

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS,	:	Docket No. CA 12-128
	:	
Plaintiff	:	
v.	:	
	:	
ERIC H. HOLDER, JR., in his	:	Washington, D.C.
Official Capacity as	:	Thursday, July 12, 2012
Attorney General of the	:	P.M. SESSION
United States,	:	
	:	
Defendant, and	:	
	:	
ERIC KENNIE, et al.,	:	
	:	
Intervenor-Defendants	:	2:00 p.m.

.....

TRANSCRIPT OF BENCH TRIAL
DAY 4 - P.M. SESSION
BEFORE THE HONORABLE DAVID S. TATEL
UNITED STATES CIRCUIT JUDGE
THE HONORABLE ROSEMARY M. COLLYER
THE HONORABLE ROBERT L. WILKINS
UNITED STATES DISTRICT JUDGES

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C O N T E N T S

<u>WITNESS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
STEPHEN ANSOLABEHERE				
By Ms. Bell-Platts	6	--	98	--
By Mr. Harris	--	--	116	--
By Mr. Mortara	--	24	--	--

E X H I B I T S

NUMBER:

ADMITTED

(NO EXHIBITS MOVED INTO EVIDENCE.)

1 dependent on that, I think, for my closing. I'm kind of
2 concerned if we move to a courtroom without that capability.

3 JUDGE COLLYER: No, no, we're used to presenting
4 evidence. The Court of Appeals is in a different business.

5 JUDGE TATEL: We don't do evidence.

6 MR. HUGHES: That's why I leapt to my feet, Your Honor.

7 JUDGE TATEL: Good point.

8 JUDGE COLLYER: I'm very glad that you saved us from
9 that embarrassment of pointing out that the Court of Appeals
10 doesn't --

11 MR. HUGHES: I wasn't going to say it, Your Honor.

12 JUDGE COLLYER: Okay. That is just between and amongst
13 us friends. So we will be here, but there will be an overflow
14 audio courtroom if persons can't get into this room. Okay?

15 MR. HUGHES: Thank you, Your Honor.

16 JUDGE COLLYER: Thank you. Thank you for telling us of
17 your needs before we embarrassed ourselves.

18 Where is Dr. Ansolabehere? I'm sorry, sir, I
19 mispronounce your name, but I like it so much, I've been saying
20 it for months. Please, sir, you're still under oath. Go right
21 ahead.

22 **(STEPHEN ANSOLABEHHERE, DEFENDANT witness, having been duly**
23 **sworn, testified as follows:)**

24 **DIRECT EXAMINATION**

25

1 BY MS. BELL-PLATTS:

2 Q. Dr. Ansolabehere --

3 JUDGE COLLYER: See, she knows how to pronounce it
4 better than I do.

5 MS. BELL-PLATTS: I've had to pronounce it quite a bit
6 lately.

7 BY MS. BELL-PLATTS:

8 Q. Why do you use Social Security numbers at all, if SB14
9 requires name matching?

10 A. The use of Social Security numbers is to improve the ability
11 to find matching records. Recall that what we're doing is
12 trying to determine for each voter -- record on the voter
13 registration list, whether or not that individual record has a
14 matching -- exact matching record on the driver's license list
15 or the state ID list or the license to carry list. So we're
16 using all information available for identifying individuals on
17 each list, and trying to find those matches.

18 One might have pursued a different approach,
19 essentially asking a different question, which is just to use
20 the information, let's say, on your driver's license; your first
21 name, your last name, and your date of birth. We did
22 investigate that, and when we just matched on first name, last
23 name, and date of birth, we had 2.4 million records that we
24 couldn't match, which is a lot more than 1.5 million, and that
25 was a much bigger magnitude of problems.

1 But the problem that we're facing is not asking the
2 question: Does the information on the license match the
3 information on the rolls, or the information that might be on
4 the license, but to try to determine who matches on these two
5 lists using all available information.

6 So SSN 9, and eventually SSN 4 were very helpful in
7 finding matches even though that information is not released to
8 poll workers.

9 Q. And I may have misheard or just looked down for moment. Did
10 you say that when you just used names, that you came up with --
11 was it 2.4 million?

12 A. Yeah.

13 Q. Sorry.

14 A. So I didn't feel that was sufficient information. Looking
15 at SSN9's, we saw there were other matching records, so.

16 Q. Great. My slides are back up.

17 You've also been criticized somewhat for how you treat
18 name changes. Could you explain, using your slide, what the
19 issue is with different names, different last names and Social
20 Security numbers?

21 A. People, during the course of their lives may change their
22 names for various reasons, getting married, privacy, and so
23 forth, so matching a record on the voter registration list with
24 a record on the driver's license list may not lead to an exact
25 and appropriate match if the person's name changed between the

1 time they entered the driver's license files and the time that
2 they registered to vote.

3 The slide on name changes and uncertainty provides an
4 example on the voter registration database, Jennifer Fernandez,
5 who has a Social Security number of 555-21-7654, and a birth
6 date of November 27th, 1979, and a matching record on the
7 driver's license database of Jennifer Bedoya, who has a Social
8 Security number of 555-21-7654, that's the same Social Security
9 number, and a date of birth of November 27th, 1979. That's the
10 same date of birth. So if we matched on Social Security number
11 and date of birth, that person would be considered a match, even
12 though the last names differed.

13 The second case, the case that we would not consider a
14 match because there's insufficient information on the driver's
15 license record, this is the case of, again a fictitious
16 individual, Kristina Jones, Social Security number 555-88-0701,
17 birth date of October 22, 1982, and there's a record
18 Kristina Simon, with the same birth date and no Social Security
19 number. So this is a case where that might be a matching
20 individual.

21 And maybe if you're using probabilistic matching, that
22 person might show up as having some probability of a match, but
23 using exact matching, that is not a matching case according to
24 our record. So that second example is somebody who would end up
25 in the reduced VRNID list.

1 Q. Is there any danger to using the probabilistic matching in
2 that instance?

3 A. You can end up matching people incorrectly, and also using
4 probabilistic matching moves you back into that many-to-one
5 matching domain where you're trying to match any given records
6 to one record, because you have a probability that any one of
7 those records on the voter registration list matches that record
8 on the driver's license list.

9 Q. So one possibility would be that -- I'll withdraw that one.

10 There's been a lot of testimony about deceased
11 individuals and deceased records in this case. You've prepared
12 a slide to explain what impact the removing of deceased records
13 is?

14 A. One of the fields on the driver's license database is an
15 indicator of a deceased individual. We looked at that field and
16 inquired with the state as to whether those would be considered
17 valid driver's licenses. We were told they were not, that those
18 records should not be considered as valid driver's licenses. So
19 we removed them in the initial round so that they would not be
20 matched to the corresponding individual on the voter
21 registration database.

22 So Charles Brown, with a Social Security number of
23 550-21-7654, and a birth date of August 22nd, 1936, is on the
24 voter registration database, and on the driver's license
25 database; Charles Brown with a Social Security number of

1 550-85-4699, with an August 22nd, 1936, date of birth, shows up
2 and that individual is deceased. We would drop that record from
3 the list.

4 There are a few things to note about this record. If
5 we did not drop the deceased, there would be some probability of
6 actually discovering this person as a match. If we only matched
7 on date of birth and name, this person would be discovered as a
8 match. So both the Social Security number and the deceased help
9 clarify this record. But this person would not be considered a
10 match and would be moved to the reduced VRNID list.

11 JUDGE COLLYER: Okay. So he's not a match because the
12 Social Security numbers don't match.

13 THE WITNESS: According to my approach. But if you
14 just took the naive approach of the name and date of birth, you
15 might have considered that a match.

16 JUDGE WILKINS: What if the Social Security were the
17 same?

18 THE WITNESS: That person would not be considered a
19 match, either, because we were told those deceased records on
20 the driver's license should not be considered valid driver's
21 licenses.

22 BY MS. BELL-PLATTS:

23 Q. There were several other challenges to your VRNID list, and
24 you prepared another slide. Could you explain what this slide
25 shows?

1 A. Three of the other challenges to our VRNID list are, first,
2 that we include people over 65; second, that we include voters
3 on the suspense list, which would be called in other states the
4 inactive list; and third, that we exclude voters with expired
5 driver's licenses from the DPS when we matched.

6 The over-65 question is an interesting problem with the
7 list matching. The SB14 allows people over 65 the option of
8 filing a mail ballot in advance of the election without having
9 to show their ID; however, if that person showed up at the
10 polling place, they would still have to show ID. So for my
11 purposes, I was considering if I showed up at the polling place,
12 would I have to show ID, and the answer for anyone over 65 is
13 yes.

14 There's a lower burden for people over 65 because there
15 is this option of mail-in voting, though mail-in voting is not
16 as commonly used in Texas as it is in a state like California,
17 because many people use early voting, which is a distinct form
18 of advanced voting in Texas.

19 There are roughly 174,000 people on the VRNID reduced
20 file that are over 65, and you might want to treat them
21 differently. Professor Sager's report suggest that we ought to,
22 but I do not think that's appropriate, given that if I'm over 65
23 and I show up at the polls to vote, I must show ID and I have no
24 other real recourse. I can't, at that point, put a mail-in
25 ballot without using ID.

1 The other aspect of the over-65 that I examined was
2 whether or not the racial composition of those over 65 differed.
3 And it turned out that people on the voter registration files,
4 according to Catalist, who were over 65 were disproportionately
5 white compared to the overall list. That is, people who are
6 falling under this exception are more likely to be white than
7 Black or Hispanic, compared to the overall list. So this seems
8 to be an exception that actually advantages white voters
9 slightly just because they're more likely to be over 65 on the
10 voter registration.

11 Q. And what about suspense voters? Could you explain what it
12 means to be on the suspense list?

13 A. The suspense list is also, as I said, something called
14 sometimes the inactive list. This is a classification that came
15 up in the National Voter Registration Act, where if a person has
16 not voted in two successive federal elections, they can be
17 placed on the inactive list. And if they're on there further,
18 they can be purged from the voter file. But there are some
19 people on the suspense list who, in fact, do vote in elections.
20 Because you're on that list does not mean you're an ineligible
21 voter. So we treated those people as potential voters. Their
22 registrations are still legal and valid, and they're eligible,
23 according to the voter registration lists.

24 So we're just trying to match every record on the voter
25 registration lists to a valid DPS or LTC record, and the

1 suspense voters should not be treated differently because many
2 of them do vote. They don't vote at as high a rate as people
3 who are not on the suspense list. And there are roughly 161,000
4 of those people on the voter registration -- list of voter
5 registration records without ID.

6 Q. And what about voters who have an expired identification?

7 A. Expired identification, as I discussed earlier, is a very
8 important feature of the law. If you have a license that is
9 expired by more than 60 days before the election, that license
10 is not considered valid - at least, that is my reading of SB14 -
11 so remove those people from the DPS list to come up with a valid
12 driver's license list for the purposes of matching to determine
13 which voter registration records correspond to a valid state ID.

14 Q. And what number of people qualify with expired IDs?

15 A. There's an error on this slide. It should be 430,000, and
16 that's on an earlier slide. This is just a cut-and-paste error.
17 So in the first column of the slide, "Challenged Groups in
18 VRNID," there are shown those voters over 65, 174,000; those
19 voters on the suspense list, 161,000; and those voters with
20 expired ID, it should be 430,000.

21 Q. Are you aware that Professor Sager has opined that your
22 analysis is biased against Hispanics?

23 A. Yes, I am.

24 MS. BELL-PLATTS: Could you pull up Plaintiff's
25 Exhibit 16, please?

1 MR. MORTARA: Your Honor, I object. I asked the
2 witness at his deposition, which occurred subsequent to
3 Professor Sager's deposition, have you done anything, anything
4 at all, to inquire into whether your matching process was
5 biased? He said no. This is undisclosed opinion.

6 JUDGE COLLYER: All right. We'll consider it as
7 challenged for that very reason.

8 Go right ahead.

9 MS. BELL-PLATTS: Thank you, Your Honor.

10 BY MS. BELL-PLATTS:

11 Q. Dr. Ansolabehere, have you reviewed portions of
12 Professor Sager's trial testimony in this case?

13 A. Yes, I have.

14 Q. Can you briefly summarize Dr. Sager's findings?

15 A. Dr. Sager looks at those voters with SSN9 matches who are
16 Spanish surname voter registration records, and finds that
17 20 percent of all of the SSN9 combo records are Spanish surname.

18 Then he also looks at, from the VRNID list, the people
19 who have an SSN9 match but don't have a first name, last name,
20 date of birth match, and he finds that 28 percent are Spanish
21 surname.

22 Q. Do you agree with his approach?

23 A. I think everything he calculated here is correct.

24 Q. Is this evidence of bias in your database matching criteria?

25 A. Not particularly. I think what this really speaks to is a

1 problem with SB14 more than bias with the matching algorithm.
2 What he's done in this last step is identified a set of people
3 for whom we would match, and shown that the people who match on
4 SSN9 are disproportionately more likely to be Hispanic if they
5 did not also match on first name, last name, date of birth. And
6 I think that indicates that Spanish surname voter registration
7 records are less likely to match on first name, last name, date
8 of birth information alone.

9 So if I just matched on first name, last name, date of
10 birth information alone, I would be less likely to match a
11 Spanish surname person, so there's something about just matching
12 on first name, last name, date of birth that makes you less
13 likely to identify a Spanish surname voter.

14 MR. MORTARA: Your Honor?

15 JUDGE COLLYER: Yes.

16 MR. MORTARA: The State withdraws its objection.

17 JUDGE COLLYER: Okay.

18 MS. BELL-PLATTS: Thank you.

19 JUDGE COLLYER: Go right ahead.

20 BY MS. BELL-PLATTS:

21 Q. Are you aware of Dr. Sager's opinions regarding purported
22 bias against women in your analysis?

23 A. Yes.

24 Q. And what is your assessment of his findings regarding women
25 and bias?

1 A. With respect to women, and also with respect to the question
2 of bias generally, it's -- in order to state that something is
3 biased or not biased in a statistical sense, you need to make a
4 comparison of the measured quantity against the true quantity.
5 But since the true quantity is not known, you don't really know
6 if it's biased. It may be the case that women are more likely
7 to not match because of name changes and other factors,
8 including possibly race, because there are -- there are more
9 Black and -- disproportionately more Black and Hispanic women
10 registered compared to Black and Hispanic men registered
11 relative to the difference between white men and women in the
12 United States generally.

13 Q. Are you familiar with Professor Shaw's analysis in this
14 case?

15 A. Yes.

16 Q. Are you generally aware that he did a survey on the larger
17 of the VRNID lists?

18 A. Yes, he did a survey of the 1.9 million group, which is the
19 reduced VRNID list plus the 125,000 people who were duplicates,
20 so we couldn't match in the 266,000 people who had an ambiguous
21 license status but were matchable.

22 Q. Do you have an opinion about his approach to his survey?

23 A. My overall sense of this is, it's not clear that this
24 answers the general question before the Court or in this case,
25 which is, I don't see how one could use this information to

1 measure the overall proportion of people on the state voter file
2 who are black, white, and Hispanic, and who have ID and who
3 don't have ID. Because it's just an analysis of a subset of
4 10 percent of the population, or a little over 10 percent of the
5 voter registration list.

6 Q. Are there any particular risks to his survey methodology?

7 A. His methodology is to use land-line phone calls --

8 Q. What's wrong with using a land line?

9 A. Land lines are potentially a fine way to proceed. There's
10 increasing debate over whether you should include cell phones in
11 random digit dialling phone surveys. But the methodology used
12 is a little hard for me to assess because there's information I
13 don't know about the survey; in particular, how he matched phone
14 numbers to the list, what the algorithm was. It's very
15 difficult to match -- just from my own experience conducting
16 surveys, very difficult to match phone numbers to the list. I
17 don't know if he did it or if he used an outside firm, and what
18 technology or approach they used.

19 In addition, the response rate is quite low, and it
20 looks like the field period for this survey was only about a
21 week, which is pretty short, and that tends to produce low
22 response rates.

23 Q. Why is that?

24 A. The longer you let people -- give the people the chance to
25 answer the phone call, the more likely you are to get a

1 response. But a two percent response rate is very low for phone
2 surveys.

3 Q. Do you have any problems with weighting?

4 A. I don't -- when you have a low response rate, you often have
5 to re-weight your sample to try to make the sample more
6 reflective of the population you're trying to study. It's not
7 clear how one would even construct weights for this population,
8 because you actually need to know what the population is that
9 you're trying to study, and what the demographic characteristics
10 of it are. But we don't know quite what those demographic
11 characteristics are because he's only studying that 10 percent
12 slice.

13 The typical demographic characteristics that one
14 includes in constructing sample weights are gender - and that's
15 available - but also race - that's what he wants to study - and
16 education and income. But none of that, as far as I can tell,
17 could be used, because he doesn't have education, income, and
18 race for the VRNID list, which we would need to -- the true set
19 of people which he would need to construct sample weights.

20 Q. Does Professor Shaw provide an analysis of the percentage of
21 all people in Texas who have ID that would be acceptable by
22 SB14?

23 A. Excuse me. Could you repeat the question?

24 Q. Does Professor Shaw provide an analysis of the percentage of
25 all people in Texas who have ID acceptable for SB14?

1 A. No, he provides an analysis of those on the VRNID list based
2 on his survey, who he estimates have different forms of ID.

3 Q. Does he provide any analysis of the percentage of black
4 voters who have ID acceptable under SB14?

5 A. Again, no, it's of the VRNID list, the large VRNID list, not
6 of the entire voter registration list.

7 Q. Would the same be true for Hispanic voters?

8 A. Correct.

9 JUDGE TATEL: Let me just ask a quick question. Going
10 back to the low response rate, Dr. Shaw testified that in the
11 end it doesn't make any difference because he looked at the
12 returns and saw that it was a representative sample.

13 THE WITNESS: Then it goes back to the weighting
14 problem. A representative sample of what? If it's
15 representative of the VRNID list, we would need to know the
16 criteria by which he evaluated representativeness, and that's
17 typically the same variables or characteristics that he would
18 use to construct weights. But since that's not known, we don't
19 know what it means to be representative. Is it representative
20 of the education distribution of the VRNID list? Is it
21 representative of the income distribution? Is it representative
22 of the racial distribution? So we don't know what the answer is
23 to that question. We can't know, because we don't have the
24 characteristics against which you judge that. And that's
25 actually -- one of those characteristics is one of the

1 characteristics we were trying to discover, which is race.

2 JUDGE TATEL: Thank you.

3 BY MS. BELL-PLATTS:

4 Q. Is there any other statewide data in this case other than
5 what you provided that the Court can use to evaluate the racial
6 effect of SB14?

7 A. Are there statewide data? There are the CCES surveys that
8 have some information, but they don't ask about type of ID that
9 one holds, which is one of the critical questions. So offhand,
10 I don't know of anything.

11 Q. Just one more question. To sum up your testimony, based on
12 all of the data that was available to you, what is your
13 conclusion on the likely impact that SB14 will have on Texas
14 voters?

15 A. My overall conclusion is that there are about 10 percent of
16 people on the voter registration records for which we were
17 unable to find a matching record on the state ID lists, the
18 driver's license list, the license to carry list, and also the
19 state ID lists. That's a pretty substantial number of people
20 for whom I could not find any matching record.

21 It's further the case that there's a substantial number
22 of people who actually voted in 2008 who are currently -- and
23 2010 elections who are currently on registration rolls who would
24 be affected by the new criteria, and it appears from the data
25 that I've been able to collect and ascertain that there are

1 substantial racial differences, and significant racial
2 differences across racial groups and the ability to find
3 matching records between the VR list and the state ID lists.

4 Q. Thank you.

5 MS. BELL-PLATTS: That's all the questions I have for
6 right now.

7 JUDGE WILKINS: Let me just ask one follow-up question,
8 just to try to understand. What if any conclusions do you
9 have - and if you don't have any, then just say none - with
10 respect to the likely impact of SB14 on the voting age
11 population of Texas generally? Not the registered voters, but
12 the voting age population?

13 THE WITNESS: I did not do an analysis of the possible
14 effects on the voting age population in Texas.

15 JUDGE WILKINS: All right. Thank you.

16 JUDGE COLLYER: Can I ask a question? Sorry. When you
17 say that there are significant racial differences, you mean that
18 they are statistically significant?

19 THE WITNESS: Correct.

20 JUDGE COLLYER: Are they statistically significant just
21 barely into the significant range, or are they statistically
22 significant in a robust fashion? I mean --

23 THE WITNESS: They're highly significant. The
24 probability of these differences emerging just by chance is
25 effectively zero.

1 JUDGE COLLYER: Thank you. Thank you. Here comes the
2 drum roll. It is 18 minutes after 2:00. Mr. Mortara has
3 two hours. We will take a short break before he gets to the end
4 of it, if we're lucky.

5 MR. MORTARA: Or if I'm lucky.

6 JUDGE COLLYER: Or maybe. Or maybe we won't. We might
7 just go through and then take a break, and then we'll know how
8 much time exactly the United States has left. Go ahead.

9 MR. MORTARA: Your Honor, if I may for a moment, I was
10 going to hand Professor Ansolabehere a pad and pen for reasons
11 we discussed earlier, and I would suggest we turn the screens as
12 we had discussed earlier.

13 JUDGE COLLYER: Oh, we didn't discuss the screens.
14 Judges, I completely forgot that. What do you think we should
15 best do?

16 (OFF THE RECORD.)

17 JUDGE COLLYER: We are in agreement that we should turn
18 the screen. The public can hear the testimony, but it really
19 doesn't have the same degree of concern about seeing the precise
20 evidence.

21 MR. MORTARA: Your Honor, may I begin?

22 JUDGE COLLYER: Please, sir, when you're ready.

23 MR. MORTARA: We need to turn this one as well, I guess
24 is what people are saying.

25 JUDGE COLLYER: Does it show up on that one?

1 MR. MORTARA: It's not an emergency. It's not the
2 first thing I'm putting up on the screen.

3 JUDGE COLLYER: Why don't you start?

4 **CROSS-EXAMINATION**

5 BY MR. MORTARA:

6 Q. Hi, Professor Ansolabehere. It's good to see you again.

7 A. Good to see you.

8 Q. I'm Adam Mortara, and for the first time in trial today, I'm
9 from the law firm of Bartlit, Beck, Herman, Palenchar & Scott in
10 Chicago. Nice to meet you again.

11 JUDGE COLLYER: You're not from Texas?

12 MR. MORTARA: No, but I wish I were, Your Honor, I
13 really do, because then I would have to show photo ID to vote,
14 unlike in Chicago, where you don't.

15 JUDGE COLLYER: Boy, is that a zing. Go on.

16 BY MR. MORTARA:

17 Q. You've written fairly extensively on the effects of voter ID
18 laws. Right?

19 A. Correct.

20 Q. And your initial report, though, doesn't cite or discuss in
21 the body of the report any of your publications on the effect of
22 voter ID laws, because the DOJ did not ask you to do that.

23 Correct?

24 A. Correct.

25 Q. I want to start off talking about your 2009 article in the

1 *Journal of Political Science*. This is Plaintiff's Exhibit 38.
2 I've got it up on the screen. In this paper from 2009, you did
3 some original research into the effect of voter ID laws, and
4 into poll worker behavior as well as voter opinions as it
5 pertains to voter identification and photo identification laws.
6 Correct?

7 A. This article reports studies that I had already -- most of
8 it is already done, so it's referencing back to earlier
9 research. There are a few original facts in this piece.

10 Q. And I just want to get to the introduction here on the right
11 column. You start off saying, "Not surprisingly, these laws
12 have been challenged in court." You go on to characterize the
13 two sides of the debate, "those challenging photo ID laws argue
14 that they place undue burden on voters and have discriminatory
15 consequences; those defending the laws argue they're essential
16 to ensure the legitimacy of elections." Do you see that?

17 A. Correct.

18 Q. And you go on to talk about photo ID laws, and what you mean
19 there is laws that require presentation of photographic
20 identification to vote in person. Right?

21 A. Correct.

22 Q. And one of the examples you give towards the bottom is, of
23 course, Indiana and the famous *Crawford* case. Right?

24 A. Yes.

25 Q. And I want to turn now to the bottom of Subsection 1, and at

1 the bottom of Subsection 1, on the right column on your screen,
2 Professor Ansolabehere, you report on a racial disparity in your
3 data on who is asked for identification. Correct?

4 A. Correct. And that's nationwide.

5 Q. And you report in this article from the CCES we've heard so
6 much about that Blacks and Hispanics were asked for photo
7 identification more than Anglos. Right?

8 A. Correct.

9 Q. And I'm highlighting a passage, and it says, "These racial
10 differences persisted upon holding constant income, education,
11 party identification, age, region, state laws, and other
12 factors." Do you see that?

13 A. Correct.

14 Q. Now, you found a racial disproportionality here in the
15 request for photo ID, but you didn't stop and say, "Well, poll
16 workers are acting on the basis of race," because that would be
17 bad social science. Correct?

18 A. Correct. What I did here is a multivariant regression
19 analysis that included, in addition to race, these other
20 factors - income, education, party identification, et cetera -
21 in predicting the probability that you were asked for ID.

22 Q. And to put that in layman's terms, you did good social
23 science and made sure that racial differences persisted upon
24 holding constant income, education, party identification, age,
25 region, state laws, and even other facts. Right?

1 A. Correct.

2 Q. Now, one thing you mentioned, or we heard mentioned, is
3 that -- I think it was Dr. Lichtman, actually, he mentioned that
4 there's a disparity also in who is asked for ID in Texas today
5 under current law. Correct?

6 A. I believe that's in Dr. Shaw's report.

7 Q. And it's from the CCES. Right?

8 A. Correct.

9 Q. But you've not done for your reports in this case the
10 vigorous analysis that you did in your 2009 paper on data in
11 Texas specifically, where you tried to control for various
12 factors to determine whether race was motivating the request for
13 photo ID. Right?

14 A. I was not asked to assess how the current law is being
15 administered in the State of Texas using the CCES, which would
16 be the parallel analysis here.

17 Q. And going from a time when minorities were asked for photo
18 ID more than Anglos, in the world of Senate Bill 14, we're going
19 ahead to time when everybody is asked for photo ID regardless of
20 race. Right?

21 A. Yeah, depending on how the law is administered. But that's
22 one of the questions. But presumably if everyone is required to
23 show ID, then everyone will be asked, so if the law is
24 administered exactly as it's written, my understanding is
25 everyone is asked for ID, or would be.

1 Q. And you have no reason to believe, sir, that Texas poll
2 workers would not follow the law of Senate Bill 14 if it's
3 ultimately precleared by this Court and Texas is permitted to
4 put it into place. Right?

5 A. No reason to believe that.

6 Q. Now, the data that produced this article - you said you've
7 done it before - comes in part from the CCES survey we've heard
8 so much about. Right?

9 A. Yes, the data comes from the CCES.

10 Q. And in fact, I think you mentioned, Texas expert
11 Professor Shaw works on the CCES survey as part of your team.
12 Right?

13 A. Well, he's part of the -- the teams are different university
14 teams, so he's part of the University of Texas team, but he
15 participates in the overall project.

16 Q. And you know Professor Shaw quite well. You're on a
17 first-name basis. Correct?

18 A. Correct.

19 Q. You used to play basketball against him?

20 A. Correct.

21 Q. You used to guard him?

22 A. Correct.

23 Q. He used to post up on you?

24 A. He's taller than me and he is a better basketball player
25 than me.

1 Q. And you have a lot of respect for Daron Shaw, don't you?

2 A. Daron was one of my students at UCLA.

3 Q. And you acknowledge that Professor Shaw is an expert in
4 surveys. Right?

5 A. Yeah, he's one of the experts in surveys.

6 Q. Now, coming back to the CCES from 2006 and 2008, CCES
7 participants were asked whether they were asked for photo
8 identification when they attempted to vote. Correct?

9 A. Correct.

10 Q. Now, I want to go to point number two of your article, and
11 it starts at that bottom of this page here. You see point
12 number two. The beginning sentence is: "The immediate voting
13 rights concern with photo identification laws is that they
14 prevent people from voting." And then at the top it says -- of
15 the next page, excuse me, Professor Ansolabehere, "and prevent
16 access to the polls of different groups or classes of voters.
17 Question: How many people were denied the vote as a result of
18 voter identify request?" Do you see that?

19 A. Yes.

20 Q. And that refers to the fact that you wanted to know if
21 people were going to be stopped from voting by voter ID laws
22 generally and photo ID laws specifically. Right?

23 A. Right. But keep in mind that the voter ID laws generally
24 are pretty wide range across the states and the comparison here,
25 in this analysis of the 25 states at this -- roughly 25 states

1 at this time that have some sort of requirement of showing some
2 form of ID, could be even a utility bill, and those 25 or so
3 states that don't have such a requirement.

4 Q. Dr. Ansolabehere, I'm just coming back to the beginning of
5 Section 2.

6 A. Yeah.

7 Q. "The immediate voting rights concern with photo
8 identification laws" is how that section begins. Right? And
9 you were interested in that specifically in this 2009 paper.
10 Right?

11 A. Correct.

12 Q. And we all understand that there were only two states that
13 had mandatory photo ID laws in 2008, Indiana and Georgia.
14 Right?

15 A. Correct.

16 Q. We're not hiding the ball here. But you did answer your
17 question, and the answer is, very few. Right?

18 A. Correct. In the 2006 and 2008 surveys, very few of the
19 respondents who were asked to show identification responded that
20 they were not allowed to vote after showing identification.

21 Q. And you even drew at least a predictive conclusion here
22 about photo ID laws. You said, "The actual denials of the vote
23 in these two surveys suggest that photo ID laws may prevent
24 almost no one from voting." That's what you said in 2009.
25 Right?

1 A. Correct.

2 Q. Now I want to shift a little focus to the general election,
3 because this article concerns the 2008 CCES Super Tuesday
4 primary. Right?

5 A. Right.

6 Q. And we have now the 2008 general election CCES data. Right?

7 A. Correct.

8 Q. And you saw that broken out for Indiana and Georgia in
9 Professor Shaw's report. Correct?

10 A. Right.

11 Q. And I'll put that up on the screen. Here we have
12 Professor Shaw's report, Figure 6. I went through this with the
13 court in opening. It shows who's asked for photo ID in Texas,
14 Indiana, and Georgia. And you see here that in 2008, 99 percent
15 of those in Indiana were asked for photo ID, and 99 percent of
16 those in Georgia were asked for photo ID. Right?

17 A. Correct.

18 Q. And that's because in those two states, it doesn't matter
19 whether you have an ID or don't, you're going to get asked.
20 Right?

21 A. That's what the survey indicates.

22 Q. And then Figure 7, which I'll scroll down to so you can see
23 it, Figure 7 shows who was permitted to vote after being asked
24 for identification in all three states. Right?

25 A. Correct.

1 Q. And Indiana and Georgia, 98 and 97 percent respectively were
2 permitted to vote. Right?

3 A. Correct.

4 Q. If you presume, based on the CCES data from your study, that
5 the poll workers in Indiana and Georgia followed the law, then
6 what we know is that virtually everyone who showed up at the
7 polls and tried to vote in Indiana and Georgia in 2008 had photo
8 identification or an exemption under those two laws. Right?

9 A. Or there was some instructions in the enabling legislation.
10 I don't know much about the administrative code in Indiana
11 pertaining to those laws, or Georgia. But however the laws are
12 to be interpreted at that polls, and whatever education was
13 performed for the poll workers - so whatever leeway the poll
14 workers were granted through the administrative implementation
15 of the law - then 98 percent in Indiana and 97 percent in
16 Georgia reported that they were allowed to vote.

17 Q. That's a yes. Right?

18 A. Right.

19 Q. And you're not aware of any direct evidence in this case,
20 with all your testimony you've given up to now, anywhere, that
21 Indiana or Georgia poll workers do not faithfully follow the law
22 in 2008 or any time. Right?

23 A. I know of no evidence that that is not the case.

24 Q. And you told me at your deposition, whatever it is, for
25 whatever reason, your own published research concludes that

1 photo ID laws may prevent almost no one from voting?

2 A. That is my own conclusion based on the survey research I've
3 done to date on this topic.

4 Q. And in fact, that's your conclusion based on the published
5 research that you've studied to date. Right?

6 A. Well, other published research disagrees with me, so we
7 can...

8 MR. MORTARA: Your Honor, may I approach?

9 JUDGE COLLYER: Yes.

10 BY MR. MORTARA:

11 Q. I'm going to refer you to page 273 of your deposition, where
12 I asked you at line 7:

13 QUESTION: "Whatever it is, for whatever reason, your
14 own published research concludes that photo ID laws may prevent
15 almost no one from voting. Right?" And you answered --

16 A. That's correct.

17 Q. "That is what the published research that I have studied has
18 indicated." Was that your sworn testimony?

19 A. That's my testimony. What I'm referring to is the data that
20 I have studied, the CCES data I have studied. That's what the
21 data -- as opposed to other people's articles and what they have
22 studied.

23 Q. Professor Ansolabehere --

24 MS. BELL-PLATTS: Objection, Your Honor. That's
25 improper impeachment.

1 JUDGE COLLYER: Yeah, that was not an impeachment. I
2 just want to tell you, that was not proper impeachment. This is
3 a court trial, there's no jury. So just keep going.

4 BY MR. MORTARA:

5 Q. Professor Ansolabehere, I'd like to talk now about your 2007
6 article in the "NYU Annual Survey of Law." Do you remember that
7 one?

8 A. Yes.

9 Q. And this is an article entitled "Access Versus Integrity in
10 Voter Identification Requirements." You remember we spoke about
11 this one before. Right?

12 A. Correct.

13 Q. And this is sort of a predecessor to your 2009 article in
14 the sense it uses 2006 CCES data. Right?

15 A. Correct. The 2006 data had just been compiled, and this is
16 my first take at it.

17 Q. And in general, we agree that the conclusions of the 2007
18 article are similar to the conclusions of 2009?

19 A. That's correct.

20 Q. I want to just point to you something that's been discussed
21 a couple of times from this 2007 article, which is the survey
22 results, and your interpretations of them, that I'm now showing
23 on page 619 of Plaintiff's Exhibit 24. And you list Table 1,
24 Voter Identification Support For, Application of, and Exclusions
25 By 2006 CCES Sample. Do you see that?

1 A. Yes, I do.

2 Q. And this is because the CCES asked people whether they
3 supported photo ID requirements to vote. Right?

4 A. Correct.

5 Q. And you have a table here showing the results, and I'm just
6 going to highlight the results here. And it shows that for all
7 groups, even people who would describe themselves as very
8 liberal, all groups by a majority supported the use of photo
9 identification. Right?

10 A. Correct. That's what that shows.

11 Q. And it's 77 percent of whites, 70 percent of Blacks, and
12 78 percent of Hispanics. Right?

13 A. Correct.

14 Q. Now, if someone suggested to you that this was a survey
15 about HAVA, that would be totally incorrect. Right?

16 A. What do you mean?

17 Q. You're not asking people their opinions of HAVA in this
18 survey. Right?

19 JUDGE COLLYER: Could you just define HAVA?

20 MR. MORTARA: The Help America Vote Act.

21 A. The question was not do you support the Help America Vote
22 Act.

23 BY MR. MORTARA:

24 Q. And your comments on the next page which I talked about in
25 my opening, "Perhaps the most surprising demographic or

1 political comparison arose with race, and the surprise was a
2 lack of division." That's not about HAVA, is it?

3 A. It's been awhile since I wrote that. Let me look at this.
4 No.

5 Q. That's about people's opinions about photo ID requirements.
6 Right?

7 A. That's about people's opinions about photo ID requirements.

8 Q. And what you found is that the Congressional Black Caucus
9 and Democratic Party leadership may have been wholly out of step
10 with the electorate on this issue. Right?

11 A. Based on their positions during the HAVA discussions about
12 the photo identification requirements.

13 Q. And when you did your survey, one group you didn't survey
14 were Democratic legislators. Right?

15 A. No, I did not survey Democratic legislators.

16 Q. So you don't know whether photo ID requirements enjoyed a of
17 majority support from that group?

18 A. You mean Democratic members of the House of Representatives?

19 Q. Sure.

20 A. No.

21 Q. I want to go back to your 2009 article, which is Plaintiff's
22 Exhibit 38, and at the end you discuss some research from the
23 Alvarez group at Cal Tech. Right?

24 A. Yes.

25 Q. And one of the conclusions that the Alvarez group at

1 Cal Tech as made in their 2008 paper is one we discussed at your
2 deposition. Right? And it was a finding of the Alvarez
3 group -- when you testified that you have no reason to disagree
4 with Alvarez and his colleagues who found that stricter voter ID
5 laws like photo ID laws do not have any racially discriminatory
6 impact. Right?

7 A. There are two version of their analysis. There's that
8 paper, which was not in a refereed journal, and then there's a
9 subpart of that paper which is in a refereed journal that's in
10 2011, I believe. Mike Alvarez is the lead author on that. He's
11 a member of the voting technology project, and I know him well
12 and have worked closely with him, and we happen to disagree on
13 some of these empirical analyses.

14 But the published version of their article shows a
15 substantial drop in turnout across all groups. The unpublished
16 version didn't show a substantial drop in turnout for the states
17 that had required photographic identification. I don't know
18 what the explanation is for the change in their results for
19 overall turnout without racial groups.

20 In the unpublished version in 2008, they have the
21 conclusion that they found no effect on the racial groups. I
22 don't know if the analysis would change or would be informed,
23 but it's a pretty substantial difference in the overall effect.
24 I have no reason to disagree with what they said in the
25 unpublished paper in 2008, but that did raise -- the fact that

1 the overall effect on turnout differed raised a red flag, and I
2 don't know if the racial -- the lack of a racial difference
3 would have carried through or not. That's just an analysis that
4 they haven't published yet.

5 Q. Could you turn to page 208 of your deposition?

6 A. Uh-huh.

7 Q. And at line 16 I asked you: "Do you have any reason to
8 disagree with Alvarez and his colleagues who found that stricter
9 voter ID laws, like photo IDs, do not have any racially
10 discriminatory impact?" And you answered: "I have no reason to
11 disagree with what they found at this point from the academic
12 literature." That was your sworn testimony. Right?

13 A. Right. And I think that is consistent with what I just
14 said. I'm just clarifying that there is this issue, which we
15 also discussed in the deposition, of the inconsistency between
16 the overall turnout effect that was published that was quite
17 different from the unpublished turnout effect. And I just don't
18 know what the explanation is. I have no reason to disagree
19 with --

20 Q. Dr. Ansolabehar, I'm sorry to interrupt --

21 JUDGE COLLYER: Excuse me. You can't interrupt him.
22 He's answering the question. You might not like the answer, but
23 it is an answer.

24 Are you done, sir?

25 A. As said in the deposition, I have no reason to disagree with

1 the result on page 208 that they found in their 2008 study no
2 racial difference. But there's this question that's lingering
3 about that, which is what explains the disparity -- what
4 explains why the analysis for all people differed between the
5 2008 version and 2011 version.

6 BY MR. MORTARA:

7 Q. Well, your testimony from this case up until now is that
8 neither Alvarez nor anyone else has concluded that Indiana's
9 photo ID law, even with their racial disparity in ID possession
10 rates, disproportionately reduce Black turnout. Right?

11 A. That's correct.

12 Q. Now, you talked a little bit about poll worker discretion in
13 your report. Right?

14 A. Uh-huh.

15 Q. And I want to just ask you, you're not aware of any direct
16 evidence in this case or anywhere that any poll workers from
17 anywhere in the state are violating the law. Right?

18 A. No.

19 Q. I want to turn now to your database match.

20 A. Okay.

21 Q. And first, we have a little bit of a terminological issue.
22 During direct you said something along the lines that you
23 focused on the 1.5 million reduced VRNID in your analysis.
24 Right?

25 A. For most of the analysis. Not all of it, but for most.

1 Q. I want to refer you to your report and your conclusions from
2 your report. And on the screen I have the conclusions section
3 of your first report. You see that?

4 A. Yes.

5 Q. And the first sentence of paragraph 48 of the conclusions
6 section of your report says: "The proposed voter identification
7 requirement for the State of Texas has the potential to create
8 difficulties nearly for 1.9 million registered voters, or one in
9 seven of those on the registration rolls in the state." Do you
10 see that?

11 A. Right. And those are the people on the VRNID list reduced,
12 plus the 125,000 that we couldn't match and have no information,
13 so there's some potential that there's a problem. And then the
14 266,000 that we don't know if they have -- we were not able to
15 get clarification as to whether they have a valid driver's
16 license, and there's a potential for problems for those people
17 as well.

18 Q. And as long as we're here, there's another conclusion that
19 you have in the same paragraph: "If only the driver's license
20 and license to carry databases are used to authenticate voters
21 as of April 30, 2012, then 1.9 million persons could not vote
22 because they do not have a corresponding matching record between
23 the voter registration list and the driver's license or license
24 to carry databases." Do you see that?

25 A. Correct.

1 Q. But we talked at your deposition, it's absolutely insane to
2 ask poll workers to search the DPS DL database. Right?

3 A. Correct. This is getting at the question of exactly how is
4 this law to be implemented, and exactly what information is to
5 be used and how is it to be used. One conceptualization of that
6 is, we take one list, we take another list, and we see if you
7 have corresponding information on that list.

8 Again, I'm not evaluating the administrative code which
9 would have to go along with the implementation of the election
10 law. Presumably, that's something the Secretary of State would
11 write, and that would, I guess, be the next stage in this. But
12 I'm just saying, if you take literally what we have done and if
13 this is literally what happens at the polling place, this is the
14 interpretation of the finding.

15 Q. I want to move on now to cleaning. You talked about
16 cleaning with Ms. Bell-Platts. Right?

17 A. Yes.

18 Q. And you had a slide on cleaning. Right?

19 A. Yes.

20 Q. And that slide didn't tell anybody the number of records you
21 cleaned from both databases. That slide didn't say it, did it?

22 A. I don't recall those numbers. It didn't have that on there.

23 Q. In fact, you cleaned five million records from the driver's
24 license database, or about 20 percent. Right?

25 A. Yes, I think it was 19 million plus some.

1 Q. And you only cleaned about 7,000 of 13 million records from
2 the voter registration database. Right?

3 A. Yes. Using the criteria described, that's all that were
4 caught from the voter registration list.

5 Q. And you made no effort to clean the voter registration
6 database of voters who were not eligible?

7 A. Right. I'm not trying to determine who is eligible for some
8 other reason. I'm just trying to say, of all the records on the
9 voter registration list, for how many of them can I determine if
10 there's a match.

11 Q. And you did not engage in any effort to identify records on
12 the voter registration database of people who were ineligible.

13 Correct?

14 A. Ineligible to vote, you mean?

15 Q. Correct.

16 A. Correct.

17 Q. In addition to removing the deceased from the driver's
18 license database, you could also have potentially removed people
19 from the voter registration database who had moved states.

20 Right?

21 A. Not from just the data that are available from that source,
22 if I follow what you're saying.

23 Q. Well, the third party provider, Catalist, they have access
24 to the national change of address database. Right?

25 A. We could get NCOA flags from them, potentially.

1 Q. And when you were preparing your reports, you could have
2 asked Catalist to tell you which people on the voter
3 registration database had, in fact, moved out of Texas, but you
4 didn't do that for your reports and the numbers you got today.
5 You didn't do that. Right?

6 A. I think the NCOA flag information that is available from
7 Catalist to us is only whether they moved, not whether they
8 moved in state or out of state.

9 Q. I want to move on now to talk a little bit more about
10 Catalist.

11 A. Okay.

12 Q. Here in your report, when you're talking about Catalist, say
13 you had validated -- "I found that nearly all persons identified
14 by Catalist as black, white, or Hispanic, identified themselves
15 in the survey as the same race projected by Catalist." And you
16 cited a paper down there. Do you see that?

17 A. Correct.

18 Q. And that's with you and Professor Hirsch. Right?

19 A. Correct.

20 Q. And we talked about that paper at your deposition. Right?

21 A. Correct.

22 Q. And at your deposition you told me that you had not
23 evaluated the accuracy of Catalist race assignment algorithm for
24 states like Texas, where voters do not provide their race when
25 they register. Correct?

1 A. Correct.

2 Q. From your direct, we saw slides that showed literally
3 hundreds of thousands of people in your VRNID that actually do
4 match to an expired or deceased entry in the DPS. Right?

5 A. Right.

6 Q. And the DPS has race information. Right?

7 A. It has some.

8 Q. And for your report, your deposition, and your testimony to
9 this court, you could have checked Catalist's racial matching
10 algorithm for blacks, for instance, by comparing what Catalist
11 came up with, with what these people told the DPS their race was
12 when they got the driver's license. Right?

13 A. I could have. We didn't go back and do that because there
14 were ambiguities in the racial categories on the DPS file. So I
15 did not go back and read the DPS data after the fact.

16 Q. I want to now talk to you about categories of people that
17 you're matching process from your reports in this case may have
18 misclassified. Mr. Hughes is going to help me out.

19 JUDGE COLLYER: Mr. Hughes, I'm sorry. We have a
20 visitor there that you're blocking, so you need to move that to
21 where it's in front of your table so that the judge can see.

22 MR. HUGHES: Yes, Your Honor. Thank you.

23 JUDGE COLLYER: Thank you, sir.

24 BY MR. MORTARA:

25 Q. And I've put a board up --

1 (OFF THE RECORD.)

2 BY MR. MORTARA:

3 Q. I've put a board up with eight categories. And for the
4 record, the eight categories are: Alternate First Name, Middle
5 Name As First, Spaces in Last Name, Last Name Change,
6 Spanish-English, Moved Away (Suspense), Moved Away
7 (Nonsuspense), and Federal ID. Do you see that?

8 A. Yes, I do.

9 Q. I'm going to put on the screen now an entry from your VRNID
10 database that your lawyers and I agreed is actually an entry
11 from your VRNID database.

12 MS. BELL-PLATTS: Objection. You're querying -- he's
13 querying his database.

14 MR. MORTARA: I'm only going to use the entries we
15 agreed on. That's the way I show it. I've done it twice in
16 trial already.

17 JUDGE COLLYER: Well, why don't you see what comes up?
18 Make your query and we'll move on.

19 BY MR. MORTARA:

20 Q. And Professor Ansolabehere, you read SQL code. We talked
21 about this at your deposition. Right?

22 A. Yes, it's -- I program in it actively, so...

23 Q. And I'm going to search your VRNID database for someone
24 called Kay Hutchison.

25 A. Okay.

1 Q. And I spelled it wrong. This is going to happen all day
2 long. Kay Hutchison, please excuse me. And you can see there's
3 someone on your database whose name is Kay, middle name Bailey,
4 last name Hutchison. Right?

5 A. Correct. Which database are we looking at?

6 Q. We are looking at your unmatched records, and then you can
7 see here, this code here - you know what this means - pulling in
8 your race data over here on the right. Do you see that?

9 A. Okay.

10 Q. I want to go through just what do some of these fields mean,
11 so the court can understand. You have these three fields here,
12 merge dls ssn, merge dls dfl, and merge dls dfml. Under all of
13 them its says "master only." Right?

14 MS. BELL-PLATTS: Objection, Your Honor. What we
15 agreed to was the spreadsheet that was provided by Mr. Mortara,
16 not to the manipulation of a database putting up other fields
17 that we just don't see. There's no proof that this is the
18 database. We agreed to the field.

19 JUDGE COLLYER: Wait, wait, wait, wait, wait. Does the
20 merge dis ssn (sic), does that come from your data, sir? Is
21 that part of your program?

22 THE WITNESS: That's part of the program. That is a
23 variable that's -- that's the name of a variable generated by
24 the program. I don't know if this is the same program, but...

25 MR. MORTARA: It's part of the data I sent them last

1 night, Your Honor. This is exactly what they confirmed.

2 JUDGE COLLYER: Listen, we've had this argument. I
3 don't need to waste time on it. What is the nature of your
4 objection?

5 MS. BELL-PLATTS: We confirmed the spreadsheet. The
6 underlying database that he is using has not been authenticated
7 by the Department of Justice. We can put up the names and we
8 agree that the names will appear, but this manipulation, we do
9 not agree to that, we didn't stipulate to that, and we didn't
10 stipulate to the database.

11 JUDGE COLLYER: It's not stipulated. Keep going.

12 BY MR. MORTARA:

13 Q. So what does "master only" means? That means that this
14 person is not part of your ambiguous driver's license set,
15 right, because it didn't match in any of your sweeps?

16 A. Master only is an indicator variable that's kept in Stata's
17 memory that indicates which file the record is on between
18 merges. There are three categories: One is it's on the master
19 file; two is it's on the merged file, the file I'm pulling in,
20 so the master file is the one I have in memory; and three is it
21 's on both.

22 So Master File 1 means this is a record that's only in
23 whatever the master file is that I was referencing in doing a
24 merge, assuming these are the right variables. So if I'm
25 merging, dls refers to the driver's license database, and I'm

1 merging to match on SSN, Social Security 9, then this is a
2 record that only showed up in the master file, the file I was
3 pulling data in to see if I've got a matching record. It did
4 not show up in -- the identical record did not show up in the
5 file I was pulling in to do the matching to.

6 The same interpretation is of the variable entitled
7 here "merge_dlsdfl." Where merge_dls is I'm merging the
8 driver's license -- using the driver's license data, I'm merging
9 in on the basis of "D" for date of birth, "F" for first name,
10 and "L" for last name.

11 And then the variable which is shown in Row 12 of your
12 code, merge_dlsdfml is when I performed the attempted match to
13 merge the files from the voter registration list and driver's
14 license list for date of birth, first name, middle name, last
15 name.

16 JUDGE COLLYER: So since this says "master only" under
17 all three of those, is the proper interpretation of that
18 information to mean that Kay Hutchison did not show up on any of
19 those merge lists, any of the other databases?

20 THE WITNESS: Correct. If I'm reading which file is
21 going which way.

22 BY MR. MORTARA:

23 Q. And the master file you used was the voter registration
24 database cleaned by you. Right?

25 A. I believe that's true. I would have to go back and look at

1 the code and make sure which file is calling it -- which order
2 we were doing the merging.

3 Q. Now, do you know who Kay Bailey Hutchison is?

4 A. Senator -- ex-senator from the State of Texas.

5 Q. And do you think she has photo ID?

6 A. I have no idea if she has a current photo ID.

7 Q. Would you agree with me that this is likely
8 Senator Hutchison, or would you like to see some additional
9 clarifying information?

10 A. I think she's likely Senator Hutchison. I'm sure we could
11 find some additional information. I'll take it as stipulated.

12 Q. I'm going to show you on the screen Plaintiff's Exhibit 530,
13 which is Kay Bailey Hutchison's Senate web page, and highlight
14 and ask you to observe her birthday here. Do you see that?

15 A. Yes. July 22, 1943.

16 Q. Professor Ansolabehere, as we go forward, don't read them
17 into the record. If you need to write them down, write them
18 down.

19 And you see her full name is Kathryn Ann Bailey --

20 JUDGE COLLYER: This is on the public record. It's on
21 the web site.

22 MR. MORTARA: I'm trying to condition the witness for
23 later.

24 JUDGE COLLYER: Right. There are certain kinds of
25 things, Professor, that if they get in the public record of a

1 trial, the lawyers have to go through and redact them before the
2 transcript can be posted on our electronic docket, and birth
3 dates are the sorts of things that have to be redacted because
4 they're considered personal identifiers or whatever.

5 However, I will say for the record that former
6 Senator Hutchison posts her birth date on her own web site, and
7 it does not need to be redacted from this record.

8 MR. MORTARA: Thank you, Your Honor. I'm going to try
9 to move along here.

10 JUDGE COLLYER: That's quite all right. I wanted to
11 explain what we were doing to everyone. Go on.

12 BY MR. MORTARA:

13 Q. Now, you had Kay Bailey Hutchison in DR, and her real
14 name -- her full legal name apparently is Kathryn Ann Bailey
15 Hutchison, but you didn't search Kathryn Hutchison when you were
16 trying to match records in the driver's license database.
17 Right?

18 A. No, I did not. That would be analogous to doing what we
19 were describing earlier as fuzzy matching, where you take a list
20 of potential nicknames and so forth and try to match on the
21 basis of those, or initials and things like that.

22 Q. And I'm doing something to pull up an entry. I don't want
23 you to look at what I'm doing; all I'm going to do is pull up a
24 name. I'm going to look at one name, and I want you to tell me
25 if the name I've highlighted on your screen, which your

1 attorneys have agreed, is from the driver's license database, is
2 the name Kathryn Bailey Hutchison.

3 MS. BELL-PLATTS: Objection. We don't know what
4 database he's querying.

5 JUDGE COLLYER: All right. That's fine. Objection
6 noted. Keep going.

7 BY MR. MORTARA:

8 Q. Your attorneys have agreed this is a correct entry from the
9 driver's license database you got.

10 JUDGE COLLYER: Okay. They're -- they haven't agreed
11 this is, but they have agreed that Senator Hutchison shows up in
12 both. Go on.

13 BY MR. MORTARA:

14 Q. You see here it says she has an active license. Right?

15 A. Correct.

16 Q. And she's on your VRNID list. She's on your list of people
17 who are potentially going to be affected by Senate Bill 14.
18 Right?

19 A. That's correct.

20 Q. Mr. Hughes, could you put Senator Hutchison's name up there?

21 JUDGE COLLYER: Under which?

22 BY MR. MORTARA:

23 Q. Under alternate first name, because that's why she didn't
24 match. Right?

25 A. That would be my guess. I don't know if there was some

1 other flag.

2 Q. And while he's doing that, you haven't reported in your
3 reports or anywhere the number of people that you might have
4 missed, like Senator Kay Bailey Hutchison, who actually have
5 photo ID but show up on your list because they're using
6 alternate first names between the two databases. Right?

7 A. We did not study alternate first names.

8 Q. I want to go to another name now. Another way that you
9 might not match is if you took your middle name and used it as
10 your first name, or even took your middle name and used a
11 nickname of your middle name as your first name and alternated
12 between the two databases. Right?

13 A. Okay.

14 Q. And let's take a look. And you see in your voter
15 registration database that your counsel has agreed, this entry
16 appears. There's a man called Phil Gramm. Do you see that?

17 A. Yes, I do.

18 Q. Do you know who Phil Gramm is?

19 A. Ex-senator from Texas.

20 Q. He's pretty famous. Right?

21 A. Yes.

22 Q. Do you happen to know what his full legal name is?

23 A. No, I don't.

24 Q. And interestingly, he still has a Senate web page, and you
25 can see that his full legal name is William Philip Gramm, former

1 senator from Texas, and his birthday is July 8, 1942. Do you
2 see that?

3 A. Correct.

4 Q. Now, I want to show you an entry from your driver's license
5 database. But instead of looking for Phil Gramm, I'm going to
6 look for William Gramm. And just to make it -- actually, I
7 won't make comments about what I'm doing, I'm just going to put
8 up a list.

9 And you see here an entry your attorneys have confirmed
10 is from the driver's license database you looked at is for a
11 William Philip Gramm, birthday July 8th, 1942, from Helotes,
12 with an active driver's license. Right?

13 A. Yes. Can I ask a question? It says, "active within." Is
14 that correct, active within?

15 Q. It says, "within renewal period." You've seen that before?

16 A. The rest of that was hidden. I just wanted to see what that
17 was.

18 Q. Professor, over here on the right is the admin status. Do
19 you see that on the screen? If you ever want to check that out,
20 just tell me and I'll scroll to it. Okay?

21 A. Okay.

22 Q. Now that we've looked and checked, Senator Gramm has
23 state-issued photo ID, a driver's license, and you missed it in
24 the VRNID because of the way the match worked?

25 JUDGE COLLYER: Can I ask a question? I would normally

1 have you come forward if we had a jury to ask you this question,
2 but we don't, so I'm going to just ask you. Wasn't it Texas who
3 insisted to the United States and to this Court that it was not
4 possible to make a comparison here at all because of these
5 issues?

6 MR. MORTARA: Your Honor, it's human intervention that
7 makes this possible, because since you asked, I just looked for
8 people that were famous whose birthdays I could find online --

9 JUDGE COLLYER: I don't really -- that is not the
10 issue. The issue is a statistical analysis, not a specific
11 analysis.

12 MR. MORTARA: We totally agree it's not possible,
13 Your Honor.

14 JUDGE COLLYER: I don't mean to interrupt you. You're
15 going to run out of time, and I don't mean to do that.

16 MS. BELL-PLATTS: Your Honor, can I make just a
17 standing objection to the manipulation of the databases in this
18 format?

19 JUDGE COLLYER: Yes.

20 MS. BELL-PLATTS: And we'll leave it there.

21 JUDGE COLLYER: Thank you.

22 BY MR. MORTARA:

23 Q. Mr. Hughes, could you put Senator Phil Gramm up there? And
24 the likely reason he didn't match is because he's taken his
25 middle name, used it as a nickname in voter registration

1 database, but he's got his full legal name in driver's license.
2 Right?

3 A. That appears to be the case, from what we've looked at here.
4 I didn't run the program, so I don't know what the flag would
5 be.

6 Q. Now, another way that somebody might not match is if they
7 have spaces in their last name in one database and not in
8 another. Right?

9 A. Possibly. There were some traps that we set up for fixing
10 odd trailing characters and spaces and so forth, but I would
11 have to go back and look at the program to see which of those
12 traps worked and didn't; you know, what was being trapped and
13 what wasn't being trapped.

14 Q. Do you know who Leticia Van de Putte is?

15 A. No.

16 Q. Let's take a look at the public record, then. This will be
17 from Plaintiff's Exhibit 531. It's an entry from the
18 *Texas Tribune*, it refers to State Senator Leticia Van de Putte.
19 Do you see that?

20 MR. MORTARA: Your Honor --

21 JUDGE COLLYER: What district does she represent?

22 MR. MORTARA: Your Honor, District 26 from San Antonio.

23 JUDGE COLLYER: Thank you.

24 BY MR. MORTARA:

25 Q. And you see the birth date here, Professor?

1 A. I see the birth date.

2 Q. And remembering the birth date, go back to the entries your
3 attorneys have confirmed is from your VRNID list. Same birth
4 date. Right?

5 A. Could you go back, please? Yes.

6 Q. And that's Leticia Van de Putte of San Antonio. Correct?

7 A. Correct.

8 Q. And let's just try to look for her.

9 MR. MORTARA: Excuse me, Your Honor. I will stop
10 saying what I'm doing.

11 BY MR. MORTARA:

12 Q. And here is an entry from the driver's license database that
13 your attorneys have confirmed is the one you looked at with
14 Leticia Van de Putte, all one word at the end, San Antonio, same
15 birth date. Right?

16 A. Correct.

17 Q. And shows she has an active driver's license. Correct?

18 A. Uh-huh.

19 Q. And the likely reason that Senator Van de Putte didn't match
20 is that she's got spaces in her last name in one database and
21 not in another. Right?

22 A. That appears. I would have to look at other things, like
23 whether there was a Social Security number, nine digit, and so
24 forth. Again, I would have to go through the code to see what's
25 getting flagged and what's not getting flagged in this case.

1 The last names are different.

2 Q. But you likely agree she doesn't have full nine in both the
3 same, because otherwise she wouldn't be on the list. Right?

4 A. That would be my guess.

5 MR. MORTARA: Mr. Hughes, could you write
6 Senator Van de Putte's name up there?

7 BY MR. MORTARA:

8 Q. The next category is a last name change, and you actually
9 testified this morning that you heard all about Licia Ellis.
10 Right?

11 A. Yes, I heard about her.

12 Q. And your attorneys told you that she was in your list.
13 Right?

14 A. Yes, they said that.

15 Q. And just putting it back on the screen very briefly, there's
16 Licia Ellis. You can see her birth date. I think we'll keep
17 that one completely out of the record. And you can see she's
18 from Houston. Right?

19 A. Yes.

20 Q. And coming back over to show you an entry from the DPS, I'm
21 putting in a different name, Licia Green. You can see the same
22 birth date, Houston. Right?

23 A. Correct.

24 Q. And just going to your database from VRNID, Catalist called
25 her Caucasian. Correct?

1 A. Correct.

2 Q. And on her driver's license she reports that she is, in
3 fact, black. Correct?

4 A. That's what the record -- that's what the database is
5 showing.

6 Q. And she's just an example of somebody who is using a married
7 name or alternate last name in one database and not in another.
8 Right?

9 A. Correct.

10 Q. Mr. Hughes, could you put that up there?

11 And now, for these three that we've just done, you
12 haven't checked to see how many people fall into any of these
13 categories in your VRNID that actually have active state-issued
14 photo ID, but they're in your list. Right?

15 A. Our program, the program I developed, does not look for
16 alternate spellings, nicknames, last name changes, and so forth
17 so as to ascertain the answer to your question.

18 Q. You don't know the number?

19 A. So we did not do that. We looked for exact matches of the
20 records.

21 Q. You don't know the number of people that fall into these
22 categories?

23 A. So I don't know the number because I didn't do what you're
24 suggesting, which would be an additional programming exercise.

25 Q. But at least one of them exists in each of these categories

1 and three of them are senators, two of them United States
2 senators, one of them a Texas state senator. Right?

3 A. That's what.

4 Q. And the fourth one is the wife of a Texas senator. Right?

5 A. Okay. Yeah.

6 Q. Professor Ansolabehere, does Senate Bill 14 discriminate
7 against the families and members of the U.S. and Texas Senate?

8 MS. BELL-PLATTS: Objection.

9 A. I don't know.

10 BY MR. MORTARA:

11 Q. I would like to go on to the next category, which is
12 Spanish/English, and somebody can have a Spanish name in one
13 database and an English name in another. Right?

14 A. Correct.

15 Q. Do you know who Aaron Pena is?

16 A. No.

17 Q. Well, let's take a look in your list for Aaron Pena.

18 MR. MORTARA: And forgive me, Your Honor. I'm going to
19 stop characterizing what I'm going right now, I promise.

20 BY MR. MORTARA:

21 Q. And I want to direct you to a list -- an entry here that
22 I've highlighted, Aaron Pena, date of birth you can see on the
23 screen, write it down, from Edinburg, Texas, race given,
24 Hispanic, do you see that from your list?

25 A. Yes, I do.

1 Q. Now, I'm going to go over in the database. Do you know what
2 the Spanish for Aaron is?

3 A. No.

4 Q. Well, let me just try something. I don't know either. And
5 I want to direct your attention to the entry I've highlighted,
6 and that one alone, Aron Pena, birth date is the same as the one
7 you wrote down. Right?

8 A. Yes, it is.

9 Q. Edinburg, and it shows he has an active driver's license.
10 Right?

11 A. Correct.

12 Q. And just so that we keep everybody in the know as to our
13 celebrity list, Aaron Pena is, in fact, a member of the
14 Texas House. You see that. Yes?

15 A. I see his name.

16 Q. This is from Exhibit 526. He's got a District office in
17 Edinburgh. You see that?

18 A. That's what the screen shows.

19 Q. You can see it shows his birth date is the same as the one
20 you wrote down. Right?

21 A. Yes, it does.

22 MR. MORTARA: Mr. Hughes, could you put
23 Representative Pena on there?

24 BY MR. MORTARA:

25 Q. You didn't search for this number either, the same reasons

1 you gave as the other one. Right?

2 A. Correct.

3 JUDGE WILKINS: Can you go back to the driver's license
4 entry?

5 MR. MORTARA: Certainly, Your Honor. What's your
6 question?

7 JUDGE WILKINS: For the record, what is the race that's
8 indicated there?

9 MR. MORTARA: It is white, Your Honor.

10 BY MR. MORTARA:

11 Q. Now, I want to talk to you about another group of people in
12 your VRNID, which is people who moved away and are on suspense.
13 In your report, you don't tell us how many people in Texas --
14 how many people on your VRNID are no longer eligible to vote
15 because they moved away from Texas. Right?

16 A. Correct. I was not asked to assess who was eligible to vote
17 in Texas.

18 Q. Do you know who John Byars is?

19 A. No.

20 Q. Okay. I'm going to pull up an entry -- I'm going to show
21 you some data that the Justice Department has agreed is from
22 your list. It's for a John David Byars, write down the date of
23 birth, please?

24 A. Which one, John L, not John David?

25 Q. Please, look only at the one I've highlighted. You see that

1 he's in suspense. Yes?

2 A. Yes.

3 Q. And the city name is DeSoto. Do you see that?

4 A. Yes.

5 Q. And his race given, Caucasian. Right?

6 A. Yep.

7 Q. And I'm going to pull up an entry for a John Byars in the
8 driver's license database. And you see here John David Byars,
9 same birth date. Right?

10 A. Yes.

11 Q. And you see that he has an expired driver's license. Right?

12 A. Correct.

13 Q. And so the reason that John Byars didn't match is that you
14 took out the expired licenses. Right?

15 A. Correct.

16 Q. And this is the same person, the same first, last, middle,
17 date of birth. Right? If you left the expired in, he would
18 have matched. Right?

19 A. Yes.

20 JUDGE COLLYER: But with the expired license, could he
21 vote?

22 MR. MORTARA: Well, Your Honor, we're about to find
23 out. I'm going to ask the witness --

24 JUDGE COLLYER: No, no, answer the question. With an
25 expired license for two years, could he vote?

1 MR. MORTARA: Legally, no. And the reason is what I'm
2 going to show you on Plaintiff's Exhibit 538, which is an entry
3 from a law firm called Bartlit, Beck, Herman, Palenchar, and
4 Scott.

5 BY MR. MORTARA:

6 Q. Do you know that law firm, Professor?

7 A. I believe that's the law firm you reported you work for; is
8 that correct?

9 Q. And you see the name John D. Byars on this bio page from the
10 web site of the law firm, Bartlit, Beck, Herman, Palenchar, and
11 Scott?

12 A. Yes, I see John D. Byars.

13 JUDGE COLLYER: Doctor, he's another one of the famous
14 people.

15 MR. MORTARA: He's famous to me, Your Honor.

16 JUDGE COLLYER: Believe me, that was not a joke. He
17 fits right in.

18 BY MR. MORTARA:

19 Q. And you see that he used to work at a firm called
20 Weil, Gotshal. Do you see that?

21 A. Yes.

22 Q. Do you know if Weil Gotshal has an office in Dallas?

23 A. I don't know that firm.

24 Q. Well, John Byars has been my law partner since 2009, and
25 he's been at my firm since 2005. He's been at the firm of

1 Bartlit --

2 JUDGE COLLYER: You cannot testify.

3 MR. MORTARA: I'm sorry, Your Honor.

4 BY MR. MORTARA:

5 Q. He's been at the Bartlit Beck law firm since 2005, which is
6 in Chicago. Right?

7 A. Bartlit Beck, yes.

8 Q. And would you guess whether he has an Illinois driver's
9 license?

10 A. I have no idea. I could guess, but --

11 Q. I'll show you on the screen Plaintiff's Exhibit 539, which
12 is the driving license of John Byars with the birth date the
13 same as the one you wrote down. Right?

14 A. Correct.

15 Q. And if John Byars has been living in Illinois since 2005,
16 and happens to still be in the voter registration database but
17 on suspense, he can't legally vote in Texas, can he?

18 A. Doesn't appear to be.

19 Q. And you haven't done anything in your reports or any of your
20 analysis to try to clean out people like John Byars, who works
21 at the law firm of Bartlit in Chicago and has an Illinois
22 driver's license. Right?

23 A. No, I did no effort to find who had driver's licenses in
24 other states. This seems to be getting us closer to questions
25 of NVRA purging or something like that.

1 Q. And next question, Professor, do you know a man called
2 Brandon Craft?

3 A. It's a familiar name, but I can't -- the Kraft family is
4 quite prominent in Massachusetts.

5 Q. Yes, but not spelled the way I'm about to. That's
6 K-R-A-F-T. Right?

7 A. Yeah.

8 Q. And I'm going to show you an entry from your database what
9 your lawyers said was an entry from your VRNID database for a
10 man called Brandon Richard Craft. Do you see that?

11 MS. BELL-PLATTS: Your Honor, just again another
12 standing objection. We stipulated to --

13 JUDGE COLLYER: That's fine. You already made that
14 objection.

15 MR. MORTARA: Your Honor, I've really got limited time.

16 BY MR. MORTARA:

17 Q. So write down the birthday. You see the birthday and you
18 see the voter status code is active. Right?

19 A. Could you...

20 Q. See it says "V"?

21 A. Voter status "V." Right.

22 Q. Nonsuspense from Houston. Do you see all that?

23 A. Yes.

24 Q. Now, finally having disciplined myself, I will say
25 nothing --

1 JUDGE COLLYER: I wouldn't say nothing, but --

2 BY MR. MORTARA:

3 Q. -- while I pull up an entry from the driver's license
4 database that your attorneys have said is okay. Do you see it?

5 A. Yes.

6 Q. And it's the same name with the same birthday. Do you see
7 it?

8 A. Correct.

9 Q. And it matches to an expired license. Do you see that?

10 A. Yes.

11 Q. Just so you know, there's two administrative statuses there.
12 Do you see that?

13 A. Correct.

14 Q. And one is licensed in another jurisdiction. Right?

15 A. Correct.

16 Q. And the state told you that meant the person had gone and
17 gotten a driver's license somewhere else. Right?

18 A. Correct.

19 Q. So this is another person with an expired license who didn't
20 match, who ended up in your VRNID because they matched to an
21 expired entry, but you had taken all the expired entries out.
22 Right?

23 A. Correct. There's also another classification that says,
24 "ALR reinstated."

25 Q. Okay.

1 A. I would have to look back at the code to see which of these
2 is the primary of the two indicators.

3 Q. For whatever reason, Brandon Craft is in your VRNID. Right?

4 A. Okay.

5 Q. Well, let's find him. Here's the Facebook page of someone
6 called Brandon Craft, it's Exhibit 576, and you see at the top
7 it says he studied finance at the University of Houston. Do you
8 see that?

9 A. Okay.

10 Q. And he lives in Portland, Oregon. Do you see that?

11 A. Okay.

12 Q. And you see that he was born on the date that is the same
13 month and day that you saw there. Right?

14 A. Okay.

15 Q. And do you think Mr. Craft has an Oregon driver's license,
16 given that you saw he's licensed in another jurisdiction?

17 A. That would be a guess, but...

18 MS. BELL-PLATTS: Objection, Your Honor. How could he
19 possibly know?

20 JUDGE COLLYER: Right. That's fine. It's a rhetorical
21 question. It's very well understood that it's a rhetorical
22 question.

23 MR. MORTARA: We don't have to guess.

24 JUDGE COLLYER: Mr. Poor Craft doesn't even know. We
25 should put something on his Facebook page that says, "We all say

1 hello." Go ahead. Go ahead.

2 MR. MORTARA: We'll address that in a moment,

3 Your Honor.

4 BY MR. MORTARA:

5 Q. This is Mr. Craft's driver's license. You can see he's got
6 the same birth day you wrote down. Right?

7 A. Yes.

8 Q. And you have no reason to believe this isn't Mr. Craft's
9 Oregon driver's license. Right?

10 A. No reason to believe that.

11 Q. Issued in 2010. Do you see that?

12 A. Yes.

13 Q. As far as you know, if he's a resident in Oregon and not in
14 Texas, he can't legally vote in Texas, can he?

15 A. Right.

16 Q. He's not affected by Senate Bill 14 even though he's in your
17 list. Right?

18 A. That would appear to be the case. But, again, I haven't run
19 through the program and, again, we're not matching to the
20 national driver's license list which, as far as I know, doesn't
21 exist.

22 Q. And Professor Ansolabehere --

23 MR. MORTARA: Mr. Hughes, could you get Brandon's name
24 up there?

25 BY MR. MORTARA:

1 Q. Same thing, you haven't checked the numbers of people who
2 fall into this category. Mr. Craft is actually not in the
3 suspense list if somebody is picking up his mail back in
4 Houston, or it's just not -- for whatever reason, he's not on
5 the suspense list, but he's apparently living in Oregon, not
6 voting in Texas, having a pleasant life according to his
7 Facebook page?

8 I just want to, for the court's benefit, and yours,
9 clear up how it is Mr. Craft came to be involved in this case.
10 You see the woman here next to him? Do you see that woman?

11 A. I see a picture, yeah.

12 Q. And you see he's engaged to that woman?

13 A. Okay.

14 Q. And who is he engaged to? Could you read the name into the
15 record?

16 A. Nicole Mortara. Did I get it right?

17 Q. What is my name?

18 A. Adam Mortara.

19 Q. I have one more example on the list for you of people you
20 say are affected by Senate Bill 14 on your VRNID list, sir.

21 MR. MORTARA: For the record, Mr. Sells just told me
22 that my sister is better looking than I am.

23 JUDGE COLLYER: That was not Mr. Sells. I just want to
24 say, that was not Mr. Sells. I know these people well enough
25 now. Go ahead.

1 MR. MORTARA: I got excited.

2 BY MR. MORTARA:

3 Q. Because this is a big one. Professor Ansolabehere, who is
4 George Walker Bush?

5 A. George W. Bush.

6 Q. Yeah.

7 A. The ex-president of the United States. I take it that's the
8 same person.

9 Q. And do you think he has a passport?

10 JUDGE COLLYER: A passport?

11 MR. MORTARA: Yes, a passport. That's the federal
12 category here, Your Honor.

13 JUDGE COLLYER: We didn't look at federal at all.
14 Right?

15 MR. MORTARA: That's a big problem, isn't it?

16 JUDGE COLLYER: Well, we all know that fact, so I don't
17 think that the fact Dr. Ansolebehere didn't see them is -- I
18 mean, you're not proving anything by showing that.

19 MR. MORTARA: I'm proving that President George W.
20 Bush is in Professor Ansolabehere's list of voters allegedly
21 affected by Senate Bill 14. That's all I want to prove.

22 JUDGE COLLYER: But he may not have a driver's license,
23 and just because he has a passport doesn't mean that he's going
24 to show up in any database that the professor looked at.

25 MR. MORTARA: Your Honor, all I'm trying to establish

1 is that I think professor and I agree that President Bush likely
2 has a federal ID that will satisfy Senate Bill 14.

3 JUDGE COLLYER: But "likely has" is insufficient. The
4 fact that he doesn't have a driver's license -- he used to be
5 President. He doesn't have a lot of normal things that people
6 who live in the real world have.

7 BY MR. MORTARA:

8 Q. He's in your list, President Bush. Right?

9 A. Okay. I didn't look for him.

10 Q. This is the data your attorneys agreed to. That's
11 President Bush.

12 And I want to, now, talk about some of these
13 categories -- you can't calculate how many people moved away and
14 they're on nonsuspense. Right? I just wanted to make sure we
15 got that.

16 A. No, I didn't mark it.

17 Q. And Judge Collyer has pointed out you didn't do anything
18 with federal ID. We'll leave the President's name off, per the
19 court's instruction.

20 But you agree with me it's entirely possible that
21 Latinos in Texas disproportionately possess citizenship
22 certificates. Right?

23 A. Say that again.

24 Q. You agree with me it's entirely possible that Latinos in
25 Texas disproportionately possess citizenship certificates.

1 Right?

2 A. It's entirely possible. I haven't done a study of
3 possession of citizenship certificates, but it seems possible.

4 Q. And it's also possible that they disproportionately possess
5 passports. Right?

6 A. It seems possible as well. I haven't looked at any data. I
7 know of no studies of incidences of passport holding in Texas.

8 Q. And those people would fall into the category of people with
9 Senate Bill 14 acceptable federal ID but could be on your VRNID
10 list if they don't have state ID?

11 A. Potentially, yeah, it's possible.

12 Q. And you agree it's somewhat commonsense that might be true
13 that Latinos may have spaces in their last names more often than
14 non-Latinos?

15 A. I don't know. Van de Putte is a Dutch last name.

16 Q. Funnily enough, she's Latino, though. Right?

17 A. For self-identification. But it's a Dutch last name. Your
18 example is of a type of last name. It's a Dutch last name,
19 yeah.

20 Q. Professor Ansolabehere, the question just is: Do you agree
21 it's common sense that it might be true that compared to Anglos,
22 Latinos have spaces in their last names more often?

23 A. I have no idea.

24 Q. You didn't check?

25 A. No.

1 Q. Now, you talked a lot about the Hispanic population
2 explosion in Texas both in the redistricting trial and a little
3 bit today. Right.

4 A. I don't recall talking about a Hispanic population explosion
5 today, but we did in the redistricting trial.

6 Q. You talked about how it skews younger, the Hispanic
7 population. Right?

8 A. Yes.

9 Q. And women who get married, they tend to be on the younger
10 side just as a proportion of the population. Right?

11 A. You mean married women are on -- what is the question.

12 Q. When women get married, they tend to be younger. Right?

13 A. On the date that they get married, you mean --

14 Q. Yeah, like women get married in the country every year.
15 Sixty percent of them are --

16 A. Below average age? So the women who are getting -- is the
17 question on the date that women get married, they are below
18 average age for all women in the population? I believe the
19 answer is correct.

20 Q. Yes. And that means that the women getting married in
21 Texas, if the national database is to be believed, are
22 disproportionately Latino. Right?

23 A. I don't know what the marriage rate is...

24 Q. Possible.

25 A. It's possible. Possibly they have a lower marriage rate

1 that whites do. I don't know.

2 Q. Let's find one more. You agree that Spanish/English
3 transposition between the two databases is overwhelmingly more
4 likely to be true for Latinos. Right?

5 A. What is the exact question again, Spanish to English
6 translation?

7 Q. Transliteration between the two databases, like
8 Representative Pena, who is Aron Pena in one database but
9 Aaron Pena in the other?

10 MS. BELL-PLATTS: Objection. Assumes facts not in
11 evidence whether Aron, A-R-O-N, is the Spanish spelling of
12 Aaron, A-A-R-O-N.

13 MR. MORTARA: Your Honor --

14 JUDGE COLLYER: Well, in any event, all we're asking
15 about is possibilities to which the witness cannot really agree,
16 although he can say it's possible to some but I have no idea as
17 to others. Possibilities are just possibilities. Go ahead.

18 MR. MORTARA: This would be an excellent time for that
19 break. This is a great break point.

20 JUDGE COLLYER: Let's keep going, and then we'll take a
21 break.

22 BY MR. MORTARA:

23 Q. I want to go through some other people on your list. Okay?

24 A. Uh-huh.

25 Q. And I'm going to give you -- so we can speed it up and not

1 do all the writing down as much, I'm going to give you some
2 summaries of the data that your lawyers has confirmed is on the
3 database that you have in your list.

4 MR. MORTARA: That will be Plaintiff's 585 and 586,
5 Your Honor. Your Honor, may I approach?

6 JUDGE COLLYER: Yes. Professor, I didn't ask you,
7 would you like a break?

8 THE WITNESS: I'm doing okay.

9 MS. BELL-PLATTS: Your Honor, could we charge to the
10 United States a minute to review this?

11 JUDGE COLLYER: You can have a minute to review this at
12 his expense, because it's his exhibit that he's just producing.

13 MR. MORTARA: May I continue while they're reviewing,
14 please?

15 JUDGE COLLYER: Well, one person can review and one
16 person can listen, as long as that's true.

17 BY MR. MORTARA:

18 Q. Now, I want to go through some of those people on the list I
19 handed you. The data is --

20 A. Which list? You gave me two.

21 Q. One, is a subset of the other, but one is printed in larger
22 form. I want to make sure you have all the data available to
23 you, Professor Ansolebehere, but I needed to cut it down to make
24 it bigger, so I wanted you to have the birth dates and things of
25 that nature there. All right. Do you see a name on that list,

1 Eva Fuentes Saenz. Do you see that?

2 A. Yes.

3 Q. And I want to put up that entry. And you see in an entry
4 your lawyers agreed is from your VRNID, database, Eva Fuentes
5 Saenz. Do you see that?

6 A. Yes.

7 Q. With the same birthday I've given you on those sheets so you
8 could follow along. Right?

9 A. Okay.

10 Q. And you see she's from a town called Dimmit. Do you see
11 that?

12 A. Okay.

13 Q. And she's listed as Hispanic. Do you see that?

14 A. Correct.

15 Q. And remember the birthday. Right, sir?

16 A. Yes.

17 Q. And do you see Eva Saenz here --

18 A. Yes.

19 Q. -- in the driver's license entry? Your attorneys agree this
20 was from the driver's license database you gave. Do you see
21 that?

22 A. Yes.

23 Q. Same birth day, do you see that?

24 A. Yes.

25 Q. And she has an active identification. Right?

1 A. Yes.

2 Q. No administrative status that you can see here. Right?

3 A. Correct.

4 Q. Why did she end up on your list?

5 A. I'm not sure. I would have to look at the code. She has a
6 matching first name, last name, and date of birth, it appears.

7 Q. I want to ask you about another person, or rather ask you
8 about another entry. One moment, please,
9 Professor Ansolabehere.

10 I'm going hand to you what's been marked Plaintiff's
11 Exhibit 790 and Plaintiff's Exhibit 791.

12 JUDGE WILKINS: 790 or 590?

13 MR. MORTARA: 790 and 791, Your Honor.

14 JUDGE COLLYER: Are these new exhibits?

15 MR. MORTARA: Yes, they are, Your Honor. They're for
16 cross-examination purposes only.

17 BY JUDGE COLLYER:

18 Q. Exhibit 790 is a certified record from the Texas Department
19 of Public Safety for Eva Saenz. Do you see that?

20 A. I see that.

21 Q. And it shows that she has -- it's the same address that we
22 haven't read into the record. Do you see that?

23 A. Correct.

24 Q. And the same birthday. Right?

25 A. Same town. I don't have the address in front of me. And

1 same birthday.

2 Q. And it's a driver's license. Right?

3 A. Yes, got it.

4 Q. And it's expired. Right?

5 A. It says, "date of expiration indefinite."

6 Q. No, you're looking at the wrong one, sir. Please look at
7 790. It's a driver's license and it's expired. Do you see
8 that?

9 A. You're asking me to look at --

10 Q. 790, lower right corner, 790.

11 A. Got it.

12 Q. It's a driver's license and it's expired. Right?

13 JUDGE COLLYER: Why can't he look at the screen.

14 MR. MORTARA: He can.

15 A. It has a date of expiration --

16 JUDGE COLLYER: Look at the screen. It would be
17 easier.

18 A. 02/17/2012, yes.

19 Q. That's an expired driver's license that Ms. Saenz has.
20 Right?

21 A. That's what appears to be indicated here.

22 Q. And she is 77 years old. Right?

23 A. Yes.

24 Q. Maybe doesn't drive anymore. Look at 791, sir. Same woman?

25 A. Uh-huh.

1 Q. Same address, after her driver's license expired, what did
2 she get?

3 A. I don't know what this form is. I'm not familiar with this
4 printout.

5 Q. Does this suggest to you that maybe she got a state
6 identification?

7 A. Possibly. I would have to check the database.

8 Q. Let's check the database. Do you see the type here where it
9 says "active"?

10 A. Yes.

11 Q. So she stopped driving and she's got a state ID. She's got
12 one expired entry in the driver's license database, presumably.
13 Correct?

14 A. Correct.

15 Q. And one active. Right?

16 MS. BELL-PLATTS: Objection. He's testifying now.

17 JUDGE COLLYER: Yeah, he is.

18 MR. MORTARA: It's a hypothetical question.

19 JUDGE COLLYER: It's not hypothetical. Don't be silly,
20 it's not hypothetical at all.

21 MR. MORTARA: I'll rephrase it as hypothetical.

22 BY MR. MORTARA:

23 Q. Assuming Ms. Saenz has an expired entry in the driver's
24 license database and an active one for the state ID in the same
25 database, could that be why she didn't match?

1 A. I would have to look at the code to see how the flags worked
2 because we had orders in which these flags were raised. What
3 the program does, it grabs the most recent active information.
4 So we actually received three different files from the State of
5 Texas DPS, an issuance file, an administrative file, and the
6 full driver's license file, and I would have to go back in and
7 look at how the issuance data was treated and how the
8 administrative data was treated.

9 The administrative status data largely gave us deceased
10 information; the issuance told us what the type of ID was, was
11 it state ID, was it a driver's license, what the status of the
12 driver's license was. Those had to be merged, and the sequence
13 of the dates was quite important. So I would have to go back
14 and look at it. But what you're pointing to is a possible
15 reason, but I would have to see.

16 Q. I want to talk about somebody else called Michael Flores
17 Hiracheta. Do you see that name on the lists I gave you?

18 A. Yes, I see it.

19 Q. And I'm now going to show you actually two entries your
20 attorneys have agreed are from your driver's license database
21 for a Michael Hiracheta. Do you see that?

22 A. Yes, I see it.

23 Q. You see his birthday, same as the ones on the sheet? Do you
24 see that?

25 A. Yes.

1 Q. Yes, you see it?

2 A. Yes, I see it.

3 Q. And he's from a town called San Marcos. Right?

4 A. Yes.

5 Q. And this guy has both an active driver's license and an
6 active state ID. Do you see that?

7 A. I see that.

8 Q. Well, let's see Michael Hiracheta's entry on your VRNID.
9 There's Michael Flores Hiracheta. Right? Do you see that?

10 A. Correct.

11 Q. An entry from your VRNID your attorneys agree was accurate.
12 Right?

13 A. Correct.

14 Q. And same birth day. Right?

15 A. Correct.

16 Q. And same town, San Marcos. Right?

17 A. Correct.

18 Q. Listed as Hispanic. You see that?

19 A. Correct.

20 Q. And from what I've shown you, and the data your attorneys
21 have agreed is accurate from the driver's license database you
22 reviewed, Mr. Hiracheta, in fact, has both an active state
23 identification card and a state driver's license, but you put
24 him on your VRNID list as somebody who is affected by Senate
25 Bill 14. Right?

1 A. There could be some other reason. I would have to look at
2 the code and flag that particular case and look very closely at
3 this case as to why it was kicked out.

4 JUDGE WILKINS: Does the race that's indicated have any
5 effect at all on matching?

6 THE WITNESS: No.

7 BY MR. MORTARA:

8 Q. I would like to talk about another person now --

9 JUDGE WILKINS: I would just note for the record that
10 in the driver's license database I think he was listed -- the
11 race was listed as white.

12 MR. MORTARA: If Your Honor would prefer, I could read
13 that into the record every time.

14 JUDGE COLLYER: We don't need to. If it's different,
15 it might be worth noting, but you don't need to read it into the
16 record every time.

17 MR. MORTARA: Your Honor, you read my mind.

18 BY MR. MORTARA:

19 Q. I'm going to show you the entry for a woman called Leticia
20 Keel from your VRNID database. Do you see that?

21 A. Okay.

22 Q. That's Leticia K. Keel. Do you see that?

23 A. Okay.

24 Q. Do you see the birth day? Right?

25 A. Yes.

1 Q. And you see her address, which I won't read into the record,
2 but it's a street in Amarillo. Do you see that?

3 A. Okay.

4 Q. And you see that she's listed in your database as Black.
5 Correct?

6 A. Okay.

7 Q. And over in the driver's license database, your associates
8 at Catalist -- here she is, you see her?

9 A. Yes, I do.

10 Q. Leticia K. Keel, same birth day, same address, same town.
11 Right?

12 A. I do.

13 Q. And first, let's point out she has an active driver's
14 license even though she's in your VRNID. Right?

15 A. Correct. And I have no idea why. I would have to look at
16 the program and the specific cases around it and how this record
17 was treated in the merging process.

18 Q. And you see she has no admin status. Right?

19 A. None that I see there.

20 Q. And what's her race listed in the driver's license database?

21 A. It's listed as white.

22 Q. Which means she probably reported to the driver's license
23 that she's actually white. Right?

24 A. Correct.

25 Q. Let's try another one. I'll show you an entry from your

1 VRNID, a woman called Angelet Nicole Sadler. Do you see that?

2 A. Yes, I see that.

3 Q. May 5th, 197 --

4 MR. MORTARA: Please excuse me, Your Honor. I move to
5 strike what I just said.

6 BY MR. MORTARA:

7 Q. You see the birth day. Correct?

8 A. I do.

9 Q. And you see the address in Houston. Right?

10 A. I do.

11 Q. And you see the race listed by Catalist as Black. Right?

12 A. I do.

13 Q. And she's on your VRNID database. Right?

14 A. I guess. I don't have --

15 Q. Your attorneys have agreed this is an entry.

16 A. Yeah.

17 Q. So that's Angelet Nicole Sadler, birthday, you see, you have
18 it in front of you on the sheet as well. And you see that
19 Angelet Nicole Sadler on the screen, same first, middle, last
20 name, same date of birth, same street address, is in the
21 driver's license database with an active license. Do you see
22 that?

23 A. Yes, that appears to be correct.

24 Q. And what race is she listed in the driver's license
25 database?

1 A. She listed herself as white.

2 Q. Professor Ansolabehere, you, sitting here, can't tell me why
3 it is Angelet Sadler has an active driver's license, but she's
4 in your VRNID, can you?

5 A. I don't know why this person was flagged. I would have to
6 go through the program and set up a flag at that record and
7 extract the surrounding cases and all.

8 MR. MORTARA: Your Honor, is now a good time for that
9 break? Because I can keep going or I can take a break.

10 JUDGE COLLYER: You can keep going.

11 BY JUDGE COLLYER:

12 Q. I'm going to put up a board with a list of entries from your
13 VRNID database. It's some identifying information that your
14 attorneys have confirmed comes from your VRNID database. Do you
15 see it on the board?

16 A. Yes, I see it on the board.

17 Q. You see everybody on the board has the name De la Garza,
18 with spaces. Correct?

19 A. Correct.

20 Q. I'm going to pull them up in a list so you can see them on
21 the screen too, sir. Just one moment. And I think you'll see
22 I've got the same list of people pulled up and highlighted that
23 I just pulled up on the screen. You see that?

24 A. Yes, I do.

25 Q. And it's the first ones, Mary De la Garza, you see her?

1 A. Yes.

2 Q. Andres, Amy, Luis, Alma, Adriana, Alberto, Maria, Telesforo.
3 Do you see that?

4 A. Yeah.

5 Q. I want to go through some of these with you see if they have
6 matches, because they're in your VRNID, and you can scan through
7 the merges, you see none of them say matched. Right?

8 A. Correct.

9 Q. And you can see all of them are Hispanic. Right?

10 A. Correct.

11 Q. Not surprising with a name like De la Garza. Right?

12 A. That's a common Hispanic name.

13 Q. It's got spaces in it. Right?

14 A. Yeah.

15 Q. We'll start with the first one. I'm going to show you an
16 entry your attorneys agree come from your database, but first
17 we've got to get -- you see the date of birth here and you see
18 it on the screen. Right?

19 A. Yes.

20 Q. Got it in your mind?

21 A. Okay.

22 Q. You see the entry here that I've highlighted on the screen
23 for Mary Trevino De la Garza, with no spaces in the last name?

24 A. I see that.

25 Q. Victoria, Texas, you see that?

1 A. Yeah.

2 Q. And the status is listed as active for her driver's license?

3 A. Uh-huh.

4 Q. No administrative status. Do you see that?

5 A. Yep.

6 Q. So as far as we can tell from here, Mary De la Garza is in
7 your VRNID, and the only reason that you can tell is she didn't
8 match up and get out of the VRNID because she actually has a
9 driver's license is that she's got no spaces in her last name in
10 the driver's license database put spaces in the voter
11 registration database. Right?

12 A. Again, without opening up the code and seeing why these
13 cases are being kicked out, I wouldn't be able to give you a
14 definitive answer. That appears to be the case here, but they
15 have different names from what's listed on the screen because
16 there's no spaces.

17 Q. Let's go to Andres Barkley De la Garza, second name on the
18 list. Do you see it?

19 A. Uh-huh.

20 JUDGE COLLYER: Are you showing that the reverse of
21 what you showed before is true?

22 MR. MORTARA: No.

23 JUDGE COLLYER: That when the name -- when there's
24 spaces between the last name, the DPS database and the voter
25 registration database don't match if there aren't spaces in the

1 last name in the other, and you know what, it's true in the
2 reverse? Is that what you're doing?

3 MR. MORTARA: Actually, Your Honor, and I don't want to
4 testify. It's the same thing that happened to Senator Van de
5 Putte, spaces in the VR and no space in the driver's license.

6 JUDGE COLLYER: But why are we doing this again?

7 MR. MORTARA: Your Honor, I just wanted to -- the
8 witness said that -- he made a remark on Senator Van de Putte to
9 not have a Spanish surname, put up a bunch of Hispanics, all
10 called Del la Garza, who all have --

11 JUDGE COLLYER: Okay. I'm just asking. Go on.

12 BY MR. MORTARA:

13 Q. With the Court's admonition, Professor, instead of going
14 through every one on this list, I'll proceed to an interesting
15 one. And I want to go down to -- you see Maria Elvira De la
16 Garza.

17 A. Yeah.

18 Q. And here she is in your list, Maria Elvira De la Garza.
19 You've got the birth date in mind. Yes?

20 A. Yes.

21 Q. And you see in your list all things check out, she's
22 Hispanic. Yes?

23 A. Yep.

24 Q. And I'm going to look --

25 MR. MORTARA: Hold on, Your Honor.

1 BY MR. MORTARA:

2 Q. Professor Ansolabehere, you see an entry in your database
3 for Maria Elvira Dejesus?

4 A. Yeah.

5 Q. Same date of birth, do you see that?

6 A. Yes.

7 Q. Active driver's license, do you see that?

8 A. Yes, I do.

9 Q. This is kind of the example you went through with
10 Ms. Bell-Platts. This could be the same person as Maria Elvira
11 De la Garza. Yes?

12 A. Yes, I have no idea if it's the same person.

13 Q. Same first and middle, same date of birth, different last
14 name. Right?

15 A. Yes.

16 MS. BELL-PLATTS: One quick objection here. What's up
17 on the screen right now as it relates to the race information in
18 the DPS is not information that was given to us as part of the
19 agreement.

20 MR. MORTARA: I'll eliminate it. I'll eliminate it,
21 Your Honor, right now. It's being eliminated.

22 MS. BELL-PLATTS: Thank you.

23 MR. MORTARA: Thank Mr. Viaz. It's eliminated,
24 Your Honor.

25 JUDGE COLLYER: All right. Good. One last piece of

1 data.

2 MR. MORTARA: Excuse me, Your Honor?

3 JUDGE COLLYER: I said one last piece of data. One
4 less piece. Forgive me. One less piece of data.

5 MS. BELL-PLATTS: One more point, Your Honor. To the
6 extent that previous references were made to race data in the
7 DPS, we were not able to confirm that and it's not part of our
8 stipulation with the State.

9 MR. MORTARA: I'm pretty sure you got it, but we'll
10 check and make a correction in the record if necessary. I'm
11 virtually positive they got it, Your Honor.

12 JUDGE COLLYER: They're virtually positive they didn't,
13 so everybody is virtually good.

14 MR. MORTARA: But I'm in the midst of my cross.

15 JUDGE COLLYER: I'm not interrupting.

16 MR. MORTARA: It's okay. In fact, we're almost done,
17 Your Honor.

18 JUDGE COLLYER: Well, that's even better. The
19 Professor likes that because then he gets to take a break.

20 BY MR. MORTARA:

21 Q. Professor Ansolabehere, I would like to come away from your
22 database analysis with your VRNID of all the people you think
23 are affected by Senate Bill 14 that include all the senators and
24 Licia Ellis, the wife of the senator, and George Bush and
25 everyone else, Aaron Pena, Brandon Craft, who's engaged to

1 Nicole Mortara, and John Byars who works at Bartlit, Beck,
2 Herman, Palenchar & Scott, and I want to ask you a question:
3 From your reports and your deposition, you do not have an
4 opinion in this case about whether or not Hispanics are going to
5 be disproportionately affected by Senate Bill 14 when they vote
6 in 2012 relative to an Anglos. Correct?

7 A. Correct. I have not studied the likelihood that those
8 people vote in the 2012 election.

9 Q. You also don't have an opinion in your reports or deposition
10 on the different probabilities of the different racial groups
11 being allowed to vote under Senate Bill 14, do you?

12 A. Correct.

13 Q. And you told me at your deposition that you don't know
14 whether Anglo voters under Senate Bill 14 in 2012 are going to
15 be more likely to be able to vote than Hispanic voters, do you?

16 A. No, I don't know that.

17 Q. And you told me at your deposition that you don't know
18 whether white voters in 2012 under Senate Bill 14 are going to
19 be more likely to be able to vote than Black voters, do you?

20 A. I don't know the answer to that one.

21 MR. MORTARA: Your Honor, I pass the witness.

22 JUDGE COLLYER: All right then. We will now take a
23 break. We will take a break at the courtesy of the State of
24 Texas until 4:00 o'clock.

25 MR. MORTARA: Thank you, Your Honor. I used less time

1 than I thought I would.

2 JUDGE COLLYER: You did. Congratulations.

3 (Recess taken at 3:44 p.m.)

4 JUDGE COLLYER: Is it fair to assume we can turn the
5 screens back around?

6 MS. BELL-PLATTS: Yes, I don't have any databases.

7 JUDGE COLLYER: Well, actually, that's a good question
8 before we go in. Whose databases were they?

9 THE WITNESS: I was not party to the exchange of data.

10 JUDGE COLLYER: Okay.

11 MR. MORTARA: Your Honor, what I read into the record
12 was a stipulation between the parties that, as you noted,
13 generally --

14 JUDGE COLLYER: I understood the stipulation. The
15 point that I was trying to make was that the database actually
16 came from the State of Texas. That's all.

17 MR. MORTARA: Oh, I just wanted to clarify that from
18 our perspective, the entries came from the version we gave the
19 intervenors, and from their perspective they have a different
20 version that has the full socials. That's all I wanted to say.

21 JUDGE COLLYER: Okay.

22 MR. SELLS: Your Honor, I would like -- since I was the
23 person who negotiated the agreement with Mr. Mortara and dealt
24 with the spreadsheet, I want to make the record absolutely clear
25 that what Mr. Mortara was searching was the database that we

1 have verified is unauthentic, and if we need to bring our
2 legal/technical support person here, we will do that.

3 JUDGE COLLYER: It is inauthentic?

4 MR. SELLS: It is inauthentic. He selected a number of
5 records containing a few fields, and our technical people spent
6 all night verifying those fields, and Mr. Mortara stood up for
7 an hour and a half - at his decision - to go through the
8 inauthentic databases rather than the data that we verified
9 pursuant to the agreement. So --

10 JUDGE TATEL: So does that mean that, according to the
11 government, Kay Bailey Hutchison may in fact not have a Texas
12 driver's license? Is that your point?

13 MR. SELLS: No, Your Honor, it's that we can't verify
14 this information on the fly.

15 JUDGE TATEL: No, but that's your point, isn't it? I'm
16 not challenging you at all, I'm just asking. Your point is that
17 if the name does not -- if Texas says during their
18 examination -- their cross identified someone who did not -- I'm
19 sorry, if the witness identified -- if the professor identified
20 someone who did not have a driver's license, and Texas found
21 that name in the driver's license database, your point is that
22 you have no confidence that that name is really there? It may
23 be, it may not be? Is that your point?

24 MR. SELLS: We have confidence in the data that we
25 agreed to --

1 JUDGE TATEL: No, just answer my question about Kay
2 Bailey Hutchison. I'm not asking you whether her name is there
3 or not. But you're saying since the database isn't authentic,
4 it may or may not be there. Is that your point?

5 MR. SELLS: That's our concern, Your Honor.

6 MR. MORTARA: And for the record - and we'll submit
7 briefing on the subject for the court - the name of every single
8 person I mentioned, and the data I mentioned about those people,
9 was provided to the Department of Justice on the spreadsheet,
10 which we will submit to the court under seal because it contains
11 identifying information, and Mr. Sells didn't say, "Senator Kay
12 Bailey Hutchison is on that list with an active driver's
13 license." And they approved that.

14 MR. SELLS: And it illustrates the problem with big
15 data that Professor Ansolabehere --

16 JUDGE TATEL: Is that accurate, what he just said? Did
17 you approve -- did you agree to the database that had her name
18 on it?

19 MR. SELLS: I would need to refer to the spreadsheet,
20 Your Honor.

21 JUDGE TATEL: Well, can you do that right now? Let's
22 take a look at it.

23 MR. MORTARA: I can put it up on the screen,
24 Your Honor, for the members of the court to look at, and I can
25 describe it for you. The data is there.

1 Your Honor, just for the record --

2 JUDGE TATEL: Before you -- the stipulation the two of
3 you read to us, your joint reading earlier today, was the
4 senator's name one of the names that was part of that
5 stipulation or not?

6 MR. MORTARA: I sent --

7 JUDGE TATEL: Isn't there a yes or no answer to that?

8 MR. MORTARA: Yes, Your Honor. I'm sorry, I should
9 have followed my own advice. Yes.

10 JUDGE TATEL: And what about the government? Isn't
11 there a yes or a no answer to that?

12 MR. SELLS: The answer, yes.

13 JUDGE TATEL: Okay. So I don't understand the issue,
14 then.

15 MR. SELLS: The issue, Your Honor, is that we cannot
16 verify on the fly that the results of Mr. Mortara's querying of
17 the SQL database match what we spent all night with our people
18 verifying. That's the problem with big data.

19 JUDGE TATEL: But I'm not asking you a question about
20 big data, I was just asking the question about
21 Senator Hutchison, that's all. Counsel for Texas, Mr. Mortara,
22 says that you-all agreed last night that he could inquire about
23 her name, nothing else. Is that true or not?

24 MR. SELLS: We agreed to verify the data that they
25 provided to us.

1 JUDGE TATEL: And did you verify that?

2 MR. SELLS: We verified the data that is on the
3 spreadsheet, and --

4 JUDGE TATEL: And does that include the senator's name?

5 MR. SELLS: It does.

6 JUDGE TATEL: So what's the issue? I understand you're
7 not confident about the entire database, but as I understood the
8 stipulation you-all entered into, is that the names Mr. Mortara
9 used were legitimate names. Right?

10 MR. SELLS: I would need to review the transcript
11 carefully, Your Honor, to identify any potential errors. It is
12 impossible to follow along that quickly with the searching that
13 Mr. Mortara is doing.

14 JUDGE TATEL: See, I don't understand that. I thought
15 we heard this morning that you-all had agreed on this list of
16 names. Did he use any names --

17 JUDGE COLLYER: They did, but then he used a different
18 database for purposes of his examination and trial. What he did
19 was give the government names that they verified came from the
20 database that the government had provided, but then Mr. Mortara,
21 as I understood him, used the database that he provided to the
22 intervenors and not to or from the United States. And so that's
23 the rub.

24 MR. MORTARA: And just for the record, and to be clear,
25 every single item of information I read from the list of 32

1 people I gave the Justice Department was on the spreadsheet I
2 gave the Justice Department.

3 JUDGE COLLYER: We understand. This is a tempest.

4 (OFF THE RECORD.)

5 JUDGE COLLYER: Yeah, if you can, tell us if there are
6 any names that you challenge. You don't have to check all of
7 the -- I don't want people staying up all night, but if you can
8 just check the names -- I mean, there must be somebody on the
9 team, Mr. Freeman, anyway, who can do approximately -- you can
10 do this stuff, Mr. Freeman. Right? You've shown yourself
11 capable of this. Mr. Sells, he's a geek. Right?

12 All right. So just run through them and tell us. I
13 mean, Mr. Mortara tells us as an officer of the court, "I
14 promise they're there, they're there, they're there." I
15 understand that you don't want to stipulate to it because it's
16 not actually the database that you thought you were talking
17 about. That's fine. Stipulation doesn't matter. Mr. Mortara
18 has told us as an officer of the court they're exactly the same
19 people he showed you last night, it's just from the database
20 given to the intervenors instead of to the United States. Fine,
21 okay, we understand that.

22 And let's move on.

23 MR. MORTARA: And if they come to us with anything is
24 that wrong, we will agree to strike.

25 JUDGE COLLYER: No, no, no, if there's anything you

1 find that's wrong, you'll let us know.

2 MR. SELLS: We will. Thank you.

3 JUDGE COLLYER: All right. How do you like that,
4 Dr. Ansolabehere?

5 THE WITNESS: I'm glad I wasn't doing any of it.

6 JUDGE COLLYER: You think your job is hard? You only
7 have to deal with one lawyer at a time.

8 JUDGE TATEL: Issues like this is why I'm glad I'm on
9 the Court of Appeals.

10 JUDGE COLLYER: I want you to know, that's about the
11 sixth time he's said that in the last four days.

12 Okay. It's your turn, United States. It is 12 minutes
13 after, and we're going no later than 5:30. It's like a little
14 bell that's going to ring, and the toll time will toll and all
15 of that. Go ahead.

16 MS. BELL-PLATTS: Judge Collyer, I do not think I will
17 take all the way to 5:30.

18 JUDGE COLLYER: You are a really wise woman. I knew
19 that. I knew that. Okay. Go on.

20 MS. BELL-PLATTS: Thank you, Your Honor.

21 **REDIRECT EXAMINATION**

22 BY MS. BELL-PLATTS:

23 Q. Dr. Ansolabehere, you were asked earlier about whether or
24 not you attempted to verify the racial algorithms that Catalist
25 employs. Do you recall that?

1 A. Correct.

2 Q. Were you ever able to take a look at the SSVR analysis of
3 your VRNID and compare that to what Catalist provides?

4 A. Right. I had the SSVR on the voter file, so that for the
5 record -- on the VRNID, for which I had Catalist data merged in,
6 and the voter registration information, SSVR, I was able to
7 check the correlation between what Catalist termed someone to be
8 Hispanic and what SSVR indicated was Hispanic.

9 Q. And how was the verification achieved?

10 A. Almost every person who is termed SSVR on the voter files
11 Catalist also termed Hispanic. And there were additional people
12 who Catalist considered Hispanic who were not considered SSVR,
13 but it was only about five percent, I think.

14 So the correlation was quite high. I don't remember
15 the exact number, but the two were very close to each other.

16 Q. And is that in your report?

17 A. Yes, there's some mention of that.

18 Q. You were also asked about some of your earlier scholarly
19 work, and the study of what turnout effect might accompany a
20 voter ID law.

21 A. Right.

22 Q. Do you recall that?

23 A. Yes.

24 Q. At that time can you tell me how many states had strict
25 photo ID laws on the books?

1 A. Depends what you mean by --

2 Q. Let's start with your 2007 report.

3 A. Okay.

4 Q. In 2007, you did a report about voter ID laws. Right?

5 A. Georgia was not in place yet, I don't think, and then
6 Indiana, I don't think they were in place yet, either. So '08
7 would be the year that would be the relevant year for those two
8 states.

9 Q. And what about, I believe it was a 2009 study?

10 A. Uh-huh.

11 Q. What states had strict photo ID laws in place at that time?

12 A. Georgia and Indiana would be, I believe, the two that were
13 covered in that study.

14 Q. Do you have an opinion about how the demographics in Georgia
15 would compare to the demographics in Texas?

16 MR. MORTARA: Your Honor, this would be undisclosed
17 opinion.

18 JUDGE COLLYER: This is on rebuttal, so we're going to
19 let it go ahead.

20 A. Texas has a larger Hispanic population than Indiana and
21 Georgia. It's sort of one of the main differences. I think
22 Georgia has a higher black percentage than Texas or Indiana, so
23 there are some basic differences in the racial composition.
24 There are other differences in the density of people in cities
25 and so forth.

1 So there are a fair number of differences. The
2 question is whether they're relevant, and I haven't looked
3 closely at it to say whether they are or not. But certainly in
4 terms of the question of race, the racial composition of the
5 states is quite different.

6 Q. Do you have any concerns about imputing turnout
7 differentials in states like Indiana and Georgia to a state like
8 Texas?

9 MR. MORTARA: Your Honor, I have the same objection. I
10 don't want to interrupt counsel's examination. If I could just
11 have a standing on this line?

12 JUDGE COLLYER: Yes, you may. The ruling is the same.
13 Go ahead.

14 A. If I were given the task of trying to project or predict the
15 probability that someone votes in Texas -- or the probability
16 that someone is affected in Texas under this law versus Georgia
17 or versus Indiana, I would try to use all of the information
18 about the demographic characteristics of the different states,
19 and plug those in to, say, the multivariate analysis and
20 generate a prediction that way, as opposed to just observing
21 what the difference was in Indiana and the difference was in
22 Georgia, and assuming that it would be the same in Texas given
23 variation in demographics. But that's what I would do if I were
24 asked to make a prediction.

25 Q. Do you know if there's other social science that has

1 since -- I don't want to embarrass you or in any way impugn your
2 fine social science research, but has anyone done studies that
3 disagree with the overall theme that there's no diminution in
4 turnout with strict voter ID?

5 A. Well, I think the clearest case, the strongest piece of work
6 on that - or the strongest effect - is the Alvarez, Bailey, and
7 Katz piece from 2011 which was previously mentioned today. And
8 that was a piece that looked at varying degrees of strength of
9 ID laws in terms of what kinds of identification were allowed
10 and whether someone else could vouch for you and so forth, and
11 they classified the strictest form of ID law a strong photo ID
12 law such as that in Indiana and Georgia.

13 They found that there was no effect, as you moved up
14 the ladder of strength of ID law, on turnout until you got to
15 the very strong ID laws. That's what their estimates showed.
16 And they estimate, there was a 10-point drop. That's among the
17 highest effects that we've seen, and 10 points is quite a big
18 effect.

19 There's another nice piece by Bob Erikson that shows
20 about a two to three-point effect of the introduction of laws on
21 turnout that was done subsequent to my work on this topic, and
22 some work by Matt Barreto. But among academic researchers, we
23 put it out there and we debate it, so that's part of what you're
24 picking up in surveying the literature, the disparities or
25 differences in opinion or findings.

1 Q. Well, we all were here when Mr. Mortara presented a number
2 of names to you and asked you about whether or not they were on
3 your list. You can't verify that any of these entries that you
4 reviewed today are actually on the databases that you used to do
5 your matching, can you?

6 A. What I would do to do the exercise that Mr. Mortara
7 suggested would be to run through the database and take those
8 entries, and try to flag particular problems and try to be more
9 systematic. For example, if spaces are an issue, look through
10 systematically and see if that is in fact the reason that those
11 records are getting kicked out, or there's some other reason
12 they're getting kicked out. So to create some flags and run
13 through the whole program, again, it would be a pretty painful
14 debugging process, because there are a lot of variants of
15 possible problems that have been suggested out of a small number
16 of cases.

17 The one thing I wouldn't do would be to look at
18 variants of names. Because that is getting into fuzzy matching
19 issues, and that is getting, I think, closer to questions about
20 how the law is going to be administered and what kind of
21 administrative instructions will be given to poll workers, and
22 that's not part of what my enterprise or activity is about.

23 So if there are name differences, if it's a married
24 name that's different from a maiden name, if there's an
25 alternative spelling of Gonzales and so forth, and they don't

1 match for those reasons, I would not want to use my matching
2 algorithm to presuppose how the law is going to be administered
3 at the polls. I'm just looking for matches in records at this
4 point.

5 Q. And I think I remember you testifying earlier that when you
6 did your database comparisons, you were matching Social Security
7 numbers to eliminate a number of records. Is that correct?

8 A. Yes.

9 Q. And was it roughly a half of the voter registration database
10 has some Social Security number information in it?

11 A. I believe half is roughly the number. Approximately half
12 have Social Security 9; a smaller number just have SSN 4, a
13 four-digit Social Security number; and then there are a large
14 number of blank fields, no information. In essence we're using
15 the entire field - that is, the entire Social Security number -
16 it's just all the blanks we treated as not unique. There's no
17 information. You can't do any matching with those because
18 there's no information there. But for all the unique
19 characters, we use those.

20 Q. So would it be fair to say that a number of -- let me think
21 about it.

22 MS. BELL-PLATTS: I understand. I see you.

23 BY MS. BELL-PLATTS:

24 Q. How would the comparison between the number of valid
25 Social Security numbers on the voter registration database

1 affect the universe of people for whom Mr. Mortara presented
2 these inconsistencies?

3 A. I'm not sure. I would have to go through and come up with a
4 classification of possible inconsistencies and do an extensive
5 study of that. The databases that we produced and analyzed in
6 the code were passed to the -- passed back to the State of Texas
7 at the beginning of June, and I think it was fair game in that
8 time period to do some of that.

9 I was following the algorithms that I viewed as the
10 correct algorithms to write, without presupposing how the law
11 was going to be administered, without putting in any kind of
12 fuzzy matching algorithms, without introducing other databases
13 on the frequency with which different alternative names appear
14 and so forth, or nicknames and such. So just using the database
15 at hand, how many matches could we find.

16 Q. What if anything from Doctor -- I'm sorry, Mr. Mortara's
17 demonstration today can you take to show -- sorry. Strike that.

18 What if anything from the demonstration earlier today
19 about the difficulties in seeing multiple records indicates for
20 what voters might face at the polls if SB14 went into effect?

21 A. Could you rephrase that?

22 Q. I could, but I'm struggling. It's been a long day. Yes,
23 I'll try again.

24 What if anything can you say about the comparison
25 between two different names, perhaps with two different

1 spellings, on the effect of someone who is going to vote on
2 election day after SB14?

3 A. Well, there are two kinds of questions that seem to be asked
4 here. One is, how do those names affect my matching algorithm.
5 And if the names are different - say it's Gonzales with an S in
6 one database and Gonzalez with a Z at the end in another
7 database - they just don't match. So for the statistical
8 analyses that we're performing in my report to ascertain the
9 incidence with which these mismatches occur, and what's the
10 incidence with which they occur across racial groups, those
11 mismatches are hard wired into the data. That's just the way
12 the data shake out.

13 The other interesting aspect of what's being raised
14 here are the incidence -- the rate at which these problems or
15 inconsistencies seem to occur in the database, and whether they
16 are examples that might be used administratively to figure out
17 how to implement the law so that the law doesn't create
18 administrative barriers or barriers at the polls. That is, you
19 could use what Mr. Mortara is suggesting to figure out how might
20 you write the administrative code on how you implement the law
21 at the polling place, for the precinct workers to be mindful of
22 this particular spelling, and it's linking to that, but that's
23 not what the list-matching exercise is about. The list-matching
24 exercise is not about figuring out which IDs are going to be
25 consistent with the voter registration records, it's about

1 figuring out to the best of our abilities how many of these
2 records have matching IDs.

3 Q. And Dr. Sager and Dr. Shaw didn't quantify any of these
4 inconsistencies in their report, did they?

5 A. To my knowledge, none of the other expert reports offer a
6 quantification or systematic discussion of the number of
7 possible, you know, inconsistencies that might arise from name
8 matches and so forth, and the frequency with which they occur
9 either in database matching generally or in these particular
10 databases.

11 Q. Have you ever done a search using SQL code on a Texas
12 database before?

13 A. No, I've never done a SQL -- a search using SQL on a Texas
14 database.

15 Q. Do you know whether any of the records that you reviewed
16 today with Mr. Mortara had the status "administrative license
17 revocation" listed with it?

18 A. I was not paying close attention to that, and I was not part
19 of the creation of the list or any of that, so I don't know what
20 those fields look like.

21 Q. Do you know what that status refers to?

22 A. A revocation of a license? It's for whatever reason a
23 license was revoked by the DPS.

24 MS. BELL-PLATTS: Excuse me, Your Honors.

25 One final question.

1 BY MS. BELL-PLATTS:

2 Q. Do any of the instances and examples that Mr. Mortara and
3 you went through today undermine your confidence in your
4 analysis?

5 A. No. I would need to do a completely separate analysis of
6 possible problems and their instance in order to do that, and we
7 need to sort of figure out what the space of possible problems
8 are. Some of those objections were things that would push us
9 towards fuzzy matching or probabilistic matching, which is not
10 something we're engaged in; some might be legitimate criticisms
11 that we might want to pursue further, but I need to rerun the
12 program and flag specific issues.

13 MS. BELL-PLATTS: I have no further questions,
14 Your Honor.

15 JUDGE WILKINS: I have a couple of questions.

16 JUDGE TATEL: Let me ask --

17 JUDGE WILKINS: Oh, go ahead.

18 JUDGE TATEL: Let me ask just one question. Picking up
19 on this very last question, assume just for the purposes of
20 discussion that none of the technical questions that were raised
21 today affect the overall validity of your analysis. You pointed
22 out both in your report and earlier today that the
23 Justice Department never gave you access to the federal
24 databases; you know, U.S. military IDs, citizenship
25 certificates, or passports. Correct?

1 THE WITNESS: Correct.

2 JUDGE TATEL: They didn't give you that. My question
3 is this: Given that all three of these are appropriate photo
4 IDs under SB14, and given that the question that this court has
5 to ask -- answer, under Section 5, is the effect of SB14, what
6 can we learn from your study about that question?

7 THE WITNESS: Well, one thing is that if you assume
8 that those are additional pieces of information that people can
9 have --

10 JUDGE TATEL: Well, they are.

11 THE WITNESS: Exactly. Then what we've established is
12 sort of a base. Here's the state IDs that are acceptable, and
13 for anybody who does not satisfy -- or any group that does not
14 have ID at this level, it's sort of additional that they would
15 have to either obtain or already possess and carry around with
16 them the federal ID. Somebody who has a state ID and a federal
17 ID doesn't have the same burden because they have the state ID
18 and --

19 JUDGE TATEL: For people in your no-match category, who
20 don't have it, if they have one of the three federal IDs, SB14
21 will not have an adverse effect on them. Correct?

22 THE WITNESS: That's my understanding.

23 JUDGE TATEL: So you see the question I'm asking. And
24 again, my assumption is that your study is completely valid,
25 your analysis of driver's license and license to carry is

1 totally valid. Since the question we have to ask is a broader
2 one - that is, the effect of SB14, which includes three other
3 types of ID - what does your study tell us about the legal
4 question we have to ask?

5 THE WITNESS: The study has no information on who on
6 the VRNID, or on any of these lists, really, has -- or the
7 likelihood that somebody has one of these other federal IDs in
8 the State of Texas.

9 JUDGE TATEL: Right. So can we really tell anything
10 from...

11 THE WITNESS: Well, the question is whether there might
12 be a different burden placed on somebody who happens to not have
13 a state ID versus somebody who has a state ID, and whether that
14 burden is differential. So I don't walk around with my
15 passport, but I do walk around with my driver's license every
16 day. It's a habit. I carry it with me everywhere. The chances
17 that I go to the polls and have forgotten my passport might be
18 much greater than the chance I go to the polls and have
19 forgotten my driver's license.

20 And I think the IDs that we use commonly, like driver's
21 licenses, are habitual. You show up and somebody asks for ID,
22 and that's what pops out of our pocket. When I fly, except when
23 I fly out of the country, I don't take my passport with me. So
24 it might be a different burden to have to remember it, to have
25 to obtain it, et cetera, and I just don't know how many people

1 have or don't have the requisite federal ID.

2 JUDGE TATEL: So what would we -- well, maybe you've
3 answered my question.

4 THE WITNESS: I tried.

5 JUDGE TATEL: Yeah, well, let me try it this way: So
6 we go back and we now have to decide whether or not the State
7 has shown that SB14 will not have a retrogressive effect, just
8 looking at that prong. And tell me just once again how your
9 study fits into that, given that three of the types of photo ID,
10 the government never gave you access to? In other words, I'm
11 just asking the same question a different way. How do we use
12 your study in our thinking about the legal questions this court
13 has to decide?

14 THE WITNESS: Again, I think about it as a burden
15 issue, how likely am I to carry this around, find it, and so
16 forth. My wife happens to keep her passport in a safe deposit
17 box at the bank, so that's an additional trip to the bank and
18 things like that. I don't know how other people handle their
19 IDs, how accessible they are, and what the expiration --

20 JUDGE TATEL: But there's nothing in your study, and I
21 don't know of anything in the record that I could look at that
22 would tell me that. I just don't know. Right?

23 THE WITNESS: Yeah, that's my --

24 JUDGE TATEL: You're just guessing?

25 THE WITNESS: That's my sense. So I think it would be

1 just the burden question: Is it a burden to require that those
2 people have an additional ID that --

3 JUDGE TATEL: Well, let me try the question this way:
4 Suppose your study had been based only on driver's licenses, not
5 license to carry. It's essentially the same question. Right?

6 THE WITNESS: Correct.

7 JUDGE TATEL: It wouldn't tell us much about the legal
8 question this court has to resolve --

9 THE WITNESS: Correct.

10 JUDGE TATEL: -- right? Thanks.

11 JUDGE WILKINS: Dr. Ansolabehere, do you recall how
12 many records you, I guess, cleaned out of the driver's license
13 database because there was a flag that the individual was
14 deceased?

15 THE WITNESS: There were 778,000 change records that
16 were indicated deceased, but in terms of people who for that
17 reason ended up in the VRNID, only 50,000. So those people were
18 being flagged for other reasons, like expired licenses and so
19 forth.

20 JUDGE WILKINS: But would you agree that if those
21 50,000 who were in the VRNID who were flagged as deceased, if
22 those people were in fact dead, then SB14 doesn't have any
23 impact on them. Right?

24 THE WITNESS: And this gets into the question of what
25 happens when you go to the polls and who is going to use the IDs

1 for what. And also, the accuracy of the deceased records.
2 Sometimes there are errors in databases. Dr. Sager's report has
3 a long discussion of errors in databases. And if somebody is
4 incorrectly identified as deceased on a DPS list for whatever
5 reason - and there are instances of errors in people being
6 recorded as dead when they're not dead on these databases - if
7 somebody is reported as deceased, and you use the DPS data to
8 take them off the VR data, then that would be perhaps an
9 improper purge under NVRA.

10 So deceased is a difficult category, for that reason.
11 If there are any errors in that, then they might be affected.
12 But you might also take that 50,000 number off and just say,
13 these people would not be treated as correct data, and assume
14 that those people would not be affected. So you could winnow
15 the number down, but it would only reduce the number by 50.

16 JUDGE WILKINS: With respect to -- there was
17 questioning about, I think it was your article, that reported
18 figures about how many people were asked about -- asked to
19 present photo identification in Georgia and Indiana, I believe
20 it was in Texas, or maybe it was --

21 THE WITNESS: That's Professor Shaw's report.

22 JUDGE WILKINS: And then there were figures -- my notes
23 indicate that I guess 98 percent in Indiana who were asked to
24 show ID were ultimately allowed to vote, and then it was
25 97 percent in Georgia. I'm trying to remember, I think this was

1 Plaintiff's Exhibit 38.

2 Do you know the data that I'm talking about?

3 THE WITNESS: Yes, I do, quite well. Those data are
4 this subset of people on the CCES who happen to reside in
5 Georgia and in Indiana. So what Professor Shaw did is he took
6 the entire Common Content of the CCES, which is 40, 50 thousand
7 observations, and took the subset of people who were identified
8 as residing in Georgia, and took their responses to those
9 questions and analyzed that subset of the sample.

10 JUDGE WILKINS: Okay. And what I'm trying to
11 understand is, was that reporting survey responses from people
12 who actually went to the polls, and whether when they went to
13 the polls they were asked to present ID, and afterwards were
14 they allowed to vote?

15 THE WITNESS: Right. The question -- I wrote the
16 question, so the question is: Did you vote or attempt to vote
17 in the November election? It was the November 3rd election - I
18 forget what the exact date was - and this was administered the
19 week after the election. People reported to the survey whether
20 they didn't vote, thought about voting but didn't, attempted to
21 vote and couldn't, or actually voted.

22 And then if somebody said that they attempted to vote
23 and couldn't, or that they voted, we asked: Were you asked to
24 show voter identification at the polling place when you voted?
25 And then the questions branched off from there. So it tried to

1 capture both of those categories.

2 JUDGE WILKINS: All right. And was there a question
3 that was asked that would have attempted to capture if someone
4 chose not to vote because they thought that they did not have
5 adequate identification?

6 THE WITNESS: That was not part of the survey. There
7 was a question that said, for people who didn't vote, what's
8 your main reason for voting, and that follows -- what we were
9 trying to do there is follow the approach that the Census takes
10 in the Current Population Survey, which is, why did you vote,
11 why didn't you vote, and you can choose a number of things,
12 including -- Census lumps together, I had a registration problem
13 and I tried to get an absentee ballot and couldn't, and so
14 forth, so it's not a great response category, so we were trying
15 to clean up a little bit of what the Census asks in the CPS in
16 that question. And Professor Shaw is using some of those
17 responses to analyze what happens to a few others.

18 JUDGE WILKINS: Okay. But as I recall, I think when
19 people were asked from those two states to list your reasons for
20 not voting, I guess they could list more than one, and it was
21 reported as to what the first reason was that was given or
22 something like that?

23 THE WITNESS: Yes.

24 JUDGE WILKINS: Okay. All right. And you were also
25 asked about surveys that showed what level of support there was

1 for laws requiring photo ID, and you were asked about an article
2 that I believe was based on data gathered as of 2006.

3 THE WITNESS: Correct.

4 JUDGE WILKINS: What about data after 2006? Is there
5 any?

6 THE WITNESS: There's a study that we did with funding
7 from the Pew foundation - we being the CalTech/MIT Voting
8 Technology Project Group - Charles Stewart was the primary
9 author on that, and that reports similar statistics to what were
10 documented in 2006. So that set of results looked pretty stable
11 from 2006 to 2009.

12 JUDGE WILKINS: Okay. All right. Thank you.

13 MR. HARRIS: Your Honor, might I be permitted two
14 questions on redirect on behalf of defendant intervenors?

15 JUDGE COLLYER: Two.

16 MR. HARRIS: Thank you, Your Honor. I'm Adam Harris
17 from Fried, Frank, Harris, Shriver & Jacobson, LLP in New York.

18 JUDGE COLLYER: Representing?

19 MR. HARRIS: Representing the Texas League of Young
20 Voters Education Fund, defendant intervenors.

21 JUDGE COLLYER: Thank you.

22 **REDIRECT EXAMINATION**

23 BY MR. HARRIS:

24 Q. Professor Ansolabehere, with regard to the studies you
25 discussed on the effect of voter ID laws, are the forms of

1 identification permissible for voting in Georgia and Indiana the
2 same as those that are allowed for voting under SB14?

3 A. I don't know the full list. The name forms are the same,
4 but I don't know all the full list.

5 Q. I would ask you a follow-up, but I don't want to waste my
6 second question, which is: With regard to the surveys that you
7 discussed that show support for photo ID laws, did the surveys
8 ask particularly whether individuals would support a photo ID
9 law that excluded particular types of photo ID such as a
10 student ID, employee ID, or recently expired state ID?

11 A. The CalTech -- the CCES studies do not ask those questions.

12 MR. HARRIS: Thank you, Professor.

13 JUDGE COLLYER: You know what? That's all actually in
14 the record. I know you wanted to put it on the trial record,
15 but it's all actually here.

16 MR. HARRIS: I apologize, Your Honor.

17 JUDGE COLLYER: That's okay. We've spent enough time
18 on it, we can tell you that.

19 All right. Drum roll again. This is it? It's over?
20 The trial has ended. By decree, it's over. All right. We come
21 back tomorrow for closing arguments at 9:00. It would be
22 really, really good if the parties considered their closing
23 arguments and made them pointed and pithy instead of long and
24 boring. Long and boring does not accomplish anything; pithy and
25 pointed actually makes points and gets them remembered. Oh,

1 what a great idea.

2 Unfortunately, Mr. Hughes has left us to presumably go
3 plan his closing argument, so I am telling -- I'm sorry, ma'am,
4 your last name?

5 MS. SPENCER: Spencer.

6 JUDGE COLLYER: Spencer, right?

7 MS. SPENCER: Yes, Your Honor.

8 THE COURT: I am telling Ms. Spencer, you are being
9 directed by the court to tell Mr. Hughes, pithy, pointed, not
10 long, not boring.

11 MS. SPENCER: Thank you, Your Honor. I will deliver
12 that message.

13 JUDGE COLLER: Thank you. Yes, sir?

14 MR. HEBERT: May I make a parliamentary inquiry about
15 tomorrow?

16 JUDGE COLLYER: Yes, sir, Mr. Hebert, you can make all
17 the inquiries you like, as long as they're short and pointed and
18 pithy.

19 MR. HEBERT: I promise to be.

20 We have not moved in all of our exhibits, but would we
21 be permitted tomorrow during closing to use whatever exhibits
22 we've marked and given to the other side?

23 JUDGE COLLYER: Yes. Yes. And then, actually, if
24 everybody needs the weekend to identify what they didn't ever
25 get in or reference, but they want in or they no longer care

1 about - but no longer care about is particularly useful - you
2 could sort of cross file, just for yourselves - you don't have
3 to look at somebody else's, just for yourselves - that say, make
4 sure you look at these, because these are the ones. You got it?

5 MR. HEBERT: Yes. And my second and last point was, in
6 a conference with Judge Wilkins before the trial started, I
7 believe last Friday, if I can remember that far back, we had --
8 I represented to Judge Wilkins that Mr. Mortara and I were
9 trying to work out a stipulation on the Kennie defendant
10 intervenors. And we have reached that stipulation. I could do
11 it now on the record, I could reduce it to writing, or I could
12 just --

13 JUDGE COLLYER: Feel free to do it now on the record.

14 MR. HEBERT: Okay. We have stipulated that the
15 following Kennie intervenors: Michael Montez, who is Hispanic;
16 Penny Pope, who is black; Marc Veasy, who is black;
17 Jane Hamilton, who is black; David de la Fuente, who is
18 Hispanic; Lorraine Birabel, who is black; Daniel Clayton, who is
19 black; Sergio Deleon, who is Hispanic; Anna Burns, who is
20 Hispanic; and Eric Kennie, who is black, that all of those
21 persons reside in Texas, they have the racial identification or
22 ethnic identification that I just listed, and they are all
23 registered voters and part of the Kennie intervenor group.

24 JUDGE COLLYER: Thank you.

25 MR. MORTARA: Your Honor, I confirmed that with our

1 databases. We agree.

2 MR. HEBERT: Thank you.

3 JUDGE COLLYER: Okay. Thank you. All right. I just
4 want to say thank you to everybody. You have all worked
5 tremendously hard and long hours, with some difficulties, but
6 somehow you all managed to come to trial as professionals and
7 not spitting at each other, for which I thank you personally.
8 It made it much easier, a much better trial. You've done great
9 work here. We are all appreciative of everything we have. A
10 lot that we have, anyway, most of it. So I just want to say
11 thank you. It's a tough set of issues, it's a tough case, and
12 you have fulfilled the desires of your clients very well, and
13 represented them very well. So thank you from the court to you
14 guys for all the work that you have done.

15 We will see you in the morning. We will have the
16 argument live in this courtroom; in courtroom 12 it will just be
17 a phone hookup, but it will be over the system so you'll be able
18 to hear it if somebody needs to go there to listen. Or if
19 somebody wants to go in and out and in and out, go there, not
20 here, please.

21 Thank you, everybody. We'll see you in the morning.

22 MR. MORTARA: Thank you, Your Honor.

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CERTIFICATE OF OFFICIAL COURT REPORTER

I, Rebecca Stonestreet, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

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