⁹ Summit County reported distinctive reasons for absentee ballot application rejections in 2020, including “Need Original Signature” (35 instances), “No Signature” (441) and “Signature Update” (306). I report the sum of these.

³⁰ Warren County reported only the generic category of “signature issue.”

³¹ For the 2018 federal primary election, Butler County reported 126 absentee ballot applications rejected for “no signature” and a further 222 rejected for “signature discrepancy.” The county did not provide information that would allow me to test whether any of those rejected were able to resolve the issue.

³² Clermont County provided a spreadsheet with numbers for the 2018 general election, but not individual-level data that would allow me to test whether any of those whose applications were originally rejected were able to cure.

³³ Summit County reported distinctive reasons for absentee ballot application rejections in 2018, including “Need Original Signature” (19 instances), “No Signature” (305) and “Signature Update” (900). I report the sum of these.

³⁴ Again, Warren County reported only the generic category of “signature issue.”

³⁵ In 2016, Butler County reported 146 absentee ballot application rejections for “signature missing,” and a further 153 for “signature discrepancy.”

³⁶ Franklin County reported separate data at this stage for “No Sig” and “MisMatch SIG.” For the 2016 general election 659 absentee ballot applications were rejected for the former reason, and 1,364 for the latter. A further 186 applications were rejected for additional reasons that also included “No Sig” or “MisMatch SIG,” e.g., also lacked

Summit ³⁷	956 (1.43% of applications)	705 (74% of the rejected)
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30. In total, across these three federal elections, I documented 10,038 cases in which an absentee ballot application was rejected for “signature issues,” and I was only able to confirm that 2,581 of those applicants (26%) were able to resolve the issue and receive an absentee ballot, or, in some cases, cast a provisional ballot at the polling place.³⁸ Of those instances in which the available evidence clearly distinguished between “no signature” and “signature mismatch,” 55% of the rejections were due to a missing signature, and the remaining 45% were rejected by election officials who lack training on handwriting recognition but nonetheless declared a mismatch between the signature on the application and the signature on file for the elector. Given the rates at which absentee ballot applications were rejected in the relatively small number of counties that provided data in a format amenable for analysis, I judge it likely that many more applications have been rejected for “signature mismatch” (or “no signature”) in Ohio’s other counties. But since it is not possible to assess whether the available data are representative of the rest of the state, I cannot provide a precise estimate or a measure of the uncertainty corresponding with such an estimate.

4. Evidence on absentee ballot application timing in Ohio

31. When officials reject absentee ballot applications for signature mismatch this act confronts electors with the choice of either doing the extra work to resolve the issue, or giving up. Many people face other demands on their time, e.g. from family or employers. Even those who are determined to resolve the issue may struggle if little time remains before ballots are due, especially if such people are determined to vote by mail rather than in-person (which may pose health risks).³⁹ Ohio allows absentee ballot applications up to three days before the election. To

an address. Since few other counties report signature issue rejections in a way that allows me to count the additional reasons for rejections, to be cautious, I do not include the additional 186 in the total here.

³⁷ For the 2016 general election Summit County reported distinctive reasons for absentee ballot application rejections, including “Need Original Signature” (13 cases), “No Signature” (368) and “Signature Update” (575). I report the sum of these. In Summit County I matched the information on rejected applications with the list of voters sent absentee ballots, and found that, of the 705 people who went on to successfully register or vote despite the initial rejection, 46 people did so by voting in-person, which may not be a safe option for some electors in the 2020 general election (and potentially even thereafter) due to the viral pandemic.

³⁸ Limiting the analysis to the counties that provided sufficient information for me to check whether initially rejected applications were cured, I find that 48% were cured (2581/5391).

³⁹ I was able to confirm that, in one of the few counties that provided sufficient information (Butler County), electors whose absentee ballot application was rejected for signature mismatch were more likely to resolve the issue and be sent an absentee ballot, if they had applied earlier. The median and mean application date were each 7 days earlier,

assess the number of people who may struggle, due to time restraints, to resolve the issue if their absentee ballot application is rejected for signature mismatch, I calculated absentee ballot application timing in the counties that provided data amenable to analysis. To be counted, absentee ballots returned through the mail must be postmarked at least one day before the election, and received within ten days after the day of the election.⁴⁰

32. The USPS recently issued guidance that election officials should allow at least one week for ballots to be received by voters, and at least one more week for the voted ballots to be returned. In a letter to Ohio Secretary of State Frank LaRose dated July 30, 2020, the USPS also wrote that, “under our reading of Ohio’s election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Services’ delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.”⁴¹ Although the USPS guidance does not refer to the possibility that absentee ballot *applications* would be rejected and that the problem would need to be resolved, the situation is even more acute for people whose applications are rejected, due to a perceived signature mismatch. Following the USPS guidance, it might take a week for an absentee ballot application to travel from the elector to the elections office, and another week for a letter informing the elector that their application had been rejected to get back to the elector. That implies a worst-case of up to a month of back and forth, although the USPS guidance does not indicate what share of voters could be exposed to such worst-case delays. The USPS guidance continues, “Where voters will both receive and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.” I therefore pay particular attention to this recommended minimum 15-day period.

33. I begin with evidence on the 2016 and 2018 general elections. Figure 1, below, shows the number of absentee ballot applications received by day in the months leading up to the 2016 general election in Summit County. Ohio electors may apply to vote absentee in a particular election starting on January 1st of the year in which the election will be held, or 90 days in advance, whichever is earlier.⁴² As the figure shows, most applications are received by elections

for those who were able to cure, than for those who did not cure. The difference in means is statistically significant ($p=0.03$). The data in this case are for the 2016 federal general election.

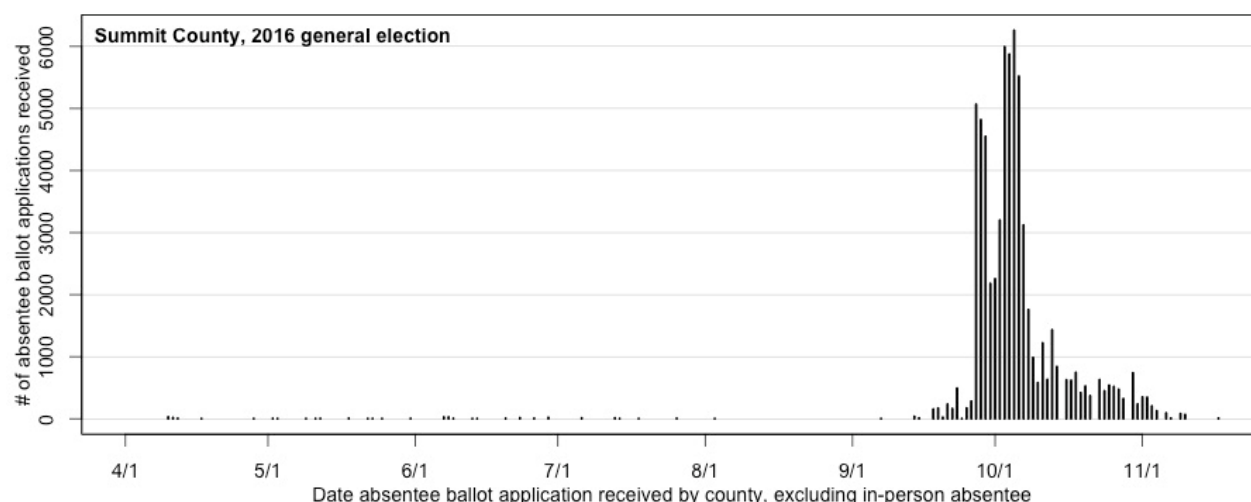
⁴⁰ Ohio Revised Code § 3509.05.

⁴¹ See Appendix, Exhibit A.

⁴² Ohio Revised Code § 3509.03 (D).

offices in the final few weeks of the election campaign period, from late September through late October (the deadline in 2016 was November 5). This is consistent with findings in previous research that voters tend to wait until quite close to an election before making up their minds and making preparations for registering or casting their votes (e.g., Gimpel, Dyck and Shaw 2011; Street *et al.* 2015). In Summit County that year, the median application sent through the mail was received 31 days (a little over four weeks) before the deadline. A total of 5,190 absentee ballot applications were received by mail over the final 15 days before the election, or 7.8% of all applications.⁴³

Figure 1. The timing of absentee ballot applications received through the mail in Summit County for the 2016 federal general election

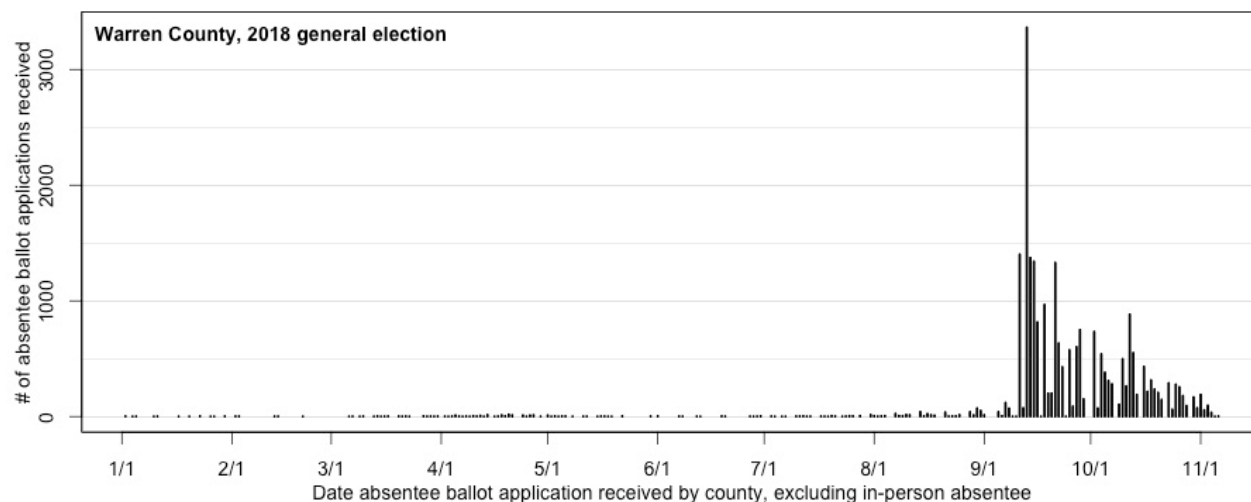


34. I found similar patterns for the 2018 federal general election. Figure 2, below, shows the daily number of absentee ballot applications received through the mail in Warren County. Again, the activity is mainly concentrated in the period from mid-September through early November. In Warren County that year, the median application sent through the mail was received 41 days (a little under six weeks) before the deadline. A total of 1,782 absentee ballot applications were received by mail over the final 15 days before the election, or 6.3% of all applications.⁴⁴

⁴³ The only other County to provide sufficiently detailed information for similar calculations for 2016 was Butler County. There, the median mailed application was received 47 days (a little under 7 weeks) before the deadline. A total of 1,713 absentee ballot applications were received over the final 15 days before the election, or 6.3% of all applications to vote absentee in the November 2016 general election.

⁴⁴ No other counties provided sufficient information to calculate the timing of absentee ballot applications for the 2018 election. I did, however, calculate the timing of *successful* absentee ballot applications for a few counties. This has the disadvantage of excluding those received after the deadline, but, since those are relatively small in number, that makes little difference to the central tendency (the bigger concern is over applications received by the deadline, but with too little time to get the ballots to voters, and back to elections offices, and if necessary deal with any

Figure 2. The timing of absentee ballot applications received through the mail in Warren County for the 2018 federal general election



35. Finally, I also present evidence on absentee ballot application timing for the 2020 federal primary. That election was originally scheduled for March 17 but was postponed at late notice, the night before the election, as a public health precaution in response to the COVID-19 viral pandemic. Thereafter, it was once again possible to apply for an absentee ballot to vote for the revised election on April 28, but very few people were allowed to vote in-person.⁴⁵ The absentee ballot application deadline was extended to April 27. As a result of these unusual conditions, absentee ballot application timing was spread over a longer than expected (yet interrupted) period, over the course of which period voting absentee also became the only viable way for most Ohioans to participate.

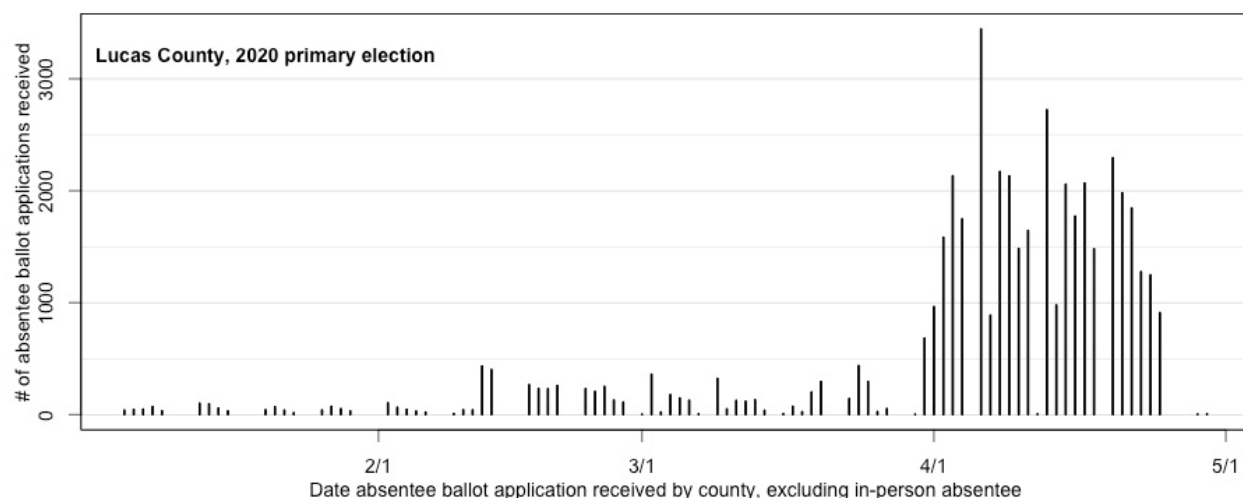
36. Figure 3, below, shows the daily number of absentee ballot applications received through the mail in Lucas County for the 2020 primary. The figure reveals an initial uptick in the number of applications around mid-February, about one month before the originally intended date of the election. But there were also many more absentee ballot applications, submitted by mail, starting in late March through late April. Because of this late interest, at a time when voting absentee was the only option for most, the median absentee ballot application sent through the mail was received just 17 days before the deadline. A total of 20,626 absentee ballot applications

rejections, before the final deadlines for mailing or receipt of ballots). In Hamilton County, the median application was received 39 days before the deadline, and in Clinton County, the median was 44 days before the deadline.

⁴⁵ Only those with a disability or with no home address were allowed to vote in-person, while people who had applied by the revised deadline of April 27, but had not yet received an absentee ballot, had the option of casting a provisional ballot in-person, if they were willing to face the risk of infection.

were received by mail over the final 15 days before the election, or 44.3% of all applications mailed for that election.⁴⁶ Clearly, in this election, the fact that so many voters switched to voting absentee pushed the typical application date much closer to election day.

Figure 3. The timing of absentee ballot applications received through the mail in Lucas County for the 2020 federal primary election



37. The last-minute postponement of Ohio's federal primary election also provides an unusually clear opportunity to assess the effect of allowing electors whose absentee ballot application was rejected for alleged signature mismatch (or other reasons) *more time* to resolve the issue. For example, people who applied to vote absentee in early March but whose initial applications were rejected, leaving them only a few days to resolve the issue before the original election date, were suddenly given several more weeks in which they could try again. A skeptic of my analysis—in particular, of my claim that rejecting absentee ballot applications only a few days or weeks in advance is likely to hinder voting—might object that the kind of person whose absentee ballot application was submitted fairly late, and was rejected, may be unlikely to actually get their act together and register, even if they had more time. The sudden postponement of Ohio's 2020 primary allows me to test and reject that counter-argument.

38. Only two counties provided sufficiently detailed information to make this comparison: Butler and Cuyahoga. In each case, I found that electors whose absentee ballot application was rejected over the final two weeks leading up to the original March 17 election were significantly more likely to cure than electors whose absentee ballot applications were rejected over the final two

⁴⁶ I calculated similar patterns in other counties. For instance, in Butler County, the median absentee ballot application for the 2020 primary election was received by the county 18 days before the deadline, and 18,604 ballots (45.6% of applications received by mail for this election) arrived over the final 15 days before the election.

weeks leading up to the rescheduled date of April 28.⁴⁷ Focusing on this two-week time period enhances comparability and makes it harder to imagine alternative explanations, beyond the effect of time constraints. These results imply that time constraints *per se* make electors whose absentee ballot applications are rejected close to Election Day less likely to vote, in addition to any underlying differences that may exist between the people who apply for an absentee ballot well in advance or relatively late.

39. Overall, this analysis shows that Ohioans who opt to apply for an absentee ballot tend to submit their application over the final few weeks before the election, even though they do have the option of doing so months earlier. This is broadly consistent with other research on voter registration and voting timing which shows that Americans respond to imminent elections or to deadlines (e.g., Gimpel, Dyck and Shaw 2007; Herron and Smith 2012; Street *et al.* 2015). This pattern was much stronger for Ohio's 2020 federal primary election, even though that election was postponed by around six weeks. Of course, the chaotic circumstances induced by the viral pandemic make it hard to generalize from that election. On the other hand, it now appears that somewhat similar, if hopefully less chaotic conditions may well obtain for the November 2020 general election, in particular. The coming election is likely to see many more voters submitting absentee ballot applications than in recent years; many of them have not previously voted absentee. Comparing the 2016 and 2020 federal primary elections, Ohio saw a 448% increase in the number of domestic mail absentee ballots submitted (285,045 in 2016 versus 1,562,716 in 2020).⁴⁸ I expect that the timing of absentee ballot applications will be somewhere between the timing observed for 2016/2018 and the timing observed for the 2020 primary, i.e., the median application will be submitted at some point between the 6-7 weeks typical of the earlier elections and the 2-3 weeks seen in the most recent federal election in Ohio. I also judge it probable that many thousands of absentee ballot applications will be submitted *after* the 15-day advance period now recommended by the USPS. To date, Ohio does not allow absentee ballot

⁴⁷ In Butler County, 71% of those whose applications were rejected over the two weeks leading up to March 17 were able to resolve the issue and register to receive an absentee ballot by mail, versus 23% of those whose applications were rejected over the final two weeks leading up to April 28. This difference is statistically significant at $p < 0.01$. The sample size was smaller for the subset of people whose applications were rejected due to signature missing or a missing signature, in particular, but I found a similar pattern. For the final period in March, 56% cured, versus 25% for the final period in April (the difference is statistically significant at $p = 0.04$).

In Cuyahoga County, the sample size allowed me to focus the analysis on people whose applications were rejected due to perceived signature mismatch. I found that 38% of those rejected for this reason in the two weeks leading up to March 17 were subsequently able to register absentee, compared to just 8% of those whose applications were rejected in the two weeks leading up to April 28.

⁴⁸ Calculated from absentee supplemental reports on the Ohio Secretary of State's website. Accessed 8/21, 2020.

applications to be submitted online, although I believe that this option has been discussed and it would certainly help (since it would eliminate mailing time for the application).⁴⁹

5. Evidence on the prevalence of signature mismatch rejections for absentee ballots in Ohio

40. The evidence on the number of absentee ballots themselves that are rejected for signature mismatch is somewhat better than that available for absentee ballot applications. Some information is reported for each Ohio county via the Election Administration and Voting Survey (EAVS) compiled by the U.S. Election Assistance Commission. The EAVS reports the number of final rejections but does not reveal the number of ballots initially rejected for signature mismatch, hence, regrettably, the EAVS does not provide evidence on the number of voters whose signatures were deemed invalid by untrained, under-resourced and time-pressured elections workers, and who had to take further steps to cure their rejected application in order to vote absentee. Tables A1 and A2 in the Appendix show the numbers of domestic and UOCAVA absentee ballots transmitted by mail that were rejected for perceived “signature mismatch” (this is specified for domestic voters) or under the broader category of “signature problem” (which is all that is reported for UOCAVA ballots). The Appendix tables show these numbers, respectively, for the 2016 and 2018 federal general elections. The tables also show the percentages of all returned mail absentee ballots in each class that were rejected for these reasons. Combining these categories across the two elections, Ohio reports 577 ballots rejected for signature mismatch (only 28 of them under the broader category of “signature problem”), or 0.027% of all such ballots returned.⁵⁰ To put it another way, for every 10,000 mail absentee ballots returned in Ohio in the 2016 and 2018 general elections, 2.7 were rejected for alleged signature mismatch.

41. The EAVS only covers general elections. Hence, the EAVS will not provide information on the 2020 federal primary election in Ohio, even though that primary election is instructive as a case in which the number of people casting absentee ballots rose sharply in response to pandemic conditions. Comparing the 2016 and 2018 EAVS reports with data provided in response to public records requests on behalf of the plaintiffs, for the subset of counties that provided data in a format amenable to analysis, I found that the number of rejections by county were identical or similar in the two sources. I did not find any large discrepancies between absentee ballot

⁴⁹ See <https://www.dispatch.com/news/20200428/after-problem-plagued-primary-ohio-leaders-disagree-about-november-election-plan> Accessed August 20, 2020.

⁵⁰ Signature related ballot rejection rates were 4-5 times higher for UOCAVA voters than for domestic absentee voters, at around 0.1% or one in a thousand ballots rejected. This may be partly due to the fact that the broader category of “signature problem” would include not only alleged mismatches but also missing signatures; as noted above, for the counties that sufficient provided information to distinguish between the two for domestic voters, at the absentee ballot application stage, there were roughly equal numbers of each kind of rejection.

rejections for alleged signature mismatch, comparing the 2020 primary election to the earlier general elections covered by the EAVS.⁵¹ Data available through the Ohio Secretary of State's website also suggest that the, while the proportion of absentee ballots that went uncounted was quite similar, comparing the 2020 primary election to earlier years, the total number of absentee ballots that went uncounted did increase (since so many more ballots were cast absentee). Table 3, below, shows the numbers of ballots reported to have been cast and counted in reports provided by the Ohio Secretary of State.⁵² The table also shows the number of ballots that were cast but *not* counted, either because the ballots were rejected or because they were spoiled (e.g., electors sometimes leave ballots blank, or vote for multiple candidates for a single office).

Table 3. Uncounted absentee ballots in recent Ohio elections

	Number of absentee ballots cast	Number of absentee ballots counted	Number (and percentage) of absentee ballots that went uncounted
2016 primary election	450,901	446,508	4,393 (0.97%)
2018 primary election	1,379,191	1,367,399	11,792 (0.85%)
2020 primary election	1,831,640	1,810,486	21,154 (1.15%)

42. Overall, then, the available data from a range of sources tell a consistent story about absentee ballot rejections, and absentee ballot rejections for signature mismatch, in particular. The share of ballots rejected is much lower than the share of absentee ballot *applications* rejected. As the number of absentee ballots has increased, the number of rejections has increased in rough proportion. This trend may well continue into the November 2020 general election, in which case we can expect to see hundreds or perhaps thousands of absentee ballots rejected for alleged signature mismatch. Whether it is feasible for voters whose ballots are rejected to resolve the issue will depend in part on the amount of time remaining, from the point at which absentee ballots are returned to elections offices, to the deadlines for mailing, curing and counting. On these questions of timing, the records provided by select Ohio counties are again instructive.

⁵¹ I was able to compare numbers for Brown, Clinton, Cuyahoga, Franklin, Greene, Hamilton, Highland, Lucas, Summit and Warren counties.

⁵² Calculated from absentee supplemental reports on the Ohio Secretary of State's website. Accessed 8/21, 2020. These reports do not report the number of absentee ballots counted separately for return by mail vs. in-person. I expect that prospective in-person absentee voters who, for instance, were ineligible to vote in Ohio, or were unable to provide identification, were denied an absentee ballot, rather than allowed to return a ballot that would not be counted. This implies that the number of ballots cast in-person that go uncounted is relatively small. Absentee ballots cast in-person would go uncounted if the ballot were spoiled, however.

6. Evidence on absentee ballot return timing in Ohio

43. Ohio law provides a period of up to seven days after an election for electors to “cure” a defect such as an alleged signature mismatch,⁵³ although ballots may be received and counted up to ten days after an election. This implies that there are three days when ballots are received but election officials will not even try to inform the elector of a rejection. The Ohio Secretary of State requires election officials to mail a form telling the voter that their ballot has been rejected, and why, within two business days of receiving a ballot deemed “defective” (through the third Saturday prior to an election), or within one calendar day if the ballot is received between the third Monday and last Friday prior to an election, or on the same day if the ballot is received from the Saturday prior to an election through the 6th day following an election.⁵⁴ Under a range of plausible circumstances, this timing is absurdly tight. An absentee ballot could be postmarked the day before the election and returned to the elections office through the mail on the fifth day after an election, for instance, and the signature deemed invalid, on which day the board of elections should mail the form telling the voter about the problem—but in order for the elector to resolve the issue, the elector would have to receive the form by the very next day and get it back to the election office the day after that. As the USPS guidance quoted earlier in this report notes, even under favorable conditions, “most domestic First-Class mail is delivered 2-5 days after it is received by the Postal Service” (see Exhibit A in the Appendix). Based on the USPS guidance, allowing a week for delivery in each direction and one day for processing, 15 days total, absentee ballots that are returned starting in the week prior to the election may well be rejected with too little time remaining to allow voters to be notified of the problem and for them to cure by the deadline. In my analysis I therefore pay particular attention to the share of ballots received by election officials starting on the Monday eight days before election day.

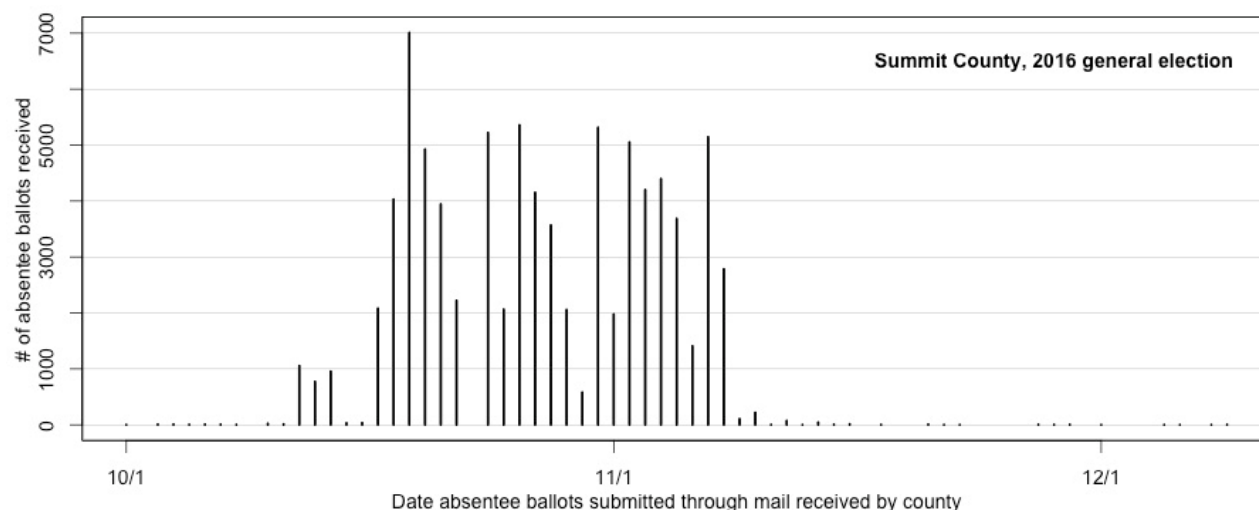
44. In this context, the evidence on absentee ballot return timing for recent elections is alarming. For the 2016 general election in Summit County, for instance, 481 (0.9% of) absentee ballots returned by mail were received back to the election office after election day, a further 5,316 (10.3%) on the Monday and Tuesday of the election week, and another 12,531 (24.3%) over the week before that. In sum, 18,328 absentee ballots (35.6% of those returned by mail) were

⁵³ Ohio Revised Code § 3509.06(D)(3)(b).

⁵⁴ https://www.ohiosos.gov/globalassets/elections/directives/2019/dir2019-11_eom.pdf Page 5-27. Accessed August 21, 2020.

received over the final 9 days through election day, or thereafter. Figure 4, below, illustrates the timing of absentee ballot return timing in Summit County that year.⁵⁵

Figure 4. The timing of absentee ballots returned through the mail and received by Summit County for the 2016 federal general election

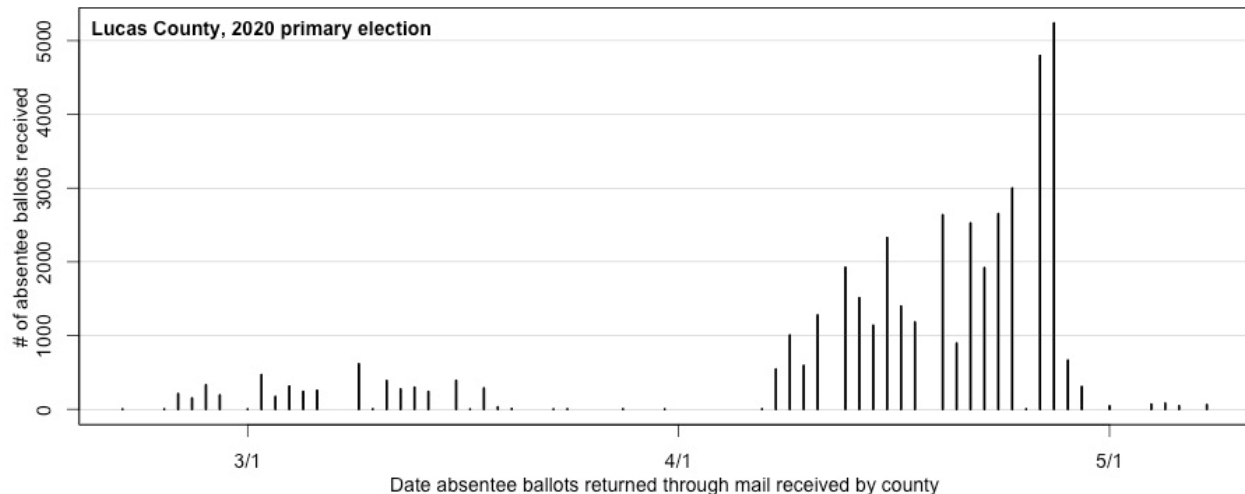


45. The timing was even tighter for the much larger number of absentee ballots returned through the mail for the 2020 federal primary election. In Lucas County, for instance, 1,266 (3% of) absentee ballots returned by mail were received back to the election office after election day, a further 10,033 (23.5%) on the Monday and Tuesday of the election week, and another 13,624 (31.9%) over the week before that. In sum, 24,923 absentee ballots (58.4% of those returned by mail) were received over the final 9 days through election day, or thereafter.⁵⁶ The median absentee ballot returned through the mail was received just 7 days before election day. Figure 5, below, illustrates the timing of absentee ballot return timing in Lucas County that year.

Figure 5. The timing of absentee ballots returned through the mail and received by Lucas County for the 2020 federal primary election

⁵⁵ I observed similar numbers for the 2016 general election in other counties. In Hamilton County, for instance, 27,851 absentee ballots were received by mail from Monday starting the week before the election, or 32.5% of all such ballots. In Clinton County, 28% were received by mail starting the week before election day.

⁵⁶ Again, I observed broadly similar numbers in other counties. Brown County: 52% over the final 9 days through election day, or thereafter. Clinton County: 68% over the final 9 days through election day, or thereafter. Hamilton County: 51% over the final 9 days through election day, or thereafter.



46. Once again, the last-minute postponement of Ohio's 2020 federal primary election also provides an unusually clear opportunity to assess the effect of allowing electors whose absentee ballot was rejected for alleged signature mismatch (or other reasons) extra time to resolve the issue. Only Summit County provided sufficient detail on signature mismatch ballot rejections to test this logic. I found that 86% of electors whose ballots were rejected for signature mismatch in early or mid-March were able to cure and vote, compared to just 43% of electors whose ballots were rejected for the same reason from mid- to late April (this difference is statistically significant at $p=0.03$). This supports the claim that time constraints *per se* make electors whose absentee ballots are rejected close to Election Day less likely to vote, in addition to any underlying differences between the people who apply for an absentee ballot well in advance or quite late.

47. Overall, this section of my report shows that many Ohio voters tend to submit absentee ballots fairly close to election day, at a time when, especially given the additional pressure that may fall on the USPS due to pandemic conditions and a large increase in the number of people voting absentee, there is a great risk that any rejection for alleged signature mismatch would be reported too late for the issue to be resolved. For the 2016 general election, across various counties, around one third of voters submitted ballots that were received by mail only starting in the period of the week before the election, or thereafter. For the 2020 primary election, across several counties, this share rose to one half or higher.

7. Conclusion

48. In this report I have explained the inherent problem in requiring untrained, under-resourced and time-pressured lay people to verify voter signatures. Since election officials working under these conditions are bound to make errors, and since there are so many more valid than invalid signatures on absentee ballots (and absentee ballot applications), the inevitable result is that many valid signatures will be wrongly rejected for each invalid signature that is correctly rejected.

I have also presented evidence from Ohio elections suggesting that the problem affects substantial numbers of Ohio electors. To my knowledge, this is the first analysis to reveal that Ohio elections feature thousands of rejections at the absentee ballot *application* stage. Since absentee ballot applications are often submitted only a few days or weeks before the deadline, rejections at this stage are likely to hinder voting. Indeed, I have shown that many people whose application is rejected are able to resolve the issue—implying that the initial rejection was in fact mistaken. And yet, those who submit their applications with less time remaining are significantly less likely to be able to cure. I have also shown that many absentee ballots are submitted even closer to the relevant deadlines for mailing and receipt, leaving less time to cure any mistaken rejection. This is likely to be much more common in the November 2020 general election than in recent general elections. Since the number of Ohioans who wish to vote absentee is likely to rise sharply for the 2020 general election in November, I urge that Ohio officials who wish to avoid the needless rejection of many absentee ballots (and ballot applications) should cease checking signatures at the ballot application stage, which is not required by law, and should amend the deadlines to allow more time to cure any applications or ballots that are wrongly rejected for signature mismatch.

8. Declaration

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Alex Street", with a stylized flourish at the end.

Alex Street, Ph.D., August 24, 2020, Helena, MT.

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Appendix

Table A1. Numbers and percentages of ballots rejected in Ohio counties for signature mismatch, 2016 general election. Source: 2016 EAVS

County	Number of domestic absentee ballots rejected for signature mismatch, 2016 general election	Percentage of domestic absentee ballots rejected for signature mismatch, 2016 general election	Number of UOCAVA absentee ballots rejected for "signature problem," 2016 general election	Percentage of UOCAVA absentee ballots rejected for "signature problem," 2016 general election
ADAMS	0	0	0	0
ALLEN	2	0.028	0	0
ASHLAND	0	0	0	0
ASHTABULA	1	0.013	0	0
ATHENS	0	0	0	0
AUGLAIZE	1	0.026	0	0
BELMONT	1	0.009	0	0
BROWN	0	0	0	0
BUTLER	3	0.01	1	0.181
CARROLL	2	0.077	0	0
CHAMPAIGN	0	0	0	0
CLARK	0	0	0	0
CLERMONT	0	0	0	0
CLINTON	42	1.32	0	0
COLUMBIANA	0	0	0	0
COSHOCTON	0	0	0	0
CRAWFORD	1	0.027	0	0
CUYAHOGA	5	0.003	4	0.16
DARKE	0	0	0	0
DEFIANCE	0	0	0	0
DELAWARE	3	0.012	0	0
ERIE	2	0.027	0	0
FAIRFIELD	3	0.016	0	0
FAYETTE	0	0	0	0
FRANKLIN	69	0.049	2	0.099
FULTON	0	0	0	0
GALLIA	0	0	0	0
GEAUGA	0	0	0	0
GREENE	2	0.012	0	0
GUERNSEY	0	0	0	0

Table A1 continued				
County	Number of domestic absentee ballots rejected for signature mismatch, 2016 general election	Percentage of domestic absentee ballots rejected for signature mismatch, 2016 general election	Number of UOCAVA absentee ballots rejected for "signature problem," 2016 general election	Percentage of UOCAVA absentee ballots rejected for "signature problem," 2016 general election
HAMILTON	44	0.053	0	0
HANCOCK	4	0.075	0	0
HARDIN	1	0.051	0	0
HARRISON	0	0	0	0
HENRY	1	0.058	0	0
HIGHLAND	0	0	0	0
HOCKING	2	0.077	0	0
HOLMES	0	0	0	0
HURON	0	0	0	0
JACKSON	2	0.078	0	0
JEFFERSON	0	0	0	0
KNOX	0	0	0	0
LAKE	4	0.012	0	0
LAWRENCE	8	0.146	0	0
LICKING	0	0	1	0.41
LOGAN	0	0	2	3.125
LORAIN	0	0	0	0
LUCAS	13	0.039	0	0
MADISON	14	0.332	1	1.786
MAHONING	1	0.003	0	0
MARION	4	0.077	0	0
MEDINA	3	0.015	0	0
MEIGS	0	0	0	0
MERCER	1	0.025	0	0
MIAMI	6	0.061	0	0
MONROE	0	0	0	0
MONTGOMERY	0	0	0	0
MORGAN	0	0	0	0
MORROW	0	0	0	0
MUSKINGUM	8	0.097	0	0
NOBLE	0	0	0	0
OTTAWA	0	0	0	0
PAULDING	0	0	0	0

Table A1 continued				
County	Number of domestic absentee ballots rejected for signature mismatch, 2016 general election	Percentage of domestic absentee ballots rejected for signature mismatch, 2016 general election	Number of UOCAVA absentee ballots rejected for "signature problem," 2016 general election	Percentage of UOCAVA absentee ballots rejected for "signature problem," 2016 general election
PERRY	1	0.029	0	0
PICKAWAY	2	0.04	0	0
PIKE	0	0	0	0
PORTAGE	0	0	0	0
PREBLE	1	0.039	0	0
PUTNAM	0	0	0	0
RICHLAND	0	0	1	0.69
ROSS	0	0	0	0
SANDUSKY	0	0	0	0
SCIOTO	2	0.039	0	0
SENECA	1	0.03	0	0
SHELBY	0	0	0	0
STARK	18	0.047	0	0
SUMMIT	25	0.043	5	0.597
TRUMBULL	1	0.005	1	0.353
TUSCARAWAS	1	0.011	0	0
UNION	1	0.021	1	1.333
VAN WERT	0	0	0	0
VINTON	0	0	0	0
WARREN	14	0.053	0	0
WASHINGTON	0	0	0	0
WAYNE	4	0.047	0	0
WILLIAMS	0	0	0	0
WOOD	0	0	0	0
WYANDOT	0	0	0	0
TOTAL	324	0.03%	19	0.11%

Table A2. Numbers and percentages of ballots rejected in Ohio counties for signature mismatch, 2018 general election. Source: 2018 EAVS

County	Number of domestic absentee ballots rejected for signature mismatch, 2018 general election	Percentage of domestic absentee ballots rejected for signature mismatch, 2018 general election	Number of UOCAVA absentee ballots rejected for "signature problem," 2018 general election	Percentage of UOCAVA absentee ballots rejected for "signature problem," 2018 general election
ADAMS	0	0	0	0
ALLEN	0	0	0	0
ASHLAND	0	0	0	0
ASHTABULA	4	0.062	0	0
ATHENS	0	0	0	0
AUGLAIZE	0	0	0	0
BELMONT	4	0.045	0	0
BROWN	3	0.124	0	0
BUTLER	1	0.004	1	0.45
CARROLL	0	0	0	0
CHAMPAIGN	0	0	0	0
CLARK	2	0.026	0	0
CLERMONT	0	0	0	0
CLINTON	1	0.039	0	0
COLUMBIANA	0	0	0	0
COSHOCTON	0	0	0	0
CRAWFORD	0	0	0	0
CUYAHOGA	1	0.001	0	0
DARKE	0	0	0	0
DEFIANCE	0	0	0	0
DELAWARE	11	0.057	0	0
ERIE	4	0.067	0	0
FAIRFIELD	3	0.022	0	0
FAYETTE	1	0.084	0	0
FRANKLIN	18	0.017	1	0.106
FULTON	0	0	0	0
GALLIA	0	0	0	0
GEAUGA	3	0.028	0	0
GREENE	1	0.008	1	0.383
GUERNSEY	0	0	0	0
HAMILTON	28	0.041	2	0.248
HANCOCK	0	0	1	2.778

Table A2, continued				
County	Number of domestic absentee ballots rejected for signature mismatch, 2018 general election	Percentage of domestic absentee ballots rejected for signature mismatch, 2018 general election	Number of UOCAVA absentee ballots rejected for "signature problem," 2018 general election	Percentage of UOCAVA absentee ballots rejected for "signature problem," 2018 general election
HARDIN	0	0	0	0
HARRISON	0	0	0	0
HENRY	0	0	1	7.692
HIGHLAND	0	0	0	0
HOCKING	1	0.046	0	0
HOLMES	0	0	0	0
HURON	0	0	0	0
JACKSON	0	0	0	0
JEFFERSON	0	0	0	0
KNOX	0	0	0	0
LAKE	0	0	0	0
LAWRENCE	9	0.205	0	0
LICKING	0	0	0	0
LOGAN	1	0.039	0	0
LORAIN	3	0.012	0	0
LUCAS	11	0.041	0	0
MADISON	8	0.221	0	0
MAHONING	4	0.019	0	0
MARION	0	0	0	0
MEDINA	16	0.104	1	0.862
MEIGS	0	0	0	0
MERCER	0	0	0	0
MIAMI	1	0.014	0	0
MONROE	0	0	0	0
MONTGOMERY	38	0.1	0	0
MORGAN	0	0	0	0
MORROW	0	0	0	0
MUSKINGUM	4	0.067	0	0
NOBLE	0	0	0	0
OTTAWA	0	0	0	0
PAULDING	0	0	0	0
PERRY	0	0	0	0
PICKAWAY	3	0.078	0	0

Table A2, continued				
County	Number of domestic absentee ballots rejected for signature mismatch, 2018 general election	Percentage of domestic absentee ballots rejected for signature mismatch, 2018 general election	Number of UOCAVA absentee ballots rejected for "signature problem," 2018 general election	Percentage of UOCAVA absentee ballots rejected for "signature problem," 2018 general election
PIKE	0	0	0	0
PORTAGE	8	0.071	0	0
PREBLE	3	0.155	0	0
PUTNAM	0	0	0	0
RICHLAND	0	0	0	0
ROSS	0	0	0	0
SANDUSKY	0	0	0	0
SCIOTO	1	0.026	0	0
SENECA	0	0	0	0
SHELBY	0	0	0	0
STARK	9	0.031	0	0
SUMMIT	12	0.025	1	0.258
TRUMBULL	2	0.014	0	0
TUSCARAWAS	3	0.042	0	0
UNION	1	0.026	0	0
VAN WERT	0	0	0	0
VINTON	0	0	0	0
WARREN	0	0	0	0
WASHINGTON	1	0.022	0	0
WAYNE	0	0	0	0
WILLIAMS	1	0.056	0	0
WOOD	0	0	0	0
WYANDOT	0	0	0	0
TOTAL	225	0.02%	9	0.12%

Exhibit A

THOMAS J. MARSHALL
GENERAL COUNSEL
AND EXECUTIVE VICE PRESIDENT



July 30, 2020

Honorable Frank LaRose
Ohio Secretary of State
22 North 4th Street, Floor 16
Columbus, OH 43215-3668

Dear Secretary LaRose:

Re: Deadlines for Mailing Ballots

With the 2020 General Election rapidly approaching, this letter follows up on my letter dated May 29, 2020, which I sent to election officials throughout the country. That letter highlighted some key aspects of the Postal Service's delivery processes. The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Ohio's election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.

As I stated in my May 29 letter, the two main classes of mail that are used for ballots are First-Class Mail and USPS Marketing Mail, the latter of which includes the Nonprofit postage rate. Voters must use First-Class Mail (or an expedited level of service) to mail their ballots and ballot requests, while state or local election officials may generally use either First-Class Mail or Marketing Mail to mail blank ballots to voters. While the specific transit times for either class of mail cannot be guaranteed, and depend on factors such as a given mailpiece's place of origin and destination, most domestic First-Class Mail is delivered 2-5 days after it is received by the Postal Service, and most domestic Marketing Mail is delivered 3-10 days after it is received.

To account for these delivery standards and to allow for contingencies (e.g., weather issues or unforeseen events), the Postal Service strongly recommends adhering to the following timeframe when using the mail to transmit ballots to domestic voters:

- **Ballot requests:** Where voters will both receive and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.
- **Mailing blank ballots to voters:** In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters. Using Marketing Mail will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-1100

(b)(6); (b)(3)-39

FAX: 202-268-6981

(b)(6); (b)(3)-39 USC

www.usps.com

- 2 -

- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. In states that require mail-in ballots to be *both* postmarked before Election Day *and* received by election officials by a specific date that is one week or more after Election Day, voters may generally mail their ballot up until November 2, the day before the 2020 general election. However, voters who mail in their ballots on November 2 must be aware of the posted collection times on collection boxes and at the Postal Service's retail facilities, and that ballots entered after the last posted collection time on a given day will not be postmarked until the following business day.

Under our reading of your state's election laws, as in effect on July 27, 2020, certain state-law requirements and deadlines appear to be incompatible with the Postal Service's delivery standards and the recommended timeframe noted above. As a result, to the extent that the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.

Specifically, it appears that a completed ballot must be postmarked before Election Day and received by election officials within 10 days after the election. If that understanding is correct, voters who choose to mail their ballots may do so on or before Monday, November 2. However, it further appears that state law generally permits voters to apply by mail for a ballot as late as 3 days before the election. If a voter submits a request at or near the deadline, and the ballot is transmitted to the voter by mail, there is a significant risk that the ballot will not reach the voter before the state's postmark deadline of November 2, and accordingly that the voter will not be able to use the ballot to cast his or her vote. That risk is exacerbated by the fact that the law does not appear to impose a time period by which election officials must transmit a ballot to the voter in response to a request.

To be clear, the Postal Service is not purporting to definitively interpret the requirements of your state's election laws, and also is not recommending that such laws be changed to accommodate the Postal Service's delivery standards. By the same token, however, the Postal Service cannot adjust its delivery standards to accommodate the requirements of state election law. For this reason, the Postal Service asks that election officials keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail (including mail-in ballots) so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

We remain committed to sustaining the mail as a secure, efficient, and effective means to allow citizens to participate in the electoral process when election officials determine to utilize the mail as a part of their election system. Ensuring that you have an understanding of our operational capabilities and recommended timelines, and can educate voters accordingly, is important to achieving a successful election season. Please reach out to your assigned election mail coordinator to discuss the logistics of your mailings and the services that are available as well as any questions you may have. A list of election mail coordinators may be found on our website at: <https://about.usps.com/election-mail/politicalection-mail-coordinators.pdf>.

We hope the information contained in this letter is helpful, and please let me know if you have any questions or concerns.

Sincerely,

(b)(6); (b)(3):39 USC 410 (c)(2)

Thomas J. Marshall

Exhibit B

Alex Street

CONTACT	Carroll College, 1601 N. Benton Ave., Helena, Montana 59625	phone: 406 447 4331 email: astreet@carroll.edu
ACADEMIC APPOINTMENTS	2017- Associate Professor of Political Science and Intl. Relations, Carroll College. 2014-17 Assistant Professor of Political Science and Intl. Relations, Carroll College. 2013-14 Research Fellow, Max Planck Society. 2012-13 Visiting Fellow, Cornell Institute for European Studies. 2011-12 Max Weber Postdoctoral Fellow, European University Institute.	
EDUCATION	University of California, Berkeley Ph.D., Political Science, December 2011. MA, Political Science, May 2006. Humboldt University, Berlin Post-Graduate Fellow, 2004-05. University of Oxford First Class BA, Politics, Philosophy and Economics, 2003.	
REFEREED JOURNAL PUBLICATIONS	<p>[1] "Understanding Support for Immigrant Political Representation: Evidence from German Cities." With Karen Schönwälder, <i>Journal of Ethnic and Migration Studies</i>, published online February 6, 2019, doi: 10.1080/1369183X.</p> <p>[2] "Political Effects of Having Undocumented Parents." With Michael Jones-Correa & Chris Zepeda-Millán, <i>Political Research Quarterly</i>, 70(4):818-32. 2017.</p> <p>[3] "The Political Effects of Immigrant Naturalization." <i>International Migration Review</i>, 51(2): 323-43. 2017.</p> <p>[4] "Estimating Voter Registration Deadline Effects with Web Search Data." With Thomas A. Murray, John Blitzer and Rajan S. Patel, <i>Political Analysis</i>, 23(2): 212-24. 2015.</p> <p>[5] "Mass Deportations and the Future of Latino Partisanship." With Michael Jones-Correa & Chris Zepeda-Millán. <i>Social Science Quarterly</i>, 96(2): 540-52. 2015.</p> <p>[6] "My Child Will Be A Citizen: Intergenerational Motives for Naturalization." <i>World Politics</i>, 66(2): 264-98. 2014.</p> <p>[7] "Representation Despite Discrimination: Minority Candidates in Germany." <i>Political Research Quarterly</i>, 67(2): 374-85. 2014.</p> <p>[8] "Naturalization Dynamics in Immigrant Families." <i>Comparative Migration Studies</i> 1(1):23-44. 2013.</p> <p>[9] "Schooling the next generation of German citizens: A comparison of citizenship curricula in Berlin and Baden-Württemberg." With Daniel Faas. <i>Educational Studies</i> 37(4): 469-79. 2011.</p>	

OTHER
PUBLICATIONS

- [10] Review of *Documenting Americans: A Political History of National ID Card Proposals in the United States*. In *Perspectives on Politics* 18(2): 639-640. 2020.
- [11] Brief for Amicus Curiae Professor Alexander Street, Ph.D. In Support of Appellees, Chelsea Collaborative v. Galvin, Commonwealth of Massachusetts Supreme Judicial Court (no. SJC-12435). 2018.
- [12] Review of *Immigration and New Limits on Citizenship Rights: Denmark and Beyond*. In *Contemporary Sociology* 45(6): 798-99. 2016.
- [13] "Studying Minority Politics with Survey Experiments and Election Data." *APSA Migration and Citizenship Newsletter* 4(1): 23-28. December 2015.
- [14] "Google data suggest millions of Americans are prevented from voting by early registration deadlines" *LSE US Centre blog*, April 14 2015.
- [15] "Google searches show that millions of people wanted to vote but couldn't." *The Monkey Cage blog*, The Washington Post, March 26 2015.
- [16] "Immigration and Integration," in Sarah Colvin, ed., *Routledge Handbook of German Politics and Culture*. 2014, with Randall Hansen.
- [17] "Mass deportations are alienating young Latino voters from the Democratic Party." *Latino Decisions blog*, May 19 2014.
- [18] "The Political Effects of Becoming a Citizen: Solution or Selection?" *Max Weber Programme working paper 2012/19*.

TEACHING

- | | |
|--|-------------|
| Assistant and Associate Professor | 2014- |
| <i>Introduction to Comparative Politics; Political Economy; State and Nation in World Politics; Democracy and Autocracy; Political Research Methods; Citizenship, Global and Local; Elections, Political Parties and Public Opinion; Senior Seminar.</i> | |
| Carroll College. | |
| Instructor | Spring 2014 |
| <i>Migration and International Relations</i> | |
| MA class, University of Göttingen. | |
| Instructor | Spring 2013 |
| <i>Introduction to Comparative Politics</i> | |
| Cornell Prison Education Project, Auburn Correctional Facility. | |
| Volunteer math instructor | 2010-11 |
| Prison University Project, San Quentin State Prison. | |
| Teaching assistant | 2006-2009 |
| <i>Comparative Political Economy; Intro. to Quantitative Methods; Intro. to Comparative Politics; Immigrants, Citizenship and the State; The Welfare State in Comparative Perspective.</i> | |
| University of California, Berkeley. | |

TEACHER TRAINING	Future proofing your courses, Carroll College, Summer 2020.
	Indigenous Studies Network short course, Washington, D.C., September 2019.
	MiClassroom technology pilot projects, Carroll College, Spring 2016 & Spring 2018.
	Service Learning training, Carroll College, Fall 2015.
	Fundamental Principles of Online Teaching, Carroll College, Summer 2015.
AWARDS	Prizes for scholarship
	<ul style="list-style-type: none"> • 2017 Best article award, Migration and Citizenship section, American Political Science Association, for <i>Political Effects of Having Undocumented Parents</i> • 2016 Best paper prize, Latino Politics section, Western Political Science Association, for <i>Political Effects of Having Undocumented Parents</i>
	Grants
	<ul style="list-style-type: none"> • Montana PBS grant for Carroll College Exit Poll, 2018, PI \$2,000 • USB Renewable Energy, 2018, PI with J. Rowley \$48,000 • Russell Sage Foundation, 2013, PI with C. Zepeda-Millán \$30,000 • Cornell Institute for the Social Sciences, 2013, PI with M. Jones-Correa \$12,000
	Grants for classes and speaker series
	<ul style="list-style-type: none"> • Diversity and Civil Discourse, Charles Koch Foundation, 2019-20 \$18,000 • Mallette grant support for collaboration with Tribal Colleges, 2016 \$4,700 • Mallette grant support for collaboration with Tribal Colleges, 2015 \$1,300 • Speaker Series, Cornell Institute for European Studies, 2012-13 \$9,000 • Course Development Grant, European Studies, UC Berkeley, 2010 \$2,000
	DATA FOR SCHOLARLY USE
	Latino Second Generation Study, 2012-2013 [United States] (ICPSR 36625). Link to dataset via ICPSR.
	Carroll College Exit Polls 2014, 2016, 2017, 2018. Link to datasets via Carroll College institutional repository.
	SELECTED CONFERENCE PRESENTATIONS
	<p>[1] “Constituent-Representative Communication in Diverse German Cities.” American Political Science Association annual meeting, Washington, D.C., September 2019.</p> <p>[2] “Can Political Threats Mobilize Latinos? Evidence from 2016” With Michael Jones-Correa and James McCann. American Political Science Association annual meeting, San Francisco, September 2017.</p>

- [3] “What do Immigrants and Natives Expect from City Politics?” With Karen Schönwälder. IMISCOE annual meeting, Prague, July 2016.
- [4] “Conceptualizing and Measuring Ticket Splitting.” With Kacey Gollehon (undergraduate advisee). Pacific Northwest Political Science Association annual meeting, Boise ID, October 2015.
- [5] “Explaining Demand for Descriptive Representation: Immigrants in German Cities.” Council for European Studies meeting, Paris, July 2015.
- [6] “Political Effects of Having Undocumented Parents.” With Michael Jones-Correa and Chris Zepeda-Millán. Western Political Science Association, Las Vegas, April 2015.
- [7] “Representation without Participation: Immigrants in German Cities.” International Association for the Study of German Politics meeting, London, May 2014.
- [8] “Mass Deportations and the Future of Latino Partisanship.” With Michael Jones-Correa and Chris Zepeda-Millán. Western Political Science Association meeting, Seattle, April 2014.
- [9] “The Politics of the US-Citizen Children of the Undocumented.” With Michael Jones-Correa and Chris Zepeda-Millán. Harvard University, Oct. 2013.
- [10] “Deportation Policies Shaping Latino Politics.” With Michael Jones-Correa and Chris Zepeda-Millán. American Political Science Association meeting, Aug. 2013.
- [11] “Early Registration Deadlines Disenfranchise Millions of Americans.” With Thomas A. Murray, John Blitzer and Rajan S. Patell. Cornell University, March 2013.
- [12] “Who are the EU Citizens? Characteristics, Attitudes and Political Behavior.” York University, Toronto, Oct. 2012.
- [13] “Intergenerational Motives for Naturalization.” Bundesanstalt für Migration und Flüchtlinge [German Ministry for Migration and Refugees], Nürnberg, June 2012.
- [14] “Political Engagement Before and After Becoming a Citizen.” Midwest Political Science Association annual meeting, April 2012.
- [15] “The Electoral Impact of Immigrant Candidates in Germany.” American Political Science Association annual meeting, Aug. 2011.
- [16] “Am I my Brother’s Keeper? Epidemics, Agenda-Setting and Public Support for Health Policy Interventions.” With Eric McDaniel and Taeku Lee. Midwest Political Science Association meeting, April 2011.
- [17] “Mum, Dad, and the Fatherland: How Families Shape Naturalization in Germany.” Council for European Studies annual meeting, June 2010.

ACADEMIC
SERVICE

Director, Honors Scholars Program, Carroll College, 2019-.

Strategic Planning Task Force, Carroll College, 2019-20.

Political internships coordinator, Carroll College, 2018-19.

Equal Opportunity Policy investigation team, Carroll College, 2017-.

International Relations program director, Carroll College, 2015-.

Institutional Review Board member, Carroll College, 2015-.

Referee for academic journals: *American Politics Research*, *American Journal of Political Science*, *American Political Science Review*, *British Journal of Political Science*, *Canadian Journal of Political Science*, *Comparative Political Studies*, *Ethnic and Racial Studies*, *Ethnicities*, *International Migration Review*, *Journal of Ethnic and Migration Studies*, *Journal of International Migration and Integration*, *Journal of Politics*, *Party Politics*, *West European Politics*, *World Politics*.

Referee for funding proposals: Russell Sage Foundation, Social Science and Humanities Research Council of Canada.

Conference panel organizer/chair/discussant: CES 2015, MPSA 2012, CES 2010.

COMMUNITY
SERVICE

Sun Run, fundraiser for installing solar panels at Carroll College, 2017 & 2018.

Presentation on Refugees, Hometown Helena, 2016.

Discussion leader, "Great Conversations" fundraiser, 2015, 2019.

Volunteer instructor, Auburn Correctional Facility, NY, 2013.

Volunteer instructor, San Quentin State Prison, CA, 2010-11.

CONSULTING

ACLU of New York, advisor on voter registration deadline case, 2018-.

ACLU of Massachusetts, advisor on voter registration deadline case, *Chelsea Collaborative v. Galvin*, Commonwealth of Massachusetts Supreme Judicial Court (no. SJC-12435), 2017-2018.

(CV last updated July 2020)