THE OFFICE OF THE SECRETARY OF STATE

STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD HEARING

2 MLK JR. DR. SE
SUITE 810 WEST TOWER
ATLANTA, GEORGIA 30334

JANUARY 22nd, 2020
9:00 A.M.

PRESIDING OFFICER: BRAD RAFFENSPERGER
SECRETARY OF STATE

STEVEN RAY GREEN COURT REPORTING, LLC
Kaitlin Walsh, CCR, CVR-CM-M

Atlanta, Georgia
APPEARANCE OF THE PANEL FROM LEFT TO RIGHT

Secretary of State Brad Raffensperger, chair
Rebecca Sullivan, vice chair
David Worley
Anh Lee

ALSO PRESENT IN ORDER OF PRESENTATION

Ryan Germany
Transcript Legend

(sic) - Exactly as said.

(ph.) - Exact spelling unknown.

-- Break in speech continuity.

... Indicates halting speech, unfinished sentence or omission of word(s) when reading.

Quoted material is typed as spoken.

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MR. RAFFENSPERGER: Good morning, everyone. We’ll go ahead and start. First of all, the invocation, and I’ll do that. Okay.

(Invocation)

MR. RAFFENSPERGER: If you all will stand for the Pledge of Allegiance, on your left -- my left, your right.

(Pledge of Allegiance)

MR. RAFFENSPERGER: Well, before we get started, I just want to -- we will be having a new board member joining us at the next board meeting. He’s been nominated by our Lieutenant Governor, Jeff Duncan, and that is Matt Mash -- Matt Mashburn, if you want to stand up? He’ll be joining us, but he has not been sworn in yet, so in the interest of following protocol, we’ll be waiting for that event to happen, and so that should happen. He’ll be ready for the next SEB meeting that we’ll have.

I guess right now we can look at the last board meeting -- approval of our board meeting minutes. We’ve had those in our folders. Hopefully, everyone has had a chance to review those. If you review them, if there’s -- now would be an appropriate time for a motion.

MS. SULLIVAN: I’ll make a motion -- I’ll make a motion to approve the minutes.

MR. RAFFENSPERGER: Do we have a second?
MR. WORLEY: Second.

MR. RAFFENSPERGER: I have a first and a second. All those in favor --

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: -- please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Motion carries.

Okay. So today we have time for public comments. It’s two minutes each, and we have lots of folks here, and what I’ll do to probably expedite this -- we are going to be speaking, coming up to the podium here?

MR. RAYBURN: We’ve got a wireless mic.

MR. RAFFENSPERGER: Okay. So we can have some folks line up, and it will just probably expedite it all, just because of the time. But number one we had was Ms. Hillary Holly, Ms. Liza Conrad, Ms. -- sorry, Mr. Andre Fields, Mr. James Woodall, Mr. George Balbona. The first five can just come and line up, and then following that will be Bjorn Cole, Dr. Jasmine Clark, and John Peterson, but to give you a order. So Ms. Hillary Holly?

MR. RAYBURN: Make sure you hold the mic up, and please state your name and where you’re from.

MS. HOLLY: Hello. My name is Hillary. I’m from Atlanta. So 2020 is an important year for Georgians. We are electing a President, US senators, state
representatives, and many local elected officials. I’m here this morning to raise concerns on behalf of Georgians and ask the State Election Board and the Secretary of State to do its job and prepare for the 2020 elections.

So Georgia is attempting to implement an entirely new voting system during a presidential election year. The Elections Board should do everything in its power to ensure that Georgians who choose to vote from the comfort and privacy of their home can do so rather than stifling third parties that are dedicated to increasing voter participation. Requiring absentee forms to be substantially in the same form as the Secretary of State’s application creates an unnecessary burden to the applicant and does not solve a legitimate problem.

If and when election systems fail, the onus should be not on the voter. Poll workers must be equipped and required to offer voters provisional ballots and redirect them to the proper precinct location if practical. Given that this new election system will be unfamiliar and confusing to Georgia voters, the section directing poll workers to be -- verbally instruct every voter to review their ballot and alert the poll worker if any changes need to be made provides clarity and helps ensure every vote is counted and should not be removed.

The state is expecting record turnout at the polls in
2020, so the Elections Board should be following the guidelines of HB316 for the required number of voting machines in the precinct. For instance, some of these rules are not in compliance with HB316, such as saying if this allows polling places to be used instead of precincts, it allows for the double counting of early voting machines for election day. When requiring the number of electors at the precincts, the calculations shall provide a minimum of at least 1 voting booth or enclosure of each 250 electors therein a fraction or thereof.

And before I wrap up, I would be remiss if I did not call out the absurdity of misleading Georgians inside of Ebenezer Baptist Church on Dr. Martin Luther King Jr.’s holiday. He was a champion of voting rights, and this has -- and this Board in particular has taken advantage of the undoing of one of his most cherished legacies, so to stand in the pulpit and declare Georgia’s voting system is an objectively fair -- is an absolute disgrace. And then, we are good. Thank you.

MR. RAFFENSPERGER: Okay. So your name?

MR. WOODALL: Yes. This is Reverend James Woodall, State President of the Georgia NAACP, resident of Atlanta, GA. I stand here today to declare that our votes, our election system, our election process here in the state is
not secure. The Secretary of State’s Office and members of this State Election Board has gone across the State of Georgia, communicated with NAACP chapters, and taken pictures with them, put them on Twitter and Facebook and Instagram, telling them to smile and to say that they believe that their votes are secure. As the State President of the Georgia NAACP, we have committed to working with the Secretary of State’s Office to ensure that we can do all that we can do to make sure that our votes are secure, and it’s unfortunate that the Secretary of State’s Office has decided to take this route.

However, we are -- continue to support working together and to communicating to ensure that our votes are secure, that our people, our communities feel secure. But unfortunately, that is just not simply the case at this present moment. Rural and metro counties alone, I mean, both alike have not received all their voting machines. Here we are, less than 90 days until an election, and they have not received the information, the equipment, and the training necessary to conduct an election.

We just had a situation down in Athens, GA just yesterday, where there was some suggestions that maybe a waiver could be processed that removes the ratio from machines to voters. That’s unacceptable. And so, our support -- our support remains with the people of this
commun -- with the community that we serve, and again, we say that our votes are not secure.

We’ve also submitted written comments about the proposed rules. The rules are vague, quite frankly, do not have an intelligible response to what it is that units and organizations alike are able to do, and so we’re asking that there be clarity about the primary purpose of what these rules are asking us to do because unfortunately, right now that’s just not simply the case. There are several typographical errors that are included in the rules, which make it way much more difficult for us to actually implement those in practice. And so, if a regular person, not even an attorney -- but if a regular person -- matter of fact, if an attorney can’t understand what the purpose of those rules are, then there is no -- there’s no way in the world that a regular intelligible person would be able to decide. And so therefore, we ask for there to be a review and a rejection of these rules until there is clarity as to what the rules actually mean.

So again, I stand here and conclude with this: our votes are not secure. We’re not happy, and we’re willing to work with the Secretary of State’s Office to make sure that that does happen. Thank you.

MR. RAFFENSPERGER: Thank you. Mr. Balbona?

MR. BALBONA: Hi there. George Balbona, concerned
citizen. I have here -- and I’ll give you copies for the record -- a letter from Marian Schneider, the President of Verified Voting, in which she says Verified Voting did not recommend that Georgia purchase all ballot-marking devices for all in-person voters. She also says, quote “to express or imply that doing an ROA pilot demonstrates the security of the system is simply not true.”

Here’s something else I find interesting. This was sent to you, emailed to you on December 16th, and it says, “I hope that you will share this letter with your Council and your communication staff.” We have the last Secretary -- State Election Board meeting the next day, and you didn’t mention this. I’m sick of having the Georgia Secretary of State’s Office cherry pick their sound bites, okay? You were very happy to post a incorrect [sic] quote from her, but when she corrects the record, you don’t mention it in the State Election Board meeting. You also don’t mention it anywhere on your website. I know I hit the good points. All right.

I emailed all 159 county election supervisors, and I’m noticing a very disconcerting trend. I asked them what equipment they have received. A lot of them haven’t received anything, but more disconcerting is the ones that they have -- a trend that I’m seeing is they’re not receiving their UPS’s, their uninterruptible power
supplies. This is going to be the power cords all over again. Get on it now. You need to be able to plug in all of the six tons of equipment that is not secure.

Last but not least, Jordan Fuches, our Deputy Secretary of State, she went online and on the official Deputy and Chief of Staff’s Facebook page and said some unflattering things about Marilyn Marks. She specifically said, “drop your frivolous lawsuit. Stop getting our team for Georgia off task. Get out of our way.” She later deleted this. By the way, that’s a felony -- the public record. If you don’t believe it, look up 45-11-1. I think she needs to be dismissed, at the very least, although I would love to see her do 10 years. I think you don’t go get that happy hour and then go disparage people on an official website. Unacceptable. Drop the mic.

MR. RAFFENSPERGER: Mr. Bjorn Cole and Dr. Jasmine Clark will follow, followed by John Peterson, Dana Bowers, if y’all could come up. Mr. Bjorn Cole?

MR. COLE: So I’m Bjorn Cole, citizen around here, just live across the way in Oakland. So last -- for the gubernatorial election 2018, my wife and I both voted in the Butler Street Church, and I went to -- actually, I went to early vote, different site, relatively short times there. She at the -- at the main day for the gubernatorial election was an over an hour wait in order
to vote, and I know that was one of the shorter lines in kind of the metro area and in other sites. The reason I rise to comment today is to suggest or request -- I see there’s provisions for emergency ballots to be provided, ballots that are on the same level as if you were to use the machines. I would like to request/suggest that a wait time on the order of half an hour, maybe an hour, is sufficient to allow a local county official or precinct official to deploy emergency ballots in order to open up more voting booths and shorten the lines, so that’s on the -- on the waiting point.

The second one -- for security, so I do a lot of software development for federal government as a contractor. One of the methods that we use to help audit and to be sure that the right version of software is loaded is to basically calculate a signature based on the contents of the source code of a given piece of software. I believe it would also be good for auditing and to assure the public that software loads on the machines are known by being able to correlate the signatures of what is loaded on a given machine to a master copy from the vendor or vendors of various machines. And with that, I’ll go ahead and end my comment. Thank you.

MR. RAFFENSPERGER: Thank you. Representative Jasmine Clark.
MS. CLARK: Good morning, Mr. Secretary and members of the Board. I come to you today as a State Representative from House District 108 and also a Georgia vote from the Lilburn area. So I’m here to strongly object to the proposed rule 183-1-13-.01, which is the minimum number of voting booths rule. This rule gives permission to counties to create long lines by withholding equipment for some or all precincts. Last session, my colleagues and I in the General Assembly passed legislation that says that you must have one voting station per 250 active voters in a precinct. This proposed rule subverts that and could lead to selective disenfranchisement. Studies show that consistently show that black voters in Georgia stand in line nearly twice as long as white voters on average. This rule could bolster this undesirable issue for our voters. How much equipment you deploy and how many e-poll books and how many voting booths and how many scanners makes a difference in how long voters will have to wait, and high turnout elections such as what we’re going to experience in 2020 during peak hours, voters will have to wait in lines.

I’m not suggesting that it is your job to make sure voters never have to wait to vote, but it is your job to make sure that every polling place is properly equipped
for the number of registered voters, and it is your job to make sure that we prevent undermining legislative intent. The proposed rule would allow counties to deploy as few as one voting station in a precinct on election day and still be in compliance. One election director has already confirmed in writing that she will deploy only one machine per 500 voters on average but won’t commit to what that means per precinct, so I submit that this rule needs to be stricken. The law gives clear direction and does not need further clarification. The legislature decided to give voters across Georgia equal access to vote and that decision should stand. Thank you.

MR. RAFFENSPERGER: Thank you. John Peterson?

MR. PETERSON: Good morning, Mr. Secretary, members of the Board. My name is John Peterson. I’m a Georgia voter from Cherokee County, and I’m currently attending Georgia State University here in Fulton County. Last month, I shared my concerns about ballot secrecy, and as far as I can tell, nothing at all has been done to fix this problem. Ballot secrecy is absolutely guaranteed in the Georgia Constitution. It is also required by the Help America Vote Act, and the law that enabled ballot-marking devices says that they must permit voting in absolute secrecy so that no person can see or know any other elector’s votes.
Georgia’s election boards are required to conduct elections in such a manner as to guarantee the secrecy of the ballot, and it’s absolutely clear under the law that Georgia ballot secrecy is not optional, and yet, here we are, months after pilot elections revealed the new ballot-marking devices have a terrible design flaw that allows anybody in the room to read the screens from 20-30 feet away. They’re huge. The new tablets are big, they’re bright, and they stand upright. When you choose a candidate, a bar lights up across the screen, and anyone familiar with the ballot can easily tell the candidate selected from a distance. Anyone, poll workers, poll watchers or observers, or other voters, can see exactly who was chosen by voters, and the counties that are waiting for the Secretary of State to solve the problem have not heard anything from you about what you’re going to do to fix it.

If there is a solution that can be deployed before in-person voting begins in six weeks, I’d like to hear it. Why are we about to deploy 33,000 ballot-marking devices that aren’t able to protect the secrecy of our votes? During your recent meeting, one election board member asked her attorney are we supposed to follow the Constitution or the State? Which law are we supposed to break? And putting elec -- election board members in that
position is disgraceful. You should not be in a position as an official of the government to have to choose which law to break because superiors of yours have chosen not to follow the Constitution. You spend most of your time meting out penalties for those who do not follow the law, so what’s your answer for her, for all election superintendents? Which law do they break? I ask you to halt the use of the ballot-marking devices until a solution can be implemented that will guarantee the security of our ballots, and I urge you to add a phrase guaranteeing the voter’s right of secrecy to the ballot to rule 183-1-12-.11, conducting elections. Thank you.

**MR. RAFFENSPERGER:** Thank you. We next have Dana -- Dana Bowers, Caroline --

**MS. HOLKO:** Holko.

**MR. RAFFENSPERGER:** Okay. Isabella Gambino and Libby Seger, so Ms. Dana Bowers?

**MS. BOWERS:** Hi. Good morning. My name is Dana Bowers, and I’m a Georgia voter from Gwinnett County. Georgia is predicted to see a record number of voters in the November election. With pre -- with a President and two Senators to elect, political ads will be flooding the airwaves and our social media pages. It will be hard to ignore that -- this election year. How and where equipment is deployed will make a difference in whether
voters are able to cast their ballots without unreasonable wait times. The legislature mandated one voting booth for every 250 registered voters in a precinct. The Secretary of State adjusted the initial purchase after reviewing voter registration trends and other data so that counties will actually receive one BMD system for every 255 registered voters. This lets them set aside some -- some for early voting and still meet the one in 250 standard for precincts. Or will they?

With State help, every county is reviewing each of the 2 -- 2700 polling places used across the state to make sure they have the space and the electrical capacity to house the BMD systems. Hundreds of polling places -- no one has the exact number yet -- cannot fit the mandated number of voting booths or there aren’t enough electric circuits. You can only put 6 BMD systems on a 15-amp circuit or 8 BMDs on a 20-amp circuit. It’s too late to change polling places for the March election, so local boards have -- have a dilemma. Do you have one standard for some polling places and another for the rest? Will some voters find more machines and shorter lines, while others find fewer machines and longer lines? This is exactly what the legislature hoped to avoid when they set a minimum of one voting booth for every 250 voters, yet here we are. You know what wouldn’t cause this trouble?
Hand marked paper ballots. Thank you.

**MR. RAFFENSPERGER:** Okay. Caroline?

**MS. HOLKO:** Hi. Good morning. My name is Caroline Holko. I’m a candidate in House District 46, and I’m a voter in Cobb County. One of the things that is very concerning to me is there doesn’t seem to be a clear consensus on what constitutes the actual vote. It’s defined -- federal law requires an answer. I want an answer. Cobb County wants an answer. Georgia wants an answer. Proposed Rule 183-1-15-.02, definition of vote, removes references to DRE votes but includes only one minor reference to BMD ballots, what to do in case of stray marks.

But the larger question is: is our vote the human readable portion of the printout or is it the QR code? It’s defined differently in two different places. One of the concerns that I have about using the QR code for anything: I have an app on my phone that allows me to change where a QR code points to. I’m a suburban housewife, and I can change QR codes, so I’m really concerned about the possibility that anything other than the human readable portion of the ballot would constitute the vote, so that is my ask to you is that you make sure that the human readable portion of the ballot is officially defined as the vote in the event of an initial
vote, a recount, an audit, anything. I can’t read a QR
code. I can’t even learn how to read QR codes because I
am not, in fact, a cyborg, so please, please, make the
best decision, protect our votes, and make sure that the
process is 100% transparent and clear. Thank you.

Mr. Raffensperger: Ms. Gambino?

Ms. Gambino: Yes. Good morning. My name is
Isabella Gambino. Can you guess which component of the
new voting system created the most trouble during pilot
elections? The e-poll books, which failed in nearly every
pilot precinct at the start of voting on election day.
The problem was not solved in all precincts for hours and
only after a Wi-Fi reset of their data. And which
component of the old voting system created the longest
lines and tens of thousands of voter complaints in
November 2018 elections? The e-poll books, which checked
in many voters promptly, yet lost others and returned the
wrong precinct for many voters. The electronic poll books
tried to send Representative Jasmine Clark to another
precinct, but she stood her ground, pointed out that the
MVP page showed she was in the correct precinct and was
finally allowed to vote after a lengthy delay.

State law required a certified electors list be
available in every precinct to be used as needed when the
e-poll books don’t work as intended. The certified
electors list has robust standards. It must be updated after early voting is complete, include information about who has been sent an absentee ballot, and checked for accuracy, then certified by at least two of the registrars. Had the certificate -- had the certified electors list been consulted immediately, it’s likely Representative Clark would not have endured a long wait to cast her ballot. You -- your proposed rules refer to paper poll books or similar phrases. We urge you to add certified electors list to Rule 183-1-12-.02 definitions and note that all references to paper poll books are deemed to mean certified electors lists, specify that certified electors list shall be deemed the official record in case of a conflict with the e-poll book. Preventing unnecessary provisional ballots and longer lines depends on it. Thank you.

MR. RAFFENSPERGER: Thank you. Ms. Libby Seger?

MS. SEGER: Good morning. My name is Libby Seger, and I am a voter for Fulton County. I am also a student at Georgia State University, where I am the President of the Young Democrats and currently cofounding a Fair Fight Action chapter. I represent the future of this state. I am the rising generation of Georgia voters. This year will be the first time that a lot of my peers and I can vote in a Presidential election, and our right to a safe
and secure election is something that we’re taking very seriously.

I’ve been watching the roll-out of this new system unfold, and I’m astounded about what I see and in the worst way. I cannot believe that Athens County Clarke, which is home to the largest university in the State, won’t receive their equipment until February 3rd, even though the primary election begins in just two weeks with mailed absentee ballots, not to mention that Gwinnett County, along with several others, still haven’t had their equipment delivered yet either. Additionally, last week only a handful of counties had received their election management server and the software required to make ballots and test equipment. Do you know that the contract required all counties to have their EMS systems by January 20th? That was two days ago. My classmates are better at hitting deadlines than that.

Everyone knew that it would be difficult to implement a statewide roll-out of this magnitude with so little time. That’s why it was ordered that the State develop a backup plan and test it during the November pilot elections. The Cobb County hand-marked paper ballot pilot election went smoothly with very few reported problems, unlike every other pilot election. Some -- some say that there were problems with the hand-marked paper ballots as
well like people checking the bubbles instead of shading them in, but those are just a few instances that affected only a handful of voters and most likely -- and most importantly, it was easily solved. There are issues with the new voting system that could affect entire counties and that are not easily fixed. The State also says the roll-out schedule for this was fluid, but you know what schedule is not fluid? Election day and all of the critical dates that come before it, so the emergency ballot pan [sic] in your proposed rules is not a substitute for a real plan to run smooth elections. Georgia deserves better. The question is will you do better? Thank you.

UNIDENTIFIED WOMAN:  Brava.

MR. RAFFENSPERGER:  Ms. Laura Digges, and then after, if we’d start lining up, Aileen Nakamura -- Nakamura, Shea Roberts, Liz Throop -- Troop -- and Jean Dufort, and I apologize if I mispronounce your names.

MS. DIGGES:  Thank you. Good morning.

MR. RAFFENSPERGER:  Thank you. Ms. Laura Digges?

MS. DIGGES:  Hi. Good morning. My name is Laura Digges. I’m a Cobb County voter. There are few things worse than having a uniform set of rules so badly written than they cannot be followed uniformly. The new emergency ballot rules are well intended. The emergency ballot
rules create options for poll managers, supervisors, and superintendents, the folks out in the field on Election day, to change the voting procedures when the uniform system is not working properly. This is a very good idea. The problem is these rules are inconsistent and vague. Who makes the decision that an emergency exists? The rule generally says the superintendent, which is the election board, except where it says as -- it says it’s at the discretion of the election supervisor, which is the election director. If neither can be reached, the poll manager may act. How do you prepare for an emergency? By having a sufficient number of paper ballots on hand as determined by the superintendent. What is sufficient? Election directors tell us that some say it’s 5% of registered voters. Some say 35%. The choice could make the difference between some voters experiencing long delays or being unable to vote if there is a systemic equipment failure, as happened during the pilot.

It appears that the emergency must be tolerated for
30 minutes before emergency rules can be implemented, and
the rules don’t state when or if the poll manager can
revert back to the uniform procedures. Some even
interpret the rule to say that 30 minute wait times for
any reason constitute an emergency, but that can be a
normal condition during peak hours in a big election, and
they do not address what to do if it’s the electronic poll
books causing the problem. We encourage you to make plans
to improve these rules within the next few weeks, so that
they will provide the critical guidelines needed by
election directors before early in-person voting begins.
Thank you.

MR. RAFFENSPERGER: Thank you. Ms. Nakamura?

MS. NAKAMURA: Good morning. I'm Aileen Nakamura, a
Georgia voter from Sandy Springs. Public observation of
elections build trust and helps ensure that election
outcomes reflect the will of the voters. Public observers
include groups like Election Protection, the ACLU, and
ordinary citizens with an interest in our elections.
Georgia’s nearly 2500 polling places serve anywhere from a
few hundred voters to more than 25,000. To comply with
Georgia law, election officials must set up polling places
to ensure both voter privacy and allow public observation.
With the new voting system, protecting voter privacy means
protecting both the voting station where you make choices
on a tablet and print it out and the scanner where you cast your vote.

Current rules prohibit public observers from getting within 6 feet of the voting booths, but Georgia statute 21-2-267 states that every polling place shall consist of a single room, every part of which is within the unobstructed view of those present therein. The ballot box and voting booths shall be so arranged in the voting room within the enclosed space so to be in full view of those persons in the room outside the guardrail or barrier to permit the public to observe the voting without affecting the privacy of electors as they vote.

However, during pilot elections, I observed a precinct where elections officials set up check-in in one room and voting booths in another, illegally blocking observation and another precinct where the entire gym was deemed the enclosed space and public observers were not allowed inside. This cannot be what was intended. Your new definition of enclosed space may be interpreted to allow an elections supervisor to declare that anywhere that a voter may mark a ballot, carry that ballot, and scan the ballot is within the enclosed space and off limits for public observation. There’s an easy solution. Direct the Secretary of State to supply and require use of secrecy sleeves like this to protect the ballot from
printer to scanner, specify to the -- sorry -- specify that the guardrail or barrier must be stanchions or floor tape -- not solid barriers to allow visual observation and clarify for local election supervisors that the enclosed space should be expressly limited to the areas within 6 feet of voting booths and scanners. Thank you.

MR. RAFFENSPERGER: Thank you. Ms. Roberts?

MS. ROBERTS: Good morning. My name is Shea Roberts. I’m an attorney and candidate for State House District 52, and I’m a Georgia voter from Sandy Springs. I have to ask y’all, have you really looked at the new ballot-marking tablets? Have you seen them in use? What kind of certification testing missed the glaring design flaw that the votes cast on them can be observed from 20 to 30 feet away? They literally do not comply with the law. It says electronic ballot-marking devices must permit voting in absolute secrecy so that no person can see or know any other electors’ votes. Why are we shipping 33,000 of them to counties and expecting to use them in March elections when we know they fail at the most basic level to comply with our laws.

As a candidate, it’s personal. While canvassing, I have met voters who assure me they will vote for me but are adamant no one else can know that. It’s a swing district thing. I think most Georgians take our right to
a secret ballot for granted, and we shouldn’t do this. It’s a right guaranteed in our Constitution and backed up in our statutes. Ballot secret [sic] is also required federally through the Help America Vote Act.

In many ways, the State Election Board is the compliance arm for our election system. Nearly every time you meet, you hear cases where some election official or another did not follow the law, and you mete out consequences. How can you just sit back and watch these non-compliant machines roll out to counties and into voting booths? What will you do when a voter files a complaint that her right to a secret ballot was taken away when she was forced to use one of these new ballot-marking tablets? It’s a serious problem deserving of a serious answer. What say you?

MR. RAFFENSPERGER: Ms. Throop?

MS. THROOP: I have visual aids. I’m Liz Throop. I live in Dekalb County. I spent over 30 hours observing the new voting system and speaking to voters as they left the polls. I asked them if they read their printouts and about half said that they could read it only with difficulty. One SEB proposal says poll workers shall tell voters to review their ballot and tell them that magnifying devices are available. It says that voters shall review their printouts. None of this addresses
whether voters can review their printouts in any meaningful way.

When type is hard to read, it’s extremely hard to find errors. The Democratic party suggests type be bigger, 12-point Arial, but the type isn’t just small, it’s far too close together. The printouts used in pilots have less than 80% of normal line spacing. The space from line to line can be increased if you use legal-sized paper, and the Dominion printers and scanners accommodate that.

A member of the State Commission said, in session, if we provide the voter with a paper ballot of what they’ve done, and they don’t take the time to look at that and verify, there’s really nothing we can do. That’s the voter’s responsibility. Blaming voters does not relieve this body of responsibility to address the readability of the printouts. Verifying printouts is the only hedge offered to mitigate erroneous results. Unverifiable ballots cannot lead to claims of accurate elections. Thank you.

MR. RAFFENSPERGER: Thank you. Ms. Dufort?

MS. DUFORT: Good morning. I’m Jean Dufort from Madison, Georgia and from Morton County. Across the State, most Georgia counties enjoy true citizen oversight of elections through the appointment of election boards.
Some oversee both elections and registrations. Some just oversee elections. The rules that govern election boards require appointment of most members -- certain members by major parties and others by another governing body, often the County Commission. We just heard today you were appointed by the Lieutenant Governor, citizen boards. This balance, particularly the political balance, as to public confidence in our elections. The people have a voice in their election boards.

Georgia law confers on the local elections supervisor, the election board, important rights and responsibilities for the conduct of elections. For example, the superintendent is charged with guaranteeing ballot secrecy and with certifying election results. Currently, the elections superintendent is defined basically as the county board of elections or in some counties the judge of probate court. Separate from the elections superintendent, the elections supervisor is a staff position with primary responsibility for election operations and is accountable, in most cases, to the election board.

As a citizen who believes in public oversight of elections and as Vice Chair of the Morton County Democratic Committee, I oppose the revision to Rule 183-1-12-.02, which adds election supervisor to the definition
of superintendent, conferring power to a paid staffer normally reserved to the citizen board. While I appreciate the hard work done by elections supervisors -- some of them are here -- I firmly believe that the ultimate authority and responsibility for the conduct of elections must remain in the hands of election boards. County Republican and Democratic committees alike should oppose this dilution of their power and advocate for the peoples’ right to oversee elections. Thank you.

MR. RAFFENSPERGER: Thank you. If we could have next Nannette Vaughn, Joy Wasson -- Wasson, Adam Hinchliffe --

MR. HINCHLIFFE: Yes, sir.

MR. RAFFENSPERGER: And Greg Aikens and Robert Smith, line up. The first one will be Nannette Vaughn. Joy Wasson? Ms. Vaughn?

MS. VAUGHN: Good morning.

MR. RAFFENSPERGER: Good morning.

MS. VAUGHN: My name is Nannette Vaughn. I’m a Georgia voter from Brookhaven in Dekalb County. Every Board of Elections this month has had to face the truth: that the March presidential primary election will be underway before they meet next, and very few counties have the equipment needed to conduct that election. Overseas and absentee ballots go out first week of February. The election management systems are running woefully behind;
very few counties have received theirs. With no EMS
system, the central server and programming that you need
to program ballots and test your equipment, you cannot
complete preparations. A draft poll worker training
manual just went online last week, yet it’s incomplete,
and without a complete manual, you cannot properly train
workers.

Today, the State Election Board is meeting with plans
to modify many of the proposed rules after considering our
public comments. After this meeting, the revised rules
will be posted for another 30-day public review. If the
revised rules are accepted next month, Georgia law
requires 20 days before they are effective, so early
voting will be well underway before there are official
rules for elections using the new voting system, and the
design flaw in the voting tablets which we’ve heard about
within 20 feet of -- visually being able to see, we don’t
have a solution in sight for that, so it’s unfair to the
people who run elections in 159 counties, their directors,
and local boards.

Judge Totenberg ordered the hand-marked paper ballot
pilots so the State would have a backup plan in the event
their plans to implement the new system by March went awry
[sic] -- awry. I would ask that you consider that backup
plan. Thank you.
MR. RAFFENSPERGER: Thank you. Ms. Wasson?

MS. WASSON: Good morning. My name is Joy Wasson, and I’m a Georgia voter from Dekalb County. I’m the kind of person who likes details, and I like to research and plan and do things in an orderly way. For me, watching the roll-out of this new election system was like fingernails on a chalkboard. It’s painful, and it feels so unnecessary. The Secretary of State chose the low-cost bidder, whose quality score was mediocre. The vendor committed to delivery by end of March, then simply to satisfy the customer said we’ll try to get most of the equipment to Georgia by the end of December. Looks like the customer isn’t always right, and Dominion was truthful about its capabilities from the start.

So where do we go from here? The March presidential primary actually begins in two weeks, when UOCAVA and absentee ballots go out. Deliveries are running behind and precious weeks of election preparation have been lost. To implement a new system well, you need more time to prepare, not less. Who will make the call? When is the last day that counties, including some major counties, can receive equipment, test it, train workers, and conduct the election? The law contemplates individual counties making that decision, a very hard decision.

Just last night, the Athens-Clarke County Board of
Elections went on record saying that they are prepared to leave most of the equipment in the warehouse and use hand-marked paper ballots if things don’t improve. They are not scheduled to get their equipment until February 3, and a preliminary assessment of polling places shows that many cannot house the number of voting stations required by law. They are not prepared to disenfranchise their voters. Will you give the counties any guidance or stand with the Secretary of State when he insists that things are running ahead of schedule even when it’s quite clear that they are not? Head-in-the-sand is a terrible way to run a state-wide election.

UNIDENTIFIED WOMAN: Brava. Brava.

MR. RAFFENSPERGER: Thank you. Mr. Hinchliffe?

MR. HINCHLIFFE: Good morning, Mr. Secretary and members of the Election Board. My name is Adam Hinchliffe, and I represent the Center for the Visually Impaired, and we’re located in Midtown Atlanta. Just a brief description of CVI. We’re Georgia’s largest, fully accredited, comprehensive rehabilitation facility. We serve all levels of vision loss and all age groups. The reason why I’m here this morning is CVI is committed to ensuring that our constituents, many of whom are blind or visually impaired, are prepared to utilize the new voting technology that will be presented for this and future
One of the things that we examine is that there are a couple of areas, some of which you’ve heard about, but in a different way -- the printed portion of the paper ballot. The one concern that we see is while it’s true the barcode scanner is obviously not readable, but the written portion of the text of the ballot choices above, where most sighted people could read the ballot, people with low or no vision would not be able to do this. We ask you -- and we know that you are considering rules that would consider allowing independent screen reading technologies -- some of which are on phones, others are independent devices -- to be considered so that Georgian -- Georgia voters who are blind or visually impaired can securely cast their ballot, independently, securely, and to make sure that the official printout which we understand would be the official ballot represents their electoral choices.

Again, ladies and gentlemen, thank you very much for allowing me to speak and please know that the Center for the Visually Impaired is committed to helping in any way to ensure that Georgia voters who are blind or visually impaired can cast their ballot accessibly, securely, and independently. Thank you very much.

MR. RAFFENSPERGER: Thank you. Mr. Aikens?
MR. AIKENS: Good morning. My name is Greg Aikens. I’m a voter from Dekalb County. I’m also a member of the National Federation of the Blind of Georgia, and I also rise to raise concerns from the blind community in Georgia about the accessible -- the accessibility of the new voting system. As Adam mentioned, one of our major concerns is the ability to confirm the ballot that has been printed out, that it is marked as we asked, but we also have concerns about the usability of the system that was chosen.

While it technically meets the definition of accessibility in that it will read the screen out loud to -- to someone who is blind and visually impaired who cannot access it visually, it is not easy to use. These concerns have been shared with members of the Secretary of State’s Office since before the Dominion devices were chosen. They were shared again in November at a demonstration that it’s confusing, it’s not easy to use, that the audible instructions are challenging, so I -- my question would be what is being done to address that with Dominion? It’s things that can be changed, but will they be changed to make -- make instructions more clear, easier to use? Will you provide a way for voters who are blind and visually impaired to independently confirm the ballot that was printed out? Thank you.
MR. RAFFENSPERGER: Thank you, sir. Mr. Robert Smith?

MR. SMITH: Good morning. My name is Robert Smith. I’m a voter from Fulton County and a member of the National Federation of the Blind of Georgia. I too, as the one who has gone before me, am concerned about the verification of the paper ballot in that you do have the capabilities of scanning your driver’s license or state ID. Why can’t this be done when you complete your voting and give in your paper ballot for verification? I think the technology exists, so why don’t we use this? And that’s my concern, and I won’t go over my time, but I just wanted to -- you all to know that this is a concern in the blind community. Thank you.

MR. RAFFENSPERGER: Thank you. Next would be Ms. Marcia Robinson, Bently Hudgins, Ms. Helen Butler, Ms. Penny Poole, Edgardo Cortes, Ms. Janine Eveler, and I know I read off a lot of names, but Ms. Marcia Robinson and Bently Hudgins, Helen Butler.

MS. ROBINSON: Good morning.

MR. RAFFENSPERGER: Good morning.

MS. ROBINSON: My name is Marcia Robinson. I am a Fulton County voter in Georgia, as well as I am a board member of the National Federation of the Blind of Georgia. My colleagues have already eloquently stated all the
concerns we have about the accessibility of the voting machine. I will say that I was one of the testers that actually tested the Dominion machine when you were making the decision about what machine you would choose, and at that point, I stated emphatically all of the concerns that we’ve stated here today, but that machine was still chosen. So going forward, my concern is that again, the accessibility for the printout when it’s printed.

However, -- and I appreciate the fact that you are looking at ways to use new measures in which to scan the ballot by using our electronic device which could have an app that could read that. However, we have many people that are blind or visually impaired who do not use smart phones, who do not have an app on their phone. Some of them still use flip phones, so the question arises again: how are they going to read the ballots when it’s printed out? I hope that this will be of utmost importance to you and that you would find some decision that would make our right to vote accessible for everybody. Thank you.

MR. RAFFENSPERGER: Thank you. Mr. Bently Hudgins?

MR. HUDGINS: Hey, everybody. Good morning. My name is Bently Hudgins, and I’m a voter in the State of Georgia, recently moved up from Macon up here to Atlanta, and I’m happy to be here. Thanks for having us. I just want to commend the comments that were made earlier about
the concern of previous wait times, the lack of equipment, and just the lack of clarity surrounding the proposed rule changes, particularly around 183-1-13-.01. There are several concerns about the lack of consistent application of the new House Bill 316 around making sure that there is enough machines of one per 250 voters. There is a lack -- additional lack of clarity around House Bill 316 for voter purges.

But one -- there are a couple of things that have not been raised that I would like to speak to you about today. One, there are elections happening right now. The rules changes that we’re talking about are -- and the lack of action is affecting, you know, current elections. And additionally, so, as a part of the organization that I work for, we’ve contacted over 4 million voters. We’ve registered hundreds of thousands of voters, right? And part of our work, we were able to get to know and be a part of communities down in southwest Georgia.

Last year -- November we know in Georgia is hurricane season, right? When the hurricane struck communities across South Georgia, many people weren’t able to vote. I am encouraged by the attempt to clarify what deserves to be considered an emergency situation, particularly in 183-1-12-.02. There is an emergency definition, but like people have said before, that definition is vague, and
it’s not sufficient to meet the needs of Georgia’s voters. So before another hurricane season happens and as storms are getting worse, we’re going to see a lack of access to the ballot just because of bad weather, and so what are we going to do as a State when folks are physically barred -- so I just want to thank you for your time, and I hope you do the right thing.

**MR. RAFFENSPERGER:** Ms. Butler?

**MS. BUTLER:** Good morning. I’m Helen Butler, Executive Director of the Georgia Coalition for the Peoples’ Agenda convened by Dr. Joseph Lowry, and being in the civil rights arena, one of the things that we are most concerned about is protecting that right to vote for all citizens. I won’t be redundant. You have our written comments with regards to all of the rules, which we think are vague and not available for us to really implement this fully, but what I’ve heard today is that we don’t seem to be ready for this election cycle. But one thing I do know that I’ve heard that there are people that are planning to reduce the number of early voting days.

There are plans for people to reduce polling locations and because we have a new voting system, we should not limit access for voters, so our concern is that a) early voting days remain the same -- the same number. It shouldn’t be reduced because we’re not ready with the
implementation of the new system. We shouldn’t have to change polling locations because of this new system. We should make sure that our facilities can accommodate anything that we implement in place but not limit the access of voters, so we’re really concerned about that and want to make sure that you promulgate rules to the local boards of elections that they have to follow and make sure that voters have access — total access to the ballot and that if — they are not made to drive inordinate amount of distances to get access to that ballot. So that is our primary concern today, in addition to the things that we’ve already submitted in writing to you with regards to the rules. So thank you very much for considering those changes.

MR. RAFFENSPERGER: Thank you.

UNIDENTIFIED WOMAN: Brava.

MR. RAFFENSPERGER: Ms. Penny Poole?

MS. POOLE: Good morning. My name is Penny Poole. I’m President of the Gwinnett NAACP. Firstly, in conjunction with state law 21-2-285 and in conjunction with the NAACP State President James Woodall and Gwinnett’s State Representative Jasmine Clark, I have concerns. I attended the Gwinnett Board of Registration meeting on last night, and as of 1/21, Gwinnett County has not posted early voting, absentee ballot, or in-person
voting instructions or notices for the citizens of Gwinnett. And secondly, during the reporting period last night, Elections Supervisor Christie Rostin, she announced that satellite polling places will be decreased from 19 to 12 voting days for the presidential preferential primary, as well as the May primaries.

Democratic Representative Steven Day asked, who made these decisions because the Board was not involved or informed or did the Board make these decisions. And then secondly, a citizen asked, why not use paper ballots as was decided by Judge Amy Totenberg instead of creasing -- decreasing access to the citizens. Supervisor Rostin’s answer was -- and she refused to answer either. Her response to these questions were [sic] that these decisions were made because they were not sure when machines will arrive or if they will be on time, and her second response was that she stated that polling workers were still not properly trained to operate these machines for the citizens of Gwinnett.

Gwinnett County has announced illegal elections decisions without the consent of the Gwinnett Board of Registration and Elections. Secondly, Gwinnett County will cause massive voter disenfranchisement because they are suppressing the right of citizens to have equal access to the ballots and to cast their votes. We are
immediately asking for this Board to resolve why Gwinnett
has chosen to take this into their hands illegally and
make decisions for the Board of Registration and
Elections. We would like this to be done immediately, and
we, the NAACP of Gwinnett, we demand a written response to
this.

MR RAFFENSPERGER: Ms. Eveler?

MS. EVELER: Good morning. My name is Janine Eveler,
and I am the Director of Elections in Cobb County, and the
local election officials do have concerns about how the
Board is going to interpret the one unit for every 250
voters. I would just like to reiterate that the code
section that you’re trying to interpret does say for each
precinct and not for each polling location, and I would
take care in how that is administered.

We do have concerns about the logistics of getting
the number of units that are being discussed in each of
the polling locations. The code section 21-2-367, which
is what is being interpreted that, again, does speak to
precinct, was originally written prior to the advance
voting that we have today, and it wasn’t taken into
consideration that we are offering to every precinct
multiple days, multiple weeks, and multiple units in other
voting locations during advance voting. I would
appreciate that those offerings would be taken into
consideration in some way in the rule.

Also, different election types have different turnout, and I can appreciate the desire for what the legislature was trying to do for general elections, specifically to have the maximum number of units out there that we could, but for instance in the presidential primaries, Cobb County has never had more than a 48% turnout and 8% of that at that time was early voting. So if we’re going to the 250 — for every 250, that maxes out every unit that we’ve been allocated, and I have a hard time putting that many units out when we’re only going to have less than 50% probably turnout. I think we should be able to consider historical turnout and the type of elections and let the rule account for different types of election turnout. Thank you.

MR. RAFFENSPERGER: Thank you. Edgardo Cortes?

MR. CORTES: Thank you, Mr. Secretary, members of the Board. I am Edgardo Cortes. I’m an Elections Security Advisor with the Brennan Center for Justice. It’s a law and policy institute focused on justice and democracy issues. Also, though, former Commissioner of Elections in Virginia and a former local election official. The Brannen Center along with Common Cause on behalf of Common Cause Georgia did provide some more extensive written comments with recommendations for how to strengthen and
clarify the proposed rules, but I do want to highlight a couple of things.

There’s been a lot of discussion around the -- the number of machines allocated per precinct. We definitely think that the language that’s in the proposed rule is unclear and could lead to some of the bad outcomes that have been discussed today, and so, providing, you know -- taking out of the equation, dealing with advanced voting and early voting out of the equation for planning for election day I think would be appropriate.

The other thing I wanted to focus on was the issue of both emergency ballots and provisional ballots. The rules state that a number of -- that a sufficient number of these ballots should be provided. We would recommend that there would be more -- clearer guidance provided to local election officials about what that means. We generally advocate for having two to three hours’ worth of peak voting in terms of backup ballots and provisional ballots.

In Georgia, based on the last few elections, you’re looking at an average of about 35%, so having either the two to three hours of peak voting for each local to do it based on their specific locality or a blanket 35% threshold for the number of emergency paper ballots to have on hand and provisional ballots to have on hand we think would help strengthen the efforts that you have to
prevent long lines from forming should the machines go
down. And we do -- we are appreciative of the fact that
the Board is having this discussion, discussing these
proposals in an open and transparent setting. We think
it’s important to allow this sort of input as you’re
dealing with these tough election security and preparation
issues, and we look forward to working with you as you
move forward. Thank you.

MR. RAFFENSPERGER: Thank you. If we could have
Gaylon Tootle and Susan McQuethy?

MR. TOOTLE: Good morning.

MR. RAFFENSPERGER: Good morning.

MR. TOOTLE: My name is Gaylon Tootle. I’m a Richmond
County voter. I work for Walter Knopshin’s Center for
Independent Living. I’m a part of Rev Up Georgia, and I’m
here with my colleagues from the National Federation of
the Blind. We again -- I won’t be redundant. We have
expressed our concerns about the confirmation -- the
confirmation of the ballot. We’ve heard a lot of
different issues that seem to be going on with the voting
system, and the picture looks bleak. And then, when you
couple that with -- normally with mass confusion, normally
what comes along with that is marginalization of
vulnerable people in marginal populations. So it is
imperative that we come up with a better solution for
confirming our ballots, and we, in the National Federation of the Blind of Georgia, we feel that there’s a simple solution to that and that is by providing iPads or tablets at each polling -- scanning position so that we can verify our ballots. And when we say verify our ballots, putting it where the goats can get it, that simply means that we want to be able to read the ballot once we have printed it, and we can say okay, I voted for such-and-so, and it is here on this paper.

We understand that in this time that voter suppression, voter whatever you would like to call it -- we want to make sure that the process is accessible from beginning to end. Voting is a right and not only that, accessibility is the law. So let’s follow the law, and, again, the National Federation for the Blind of Georgia, we’re here to assist with this process because we care, and we want to exercise our right to vote in a clear, transparent, and legal way. Thank you.

MR. RAFFENSPERGER: Thank you.

MS. MCQUETHY: Good morning. My name is Susan McQuethy. I’m a DeKalb County voter. My concern is with the burden on voters to have to verify that a machine recorded their votes correctly. These new ballot-marking devices add a whole new level to the voting process. A level that is unreasonable and in cases bordering on
impossible. Voters are expected to find errors on barcoded ballots that are in a completely different format from the machines, and that makes it cognitively challenging for many, many voters. As we’ve been hearing all morning, the summaries do not provide the full spectrum of choices, and they are printed in tiny, cramped font, so it is no wonder that voters take little or no time to go through this ordeal, and research proves that they don’t.

In the recent University of Michigan study, fewer than 7% of voters took adequate time to notice deliberate discrepancies that had been printed on their summaries. In an April 2019 report, voters spent an average of 3.9 seconds to review printouts that summarized 18 contests. The design of this system puts the onus on poll workers to provide interventions to better ensure the security of the vote. The January 13th, 2020 letter from the Brennan Center to the Secretary of State’s Office, as well as the Michigan study, suggests that verbal prompting be provided to the voter after the barcoded ballot is printed before they are scanned.

This means that more poll workers must be recruited, and that means more cost and more training. Is this part of the plan? Have you taken measures to mitigate this serious flaw in the new system? Are provisions in place
to fully fund this mitigation? Audits have no credibility if they’re performed using unreliable data, and hacking of elections is still possible, and the chances of it are made worse if malicious operators know that so few voters are likely to notice errors. The security of our elections is on the line. I trust that you are committed to providing resources for the necessary interventions. Thank you.

MR. RAFFENSPERGER: Thank you.

(Applause)

MR. RAFFENSPERGER: Well, thank you for your public comments. For the last month, we’ve been working on the rules. They were posted after the last meeting that we did have, and I thought perhaps the best thing to do is to let our Chief Counsel, Ryan Germany, just get us up to speed with where we are, and take it from there, Ryan.

MR. GERMANY: Is this one on? Okay. Hello. Thank you. Thank you, Mr. Chairman, members of the Committee. Yeah, so since the rules were posted, we have received and reviewed public comment. Thank you. So since the rules were posted, we have received and reviewed public comment. The rules working group that -- that this Committee set up met to talk about how we should proceed, so today I have a couple new rules to propose to the Board to post for public comment, and then, some amendments to the rules we
posted last time for your consideration as well.

MR. RAFFENSPERGER: So as we’ve been discussing this, I think all the Board members are aware of this and many of the people that have reached out to us, because of the timeline that we’re on, it’s felt -- and I guess there’ll be a motion at some point, but what seems might work best is to actually -- we would implement the rules that have already been posted, and then, obviously then they would then become the rules, but then we would consider amending those rules further to further tweak this and hone down the rules as we want them. And this, we do think that this will be a process that will take a few iterations, and we want to continue to improve elections in Georgia, and we want to continue to take input from all the key voters and stakeholders in the election process in Georgia.

MR. GERMANY: Yes, sir. That’s what I recommend: that for certain rules that we have posted that we adopt them, and then, in addition to voting to adopt them, we vote to post the amendment -- the amended rules that I’m going to propose, and then, we’ll come back in another 30 days and consider -- consider those amendments to the posted rules.

MR. RAFFENSPERGER: So any comments from the Board for -- general comments for the public or direct them to
Mr. Germany?

MR. GERMANY: And what I was going to do, Mr. Chairman, if it’s all right with you --

MR. RAFFENSPERGER: Okay.

MR. GERMANY: -- is first off, present the new rules for the Board to consider posting for public comment and then, I’ll go through the rules that we’ve already posted, but --

MR. RAFFENSPERGER: Okay.

MR. GERMANY: -- obviously, subject to the Board’s pleasure.

MR. RAFFENSPERGER: Proceed.

MR. GERMANY: Okay. The -- the first rule -- it’s in your binders, I believe, back in tab 8 -- is a rule about assistive technology devices. This rule allows disabled electors who are entitled to receive assistance to use an assistive technology device to help the elector review their paper ballot prior to casting.

MR. RAFFENSPERGER: It’s actually tab 7.

MR. GERMANY: Tab 7, I’m sorry. Any -- so this basically clarifies that especially visually disabled voters can use their assistive technology devices to review their paper ballot and doing so would not be a violation of the general rule that prohibits phones or other technology use in the polling place. So I would ask
the Board to post that rule for public comment.

    MR. RAFFENSPERGER: Does this bill -- this proposed rule come from input from the ADA community?

    MR. GERMANY: This is based on the input that we’ve received from the ADA community that they’ve brought up today and also previously in demonstrations that we have done with that community.

    MR. WORLEY: Mr. Secretary, I would make a motion that we post the rule on assistive technology devices.

    MS. SULLIVAN: Second.

    MR. RAFFENSPERGER: Discussion of this rule from the Board? Hearing none, I’ll call for a vote. All those in favor of posting this new rule for assistive technology devices as presented, signify by saying aye.

    THE BOARD MEMBERS: Aye.

    MR. RAFFENSPERGER: Those opposed? Motion carries.

    MR. GERMANY: Thank you, Mr. Chairman. The next rule in the following tab in your binders is a rule about recounts clarifying that now with a paper ballot system, recounts will be conducted by rescanning all the -- all the ballots, and it goes through how to -- the process that an elections supervisor should go through in doing recounts.

    MR. RAFFENSPERGER: Any comments from the Board? Do I have a motion?
MS. SULLIVAN: I’ll move that we post the new rule regarding recounts for public comment.

MR. WORLEY: I’ll second that.

MR. RAFFENSPERGER: Okay. Do we have any discussion? Hearing none, all those in favor of posting the new rule for recounts, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed? Motion carries.

MR. GERMANY: Thank you, Mr. Chairman. Moving forward to the rules that have already been posted, so I’m going to -- going to go through them kind of by chapter, so the first one should be the next page in your -- the next tab in your binder is the rules with the amendments that -- that I’m going to propose today. The first one is the rule, so 183-1-6. It deals with required activities for third party voter registration. The public comment brought forward some -- basically some typos in the -- in the posted rule, and so I would ask the Board that we repost the rule as amended to correct -- correct those typos. This is one -- unlike some of the later ones, I don’t think it’s critical that we adopt it. I think we just vote to repost, and then we’ll consider it next month.

MR. RAFFENSPERGER: Any comments from any Board members? Do we have a motion?
MR. WORLEY: I’ll make a motion that we post for comment rule 183-1-6-.02(6) and rule 183-1-6-.02(7) for public comment.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: I’ll second.

MR. WORLEY: As amended for public comment.

MR. RAFFENSPERGER: As amended.

MS. LE: I’ll second that.

MR. RAFFENSPERGER: Any discussion on the motion? Hearing none, call to question. All those in favor of the proposed posting of the amended rule 183-1-6-.02(6) and (7), all those in favor say aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MR. GERMANY: Thank you, Mr. Chairman. The next -- the next rule is rule 183-1-12. This is one that I will ask the Board to adopt the posted rule because it deals with, I think, things that are critical to be in place before voting begins, such as storage, transport of machines, logic and accuracy testing, and polling place set-up, etc. But what I’m going to go through now are the amendments, so I’m going to ask the Board to adopt the rule that we posted last month, and then, to post a new rule that we will come back -- that basically amends that adopted rule. So however you’d like to handle it when we
go through the amendments now —

**MR. RAFFENSPERGER:** I’d rather -- my preference would be to clear the deck, and let’s approve it, and then, let’s talk about the amendments if that’s desirable?

**MS. SULLIVAN:** Sure. I’ll make a motion to adopt rule 12 as originally posted.

**MR. RAFFENSPERGER:** Do we have a second?

**MR. WORLEY:** I’ll second that.

**MR. RAFFENSPERGER:** Do we have any discussion on that? Hearing none, all those in favor of adopting the rule 18-3- -- 183-1-12-.01 as posted -- through 19 as posted, signify by saying aye.

**THE BOARD MEMBERS:** Aye.

**MR. RAFFENSPERGER:** Any opposed? Motion carries.

Okay. Now, Mr. Germany, your proposed recommendations?

**MR. GERMANY:** Yes, sir. And the proposed revisions are -- I’m not sure the tab in your binder, but it’s the red line version, and these are based on the comments we received, and I do want to thank the people that commented. Some of them are bringing forward issues we missed such as typos, and so we’re correcting those, and we’re also making some substantive changes. The substantive changes we are making are -- I’ll basically go through them, not all them, but the main ones.

So from -- some of the county election officials
raised the point -- and I will say on our rules working
group is Lynn Bailey, who is the Elections Director for
Richmond County, and she has put in so much time and
effort, and I just wanted to call a moment to appreciate
her, as well as she has sent these rules to other
counties, and we have received comments from many counties
to help us make these rules better including Ms. Eveler
from Cobb County and many others, so I just want to thank
the counties for their help in -- in getting these rules,
as well as the other commenters.

The first change is making a slight change to the
storage requirement to basically clarify that counties can
store these machines in a manner that protects them from
damage, so making it a little less stringent in terms of,
you know, they don’t have to store them in their original
packaging like we said, but if they come up with another
way that protects them from damage that that’s sufficient.

The other change we are clarifying is there’s some
requirements in the posted rule that require things to be
posted on a webpage, such as in this rule the logic and
accuracy testing dates, and we’re clarifying that that
needs to be posted on the county election board’s homepage
so it’s not lost, or if it’s not available on a webpage,
then -- if they don’t have an election board webpage, then
in a newspaper of general circulation or another prominent
location in the county. So we’re clarifying that.

We’re clarifying that we’ve received some comments about accredited poll watchers to ensure that accredited poll watchers can have the access that they are entitled to under the law, so I put some changes throughout to clarify that accredited poll watchers must be able to observe certain processes, where -- whether it’s the setup process, election day voting, or -- or tabulation, but cannot interfere with that. There was some back-and-forth at the rules working group. There was a proposal to allow certain photography of certain things at tabulation, and I think Mr. Worley will speak to that after -- after this, after I go through this. But there was -- that’s not included in this, but Mr. Worley can -- can bring that up.

One thing that we do add that’s a pretty substantial change is from the emergency ballot situation. We’re adding a clause based on a comment we received that for any primary or general election for which a state or federal candidate is on the ballot, a sufficient amount of emergency paper ballots shall be at least 10% of the number of registered voters to a polling place. That’s to try to -- we’re not taking out the requirement that a county provide a sufficient number, so a sufficient number may be more, but we’re providing this basically as a safe harbor and some guidance.
MR. RAFFENSPERGER: So as -- as a floor?

MR. GERMANY: Yes, sir. We’re making some changes.

One significant change we’re making is based on the paper done by Matt Bernhardt with the University of Michigan that basically identified certain interventions that are helpful in making people review their paper ballot. And as one commenter pointed out, the -- the real helpful intervention occurs after the printed -- the paper ballot has been printed and before it’s scanned. I think previously we had posted that you need to be told to review your paper ballot at the beginning of the process. That study showed that really, it’s more helpful after the paper -- after the ballot has been printed, so we’re putting in a requirement that -- that each scanner has a poll officer stationed there. That was already required, but that that poll officer stationed at the scanner has to verbally remind each paper -- each voter to review their paper ballot, so we’re putting that at that point in the process.

Let me see what else. Another change we’re making to this is dealing with provisional voters. We’re adding a requirement that -- you know, one thing that happens in provisional, when a provisional voter shows up, it can be complicated for them to decide what they should do, and it’s a lot to put on a poll worker to try to basically
tell them what to do, so -- and that’s kind of something we want because it’s not up to the poll worker to decide whether their, you know, that vote should count. It’s up to the registrar to determine that at a later process, so the existing rules I think adequately kind of update our instruction to let the voter know here’s basically your options.

What we’re adding in this rule is that each polling place shall have an information sheet developed by the Secretary of State available for voters that basically describes the relevant law regarding a provisional voter, so, you know, especially if you’re -- if you’re registered in that county but you’re not in the right precinct, if you can’t get to your regular precinct, then your provisional ballot may be considered an out of precinct ballot, and the votes that you’re eligible to vote for would be counted. But if you’re registered in a different county, then your votes wouldn’t count. And so then, a voter has to make that determination at the outset dependent upon when they moved, you know, if they moved after the registration deadline, they can go back to their previous county. If they didn’t, they really can’t, so the idea is instead of having a poll worker trying to make these sort of legal factual determinations, we’ll develop something that poll workers will have available that they
can give the voter to try to assist them in making that
determination. I believe that is the only -- that that’s
the final substantive change we’re making.

MR. RAFFENSPERGER:  Any comments?

MR. WORLEY:  I’d like to make some comments about the
revisions that were made to this particular rule, and I
believe there is one other revision in here that Mr.
Germany didn’t mention, but a provision was added that if
a poll officer observes a voter attempting to leave an
enclosed space with a paper ballot, they shall inform the
voter of the consequences of not depositing it in the
ballot scanner --

MR. GERMANY:  That is correct.

MR. WORLEY:  -- which is an important provision. I
was a member of the working group that worked on these
provisions that reviewed all of the comments that were
presented, and I’d like to thank the other member of the
working group, Mr. Germany, Mr. Rayburn, Lynn Bailey from
Augusta, Ms. Sullivan, Ms. Fuches, and Mr. Harvey, for all
of their very hard work on revising the -- or on drafting
the original amendments and then reviewing the comments
and making revisions. I think everyone operated in very
good faith to try to reflect as many of the comments as
were possible in the rules. This rule in particular I
think does some very good things, and especially as it
relates to provisional ballots, providing uniform
information to voters across the state so that they can
determine whether they should cast a provisional ballot
and what will happen when their provisional ballot is
cast. That, I think, will provide very needed uniformity
across all the precincts in the state on that.

There is one additional thing that I would like to
add to these -- to these amended rules, and if
the Board wishes, and we pass this rule as amended again
for further public comment, at that point I’d like to make
a motion relating to photography after the polls are
closed. But -- but to sum up, I think these -- I think
these revisions, amendments are very well thought out and
necessary, and I support them.

**MR. GERMANY:** So do we want to, Mr. Chairman -- do we
do these here from Mr. Worley’s amendment and then we can
decide and -- do you want me to kind of explain that
provision, Mr. Worley or would you --

**MR. WORLEY:** No. I’ll --

**MR. GERMANY:** Okay.

**MR. WORLEY:** I’ll be happy to --

**MR. GERMANY:** Sure.

**MR. WORLEY:** -- explain it. One of the suggestions
that we had to this provision of the rules was to
specifically state that accredited poll watchers shall be
allowed to observe the process as long as it’s in a manner consistent with the operation of the polls. A suggestion that we had was to add language that would allow accredited poll observers to photograph several parts of the paperwork in the poll after the polls were closed, including the provisional ballot recount sheet, the numbered list of provisional voters, and so, the purpose for that recommendation was that provisional ballots -- that voters have three days to cure problems with their provisional ballots.

Right now, anyone who wants to assist the prov -- the provisional voters in reviewing those ballots can make an Open Records request, but they won’t get that Open Records request until the time is expired for the voters to cure their problems. So by allowing accredited poll observers to -- after the polls are closed -- to photograph a list of the numbered list of the provisional voters, those entities, and those are usually the Democratic and Republican party, can go to those voters and assist them in information that they might need to cure their provisional ballot to make sure that that ballot is counted. And so, I think that’s a very good idea, and so I wanted to add an amendment at the appropriate place.

MS. SULLIVAN: Mr. Worley, can you --

UNIDENTIFIED MAN: Can you please speak up?
MR. RAFFENSPERGER: Sure.

UNIDENTIFIED MAN: Thank you.

MS. SULLIVAN: Do you mind?

MR. RAFFENSPERGER: Yes.

MS. SULLIVAN: Mr. Worley, can you tell us where you’re amending the rule and read that language to us, please?

MR. WORLEY: Yes. The rule --

MR. RAFFENSPERGER: What page?

MR. WORLEY: -- would be on page 19 of 33 at tab 10 of the book. It’s an amendment to rule 183-1-12-.12 (a)(8).

MR. RAFFENSPERGER: Okay.

MR. WORLEY: And I would just -- the amendment would add language after the existing section 8 to just say after the tabulation of results on election day as been completed, accredited poll watchers shall be permitted to photograph the tape of tabulated results referenced in section 1, provisional ballot recap sheet -- the provisional ballot recap sheet referenced in section 3, and the numbered list of provisional voters.

MS. SULLIVAN: Thank you.

MR. RAFFENSPERGER: But it wouldn’t just be -- as I read that, it’s not just provisional, so it’s the entire tape that normally gets posted on the, you know, --
MR. WORLEY: Right.

MR. RAFFENSPERGER: -- precinct windows.

MR. GERMANY: The tape is posted on the door, so there’s no issue with people -- anyone could photograph that. And I would say, I don’t have an objection, per say. I would describe it as more hesitation, and the reason is poll watchers now in the statute are not allowed to use photography or review electors lists, so I think it’s more a question of is this -- and I think so there’s a question of well, if it’s after the polls close, is that prohibition basically lifted?

Outside the enclosed space, I think there’s no -- never a prohibition is my understanding, so for instance photographing the tape on the door would never be a problem for anybody. Would -- this would allow the accredited poll watchers of the parties and the candidates -- so the Republican, Democrat, Libertarian parties and then, if any candidates have accredited poll watchers -- to allow them to photograph these things, and I think the -- I don’t have any objection to the reasoning that they want to get that information sooner --

MR. RAFFENSBERGER: I understand.

MR. GERMANY: -- because those voters --

MR. RAFFENSBERGER: It’s the first time that we’ve heard it today, but I know -- has the working group been
working on this one or is that...?

**MR. GERMANY:** We’ve worked on it. We discussed it on Friday. Lynn Bailey, from a county perspective, said she didn’t have an issue with it because those documents are basically -- are basically public anyway, so it’s kind of -- my hesitation is basically going from a place where poll watchers are not allowed to use photography to one where they would be. And again, I’m not -- I wouldn’t say I object. I would say I’m hesitant about making that leap.

**MR. WORLEY:** Well, I -- I think the amendment as I’ve offered it makes it clear that this is to be done after the tabulation of results on election day have been completed. I’d be willing to revise it additionally by putting in language saying that -- or putting in a clause that adds the phrase outside the enclosed area to make it clear that they should review these outside the enclosed area.

**MR. GERMANY:** I think that documentation and verification would occur inside the enclosed area, and I’m not sure we want to change that, so it’s really a question of do we want to allow that, and, again, it’s just a kind of hesitancy.

**MR. RAFFENSPERGER:** We’re going to be back here in a month to revisit other rules. Can we post this as -- as
another one of those and then it would give us the time
just to go back, have further discussions, and get
everyone on board? Because I think the -- the rules that
have been posted today, the amended rules, I think have
buy-in from everyone. It’s just that timing factor, so if
we could just do that and revisit that. I’d feel most
comfortable with that, and then, we would probably get
additional public comment on that also at the same time,
if that would be agreeable?

   MR. WORLEY: Sure. Sure.

   MR. RAFFENSPERGER: So I guess stick with what we
have right now, what’s presented, and then we’ll vote on
that, and then, we would --

   UNIDENTIFIED WOMAN: We can’t hear you.

   MR. RAFFENSPERGER: -- consider to -- post this as
another proposed amendment. Is that...

   MR. WORLEY: That would be fine or we can adopt it
and still have it -- I mean, it still won’t be final until
we get some public comment on it and vote -- and vote on
it again.

   MS. LE: They can’t hear.

   MS. SULLIVAN: You need to pull up your mic.

   MS. LE: They can’t hear in the back.

   MR. RAFFENSPERGER: Well, when it comes back -- when
UNIDENTIFIED WOMAN: We can’t hear.

UNIDENTIFIED MAN: Please speak into your mic.

MR. RAFFENSPERGER: I’d rather keep it stand alone just so that -- just because of the time factor, because if it doesn’t move forward and we want to take it out, it’s a reposting --

UNIDENTIFIED WOMAN: We can’t hear. We can’t hear.

MR. RAFFENSPERGER: We’d have to remove it down. I guess the mic level is turned very low today.

MR. WORLEY: I’m perfectly fine doing it as a standalone amendment.

MR. GERMANY: So I think the relevant action from the Board would be post rule 12 as amended and then another vote to post Mr. Worley’s amendment, and we’ll post them separately.

MR. RAFFENSPERGER: Okay. Do we have a motion?

MS. SULLIVAN: I’ll move to post rule 12 as amended, as presented to the Board today by Mr. Germany.

MR. WORLEY: I’ll second that.

MR. RAFFENSPERGER: Do we have any further discussion? Hearing none, all those in favor of posting rule 183-1-12-.01 as presented by Ryan Germany, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Okay. Mr. Worley?
MR. WORLEY: And I would make a motion to amend rule 183-1-12-.12, tabulating results, section (a)(8), to add language after “poll officials period” to state after the tabulation of results on election day has been completed, accredited poll watchers shall be permitted to photograph the tape of tabulated results referenced in section 1, the provisional ballot recap sheet referenced in section 3, and the numbered list of provisional voters.

MR. RAFFENSPERGER: Is that a motion?

MR. WORLEY: That’s a motion.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Any further discussion? Hearing none, all those in favor of posting the amendment as presented by Mr. Worley, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENBERGER: Any opposed? Motion carries.

They will both be posted.

MR. GERMANY: The next rule is the one that we received the most public written comments I would say and also the one we probably had the most verbal comments this morning on. It’s probably the thorniest issue to try to – - to try to solve, and it’s minimum number of voting booths.

So since we are now moving back to an optical scan
voting system, it basically resurrected a section of Georgia code that had a minimum number of voting booths in place when using an optical scan voting system. That section of code was enacted a long time ago prior to early voting, and the fact is, for instance in November of 2018 and as the usual decrease in general elections, about half of the total voters vote early. So what we’re trying to do -- and I think the point of the code -- the point of the code section is not really -- you know, the ratio is not the issue. I think the issue is they don’t want voters to have to wait in line, and having a sufficient number of machines is one way of going after that, but it’s not, you know, it’s not the ill that they’re trying to pro -- the legislature is trying to prevent in my view.

So the rule we proposed was basically -- the rule we posted was basically to have to allow counties to consider the number of voting machines, ballot-marking devices, that they use on the last day of early voting to take into account that there’s many more opportunities for voters to vote than just at their precinct on election day. I don’t -- I don’t think we received a single comment kind of supporting that rule. People raised the point that for -- for big counties that have a lot of early voting, which is a good thing, they can basically -- they wouldn’t have to have enough voting machines on election day. Now, for 145
counties, they wouldn’t have that issue, but, you know, we have -- we have counties of all sizes in our state.

The way the rules working group is suggesting to amend this is -- and also, we were concerned, and maybe Mr. Worley can speak to this, that basically the rule we posted would be -- would face legal challenge as to whether or not it sufficiently kind of -- in compliance with the statute. So the amendment that we’re trying -- that we’re proposing today is instead of counting the early voting machines and adding them to election day is defining the term electors as used in the statute to subtract the electors who have already voted. As Ms. Bailey pointed out this morning and Ms. Eveler from Cobb County also pointed out, that doesn’t really help in smaller -- it doesn’t take into account the reality that elections are different.

This year we’re going to have a presidential preference primary, a general primary, a general primary runoff probably, and then a general election in November, and they’ll all going to be different. The November election is going to be a massively bigger turnout than the PPP. Traditionally, election officials have been able to take that into account as they plan for their election, and frankly, I think they should be able to. You know, we don’t want a law that ignores that reality. So my point
is I think -- I think the law needs looking at from a legislative perspective, and, you know, that’s something we can work on, you know, over across the street, but as for the rule that’s in front of us today, we basically have, you know, a few options, and we can -- I’m open to discuss all of them.

The rule we posted deals with the kind of early voting. It lets you count early voting machines towards election day. The benefit of that rule is it does basically help counties more -- be able to comply with the rule. The number of voting machines that we’re -- that the State is providing to the counties is sufficient to meet the one to 250 ratio. I think one that we’ll have to -- that we’ll be looking at as a State throughout this year is now that we’re going to a precinct scan optical scanning system, it’s going to require some changes. The average precinct size in Georgia is about 2500. That’s -- that size is fine. There are some precincts that are much, much bigger than that, and with the DRE system, you could do that. With a precinct-based scanning system, we’ve done some calculations, and the real issue is about throughput, basically, getting voters through the scanner, and that’s a step that we’re adding.

So I basically say all that to say that’s all the things the rules working group is considering as we try to
solve this issue. Where we have it right now, I would say, is there’s not a very good solution, and I’m kind of left with I think we need to look at what this law should be.

And so, basically, for the Board today, there’s the rule we posted -- that we posted. We can adopt that and kind of continue to work. There’s the rule that we -- the amended rule that we’re proposing about subtracting electors. As Ms. Eveler brought up, -- I think she’s correct -- that would -- that makes sense in a general election, a November general election. It doesn’t make as much sense -- so basically, what that would mean is in a really small turnout election, like a special election, then kind of we have to have more equipment provided than in a large turnout election. So it’s not really a -- it doesn’t get to the aim of ensuring that voters don’t have to wait in a long line.

MR. RAFFENSPERGER: Okay.

MR. GERMANY: I don’t -- I don’t have a good recommendation, but I’m happy to take any questions or comments from the Board.

MS. LE: Did the working group consider -- what did the working group and the counties thoughts of historical -- you know, I’m just concerned. My biggest concern is the definition of elector in the code book. I know it
just seems like we’re taking the rule to make a practical
application, but the elector as defined in the code book
is pretty clear. But we’re trying to find a practical
solution, and I actually like the reason for it. I’m just
concerned about number one, are we changing the
legislative intent from that standpoint or are we
considering -- the working group -- in terms of the
anomalies, you know, historically a certain percentage
shows up? Is there a range of plus or minus within that
that accounts for or just leave it up to the counties to
decide well, historically 25% so they’re going to reduce
it accordingly?

MR. GERMANY: I think you have to leave it up to the
counties. Ms. Bailey and I discussed that. This year,
there’s a presidential preference primary that, you know,
the real kind of race is on the Democrat -- who’s going to
be the Democratic candidate? Ms. Bailey said, you know,
in Richmond County they’re -- they’re a heavily Democratic
county, so they’re going to expect a lot of voters. A
heavy Republican county might not expect so many voters.
And so, I don’t -- I don’t think there’s a good way for us
as a Board, you guys as a Board to do that or us as a
State, but, you know, that’s -- to try to answer your
question, the proposed rule that I have in front of me
that we were considering for amending defines electors as
used in OCGA 21-2-367(b).

MS. LE: Narrowly adjusted that --

MR. GERMANY: So we’re not trying to change it for
the whole code, just for that one --

MS. LE: -- and I get that.

MR. WORLEY: And if I -- Mr. Secretary, if I could --

MR. RAFFENSPERGER: Sure.

MR. WORLEY: -- speak to some of the discussions that
were had in the working group. I had a concern that the
rule as first drafted, which tried to calculate the number
of voting booths or enclosures available in the county
that might have been voted on already, was not really
practical for large counties as has been discussed because
it would allow a county like Fulton County to put as few
as one machine in a voting booth -- I’m sorry, in a
precinct and that that was just, you know, obviously not
correct. The other concern that we had was that the
statute says what the statute says: 250 voters per
machine, essentially, and that we really couldn’t vary
that -- that that would require the General Assembly to
pass a new statute.

And so, we came up with this compromise that defines
electors as all those people who have not already voted on
election day, so the county essentially gets credit for
the fact that they have allowed early voting, that those
people will not be coming back to vote on election day, and so you don’t have to have an excess of machines for -- beyond what the statute requires for voters who are not going to be appearing on election day. And I think the feeling in the working group -- Ms. Sullivan could testify to this or not -- was that this was a good compromise to both adhere to the legislative intent and be practical for counties to work with.

It’s a very clear rule of thumb. As amended, the rule would be very simple. It would just say as used in OCGA 21-2-367(b), the term electors shall mean those electors on the official list of electors for the precinct who have not voted as of election day. Polling places with assigned electors from more than one precinct shall use the total number of electors assigned to the polling place when calculating the minimum number of voting booths or enclosures. So I think -- I think this is a good -- a good compromise. It is true that this means that the counties will put out too many ballot-marking devices in the presidential primary, and they’ll probably put more than are absolutely necessary in the general primary in May, but that’s a distinction that the legislature did not make, and I think -- I think the revised language, as I said, is the best way to meet the legislative intent and be practical for the counties. Thank you.
MS. SULLIVAN: Mr. Worley accurately stated and well stated the discussion of the working group.

MR. GERMANY: I would add a couple of things if that’s all right, Mr. Chairman. One, and I think this could, you know, help the counties, is the statute talks about voting booths or enclosures. It doesn’t talk about electronic ballot markers. We already have, you know, in the rules we’ve passed -- the rules we’ve just adopted a provision where a county election superintendent can in their discretion decide hey, if this line is too long, you know, we can start using emergency paper ballots. So conceivably they could have it -- they could do something where they have additional voting booths, but not machines in those booths, so basically, they hold for use if needed. You know, if we’re going to what the legislature intended, you know, it’s about voting booths or enclosures.

The other thing that I think Ms. Eveler pointed out -- the second sentence in our proposed amendment basically says -- it kind of changed what the legislature did too. The legislature said precincts. Ms. Eveler is asking that we basically leave it at precincts, and I think that would help the counties too, and I think maybe what we should do is maybe take out that sentence, post it subtracting some electors who have already voted, I think provides some
assistance to the counties, and then, basically work to see if it’s a statute that should be clarified and how we should do that, taking into account the fact that one ratio for every election, you know, is probably not the best way to go about it.

MR. RAFFENSPERGER: So just to clarify, I think what I’m hearing is that what we’ve posted, we don’t want to move forward on that.

MR. GERMANY: I think that accurately kind of describes where the rules working group is.

MR. RAFFENSPERGER: Okay. Would we make to take a motion on that to kill it or if we just don’t approve it, it just dies on the vine.

MR. GERMANY: I would say it just dies on the vine.

MR. RAFFENSPERGER: Okay. So then what we have before us is the red letter outline right here, but what you’re actually proposing is to tweak it further. And before we get to that point, what I would -- because we are moving relatively expeditiously, I assume that since Ms. Bailey from Richmond County is on the working group that this is something that works for her area and the people that she’s talked to. And then, the question that we really have is our large metro counties, is this something that I think they’re -- do they feel that it would still need further tweaking? At the end of the day,
what we want to make sure is that we don’t have long
lines.

MR. GERMANY: That’s right.

MR. RAFFENSPERGER: If you look -- read most papers
that are put out, they talk about 30 minutes is kind of,
like, the standard, and so, we understand that. So we
want to make sure that we’re moving people through the
lines. That’s very important, I think, for everyone
involved to have a good voting experience. So to just get
where we are, in other words, some of the counties may
actually have more machines than they want to have because
they say that people won’t be there, but it’s better to be
on that side than on the other side where you don’t have
enough machines, and you have lines that are 45 minutes to
an hour. And so, --

MR. GERMANY: I think that’s -- I think that’s right, and I think that is where we should be. I don’t think
that the number of voting machines and the lines are
always sort of correlated. There’s other reasons for
lines. I think that’s kind of the flaw in the statute. I
think the point of the statute is to ensure that there’s
not long lines. A ratio of voting booths I don’t really
think is the best way to do that, and so, to answer your
question, I think passing this rule helps the counties. I
don’t think any county is going to love it. I think -- I
guess they’re not going to. But -- and the real flaw, I think Ms. Bailey pointed out and Ms. Eveler as well, it doesn’t take into account the reality that not every election is the same. A -- a PPP is not the same as a November general election, and county election officials know that, and they take that into account. Having to spend time putting out extra machines --

MR. RAFFENSPERGER: I agree.

MR. GERMANY: -- might not really help in terms of getting the most people through in the most efficient way possible, and that’s what every county officer that I know, that’s what they want to do in every election. So -- sorry.

MR. WORLEY: I certainly appreciate what Mr. Germany is saying and what the county officials are saying, the ones who have commented on the revision, but I don’t see any way around that at this point without getting the General Assembly to do something about the statute. And so, it seems it falls to us to come up with a rule that, you know, meets that requirement, but, you know, is practical. If we don’t -- if we don’t pass a rule, we won’t, you know, they won’t be able to take into account people who have already voted before election day, so I think -- I think the rule as in our booklets is the right way to go right now, and then we can look and see if that
needs to be changed or modified.

MR. RAFFENSPERGER: I agree. To your point, are there any additional tweaks of this, or is this as is? Did you -- I thought you offered --

MR. GERMANY: I would -- I would say --

MR. RAFFENSPERGER: Where exactly --

MR. GERMANY: It was based on Ms. Eveler’s comment that, you know, the second sentence -- the sentence basically in black in y’all’s binder, polling places with assigned electors more than one precinct, you know, what we’re saying there -- and I think it makes sense -- is that sometimes people, voters from more than one precinct, will vote in the same polling place. That occurs basically when -- if you have a -- polling places are not, you know, grow on trees, as county officials will tell you, and, you know, especially now, many counties are facing pressure from schools to not use schools as polling places due to basically safety -- safety concerns. So if you have a really good polling place, you know, sometimes people will use them -- you know, lot of parking, good accessibility, a lot of good space -- they’ll use it for more than one precinct.

MR. RAFFENSPERGER: Well, so, what is the final wording that you would like to see us move forward with the motion?
MR. GERMANY: I would post -- I think we post the, basically, the first sentence as used in -- post for public comment and just kind of knowing that it’s not a perfect solution really for anybody, but I think Mr. Worley pointed out, it’s basically what we can do right now. As used in OCGA 21-2-367(b), the terms electors shall mean those electors on the official list of electors for the precinct who have not voted as of election day.

MR. RAFFENSPERGER: Period.

MR. WORLEY: And then take out the final sentence.

MR. GERMANY: Yes.

MR. WORLEY: I’m fine with that.

MR. RAFFENSPERGER: Do we have a motion or any further discussion?

MR. WORLEY: I would make a motion that we post for public comment rule 183-1-13-.01, minimum number of voting booths, that states as used in OCGA section 21-2-367(b), the term electors shall mean those electors on the official list of electors for the precinct who have not voted as of election day.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Any further discussion? Hearing none, all those in favor of posting rule 183-1-13-.01 as presented by Mr. Worley, please do so by signifying aye.
THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries. It will be posted.

UNIDENTIFIED MAN: Is there any way we could discuss this? No?

MR. GERMANY: The next -- the next rule is rule 183-1-14-.02. It deals with advance and absentee voting. This is one similar to rule 12 that I would ask that we adopt the rule that was posted last month, and then, we’ll -- I can go through these revisions based on the comments and the rule working group review.

MR. WORLEY: I’ll make a motion that we adopt rule 183-1-14-.02, advance voting, as posted at our last meeting.

MR. GERMANY: And, Mr. Worley, I would just ask that it -- it also contains other sections in chapter 14.

MR. RAFFENSPERGER: It has --

MR. WORLEY: Oh, excuse me. I’m sorry. Then I would revise that. Yeah. I would make a motion then that we adopt rule 183-1-14-.02, --

MS. SULLIVAN: They’re listed on your agenda.

MR. WORLEY: -- 183-1-14-.11, 183-1-14-.12, and -.13 as adopted from posting at our last meeting.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.
MR. RAFFENSPERGER: Do we have discussion on the rules that were previously posted as a motion before us? Hearing none, all those who approve those rule changes as presented by Mr. Worley please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MR. GERMANY: Next, I’ll go through the proposed amendments to post to the -- to those rules. The first one reflects basically kind of through a typo, and the GMA and some cities brought this to our attention in comments that cities and municipalities will still be able to use hand-marked paper ballots for advance voting. This -- this rule mistakenly implied that they wouldn’t be able to, so we’re proposing to fix that. This makes some similar changes that we made in chapter 12 about posting advance voting locations not just on the webpage but on the county’s -- the county board of elections homepage to kind of try to account for the fact that it doesn’t get lost. It’s easier to find for people.

This makes some additional similar changes that were in chapter 12 based on the Matt Bernhardt study from the University of Michigan that the real intervention that is shown to be helpful is at the polling place scanner, telling people to review their paper ballot at that point, so we put that in a rule. We also add in here, as in
chapter 12, that -- this is based on some observations from the pilot county, from the pilot county in November -- that the poll officers stationed at the scanner should not be the person who is also dealing with questions of people at the ballot-marking devices, so it clarifies that there needs to be a different person who is basically assigned to the enclosed space to deal with voters, so that the person at the scanner can stay at that station.

And that is one thing, and I know, Secretary, you brought this up earlier this week, in that I do think there are going to be additional poll workers needed for this year, just like there was when we moved for the first time to the new system. And I know counties recognize that as well, so that’s a process that’s underway to help them recruit. You know, anybody who wants to volunteer to be a poll worker with all the people here interested in elections, it’s a great way to get involved. So there’s -- we would do that. It clarifies some options that if a voter -- if there’s an error, what a county does and how they document that, whether or not the machine brings up the wrong ballot or if there’s an error on the printed paper ballot.

And then, another substantive change is in the rule that we just adopted, the county has to give -- there’s
basically a period -- HB316 passed a requirement that allows voters whose signatures don’t match on an absentee ballot or who forget to sign their absentee ballot to have a process to cure that -- that mistake. And the proposed rule dealt with okay, basically after early voting ends, the counties need to get those rejection notices out ASAP, next day. In speaking with some commenters and some counties, there’s a proposal to basically back that up all the way through the second Friday before the election, so an absentee ballot comes in, the second Friday or later, the county needs to get out a rejection notice the next day.

There was some concern in the working group that is that workable for the counties, especially large counties who might get thousands of absentee ballots in a day? The initial reaction from the largest, from Fulton County, was we think that’s doable, and so I think it certainly should be a goal, and if they think it’s doable, then, you know, I think it would be good practice. That’s kind of the last substantive change we’d be posting for public comment today.

**MR. RAFFENSPERGER:** So we have before us the copy of the proposed new rule with revisions. We’ve had a chance to review that. Do we have any comments, any questions for Mr. Germany?
MR. WORLEY: I would just comment, Mr. Secretary, that the comments that we’ve received were very good and thoughtful, and we have endeavored to adopt those or make sure that the rules reflected those, most importantly, that instructions to review the ballot will be given at the end of the process before it’s deposited in the scanner, which the studies show is most effective, and I am especially pleased with the revisions for these rules in the notifications relating to absentee ballot rejections. That period is which that has to occur is very clear. The counties are very clearly instructed what they need to do that they need to try to reach out in addition to mailing by phone or email to end that process, and I think it’s a very, very great improvement in our rules, so I’m very much in favor of these revisions.

MR. RAFFENSBERGER: Also, I’d like to commend the working group. I know you’ve put an awful lot of hours into this. You’ve had a lot of input from everyone, but you’ve really been working hard to really perfect, you know, what we’re trying to do. It’s still a work in progress. We are open to taking more, obviously, input. We’ll have some more rules posted today, but at this time I guess we’re ready for a motion on that section, if you’d like to. Does anyone want to make a motion?

MR. WORLEY: Sure. I will. I make a motion that we
adopt for public posting and public comment the revised rule 183-1-14-.02 on advance voting, the revised rule 183-1-14-.11 on mailing admissions of ballots -- well, that wasn’t actually revised, so we don’t need to do that, but -- so let me start over. I’m sorry.

I make a motion that we adopt the revised rules for posting and public comment rule 183-1-14-.02 on advance voting and 183-1-14-.13 on prompt notification of absentee ballot rejection.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Do we have a discussion on the motion? All those in favor of posting 183-1-14-.02 and 183-1-14-.13 as outlined by Mr. Worley, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MR. GERMANY: The final rule that we posted last time is chapter 183-1-15-.02, definition of a vote. We don’t have any proposed amendments to that rule, so I would ask that the Board adopt the rule as posted last month.

MR. RAFFENSPERGER: Do you believe that clears up some of the questions that were raised today in the public comment phase? I think some of the speakers today were asking about, you know, clearing up exactly what is the
vote.

MR. GERMANY: I believe it does.

MR. RAFFENSPERGER: Do we have any discussion from any members of the Board? Hearing none, is this time for a motion?

MS. SULLIVAN: I move to adopt rule 183-1-15-.02, definition of a vote, as was originally posted.

MR. RAFFENSPERGER: Do we have a second?

MR. WORLEY: Second.

MR. RAFFENSPERGER: Do we have any further discussion? Hearing none, all those in favor of adopting 183-1-15-.02, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

Okay.

MR. GERMANY: Thank you, Mr. Chairman.

MR. RAFFENSPERGER: I think that concludes our business. Does anyone have any other business to bring before the Board today?

MR. WORLEY: I don’t have any other business, but I did want to point out for the visitors in the audience that -- who had not had a chance to see these rules yet, they will be posted in the next day or so, that the changes that were adopted today have made some significant improvements in the rules that we passed a month ago
namely empowering voters to verify their paper ballot in a way that strengthens the audit integrity, to promote a consistent and fair treatment of provisional voters, to preserve the intent of HB316 with respect to the number of voting machines, to increase election administrative transparency and engender public confidence, and to provide for a defined number of emergency ballots in every precinct in the state. I think these are all good changes. I think there are other changes that can be made based on the comments that we’ve received, and I know the members of the Board and the working group are certainly going to be looking at those -- continuing to look at those as the process of installing and operating the new voting system goes forward.

MR. RAFFENSBERGER: Any other members like the comment? Well, I’ll just conclude with saying thank you to everyone that’s here today. Also, I see sitting, my good friends our county election officials, and so I think we’re learning today maybe from the county perspective on the number of machines we have in place. It may not be the perfect answer. I’ll remind everyone we are in the legislative session. If we need to go back to the General Assembly, you know, we may have the time to do that, at least for elections going forward sometime, depending on when we move forward. Also, we will continue to have
discussions with everyone. I saw representatives from ACCG, who represent the counties. We want to make sure that they’re, you know, brought into the process, and I really -- I want to thank the people who offered their positive and constructive comments today and also the working group. I know how hard -- how much effort you all put into this. You all have day jobs, so thank you very much and with that we’re adjourned. Do we need a motion? Motion to adjourn.

MS. SULLIVAN: Second.

MR. WORLEY: Second.

MR. RAFFENSPERGER: All those in favor?

THE BOARD MEMBERS: Aye.

(Meeting adjourned)
CERTIFICATE

STATE OF GEORGIA
COUNTY OF DEKALB

I, Kaitlin Walsh, Certified Court Reporter, hereby certify that the foregoing pages numbered 4 through 89 constitute a true, correct and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 24th day of February, 2020.

Kaitlin Walsh, CCR, CVR
CCR #: 5910-3132-3171-2256
In The Matter Of:

Secretary of State
Board Meeting

February 28, 2020

Steven Ray Green Court Reporting, LLC
404 733 6070
THE OFFICE OF THE SECRETARY OF STATE

STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD HEARING

2 MLK JR. DR. SE
SUITE 810 WEST TOWER
ATLANTA, GEORGIA 30334

FEBRUARY 28th, 2020
9:00 A.M.

PRESIDING OFFICER: BRAD RAFFENSPERGER
SECRETARY OF STATE

STEVEN RAY GREEN COURT REPORTING, LLC
Kaitlin Walsh, CCR

Atlanta, Georgia
APPEARANCE OF THE PANEL

Secretary of State Brad Raffensperger, chair
Rebecca Sullivan, vice chair
David Worley
Anh Lee
Matthew Mashburn

ALSO PRESENT IN ORDER OF PRESENTATION

Ryan Germany
Transcript Legend

(sic) - Exactly as said.

(ph.) - Exact spelling unknown.

-- Break in speech continuity.

... Indicates halting speech, unfinished sentence or omission of word(s) when reading.

Quoted material is typed as spoken.

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MR. RAFFENSPERGER: Good morning, everyone. I’ll call this meeting to order. It looks like we’re just a minute over 9 o’clock. If I could -- first of all, I’d like to welcome everyone that’s here today. We’re here to, I guess, codify and vote on our new SEB rules and also look at some potential further changes on the SEB rules, so we’re very excited that you’re here today, and if I could call on Mr. Worley for the invocation and the pledge of allegiance.

(Invocation)

MR. RAFFENSPERGER: And for the Pledge of Allegiance, will you all stand and face the flag?

(Pledge of Allegiance)

MR. RAFFENSPERGER: Okay. I guess we have before us -- before we do that, we have a new member before us today as our new -- Matt -- member, Matt Mashburn. He’s an attorney from Bartow County, and he has, you know, now taken the oath of office, and he will be one of our new members today. Mr. Mashburn, would you have any words that you would like to offer or...

MR. MASHBURN: Just thank the Lieutenant Governor and the Senate for the appointment and the trust placed in me. I thank the Secretary for his leadership and look forward to working with the Board and thank you.
MR. RAFFENSPERGER: Great. Great. Okay. We have
before us the approval of the Board minute meetings. You
have those before you. You’ve had a chance to review
them. Does anyone like to make a motion?

MR. WORLEY: I’ll make a motion that we approve the
Board minutes.

MR. RAFFENSPERGER: Do we have a second?

MR. MASHBURN: Second.

MR. RAFFENSPERGER: Do we have any discussion on the
motion? Hearing none, all those in favor of the motion
before us, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Motion carries. Okay. Today we
have public comments on the proposed rules, and if time
allows, then we’ll be getting to the other topics. We had
one person that wanted to talk about some -- another
topic, but this -- the purpose of this meeting today is
really about the proposed rules, and I would like to move
through that. And if everyone -- I’m going to read off
about 5 or 6 names and try and keep the line moving, and
we’ll speak over there at that podium right there, and
someone will give you a mic.

UNIDENTIFIED MAN: Left or right?

MR. RAFFENSPERGER: It’ll be on my right, your left
side, and the first name on that list -- and I’ll just
read off about 4 names -- would be Judy Presley, Jeremy Adams, Dorothy Griffin, Betsy Greenovich, and Danielle McIntyre. Please start. Then on deck, we have Libby Seger, John Peterson, Gunner Kukula, Ann Greer, just to give you an idea of the direction, but Ms. Judy Pressley would be first. Mr. Jeremy Adams is second, and Ms. Dorothy Griffin, third, Ms. Betsy Grenevitch.

MR. RAYBURN: And if everyone that’s going to speak, would you please state your name and where you live before you begin?

MS. PRESSLEY: My name is Judy Pressley, and I live in Hele, Georgia, representing White County. And first of all, I would like to say that I truly cherish the privilege of being able to vote independently, and I have voted independently for the last 10 years, ever since the accessible voting machines were available to the blind. I’m also the leader -- vice president of a large blindness organization, and I encourage all of our members to vote independently.

Recently, I was able to sample the new voting machine for the blind, and I found it totally baffling. The keypad itself was confusing to me, and then the instructions are just mindboggling, the way they continue to go over and over again, and it distracts me, and I’m not able to concentrate. And the keypad, the buttons say
-- the blue button and the yellow button and the up button
and the down button and the blue button -- I don’t know
blue, yellow, red, green, or white because I can’t see, so
that -- I don’t understand that.

I have used assistive devices for many, many years,
and I, for some reason, I just find this machine very
difficult to use, and I have feel like my civil igh [sic]
-- civil rights are being violated because I’m not able to
vote independently with this machine, and I think it needs
to be fixed. And I think it can be fixed with some easy
technical ways, so I would like to have that done and done
as quickly as possible so that I’m able to vote in the
next election. Thank you.

MR. RAFFENSPERGER: Thank you, ma’am. Mr. Jeremy
Adams?

MR. ADAMS: Hello. My name is Jeremy Adams, and I’m
also from White County. I actually have a -- my
background there is I worked for many years in our
technology department in the local county, so I’ve had the
experience of providing technical support for many
elections, and I’ve still been doing that after losing my
vision. So I’ve gotten to play with our new ATIs and
BMDs, and I voted several practice ballots. I’m with Ms.
Judy on this. It’s very confusing. But I think there are
some very simple software updates that could be made quite
quickly and inexpensively to make this a much more fluid and better user experience for our blind voters.

First of all, the instructions never stop talking. I have two little girls, and they don’t talk this much. What I would like to see there is to have the instructions read once a blind voter inserts their voter access card, and then allow the voter to move on. There is a help button on the ATI that the voter can then press at any time to repeat the instructions. They do not need to continually read over and over and over again.

The second change I would like to see is when navigating through a ballot, a blind voter is required to press either a yellow left arrow key or a blue down arrow key and move to a race in the ballot. Then, they are required to press the red x to select the ballot. Then, they are required to use the arrow keys to select a candidate or option to choose in the ballot. Then, they select that by using the red x again. Then, they have to use the arrow keys and the x to move out of that race so that they can move to the next race with the arrow keys and use the select button to select that race. I think it’s the equivalent of a sighted person reading a web page and having to click each paragraph before they’re allowed to read the sentences in that paragraph. It’s very nonintuitive. I think by simply changing the way the
arrow keys navigate through the ballot that could be made a much simpler process.

Thirdly, I’d like to see a better option for blanking the screen. That is not provided as an option in the whole pad when a blind voter checks in. I’d like to see it added there or added to an options menu at the very beginning for the blind voter to choose on the ballot marking device themselves.

Finally, and I think this is the big point for today’s meeting, is the size of the font on the actual printed ballots. That’s an 8-point font, I believe. That’s going to be difficult for most anybody who drives around and yet needs reading glasses to read their 12-point font newspaper. I understand that -- I know our local county is going to provide some magnification devices, reading glasses, to each poll, but I don’t know that that’s enough. I would love to see an option for a low vision voter who uses magnification on the ballot-marking device themselves. I’d like to see an option for a bigger font on the printed ballot.

That’s not only hard to read for a person of lower vision, it’s actually a little small for most accessible technology devices, like my iPhone. I have several apps on my iPhone that will read text on a page to me. 8-point font is a little hard for it. I get it about half the
time. Every once in a while, it comes out perfect, and
the next time it’s just gibberish, so I’d like to see an
option. I understand that we’re trying to save ink, and
we’re trying to get everything on one page, and I get
that, but it is -- it is an issue for people with low
vision, so thank you for all the hard work that this Board
is doing. And I know this election is a big deal. You’ve
rolled out a lot of changes, and you’re trying to do it
quick, and I’ve -- I think overall you’re doing a good
job, but just these small changes would make a huge
difference for our blind or low vision community. Thank
you.

MR. RAFFENSPERGER: Thank you for your comment. Ms.
Dorothy Griffin, and after that will be Betsy Grenevitch,
then Danielle McIntyre, then Libby Seger.

MS. GRIFFIN: Thank you for allowing me to speak
today. My name is Dorothy Griffin. I live in DeKalb
County, and I am the President of the National Federation
of the Blind. I think assistive technologies, the Dominion
ICX ballot device, BMD does not provide voters with print
disability to independently verify their ballots
correctly. Permitting the use of certain assistive
technology will enable voters with print disabilities to
perform the task of independently verifying their printed
ballot as -- as opposed to voters without print
The term, “illiterate or disabled” individuals, should be replaced with individuals with print disabilities. And as -- the types of assistive technology should be specified as the term assistive technology. It's too broad, and poll workers should not be put in position to having to make a determination as to whether a particular technology is permitted. As a minimum, the list of acceptable technology include [sic] magnifiers, magnification apps, smart phones, tablets, handheld magnifiers, and portable video magnifiers, optical character recognition apps on smart phones and tablets. These apps include the KNFB reader, the seeing AI. The Center for Civic Design has permitted testing of reading printed ballots with OCR apps, and they find that the Dominion printed ballot is formatted reasonably well for reading with the seeing AI, the KNFB reader, etc.

The ICX ballots are in two columns with the contest name and then the candidate name is on the next line. How will the requirement of any image obtained through using assistive technology devices be immediately deleted and/or enforced? It’s critical that poll workers be trained well and given guidance about how to interact with voters who may be using assistive technology to verify their ballots. The situation where the poll worker doesn’t know about
this rule may -- must be avoided. Also, another situation that must be avoided is where instead of politely reminding a voter to remove the image, the poll worker is inappropriately aggressive, so there needs to be some type of script or what to do in this information included in the polling manual. All right. That would be helpful.

Thank you.

MR. RAFFENSPERGER: Thank you, ma’am. Ms. Betsy Grenevitch?

MS. GRENEVITCH: Good morning. My name is Betsy Grenevitch, and I’m from Walden County in Loganville. I want to -- I’m sort of like Judy. I’m going to miss the freedom of being able to use my right of voting because the previous machines were excellent. No help was needed to cast any ballot, and I could verify it because I read back what was there since it was not a paper ballot. Concerning the paper ballot issue, as Dorothy already said, there were already so many options to be able to read that ballot.

The problem is if you make the rule saying that you can bring in your device, but that the poll does not have a device, you’re going to leave out a lot of visual -- blind and visually impaired voters. Not all of our blind and visually impaired voters have a device to use if they were to go to a polling both. Therefore, if we come up
with some kind of standard that allows the polls to have a particular device that all poll workers are trained on, then everyone would have access to be able to read their ballot.

I’m not going to go ahead and address the other issues because you’ve already heard the speech issues. Jeremy did a great job with that, but I am very concerned with those as well. But the main focus for you all today is the ballot. There are options, and you will hear more from my daughter. Thank you for the opportunity to speak.

MR. RAFFENSPERGER: Thank you, ma’am. Danielle McIntyre, then Libby Seger, and then John Peterson, and then Gana Kukkala.

MS. MCINTYRE: Good morning. Thank you for allowing us to speak this morning. My name is Danielle McIntyre. I am from Walton County, and I do have some handouts for you all in regards to some assistive technology pricing and things. I would like to look at this from two different perspectives. One is that of a totally blind person, as well as those with low vision.

For the totally blind person, the print ballot is unreadable. As you have already heard, there are a few options for apps that are free that will not cost any money to them as well as to potential poll workers to use when we do have our primaries coming up, and I realize
that is just a few weeks away. Those would be -- for
scanning, there’s an app called Voice. There’s also one
called CN Speak. I have been working the last two days
downloading app after app that is free. Those are the
only two that I have found that are accurate and will
actually be easy for the user to use where they just tap
on the screen that scans it and automatically reads. A
lot of the others require more software and understanding
of technology which not all blind people have or
understand smart phones.

There are also some apps where they would be
connected to a live person who could then read that app,
and those would also be an excellent option for those who
need and don’t feel comfortable with using technology to
scan where they could be -- have a live person that could
read that page to them, and they would know that their
ballot is exactly what they put in.

Also, for those with low vision, I have contacted a
few people in our state organization and asked how they
feel about the low point size of the font, and even large
print is considered 14-point or larger. They told me at
14-point, they still are unable to read that with a
magnifier whether it’s handheld. They would need what’s
called a CCTV, which is a computer monitor that can zoom
100 times into that. Some of them can’t even there. They
have to have 6 characters at a time to be able to read print. And for them, there needs to be an option other than just the magnifiers. I know one person personally who has a portable CCTV that I would like to make sure she could bring that to her polling place when she gets her paper ballot, set it underneath a computer, and be able to read that at the magnification and with the contrast.

It’s not everyone can read white on black. Some people need black on white. They may need a blue on a white, and with that, allowing them if they have their own technology to use their large print, and if not, that we have some options as a State going forward that would allow those who need the large print, who need the magnification, to read their own ballot without having to have a sighted person or someone else read it for them.

Thank you, guys.

MR. RAFFENSPERGER: Thank you, ma’am. Libby Seger, John Peterson, Gana Kukkala.

MS. SEGER: Good morning. My name is Libby Seger, and I am a Georgia voter from Fulton County. I am a student at Georgia State University, where I am the President of the Young Democrats, and I’ve attended the last two of these meetings, and I’ve been pretty disappointed both times. Last time I stood here, I said that I represented the future of this state, but clearly
that wasn’t enough, so I brought some of them with me this
time.

So before -- before you hear from all of them, let’s
get real for a second. My generation is already dealing
with the soul-crush -- with soul-crushing problems facing
this country: the climate crisis, housing insecurity, gun
violence, lack of access to quality healthcare, and jobs
that aren’t even paying a living wage. It is our civic
duty to elect leaders that we can believe help solve these
problems, and in order for us to properly do that, we have
to have confidence that when we cast a vote that what we
put on our ballot is actually counted.

Brad Raffensperger has been running around Georgia
telling Georgia voters that we should all have so much
confidence in these machines. After me, a list -- a group
of students will come up, and they will go over a bunch of
prop -- proposed rules that we have that would make these
machines a little bit better because there’s already not
much we can do.

I’d also, as a creator on the app and as a young
person, I’d like to address something the Secretary of
State’s Office has come out and done. They’ve released,
if you haven’t heard, a TikTok voter challenge that
encourages young people to make videos online about how
awesome these secure paper ballots are, and quite frankly,
to be honest, I’m appalled by it because it’s a manipulation tactic that they can use to convince young people that they should be excited to vote for the first time on these machines because a lot of us are. But I want you to know that it doesn’t matter how many TikTok voter challenges and stuff that the older generation will try and use. They listen to us. The young people will listen to us, and we will keep showing up to these meetings in growing numbers until you do what is right. Georgia deserves a State Election Board that doesn’t silence Georgia voters, so we demand that you do better. We demand that you do your jobs. Thank you.

MR. RAFFENSPERGER: John Peterson?

MR. PETERSON: Good morning.

THE BOARD MEMBERS: Good morning.

MR. PETERSON: My name is John Peterson. I’m a Georgia voter from Cherokee County. I lead both the North Metro Atlanta and Georgia State University chapters of Students Demand Action for Gun Sense in America, an organization for which I serve on the National Advisory Board.

Election security matters to me because it has been exactly one year since HRA, the bipartisan bill to pass background checks in the House of Representatives has passed the House. It has not been addressed in the
Senate, and if there is any hope of getting the will of
the American people translated into law in the Senate,
Georgia must contribute to electing a President and
senators that fight for nearly universally supported
common sense gun laws.

In December and again in January, I stood here and
asked a simple question: what is your plan to protect
ballot secrecy? Since early voting began for the pilot
elections and continuing to the special elections in South
Georgia earlier this month, it has been blatantly obvious
that the Dominion ballot-marking tablets have a design
flaw. These things are so obnoxiously massive that you
can read a voter’s selections from across the room.
Ballot secrecy is not a privilege; it’s a right. Georgia
voters are guaranteed a secret ballot by our Constitution,
and the officials running elections in every one of the
159 counties you oversee are charged with protecting our
State’s Constitution.

When Secretary Raffensperger certified the system, he
said it complied with state laws. It doesn’t. Georgia
code section 21-2-379-.22 says any ballot-marking device
Georgia uses must -- and I quote -- “permit voting in
absolute secrecy so that no person can see or know any
other electors’ votes.” Voters and election directors
across the state can confirm: these new tablets do not
comply with the law. The certification is nonsense. We demand that the State Election Board prohibit the use of the Dominion ballot-marking devices in Georgia elections until this design flaw is corrected. Not doing so would be violating laws that you yourselves are charged with enforcing. You cannot ask counties to follow some statutes faithfully, while requiring them to violate ballot secrecy laws -- am I trying your time, Secretary Raffensperger?

You cannot ask counties to follow some statutes faithfully, while requiring them to violate ballot secrecy laws in the Georgia Constitution by using these new BMDs. Our State Constitution is not a menu that you get to order from as you please. It is the law. You don’t get to pick which parts you’ll follow and which parts you don’t. The Secretary’s certification is overtly unconstitutional. Georgia deserves a State Elections Board that doesn’t silence Georgia voters. We demand that you do your job. We demand that you do better.

MR. RAFFENSPERGER: Gana Kukkala, Anne Greer, Marisa Hordos, and Hermela Assefa, and that’s the next order so Gana.

MR. KUKKALA: Good morning, fellas. My name is Gana Kukkala, and I am a Georgia voter from Fulton County up in Sandy Springs, Georgia. I’m an organizer with March for
Our Lives and Students for Bernie at Georgia State. As a student activist, I fight for a lot of issues that I’m passionate about, such as climate change and feminism, but I would not be able to make the change that is needed to be made if I can’t properly use my right to vote.

Ballot secrecy is our constitutional right, and I am outraged that the Secretary of State has inappropriately certified a ballot-marking device that does not comply with the law. Over 30,000 of these new ballot-marking devices have been delivered to counties, and 2 million voters begin casting ballots for the presidential primary in just 3 days, most of which will encounter these devices for the first time. They will be utterly disappointed in Georgia’s State Elections Board to see that the ballot-marking devices are nonsensically, ridiculously oversized.

I want to demonstrate to you the latest advice from the Secretary of State that the tablets should turn to face the wall. So, first, here’s how the tablets were set up during the pilots and the mock elections: facing the center of the room with a privacy screen covering the back and the sides. I personally have tested these out for myself when they were being presented in the Capitol. Do you see how easy it is to read the screen?

UNIDENTIFIED MAN: No.

MR. KUKKALA: Now, here’s how it would be if you
followed the new diagram and you turned it to face the wall. Yes, it’s true that the choice of voter marks is relatively more discreet, but it’s also true that the device is completely shielded from the view of poll officers and poll watchers, which ends up breaking another law. Aren’t there any attorneys in the Secretary of State’s Office? Mr. Germany, are you truly comfortable with the Secretary of State encouraging local election leaders to solve one legal issue by violating a completely different law? Georgia deserves a State Elections Board that doesn’t silence Georgia voters. We demand that you do better. We demand that you do your job.

MR. RAFFENSPERGER: Anne Greer, then Marisa Hordos, and then Hermela Assefa.

MS. GREER: Good morning. My name is Anne Greer, and I’m a Georgia voter representing Cherokee County. I work with Students Demand Action, and I’m a student at Georgetown University in Washington, D.C., where I flew in from last night in order to attend this meeting because I care so much about voter security and safety. In particular, I believe that ballot secrecy cannot be compromised, and I am here today to offer a solution that can be implemented in every precinct by Monday morning, where -- when early voting begins.

First, leave the Dominion marking ballot -- Dominion
ballot-marking tablets and the printers and the power
back-ups in the storage room. Second, set up the privacy
screens and chairs at the tables. Third, offer every --
or offer every voter that can use one a hand-marked paper
ballot. Your emergency rules require every precinct to be
trained and ready for this with ballots pre-printed for at
least 10% of registered voters. There is plenty of time
to get additional ballots printed before election day.
Counties with mobile ballot printers can use them to print
what they need. There is no time to waste. There is no
time -- no time for trials that solve one problem while
introducing another.

The prin -- the presidential primary is literally the
3rd highest turnout election in the four-year election
cycle. Georgia voters are counting on the State Election
Board -- on the State Election Board to act decisively.
Don’t put local election officials in the position of
choosing which law to follow or which law to break.
Protect Georgian’s rights to cast a secret ballot.
Georgia deserves a State Election Board that doesn’t
silence Georgia voters. We demand that you do better, and
we demand that you do your job. Thank you.

MR. RAFFENSPERGER: If I could just throw this out to
the audience, we have people that are clapping, people
that are booing. Let the people make their comments and
keep your comments to yourself unless you’re making public
comment. We’re truly just trying to run a meeting, and
we’d like to have a certain level of decorum, so we don’t
need people booing, and if we just kind of tamp down
emotions a little bit, I think we could move through it a
little bit faster. Thank you very much for your
cooperation, and our next speaker is Marisa Hordos.

MS. HORDOS: Good morning. As just said, my name is
Marisa Hordos, and I am a Georgia voter from Cherokee
County. I am also a co-founder and co-leader of Students
Demand Action groups for North Metro Atlanta and Georgia
State University. I am pursuing my degrees in religious
studies and French. I can speak multiple languages, and I
was born during an era of cell phones and electronic
devices. I can tell you how to access your iCloud
accounts. I could rearrange apps on your phone. I can
read in multiple languages. I can read different books in
different languages, but as any other Georgia voter and
any human being in general, I cannot read a QR code.

A QR code is nothing more than a randomized group of
boxes that is impossible for humans to comprehend, and it
means absolutely nothing to me. If I mark my vote with a
pen, I have security knowing my choices are present on
that ballot. If I mark my choices with a tablet and then
those choices are sent to a printer that’s supposed to
interpret this QR code, I can never truly know whether the vote that I wanted to cast was the vote that was actually interpreted and counted. That doesn’t feel safe or secure to me. Do you feel safe? And let’s be real for a second, if you do feel safe, it’s probably because your privilege that ensures your feeling of safety, and I can’t lie, I know I have a lot of privilege, but the difference is I’m here, and I’m speaking about it, and I’m using my privilege to prevent voter discrimination. My biggest question is why is the only thing that you’re concerned and scared of is equality?

This new rule of yours, the optical scan recount procedure, makes no sense at all. The purpose of a recount is to verify the results. You can scan the same QR codes one time, 10 times, 1000 times, but the answer will never change unless you neglect to count some ballots, which has been a voter suppression tactic that has been implemented beforehand. If this rule is adopted, I will never truly know whether my vote, the vote that I intend to cast, will be counted. This unsureness is truly unacceptable.

Our democracy is at stake here. The reason our system works in Georgia is that Georgia voters can trust that their system that they’re voting through -- that their votes will be counted, that their voices, our
voices, will matter. If you choose to allow a QR code ballot, shame on you because you have failed Georgia voters who won’t be able to trust that their voices are being heard. Please, we need to do better. You need to do your job. You need to do what is right and ban QR code ballots. Georgia voters -- in Georgia and in general, we deserve a State Election Board that doesn’t silence Georgia voters. It sounds so simple. Why can’t it just be so simple? We demand that you do better, and we demand that you do your jobs. Thank you.

MR. RAFFENSPERGER: Hermela Assefa? And then after that, we have Mario Calcagno, Malcolm Green, Jacqueline Azah, Oluwaseyi Adenji, and George Balbona.

MS. ASSEFA: Good morning. I’m Hermela Assefa, and I’m representing Gwinnett County. I’m also a student leader at Georgia State University and a very concerned voter. I’m part of a growing generation of young voters in Georgia. Did you know that we lead the nation with an increase of 3% in shares of young voters? And as young voters and students, we have a lot of responsibilities. We’re juggling class loads, working to pay off insurmountable debt, leading extracurriculars, and yet, here we are on a Friday morning to simply demand that you do your jobs.

For us and for all voters, voting should not be an
endurance test. On the midterm election day of 2018, voting locations across Georgia saw wait times of hours not minutes. At your January meeting, Secretary Raffensperger stated that no one should wait more than 30 minutes to cast their vote, and yet the laws that you plan to implement will do the exact opposite. We state, and the legislature states, that we should state an amount of time, a reasonable amount of time, for us to vote. Like you said, no voter should wait more than 30 minutes or hours to simply cast their vote.

We also believe that every precinct should have its fair share of voting booths allocated by the amount of registered voters. The law passed in 2019 would add 7,000 new voting booths to precincts. That’s a 35% increase. This will make a change for voting, a positive change for voting. So we have to ask: why in the world would you consider a law that would make it longer for us to vote, longer lines and longer waiting periods?

Your proposed rule, rule 183-1-13-.01, will put 1000 less voting booths than there were in the 2018 midterm elections. Correct me if I’m wrong, but I think that this would make lines longer, not shorter. This is a ludicrous law that you should vote no against. This rule does nothing more than to make lines longer, to make voting harder, and to discourage the voters that we are so trying
to encourage. We ask that you vote no to this because Georgia voters deserve a Secr -- Georgia voters deserve a State Election Board that will not silence their votes. We demand that you do better, and we demand that you do your jobs.

MR. RAFFENSPERGER: Mario Calcagno, Malcolm Green, Jacqueline Azah.

MR. CALCAGNO: Good morning. My name is Mario Calcagno from Douglas County, and I am a leader for Students for Bernie at Georgia State, and I know that these issues may not be much of a problem to you sitting up here, but for the working people of Georgia, they want to feel safe when they cast their vote that they’re casting the vote for a candidate who is fighting to get them healthcare because the exploitative health insurance companies are making them go bankrupt. The people who are going to vote, they want to be able for a candidate who’s not going to push US imperialism across the world and destabilize their parents’ countries so they actually have to come here and immigrate. They want to be able to vote for a candidate who’s not going to be doing the bidding of the fossil fuel industry and polluting our planet and is going to actually invest in green jobs for the future generations, and they want to be able to go and vote so they’re not going to go and have to live their lives
paying off student loans and work for jobs that aren’t -- that are going to do union busting and pay them starvation wages.

Now, the 2018 midterm was a disaster with wait lines not even being casted in minutes but in hours, and -- across many of the precincts in Georgia, and because our elections are so dependent in technology, Georgia voters are especially vulnerable to longer wait lines because of equipment malfunctions and the lack of equipment in general. 17 counties have tried out the new equipment so far, but these were small turnout elections. As one of my fellow students said before, the Georgia primaries are the 3rd highest turnout, with over 2 million votes cast in 2016.

So here’s my question: why are you considering a rule with putting fewer voting booths on election day instead of more? There were about 18,500 voting booths in the election in November of 2018, and under the proposed rules, there would be about 1000 less. The Secretary -- Secretary Raffensperger committed to guaranteeing wait times of 30 minutes or less, but this would actually increase the waiting times, and for working people across this state, they don’t -- may not necessarily have time to wait a long time in line because they’ve got kids to feed. We’re just barely making it by. You have -- most people
in this state cannot afford to live in a decent standard
of living because they’re beholden to their capitalist
bosses, and they don’t have time to go and waste time to
vote -- a lot of time to vote, so Georgia deserves a State
Elections Board that doesn’t silence the working people of
Georgia. We demand that you do better. We demand that
you do your jobs.

MR. RAFFENSPERGER: Malcolm Green, Jacqueline Azah,
Oluwaseyi Adenji, and George Balbona.

MR. GREEN: Good morning. My name is Malcolm Green.
I am a Cherokee County voter, and like some of my other
colleagues here, I am a proud Students for Bernie leader
at Georgia State University. For the past year or so,
we’ve spent hundreds of hours organizing and spending our
time becoming really experienced student activists, and
for the past two weeks in fact, we’ve spent our time
trying to get people out and registered to vote before the
deadline came. And I would be extremely disappointed with
all of you if all of that went to waste. We spent time
that we could have spent studying or going out with
friends trying to do our civic duty to get people engaged
in the democratic process. I would be ashamed if my first
encounter with democracy in this country turned out to be
a total sham, a lie, and a waste of my time.

For many college students, absentee mail voting is
the best option. We have very busy schedules. We don’t have time to do much, so when we are registered in our home counties, such as myself, we don’t have time to actually go back there and vote on voting day. And for others, they enjoy being able to vote in secret. You’ve already seen all the problems with voting at the actual polling place on the day of, so being able to take that ballot, that absentee ballot, look it over, and research everything in real time in secrecy is a big plus for many people. Not to mention, many of us in this room as we have expressed don’t trust the electronic voting machines. Absentee ballot voting works. It works well, but only when it works as it was designed to. But unfortunately for many voters because of postal delivery problems or office processing issues, they are finding it nearly impossible to actually make sure that their vote is counted.

So today, I believe your voting -- you will be discussing an issue by the, let’s see, Coalition for Good Governance. You’re going to be discussing an issue by them that will allow voters to take their absentee ballot, simply go to their polling place, hand it in, and as long as they have a form of ID on them, it will be counted. All they have to do is go in at any time that is available to them, which would be a great help to me and many of my
colleagues here, and their vote is going to be counted and accepted. This rule, as you already know, is going to be a huge time saver also for election staff. It takes a significant amount of time to go over every single hand ballot when it arrives at the election office, so doing it this way is going to be a huge time saver for you, and it will remove the burden of having to go through that process, and it will make it more convenient for voters.

MR. RAFFENSPERGER: Thank you for your time. Our next speaker is Jacqueline Azah, Oluwaseyi Adenji, George Balbona, then Adam Hinchliffe, Jeanne Dufort, and then after that will be Aileen Nakamura.

MS. AZAH: Good morning. My name is Jacqueline Azah, and I’m a Georgia voter from Fulton County. I am the President of Students Demand Action at the historically black university, Clark Atlanta University, and happy Black History Month to everybody here. Thank you. So I’m originally from California, one of the most progressive states with high turnouts of voting and voters who trust their election, and I’m a Georgia voter now, but just having that background and seeing all the dissatisfaction, it’s completely ridiculous. And as a young voter and the future of this country, I am very disappointed.

The model for the new election system is to be secure the vote, with nearly 90,000 tables, printers, scanners,
routers, and other electronic devices, along with data
cards moving in and out of them. We can talk about the
absurdity of that model all day long. An alternate model
needs to be proposed: trust the vote. This is what Georgia
voters truly want. We want to trust that when we vote,
those votes are counted. Whether our candidate wins or
not, we want to trust that the outcome of that truly
reflects the actual votes of the people. Right now, here
in Georgia, trust in election outcomes is lower than any
of us would want.

You will be considering a rule today that defines the
vote as the actual text that a human can read. It is one
of your enumerated duties and, of course, to define the
vote. You have proposed many rules for this new voting
system, including rules about tabulation and recounts, but
you have failed to actually define the vote. After your
last meeting, David Worley told some of us that the QR
code is the official vote of Georgia, which is to say the
least, absurdly -- completely absurd. It is really
simple. Humans cannot read QR codes, and as young people
who study technology and economics and political science
in this State, we know because we study it and we see it:
humans cannot read them. If you want voters to have trust
in outcomes, we -- the official vote must be the one that
we can read. Georgia deserves a State Elections Board
that doesn’t silence Georgia voters. We demand that you
do better, and we demand that you do your job.

MR. RAFFENSPERGER: Thank you. Oluwaseyi Adenji,
then George Balbona, then Adam Hinchliffe.

MS. ADENJI: Good morning. My name is Oluwaseyi
Adenji, and I’m a Georgia voter from Gwinnett County. I
currently serve as the President of RHA, formerly known as
the Resident’s Hall Association at Georgia State
University. It is my job to ensure that I advocate on
behalf of the 5,000 students on campus, advocating on
behalf of their wants, their needs, and anything that we
may be able to provide to contribute to a positive
experience on campus. My responsibility to residents at
Georgia State University is quite similar to your
responsibility to the people of Georgia.

In Georgia, our election -- our local election boards
make important decisions like where you can vote early,
how much equipment and staff will be available on election
day, and where your polling locations will be. You are
responsible for organizing an election that works for all
people in the State of Georgia, and to be quite frank,
you’re not doing that. Georgia needs a better system that
allows voters to cast their ballot from the comfort of
their own home and bring them to the polling location on
election day. As a full-time college student with two
jobs, I understand what it means to be busy. Standing in line for hours like I did in 2018 waiting to vote will not fit into my schedule, and I know this is true for thousands of college students and working Georgians. Does this mean that our voices do not deserve to be heard or that our votes do not deserve to be counted?

Voting absentee is supposed to be an easy process, but postal delivery, processing issues, and so much more silence Georgia voters whose ballots are never received. In order to prevent this issue, we yet again ask that you allow voters to submit their absentee ballots on election day with their ID to confirm that their vote will be counted. Georgians don’t trust your easily hackable expensive machines, and why should we? The experts on election security don’t even trust these machines. Voting absentee and delivering it on election day will allow voters to cast their vote on hand-marked ballots they can trust.

We understand the concern regarding such short timing, and so, we demand that counties have an option on whether or not to implement this rule in next month’s election, but we demand that it must be mandatory -- mandatory! -- in all counties by November. This will give Georgians the increased accessibility that they deserve and ensure that not only do they get to vote, but also
that their vote will be counted. Georgia deserves a State
Election Board that does not silence Georgia voters. We
demand that you do better. We demand that you do your
job.

MR. RAFFENSPERGER: George Balbona?

MR. BALBONA: Hey. I’m George Balbona. I’m a very
concerned Georgia voter. I would like to start by asking
why we have over a dozen empty chairs reserved for the
Secretary of State up front? No one is sitting there.
Are you allergic to your -- to your people? Okay.

A year ago to this very day Georgia Representative
Barry Fleming, the author of HB316, spoke with the State
Ethics Committee about HB316. Barry stated, “in the Bill
it’s required that when the audit occurs that the audit is
eyes on paper, and you count what’s written on there.
That’s how the audit process is so important in this
because it provides that assuredness, I guess you would
say, that our voters need.”

In stark contrast, Deputy Elections Director Kevin
Rayburn, this guy, told the same commission that with
current cryptographic technology, they can create an image
of every single ballot cast, and I quote, “we are pretty
certain no one has modified these images.” That’s not
good enough. You’ll never hear me say this again, but I
agree with Barry on this. If the State Elections Board
approves democracy-killing rules which state that Georgia is not going to look at the paper at all and instead rely upon unverifiable QR codes, why the hell did we purchase a voting system with paper at all? It’s called bait-and-switch.

A Georgia Superior court judge told me this week that sunshine is the best disinfectant. I agree with that, and I’d like to know why the State Election Board does not. The SEB is actively attempting to break Georgia law in order to hide post-election activities from Georgia voters. Proposed rule 12-.12, tabulating results, states specifically poll watchers and only poll watchers are permitted to use photography after the close of polls. This is flat out misdirection. Georgia election code 21-2-406, public performance of duties of officials, states superintendents, poll officers, and others engaged in the conducting of primaries and elections held under this chapter shall perform their duties in public. The SEB is trying to take away the right to peacefully observe and record post-election activities from the entire public and is surprised we won’t say thank you for giving that right to no more than 25 poll watchers statewide. That is not what anyone considers in public.

Last, we have a big problem with proposed rule 15-.03, optical scan recount procedure, which states the
superintendent may designate a viewing area to which members of the public are limited for the purpose of good order and maintaining the integrity of a recount. My problem stands from a Fulton County marshal evicting us from the building and blatantly disregarding his commander -- commanding officer. I submitted a complaint, 11 pages, and I was told my Fulton marshals would implement mandatory training regarding the rules of the election process. This was never done, and I have the incredibly lacking 15 slide PowerPoint presentation entitled "The Do’s and Don’ts’s for Deputy Marshals Working Elections." It mentions 21-2-413 that prohibits photography while elections are taking place, yet it fails to mention 21-2-406, a mere 7 codes and 8 pages away.

In short, I’m sick of all the State Election Board’s maneuverings to strip rights away from Georgia voters under the guise of making things better for them. Do your job, and by the way, I have got copies of what I handed to them, and I also have an official SEB complaint which I’m going to be giving to Frances.


MR. HINCHLIFFE: Good morning, ladies and gentlemen of the Elections Board. My name is Adam Hinchliffe, and I’m with the Center for the Visually Impaired, and we are
located in Atlanta, Fulton County, Georgia. Clearly, there are some impassioned comments, so I’ll keep my comments rather brief. A lot of people in the visually impaired community have already outlined to you some of their concerns and critiques of the new system, so we’re just going to -- I’m going to limit my comments on the proposed rule with the assistive technology devices.

The mission for the Center for the Visually Impaired is to empower people impacted by vision loss to live with independence and dignity, and clearly, a common theme that we’ve all heard today is the ability to vote independently. I just wanted to draw your attention to the proposed rule 183-1-13-.02 -- I may have that a little backwards, but I think you know the one that I’m talking about. Clearly, we -- the rule, you’ve heard that some consider it to be broad in nature. It’s a first step. It -- it allows blind and visually voters but also voters with varying levels of print disability the ability to use assistive technology devices to verify their vote selection choices on the printed ballot, which is a change from previous versions of voting. We think that’s a good step, but it’s just the first step in a broader conversation that we and others hope to have as this process begins to unfold throughout the year, hopefully culminating in a very smooth election in November.
The Secretary of State’s Office issued a press release this week, which altered my comments a little bit, stating that -- in the press release and then in a subsequent news report in the Atlanta Journal Constitution -- that the Secretary of State’s Office plans to expend between 1 and 4 million dollars between now and the May general election primary to ensure that all voting precincts have a dedicated device with headphones that will allow blind and visually impaired voters specifically, but voters with print disabilities more generally, the ability to independently verify the selections made on the printed ballot before it’s entered into the vote -- the tabulation machine. We again think that that’s a good step, and we hope that the Secretary of State’s Office and the Elections Board will continue the dialogue to ensure that all voters in Georgia regardless of ability have the right and ability to vote independently and securely. Thank you very much for allowing me to address you.


MS. DUFORT: Good morning. My name is Jeanne Dufort, and I’m a Georgia voter from Morgan County. An inconvenient truth came to life this week in Sumter County. When faced with a challenge over protecting
absolute ballot secrecy, local election officials got serious about reconfiguring the early voting polling place. Voting for the runoff election began Monday morning with 6 voting booths lining the perimeter and facing the center of the room. The lawsuit was filed Monday afternoon. They reduced it to 4 and then 2 and still could not protect absolute ballot secrecy in that room. In the end, just 1 voting booth can be deployed in a manner that fits the law as demanded by Judge Smith.

This story will be played out in polling places across Georgia as counties prepare for election day on March 24th. The problem is many polling places were already filled to capacity with the old DREs. The legislature didn’t like the long lines of 2018, so they made a law that says every precinct must have one voting booth for 250 electors. That’s a 35% increase in voting booths on election day state-wide, and the new ballot-marking devices are bigger than the DREs. On a 6-foot table, you can only fit 2 of them instead of 3. They need 50% more space.

But the design flaw that exposes our vote? The state advised counties to pull the booths away from the perimeter and turn them to face the wall and spread them apart, which also takes more space. When every polling place is set up to protect absolute ballot secrecy and
allow anti-tampering monitoring, the real capacity of polling places state-wide will be far less than what was actually in polling places on election day in November 2018 and less than half of what is required by state law.

And yet, Secretary Raffensperger, you’ve told us over and over again that lines should be less than 30 minutes. We totally agree about that. It’s appalling that we’re less than 4 weeks away before 1 million voters head to the polls on March 24th, and this is where we are. Continuing to deny the truth is a disservice to all Georgia voters.

MR. RAFFENSPERGER: Aileen Nakamura?

MS. NAKAMURA: Hello. My name is Aileen Nakamura, and I’m a Fulton County voter. Three days ago at an event, I asked the Secretary of State how he’s going to address a problem with the new oversized BMDs, ensuring that voters have absolutely secret ballots while also ensuring that the voting systems are always secure to prevent tampering or hacking. The answer, given by him and Georgia Election Director Chris Harvey, was absolutely astonishing. Talking about ballot secrecy versus keeping the election secure, I quote Mr. Harvey. He said, “I don’t think they’re completely equal values. I think that privacy is more important.” Let me remind everybody that the Secretary of State’s motto is election security is our top priority.
In rule 183-1-12-.11 part 4, it says BMDs must be set up in a manner that ensures both the privacy of the elector and the security of such units against tampering, damage, or other improper conduct. Georgia code 21-2-267(a) also says that BMDs must be arranged in a manner to allow monitoring of the devices by the poll officers. And yet, on Tuesday, Mr. Harvey, the Election Director, actually said that this law does not mean that the machines must be viewable by election officers all the time, just when they’re not occupied. Does that make any sense?

This raises -- raises huge alarm bells for all Georgia voters. Does Mr. Harvey, our Election Director, really not know how easy it is for a person to hack a BMD or printer if poll workers can’t see what they’re doing behind a screen or a curtain? Or is he so desperate to give voters ballot secrecy because of the recent lawsuit that he’s willing to sacrifice election security to do that?

We voters just want to be able to vote knowing that our votes are secure, secret, and will be counted as cast without having to wait in long lines. If the Dominion voting machines can’t provide all of those things for Georgia voters, then we beg you, please, send the machines back. Dominion’s contract says their system will uphold
all Georgia laws, and they do not. They don’t even comply
with ADA compliance. They do not provide absolute ballot
secrecy, and so, because they don’t, let’s send them back,
let’s get a big refund, and let’s re-do the evaluation
process much more methodically and thoughtfully using the
time that’s needed to do so. Counties are ready now to
use emergency hand-marked paper ballots that are secure,
secret, fast, and will even save tons of money, so,
please, do the right thing, and do what’s best for Georgia
voters.

MR. RAFFENSPERGER: Ms. Joy Wasson, then Liz Throop,
then Safia Malin, and then Joseph Kirk.

MS. WASSON: Hi. I’m Joy Wasson, a DeKalb County
democrat. The State gave counties layouts to address their
dilemma: how to fit in all new the equipment while
guaranteeing the right to absolute ballot secrecy and
observing the equipment to prevent tampering. The SOS
shouldn’t downplay the need to observe the machinery
during voting. It’s critical to security. In our
drawing, we’ve even enlarged the room a bit to fit a
scanner and a provisional voting station which their not-
to-scale drawing left out. Wheelchairs will have a near
impossible time angling around to a station. A poll
worker by the scanner blocks the door. If poll watchers
show up, where can they stand? In fact, this 23 by 18
room is bigger than many Georgia polling places. If the
precinct has more than 1000 active voters -- many do -- by
law they’ll have to add another voting booth per 250
electors. Where could that possibly go?

The proposed rule to reduce election day machines
based on early voting is an attempt to go around the
mandated ratio because it’s physically impossible in many
polling places to be legally compliant. This reduction of
equipment will cause long lines, which the ratio was
trying to avoid. Here’s the SOS’s alternate layout. It
only shows 3 voting stations, so it has more space for the
wheelchair, but it’s still too crowded, and importantly,
people in line see how other people are voting.

A state judge told Sumter County this week, “I’m
dealing with the secrecy of the ballot, and it may be hard
to remedy.” I’m sorry, guys, but it’s your problem to
find a remedy. This Board and the Secretary of State
should give guidance to counties struggling with this.
Don’t make them risk violating voters’ constitutional
right to a secret ballot. Don’t make them risk breaking
the rule that officials can see the equipment to guard
against mischief. Tell counties they can use hand-marked
paper ballots if they can’t comply with these
requirements. That solves this dilemma.

MR. RAFFENSPERGER: Liz Throop, Safia Malin, Joseph
Kirk.

MS. THROOP: Thank you. I’m Liz Throop from Dekalb County. There is a link between ballot secrecy and space for machines. I observed pilot elections at Trinity polling place in Lowndes County last December. The 18 voting machines filled the room, yet they were far short of the 44 machines that should be provided for the almost 6,000 voters in that district. The room didn’t provide any privacy for voters, and there wouldn’t be any way to pull the machines away from the wall and turn them around for more privacy. I’ve observed in several polling places, and I know that many can’t accommodate the Secretary of State’s suggested room arrangements for privacy. That office has not been forthcoming about the feasibility of their recommendations and now is trying to manipulate how the machines are counted instead. Thank you.

MR. RAFFENSPERGER: Ms. Safia Malin, Joseph Kirk, Garlan Favorito, and Saira Draper.

MS. MALIN: Good morning. My name is Safia Malin, and I live in Lawrenceville in Gwinnett County. I’m submitting the following remarks on behalf of the Southern Poverty Law Center’s Action Fund. We at SPLC are concerned about proposed restrictions around voter registration by private entities and would like to join
and support the sentiments proposed today by other voters concerned about the election machines.

First, I’d like to begin by addressing the proposed provisions around voting registration drives in locations where the primary purpose is the place -- of that place is the sale and consumption of alcoholic beverages. Not only is this definition vague, but we fear that further limiting locations where groups can conduct voter registration drives could set a dangerous precedent. Community members, third party voter registration groups, and political parties alike frequent parades, festivals, and other large public outings where alcohol is sold to reach potential new voters. We believe infringing on that right in any way and the right of voters to register their peers is undemocratic.

Further, we believe amending the rules of the State Election Board to require private entities to inform all new applicants about the registrations around voter ID numbers is unnecessary. The official State of Georgia application for voter registration clearly states that -- states the requirements around ID numbers in both the instructions and again on line 5. The State Board of Elections should be working in concert with community groups to increase both voter registration and voter turn -- mobilization, instead of implementing regulations and
red tape that hinders this process.

And then, more broadly, we’d like to state our concerns about the implementation of the new voter machines, and we join the chorus of concerned citizens and other private organizations in this room and raise concerns about security -- security and a number of other issues. Considering the astronomical wait times that we witnessed in the 2018 election, we strongly oppose any proposals that would significantly limit or unnecessarily decrease the number of emergency paper ballots and voting machines available in each precinct on election day. We ask that the State Board of Elections build on its successes such as automatic voter registration and instead work on re-enfranchising our returning citizen population to ensure that all -- all eligible Georgians are able to participate in direct democracy. Thank you.


MR. KIRK: Good afternoon. My name is Joseph Kirk, the Elections Supervisor from Barton County. I’m here today to speak in favor of the proposed recount rule. Anyone who knows me knows that I’m very excited about conducting audits moving forward. I can say right now my staff will be conducting an audit for every election moving forward before we certify, but a recount and an
audit are two different things.

We conduct a recount when the results are so close that an error in tabulation could change the outcome, usually because of voter intent on a hand-marked paper ballots or similar to that. I’m fully comfortable with those being conducted with the scanner because then we’ll go back later and look at the human readable text and compare that to the results as part of the audit. Thank you very much.

MR. RAFFENSPERGER: Thank you, Mr. Kirk. Garlan Favorito, Saira Draper, Edgardo Cortes, Christine Price.

MR. FAVORITO: Thank you, Mr. Chairman. My name is Garlan Favorito. I’m the co-founder of Voter GA. I have a handout for you on the same rule you considered, rule number 6 with the recount rule. As y’all know, 18 years ago, I began advocating for verifiable, auditable, and recount-capable voting. That was 3 months before the current DREs were installed back in 2002. You know last year that those were banned as unconstitutional for those same reasons. They cannot verify, audit, or recount an election properly. Legislators -- nevertheless, after hundreds of people have joined us, members and other Georgia citizens, to advocate for the same thing: verifiable, auditable, and recount-capable elections, but the legislators, as you know, gave us and the Secretary of
State’s Office a 100% unverifiable voting system that accumulates votes that are hidden in barcodes. Is there anybody in this room that can verify their vote if they cast it on this machine? Of course not. It’s 100% unverifiable.

Now, we’ve heard that you’re going to take care of this by audit procedures, yet you’re not going to audit the presidential preference primary. There’s [sic] no plans to audit state senate races, state house races, county-wide races, judicial races, other non-partisan races, or municipal races. So, and even on the races that you’re going to try to audit, the inventor of RLAs, risk-limiting audit procedures, has said you cannot use those properly for a BMD. So you have no audit procedures in place that are going to work, you have an unverifiable voting system, and now, we come to the recount procedure, which according to the current way that it is written, is going to rescan the unverifiable barcode. So essentially that’s going to reprint previous unverifiable results.

So this is a complete sham. How can you really believe that this is proper? So I understand that the Legislature and the Secretary of State’s Office has already disenfranchised us with unverifiable and not auditable voting, but at least on rule 6, you can vote to recount a race properly by -- by manually counting the
votes that the voter actually verified -- those summaries. If you don’t vote for that, you will be complicit, along with the legislature and the Secretary of State, in disenfranchising every -- almost every Georgia voter and certainly everyone in the room. So again, I’m going to urge you to -- that a recount has got to count verifiable votes, not anything that is in a barcode. So for these reasons and this sham, we urge you people to vote by mail, and we’ll be discussing the rest of the problems tomorrow morning --

MR. RAFFENSPERGER: Thank you.

MR. FAVORITO: -- 9 o’clock in Marietta.

MR. RAFFENSPERGER: Ms. Saira Draper, Edgardo Cortes, Christine Price, Jonathan Grant, Tracy Bryant.

MS. DRAPER: Good morning, everyone. My name is Saira Draper, and I am the Director of Voter Protection for the Democratic Party of Georgia. For the last 2 years, we have run a robust voter protection program, assisting over 80,000 Georgians through the process of voting regardless of political affiliation and advocating on behalf of Georgia voters. I have two requests to make of you today.

The first is that you ensure that each polling place has enough equipment. This certainly goes for the BMDs, the minimum number of which are required by statute, but
it also goes for the poll pads. Based on our
observations, the check-in process can take a very long
time. The result -- this results in a bottleneck at the
check-in. I saw sites where BMDs were getting unused
because the check-in was backed up. The number of poll
pads on site needs to correspond with the number of
registered voters, the way that BMDs do.

Second, I want to request an increase in the number
of technical assistants from Dominion who will be on site
at polling locations. Poll workers simply have not had
enough time to be adequately trained on the new equipment.
DPG has monitored two elections where the new equipment
was used, and in almost every polling place we monitored,
poll workers had issues with the new machines. We
observed every piece of equipment go down for some period
of time: the poll pads, the BMDs, the printers, and the
scanners. In many cases, the poll workers were unsure of
what to do, and voting was put on pause until a technical
assistant from Dominion could make their way to the
polling place and resolve the issue. We watched voters
leave the polling place because they didn’t know when
voting would resume, and none of these voters who left
were offered an emergency backup ballot to vote on, even
though we were told that emergency ballots were available
on site. It is critical that every election -- that for
every election this year there is -- there is [sic]
Dominion technical assistants at each and every polling
location. It is not enough to have technical support on
call for these high turnout, state-wide elections. The
need for technical assistants will be critical beginning
next week.

As we all learned from 2018, long lines and other
delays contribute heavily to voter disenfranchisement, and
as the eyes of the nation turn to Georgia this year, we
cannot allow history to repeat itself. Thank you.

MR. RAFFENSPERGER: Edgardo Cortes, Christine Price,
Jonathan Grant, Tracy Bryant.

MR. CORTES: Good morning. I’m Edgardo Cortes. I’m
the Former Commissioner of Elections in Virginia, and I am
here on behalf of the Brennan Center for Justice, a
national non-partisan law and policy institute focused on
reforming and revitalizing our country’s systems of
democracy and justice. We are appreciative of the efforts
that the Board has been taken [sic] -- has been taking to
continue to improve the processes and procedures here in
Georgia through this open dialogue and kind of continual
revisions to what’s in place. We have provided extensive
written comments on this latest round of revisions,
including support for some of the amendments to certain
rules. I wanted to focus today on two rules.
The first is that we still have -- we continue to have concerns about deviating from the requirement of having one machine or voting booth per 250 voters. If you take a look at our written comments, we’ve conducted an analysis using available tools on throughput for polling places provided by MIT and Caltech, as well as Georgia voter registration and turnout numbers from previous elections to show the Board the impact that reducing the number of machines could have on wait times in small, medium, and large jurisdictions here in Georgia. So we encourage you to take a look at the significant increase in wait times that could have been resolved simply from shifting from 250 voters to 400 voters per machine, and we took into account early vote numbers in Georgia, and so we do encourage you to stick to the 250 voters per machine.

The second thing I would like to discuss is that we are firstly, appreciative of the fact that you have for the first time provided a minimum number of emergency paper ballots here in Georgia, and so you set the threshold at 10%. It is the first time there is a specific, minimum required number of emergency paper ballots for Georgia. We do believe that that number should be increased. Again, we have provided an analysis looking at prior Georgia turnout numbers and registration numbers to -- to show that we believe a 25% minimum is
really what should be required for emergency paper ballots
in the state.

This will ensure specifically since you have now
added a requirement, which we applaud, that if lines start
to exceed 30 minutes, that baseline that you’ve set, that
voters will be allowed to use emergency paper ballots,
that in those instances because of the potential increased
use of the emergency paper ballots and also the first time
this equipment is being fielded that having a 25% minimum
would be the best approach this year as you’re preparing
for the largest turnout in the four-year cycle. So thank
you very much.

MR. RAFFENSPERGER: Thank you, sir. Christine Price,
then Jonathan Grant, then Tracy Bryant.

MS. PRICE: Good morning. I’m a student here at
Georgia State and a voter for Fulton County, and I’m here,
like many others, to discuss the new voting machines.
2020 is an important year for Georgians. We are electing
a new president, two US senators, state representatives,
and many local elected officials. I’m here this morning
to raise concerns on behalf of Georgians and ask the State
Election Board and the Secretary of State to do its job
and prepare for the 2020 elections.

Georgia is attempting to implement an entirely new
voting -- voting system during a presidential election
year. The State Elections Board should do everything in its power to ensure that Georgians who choose to vote from the comfort and privacy of their home can do so, rather than stifling third parties that are dedicated to increasing voter participation. Requiring absentee ballot forms to be substantially in the same form as the Secretary of State’s application creates an unnecessary burden on the applicant and does not solve a legitimate problem.

If and when these election systems fail, the onus should not be on the voter. Poll workers must be equipped and required to offer voters provisional ballots and redirect them to their proper precinct location if practical. Given that this is a new election system and will be unfamiliar and confusing to new Georgia voters, the section requiring -- or, sorry, section directing poll workers and [sic] verbally instruct every voter to review their ballot and alert a poll worker if any changes need to be made provides clarity and helps ensure every vote is counted and should not be removed.

The State is expecting a record turnout at the polls in 2020. The State Elections Board should be following the guidelines in HB316 for the required number of voting machines in each precinct. Rule 138-1-13-.01 is not in compliance with 316, as it allows polling places to be
used instead of precinct. When requiring the number of voting booths or enclosures available to electors in a precinct, the calculations shall provide a minimum of at least one voting booth or enclosure for each 250 electors therein or a fraction thereof.

The Board should also clarify if the new requirement that a circulator -- circulator notify the voter to use the driver’s license number will be included in the state-created poster for third party registration drives and that an employee displaying -- and that displaying each poster will meet the notification requirement. With that being said, thank you for providing us the time to speak in front of you this morning, and I especially want to say thank you to the counties who are working tirelessly to ensure free and fair elections. Have a wonderful day.

MR. RAFFENSPERGER: Thank you. Jonathan Grant, Tracy Bryant, Sarah Tindall Ghazal, Danny Hosley -- Housley, Elisa Goldklang, and Gaylon Tootle.

MR. GRANT: Good morning. Thank you for allowing me to speak today. My name is Jonathan Grant. I’m a DeKalb County voter. I run a blog called Brambleman. I’ve been monitoring the DeKalb Board of Elections for the past three years. I’m also a former state governance spokesman for an agency that has faced public hostility, so I feel for you today. I used to work for the Public Service
Commission.

My problem is -- I wrote about the rules in sending in my comments and all that, but I have a different problem that I don’t think anybody is addressing. It’s a structural problem, and I think it comes from my background as a state government official. We have a problem in DeKalb County with an ethics board. The way that it was set up was declared unconstitutional. It was a slam dunk, 8 to nothing, just about absolutist -- actually absolutist Supreme Court opinion that said it could not be constituted with members that were picked by non-public entities. In other words, everybody that sits on these agencies should under the Georgia Constitution be put in there by an elected official or an elected body.

Now, I think that there should be some alarm bells going off in your heads right now because we have a non-zero number. I checked through about 7 of the county elections boards, and I found enough to tell you there is definitely a non-zero number. I wouldn’t be surprised if it ran up to 50, 60, maybe even more, give or take, boards that are picked mainly by the Democratic and Republican parties. I don’t have a problem with the Democratic and Republican parties nominating members for the boards. That’s probably the best place to get them, but if they are not ratified by an elected official -- in DeKalb
county that was fixed, by the way, because Samuel Tillman, the Chairman of the DeKalb County Board of Elections who has connections within the legislature moved through immediately to get a fix for DeKalb County. I brought this issue up to the DeKalb County delegation. They say yeah, it’s an issue, but, you know, it’s not in DeKalb County anymore. It’s a local government issue, and most of these issues are made through the legislature through local legislation.

I’m bringing it to you to tell you that you may have about 50, 60 boards out there that are illegal. That makes every decision that they make illegal structurally, no matter how good or bad it is, and they are subject to challenge on everything from hiring, staffing to certifying elections. In other words, the whole system could get kneecapped just by some lawsuits that cite an 8–0 Supreme Court decision. You could have to do -- redo some elections. You might have to have a special section of the Georgia General Assembly. At any rate, I’m telling you this because nobody else, I think, is telling you this. I could be wrong. I hope I’m wrong. Prove me wrong, but the crossover day is March 12th. There’s some boiler plate out there. I suggest you get it fixed.

MR. RAFFENSPERGER: Thank you. Tracy Bryant? Oh, okay. Sarah Tindall Ghazal?
MS. GHAZAL: Good morning. My name is Sarah Tindall Ghazal, and I’m a Cobb County voter. I was also the Voter Protection Director for the Democratic Party of Georgia for 2 years, and I was a part of -- or an audience member at the very least -- of every hearing during the discussion of House Bill 316, which is the bill that forms the legal basis for our new system. Continually, the discussion of House Bill 316 discussed the new voting system in terms of the verifiability and the fact that paper ballots are an improvement because there is greater trust in a system when voters can verify what that is, what their vote is. And that was -- that was the justification for the system.

The problem with the regulation that’s been proposed for recounts is that it bypasses that entirely by using solely a machine-tabulated recount. I do not suggest that we look at a hand recount. Study after study has -- has demonstrated that hand recounts are notoriously unreliable. In the absence of the public seeing the regulations for audits, however, it’s entirely unclear whether or not races that are subjected to recounts on these tabulators will also be subjected to audits. I would like to respectfully request that you consider adding a mandatory audit for any race that goes to recount. That is the only way to verify that machine
tabulations are accurate.

In the absence of that, simply running what is essentially another verification by running -- running a set number of ballots through the tabulator first, that can easily be defeated by a code. That’s -- that is the whole purpose of robust audits, so I suggest that that be added to the regulation, whether that gets added to the recount regulation or the audit regulation. It is absolutely critical for -- for trust and for verification that all of these races actually are audited. Thank you very much for your attention.

MR. RAFFENSPERGER: Thank you. Danny Housley, Elisa Goldklang, and Gaylon Tootle.

MR. HOUSLEY: Hello. I’m Danny Housley. I’m a voter from Fulton County. I’m here to comment on the proposed assistive technology rules. Although I’m in favor of people with disabilities being able to bring their own technology to their polling locations, it is something that shouldn’t be required. A person without a disability only has to bring their ID and their body to show up and vote. I’m also concerned with people that work the polling locations being properly advised of what is assistive technology. When we look at the definition, it’s any item, piece of equipment, or product system, whether acquired commercially or off the shelf, modified,
or customized to increase, maintain, or improve functional
capability of a person with a disability. That is a broad
range of equipment. That is a broad range of things,
whether it is something that somebody has made themselves
with a 3D printer, something that’s made out of corrugated
cardboard, or something that is a computer, a telephone,
or a tablet device. I don’t have faith that a lot of the
poll workers are going to be properly advised of what is
going to quality as assistive technology, and it could
cause problems.

As the ADA is turning 30, we shouldn’t still be
struggling to get basic ballot access and basic access to
our polling locations. That is all I have. Thank you.

MR. RAFFENSPERGER: Thank you, sir. Elisa Goldklang,
Gaylon Tootle.

MS. GOLDKLANG: Hi. My name is Elisa Goldklang, and
first I’d like to thank you for your service. My father
served in Vietnam, my grandfather in World War II, and
civil service is just as important. My three concerns are
privacy, security, and fiscal responsibility. These are
issues that typically Republicans have been, you know,
promoting.

At the -- you know, I’m in Cobb County, and I went,
you know, and voted, and I asked the poll worker who was
in charge of the tech, who had been trained, if our votes
and the e-poll books were safe at the polling locations, and he assured me they were because they weren’t connected to the Internet. And in fact, he showed me his phone and said they’re connected via Bluetooth, and you have to be -- you have to be invited in. Now, I sent this picture, which he gave me permission to take, to my 21-year old at UGA and my 17-year-old in high school, and I got back the most laughing emojis I’ve ever seen. They said, oh my god, Mom. Bluetooth is the easiest thing to hack. It’s called bluejacking. You can Google it.

So I am seriously concerned because the record of the Secretary of State in terms of our privacy, in terms of our Social Security numbers, in terms of our driver’s license numbers is very poor, and, you know, in 2015 and 2017 somehow 6. -- 6 million and 7.5 million respectively voters’ personal data was released from your office or breached.

Now, in Judge Totenberg’s courtroom, the person in that diamond who was in charge of security said oh no, everything’s secure. Our computers are air gapped, and then the lawyer asked him, do you send emails on that computer? Do you go on the Internet on that computer? He replied yes, and the laughing began because even I’m an old Gen X, and I know that’s not air gapped.

So the other issue with security and safety is he
also told me that the batteries weigh, like, 80 pounds for these machines, and they need one for, like, every 2. My concern is a lot of these places are small, like even a club house. Are they going to blow the fuses of these places with an 80 lb battery, multiple ones of those? I’m very concerned about that, and in light of that, you really need to have, you know, hand-marked paper ballots as a back-up.

The other thing is fiscal responsibility. For Cobb County, I have read that our annual fees will be $300,000 or more for updates. I mean, I get Microsoft updates. I get Apple updates, and I’m not paying anything. I’m like, what are we paying all this money for? And then, I looked up the company Dominion to find out who owns them. It says a private equity firm. I mean, good Lord, who are we sending our money to? We work hard for it. You know, who’s getting all this money? I mean, hand-marked paper ballots, I know they’re a pain. I know people hate to do it, but they’re safe and secure, and they’re really what we need in the 21st century. Thank you.

MR. RAFFENSPERGER: Thank you. Gaylon Tootle?

MR. TOOTLE: Thank you. First and foremost, we in the blind community, in the different abilities community, we told you that these machines weren’t going to work. You chose to choose Dominion anyway, so now, here’s where
we are. First of all, they’re ADA non-compliant, and I’m not going to -- I’m depressed -- I’m sorry. I’m from Richmond County, home of Lynn Bailey. I am the Vice President of the National Federation of the Blind of Georgia, and I work for Walter Knopkins as the Advocacy Coordinator.

We feel that -- I’m not going to go into the machines as much. My blind cohorts, they’ve basically put it out there for you, but I will also say along with what Danny said that when I go to vote, all I should need is my ID card and perhaps my voter registration card. Having come from a small town in rural South Georgia and having been a very active person in that community, I can see issues of -- for people going in with their electronic devices. If you have a problem with me, and you work at the polling place, you may tell me that my device is not acceptable, and then, we have rules on the books that have been passed legislatively, and we are talking about possible rule changes here through this Board. I know -- I feel confident that that message may not get down to Tatnell County, which is where I’m originally from. So no, that’s a Band-Aid. It’s not acceptable. The voting process should be totally the responsibility of the Secretary of State’s Office and you guys. I should not be responsible for bringing anything else with me to the polls.
I would like to also say that we out here in the body, we know that voter suppression is real in the State of Georgia. We know that, and you guys have an opportunity to not be a part of that by coming up with rules and laws so that we can go into the polls and effectively vote. I hear a lot of talk about paper ballots. What am I going to do with a paper ballot? Technology for us in our community is paramount. It levels the playing field, so whatever decisions that we come up with, they have to be undergirded with assistive technology and technology provided by the voting place. We encourage you to reconsider. We encourage you to get out in front of this and do the best you can, and probably the best solution is to send those machines back to Dominion and start over. Thank you.

MR. RAFFENSPERGER: Okay. Thank you, sir. That concludes our public comments. The next on the agenda is the presentation of the rules petition. There’s 20 minutes allocated for that, but before we do that, if we could take a 10-minute recess. Would that be --

MR. WORLEY: That’s fine.

MR. RAFFENSPERGER: Or would you like to comment on the discussions we just had first, Mr. Worley?

MR. WORLEY: No. The only thing that I would like to do is to make a motion that we accept the written comments
that were presented by the speakers into the record.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Do we have any discussion of that? Hearing none, all those in favor of putting those into the public record, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

That will be put into the public record. We’ll take a 10-minute recess. Be back in 10, and then, we’ll have the presentation of the rules petition for 20 minutes.

(Meeting in recess)

(Meeting resumes)

MR. RAFFENSPERGER: Ms. Jeanne Dufort? And I think you’re going to have a few other folks come up with you.

MR. RAYBURN: Over here.

MR. RAFFENSPERGER: Okay. We will allocate 20 minutes for the presentation. Okay. You’re on.

MS. MARTIN: Give me a second. I’m getting out my notes. Okay. I will be speaking on proposed rule number one, protecting ballot secrecy. My name is Rhonda Martin, and I live in Atlanta.

There’s a saying in business that even though you always want things faster, better, and cheaper, you can only pick two of the three. With Georgia voting, we have
three legal requirements: one, to provide the voter
absolute ballot secrecy; two, to ensure the machines are
secure from tampering; and three, to control wait times by
providing one voting machine for every 250 voters. I am
afraid that given the size of existing polling places, the
counties can only achieve two of those three requirements
simultaneously. At this point, it is too late to find new
polling places for the presidential preference primary or
the May elections. So which law will the counties be
forced to violate?

With respect to law number one, providing absolute
ballot secrecy, on Wednesday Judge Rucker Smith, Chief
Judge of the Southwestern Circuit of Georgia presided over
an emergency hearing on this very subject. The judge was
very clear that absolute ballot secrecy is the law.
Period, full stop. Further, it is clear that the
Secretary of State is trying to figure out how to provide
ballot secrecy. Although we appreciate his recent
suggestions of preferred precinct layouts and recognize
that parts of the recommended layouts may help a bit, they
still do not provide absolute secrecy.

Now, on to law number two, ensuring the machines are
secure from tampering. SEB rule number 183-1-12-.11, part
4 states that the electronic ballot-markers shall be set
up in a manner to assure the privacy of the elector while
casting his or her ballot while maintaining the security of such units against tampering, damage, or improper conduct.

Let’s think about what tampering, damage, or improper conduct looks like. Someone might unplug a cord and then plug it back in. They might remove the security tag, open the door to a USB drive, remove it, and possibly replace it with something else. They might put their driver’s license in the card -- in the slot where the voter card is supposed to go. All of these things would occur when a voter is interacting with a BMD hidden behind the privacy screens. Poll workers must be able to monitor the components of the voting system while voters are interacting with them. Tampering is a contact sport. If you can’t see the voters’ hands or the vulnerable areas of the equipment, you can’t maintain the security of the units. Checking the machines from time to time when voters are not around is like shutting the stable door after the horses bolted. The damage has already been done.

On to law number three: one voting machine shall be provided for every 250 electors. There is no question that the new voting system requires more space than the DREs did. After all, each BMD is accompanied by a printer, so even ignoring the other associated equipment,
more space will be required to accommodate similar numbers
of voting stations as provided in 2016 and 2018. Do you
remember the long lines from those elections? Again, we
are stuck with the polling places and dimensions we
currently have. For Harry Potter fans, the polling places
are not like Hermione’s bag that can magically hold
everything she placed in it.

I’ve spent time observing the use of the Dominion
system in Colquitt, Dooly, and Sumter counties, during the
HD171 and SF13 special elections. I saw stand-alone
cinderblock buildings which serve as dedicated voting
precincts. Please refer to the photos I have provided.
Those are of the Chambliss precinct in Sumter County.
There, the poll manager was so concerned -- please, look
at them. Look at what these buildings look like.

MR. MASHBURN: I have them.

MS. MARTIN: What?

MR. WORLEY: We already have.

MR. MASHBURN: We have. We’ve looked at them.

MS. MARTIN: Well, okay. Okay. There, the poll
manager was so concerned about the ability to see
electors’ votes that she took the initiative and turned
two of the BMDs to the wall. This was before receiving
guidance from the Secretary of State. She felt bad that
she was unable to do anything with the BMD station
designated for handicapped voters, but there just wasn’t room for a wheelchair to maneuver between the BMDs and the wall. Bottom line: we haven’t solved the absolute ballot secrecy problem, we haven’t solved the machine security problem, and we haven’t figured out how to fit everything in the available space.

Our proposed rule address this. In the event that ballot-marking device touchscreens cannot be reasonably positioned to ensure both ballot secrecy and monitoring of each component by poll officers, the superintendent of elections shall require the use of hand-marked paper ballots and provide privacy screens or other voting conditions, so as to ensure the absolute secrecy of the hand-marked ballot. I hope that you were carefully consider this proposed rule as providing a way to satisfy the applicable laws in the short term, giving counties time to explore and create acceptable long-term solutions.

Thank you.

MS. DUFORT: Good morning. My name is Jeanne Dufort. I’m a member of the Coalition for Good Governance, and I’m the first Vice Chair of the Morton County Democratic Committee. I’m speaking first to rule two. Electronic poll books are great. When they work, they can process voters quickly, and they can update records in real time, but for too many voters, they have not worked. E-poll
book glitches accounted for an alarming number of the 50,000 calls received by the Voter Protection Hotline.

Senator -- State Senator Jasmine Clark has told you in previous meetings and testified in federal court about her experience during the November 2018 runoff when she was told she was at the wrong polling place during the check-in process. As a candidate, she knew exactly where she was supposed to cast her ballot, and she stood her ground. After many minutes, tying up poll staff and some phone calls, the issue was mysteriously resolved. Many voters are not so lucky.

We propose that on election day any voter who appears at the polling place listed on the voter’s MyVoter page and is not found in the electronic poll books will be considered an eligible voter at that location and will be allowed to cast a regular ballot in that location. We propose cross checks, of course. We would like poll work -- officials to be able to independently verify the MyVoter page information using a county-owned, Internet-connected device and verify that the voter is otherwise eligible to vote. This rule will reduce the need for provisional ballots which are time-consuming for staff to process and create risk to the voter that their vote may not be counted.

Voters are routinely instructed to determine their
polling location, look at their ballots, and other things based on the MyVoter page. Following such instructions should not disenfranchise them or cause them to cast a provisional ballot when election records don’t match. Casting a provisional ballot is a burden on a voter that should not be caused by discrepant state records nor should the voter be required to go from place to place to voter if they’ve used information on the Secretary of State’s MyVoter page. Rule two provides an inexpensive and efficient means of protecting voters and election integrity, reducing staff work, and preventing disenfranchisement of voters. We hope you consider it.

Now, I’ll speak to our third rule -- and we felt like the last time we’d take questions at the end. We’ll present all the rules, and if you’ve got questions, we’ll handle that. Rule three is about absentee mail ballots. Demand for absentee mail ballots soared to record heights in 2018 general elections, and problems in processing them resulted in lawsuits and some changes in the law. I would also say uneven treatment of voters: some counties were fabulous at processing absentee ballots, and other counties, not so much. Disparate treatment is not a fun thing in elections.

We’re proposing a rule that will reduce administrative handling while increasing voter certainty
that their votes have been accepted. This rule allows voters who choose to deliver absentee mail ballots to any location at which they would be eligible to vote in person. We propose a phase-in schedule: make the rules mandatory state-wide by November 2020 but permit counties to adopt it earlier if they wish. The rule designates an absentee ballot clerk in each early and election day polling place, giving voters the option of delivering their absentee mail ballot at any place they would be eligible to cast their vote in person. Upon presentation of proper ID and verification of eligibility through the standard check-in process, their ballot would be accepted with no further review.

Election officials we’ve discussed this with are enthusiastic in their support, and in December, this Board indicated support for the concept but reservations about the timing. Our proposal comes to you modified for a November roll-out for that reason.

Allowing election workers to accept voters’ absentee ballots at early voting locations and at election day precincts is a win-win for all. For voters, it eliminates the risk of mail delivery and having a ballot rejected for minor discrepancies, and for election officials, it reduces the office work of mail ballot envelope verification and associated ballot rejections and cures.
This change will provide voters who wish to vote a paper absentee ballot at home the opportunity to cast their ballot at their home precinct on election day with the advantage of the latest election information. This change will permit voters who have visual or dexterity difficulty with computer screens and operations to vote their ballots with paper and pen at home and cast it on election day in their home precinct. Best of all, an increase in absentee mail ballots reduces voting lines for check-ins and BMDs at the polling place, which will help everyone have a better voting experience. In short, adopting these new election rules strengthens civic participation in our democracy, and everybody wins.

MS. NAKAMURA: Hello, again. I’m Aileen Nakamura from Sandy Springs. I’m speaking to proposed rule four, which is an amendment to add the definition of a vote for ballot-marking devices. So the SEB has yet to define what constitutes a vote, and right now, Georgia is holding elections in violation of both state and federal laws that require such a definition in each new voting system prior to the conduct of an election using the new system. We have already started elections using the new system. There is no definition of what constitutes a vote.

Both OCGA 21-2-31 part 7 and 52 USC 21-0-81 part A, part 6 mandate that it shall be the duty of the State
Election Board to promulgate rules and regulations to define uniform and nondiscriminatory standards concerning what constitutes the vote and what will be counted as a vote for each category of voting system used in this state. Without this mandatory determination, election controversies are sure to occur.

There are other laws you must consider. OCGA 21-2-498 requires that the post-election audits be performed using manual recounts, which obviously means manually counting the human-readable text printed on the ballot cards. If human-readable text is the official vote for auditing purposes, it follows that it must constitute the official vote for all counting purposes. To count barcodes as the official vote for some contests, those that are not audited, and then the human-readable text as the official vote in other contests invites a host of legal problems.

Secretary Raffensperger talks about how safe it is to use barcodes, and I think he likes to use the analogy of how Homeland Security has used barcodes on our boarding passes at airports. Sure, but I still can’t read that barcode, and I depend on the human-readable text telling me where to sit, and I’m really not worried about somebody hacking my seat assignment. But if a barcode was going to fly the plane, I don’t think we would get on that plane.
The Help America Vote Act requires that voting systems permit the voter to verify the votes selected by the voter on the ballot before the ballot is cast and counted. Since humans can’t read barcodes and therefore, can’t verify barcodes, this federal law points to the fact that the human-readable text must be the official vote. Also, OCGA 21-2-397-.22 provides no electronic-ballot markers shall be adopted or used in primaries or elections in this State unless it shall at the time satisfy the following requirements. Part 6 says produce a paper ballot which is marked by the elector’s choices in a format readable by the elector.

The phrase choice made by the voter is the standard terminology in Georgia election code to define what constitutes a vote. The General Assembly has instructed that the format readable by the voter be the official vote. There can only be one official vote. Legally, you simply cannot have a barcode be the official vote for some counts and the human-readable vote be the official vote for others.

Since the official vote must be consistent between the initial official count, any recount, and any post-election audit, we strongly urge the State Election Board to adopt our proposed rule 4, which reads, “for a vote printed by an electronic ballot-marking device on a ballot
summary card and cast on an optical scanner, the human-readable text shall be the choice made by the voter.”

Thank you.

MS. THROOP: Hi, again. I’m Liz Throop, and I’m a member of the Coalition for Good Governance. You’ve no doubt received a deluge of comments about the proposed recount rule, and we’ve heard a lot of passionate comments about it today. You may already have plans to modify it or even withdraw the proposed recount rule, so I’ll be brief. With proposed rule number six, we are offering ways to modify that recount rule to minimize two of the more problematic features.

First, public observation of recounts must be meaningful. Public oversight is integral to building trust in elections. Over the past month, it’s been my privilege to observe elections across Georgia. It’s been a delight to meet election workers and officials who are doing their very best to run elections in a fair and efficient way, but I hope you’ll trust me and believe me when I tell you that public observation is more effective in some counties than others because of barriers some counties put in place that prevent effective observations. This must end, and rules must enable public observation for recounts where the stakes are very high.

Second, because most of Georgia’s ballots are printed
by machine and not marked by hand, it’s critical that any
-- for any election to have a meaningful recount, it must
be proceeded by a meaningful audit. You’ll be introducing
proposals for audit rules later this morning, but I’ll
wager you’re not proposing audits for every election.
This proposal is very straightforward. If an election is
close enough to warrant a recount, there must be a
thorough audit prior to the recount.

Another proposed rule, rule five, contains the
retention of memory cards covered in 183-1-12-.13(c).
Electronic data on memory cards is a key election record
and should not be destroyed prior to the 24-month
requirement under federal law. If there is the potential
of electronic tampering, evidence can be present on the
memory cards that is preserved nowhere else in the system.
The proposed rule also states that after the period for
requesting a recount has expired, memory cards may only be
used -- may only be re-used after taking all necessary
cybersecurity hygiene precaution. Thank you.

MS. DUFORT: So if there are any questions about any
of our rules, we’ll be happy to field them.

MR. RAFFENSPERGER: Okay.

MS. DUFORT: Thank you.

MR. RAFFENSPERGER: Thank you. Mr. Germany?

MR. GERMANY: Thank you, Mr. Chairman. I’ve -- I’ve
got a few things that I can -- let’s see. Let’s see how you want me to handle this. I can speak to -- just to give a little background, the Rules Working Group of this Board met last Friday to go through the comments received for today’s meeting for the rules that we’re going to consider today to come up with some additional rules that we’re going to recommend to be posted today, and also, we went through the rules petition as well that Ms. Dufort just presented.

MR. RAFFENSPERGER: And then, we have some, probably, some new people here that haven’t been at previous meetings, so on the Rules Working Committee, can you just let the audience know who those members are?

MR. GERMANY: Sure. So the Rules Working Group consists of myself, Mr. Rayburn, and Chris Harvey from our office, as well as Jordan Fuches. She’s the Deputy Secretary of State. From the State Election Board, Mr. Worley and Ms. Sullivan, who was out of town. Ms. Le was also tied up, so our new member Matt Mashburn filled in on the Rules Working Group, as well as Lynn Bailey, who is the County Elections Director in Richmond County.

MR. RAFFENSPERGER: Thank you.

MR. GERMANY: Should I first speak to the petition?

MR. RAFFENSPERGER: What is the will of the Board: speak to the petition, or do you have a preference?
MR. GERMANY: I’d go to the petition first because --

MR. RAFFENSPERGER: Okay.

MR. GERMANY: -- we’re doing some things later that I think are based on some of the concerns they bring up --

MR. RAFFENSPERGER: Okay. Please do that.

MR. GERMANY: Their first rule about protecting ballot secrecy -- again, that is a major concern. I believe that the guidance the Secretary of State’s Office has sent out, as well as, many counties are using third party solutions that they’re buying to help that -- to help that process. The court, there was a court case, as the presenters mentioned, in Sumter County. The judge found that you could use the machines and still protect voter privacy, and I think that’s consistent with what we see as well, so I would recommend -- and I would say, you know, in addition to the potential layouts that Chris Harvey sent around to the counties, I think we’re preparing some additional guidance to send to the counties along those same lines, along with some simple -- some other options that they can do to provide for privacy.

I will -- I don’t think it’s correct that -- I think it’s correct what we said that you can turn the machines around. Poll workers, I think, still have access to see what they need to see, especially with the rule that we’re -- that I’m going to recommend we adopt today that we
posted last time, in that we’re now requiring a poll worker not just stationed at the scanner, but another poll worker to be available for voters with questions in the enclosed space, so it’s kind of a roving poll worker in the enclosed space, which is a new requirement. So I think that will help, you know, where they can see, you know, what’s going on despite how the -- which direction the screen is facing.

MR. RAFFENSPERGER: Okay.

MR. GERMANY: Proposed rule number two, permitting voting through the MyVoter page published precinct: so the MyVoter page website and the data that loaded into the poll pads both come from the same place, so there should not be a discrepancy in those two places. Frankly, if there is, I would have more trust in the data that’s loaded on the poll pad that comes straight from the voter registration system. I don’t think that’s something we need to do in terms of adding a new thing for poll workers to check on election day.

Mail ballots returned to polling places: I think as — similar as to where the Board was the last time this proposal was made — I think that’s something that we should look at. I think the most prudent course of action is not to do something like that this election cycle, even waiting until November. There’s other things to consider.
You know, some states instead of allowing you to drop it off at polling places use drop boxes, you know, and one of the benefits of absentee ballots is the voter does not have to go to the polling place, and that’s less people in the polling place on election day which is helpful for getting more people through, so -- yes, sir?

MR. RAFFENSPERGER: Well, I believe that’s what they do in Colorado, correct?

MR. GERMANY: They use drop boxes. Yes, sir.

MR. RAFFENSPERGER: And the other question that just struck me is last fall, we did six pilot counties when we were, you know, getting these machines up to speed. Is that something that we might want to consider also? Instead of doing it statewide, just try some select counties almost as a pilot at some point in time when we have really the resources to be able to handle that, and then see how it works, and then we look at maybe if it goes well, then you look at state-wide implementation.

MR. GERMANY: I think that’s a prudent way to proceed. We might need some enabling legislation to allow us to do pilots like we’ve had for the voting machines, and we’ve done that for UOCAVA electronic ballot delivery type solutions in the past, and it is has then led to statewide adoption of that thing we tested.

MR. RAFFENSPERGER: Okay. And then, will you share
that with the Rules Working Group? Many of them are here, but with the counties, what their take would be on that?

MR. GERMANY: Yes.

MR. RAFFENSPERGER: Thank you.

MR. GERMANY: I would say I don’t think this year is the year to do that pilot.

MR. RAFFENSPERGER: Correct.

MR. GERMANY: I think in this election cycle, we have enough changes that we’re already dealing with.

MR. RAFFENSPERGER: Understood.

MR. GERMANY: Definition of a vote: I will be presenting some recommended changes to post today to definition of a vote that, I think, get to some of these concerns, so I’ll present that later.

Proposal number five, retentions of memory cards: so this rule, this proposal, would require that all the memory cards used in each scanner are retained for two years. The way that we currently handle that is the results, the data, is uploaded to the election management server in each county, and then, they take all of that combined data and retain it for two years, and that’s why the then individual memory cards can be reused after that. So the data is still retained. It’s just not retained on the physical medium so they can be reused, and frankly, not doing that would greatly increase the cost to counties
of running an election. So I don’t think that’s something that we should change.

Proposal number six amends the recount rule. As we learned -- or as the Rules Working Group discussed on Friday, that was, out of the comments that we received, certainly the most comments were about the recount rule. We’ve made some -- some changes that I’m going to recommend that we post for public comment today, and I think that will get to some of these concerns. Like we’ve done in the past, you know, given the timeline we’re under, I’m going to recommend that we adopt the rules that we’ve posted and then vote to post a change to them that we can consider at our next meeting.

MR. RAFFENSPERGER: Thank you.

MR GERMANY: And then, the next thing that I would speak to is the rules that we posted last meeting that are up for adoption today, if that works for you, Mr. Chairman.

MR. RAFFENSPERGER: It does. Please proceed.

MR. GERMANY: The first rule that we posted -- it’s in tab number 2 of the Board’s binders -- is the rule dealing with third-party registration. What this rule does is a couple things. One, it actually loosens the restriction on doing voter registration drives in places where alcohol is sold. We did have issues come up where
places like fairs and parades and festivals that were
mentioned earlier where alcohol might be sold, but it’s
not the purpose of the event, and it was questionable
whether or not that could be done under existing rules, so
we’re changing that rule to make it clear that those kind
of places are -- are available for voter registration
drives.

The other thing we’re doing is clarifying that -- or
requiring, I should say, third-party voter registration
drives to instruct the applicants that they have to
include their Georgia driver’s license number if they have
one. That is required under federal law. It’s also
required under state law, and what we’ve seen is that, in
talking to counties, applications that come in from third-
party drives are significantly more likely to not have
that information, and it’s very helpful information
because if you have it, you can verify the information
with the Department of Driver Services. If you verify it,
you don’t have to provide your ID with your application --
you don’t have to provide your ID before you get your
absentee ballot. If you don’t verify, you do have to
provide that information, and that’s according to a
federal law, so any one that we can kind of handle at the
front end, it makes things a lot easier later on. So
that’s the purpose for that -- for that change.
Would you like me to go through each one? And I should also say I do think the Board needs to take action on the rules presented in the petition. I maybe should have stopped before moving on to our rules.

MR. RAFFENSPERGER: Is there a motion for the petition that was presented earlier?

MR. WORLEY: I’d like us to vote separately on the proposed rules or the proposed rules that were included in the petition, and I’d like the opportunity to have some discussion of the proposed rules that the petitioners put forth. Perhaps we could just go through them one-by-one?

MR. RAFFENSPERGER: Okay. Starting with proposed rule number one, do we have a motion for the rule under discussion first?

MR. WORLEY: I would like to table this proposed rule. I think the petitioners raised some good points about how -- how secrecy will be ensured in various places around the State, and given Judge Smith’s ruling, I would just like the opportunity to revisit this once we see how this election and the primary election go, and I just think it would be -- it would just give us an opportunity to consider it with that information without requiring the petitioners to come back and present another petition, so I would make a motion that we table proposed rule number one.
MR. MASHBURN: Second.

MR. GERMANY: I would just say, as Mr. Worley mentioned, there is litigation out there about this, and I think there probably will be more. I think it’s prudent to keep an eye on that litigation. I agree with what Judge Smith said in Sumter County that the existing structure already adequately allows for both to be protected, so I think the Board could deny this rule while still doing all the things that Mr. Worley mentioned, keeping an eye on it and then taking further action as needed, based on -- based on what we see in this election cycle.

MR. RAFFENSPERGER: Well, we have a motion and we have a second. Do we have any further discussion? All those in favor of the motion to table this --

MS. LE: I have a question. Sorry. Mr. Worley, when you say you want to table it, do you want to re-present it or how -- what are you talking about?

MR. WORLEY: I think if we table it, it gives us the opportunity to bring it back at our discretion without requiring the petitioners to file another petition and come back to us and make a presentation, so -- and, of course, I mean we can always, you know, come up with our own rule that deals with these same concerns if we find out that -- that it is an issue after we’ve seen the
results of the elections.

MS. SULLIVAN: Mr. Chairman, I have a question for Mr. Germany. Is there -- is there -- I haven’t recently reviewed the rules and don’t have a copy in front of me, but is there a time consideration of the rules where we have to take action on a petition?

MR. GERMANY: I’m looking at that right now. It says within 30 days after submission of a petition, the Board shall -- let’s see. I’m sorry. I’m reading it -- I’m not reading the relevant parts. In 30 days after the submission of a petition for the promulgation of a rule, before the next meeting, the Board shall decide upon the action to be taken, so I guess that’s up to -- the action to be taken? I would it’s probably --

MS. SULLIVAN: The action to be taken could be to table the --

MR. GERMANY: I would agree with that.

MR. RAFFENSPERGER: The action to be taken could be tabled again, table it again or...?

MR. GERMANY: I think once it’s tabled --

MR. RAFFENSPERGER: Approved or --

MR. GERMANY: It’s tabled until you guys bring it back up.

MR. RAFFENSPERGER: Does that extend -- or in the General Assembly, it really just lasts for the biannual.
MR. GERMANY: We don’t really have that --

MR. RAFFENSPERGER: We have --

MR. GERMANY: -- for the State Election Board.

MR. RAFFENSPERGER: Exactly. So does this continue in perpetuity then?

MR. GERMANY: I think it would do that. Yeah, I don’t think it has the same effect as a General Assembly where if you table it, it just kind of goes away at the end of the session.

MR. RAFFENSPERGER: But the proposed rule that’s here before us today, if we -- if the, you know, Rules Working Group wanted to work on that, that’s something that they would still be free to choose whether this moves forward, is tabled, or it does not move forward?

MR. GERMANY: I think that’s something the Rules Working Group should do as we continue throughout this year. We know we’re working on additional rules as well.

MR. RAFFENSPERGER: Okay. I’ll call the question. All those in favor of tabling, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed? Motion is tabled -- or proposed rule is tabled.

MR. GERMANY: Rule number two is the permitting voting in MyVoter page published precinct.

MR. RAFFENSPERGER: Any discussion or do I have a
MR. MASHBURN: I move that the Board reject proposed rule two.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: I second that.

MR. RAFFENSPERGER: Any discussion?

MR. WORLEY: I -- I’m going to vote against this rule because I do think there really is no discrepancy between MyVoter page on the poll book, and if there is a discrepancy that the poll book is the, you know, should be the default option, so...

MR. GERMANY: I would add in addition to that that there are procedures in place to deal with that through the provisional ballot rules that this Committee -- that this Board has already adopted.

MR. RAFFENSPERGER: Any further discussions? Hearing none, all those in favor of denying proposed rule number two, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Proposed rule two is denied. Proposed rule number three? Do I have a motion?

MR. WORLEY: I would make a motion that we table this rule. I think at the last time -- the last time a similar rule was proposed, I indicated that I -- I thought that it
was a good rule, but needed to be -- needed not to be done in this cycle, and I think, at least for me, it’s something that I’d like to continue to consider as we see how the primary and the -- the presidential primary and the general primary go and the -- the turnout that we’re going to have. So I can understand all the reasons for rejecting the rule in this cycle, but I’d -- I would like to table it instead, and I would make a motion that it be tabled.

MR. RAFFENSPERGER: Do we have a second? Do we have a second? Hearing none, that motion dies for lack of second.

MR. MASHBURN: I move that the Board reject proposed rule three.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: I’ll second that.

MR. RAFFENSPERGER: Okay. Do we have any further discussion? Hearing none, there is a motion before us to deny proposed rule number 3. All those in favor of denying rule 3, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed?

MR. WORLEY: No.

MR. RAFFENSPERGER: Motion carries. Proposed rule number four, do we have a motion?
MR. MASHBURN: I move that proposed rule number four be rejected by the Board.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: I’ll second that. I believe that we have a new proposed rule regarding this subject matter that we’ll -- we’ll vote to post today.

MR. RAFFENSPERGER: Okay. Any discussion?

MR. WORLEY: I’ll vote against this rule, but only because I think we do have a rule -- or changes to the rule that will accommodate these concerns.

MR. RAFFENSPERGER: Okay. All those in favor of the voting of denying proposed rule number four, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries. Rule number four is denied. Proposed rule number five, do we have a motion?

MR. MASHBURN: I move that the Board reject proposed rule number five.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: I second the motion since the data would be retained.

MR. RAFFENSPERGER: Okay. Any discussion?

MR. MASHBURN: Yeah. One of the primary concerns I have about this was stated very well by Ryan, in that it
says the memory cards will be preserved without
authorization for no less than 24 months, so that means
you constantly have to be buying new memory cards, and you
can’t reuse them. That’s just going to be a burdensome
expense at the counties to just keep piling on memory
cards was my concern.

MR. RAFFENSPERGER: Any further discussion? Okay.
Call to motion: all those in favor of denying proposed
rule number five, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Proposed rule
number five is denied. Proposed rule number six, method
or recounts, do we have a motion?

MR. MASHBURN: I move to reject proposed rule six.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: I’ll second that.

MR. RAFFENSPERGER: Do we have any discussion on the
motion?

MR. WORLEY: I’m going to vote against this rule,
proposed rule, because I think we have -- we have made
some changes to the recount procedures, but I just want to
say on the record, and it’s something that I would like to
work on in the Working Group, this concept of having an
audit -- of requiring an audit before any recount in any
recounted election, I think is very -- is a very good
idea, and I think we should institute a rule regarding that as we go forward with audit rules.

MR. RAFFENSPERGER: I think Mr. Worley makes some very good points, as did some of the people, on that issue when an election is that close to have an audit procedure in place, so we strongly encourage the Rules Working Group to work on that and come back with something as quickly as possible.

MR. GERMANY: That -- that came up in our meeting last Friday as to whether or not we should -- I think that’s a very good point about doing a pre-recount audit, and then it also came up whether or not we should require a post-recount audit of the recount, and I think that’s something that we can look at in the auditing rule as well that we’re still trying to determine based on the pilot project we’re doing the best way to put that process in place.

MR. RAFFENSPERGER: Yeah. We just encourage you to dig into the merits of that and report back. Thank you. Do we have any further discussion? Hearing none, I’ll call for proposed rule number six. All those in favor of denying proposed rule number six, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed? Proposed rule six is denied. Mr. Germany?
MR. GERMANY: Previously, I jumped ahead of myself a little bit and presented the changes to chapter six. These are the changes that we posted. We actually posted them two meetings ago, got some comments that we incorporated, and reposted them at our last meeting. I just presented the purpose of them, and I would recommend that the Board vote to adopt the rules -- the rules as posted in chapter six.

MR. RAFFENSPERGER: Do we have a motion to approve the rules that are posted in chapter six?

MR. MASHBURN: I move that the rules as posted for chapter six be approved.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Do we have any further discussion? All those in favor of adopting the rules presented in chapter six, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MR. GERMANY: The next rules we posted in our last meeting are in chapter 12, and what these are -- I’ll go through each of them briefly -- but what these are: we adopted the rules, and then before our last meeting, we received some comments that we thought made sense, so at the last meeting, we voted to post these changes based on
comments we received at the first posting of these rules. The comments came from both counties, political parties, and other -- other interest groups. They’ve changed to -- I’m in tab 3 of the -- of y’all’s binders.

The change to .04 just takes out -- it loosens up a bit of the restriction on how counties have to store the components. As opposed to requiring that they are stored in their packaging boxes or foam inserts, we’re just allowing the counties to store them in a manner that ensures they are protected. That was a comment we received from counties that I think makes sense.

We also are making a change in 12-.06, paragraph 3 of page 6 of the proposed rules. We’re taking out -- there’s a procedure in place for what counties have to go through if they have to move their election management system. The election management system is the air gapped server at each county, and there’s -- it’s really only to be relocated in emergency circumstances, so we’re taking out the sentence that was a bit contradictory. It says, it shall not be moved or relocated for any purposed, and then it goes into here’s what you do if you have to move it, so it was pointed out those are a bit contradictory, and I think that’s correct.

We also are incorporating some changes in 12-.08 that deal with notice, and these are based on comments we
received. Notice at this point would not only be required in newspapers, but to put on county webpages, and also clarifying that this would be placed on the homepage, so it’s not somewhere that is lost on the Internet.

We’ve additionally made changes requiring reporting through the superintendent of any component failures or issues, and that’s something that I think we wanted to clarify. We also made some changes in -- we made one change in 12-.09, just a typo change changing the word “remained” to “be” just because it made more sense. In 12-.10, we’re adding that accredited poll watchers must be able to observe the polling place set-up process. However, they may not interfere with the set-up process.

The changes in 12-.11 are -- are significant. These are what we discussed at our last meeting that there was some concern originally that having someone at the scanner remind every voter to review their ballot could be burdensome. And I think it will be burdensome, but there was a paper that came out that showed that if you want people to review their ballots, that’s really where that reminder has to be, so we’re removing the reminder from the beginning of the voting process and moving it to the scanner process, which is consistent with what -- there was a study by Matt Bernhardt at the University of Michigan that showed that.
This is where we’re also putting in place the 10% emergency paper ballot requirement, and we’re also putting in place what I mentioned earlier about how there has to now be a -- not just a poll officer stationed at each scanner, but also a poll officer assigned to assisting voters who have questions while they’re in the voting booth. The point of that is the poll officer stationed at the scanner needs to remain at the scanner, so if someone has a question in the polling place, there should be someone else available to help them so that that person stationed at the scanner can remain at their post.

We make similar changes in this section and in the next section 12-.12 adding language that accredited poll watchers shall be allowed to observe the process described in this rule in a manner that does not interfere. We added something to provisional ballots. This is something that I think we talking about in the Rules Working Group about how the information sheet available to voters -- trying to recognize that it can be difficult given the factual -- or the determinations required in provisional voting to make sure a poll worker is always giving accurate information to a voter. We’re trying to kind of standardize that some and come up with a sheet of paper that can be handed to the voter to help so they know their options.
And again, I would recommend -- we have one additional change that I’ll vote to post in the provisional ballot section, but I would -- I will recommend that we adopt these rules, and then we’ll post the additional change as a new rule. And those are the changes to chapter 12. There’s an additional one in tab 4 that Mr. Worley suggested at the last meeting. I would recommend that we handle these first and then handle that -- that proposal separately.

MR. RAFFENSPERGER: Okay. Do you have any quest -- does anyone on the Board have any questions for Mr. Germany about tabs 2 and 3? Hearing none, do we have a motion for rules 183-1-6-.02(6) through 183-1-12-.20 as just presented by Mr. Germany?

MR. MASHBURN: I move that the Board adopt the rules as published.

MR. RAFFENSPERGER: Do we have a second?

MR. WORLEY: I’ll second that.

MR. RAFFENSPERGER: Do we have any discussion?

Hearing no further discussion, all those in favor of the motion so presented, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed? Motion carries.

Okay. Tab 4, Mr. Germany?

MR. GERMANY: Tab 4 is a change that Mr. Worley
suggested to rule 183-1-12-.12, and I’m happy to speak to it, or Mr. Worley, you can speak to it, whichever you prefer.

MR. WORLEY: I -- I can speak to it. This -- this allows information relating to provisional ballots to be photographed by accredited poll watchers after the results have been tabulated, and it allows them to photograph the provisional ballot recap sheet, the numbered list of provisional voters, and the form -- related form. And we passed this at the last meeting and put it out for comment. There was some discussion at the last Working Rules meeting. An issue was raised as to whether posting the list of provisional voters might conflict with provisions in HAVA and in state statutes relating to keeping some information relating to provisional ballots only accessible to the voter who actually voted the provisional ballot.

I’ve spent some time this week looking over HAVA and looking over the relevant state statutes, which set up a free access system that allows a voter to check to see whether or not their ballot has been counted, and I am satisfied that there is not any requirement in HAVA or in the other provisions of Georgia state law that prevents the numbered list of provisional voters from being photographed because the only thing that that contains is
the name of the voter. So -- so I think this proposed rule is consistent with state law and with HAVA, and it has the advantage of allowing poll watchers to just take a picture of the names of those persons who voted a provisional ballot so that those persons can be assisted right away in -- in the three days after the election when they have an opportunity to cure their provisional ballot without having to wait for an Open Records Request. So I think it’s a -- it’s a benefit, and we should go ahead and pass it.

MR. MASHBURN: I -- I strongly support the first sentence of this rule that accredited poll watchers must be able to observe the entire process described in this rule. I’m strongly opposed to the second sentence of this rule. In November of 2000, there was a big controversy about poll watchers having cameras, and the behav -- and just a poll watcher having a camera in their possession was called inappropriate behavior, despicable, and even un-American. And so, for 19 years, we have been training poll workers that they’re -- we’ve been training poll watchers that they’re not allowed to have cameras anywhere on their possession. And I’m afraid that first of all, the people that we’ve been telling for 19 years that they’re going to be accused of civil rights violations if they even have a camera in their possession are going to
be very angry that all of a sudden it’s not -- that’s --
the rule is different because one side sees it as
something helpful to their cause. So the -- so I’m against
--

And the second thing is I’ve watched -- I’ve been a
poll watcher for years. I’m a state-wide poll watcher.
I’ve watched literally hundreds of thousands of people
vote. I’ve been a tabulation poll watcher. I’ve watched
literally millions of votes be counted, and one of the
polls I was in, a fellow was standing at the voting
machine with his phone, and he was asking the person on
the other end of the line how he should vote. And that --
that caused a problem, so I think we just -- I think the
zero tolerance policy for cameras at polls has been
trained very well, and people are following it now, and
I’m just -- I’m afraid that if we open the door, we’re
going to have ballot selfies being taken. We’re going to
have just -- this is going to get out of control, and your
poll manager is going to be overwhelmed with dealing with
phones, so I strongly oppose any photography at the poll
location, whether voters are voting or poll officers are
counting. So I’ll vote against this rule with the second
sentence in it, but I strongly support the first sentence.

MR. GERMANY: I would just add -- sorry, just a kind
of technical point. The first sentence is included in the
rules that was just adopted. In that same section we say, accredited poll watchers shall be allowed to observe the process described in the rule. However, they must do so in a manner that does not interfere with poll officials, so just to your point, Mr. Mashburn.

MR. WORLEY: If I could just respond to some of the points that Mr. Mashburn raised, the rule as we have written it makes it absolutely clear that a photograph should be taken only after the tabulation of results on election day has been completed. So it’s not only after the polls have closed, but it’s after all the votes have been counted, so I don’t see any problem with that. We passed the rule the last meeting when Mr. Mashburn admittedly was not on the Board, and I don’t -- I don’t see any reason why we can’t, you know, pass the rule today.

MS. LE: I do have one thought. What concerns me is names of provisional voters made pretty much immediately almost to persons other than the voter. My one big concern is some groups need to be protected. We have the rules -- I’m sorry. We have legislation that protects, like, domestic violence victims who are at shelters, and their information cannot be disclosed, that type of thing, so because this is almost made immediately versus an Open Records where they can be scrubbed and looked at, I am not
for this rule.

MR. WORLEY: Well, if I could just respond to that, this is information that is public information that anyone can get, and it’s required by statute to be made available. The question is when do you make it available? Do you make it available immediately so that those people who’ve cast a provisional ballot can be helped or do you make it available three days later under an Open Records request when it’s too late for that person to cure whatever was wrong with their provisional ballot? So if you really want to help people use the provisional ballot system, then you really need to make the list available. And the list is available to everybody. It’s available to the Democratic Party poll watchers. It’s available to the Republican Party poll watchers. And truthfully, it’s not only Democrats who vote provisional ballots. There are Republicans who vote provisional ballots, and they ought to have the opportunity to be assisted also, so I would again, you know, move that we pass the rule.

MR. GERMANY: I would just make one technical point. Our office, at least, has always treated that information as not public, based on a different understanding of the HAVA and state law requirements about privacy than the one Mr. Worley stated. I think he makes a reasonable argument. I think the other argument is reasonable as
well. So just to state that, for instance, when we have Open Records requests for those documents, we -- we redact the names of the voters, so I’m not sure it’s correct that it’s always been public.

MR. RAFFENSPERGER: Well, we have a motion before us. Do we have a second? Do we have a second? Motion fails for lack of second.

MR. GERMANY: Tab 6 is the change we posted last meeting to rule 183-1-13-.01, election day equipment allocation. This is the rule that would allow county election officials to subtract the number of people who have voted early in allocating their -- their machines, particularly as related to the one voting machine per 250 electors requirement. We had some discussion about this in the Rules Working Group and reviewed the comments. Mr. Cortes spoke of the Brennan Center’s comments, and we reviewed -- reviewed those comments, which were helpful.

At the last meeting or perhaps the meeting before, we talked about how we think -- and by we, I mean this is kind of the conclusion that’s been come to in the Rules Working Group which includes the county perspective as well -- that there really does need to be a statutory fix to this. While I think, and I think speaking for the whole Rules Working Group, we do need to make sure that there’s an adequate amount of voting booths and voting
machines in each precinct, as some of the commenters correctly pointed out earlier today, the new voting system does have a different footprint. I think it will require some changes to polling places as we move -- as we do this transition. I think it will probably require more polling places.

We have been working on a legislative fix that will keep the -- the one to 250 requirement in place for November general elections, and frankly, I think for those elections, we should not subtract early voters because they’re -- they’re both the elections where we have the heaviest election day turnout, and we have the heaviest early voting turnout. And so, the legislative fix that we’re proposing is you keep the one to 250 requirement for November general elections, but allow flexibility for other elections, recognizing the fact that not every election is the same. The number of people coming through to vote on election day in particular, but even including early voting or absentee, is vastly different in the November general election than what’s happening in states in a District 13 right now, where they’re having an election on Tuesday.

And I think the county perspective from Ms. Bailey was that if she has to put out the same number of machines for each election without allowing her to take into
account the realities of the -- of the election, it’s frankly, she thinks and I agree, that it will lead to problems because she’ll be focusing on things like equipment allocation when she should be focusing other things. As one commenter also pointed out, I don’t think that lines are always caused by the number of voting machines. There’s a lot of other things that can cause a line, particularly the check-in process, the ballot scanner process, number of provisional voters, all things like that that I think -- and what this -- what the statute does is require that one to 250 number for the November general, allow flexibility for others.

So I say that to basically, you know, let you guys know what we’re trying to accomplish in the General Assembly, and also as Mr. Worley, I believe, pointed out at the last meeting, we don’t know what the General Assembly is going to do. So it’s certainly not a given that happens. One thing we could do is adopt this rule for now. If that legislation passes, we can likely repeal this rule. That would -- that would give the counties a little bit of flexibility for the March election, and the legislation would allow them to -- to kind of staff up and do what adjustment they need to make to prepare for the November election. If the statute doesn’t pass, then we -- I think we’re in a position where we’d have to revisit
I will say one more thing. The Attorney General’s Office made a good proposed change to this rule that I think we should adopt. You know, the problem is, of course, we’d have to repost it to adopt that, and that changes the rule that now says the term electors shall mean those electors on the official list of electors who haven’t voted. Their change points out that electors is already defined. Let’s not redefine it. Let’s just say when calculating the number of voting booths or enclosures, the calculation may take into account the electors who have voted as of election day, which I do think would have been a better first draft, but, alas, it wasn’t.

So I think if we do want to have an effect on the PPP, we would need to adopt this rule. We could vote to post the Attorney General’s Office’s change that I submit later, and then we can I think deal with it after the legislative session.

MR. RAFFENSPERGER: So we’ll vote on this one today. The Attorney General’s wording is not here before us, and we’ll post that.

MR. GERMANY: We’ll post that change --

MR. RAFFENSPERGER: Early next week?

MR. GERMANY: Right. We’ll post it, and then we’ll
consider it depending on what happens with the potential legislative change, you know, we might need to -- we might be able to repeal the rule, and basically take no action on the posted rule, or we might not be able to.

MR. RAFFENSPERGER: Any discussion before I ask for a motion?

MR. MASHBURN: Just to make sure I’m clear, the recommendation of counsel’s office is that this rule be passed today as published?

MR. GERMANY: Well, if we want to provide the counties with any flexibility for the upcoming election as to machine allocation, and as some of the commenters pointed out, there are issues -- and as some of the counties have pointed out to us previously -- there are issues, you know, for them making that number in state law. There’s precinct issues. Right now, it’s too late to change precincts for March. It’s not too late to change precincts for November, and I think, frankly, those changes will be made where they need to be, so... now, I will say this too: traditionally, PPP, presidential preference primaries, do not have very heavy early voting. It’s not like in a November general where about half the people vote early, so adopting this rule gives the counties some flexibility. I don’t think it will have a significant effect on the actual requirements.
MR MASHBURN: I move that the Board adopt the rule in Tab 5 as published.

MR. RAFFENSPERGER: Do we have a second? Do we have a second?

MS. SULLIVAN: I’ll second, but I did want to follow up on Mr. Germany’s last question.

MR. RAFFENSPERGER: Discussion?

MS. SULLIVAN: So you stated that the -- there is not a large percentage of turnout -- of early voting turnout for the March election, is that... as opposed to a general election?

MR. GERMANY: Yeah. If you ask me traditionally how much, I’m not going to know, but I know it’s not --

MS. SULLIVAN: Right.

MR. GERMANY -- it’s not 50% like it kind of -- like it normally is in the general election. It’s not nothing [sic], especially what we will see in a PPP is toward the very end of early voting, when -- we’re still in a state now where a lot of things can change between now and March 24th on the Democratic side as to who are viable candidates, so I think voters like to wait and see who will be -- who will be viable.

MR. RAFFENSPERGER: So Mr. Germany, in the fall, we are anticipating north of 5 million voters. If it’s 50/50, that’s 2 and a half million people on the November
election day. For the presidential primary, we’re expecting, say, 2 million people, but it won’t be 50/50. It could be 80/20.

MR. GERMANY: I would say it’s, you know, 75/25.

MR. RAFFENSPERGER: 1.5 million people versus 2 million in November. I hear the county pay points, but I want to make sure the lines are kept as short as possible, and that there’s equipment out there. As I said last time, I would want to make sure that we err on the side of caution, and if the General Assembly has a bill before it and it’s moving through there, that would allow us to address the May primary. If it doesn’t work, it’s a way to cross the finish line, and then also the November election.

MR. GERMANY: I agree with all that. I would add one more thing that also, in the legislative fix that we’re pursuing, we are putting in a requirement -- there’s an existing law that requires if people are in line, and it takes more than an hour after the close -- after the polls close, then at the next election, the poll manager has to -- or the county has to either split the precinct if it’s larger than 2,000 electors or provide more voting equipment or poll workers or both. When that law was passed, I think traditionally the end of the day was the heaviest voting period. That’s not really the case
So what we’re proposing to kind of go with giving the counties some flexibility and -- recognizing that not all elections are the same, I think that’s the flaw in the current statute. It tries to treat all elections as the same, and we all know that’s not the case, but in addition to giving that flexibility, we’re putting in place -- or we’re asking the General Assembly to put in place a requirement that if there is a line of an hour at any point during the day, measured at times, you know, morning, mid-day, and before the close of polls, that they have to split the precinct if it’s larger than 2,000 or provide more poll workers or voting machines or both. So we’re basically taking that existing structure for the end of the day, and we’re applying it throughout the day, which I think will help as well. And, you know, I hope that it passes because we have a lot of elections between now and November for counties to see what they need -- how they need to address certain -- address particular precincts.

MR. RAFFENSPERGER: Okay.

MR. MASHBURN: And -- sorry. And this proposed rule, the counties believe this proposed rule provides them the flexibility they need?

MR. GERMANY: I think this proposed rule is a Band-
Aid, and I think we all kind of recognized that when we posted it, so frankly, I think we had some discussion at the Rules Working Group. We could go -- we could do either one. I imagine that -- I mean, you guys could do either one. I imagine the counties would appreciate a little flexibility for the PPP, but I think the Secretary has raised a good point as well that especially with the first election where people will probably be taking longer at machines just because of lack of familiarity, you know, it might be something we want to leave in place. And to do that, we would just not adopt this rule.

MS. LE: Or alternatively, can we reduce the ratio?

MR. GERMANY: Only in statute. We can only do that in statute, and that’s basically what we’re trying to do in the statute by keeping the ratio for the November --

MS. LE: -- alleviating some stress where we can for counties in that, I understand.

MR. GERMANY: Yes, ma’am.

MR. RAFFENSPERGER: Mr. Worley?

MR. WORLEY: I’m going to vote against this proposed rule. I did support it. I did vote to publish it, but apparently, I now understand that we can vote to publish a rule, and then vote against it on final pass, so -- but the reason that I’m going to vote against it: I found Ms. Dufort’s comment persuasive on this issue. Also,
particularly among the comments that we received on this rule was a detailed analysis from the Brennan Center setting out in great detail how this rule as applied to a number of precincts based on the 2018 voting would result in very long waiting lines at a great many precincts, and I found that analysis to be very persuasive, and so I am not going to vote for this rule.

MR. GERMANY: And I think -- I think we would all agree that this rule would not be appropriate for a November general election, which was, you know, that’s what that analysis was based on.

MR. RAFFENSBERGER: Any further discussion? I’ll call the question: all those in favor of adopting this rule, signify by saying aye. All those opposed?

MR. WORLEY: No.

MS. SULLIVAN: No.

MR. MASHBURN: No.

MR. RAFFENSBERGER: Well, it’s denied.

MR. GERMANY: The next rule is tab 6 in your binders. This one -- we’re in a bit of a similar space with this one as with the old one, as with the previous one. This is about assistive technology devices. We voted to post this rule at the last meeting. In the -- in the meantime, we have determined that we think a better approach is to provide an assistive technology device at each -- at each
precinct. We don’t think we can have that available for March. We think we can have that available for May. We’ve been researching particular devices and cost, and so I think that’s a much better solution long-term.

The question, though, is, you know, what do we need to do for March? This -- this could be a Band-Aid essentially, like the last rule, for the March election, but then I would recommend if the Board wants to basically put that Band-Aid on and adopt it, then I would -- I think we should repeal it once we provide the devices at each -- at each precinct.

MR. RAFFENSPERGER: Okay. Any questions for Mr. Germany? Any discussions among ourselves?

MS. LE: My only thought with this is if it’s a Band-Aid and what we do for PPP, that makes sense to me to get some assistance and given what we’ve heard today, there has to be some kind of device. If it’s an audio device that could be heard, the voter’s right to -- the voters’ votes is [sic] got to be protected, and also not to undue influence those around. Could we add in there -- whether we vote this today and put in there an amendment that says we’re reposting other rules anyway to have earbuds at least for this round? And then I know in future elections that we’ll provide those.

MR. GERMANY: Well, unfortunately, we can’t --
there’s not time. I think that’s good -- a good point. I think when we were drafting it, we envisioned that it would be a device with headphones. There are headphones available at each polling place to -- to use with the ATI device. So unfortunately, if we posted that, we wouldn’t be able to adopt it until, I think, after this rule is no longer necessary.

MS. LE: Okay.

MR. GERMANY: But I think -- I will say I think that was the understanding or the thought process as well that it was -- similar to the way the ATI device works is there are headphones for that voter, and in what we provide, there certainly will be headphones.

MS. LE: Right.

MR. RAFFENSPERGER: I think where we are right now, it seems the wisdom would be to pass this, and then we’ve already issued a press release a few days ago that we are working on a solution for every precinct. And so we heard some very valuable comments today from the ADA community, and we’re very grateful for that input. We’ll continue to reach out to the community to make sure that we can find a solution that works that’s an optimal solution for everyone. So do we have a motion to adopt this or any other action that you would like to take?

MR. WORLEY: I’ll make a motion to adopt proposed
rule 183-1-13-.02, assistive technology devices, as published.

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Do we have a second? Any further discussion? Hearing none, all those in favor of adopting rule 183-1-13-.02, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENBERGER: Those opposed? Motion carries.

MR. GERMANY: Tab 7 in your binder is the rule -- the changes we proposed and published to chapter 14, which deals with two things. One, advance voting. We made changes here to the rule we adopted last time based on the comments we received prior to our last meeting. One thing that we did is we clarified, I think, some kind of drafting errors that made it sound like municipalities cannot continue to have just all paper elections like many of them do. That’s not -- that’s not the intent. They clearly can do that.

We made some changes here similar to what we made in chapter 12 to require notification of advance voting -- advance voting locations on a county homepage -- county elections office homepage. This also puts in some similar changes that deal with notifying the superintendent when -- if there’s a problem with any component while a voter is voting. And also, it incorporates some of the similar
changes to election day about instructing voters to review
-- requiring the poll officer at the scanner to instruct
voters to review their paper ballot prior to scanning.

The other change in 14 deals with the prompt
notification of absentee ballot rejection. What this does
is it -- it leaves in place the requirement that counties
have to notify an elector of rejection of their absentee
ballot within -- within three days and attempt to notify
the elector by telephone and email if -- if that
information is available. What this change does is it
basically -- the rule we adopted last time said after
early voting ends, so basically from the Friday before the
election forward, you’ve got a 24-hour turnaround on
getting absentee ballot rejection notices out. What this
rule does is it moves that 24-hour turnaround -- I
shouldn’t say 24-hour. I think it’s next business day --
close of business on the next business day, so potentially
less than 24 hours. We extend the time that that’s
required all the way to the week proceeding, so from the
second Friday prior to the election, so we basically
extend that time by a week where counties have to get out
notice within -- by the next business day after they
reject the ballot.

I will -- I would recommend we adopt both these
changes. I will say I’ll be presenting a rule that we
talked about at the Rules Working Group, an amendment to
this that -- right now, the rule says the county shall
attempt to notify the elector by telephone and email, if a
telephone number or email is available on the elector’s
voter registration, and we’re going to add “or absentee
ballot application.”

MR. RAFFENSPERGER: Any questions, comments, or
discussion? Do we have a motion?

MR. MASHBURN: I move to adopt this rule as
published.

MR. RAFFENSPERGER: Do we have a second?

MR. WORLEY: I’ll second that. I’ll second that.

MR. RAFFENSPERGER: Any further discussion? Hearing
none, motion to approve the advance voting rule as
presented, as adopted, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MR. GERMANY: The next rule in tab 8 of your binders
is the recount procedure. This, as has been noted, was
the rule that we published that we got by far the most
comments on. I think it’s been pretty adequately
explained how -- you know, what this rule does. It does
say, and in contrary to what used to happen with DREs, a
recount will consist of scanning -- rescanning all the
ballots using a central scanner or other scanner if that
one’s not available. I would recommend that we adopt this rule, and then I’m going to recommend that we publish some amendments to it as well, and I’ll briefly just tell you the amendments here.

The amendments speak to some of the comments that we received. One, it clarifies that the test -- the test deck that you do before the recount is of actual ballots voted in that election from three different precincts and including absentee ballots as well, so that’s an even better test than logic and accuracy testing that we do before the election, which shows that the machines work as they should. This test actually runs the actual ballots that are about to be recounted, which, of course, aren’t available before an election. For a recount, they are, so we make that change.

We also -- while we keep the concept of a recount by -- by rescanning, we allow for -- or it’s already allowed for, I think, in law. We go through some procedures on well, what if there’s no -- no scanners work or some of these, you know, emergency type scenarios? What do you do if you have to do a hand recount? So we put in procedures for that. And I will -- I can explain those a little bit more when I get to the new rule to publish.

MR. RAFFENSPERGER: Okay.

MR. WORLEY: I had a question, Mr. Germany. Why do
we need to pass the rule that we adopted last time when you’ve got an entire rule -- when essentially your amendment is the complete rule that we could just pass from the get-go?

MR. GERMANY: Well, we would have to re -- we need to publish the amendment, and then we can pass the amendment at our next sec -- at our next meeting.

MR. WORLEY: Right, but you’re going to have to do that anyway.

MR. GERMANY: Well, I’m trying to take into account -- I think it’s not likely, but it’s possible that there will be a recount from a March -- a March election.

MR. WORLEY: Okay.

MR. RAFFENSPERGER: Okay. Any further questions or do we have a motion?

MR. MASHBURN: I move that the rule be passed -- be adopted as published.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Any further discussion? All those in favor, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Opposed? None? Motion carries.

Presentation of consideration of State Election Board proposed rules, Mr. Germany.
MR. GERMANY: Yes, sir. So we’ll start chronologically here. Okay. The first rule that I would like to publish is a change to the provisional ballot rule. It was pointed out to us by some counties that the current rule requires a -- it says at the provisional ballot station, the polling place shall have an electronic book that includes a master list of registered voters. The intent of that change was to make it mandatory to have a master list of registered voters which has been practiced for -- for a long time, but that list is not at the provisional ballot station. It’s at the regular check-in station, so all we’re doing is striking at provisional ballot station, leaving the requirement that the polling place shall have an electronic poll book that includes a master list of registered voters. It’s a change to 183-12-18.

MR. RAFFENSPERGER: So you need a motion for someone to post this?

MR. GERMANY: Yes, sir.

MR. WORLEY: I move that this proposed rule be published -- posted.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Any further discussion? Hearing none, all those in favor of posting rule 183-12-18,
provisional ballots, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MR. GERMANY: The next rule is an amendment -- a proposed amendment to rule 183-1-14-.13, I should say, prompt notification of absentee ballot rejection. As I mentioned before, the only change we're making here is adding that the county has to give email and telephone notice if the email and telephone is available on the elector voter registration record or their absentee ballot application.

MS. SULLIVAN: I’ll make a motion to post this rule.

MR. RAFFENSPERGER: Do we have a second?

MR. MASHBURN: Second.

MR. RAFFENSPERGER: Any further discussion? Hearing none, all those in favor of adopting -- or posting rule 183-1-14-.13, prompt notification of absentee ballot rejection, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MR. GERMANY: The next rule is rule 183-1-15-.02, definition of a vote. This -- we came up with these changes that I’ll describe after reviewing the petition that was presented earlier today and some other comments as well. The point, what we’re trying to accomplish, is
to make absolutely clear that in the event of a discrepancy, the printed text on the ballot controls. We also want to make clear that there is absolutely nothing wrong, and the counties should tabulate ballots using electronic scanners, which reads the QR code in the case of electronic -- in the case of ballots marked by electronic ballot markers or reads coordinates in the case of a ballot marked by hand.

So this rule does two things. It adds a section where it says if in reviewing an optical scan ballot -- excuse me -- marked by hand, if there’s a discrepancy between the tabulated result and the result on the ballot, then the voter’s mark on the ballot shall control and be counted. But nothing herein shall be deemed to disallow the use of electronic ballot scanners for tabulation. We clarify that the vote cast on an optical scan ballot marked by an electronic ballot marker shall be the choice indicated by the printed paper ballot. We also say in reviewing an optical scan ballot marked by an electronic ballot marker, if there’s any discrepancy between the text on the printed ballot and what was tabulated, then the text controls, but that nothing herein shall be deemed to disallow the use of electronic ballot scanners.

MR. WORLEY: I had a question for Mr. Germany if I might, Mr. Secretary.
MR. RAFFENSPERGER: Please.

MR. WORLEY: There's a difference in section H and section J to this extent: section J says, if in reviewing an optical scan ballot marked by a ballot marker -- and then, I leave out the sections there -- a discrepancy is found between the voter's choice indicated by the printed text on the ballot and the result tabulated by the ballot scanner, the printed text shall control. I'm all for that. But section H says, a vote cast on an optical scan ballot marked by a ballot marker shall be the choice indicated by the printed paper ballot. The printed paper ballot includes the QR code. Wouldn't it be better to say a vote cast on an optical scan ballot marked by a ballot marker shall be the choice indicated by the printed text on the ballot to make it consistent with section J?

MR. GERMANY: I don't think so because arguably that would require hand-counting, which would be a less accurate and a -- and a much more time-consuming way of counting results. I, you know, -- when a scanner tabulates an absentee ballot marked by hand, it's not reading the words. It's simply looking for coordinates that align with how that scanner has been programmed.

When an electronic ballot marker -- when a scanner reads -- tabulates a ballot marked by an electronic ballot marker, it reads that QR code. In that QR code are those
same coordinates that res -- that basically are tied to
the candidate in the database created for the election.
That’s why the scanners on election day can scan
electronic ballot marker-marked ballots or emergency paper
ballots. It’s the exact same programming, so there’s
certainly no reason to, you know, not allow for electronic
tabulation of both of those types of ballots, and I’m
afraid that saying what you just said would -- would let
some people think that electronic tabulation, which, you
know, there’s no electronic tabulator that’s reading text.
It’s reading light and dark. Even if it’s OCR technology,
it’s not reading text. It’s reading light and dark and
that, you know, relates to a candidate as it’s been
programmed. So that’s why I think -- that’s why I said --
I think that was the purpose of the difference.

MR. WORLEY: Okay.

MR. RAFFENSPERGER: Any further questions or
discussion? If not, I’ll entertain a motion.

MR. MASHBURN: I move that the rule be posted as
indicated.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Any further discussion? All
those in favor of the rule as presented to be posted,
signify by saying aye.
THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed?

MR. WORLEY: No.

MR. RAFFENSPERGER: Motion carries.

MR. GERMANY: The next rule is rule 185-1-15-.03 for recount procedures. We’re making two changes in this rule to what was just adopted. One, clarifying how the test deck is created -- should be created from ballots that were actually cast, and all the -- any scanner that has to be used, you run the test deck through. The test deck is hand-counted, you know, using the text or the bubbles, and then make sure the results match up before you can use that scanner for the recount.

The next change we’re making we’re adding it to number two on the second page, and it’s called recount by manual hand count. It states a recount shall be conducted by hand count only as provided under the first part of the rule, which is basically if no scanners are available and passed the testing or a person went to a court order. We then go through the process for how votes shall be counted on recount teams, and we said recount teams shall be consisting -- consisting of at least three persons each. The superintendent shall select the persons for each recount team.

The manner in which we are doing that is a manner
that’s in law already, where the county parties provide
names to the superintendent, and then the county -- the
superintendent picks names from that list for each recount
team, and each recount team has to have one person
selected by the superintendent and one person selected
from each candidate or body who has a candidate on the
ballot. For non-partisan elections, the recount team is
selected by the superintendent from a list of names
submitted by the Superior Court judge, the Chief Judge of
the Superior Court in that county, which is -- that’s a
process that’s in existing law.

And we just go through how ballots -- shall be
manually counted in batches of no more than 30, and the --
we just go through the specifics of how that process
should work. I would ask the Board to publish this rule
for public comment.

MR. MASHBURN: I move that the rule be published for
public comment.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: I’ll second it. Although I just want to
clarify, I think you might have misstated, just for the
written record -- I think it’s rule 183-1-15-.03 that
we’re voting on.

MR. GERMANY: Yes. That’s correct. I’m sorry if I
misspoke.
MS. LE: I think it was said as 185, and just for the written record, I just want to clarify that’s what we’re voting on. Thanks.

MR. RAFFENSPERGER: Any further discussion? Hearing none, all those in favor of posting rule number 183-1-15-.03 as presented, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: And those opposed? Motion carries.

MR. GERMANY: That’s all from me.

MR. RAFFENSPERGER: And I believe that’s it. Do we have any other items to bring before the Board? Anything any of the Board members want to discuss? Hearing none, I’d move for adjournment. Do we have a motion for adjournment?

MS. SULLIVAN: So move.

MR. MASHBURN: Second.

MR. RAFFENSPERGER: Any opposed?

MR. WORLEY: Unanimous consent.

MR. RAFFENSPERGER: Motion carries. We are adjourned.

(Meeting adjourned)
CERTIFICATE

STATE OF GEORGIA
COUNTY OF DEKALB

I, Kaitlin Walsh, Certified Court Reporter, hereby certify that the foregoing pages numbered 4 through 130 constitute a true, correct and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 8th day of April, 2020.

Kaitlin Walsh, CCR, CVR
CCR #: 5910-3132-3171-2256
Secretary of State
Board Meeting

February 28, 2020

Steven Ray Green Court Reporting, LLC

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In The Matter Of:
Athens-Clarke County Board Elections and Registration

March 11, 2020

Steven Ray Green Court Reporting, LLC
404 733 6070

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Secretary of State Election Board Emergency Hearing
STATE OF GEORGIA

$§$

Athens-Clarke County Board of
Elections and Registration,

Respondent

SEB Case 2020-005

The transcript of the proceedings before

The State Election Board, reported by Kaitlin Walsh, Certified
Court Reporter, on the 11th day of March 2020, commencing at
10:00 a.m.

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STEVEN RAY GREEN COURT REPORTING, LLC
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Atlanta, Georgia

Transcript Legend

[sic] - Exactly as said.

-- Break in speech continuity

... Indicates halting speech, unfinished sentence or omission of

word(s) when reading.

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MR. RAFFENSPERGER: Good morning, everyone. It’s 10 o’clock. We’ll call the meeting to order.

UNIDENTIFIED WOMAN: We can’t hear you. Mic’s low.

Your mic is not on.

MR. RAFFENSPERGER: Can we turn the volume up? There it is. Great. Good morning. In the matter of Athens-Clarke County Board of Elections and Registration, this is case number 2020-005. We call the meeting in order. For everyone in attendance, this is a little bit different than a normal State Election Board meeting, and it’s not really a judicial proceeding, I guess I’d call it quasi-judicial. We’ll be taking witnesses from both sides and having discussion. The people that will be speaking today will be the attorneys and then any of the witnesses and then questions from, obviously, the SEB members to the people that will be presenting and also to the people that will be giving -- providing information. Before we get started, I understand that a representative from the Board of Elections would like to say a few comments to catch up to speed on where they are. And if you could -- if you could introduce yourself for the public record.

MR. SELLS: Yes. Thank you, Secretary Raffensperger. My name is Bryan Sells. I am in solo practice, and I’m representing the Athens-Clarke County Board of Elections
and Registration. With me is Thomas Mitchell of Carruthers and Mitchell. He is co-counseling with me, and I’d like to also recognize the Board, which is sitting here in the first row.

And I asked for the opportunity to speak before we begin the contested case hearing this morning just to update the Board on some factual developments since the notice of hearing came down. I’ve only been on this case for about 48 hours, but we have -- the Board has received from staff drawings of the polling places that have attempted to fit in the number of required voting machines, and those have come down, I think, yesterday. In reviewing some of those drawings, it is apparent that there are small spaces and there are larger spaces -- and by the way, this is Exhibit 18 in your binder. Those drawings are all in there. There are some small spaces where meeting the 250 rule is going to be a problem, but there are other spaces where it is apparent that it will be less of a problem, meeting the required number of voting machines on Election Day.

And we have also been working with your counsel, Mr. Germany, to try to come up with a solution that might protect the right to ballot secrecy but also allow the use of the ballot-marking devices in some of the -- some of these locations. So a way that we can, I think, meet all
of the Board’s competing priorities.

We, Mr. Mitchell and I, polled our clients yesterday, and we have not had the opportunity to call an official meeting, but we can represent this morning that a majority of the Board is willing to consider alternative plans for these spaces in a way that would allow the use of ballot-marking devices but a smaller number of them, the number that would fit into the spaces that are available for -- for use as polling spaces -- polling places in the March 24th presidential preference primary and would still comply with the letter of the law regarding the 200 -- the one voting booth for every 250 members.

So the short version is: working with the Secretary of State’s Office and with Mr. Germany, we think that there is a technical solution here that was not apparent a week ago. It has only become apparent in the last 48 hours, and we wanted to let you all know that. If you want to proceed with the hearing, we’re prepared to defend the Board’s actions, but -- but the Board is willing to try to reach a solution in time for the March 24th presidential preference primary.

MR. RAFFENSPERGER: Any Board members have any questions? Thank you. Mr. Germany, Counsel, if you could on your side explain who will be speaking today on behalf of the Secretary of State’s Office and the State Election
Board?

MR. GERMANY: Yes, Mr. Chairman. My name is Ryan Germany, and I’m the General Counsel for the Secretary of State’s Office. Myself and Charlene McGowan with the AG’s Office will be presenting this case. I just wanted to make a short introduction before we call witnesses just to try to help you -- give you guys -- and the point of the witnesses is try to help give you guys a sense of what’s going on. I don’t envision examining them myself but letting them speak to you.

I think one thing to talk about before we get to the witnesses is a quick overview of Georgia law and State Election Board rules and regulations. OCGA 21–2–300 says the equipment used for casting and counting votes in county, state, and federal elections shall be the same in each county in this state. That is the crux of Georgia’s unified voting system. The same statute, next paragraph, says once such equipment is certified by the Secretary of State as safe and practicable for use, all elections shall be conducted with the use of scanning ballots marked by electronic ballot markers. The Dominion system currently being used in 158 Georgia counties was first certified by the Secretary of State on August 9th, 2019 and was re-certified on February 19th, due to some software updates.

State Election Board rule 183–12 -- 183–1–12–.01 says
beginning with the 2020 presidential preference primary, all federal, state, and county elections voting in the polls including both Election Day and advance voting shall be conducted via ballots marked by electronic ballot markers. SEB rule 1-14-.02 has the same requirement to use electronic ballot markers for advance voting. That same rule 183-1-12-.01 also requires counties to have a sufficient amount of emergency paper backup ballots in the sense that something does not -- does not happen the way it’s supposed to, so there’s a backup plan built into both the law and State Election Board rules. However, that backup plan doesn’t swallow the fact that Georgia has a unified voting system and that State statute and State Election Board rule clearly state here’s what -- here’s the equipment that we’re going to use.

And I -- I know there was a big argument in the General Assembly about should we go hand-marked paper ballots? Should we go ballot-marking devices? There’s an argument before that in the SAFE Commission, same thing. There’s been arguments in court about it. So there are people who are very passionate about using hand-marked paper ballots, but that’s not the way that the Georgia General Assembly, and in correspondence with this Board, has enacted Georgia law.

So just to give a little background: on March 3rd,
the Athens-Clarke County Board voted 3-2 to immediately stop using the ballot-marking devices. They found it impracticable to use ballot-marking devices in a way that protects ballot secrecy while allowing sufficient monitoring of the equipment.

One legal point I want to make before I wrap it up: the Georgia Supreme Court has held, in a fact pattern not too dissimilar from this case where a local government was interpreting a statute about what does to the greatest extent practicable mean -- Supreme Court said, “practicable is a word susceptible to a limited range of meanings, and to say that one must comply with the requirement to the greatest extent practicable is not to say that he must comply with it only if he feels like complying or he thinks it’s a good idea. The statute leaves some flexibility to authorities in cases in which strict compliance would be impracticable, but that does not indicate that the provisions of the statute are not mandatory." And I think that’s what we have here. We have a statute that is mandatory, and it allows for emergency provisions, but it doesn’t allow for, basically, ignoring -- ignoring the statute.

“If the statute were entirely optional,” the Supreme Court goes on to say, “there would be no need for a provision affording such flexibility.” More importantly,
quoting from the same -- this is City of Marietta v. Summer Hour, a Supreme Court case from 2017 -- “more important, practicable does not mean convenient. In modern usage, practicable is commonly understood to mean capable of being accomplished or feasible in a particular situation. To say something is impracticable is to say that it reasonably cannot be done. It does not mean merely that it is convenient.” And I think that’s really the case, kind of where we are today.

And I appreciate Mr. Sells and Mr. Mitchell’s outreach and willingness to resolve this issue. I think that’s where we all want to be. Frankly, I wish we were there before without having to have had to get here because I think there are a lot of tools, and frankly, I think as you’ll hear, the Board was made available -- was made known those tools in all their meetings leading up to this. You know, they enacted something that’s already in the law as a backup -- as a backup procedure for cases where there’s emergency situations, not you can’t -- you just can’t even try to do this.

MR. RAFFENSPERGER: Okay. Any questions from the Board for Mr. Germany before we get started?

MR. GERMANY: I was going to call -- I don’t know if you want to say anything now or later...

MR. RAFFENSPERGER: Okay.
MR. SELLS: Again, members of the Board, I’ll talk about the law in just a moment, but we have a slightly different view of the facts here. We have a Board of Elections and Registration caught between a rock and a hard place with the multiple requirements and, in many senses, conflicting requirements of the new Georgia voting statutes. Foremost among them is the 250 rule, one voting booth for every 250 voters, and another set of obligations is the prohibition on changing polling places within 60 days of a primary or a general election. And even if you have your 60 days, you have notice requirements before those 60 days, and so it really extends that time out to about 75 or 80 days.

And in this case, what the facts will show is that the deficiencies in the Athens-Clarke County polling places, specifically about 6 that are very small, did not become apparent until after the Secretary of State’s Office did an inspection of those polling places, and at that point, it was too late to change them. And in fact, there was a threat to sue the Athens-Clarke County Board of Elections and Registration if they didn’t change the polling places. And so, the Board faced one hand tied behind their back on not being able to change polling places and having to comply with this rule regarding the number of voting booths per voter.
And as early voting started, and you will hear, the number of ballot-marking devices in the one early voting place was too many to satisfy the Board’s other obligation and constitutional obligation to protect the right to a secret ballot in Georgia. That is a right that appears not only in the Constitution but in about 20 places in the election code. So faced with those set of circumstances, this Board decided to use the mechanism that is available under Georgia law when the use of voting machines is not practicable, hand-marked paper ballots may be used in their stead.

And Mr. Germany talked about the uniform system, and, indeed, Georgia does have this new uniform system, but the uniform system contains an out clause, and that is in Section 2 of 21-2-300. It says unless otherwise authorized by law. So you must use these ballot-marking devices unless otherwise authorized by law, and the law upon which the Board relied was 21-2-334, which provides a relevant part that if for any other reason at any primary or election the use of voting machines wholly or in part is not practicable, the superintendent may arrange to have the voting for such candidates for offices or for such questions conducted by paper ballots.

So what does practicable mean? Well, we rely on the very same case that Mr. Germany relied on, City of
Mariette v. Summer Hour. That’s 302 GA 645, a Georgia Supreme Court case from 2017. Now, practicable does not mean that the use of voting machines is simply optional -- that is not our position -- or that the obligation to use voting machines can be overcome simply by disagreeing with them. That is not our position. Practicable does not mean convenient, as Mr. Germany said. But to say that something is not practicable which is to say that it is not feasible in a particular situation or reasonably cannot be done. That is a paraphrase from the Summer Hour opinion.

So who gets to decide what is practicable and what is not practicable? Within limits, the Athens-Clarke County Board of Education -- Board of Elections and Registration gets to make that call. That’s why the Sumter County case came out the way that it did because the judge in that case found -- and when I say the Sumter County case, I know you’re familiar with the case challenging the use of ballot-marking devices in Sumter County. The judge in that case found that the Sumter County Board of Elections and Registration had some degree of discretion to determine whether it was practicable or not, and the Plaintiffs in that case -- or Petitioners -- had not established that the -- that the right was so clear as to eliminate that discretion. And we think that standard
applies here, so under the law, it is up to the Board of Educati -- of Elections and Registration to select and equip polling places and to ensure the secrecy of the ballot.

And we believe consequently that the legal standard for this State Election Board is -- has to be that you must find that no reasonable Board, faced with the circumstances that this Board faced, could find that the use of voting machines under the circumstances was not practicable. We think it’s a very high standard. And if you do not apply that high standard, if you apply your own view of that, then judges in the courts of this state should be able to apply that view. And I daresay that there will be more lawsuits like the one in Sumter County, and judges in those cases will not be able to defer to the discretion of Boards of Elections.

So we think that is the law, and the facts as I have outlined them and as we will present them over the next few hours will support the Board of Elections' decision in this case, given the facts that they were presented as of last Tuesday. Thank you.

MR. RAFFENSPERGER: Mr. Germany?

MR. GERMANY: I call Chris Harvey.

MR. RAFFENSPERGER: Mr. Chris Harvey? Mr. Harvey, could you state your name and position?
THE WITNESS: Sure. My name is Chris Harvey. I’m the State Election Director for the Georgia Secretary of State’s Office?

MR. GERMANY: I would just ask the court reporter to swear Mr. Harvey in.

THE COURT REPORTER: Do you swear or affirm the testimony that you’re going to give today will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes, I do.

Whereupon,

CHRIS HARVEY

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MR. GERMANY:

Q Mr. Harvey, you are the State Elections Director. You just said that, correct?

A That’s correct.

Q Could you give me a little more back -- a little more information on your background as it relates to elections?

A In August of 2007, I was hired by then Secretary of State Kar -- Karen Handel to be the Chief Investigator for the Secretary of State’s Office. I spent the next 8 years largely focusing on election investigations, allegations of everything from voter fraud to problems with the mechanics of election to registration issues, all those kinds of things. And then, in
July of 2015, then Secretary Kemp appointed me State Election Director. I’ve been the State Election Director ever since.

Q  In your current role, have you worked on the new -- on the implementation of the new voting system?
A  Yes, I have.

Q  Can you describe that process in terms of implementation and how it’s -- and how it’s been going, particularly as to your work with the county election directors?

A  The implementation sort of has two -- two wings on it. One is physically getting the equipment and the materials to the counties so that they can prepare and train their poll workers and get their -- get their stuff ready to go. I have less of a role in that logistical aspect. There are other people in our office and with our partners who handle that.

I’m more involved in training the issues, updates on practical matters, answering questions about the system, how the system works, how the new code section -- how the new State Election Board rules work with the system. We’ve been providing weekly conference calls, email updates, webinars with our training staff, and I’ve been to probably dozens of meetings with individual counties and county regions talking about the system, talking about some of the challenges, some of the expectations, trying to get everybody as up to speed as quickly as possible.
Q    Could you talk about some of those challenges specifically as they relate to privacy, ballot secrecy?

A    Right. You know, well, the voter’s interaction with the new system versus the old system is similar. The machines are a little bit different. With the old DRE systems, the screen was adjustable. You could -- you could lay it down more flat, and it would provide just generally less ability for somebody else to view the screen from different vantage points. The new system is a larger tablet, it’s brighter, and it stands more upright, and it’s not adjustable to the extent that the old one was. And so that provides just different mechanics of actually viewing it, both for the voter and for the people that may be in the polling place.

Historically, I’ve seen most counties have set up their -- their voting booths in the past so that they all sort of face into the perimeter of the room. Generally, they would be along the outside of the wall, of course, to take advantage of outlets and -- and room management, and they would generally face inward because there is a requirement in the law that they generally be visible to election personnel so that they can see them and keep an eye on them and make sure that they’re secure, making sure nothing’s attached to them, making sure nothing has been done with them. While that is a requirement of the code, the -- with these new voting systems, especially in smaller polling places because they tend to stand up more and are
larger and brighter, you know, I’ve had to tell counties that
in some cases they need to turn them. You know, you can turn
them 90 degrees. You can turn them 180 degrees. You can
accomplish everything else that’s necessary in the code. You
can still maintain their security. You can still observe them
as a poll worker, and it provides, you know, 100% more secrecy
for the voter casting the ballot.

Q So how have you described to counties how they can
meet the ballot secrecy while at the same time being able to
sufficiently monitor the equipment?

A Well, the shortest answer is to turn them around.
And then, beyond that, you know, voters are still going to have
to physically access the machines. The idea -- and the law
doesn’t say that they have to be under 24/7, 365, every second
surveillance under the visual inspection of a poll worker.
It’s not accurate. That’s been probably more the practice than
the actual requirement of the law.

The fact is as I went -- as I’ve been through the State,
and I’ve spent a lot of time in Southwest Georgia where they’ve
had special elections earlier this year, and I visited polling
places, I’ve talked with poll workers, I’ve talked with poll
managers, and I’ve talked with election directors to point out
the fact if you’ve got a relatively small room, and you’ve got
a table with two of the new ballot-marking devices on it, and
they’re facing the door that somebody were to walk in -- for
example, if you had two ballot-marking devices, and people are walking in this door behind me, and you’ve got room behind them, just turn them around, so that somebody walking in is going to view the back of the privacy screen around which they’re surrounded.

The voters are going to, you know, not have any chance of that screen being exposed, and it really doesn’t provide any other logistical challenges. Now, you may have to tape a cord down, and there are a few little things that you have to deal with, but in that case, and that’s frankly the case in a lot of small polling places in South Georgia where you have maybe 2 or 3 BMDs in a small room, you just turn them around, and you solve the problem almost exclusively. The poll workers are still able to roam -- and when I talk about roam, I’m talking about spaces that are the size of a two-car garage -- they’re able to travel back and forth behind them when there is no voter so that they can inspect them and meet the requirements under the law that they be inspected while they’re not occupied by the voter.

But beyond just turning around 180 degrees in polling place setup, you can turn them at 90 degrees. You can -- instead of having 2 ballot-marking devices side-by-side so that the voters are standing next to each other and could have the possibility of looking into the next booth, you simply have them facing each other. So instead of having 2 facing the same
direction on the table, you have them face each other. And so
the voters are essentially looking at each other. They’re
looking at the back of their ballot-marking devices. And
again, that’s the case in most small polling places where
you’ve got a small number. So it’s not an insurmountable
problem by any stretch of the imagination.

Now, the larger the polling place, the more space becomes
an issue. It becomes more of a problem, but there are ways of
dealing with that. But it, you know, gosh, given the 2500, you
know, polling places in Georgia, the different combinations are
-- there’s not simply a one-step solution for every polling
place.

Q  Is it your understanding of Georgia law that the poll
manager can control traffic in the -- in the polling place?

A   It is.

Q  So that if there’s somewhere where if people stood in
a certain location, they could violate someone’s right to a
secret ballot, the poll manager has the authority to say no one
can be back in that certain area. Is that your understanding?

A   It is. There’s a provision in the law that
specifically gives the poll manager the ability to essentially
direct traffic and control crowds in a polling place so that
voters are not interfered with or secrecy is not interfered
with or the good order of elections are not interfered with
just by having crowds. You know, elections are supposed to be
public and supposed to be available to the public, and that’s
certainly a value, but at the same time, the poll manager has a
requirement to maintain the integrity of the space, and that is
provided for in the Georgia code.

Q Are you aware of some Georgia counties that have
purchased third-party solutions above and beyond the privacy
screen provided by the State to help ensure ballot secrecy?

A I am.

Q Before I show you this picture, can you talk about
what is Georgia law on screens or curtains around a voting
booth? I think we used to have that a lot more. With the
DREs, we didn’t, but has that come up in your conversations
with counties?

A Not so much with counties. Some people have asked.
There’s no prohibition. There’s no specific prohibition
against having curtains or screens or other devices around
polling places -- around screens.

Q Do you think that -- would that violate the law about
being able to monitor?

A I don’t. No. It -- it could be -- again, the
monitoring, the viewing is when a voting both is unoccupied,
and so if a screen were open while a voting booth were
unoccupied, it wouldn’t in any way interfere with the ability
to be observed and monitored by election officials.

Q I’m going to show you a couple of pictures, and these
are marked as SEB 0108 and SEB 0109. Are those the kind of
screens that you’re familiar with are available in the election
supply market?

A    I am. I know this is a stand that’s provided by a
vendor. I’ve seen this stand used in South Georgia. Now, the
curtains that I saw weren’t quite as long as this. These are
almost full body curtains. The ones I saw would have come
maybe 3 or 4 feet down and not have covered the entire
enclosure.

Q    And you saw it -- there was -- something like that
was being used in which county?

A    I know Mitchell County was using something like this,
again, with the screen stopping probably at about the waist of
the voter.

MR. GERMANY: I’d like to admit these exhibits into the
record as Exhibit 1.

(State’s Exhibit 1 identified.)

MR. SELLS: No objection.

(State’s Exhibit 1 admitted.)

BY MR. GERMANY:

Q    Mr. Harvey, do you recognize the document in front of
you as the certification of the state voting system from the
Secretary of State’s Office?

A    Yes, I do.

MR. GERMANY: I’d like to admit that certification as
Exhibit 2.

(State’s Exhibit 2 identified.)

MR. SELLS: No objection.

(State’s Exhibit 2 admitted.)

BY MR. GERMANY:

Q Mr. Harvey, that is all I have for you, unless you have anything else you’d like to add?

A No, not at this time.

CROSS-EXAMINATION

BY MR. SELLS:

Q Mr. Harvey, I want to ask you about those curtains, if we could get those back on the screen, State Election Board 0108? What vendor sells those screens?

A The stand, I believe, is sold by Inclusion Solution. Like I said, the curtains on there, those are not the exact same curtains that I saw on the Inclusion Solution product in Mitchell County, but that may be used somewhere else.

Q Does -- does the Inclusion Solution product come with the screens or do those have to be purchased --

A Are you talking about the curtains or are you saying screens?

Q The curtains.

A I know you can configure the stands any way you want from Inclusion Solution.

Q And is that solution one that you made county
directors aware of via Firefly or some other method of
dissemination?
   A  I don’t think that I made them aware of it. I mean,
there were vendors at our conference. Inclusion Solutions
specifically has been very active in Georgia going to counties,
going to county regional meetings, you know, doing what they do
selling products to election directors. I -- I don’t endorse
or put forth or encourage anybody with any particular vendor.
I don’t think that’s really my place.
   Q  Did you ever on Firefly or any other means of
communication specifically authorize the use of this kind of
solution?
   A  You know, in communicating with the counties on
Firefly, we’ve talked -- and I may have said something about
various stands that are available. I honestly don’t know if I
specifically mentioned Inclusion. I may have listed them as a
possible vendor, along with some other folks, so I don’t know
if somewhere there is -- you know, Inclusion Solution is typed
in a Firefly message or the Buzz. It could be on there, but I
don’t remember doing that.
   Q  And you don’t have any reason to believe that the
Athens-Clarke County Board of Elections and Registration had
this photo or was aware of this potential solution last
Tuesday, do you?
   A  I don’t know what they were aware of last Tuesday.
Q  Do you know what the lead time is on purchasing a
solution like this?
A  I don’t.
Q  And do you know whether there is a dispute or a
potential dispute about whether curtains of this length allow
poll monitors, poll watchers, to keep their eyes on a machine
so as to prevent tampering with the new machines?
A  Ask that again, please.
Q  Do you whether there is concern out there regarding
whether curtains prevent poll watchers from seeing whether a
voter is tampering with the machines?
A  I can’t believe there’s not a concern out there about
that. I don’t think it’s a legitimate concern.

(Crowd noises)

MR. RAFFENSPERGER: At this time, I didn’t start the
meeting off with a preamble. There is no public comment
at this, so comments of agreement, comments of
disagreement, and if it continues, you will be asked to
leave, and then when you can come back and be quiet, then
you can reenter. But this is like a court proceeding, and
if it was a true court proceeding, the Superior Court
Judge would not tolerate any comments from the gallery so
thank you for your respect, and we’ll continue on.

Counselor?

BY MR. SELLS:
Q    And your office has not issued any formal advisory or opinion on -- other than perhaps sitting here today -- about whether this is consistent with state law regarding the need to observe -- be able to observe ballot-marking devices and other voting machines to prevent tampering?

A    I don’t believe we have. Again, in conversations and conference calls with counties, we’ve been stressing the need for privacy for voters, so to the extent that somebody may, you know, extend that, but, no. I’ve not issued an opinion. Our office hasn’t issued a specific opinion on the length of curtains for -- for observation concerns.

Q    And you’re not suggesting here this morning that the Athens-Clarke County Board of Elections and Registration could have purchased these on Tuesday and had them available for all 20 polling places at the presidential preference primary, are you?

A    I don’t know -- again, I don’t know what the order time is. I know that Inclusion Solution, like I said, they were at our conference in December of this year. They’ve been very active throughout the State, going to regional meetings and things like that, but I have no idea what the lead time is and what they could get and how quickly they could get it.

Q    Okay. I don’t want -- I think I only want to cover one other topic with you here on cross, and then we expect to recall you in during our case in chief, but I want to ask you
about the roll out a little bit of the new ballot-marking devices. Did the State pay for the ballot-marking devices?

   A Yes.

   Q Okay. And how were those devices allocated to Georgia’s 159 counties?

   A At the end of the day, they generally -- we allocated about one for 225 active registered voters in the county. We went through a couple iterations of that, but that’s essentially the standard we came down to.

   Q And where did you pick that number?

   A It was -- you know, we knew the one to 250 was out there. We didn’t want to create any type of burden on counties. We didn’t want to, you know, have counties given less than they had before, and so that’s -- that’s the number we settled on.

   Q So the number you settled on was to try to get close to the one BMD per 250 that is set out in the new law that was HB316?

   A Yes. And so that, again, counties would have as much equipment as they need, keep lines as short as possible, let voters vote as efficiently as possible.

   Q Do you know when Athens-Clarke County received its allotment of voting machines?

   A I don’t -- I don’t know the date. I know in some cases, they got them -- counties got them in different waves.
I know they got some initially for training and demonstration purposes, and then they -- in some cases they would get half a shipment, and then they would get more. I don’t know when they got their final shipment.

Q And as you sit here today, you -- you’re not -- you can’t be certain that the County received them in time to change polling places if needed to accommodate the number of BMDs they received in accordance with the law. Is that correct?

A I’m sorry. Repeat that, please.

Q As you sit here today, you’re not suggesting that Athens–Clarke County received their BMDs in time to change polling places if necessary in order to accommodate the number of BMDs that the County received?

A I don’t know when they received their equipment. I do know that they would have an idea of the amount of equipment they were going to receive well before they received it, but I can’t tell you exactly when that would have been either.

Q Okay.

MR. RAFFENSPERGER: Mr. Sells, --

MR. GERMANY: I have one procedural that I was going to ask the Board, is that y’all’s preference?

MR. RAFFENSPERGER: I would prefer if you just want to go ahead and ask any questions you have for Mr. Harvey at the present time and just, you know, let him -- let Mr. Germany
and the Attorney General’s Office ask their questions and then
you ask and that we clear it up.

    MR. SSELLS: We’ll do it happily in direct, Your
Honor, but we would prefer to put on our case as we have laid
it out amongst counsel.

    MR. RAFFENSPERGER: I’d prefer you just to ask all
the questions you have for Mr. Harvey, and let’s clear the
deck, and then we’ll call the next witness.

    MR. SSELLS: Okay. Well, then, give me a moment,
please.

    MR. RAFFENSPERGER: Okay.

    MR. GERMANY: Can I ask one question that I forgot to
ask?

    MR. RAFFENSPERGER: Yes, Mr. Germany.

    REDIRECT EXAMINATION

    BY MR. GERMANY:

    Q Chris, I meant to ask you, Mr. Harvey, in your
experience of elections, have you worked with Charlotte
Sosebee?

    A Yes, I have.

    Q Do you know her to be an experienced elections
professional?

    A Very.

    RECROSS-EXAMINATION

    BY MR. SSELLS:
Q  All right, Mr. Harvey. Are you aware of the constitutional and statutory right under Georgia law to cast a secret ballot?
A  Yes, I am.
Q  And are you aware of the Board of Elections’ obligation to safeguard that right?
A  Yes.
Q  And are you aware of privacy concerns with respect to the new ballot-marking devices?
A  Yes.
Q  What has your office done to try address those concerns?
A  Well, as I said before, we have -- we’ve had conference calls, we’ve put out materials, we’ve put out examples of possible solutions. I’ve been to regional meetings. I’ve talked to people individually. I’ve responded to individual questions about is this okay, is this not okay, is this wise, is this not wise regarding privacy. And I think probably more than anything else, I’ve -- I’ve been trying to raise the issue so that the election officials look at things a different way.

I know elections officials generally, you know, like to work in standard ways. They, you know, they’ve been using the same system, the same setup, and, in a lot of cases, the same polling places for years and years and years with the same
staff. And sometimes it’s hard to envision things in a different way, and say, hey, we’ve always used this room, we’ve set up things this way, and I’ve -- throughout this implementation, I’ve been trying to stress to the counties that this is new, this is different. It’s similar, but there are some additional challenges with this system that, of course, go beyond privacy.

I mean, now, we’ve got paper. We didn’t have paper before. Now, we’ve got printers. Now, we’ve got fewer memory cards. Now, it’s a different system, so they can’t just take their past practices and just say well, we’re going to do the exact same things with these new machines. The machines don’t look the same. They don’t take up the same space. They don’t operate exactly the same. They’re deceptively similar, again, from the voters’ point of the view. And the voters, I think, will notice little change, but I think one of the main things I’ve been trying to do is alert the counties to the fact that it’s not necessarily business as usual. It’s business as similar, but some of the concerns that may not have had before, they need to have, and some of the obstacles that they had to deal with before, they don’t have to deal with, but the challenges have been different.

Q Okay. One of the things you mentioned in response to that question was that you had issued some diagrams, and I’d like to take a look at those for the next few minutes. If we
could get SEB 055 on the screen, that would be helpful. Okay. Can we enlarge that so the witness can see it? Mr. Harvey, can you see that a little bit? If not --

A Can I step out and look at it?

Q -- that would be okay with me if it’s okay with the Secretary?

MR. RAFFENSPERGER: Sure.

THE WITNESS: Okay.

BY MR. SELLS:

Q Can you describe what it is that we’re looking at here?

A That is -- it’s in email form, but it’s a Buzz post.

Q Okay. What is the Buzz?

A The Buzz is a, sort of, a chatroom that’s available for all the county election directors and election officials. It’s a place where people can post either questions -- they can post notices, announcements, something that all the counties can sort of see in time. It’s a communication system, basically, to get information out as widely as possible in a pretty efficient manner.

Q Okay. And what was the date of this Buzz post?

A It was February 13th of this year.

Q Okay. And what’s the subject of the Buzz post? Do you remember this one?

A I do remember it.
Okay, so why don’t you tell us? Polling place privacy for voters.

Okay. What prompted this Buzz post by you? A couple of things. Probably the thing that prompted it most was -- was my visit to Southwest Georgia and looking at some polling places and seeing how they were set up, and some concerns with the polling place setup, where there were questions about privacy for voters, and talking to some poll managers and poll officials who had said people had -- had expressed -- you know, I asked them, I said, how do people like the new voting system? How is it working? Do you have any problems? You know, kind of getting a feel for how it’s going, and a couple of people mentioned that some people were concerned that, you know, they were concerned about privacy.

So in visiting, I probably went to 20 polling places in that area, and seeing different setups, I realized that one, it was a legitimate concern the way they were set up in one place, but secondly, that it’s not an insurmountable problem. It’s something that can be relatively easily fixed in most places, so instead -- again, instead of kind of breaking that mindset of well, we’ve always set up our polling places this way, and that was the answer I got when I asked people: well, we always set up this way. Realizing that just looking at it a little bit differently could solve a lot of concerns.

And when you say Southwest Georgia, do you mean
Sumter County?

A  I actually -- I don’t think I went to Sumter County. I went to a bunch of other counties in Southwest Georgia. I don’t believe I actually made it to Sumter County.

Q  And why Southwest Georgia? Is it because they had a special election where they used these ballot-marking devices?

A  They had special elections both for House District 171, involving 3 counties, and then you had 7th District that involved 9 or 10 counties, so I knew there would be a good opportunity to observe voters. You know, I wanted to see how voters were responding. I wanted to see how poll workers were responding. I wanted to see how the setup was going, and, you know, there’s nothing like being there on the ground to see the problems and also identify the solutions.

Q  And the new ballot-marking devices were used in those special elections?

A  They were.

Q  And your office became aware of complaints from the voters about ballot secrecy and privacy given the way that these machines were set up in those special elections, correct?

A  In terms of complaints, I don’t -- I don’t believe we got a lot of complaints from voters directly to our office. Now, we may have gotten one or two, but it was -- it was mostly my own observations that really prompted this Buzz post.

Q  Okay. So we’re going to look at the other pages of
the Buzz post. Let’s go to the very next page. It should be SEB 0056. Tell us what this is.

A  This is a cover page. I -- when I did that Buzz post, I sketched out some very amateurish graphic designs and setups and diagrams and possible solutions, and then we had other people in the Secretary of State’s Office produce them in a more professional look.

Q  Okay. Before we go into the diagrams, and we’re going to spend some time there, you’ve already said that the date of this post was February 13th. Did -- had you disseminated this at all before February 13th to county elections directors?

A  I don’t believe so. I don’t -- I may have had communications with them, discussion with them, but I don’t believe this was disseminated until that Buzz post. I think it was attached to the Buzz post.

Q  Okay. So February 13th, 2020 would have been the first time that county elections directors had received this kind of guidance from your office as to how to lay out a precinct in order to protect voter privacy, correct?

A  I don’t believe it’s -- it’s the first time they would have seen this form. I don’t believe it’s the first time they would have been talked to about the issue, or we would have discussed the issue. Like I said, we have weekly conference calls both with the counties that were running the
special elections, and then we had statewide conference calls, so I believe we had talked about some of these things before then, but I believe this would be the first time they would have seen this document.

Q Right. I’m not talking about talking at people, but in terms of actual guidance on how to lay out a precinct with the new voting machines. They hadn’t received this kind of guidance from your office until February 13th.

A Well, I consider guidance -- talking as guidance also, so I wouldn’t concede that there was no guidance. I would say that this was the first time they would have seen a document in this way, but I don’t think it’s accurate to say that they didn’t receive any guidance from us.

Q Okay. Did they receive verbal guidance, “turn the machines around” before this document?

A They very well may have. Again, I don’t specifically recall all the -- everything that was said on every conference call, but I know in talking with some of the counties -- as a matter of fact, I spoke with some county election directors while I was down there. We called -- I’d visit a polling place and I would generally call the county election director, and I would tell them, hey, you may want to think about rearranging some of your polling places, there are privacy concerns. So in that sense, they would have gotten guidance within minutes of me seeing the polling places.
Q    As you sit here today, can you point to me -- point
me to any guidance that was received by Athens–Clarke County
elections staff or the Board of Elections and Registration
regarding the configuration of polling places prior to February
13th, 2020?
A    I can’t, but I can’t say there wasn’t some given.
Q    Okay. Now, you would agree with me that February
13th, 2020 was past the date on which the Board of Elections
could change polling places, right? Because 60 days before
March 24th is January 24th or thereabouts, right?
A    Correct.
Q    So by the time they received this guidance, they
could not have changed polling places in accordance with
Georgia law, right?
A    They could have changed advance voting locations.
Q    My question is about polling places.
A    That’s correct.
Q    Okay. Let’s advance to the next page, and can we
blow that up a little bit? Mr. Harvey, can you read the
heading on this diagram?
A    Ineffective -- parenthesis -- I think it’s
parenthesis -- (bad precinct layout) -- BMDs exposed to view.
Q    All right. So would it be fair to say that this is a
sketch from your office providing guidance as to what not to
do?
A  Yes.
Q  Okay. So walk us through this, like, what about this is bad?
A  Well, you’ve got the BMDs that are exposed to the view of people waiting to vote. People -- everyone is oriented looking at the BMDs. The people who are voting there, now, the voter would be blocking the screen to some extent, but there is still a possibility that somebody could see over, around -- somebody standing off to the side. It just creates a possibility that somebody could see a ballot-marking device.
Q  So for example, I’m going to try to point over here. This person in the pink and green standing there (indicating) could see what the ballot-marking device where this person in the blue and white is standing from that vantage point (indicating). That would be one of the things that’s bad about that layout, right?
A  Potentially, yes. I could see that.
Q  So -- so even if -- even if this person (indicating) was blocking the view of his or her ballot-marking device, this person (indicating) could see it crossways.
A  Conceivably, yes.
Q  Right.
A  Of course, depending on space and distance and all that stuff.
Q  Is there anything else about this layout that strikes
you as ineffective or bad?

A   Well, again, that’s just generally designed to show
the orientation of the machines. Now, you’ve got the standard
check-in. I mean, that’s what we were trying to show in that
diagram. That wasn’t designed to show every possible
consideration in setting up polling places. It was on the
specific issue of BMD secrecy.

Q   Okay. Great. Thank you. I should have asked the
question: your Buzz post didn’t contain this kind of narrative
explaining what is bad about this photo, but left it up to the
viewer to infer what’s bad about it?

A   That’s correct. The Buzz post said what it said, but
again, this was covered and has been covered in conference
calls certainly since then, and I believe before then also.

Q   Okay. Let me ask you one other thing and we’ll see
if we can get -- can you see my -- my laser pointer?

A   I can.

Q   Is another negative aspect about this layout that the
poll workers behind this poll pad check-in desk (indicating)
might also be able to see the face of the ballot-marking
devices?

A   Actually, in the design, the -- it doesn’t -- I
interpreted those people as other people waiting to vote. I
would have the poll workers facing away from the machines, so I
think those are voters waiting to vote rather than people
working the poll pad check-in. That’s how I wrote it. That’s
how I envisioned it.

Q  Okay. These three people in the center of the screen
that I’m circling with the laser (indicating)?

A  Yeah. Those are -- in my mind, those were observers
or people waiting to vote. Those were not poll workers.

Q  Okay. Well, whoever they are, is that another
negative aspect --

A  Yes.

Q  -- that they can also potentially see cross-wize --

A  Yes. No question. It’s -- the point was that almost
anybody in that configuration would have a better chance of
seeing a ballot-marking device.

Q  Okay. Let’s advance one page and blow this one up.
Can you read the heading on this one?

A  It says effective/preferred precinct layout - BMD
screens shielded.

Q  Okay. So what is this diagram intended to
illustrate?

A  Well, it’s intended to illustrate that if you turn
the BMDs around, you greatly decrease the possibility that
observers could see them.

Q  What other aspects, if any, of this layout strike you
as good or bad?

A  Well, you would -- it shows a possibility of people
moving around the BMDs, so that there would be less chance that
somebody would have to cross behind somebody casting a ballot
as possible. Again, this is a generic, you know, polling place
that, you know, may or may not exist in the real world.
They’re all a little bit different, but it does show, again,
what people are able to see, and then the ways they may move to
the ballot-marking devices to maximize privacy and secrecy.

Q  Okay. I want to emphasize that last point that you
just said that this diagram shows the way people may move to
get to the ballot-marking devices. Those are the little red
arrows, correct?

A  Yes.

Q  That’s how voters are intended to get to the ballot-
marking devices according to this effective or preferred
layout, right?

A  Again, if you’ve got the ability to have that space,
that would be optimal. You don’t always have that possibility.

Q  And what you’re trying to avoid with these arrows is
having one voter pass behind another voter while the voter is
attempting to vote. So for example, the gentlemen with the tie
in the upper right hand corner, we would prefer that this
person go around that side (indicating) rather than behind the
voter there in the pink (indicating).

A  Correct.

Q  Correct? Okay. All right. Let’s advance to the
next slide. All right. This page is SEB 0059. Can you read the heading on there?

A It says effective or preferred precinct layout - BMD screens shielded.

Q Okay. What is effective about this particular layout in your view?

A Well, again, it provides another shielding of the BMD screens. They’re at a perpendicular angle to where the observers are standing, so they’re not going to be able to see the screens. They’re surrounded by a blue privacy shield. And essentially, it provides about the same protection as the previous demonstration, if you’re in a configuration where for some reason maybe you couldn’t get around behind the other side of the table. So it’s just an alternative way of setting up BMDs, but it provides essentially the same kind of protection.

Q Okay. And again, we have the red arrows indicating how voters are supposed to get to their chosen BMD, correct?

A Ideally, yes.

Q Ideally. And all these people here in the middle are, you said, potential voters, right?

A Observers, voters, whoever.

Q Does it concern you at all that this voter here with the yellow hair and orange clothing might be able to see that BMD (indicating) or that this voter in the green clothing might be able to see that BMD (indicating) on the cross-wise just as
in the first diagram?

A That’s a possibility. Again, it’s not -- it’s not taking every possibility into account. This is where the totality of polling place management -- we’ve talked about polling place management all year with the counties -- and that this is where you get things like what I was talking with Mr. Germany about, you know, setting up public areas and channeling people in such a way so that they get to vote efficiently, they get to move efficiently, you get people through as quickly as possible, so that’s a -- yeah, that’s a possibility that that could happen. And again, as I’ve said to the counties in conversations and emails since then, you know, use things like geometry and environment and angles so something like that won’t happen.

Q Okay. You know, I should have asked this at the outset, but who drew these diagrams? I think you said you sketched them out, and somebody else did them.

A Yeah. I did very rough sketches, and then a woman that works in our office, Trisha -- I believe her name is Danskin -- actually created them based on my sketches.

Q Okay. Now, are these to-scale drawings?

A No.

Q And an actual polling place would need to have a lot more in it than what appears on these sketches, correct?

A That’s correct. So again, they weren’t designed to
be this is how to set up a polling place to cover every
possibility. You can see that doesn’t -- that doesn’t show the
scanner, that doesn’t show the ballot box, it doesn’t show --
Q  All right. Well, you’re anticipating my next
question. So if one were to draw out an actual polling place
to scale, what other items would need to be in that polling
place? You said a ballot box?
A  Correct.
Q  A scanner?
A  Well, the scanner and ballot box are -- is one item.
Q  One item, and that’s about as big as a photocopy
machine?
A  Right. Yes.
Q  Okay. What else?
A  Well, you would have to have a provisional ballot
area for people to vote provisional ballots. And again,
depending on the -- what’s available in a polling place, you
may have an area set aside for poll watchers, you may have an
area set aside for media, you may have an area set aside just
for public viewers. In some places, they would -- they
wouldn’t necessarily be in the same room where voting was
taking place, but outside, they would have areas where people
could take photographs or ballot selfies -- not ballot selfies,
but selfies of them voting and things like that.
Q  Okay. I’m not concerned with the outside, and I’m
not concerned with the optional areas, like a media area, but
what would be required?

A You have to have the provisional ballot area and you
have to have the scanner would be the two main things. With
the current system, the BMDs that you have set aside for
disabled voters with the ATIs could be just lined up as any
other machine, and then somebody requesting that could be
directed to that. But in some places, they may set up a
separate area for voters with disabilities.

Q Okay. What else?

A You would have -- those would be the physical things
that would be needed in a polling place, and then of course,
you’d have poll workers.

Q Ah. I thought you were going to forget the poll
workers.

A No, I’d never forget the poll workers.

Q How many poll workers?

A As many as you need, and we’re encouraging counties
to get as many as they can to help, again, with people using
the new voting system.

Q Okay. So poll workers need a table?

A Well, not necessarily. I mean, you’ve got the check-in.
You’ve got the check-in table, okay? You would have poll
worker -- you would have areas for, you know, poll workers to
either gather or take breaks, and that may be outside of the
actual voting area, but most of the poll workers, with the
exception of the ones that are doing the check in, are
standing.
Q    They’re standing?
A    Standing or moving through the area.
Q    Okay. What about a place for voters to review the
ballots?
A    You’d certainly have that, yes.
Q    And that is required under state law, correct, or
state rule?
A    It’s not that there’s a specific place. Voters are
instructed and have to be instructed to review their ballot.
There doesn’t have to be a separate area for them to do that.
The other thing I would say: it may not be a separate area.
You’d have a possibility of a magnifying glass and a magnifying
devices, but in a lot of cases, the counties set that up
actually in the booth itself with the BMD.
Q    Okay. That’s where I was going, magnifying glasses
or whatever that has to --
A    They have to be somewhere. They do. And I think
from what I’ve seen, most of them provide those in the actual
booth, but some of them will have a table or an area set up for
people to do that.
Q    Okay. So I’ve got ballot box and scanner,
provisional ballot area, poll workers, magnifying glasses, what
else needs to be in a polling place on Election Day?

A Well, again, I mentioned the ATI for voters with
disabilities. That may or may not be a separate area.

Q Okay. What about an area for voters to cast an
emergency ballot?

A That’s something that could be set up also.

Q You mentioned -- I think we’re done with these
diagrams -- you mentioned also in the list of things that your
office had done with -- to address privacy concerns that you
had held conference calls with county election directors. I
think they were regional calls. Do you remember that
testimony?

A We did -- when we first set up these conference
calls, we would have them, like, the northern half of the state
and the southern half of the state, and then we combined them
into a single call. But initially, we started with north and
south and then we combined it into one.

Q Okay. Do you remember a conference call on January
10th?

A Not specifically.

Q Okay. Can we put on the screen BOER 0082? This is
Exhibit 82 in your book. Let’s see if this refreshes your
recollection of one of those conference calls.

MR. RAFFENSPERGER: What was that number again?

MR. SELLS: It was Exhibit 82, and while we’re
waiting, I should offer the last set of diagrams that we just
did as an exhibit. I don’t if we have an extra copy that we
can mark, but I can offer it. From the State Election Board,
that was -- so we’ll maybe offer that as Respondent’s Exhibit
1?

(Respondent’s Exhibit 1 identified.)

MR. GERMANY: Can you say the exhibit’s numbers?

MR. SELLS: Yes, it’s SEB 0055 to 0059. It’s those
diagrams that we were just looking at.

MR. GERMANY: No objection.

(Respondent’s Exhibit 1 admitted.)

MR. SELLS: And we’re marking that right now. Oh, she has stickers. Great. Thank you.

BY MR. SELLS:

Q All right. So Mr. Harvey, I’d like you to take a
look at the notes on the screen. These are not your notes, but
they are all -- represent to you notes of a conference call
with you. Does that refresh your recollection of being on a
conference call on January the 10th?

A I suppose so, yeah. That looks like something I
would have talked about on a conference call.

Q And did you, in fact, talk about blackout screens on
that conference call?

A Based on that, I probably did.

Q Okay. And did you, in fact, tell county elections
directors to hold off on buying blackout screens because the State was looking into providing them at that time?

A  I did.

Q  Okay.

A  Well, I think -- I think what I said was I recommend that they not purchase them and that we were looking into the use of them rather than the -- and that if it was something that we were going to provide, we would probably provide them.

But I don’t think -- as you read that, it makes it sound like I may have said, hey, we’re getting ready to buy them and give them to you, and that’s -- I don’t think that’s what I said.

Q  Now, January 10th is before January 24th, but with the publication -- advance publication requirements, isn’t January 10th too late to change polling places for the March presidential preference primary? Can you do those calculations in your head?

A  I didn’t know there would be math. But yeah, I suspect so.

Q  So at least as of January 10th, the guidance received by county elections directors was that the State was looking into providing blackout screens to address the privacy concern?

A  Well, again, I’ve talked about this several times, and I don’t believe I’ve ever said that that’s something that we were going to provide. I said we looked into -- we were looking into the possibility that that may be something that we
were looking at, but I don’t believe I ever said it in such a
way like, you know, we’re going to get them for you. There
were a lot of questions about whether or not it was -- it was
something that would be appropriate or acceptable with the new
system. So I would -- I would not agree with the
characterization that, you know, we’re going to get these for
you.

Q   And for the record, this note is Exhibit 13 in our
book. My co-counselor just told me.

   (Respondent’s Exhibit 13 identified.)

   MR. SELLS:  I think I initially gave you the wrong
exhibit number, but it’s Bates Stamp 0082, but maybe Exhibit
13. Do you all have it in front of you?

   THE BOARD MEMBERS:  Mmm-hmm.

   MR. SELLS:  Okay. We just used this to refresh Mr.
Harvey’s recollections, but we will call to ask to offer it
into evidence later.

   MR. GERMANY:  No objections.

   MR. RAFFENSPERGER:  Okay.

   MR. SELLS:  If there are no objections, we’ll just go
ahead and get it in. We would offer Exhibit 13.

   MR. RAFFENSPERGER:  No objection.

   (Respondent’s Exhibit 13 admitted.)

BY MR. SELLS:

Q   Mr. Harvey, do you keep notes or agendas or anything
that would memorialize what you plan to talk about on one of these calls?

   A They were generally prepared by the training coordinator, and they would produce those and sort of use those as points, but I didn’t produce them.

   Q Okay.

   A And we also took questions from -- people would type in questions on the call, and I would respond to those too.

   Q And as you sit here today, you don’t have any record of having instructed or guided county elections directors before January 10th to go ahead and buy the screens or as to how to lay out a precinct to ensure voter privacy, right?

   A I have not reviewed any records. I know that I would not have encouraged counties to purchase blackout screens at any time, so that’s the best I can answer for that.

   MR. GERMANY: I just have a question. Blackout screens -- are we talking about the screen that goes, kind of, like a film? Or what are you referring to when you say blackout screens?

   THE WITNESS: I guess that’s a good point. When we’ve been talking about blackout screens, I’m referring to a film that you put over a screen like a laptop or a phone that would shield it from the kind of sideways angle view. That’s -- that’s what I’m terming as black out screens.

   MR. SELLS: Okay. Thank you for clarifying that.
BY MR. SELLS:

Q    I want to shift topics a little bit and look at some
more photos. And I’m going to ask for photos starting, let’s
see, at SEB 0093. Now, Mr. Harvey, do you recognize that
photo?

A    I don’t think I specifically recognize that photo. I
think I recognize what it is.

Q    Okay. Do you know who took the photo?

A    I don’t.

Q    Do you know where the photo was taken?

A    I do not.

Q    Do you know whether this was taken in Athens-Clarke
County or not?

A    I don’t.

Q    There’s not much we can talk about about this photo,
at least in terms of its providence, but why don’t you tell me
what you see there?

A    What I see in that photo is a sideways view of about
what I believe are ballot-marking devices. The blue -- the
blue that you see are the privacy screens that go around the
ballot-marking devices to shield them from the side. You see
the instructions on the side, and I presume that there’s a
ballot-marking device in each of those screens, so where it
says only poll workers and poll watchers, there’s a ballot-
marking device facing out to the right. I presume on the other
one -- and I think you may even be able to see the top of the BMD on the other side, again, facing out to the left on that photograph. And I -- I suspect that where you see the American flag elevated is an additional barrier and that there’s presumably another ballot-marking device on either side of that, set up in the same orientation.

Q Okay. I want to focus in on that thing with the American flag on it. You said it’s an additional barrier.

A I believe that is. I can’t say for certain, but I believe that’s...

Q Why would there be an additional barrier there?

A Just to provide additional secrecy for the voter.

Q Did the State provide these additional barriers to counties along with the ballot-marking devices?

A No.

Q Let’s go to the next page, 0094. Does this appear to you to be another angle on those same machines?

A It does.

Q Okay. And this allows us to see a little bit better that American flag partition there in the middle, correct?

A Yes.

Q And, in fact, your hunch was right that it is separating two ballot-marking devices that are on one table side-by-side, correct?

A That is correct.
Q    Now, again, why would anyone need an additional barrier above and beyond the blue privacy screens that were provided by the State along with the ballot-marking devices?
A    It’s -- I’m not sure that you need it, but in the interest of enhancing voters’ security, secrecy, or privacy, that’s another innovation that a county could put on it.
Q    But again, you don’t know where this photo was taken, and doesn’t necessarily represent what was being offered in Athens-Clarke County, correct?
A    That’s correct. I don’t know.
Q    Do you know whether this photo was ever distributed to county elections directors?
A    I don’t.
Q    So as you sit here today, you don’t know whether county elections directors had this sort of diagram before it was too late to change polling places, correct?
A    I don’t know if they had that photograph.
Q    Let’s go to the next photograph. This is SEB 0095. Now, do you recognize this photo any more than the other ones?
A    I’ve seen that photograph. I reviewed some photographs last evening, so I do remember seeing it because I saw hockey in it, and I thought hockey was unusual to see in a Georgia polling place.
Q    Okay. Do you know if that’s Athens-Clarke County?
A    My memory is that it is not.
Q Okay. Do you know where it is?
A I want to say it’s Spaulding County, but I can’t say that for certain.
Q Now, the reason I wanted you to look at this photo is we actually have a person in it, who’s standing in front of a ballot-marking device. Do you see that?
A I do.
Q And do you see how -- now, we don’t know how tall that person is. It appears to be a woman. But do you see that her head is well above the top edge of the privacy screens there?
A I do.
Q Let’s look at the next slide. So this is virtually the same view, but now, we have someone else in there, a second person. Not sure if that is a man or a woman, but, again, do you see that his or her head is well above the privacy screen with those ballot-marking devices on the table?
A I see it’s above the screen.
Q Yeah. As you look at this photo or even think of the last one with the same polling place, do you see the tables that they’re sitting on there?
A I do.
Q Is there anything unusual about those tables?
A From this perspective, I don’t see anything unusual about them.
Q    And, in fact, many counties use tables that look a lot like that as bases for the ballot-marking devices, correct?
A    Well, again, that’s a table. I don’t know if there’s anything specific about that table. I know a lot of counties use tables for ballot-marking devices. I don’t know if their tables are like that. Those may be special tables.
Q    These don’t look, like, unusually low, for example.
A    It’s -- it’s very difficult to tell from that perspective. Actually, they kind of do look a little bit low to me, if you follow the line. I know it’s at an angle, but if you follow the line, it looks like the edge of the table would be sort of below waist of the person standing there, which seems maybe a little low. I don’t know. I’m not a table expert.
Q    I’m standing next to a table right now.
A    Yeah, I would say -- I would say it’s about -- I would say it’s similar to that again.
Q    And for the record, I’m not a table expert either, but I have one of those tables as my desk at home. I’m familiar with them. Let’s go back to 0094, so just two slides ago, where we saw the partition. Now, those are a different kind of table, but those are, again, neither -- do they appear any higher or lower than your average table?
A    No. They’re in the range of normal, I would say.
Q    Let’s look at SEB 00 -- or excuse me, 0112. Do you
recognize this photo?

A  I recognize what it shows. I don’t recognize taking it or where it is.

Q  Okay. So, again, we don’t know that this is Athens-Clarke County, and it’s probably not, right?

A  I don’t know where it is.

Q  Okay. And you don’t know who took it?

A  I do not.

Q  Okay. Well, what does it show to you?

A  Well, it appears to show a person standing at a ballot-marking device, presumably voting or reviewing a ballot or interacting with that ballot-marking device.

Q  Does this photograph illustrate in some way your diagram of an ineffectual or bad polling place design in that whoever is taking the photograph has a straight-on view of these machines over in front?

A  Well, if that’s taken from a public area, it does. If it’s -- I know we’ve had people from our office going out and taking photographs. If that was taken in an area where an investigator or a monitor could do them, then it may not. It appears that people are standing up to the right, maybe waiting to vote or observing, and in that case, they’re looking at the side, which is one of the ways that we recommended, so --

Q  Okay.

A  -- it really depends on who took the photograph. If
it was taken by an investigator in our office, it wouldn’t concern me. If it was taken by somebody waiting to vote or from the perspective of somebody waiting to vote, it would concern me.

Q  All right. Can we zoom back out on the photo and get the whole photo in the frame? It’s a little cut off to the left, but does this photo illustrate how it is possible to see crosswise like we were talking about in your ineffectual diagram?

A  Crosswise from what perspective?

Q  From the perspective of whoever is taking the photograph, just as we saw in that diagram that you --

A  Well, from whoever’s taking the photograph, that’s not even crosswise. That’s -- that’s dead on, so that’s really more of the first bad example. If somebody’s viewing it from this perspective, that’s almost straight-on, but as you go farther to the left, it would be an angle problem.

Q  Okay.

A  If that’s from a public area.

Q  All right.

MR. GERMANY:  I don’t know if this will help, but I can say, and we’re calling Ms. Watson next, all of these photographs were taken by our investigators in the regular course of election monitoring, and I was going to have Ms. Watson speak to them.
MR. SELLS: Okay.

MR. GERMANY: If that’s helpful to you.

MR. SELLS: Well, it’s helpful in that I won’t offer them as exhibits until we get maybe some more authentication. I mean, I can offer them just because we’ve talked about them, but I’ll hold off.

MR. GERMANY: And I was also going to say, none of them are Athens-Clarke.

MR. SELLS: Okay, good. I didn’t think so.

BY MR. SELLS:

Q I’m going to shift to a different topic now, and it’s this idea of a uniform -- the unified voting system that we have here in Georgia. Now, as you have already mentioned, there have been a number of tests of our new system here in Georgia in special elections, for absentee municipal elections last November. Can you tell me a little bit about what happened in Cobb County last November?

A In Cobb County last November, they had some municipal elections where they used -- did a pilot with hand-marked paper ballots to satisfy the order of Judge Totenberg, and I don’t remember. I think they had 4 cities that were conducting municipal elections, and they did hand-marked paper ballots for those elections.

Q Now, the Cobb County pilot actually used the system that we obtained as a state from Dominion, correct? With the
exception of the touch-screen component of that system, right?

A    Correct. They used the scanners for -- the same
scanners that are used for the ballot-marking devices.

Q    Right. So it’s not your position that what Cobb
County did was some alternate system of voting. It was
actually a different use of the system that we obtained from
Dominion, right?

A    Well, it was a -- it was a court-ordered use of the
system. So it is different, but it was court-ordered, and it
used some components of the same Dominion system.

Q    Right. And it was court-ordered because the Board of
Elections in that case didn’t have make a finding of
impracticability or impossibility to use the new machines, but
it was essentially the -- using the system that we ordered in a
different way, a backup way, that one would use if one were to
find that voting under the machines was impracticable, right?

A    Well, I think the answer is yes. Although when you
talked about the Board of Elections, they didn’t really have a
say. I mean, they agreed to do it, but they weren’t the movers
of that decision. It was ordered by Judge Totenberg.

Q    Now, did your office prepare a report on summarizing
the findings from that pilot program?

A    I don’t think that we’ve produced the final report
yet.

Q    Okay. I’d like -- I’d like to put up on the screen
BOER 420. And let’s see, it’s Exhibit 51. 51, thank you.

(Respondent’s Exhibit 51 identified.)

Q  Okay. The first page is a cover page. It says executive summary, initial findings pilot county’s municipal election 2019, new Georgia statewide voting system. Do you see that?

A  I do.

Q  Do you recognize this document?

A  I -- yes. I’ve seen it before, I believe.

Q  Okay. What is it?

A  It’s a summary of the initial findings of the pilot.

Q  Okay. And who produced it?

A  Our office did. I didn’t produce it myself.

Q  Your office meaning the Secretary of State’s Office?

MR. GERMANY: I’d stipulate that this --

MR. HARVEY: And I may be -- I may be -- confused.

MR. GERMANY: -- is a report produced by the Secretary of State’s Office.

BY MR. SELLS:

Q  And have you read this report?

A  I think I read it when it came out. I have not reviewed it recently.

Q  Okay. I’d like you to turn to the next page of this report, and this report talks about findings in the pilot counties that used the ballot-marking devices but also the
pilot in Cobb County, correct?

A  Yes.

Q  And if we could blow up the bottom paragraph on the page? Yeah. Do you see here the sentence that says, Cobb County volunteered to conduct a pilot election with the new system except using hand-marked paper ballots instead of ballot-marking devices?

A  I do.

Q  That pilot still included the poll pad, the polling place scanner, and new election management system. Do you see that?

A  Yes, I do.

Q  Do you disagree with that, those two sentences?

A  The only clarification is that I asked Cobb County and they agreed, as opposed to them coming forward and saying we want to do it, but they certainly volunteered once I asked.

Q  Okay. But you agree with me that Cobb County's pilot used the new system that is mandated under state law requiring, in fact, that we use the new system?

A  It certainly used components of the new system.

MR. SELLS: I think that's all the questions I have.

MR. RAFFENSPERGER: Mr. Germany, do you have -- okay.

Next witness?

MR. GERMANY: I call Frances Watson.

MR. RAFFENSPERGER: Frances Watson?
MR. SELLS: I’d like to offer 51 into evidence.

MR. GERMANY: That’s the report we just looked at?

No objection.

MR. RAFFENSPERGER: Okay. Done.

(Respondent’s Exhibit 51 admitted.)

MR. GERMANY: Y’all are going to get her, the court reporter, a copy of those exhibits?

MR. RAFFENSPERGER: Do you want to swear in Frances Watson?

THE COURT REPORTER: That’s why I’m crouching. Do you swear or affirm the testimony you’re going to give today will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

Whereupon,

FRANCES WATSON

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MR. GERMANY:

Q  Ms. Watson, could you introduce yourself and state your -- what you do as a profession, please?

A  Yes. Frances Watson. I’m the Chief Investigator for the Investigations Division for the Secretary of State.

Q  You might have to angle that a bit toward you.

A  Okay.
Q  As Chief Investigator, are you -- you oversee a team
of investigators, correct?
A  That is correct.
Q  As part of your investigatory duties in the regular
course of business, does that include election monitoring?
A  It does.
Q  Could you describe that process?
A  Yes. Prior to elections, during early advance
voting, and on Election Day, we have investigators that work
throughout the state in the field going to various poll
locations, and they have a form that they complete for poll
inspections to check for various compliance issues. Did they
open on time? Do they have the correct amount of poll workers?
Do they have a provisional ballot station set up? Just various
issues, are there any obvious issues that are taking place? We
talk to the poll manager and ask them how is it going, is
everything going okay? And once those are completed, then they
report any issues or their findings back.
Q  Are your investigators currently doing that
monitoring in the early voting that’s occurring for the
presidential preference primary?
A  They are.
Q  Is one of the things that they are asking about this
time about privacy? Is that one of the things they’re looking
for?
A  Yes. They’re specifically just observing voters. They are asking the managers are you having any specific complaints or any -- any, you know, issues? They’re observing voters when they’re voting to see if there are any particular issues that they can observe as far as voting secrecy.

Q  I’m going to show you a few pictures. Before I do that, do you recall seeing the pictures that Mr. Sells was showing Chris Harvey?

A  I do.

Q  Do you recognize those as pictures that your investigators took?

A  I do.

Q  I’m going to show you first SEB 0076 and SEB 0081. Are those pictures that your investigator -- one of your investigators took in a polling place?

A  They are.

Q  Do you recognize that as a polling place in Floyd County?

A  I have -- was not at the location, but it was reported by the investigator to be photographed in Floyd County.

Q  I’m going to show you SEB 0069. Do you recognize that to be a picture of a polling place where early voting is going on that your investigator took, one of your investigators?
A: It is.

Q: I don’t recall which County -- which County that’s from, but it’s not Athens-Clarke County, I will say that. I’m going to show you 0 -- SEB 0085 and SEB 0088. Do you recognize those as pictures that your investigator took of a polling place where early voting is currently ongoing?

A: I do.

Q: I’m going to show you SEB 0094, which I think is one that Mr. Sells showed. Do you recognize that document as a picture that your -- one of your investigators took of a polling place?

A: Yes.

Q: And finally, I’m going to show you SEB 0104 and SEB 0107. Do you recognize those documents as pictures that one of your investigators took of a polling place where early voting is currently ongoing?

A: Yes.

MR. GERMANY: I move to admit each of those pictures, and I’d be happy to include the ones that you showed as well, Bryan.

MR. SELLS: I don’t have an exception, if you’ll stipulate that none of them are Athens-Clarke County. I think we were unclear about three of them.

MR. GERMANY: None of them are Athens-Clarke. And I’m just going to ask the court reporter to mark all of
these as one exhibit.

MR. SELLS: That’s fine. What’s the exhibit number?

THE COURT REPORTER: It’s 3.

MR. GERMANY: It’s going to be marked as Exhibit 3.

(State’s Exhibit 3 identified and admitted)

BY MR. GERMANY

Q Ms. Watson, as your investigators are doing election monitoring and reporting, what are you hearing and seeing on the issue of ballot privacy?

A The only issue that was reported back from one of the investigators was during House District, I believe, 171 in South Georgia, and the voting machines were set up so that the people waiting to vote could see the machines. And they reported that issue back to me.

Q Your investigator reported that issue back to you?

A Yes.

Q What did you do with that information?

A I spoke with the Deputy Director -- or the Director of Elections, Chris Harvey, and he advised that he had been in that county and that they had spoke [sic] with the county about repositioning machines.

Q Did they resolve that? Did they reposition the machines to your knowledge?

A I do not have that information.

Q Are there any other issues that you’ve heard about,
reports you’ve received from your investigators with privacy?

A No, I have not had any other issues reported back to me.

MR. GERMANY: Nothing further.

CROSS-EXAMINATION

BY MR. SELLS:

Q Good morning, Ms. Watson. I’d like to start with 0069, if we could. This is one of the ones that was just admitted as Exhibit 3. Do you have that one in front of you?

A I do.

Q Okay. And you said this was taken by one of your investigators, correct?

A It was.

Q And what happens after the investigators take it? Do they text them to you or email them to you from the field or do they wait until they come back to the office? Tell me a little bit about that process.

A They can send them to me via their phone or they can wait until they get to the office and send me via email.

Q Okay. Do you recall seeing this particular photo on Election Day or only in connection with this proceeding?

A Only during early voting.

Q My question, though, is did the investigator bring this particular photo to your attention in any particular way?

A They did send that to me. That is correct.
Okay. And you reviewed this photo?

Yes, I did.

Okay. Did either your investigator or your own review of the photo reveal any problems with this particular issue?

There were no issues that we observed when we were there as far as voters voting or any issues as far as the secrecy of the ballot when we were on scene, so there was none that was reported to me as an issue. That’s correct.

Okay. And so in your view this would comply with the constitutional right to ballot secrecy that we have under the Georgia constitution?

Well, there was no voters voting, so in that particular moment, it would comply.

But we’re talking about the configuration of polling places at this hearing, and that’s what’s critical.

Right.

And so I’m asking you to look at the photo, and if you need more time, we’ll give you more time.

No, that’s fine.

Does this configuration, in your view, comply with the constitutional right to ballot secrecy?

I believe it does.

All right. I would like to zoom in on this area over here in the upper right-hand corner of the screen. Do you see
the window?

A I do.

Q Do you see the person in the window?

A I can’t tell if that’s a person or not.

Q Right there (indicating). Do you see that person’s head?

A I do.

Q And do you think it’s conceivable that that person could see someone voting on maybe these three or four machines right there (indicating)?

A I can’t tell if there are blinds that are there, and that’s a shadow. I can’t tell from that picture.

Q Well, we can see her, if it’s a her.

A Yeah, I can’t tell. If there were people that were voting there, and there was a person behind them, it would be an issue. That is correct.

Q It would be an issue for you if there were a window where someone could see --

A Yes.

Q -- the face of the ballot.

A Yes.

Q Okay. But you didn’t catch that window or this other window to the left, which is also facing several voting machines, when you reviewed this photo?

A Again, I can’t tell if there is any kind of barrier
or any kind of blinds that are there.

MR. SELLS: Those are all my questions.

MR. GERMANY: Nothing further.

MR. RAFFENSPERGER: Next witness, Mr. Germany?

MR. GERMANY: We call Tom Feehan.

MR. RAFFENSPERGER: Take the oath.

THE WITNESS: Copy.

THE COURT REPORTER: Raise your right hand. Do you swear or affirm the testimony you’re going to give today will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes, I do.

Whereupon,

TOM FEEHAN

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MR. GERMANY:

Q Mr. Feehan, could you introduce yourself and your current role, please?

A Yes. My name is Tom Feehan. I’m the Senior Project Manager for Georgia for Dominion Voting, and I’m running implementation for Dominion Voting.

Q Could you describe your background with elections?

A I’ve been in elections for 18 years. I started as an assistant project manager for implementation in 2002, and I’ve held a number of roles with various companies, project manager,
regional customer service manager, senior project manager.

Most recently, in the last several years, it’s been as a senior project manager for implementation.

Q I want to ask you about, in your role, are you familiar with the system that Georgia is implementing?

A Yes, I am.

Q I want to ask you about the monitoring and specifically, some of the monitoring options that are built into this system that were not in the previous system. For instance, is it your understanding that the touch screens in particular have -- basically, if they detect something foreign being plugged into them or something unrecognized, that they will up a prompt, stop -- it stops the voting process and requires a poll worker to enter their poll worker card to resolve.

A Yes, that’s accurate.

Q Could you describe that a little bit?

A Sure. First of all, the ports are physically sealed by a cover and a tamper evidence seal over top of that cover, but what the system is designed to do -- the security feature of it is if anything is changed for instance on the USB ports, which are the ports that are used on it, the system automatically flashes up a message that says USB change port detected, and it freezes the machine. It disables it until action is taken, and that could be anything. It could be
simply unplugging the printer cable, the signal cable for the
printer. It detects that as a change to the USB, so and the
machine cannot be used until it is addressed by a poll worker.

Q Is this system that’s being implemented in Georgia,
the same equipment, is it used in other places for elections?
A It is.

Q Do you know which places?
A Specifically, the use that parallels or is most
similar to Georgia is Pennsylvania, where it is used 100% to
mark ballots in the same scanning system and the same, what we
refer to as the ICX 21 prime, which is the 21 inch prime model,
ballot-marking device.

Q That’s the touch screen?
A Correct. Yes, sir.

Q Are you familiar with issues regarding voter secrecy
or ballot privacy as it relates to this system?
A I have not heard any as it relates to this system
used in other states.

Q Do you know if Dominion as part of their training on
the new system, has that come up to your knowledge?
A I can speak only to Georgia training, but, yes,
because the trainers fall under my purview. And both training
sessions that were conducted for the counties, it was brought
up that you should analyze your polling places. And we did not
give specific instructions on layout because of the variation
potential, the options there are, but it was brought up by our
trainers in the training, and then subsequently, we support
each county with a county technician, and in that training, it
brought up to the county technicians as well to observe that
and recognize that.

    MR. GERMANY: Thank you. No further questions.

    CROSS-EXAMINATION

BY MR. SELLS:

    Q. Do you know whether other states that use the
    Dominion voting system have a constitutional right to ballot
    secrecy that is on a par with ours here in Georgia?

    A. I’m not familiar. I assume that the federal law for
    privacy applies to all the states, but I don’t deal
    specifically with any other state vis-a-vis Dominion other than
    Georgia.

    MR. SELLS: Those are all my questions.

    MR. RAFFENSPERGER: Thank you. Mr. Germany, one more
    witness and then we’ll take a lunch break after.

    MR. GERMANY: I have one more short witness, and then
    we were -- we were also going to call Ms. Sosebee, but
    that one will take a little bit longer, so I think it’s
    better to do that after lunch, if that works?

    MR. RAFFENSPERGER: Okay.

    MR. GERMANY: I call Melanie Fourchette. Ms.
    Fourchette, could you --
THE COURT REPORTER: Do you swear or affirm the testimony you’re going to give today will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes, I do.

Whereupon,

MELANIE FOURCHETTE

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MR. GERMANY:

Q Ms. Fourchette, could you introduce yourself and your occupation, please?

A Yes. My name is Melanie Fourchette. I’m an analyst for the Office of Commissioner of Insurance and Fire Safety for the State of Georgia.

Q What did you -- previously, you were the training administrator at the Secretary of State’s Office, correct?

A That’s correct.

Q Can you tell me the dates of that role?

A Yes. I was hired as the training administrator in January of 2019 and left the office in February of 2020.

Q Can you tell me a little about your background in elections prior to becoming training administrator?

A Certainly. In 2010, I was employed by the Gwinnett County Elections and Voter Registration Office. I worked there for 6 years and then went to work for the Hall County Voter
Registration Elections Office prior to coming to the Secretary of State’s Office in January -- February of 2017, where I was a liaison and then promoted to a lead liaison before my promotion to training administrator.

Q Thank you. In your role as training administrator, are you familiar with the new -- the new voting system that Georgia is implementing?

A Yes, I am.

Q Can you speak to -- let me ask you this first. Did you deal with counties a lot in your role?

A Yes, I did.

Q Can you speak to the discussions that came up about voter privacy or ballot secrecy as part of -- as part of your training? And I’m including both formal but also informal discussions.

A Yes. I was involved when Dominion began their training with the 159 counties and participated by being at different trainings and taking questions and just absorbing the training. And what questions would come up a lot would be deferred to me as a Secretary of State employee by the Dominion trainers. And of course, with a variation across the state of polling places, it was, you know, discussed about the position of the units, the large size of the screens, and the counties were instructed and encouraged to review all their polling places to make sure that they could set them up best for the
voters. And we took phone calls quite extensively. The phones
rang off the -- quite a bit for me. I answered a lot of phone
calls. I assisted Chris Harvey in the pilot county phone calls
during the pilots as well as the weekly regional phone calls
and as well as the phone calls done with the special elections
people.

Q From your experience at the Secretary of State’s
Office and back to when you were a county election official, do
you believe that it’s impossible and impracticable for counties
to utilize this system?

A No. I think it’s very possible and very -- I think
that the county elections directors know their polling places,
they know their poll workers, and they know their voters. And
I think it’s -- there could be challenges there, but they’re
all possible -- possible to resolve.

Q You know, and it’s a big transition, correct?

A Sure. It’s a new way of voting in Georgia.

Q In your time in elections, have you worked with
Charlotte Sosebee?

A Yes, I have.

Q And do you know her to be an experienced and
qualified elections professional?

A Very much so. I actually worked with her in Hall
County prior to her going to Athens-Clarke County and prior to
me coming to the Secretary of State’s Office.
MR. GERMANY: Thank you. No further questions.

CROSS-EXAMINATION

BY MR. SELLS:

Q Ms. Fourchette, you testified that the counties were encouraged to review their polling places. During which conference calls did that happen?

A Oh, I don’t know if I could remember specifically which ones, but any time the conversation came up about the equipment and inspections and things like that, it was discussed.

Q It would have been before the polling -- the ballot-marking devices were delivered to the county, correct?

A Before, during, that whole time.

Q When did you leave the Secretary of State’s Office?

A I’m a little confused about that question.

MR. GERMANY: Just to clarify, there was -- and I should have said this. There was a couple of deliveries -- as to what you were referring to as delivery -- people got demonstrations of equipment in the fall, and then larger shipments kind of began this year.

MR. SELLS: Well, if this is your witness testifying about counties being on notice, I want to -- I want to hear from her.

MR. GERMANY: I’m just asking for you to clarify which one when you say delivery.
MR. SELLS: Okay.

BY MR. SELLS:

Q Do you know when Athens-Clarke County received its ballot-marking devices?

A No.

Q So as you sit here today, you can’t point to a single training where they were advised to review their polling places after they received the ballot-marking devices?

A No. I don’t remember dates.

Q Okay. And were they specifically encouraged to review the polling places for electrical capability, the number of circuits required for the new machines, or were they encouraged to review them for other purposes?

A I don’t remember those specifics.

Q Okay. Now, it was also your testimony that it is not impracticable to use the new ballot machines, correct?

A Well, I said it’s possible to use them.

Q Okay. So it is not your testimony that it is not impracticable to use them?

A You know, that question goes to that definition that you both discussed earlier about impractical, so I’m not an attorney to where I could -- when I think about that word, it’s is it impossible, but I don’t know if that’s the legal definition that you’re using right now.

Q Okay. I want you to draw on all of your experience
as an election administrator and looking out at this room, how many ballot-marking devices do you think you could place in this room and comply with the statutory and constitutional right to ballot secrecy? Just give me a ballpark estimate.

A I don’t think that I can give you that number.

Q Would it be 100?

A I don’t know the size of this room. I can’t -- I can’t, you know --

Q Okay. So let me approach it this way. If Georgia law required you to fit 800 voting machines in this room and still comply with ballot secrecy and said you can’t change rooms because it’s too late to change, do you think you could fit 800 ballot-marking devices in this room?

MR. GERMANY: I would ask that we don’t need to venture into the absurd, and can you keep your questions based in reality?

MR. SELLS: She just testified that it was not impracticable to use these machines, and space is what this hearing is all about, so she couldn’t estimate, so we’re going to have to get a little absurd.

MR GERMANY: Well, you can ask in a follow-up. You don’t have to get absurd.

MR. RAFFENSPERGER: You can move on.

BY MR SELLS:

Q Isn’t it true, Ms. Fourchette, that if you don’t have
enough space to use the number of ballot machines, ballot-marking devices, that Georgia law requires that it becomes impracticable to use them in the space that you’ve got?

A  Repeat that one more time to me.

Q  Yeah. Isn’t it true that if Georgia law requires more ballot-marking devices than you have space for, that you’ve got an impracticability to use the ballot-marking devices?

A  I just think that’s a very multi-faceted question there because we’ve always had voting equipment prior to this voting equipment that you still had to have the space for, so I just -- I’m not comfortable answering that question. I don’t feel that I’m an expert in that field. I’m sorry. I don’t feel comfortable answering that.

Q  And in fact, Georgia didn’t have that one for 250 rule when you were ever an election administrator, correct?

A  That was not something that I oversaw at the county level.

Q  Because it was passed last year, right?

A  That was not something I oversaw when I was at the county level.

Q  So, in fact, you have no expertise as to fitting the required number of ballot-marking devices into any polling place in a way that complies with the one to 250 rule.

A  That is up to the county offices to determine that.
Q: So to answer my question, you have no experience in that.

A: I have experience in the use of the equipment, the size of the equipment, the information given to the counties, and that -- my expert level is -- is on the training level side of it. It’s not doing their job for them at the county level.

Q: So if you have expertise in the size of the equipment, please estimate for me how many ballot-marking devices would fit in this room --

MR. GERMANY: It’s not -- he’s already --

MR. SELLS: -- in compliance with the ballot secrecy requirements?

MR. GERMANY: He’s already asked. He’s already said she had no --

MR. RAFFENSPERGER: I think that’s been asked already, and I think she said it was unknowable at this present time.

MR. SELLS: She’s claiming expertise and then not answering my questions, Secretary.

MR. RAFFENSPERGER: Can you move onto the next question? And I would like to remind the people in the back there that you need to keep your comments to yourself. It would be appreciated. Thank you.

BY MR. SELLS:

Q: You said you were an elections official in Gwinnett
County, right?

A I was employed by the Gwinnett County Voting
Registration Election Office.

Q Okay. Have you ever been an elections official in
Athens-Clarke County?

A No.

Q Have you ever set foot in any polling place in
Athens-Clarke County?

A Yes.

Q When? Which ones?

A I don’t remember the exact address, but I was
actually visiting a friend, and there was Saturday voting going
on, and so she said do you mind if I pop in here and go voting?
And she went in, and I just kind of hung out in the lobby, but
I don’t remember the exact address.

Q What election was that?

A It was -- it was in 2016, I believe.

Q And we did not have ballot-marking devices in that
election, correct?

A That’s correct.

Q And you don’t remember which polling place it was?

A It was over on the other side of the university, but
I don’t remember the -- it was a government building, but I
don’t remember the name of the building.

Q Was it a large space or a small space?
A    Where the voting was actually taking place was -- I mean, I don’t know. Small, medium, or large, it’s kind of hard to define that term. It was an advance voting location, so there was quite a bit of machines in there, but I don’t know what your definition of small or large is.

Q    But they were the DRE machines, correct?

A    That’s correct.

Q    Can you estimate how many ballot-marking devices would fit in the precinct that you saw, the polling place that you saw?

A    No, I can’t estimate that.

Q    And you don’t know, as you sit here today, whether that number would comply with the one to 250 rule either, can you?

A    Not without the dimensions of the room and seeing the room, I wouldn’t be able to make that guess.

Q    If I showed you a room with dimensions, could you guess or estimate how many ballot-marking devices could fit in a -- in a space?

A    Probably not. There’s lots of other things that come into place with it: doorways, entry ways, electrical outlets, and things like that. Just the dimensions of the room isn’t going to tell you everything. How the room is used will tell you that.

Q    And you’ve never seen any drawings or diagrams
showing any polling places in Athens-Clarke County that contain
the required number of ballot-marking devices in a way that
complies with the statutory constitutional right to ballot
secrecy in Georgia, correct?

A I’ve never seen any diagrams of Athens-Clarke County
elections -- I mean, polling places.

MR. SELLS: Okay. Those are all my questions.

MR. GERMANY: Nothing further.

MR. RAFFENSPERGER: Okay. I think, Mr. Germany, you
said your next witness would take a bit longer, so we’ll --
-- it’s 12 after 12. If it’s possible, can we get back --
if we did a break, is 12:45 -- does that give you enough
time or do you need a bit more time for lunch?

MS. SULLIVAN: I’d say one o’clock.

MR. RAFFENSPERGER: We’ll say one o’clock, we’ll be
back. Recess until one.

(Court in recess)

(Court resumes)

MR. RAFFENSPERGER: Okay. We are called back to the
hearing. It’s 1:01, and Mr. Germany, we’re ready for your
next witness.

MS. MCGOWAN: We call Charlotte Sosebee.

MR. RAFFENSPERGER: Charlotte Sosebee?

THE COURT REPORTER: Do you swear or affirm the
testimony you are about to give will be the truth, the whole
truth, and nothing but the truth?

THE WITNESS: I do.

Whereupon,

CHARLOTTE SOSEBEE

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MS. MCGOWAN:

Q Good afternoon. Would you state your name for the record and your current position?

A Yes. My name is Charlotte Sosebee, and I currently serve as the Director of Elections for Athens-Clarke County.

Q Thank you. And how long have you served in that position?

A For Athens-Clarke County, three years and about two months.

Q And first, I want to say thank you for being here today. I know this is a very busy time for you, so we appreciate your time. Can you describe to the Board your prior experience in managing elections?

A Yes. So in 1989, I decided to come over to Hall County and work in the capacity of Clerk to Elections. I spent 27 and a half years in Hall County working my way up to be Director. I started off, as I stated, clerk. I became the Interim Director of Elections at the end of the 2006 election and served in the capacity of interim until I was appointed
2011 to Chief Registrar, and then I left there in the -- in the 2016 elections and came over to Athens-Clarke County to serve in the capacity that I currently serve in.

Q So it’s fair to say that you’ve been through a number of presidential elections and that you have experience in picking out precincts and laying them out and getting them ready for voters to vote?

A Yes.

Q And you’re the one that supervised the transition to the new Dominion voting system for Athens-Clarke County, correct?

A That’s correct.

Q And when did you receive the new equipment from the State?

A We received new equipment early February. I want to think it was February 3rd.

Q Did you receive any demo equipment before then that you could test out?

A Yes. We received our demo. I believe it was early December 2019.

Q I want to point you to one of the documents in that notebook if you want to open it up and turn to page -- it’s under tab 1, and it is page -- it’s labeled ACC BOER 0146, so if you look, the numbers are on the bottom.

MR. RAFFENSPERGER: What were those numbers again?
The last 4?

MS. MCGOWAN: Sure. It’s ACC BOER 0146, and that’s under tab 1.

BY MS. MCGOWAN:

Q Have you had a chance to look at that document?

A I have.

Q Is that an email that you received?

A Actually, it’s an email that I sent to my supervisor Deborah Lonon, who is our Assistant City Manager.

Q And excuse me, you’re correct. It’s an email that you sent. And is this an accurate list of the voting equipment that Athens-Clarke County received from the State?

A Where you see ballot-marking devices, we have only received 298 of the 318, and I was told that we would receive the remaining of those units prior to the May primary, but the initial allotment was 298 ballot-marking devices, but the other items are correct.

Q Okay. So it’s listed as 318, but you’ve received about 290, but you’ll receive the rest at some point by May.

A That’s correct.

Q And the total investment that the State has spent for equipment for Athens-Clarke County shown at the bottom there is $1,039,000, correct?

A That’s correct.

Q And by the time you’ve received all the ballot-
marking devices, the State will have invested approximately
$640,000 in -- in ballot-marking devices for the county. Where
are the ballot-marking devices right now?
A They are currently stored in our voting machine
equipment room on Lexington Road.

MS. MCGOWAN: I would like to tender this as Exhibit
4.

(State’s Exhibit 4 identified.)

MR. RAFFENSPERGER: Okay.

MR. SELLS: No objection.

MR. RAFFENSPERGER: Okay. Entered.

(State’s Exhibit 4 admitted.)

BY MS. MCGOWAN:

Q In addition to the equipment that you received from
the State, did you purchase any additional equipment that is to
go with the Dominion system, specifically anything that was
designed for privacy reasons?
A Yes. We purchased 5 of the booths that are offered
by Inclusion Solutions and other things like toners and carts.
We purchased a number of things.

Q When you say booths, can you provide more of a
description to the Board of what you did purchase?
A Well, it was -- similar -- well, it was exactly the
booth that was shown in one of the exhibits earlier, and if
I’ll just kind of describe what it is, it’s a booth that allows
us to use two ballot-marking devices to meet back-to-back of each other. And I simply invested in those because I knew that we had space issues in our office -- didn’t purchase any more than what we needed in our office, but that was one of the third-party vendors that we used.

Q I’m showing you two pictures from Athens-Clarke County. Is that -- do those photographs show the booths that you’re using?

A Yes.

MR. SELLS: Can we get a copy of those pictures please?

THE WITNESS: Exhibit 0119 and 0118.

MS. MCGOWAN: Those are the SEB documents we gave you. I’d like to tender those two photographs as Exhibit 5.

(State’s Exhibit 5 identified.)

MR. SELLS: I want to object because Mr. Germany just previously made a representation that none of them were Athens-Clarke County in any of the photos, and we didn’t object to the admission of the photographs on that basis. And I believe I just heard her testify that they are Athens-Clarke County, so we’ve got an inconsistency in testimony here, and I should be able to rely on Mr. Germany’s representation.

MR. GERMANY: None of the photographs we were
discussing earlier were Athens-Clarke County, the ones I was referring to. These are Athens-Clarke County.

MR. SELLS: But they admitted all of them.

MR. GERMANY: I just admitted the ones that I showed you.

MR. RAFFENSPERGER: These were not admitted. These are new ones to be admitted.

MR. SELLS: All right.

MR. RAFFENSPERGER: They’re entered.

(State’s Exhibit 5 admitted.)

MS. MCGOWAN: Thank you.

BY MS. MCGOWAN:

Q Did you also order paper ballots to prepare for the presidential preference primary?

A Yes.

Q And when were those ordered?

A We ordered ballots for our absentee voters -- in fact, I ordered three sets of orders. My first order were [sic] for absentee, and those were placed early January. I made a second order for emergency ballots, and I used the rule that is highlighted in state law, 10%, and then when I had an idea that we may be going on paper, I ordered the additional. So I have a little over 100% of the paper ballots to match the number of voters that we have in Athens-Clarke County.

Q And when did you make that last purchase when you
expected that you might have to move to all paper?

A    It was sometime in February, mid-February.

Q    Was it before the Board voted on March 3rd?

A    Yes.

Q    And just to clarify, I believe you said that you purchased enough to cover 100% of the electors on your elector list.

A    I actually did more than 100%.

Q    Never hurts to have extra paper.

A    Yeah.

Q    Did you receive training from the Secretary of State’s Office in your preparation for rolling out the new Dominion system?

A    I attended one training class, going to be the equivalent of the first training class, only for a short period. I had so many Open Records Requests and just chose to go back to the office and my staff. They would only allow, I think, three people in the room per county because of the size of the room, of course, and I just happened to be number four and saw that I needed to be in the office for other things.

Q    But members of your staff did attend?

A    Very much. Yes.

Q    And as part of the training that either you or your staff received, did any of that pertain to voter privacy issues when voting with those ballot-marking devices and the touch
screens?

A  Not specifically privacy, but we were trained on how
to use the system and how to train our poll workers to prepare
for Election Day.

Q  Did you hear Mr. Harvey’s testimony earlier when he
talked about conference calls that he had had? Did you have an
opportunity to be on any of those conference calls?

A  Yes, and not all of them, but most I did, and those
that I didn’t, I was able to view them on our Firefly Buzz
blog. I was able to view them there.

Q  And we looked at some examples of layouts that the
Secretary of State’s Office provided with respect to voter
privacy. Did you have a -- did you receive those or have an
opportunity to review those?

A  Yes, I did.

Q  And if you’ll turn in your notebook to -- back to tab
1, ACC BOER 0232 and 0233.

A  Okay.

Q  Had you seen those diagrams before?

A  Yes.

Q  And are these diagrams that the Secretary of State’s
Office provided, either through Firefly or another way?

A  Yes.

MS. MCGOWAN: I’d like to tender documents ACC BOER
0232 and 0233 as Exhibit 6.
(State’s Exhibit 6 identified.)

MR. SELLS: No objection.

(State’s Exhibit 6 admitted.)

BY MS. MCGOWAN:

Q As the Director, do you consider yourself familiar with Athens-Clarke County’s polling locations?

A Yes.

Q And did you develop a plan for polling location layouts that would protect voter privacy as voters are using the touch screens?

A Yes, I did.

Q Can you describe that plan please?

A Yes. So what I had is my staff had some area managers who visited our locations and based on the drawings that I received with the stats of the room, the size of the room, and how the room was laid out, I took these two layouts and made a decision which particular layout would work at each location based on how the DOE BMDs are turned.

Q And did you present this plan to the Athens-Clarke County Board of Elections on March 3rd?

A I did. These two, the exhibit 0232 and 0233.

Q Do you want to flip over towards the beginning to ACC BOER starting at 0078 through 0081? Is this the presentation or part of the presentation that you gave to the Board of Elections on March 3rd?
Yes, it is.

If you’ll turn to page 80, can you explain down below where it says layout number 1 and you have some precincts listed there -- can you explain what that indicated?

Yes. So based on the sizes of our polling locations, I made indication which poll locations would this particular layout work for, and to be specific, this layout would work for locations that have space issues.

And you’ve visited all of these locations?

I did when I first came to Athens-Clark County.

And is it still your opinion that -- that this particular layout would work for those precincts?

Not specifically. So what I was trying to show in this diagram is the way the units would be turned, not specifically how many tables, that the poll pad check-in would be in the middle, that I would have two lines going in those two directions. And I did explain that to the Board on the day of the meeting.

So your plan was that these -- in these particular precincts, the booths would be turned towards the wall?

That’s correct.

And then turning over to the next page, 81, layout number 2, the same thing. You have the particular -- you have precincts listed in layout number 2. Are these precincts that have larger space?
A Yes.

Q And your expectation was for those precincts that the booths would be positioned the way that they’re shown in this diagram?

A Right.

Q Did you express to the Board at the March 3rd meeting that you were confident that voter privacy could be achieved using either layout number 1 or layout number 2 for each of Athens-Clarke County’s polling locations?

A Yes, I did.

Q And are you confident that these particular layouts will work for all of the spaces, still being compliant with the number of booths that you need to provide?

A Yes.

Q If you could turn to page 79, what are these photographs?

A So this photograph is the first day of advance voting in Athens-Clarke County. It was taken inside of our office located on Washington Street. And it is a setup of 8 units, one being for our ATI system for our voters with disabilities, but this was the layout that we had on the first day of advance voting.

Q And where is this location?

A On Washington Street, 155 Washington Street.

Q This is the first advance voting location that opened
up --

A Yes.

Q -- right?

A The first and only.

Q There will be additional early voting locations opening up next week, right?

A That’s correct. Mmm–hmm.

Q And this won’t be used on Election Day, this location?

A No, not at all.

Q And it’s a rather small space, right?

A Yes, it is.

Q Were these curtains up that day, the first day of advance voting?

A Yes.

Q And was that done to protect voter privacy?

A Yes.

MS. MCGOWAN: I would like to tender documents ACC BOER 0078 through 0081 as the next Exhibit.

(State’s Exhibit 7 identified.)

MR. SELLS: No objection. They may be in the record in some other form, but no objection.

MR RAFFENSPERGER: Okay. They’re in.

(State’s Exhibit 7 admitted.)

BY MS. MCGOWAN:
Q Have you any of the members of the Athens-Clarke County Board of Elections visited any of the precinct locations with you?

A With me? Our former Chairman had visited with me when there was a late opening at J.J. Harris and that was in the 2018 election, but I believe that’s the only location that I’ve had one of the Board members visit with me.

Q No visits for this upcoming presidential primary?

A No.

Q If you could next please turn to ACC BOER starting at page 22 and then going to page 50, could you please identify what these documents are?

A Yes. These are documents that I received this week from one of my area managers, Lanie Lessard, and these are layouts that provides dimensions of rooms. It has specifically how -- the preliminary of how we would lay out each polling location. It shows our ballot-marking devices, our wheelchair so our disability marking, as well as our magnifiers, our poll checkers, our ballot box, but for every single location that we have for Election Day in Athens-Clarke County.

Q Down at the bottom on each of these pages for each precinct layout, it has a date of March 1st. Is that when these were completed?

A I believe so. I didn’t receive them until this week, but, yes, I would imagine that it was because it’s dated.
Q   But did you know these were in process?
A   I knew that they were in process to be given to our
    poll managers on how to set up the polling locations, but I
    wasn’t sure how far we had gotten with them. It’s used in a
    program that she has from a previous career, and so I was
    grateful, thankful to be able to have that resource in my
    office.
Q   Would it be fair to say that at the time of the March
    3rd meeting that you knew these sketches were being done, you
    just didn’t have them at the time?
A   That’s correct.
Q   And did you advise the Board at the March 3rd meeting
    that -- that these precinct layout sketches were being done?
A   I didn’t. I didn’t know how far we were in it, and I
    wanted to be inclusive in knowing what I had done and what was
    available, so I didn’t know for sure, and I didn’t mention it.
    I just knew that between now and election day, there’s a lot of
    things that’s going to come up and going to happen, going to be
    in place before election day rolls out.
Q   And these don’t change the privacy plan that you had
    done up and presented to the Board on March 3rd?
A   Could you repeat that?
Q   You felt confident at March 3rd when you did your
    privacy plan that you presented to the Board that you had the
    information you needed to -- to put a workable plan in place.
Q  When the Board voted on March 3rd to switch to hand-marked paper ballots, early voting had already been going on for, what, a day and a half or two full days?
A  By the vote, it’s two days, two full days.
Q  So how many electors had already voted on those two days on the ballot-marking devices?
A  About 500.
Q  Did the Board have any discussion with you about what to do about the voters who already voted on the BMDs?
A  That was my question after the vote, and I was told that they would still be counted.
Q  Of the voters, of the about 500 who voted early on the BMDs, are you aware of any complaints about privacy issues?
A  Prior to...
Q  No. I’m talking about specifically for the voters who already had voted on March 2nd or 3rd at the early location. Do you have any complaints from them on voter privacy?
A  I didn’t receive any complaints from any voters. No.
Q  Have you received any guidance, whether written or in a telephone conversation, from the Secretary of State’s Office about when it’s permissible for the County to use paper ballots?
A  Yes. Through my years of experience, of course,
paper ballots has [sic] always been the emergency plan. Prior
to the ballot-marking devices, it was also the plan with the
DREs, and I knew from searching the code, the statute -- I call
it my work Bible -- that that was permissible, and it is
something that has been stated through the whole process of
implementing the BMDs.

Q  If you could turn to page ACC BOER 176 and 177
A  Okay.

Q  Does this look familiar to you?
A  Yes.

Q  Okay. Did you receive the Secure the Vote handbook,
manual?
A  I did. Mmm-hmm.

Q  On page 177, it talks about using emergency paper
ballots, and if you could look at the second sentence, it talks
about events that are considered emergencies are power outages,
malfunctions causing a sufficient number of electronic ballot
markers to be unavailable for use, or waiting times longer than
30 minutes. Was that your understanding of what constitutes an
emergency?
A  Yes.

Q  Did any of those circumstances occur on March 2nd or
3rd in the early voting location?
A  No, they did not.

Q  Are you having to train your poll workers in any
different way now that you’ve moved to -- now that the County
has decided to move to hand-marked paper ballots?

A Yes, we will have to.

Q And what do you anticipate that will entail?

A Well, we’ve already planned to meet with all of our
managers and to give them a walkthrough of the same process
that we’re using with advance voting, how we converted from
BMDs to hand-marked ballots, and so that would mean, of course,
incorporating a secrecy folder. They would have a totally
different set of equipment, per say. Rather than ballot-
marking devices, they would receive more paper ballots than
planned, which was the 10% plus the provisional ballots. So
that would be a change in training, as well as delivery.
They’ll have more ballot pens, of course, then we would
initially send, which was two. I’m thinking that’s about it,
and probably how to set up their polling location, as far as
assigning their poll workers. You won’t have as many poll
workers roaming to make sure that the traffic of the ballot
that’s printed from the printer with using the ballot-marking
device. You wouldn’t need as many poll workers tending to the
ballot from that process, so we would have to at least bring
our managers back in, so they are aware of the process and be
able to script the process with their other workers.

MS. MCGOWAN: I have no further questions. Although,
I’d like to tender documents 176 and 177 as the next
exhibit.

(State’s Exhibit 8 identified.)

MR. SELLS: No objection.

MR. RAFFENSPERGER: Okay. Entered.

(State’s Exhibit 8 admitted.)

MS. MCGOWAN: Thank you.

CROSS-EXAMINATION

BY MR. MITCHELL:

Q Before we get into the, kind of, the meatier testimony, I would like to clarify a couple of things. Have you been to all the precinct locations since the BMDs were delivered in early February?

A I have not. I’ve been to -- I know one in particular I have gone to, and it was where one of the area managers mentioned the difficulty of getting into one of the locations because of the flooring that’s going to be done to it, so I went over to give a little bit of my direction as far as what would work, but that’s it.

Q Have you relied on others to do the inspections and measurements and all that?

A Yes.

Q And who were the folks that you relied on for those items?

A So initially, it was the Secretary of State’s Office surveyor who went out to the polling locations with our area
managers. And that’s Lisa McGlaum, who is one of our elections
assistants, Lanie Lessard, who is one of our area managers, and
both these individuals are part of my staff and previously
worked as poll managers. And then we had our Athens-Clarke
County inspector, one of our facility directors, had gone with
us.

Q Now, the booths from Inclusion Solution, have you
bought any other booths from any other locations?
A I have not.

Q You’re not going to use those in the poll -- in the
Election Day precinct locations, are you?
A No, sir.

Q Great. Among the other equipment that you purchased,
any other curtains or anything like that?
A So the Inclusion Solutions booth for an additional
price came with curtains, and that’s what I received. And I
chose not to use the curtains.

Q And you haven’t bought any other curtains or those
other things that we saw in the photographs this morning?
A I have not.

Q Now, the -- with regard to -- you also have to comply
with the law, correct?
A Yes, sir.

Q Right. And from your experience, you’re familiar
with what the requirements are?
Q Now, with regard to locations, even when there is going to be hand-marked paper ballots used, you still have the optical scanner there?
A That’s correct.
Q Right. And there’s still going to be a BMD there for the prepared location, is that correct?
A Yes. That’s correct.
Q All right. Now, let’s go back to when you first learned about the change in the voting requirements. When did you first become aware of the new machines that were going to be used?
A So my first, we’ll say, introduction to the vote system was in 2017 when I was attending a conference, a federal conference in California, and I had a chance to see the other vote systems. I didn’t know particularly the vote system of Dominion, but I was very familiar with the system from our current -- what we used at the time 2017, who our vendor was then, which was ES&S.
Q When did you become familiar with or knowledgeable about the fact that you were moving to Dominion?
A So in August when the announcement was made that --
Q Okay. What year?
A August 2019.
Q Okay.
When we found out that Dominion had been the vendor of choice, I was in a conference in Florida, at another federal conference, and I was able to spend some time with Dominion because I had not spent time with them or learned anything about their system because of my involvement in our local conference. I serve as one of the officers, of course. And so my job during the conference is managing, you know, the flow of the conference, so I didn’t really get to spend a lot of time with this particular vendor. But when I went to Florida and found out that we were going to be using the Dominion product, it was my job while I was there, noticing that they were there, to get familiar with them.

Did they have them set up on tables with the privacy screens like you’ve got them set up or are going to set them up here?

They had it set up on this really nice blue booth that we are hoping to get a sample of and be able to implement maybe, but we did get to see -- I did. I got to see the ballot-marking device set up inside that booth.

That’s not what y’all are using here?

No, it’s not.

All right. Now, if you would, take a look at -- looking at notebook’s Exhibit 36, which is ACC BOER 0181. It’s going to be in the file ACC BOER exhibits. If you will take a look at the third page of that document and the fourth block
from the bottom, what is the question that is part of this?
First of all, can you identify this document?
   (Respondent’s Exhibit 36 identified.)
   A Yes. So this is a conference call, a region
   conference call Q&A, that was conducted on January the 10th,
   2020.
   Q Okay. And is this -- when you say it’s a conference
   call, what is the document? Is this a document that you have
   for one of those conference calls?
   A It is.
   Q And how do you get access to this document?
   A I can access this on Firefly, which is the system
   that Mr. Harvey related to earlier.
   Q All right. Now, when the -- with regard to -- when
   this question -- when this conference was held, had they given
   you the privacy screens yet?
   A No, we had not received them.
   Q Now, in addition to the privacy screens were there
   other concerns that were expressed on any of these conference
   calls?
   A As it relates to privacy?
   Q Yes.
   A No. Not other than this that I recall.
   Q Was there ever any discussion on the -- were you in
   the room this morning when Mr. Harvey was testifying?
A I was.

Q Do you ever recall any conversation about blackout screens or anything like that?

A Yes.

Q All right. And was -- did the Secretary of State indicate that they were going to provide anything like that for these devices?

A They didn’t indicate that they were going to provide it. My thought was that they would give us direction on whether we could use them or not. I understand, you know, that through the years, certain things related to the equipment has to be certified, and so I wanted to wait and get directions as to whether they could be used or not.

MR. GERMANY: I just wanted to ask. When you’re talking about blackout screens, are you talking about, kind of, a film that goes over?

MR. MITCHELL: Yes.

MR. GERMANY: Okay. I just wanted to make sure.

BY MR MITCHELL:

Q Now, turn over to exhibit -- what in that book is exhibit 23, and it’s ACC BOER 146. We’ve already got that one done. Go back to 21. That’s ACC BOER 143. Can you identify this document for me?

A Yes. This is an email thread between Lisa McGlaun, my elections assistant and I, and we’re talking about -- well,
actually, there’s a draft of an email where we’re talking about the space issues and challenges that we have at certain locations in Athens-Clarke County.

Q And what is the date of that email?

A January 23rd.

Q Do you know whether or not whether any of your staff had done the measurements of any of these locations at that time?

A I don’t believe we had done measurements by this time.

Q So even without the measurements being done, there were some locations you were concerned about space?

A Yes.

Q And was that in light of the fact that you had seen the size of the demo models of the BMDs?

A Yes. And I had concerns about space, particularly in one of these locations, which is our transit, initially when I first got here. I knew that was going to be an issue even with our DREs, but after the BMDs, yes. That number grew.

Q Okay. The number of locations that you were concerned about grew?

A Yes.


(Respondent’s Exhibit 21 identified.)
MS. MCGOWAN: No objection.

MR. RAFFENSPERGER: Entered.

(Respondent’s Exhibit 21 admitted.)

BY MR. MITCHELL:

Q  Turn over -- turn back to exhibit 4 in the notebook.

Can you identify Defendant’s Exhibit 4?

(Respondent’s Exhibit 4 identified.)

A  Yes. This is an email sent from our ACC Board Chair, Chairman Jesse Evans, and it is an email of him asking for information related to the description of the Cobb County pilot program and request of the list of equipment that we would need to carry out the program and inventory of the items and the plan to carry it out.

Q  And what’s the date of this email?

A  January 23rd.

Q  Right. Go to what in the notebook is marked as Exhibit 8, which is ACC BOER 0014. Can you identify --

MR. MITCHELL: I would tender Defendant’s Exhibit 4.

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 4 admitted.)

BY MR. MITCHELL:

Q  Can you identify Defendant’s Exhibit 8?

(Respondent’s Exhibit 8 identified)

A  Yes. It’s an email from Chairman Evans and copied with the other Board members and members of the staff of the
1 elections office. And it’s an email that recalls the vote from
2 the February 4th meeting to implement the -- well, it talks
3 about the un-merging process that I had brought before the
4 Board, first of all.
5
6 Q Explain what that is.
7
8 A Okay. So we have about four precincts that had been
9 merged with other precincts and that came about in, starting
10 probably 2014. And in several situations, it was because of
11 the location that some of the voters were assigned to was being
12 remodeled and so, rather than sending them to another location,
13 they were joined with a location or a precinct that was
14 attached to it nearby, and then it was merged.
15
16 So I had brought before the Board at the January meeting a
17 potential or a recommendation to un-merge those precincts, so
18 this right here is what Mr. Evans is referring to and stating
19 that we should include in the discussion for the next meeting,
20 for the special called meeting, the electrical capacity of our
21 locations, to discuss the delivery plan, and getting an update
22 on the polling locations for the May presidential preference
23 primary, the voter privacy issues with the BMDs, the turnout
24 for the election as well as how many voters, absentee voters,
25 advance voters, election day voters that we are projecting for
26 this election. It talks about the 2018 Winterville Train Depot
27 voting machines that have been quarantined, and it -- an
28 update, to include an update about an SEB case from 2018.
Q    All right. But the un-merging of the polling
locations, was space a problem? Was that the -- was that one
of the limitations? Was that why you wanted to do it?
A    Well, it had a lot to do with the 2018 voter turnouts
and the lines that we had in 2018. And we realized that there
was a lot of long lines at our merged precincts, so this will
be a good time to, I guess, discuss un-merging those precincts
so we wouldn’t have the long lines that we had in 2018.
Q    That’s not going to happen for the March 24th one?
A    Right.

MR. MITCHELL: I would tender Exhibit Number 8.

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 8 admitted.)

BY MR. MITCHELL:

Q    Turn over one exhibit to Exhibit Number 9, ACC BOER
0017. Can you identify this email for me?

(Respondent’s Exhibit 9 identified.)

A    Yes. This is an email from Chairman Evans discussing
the issue of lack of ballot privacy.
Q    What’s the date?
A    The date is January 30th, 2020 -- and that the screen
allows people to see from a distance.
Q    I would point your attention -- direct your attention to
the next-to-last paragraph that begins, “what methods.”
A    Yes. Yes, so what methods do we plan to use in
Athens-Clarke County to address the issue with privacy and secrecy of the ballot? The statement that I had mentioned possibly placing an order for equipment that will allow us to physically protect the secrecy of the ballots and that I should mail -- email a description of those options to the Board and include images of the equipment and resources that we plan to use.

Q Is it fair to say that your plan ultimately was and what you presented to the Board was the use of the layouts provided by the Secretary of State’s Office?

A Yes. Partly. Yes.

MR. MITCHELL: All right. I’ll tender Exhibit Number 9.

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 9 admitted.)

BY MR. MITCHELL:

Q Turn over to Exhibit Number 10. Can you identify -- this is ACC BOER 0019. Can you identify this document for me?

(Respondent’s Exhibit 10 identified.)

A Yes. This is an email thread between Chris Harvey and I. On February 12th, I sent an email to Chris stating how creative my staff had been with trying to come up with a solution to privacy and what we had considered was lying the ballot-marking devices down flat on the table to address the privacy issue. And Chris, of course, responded and said he
didn’t think that would be a good idea, and I can see -- I understand. And he -- I mention Carol Heard from Decatur County, the way she had turned her ballot-marking devices around, the backs of them, and that addressed immediately what -- the privacy issue. And then Chris mentioned something about some floor plans that would be coming, and I told him I would be looking forward to receiving those.

Q    And at that point in time, you didn’t have any floor plans?

A    I did not.

Q    But you’ve got them now?

A    Yes.

Q    Okay. And going back to the curtain issue, why did you choose not to use any kind of curtains or drapes or what-have-you?

A    If I’m going to be honest, the color. I try to stay away from red and blue. I’m sorry, but I do. And then I knew that curtains was [sic] not going to allow us as poll workers or our poll workers to observe the use of the equipment. Tampering, taking photo shots of ballots, that needs to be observed by our workers, and so I did not want to create that atmosphere.

Q    Y’all have issues with those kind of things in Athens-Clarke County before?

A    Yes, I have.
MR. MITCHELL: I would tender Exhibit Number 10.

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 10 admitted.)

BY MR. MITCHELL:

Q Go to -- flip over in that book to Exhibit Number 28. It’s ACC BOER 0155. Can you identify this document for me?

(Respondent’s Exhibit 28 identified.)

A Yes. So this document is what I create and call my election prep, and prior to every election, I create this kind of layout. It works, and it’s very useful, so...

Q Let’s walk through just -- let’s just walk through Winterville and walk the floor and cross back so you can -- so they’re clear exactly what data is in those. I think it’s self-explanatory, but let’s -- in case there are questions, explain what that data is.

A Okay. So for Winterville, there’s 2,727 voters. I figure 65% of our voters will vote, so I, based on that number -- how many poll workers, how many poll pads, ballot-marking devices, and access cards will be used at these polling locations.

Q Okay. Do you base your setup and the amount of resources that you assign to a particular location based on the active voters or on that 65%?

A Active voters.

Q Okay. And what are the sites at the bottom? What
are those?
A So those are our advance voting locations and what is allotted to those locations.
Q All right. There’s three that have blanks across the rows. Why are those blank?
A Those are three locations that we’re not using for the presidential preference primary, but we will use them throughout the year, and I just have them there for reference.
Q Placeholders?
A Yes.
MR. MITCHELL: All right. I’d tender Exhibit Number 28.
MS. MCGOWAN: No objection.
(Respondent’s Exhibit 28 admitted.)

BY MR. MITCHELL:
Q When did you create this document?
A Probably early January, but I change it often, and my staff can support that.
Q So it’s a working document?
A Yes, it is.
Q Do you know sitting here today whether the one that we’re looking at is the most recent iteration?
A Yes, it is.
Q And there’s a date on it, 2/27. Is that when this particular iteration was...
A. Yes. It was when it was revised.

Q. Is that revision date -- is that something that automatically gets applied to this document when you print it out or when you save it?

A. Yes. Well, I automatically do it myself when I save it.

Q. Come over to -- in the -- go over to Exhibit Number 17. It’s a bulk exhibit. It’s ACC BOER 0093 through 0128. If Mr. -- if you would put out pages 0105 and 0107. This bulk exhibit is a bunch of pages. What is this bulk exhibit? What are these?

(Respondent’s Exhibit 17 identified.)

A. These are sketches that I received prior to our board meeting.

Q. Prior to which board meeting?

A. March 3rd.

Q. Okay. Do you know when you got these sketches?

A. For a period of weeks in February.

Q. Is this all you had prior to the March 3rd meeting?

A. Yes. In fact, I didn’t have as many as here. I had, I think, about 20 of them.

Q. Okay. So you had about 20. Some of these you’ve gotten even since the March 3rd --

A. Yes.

Q. -- meeting. Okay. And would you characterize these
as scale drawings?

A Yes. These are just scale drawings, and it has dimensions of our locations, each location.

Q Let me ask a better question.

A Okay.

Q Are these what you are going to provide to your poll managers?

A No, sir.

Q Okay. These don’t show setups, do they?

A Some of them, they do, but not as well as the others that were presented earlier.

MR. MITCHELL: All right. I would tender Exhibit Number 17.

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 17 admitted.)

BY MR. MITCHELL:

Q Do you know who did those sketches?

A Lanie Lessard did some. China Blake, one of our other election clerks in the office, did some of them.

And I believe that’s it.

Q Were you out on any of the sites when they did these?

A Well, I was in the early voting site. I was when China did the one in the office.

Q All right. If you would, go to Exhibit Number 12. I think opposing counsel entered into evidence the last couple
pages of this, which -- but the document itself, the full
exhibit which starts at ACC BOER 0051, what is that document?
(Respondent’s Exhibit 12 identified.)
A This is the document that was provided to the Board
at the date of the last meeting, March the 3rd, and it was the
document used for their voting meeting to determine the un-
merging of the precincts and where I, at the end, provided the
plan for the layouts of our polling locations.
Q Okay. So the documents that she showed you earlier,
those required a longer PowerPoint presented to the Board that
night?
A Yes.
Q There were other concerns they were dealing with that
night?
A Yes.
MR. MITCHELL: And the -- I would tender the entirety
of Exhibit Number 12.
MS. MCGOWAN: No objection.
(Respondent’s Exhibit 12 admitted.)
BY MR. MITCHELL:
Q Did you create this document?
A I did.
Q Is there an actual time stamp or Bates stamp on it?
Do you know when you finalized this before you presented it to
them that night?
A I finalized it Friday prior and got it -- starting getting it copied and ready for display and -- but it’s dated March the 3rd.

Q Okay. And this morning, when Mr. Harvey was talking to us, you were here then, correct?

A That is correct.

Q Okay. And the layout -- the document they had sent out from the Secretary of State’s Office had another sketch that was called ineffective or something. Do you remember which one I’m talking about?

A Yes, I do.

Q Did you -- did you ever provide that one to the Board?

A I did not.

Q Take a look at -- I want to look at Exhibit Number 11. It starts at ACC BOER 0021, but I want to turn over to ACC BOER 0030, which is about 8 pages in. I think we actually put two emails together in this one. What is the date of the email received that’s in Exhibit Number 11 but is ACC BOER 0030?

   (Respondent’s Exhibit 11 identified.)


Q All right. What is -- who is this email from?

A It’s from Lanie Lessard.

Q Is she the lady you referred to earlier that had interior design experience and, you know, the program that she
uses?
A Yes.
Q All right. And if you’ll take a look at the sentence itself, is that actually the program that she uses?
A Chief Architect. Mmm-hmm.
Q Okay. And is that kind of, like, a CAD program or something?
A I’m not sure.
Q I’ve exhausted my technology knowledge with that question. Now, behind this email, what are the documents behind this email?
A Behind the email are the layouts for -- looks like all 20 of our election day polling locations.
Q Okay. Now, the advance voting sites are not in this one, correct?
A They’re not.
Q All right. Are there scale drawings of the advance sites as well?
A There isn’t, though some of these -- in fact, at least one is an advance voting location, but it would be set up differently.
Q And the same requirements don’t apply to advance voting locations, do they?
A It doesn’t.
Q Okay. Now, have you seen -- has Ms. Lessard done
these types of things for you before with other...

A Not for me she hasn’t.

Q No? Okay. So this is the only -- this is the first
election where you’ve had her do these type of scale drawings.

A That’s correct.

Q And why is that?

A Well, the system changed.

Q When you say system changed, what do you mean?

A The ballot-marking devices were being used. First,
it’s the DREs. There were drawings prior to these, not done by
Lanie Lessard, but there were, you know, drawings done that
were more specific for the DREs.

Q Were they scale or were they more hand-drawn?

A I just only glanced at them when I was going through
some files when I first come [sic] to Athens-Clarke County, so
I can’t remember specifically, but I want to think they were
done pretty professionally.

Q Okay. Now, let’s just take a look at -- I’m going to
walk through some of these with Ms. Lessard, but let’s take a
look at ACC BOER 0031.

A Okay.

Q Can we get them up on the screen? Can you reorient
that? Can you turn it clockwise four times because that’s how
it is in the books? Can you blow up the top third of it? What
precinct location is this?
A  This is our Winterville Train Depot precinct.
Q  Okay. And as you understand these drawings, the
little boxes are the voting booths, correct?
A  That’s correct.
Q  And there’s kind of a little above view of -- is that
supposed to be a person or a voter?
A  Yes, head and shoulders.
Q  Okay. And so, the -- and where the voter is standing
is where they’re going to stand to vote, at least on this
illustration, correct?
A  That’s correct.
Q  The -- the way that the booths are set up, there’s
two with -- at the top of this particular location. Is that
consistent with the Secretary of State’s sketches?
A  As it relates to how the booths are turned, it is,
but not specifically what was provided by the State because the
poll pads are sitting in the middle of the room for one. And
then those sketches that the Secretary of State’s Office
provided did not have a review area, a ballot box, magnifiers,
manager’s table, indication of where our voter with
disabilities would be stationed, as well as our provisional
table.
Q  Would you back out of the entire document for me? If
the people are coming in, can they not see directly into those
two booths at the top, at the top of this page?
A They cannot.
Q If they’re standing there waiting to vote right inside this enclosed location, standing right here?
A Show me again.
Q If there’s someone standing right there just as they come into the enclosed location, standing right there waiting to vote --
A No, they wouldn’t be able to.
Q -- wouldn’t they be able to see those --
A No.
Q Are you going to have curtains around that particular booth?
A No.
Q How would they not be able to see? Let me ask the question this way. For that particular configuration, didn’t the Secretary of State’s sketch show that it should be moved away from the wall and the ballot-marking device turned toward the wall?
A Yes, so they would face the wall. No. They wouldn’t be able to see from there.
Q And if that particular set of booths had to be moved out away from the wall, would that be compliant with the Secretary of State’s guidelines?
A Yes.
Q How far away from the wall do they have to be moved?
Do you know?
A  I’m not sure.
Q  Would that be a question for Ms. Lessard?
A  Yeah. It could be. And can I just add too in
training, in poll worker training, our poll workers are told to
control the crowd, so you limit what you have inside the room,
your lines. You have to control the crowd. You have to
control the process of it. You don’t want voters crossing one
another, and one going in to vote, one coming out to vote. So
at this particular precinct, only the voters that are assigned
to cards would be in that area, so they would not be lined up
per say waiting on a ballot-marking device.
Q  Okay. Fair enough. Now, if I -- and as I understand
it, there are 6 precincts that are a particular concern with
the size, is that correct?
A  That’s correct.
Q  Winterville is one of them --
A  Yes.
Q  -- which is 1A, correct? Another one is the Clarke
Central Gym lobby, correct?
A  I’m not sure. Maybe Lanie will be able to -- Clarke
Central...
Q  That’s on page 0035. Is that more of a question for
her?
A  Yeah, but I can kind of look at this and tell. I
believe it is going to be a challenge for us, but I think it will be managed well because of -- again, as I stated, your line -- we wouldn’t form a line inside the room. You would do as much as possible to have that line form outside the room.

Q Is Athens Transit also one of your small problem locations?

A It is.

Q That’s at 0037.

A Mmm-hmm. It is.

Q That’s 4A. And then the 3 fire stations are also small, tight?

A That’s correct.

Q And those are Oglethorpe Road -- I’m sorry, Oglethorpe Avenue, which is 6D, which is at 0045?

A Mmm-hmm.

Q Five Points Fire Station, which is 7C, which is at 0047?

A Mmm-hmm. Right.

Q And Barnett Shoals, which is 8C, which is at 0050?

A That’s correct. Mmm-hmm.

MR. MITCHELL: I would tender Exhibit Number 11.

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 11 admitted.)

BY MR. MITCHELL:

Q Do you know whether these are the final drawings?
A They are not final.
Q And when are they going to be final?
A They’ll be final the night before the election, and if not, it’ll be sometime next week when we will actually meet with our managers and show them the layouts and just like it was for us with advance voting, we had an idea on Saturday how they would be positioned. And when you put people in place and your voters in place, you have to change it up.
Q Let’s talk about the advance voting location. How -- you’ve only got one, correct, right now?
A Yes.
Q You open up some others on Monday?
A Yes.
Q And how many ballot-marking devices did you intend to put in at that advance location?
A I intended to put 10.
Q And is that why you bought the 5 booths?
A Yes.
Q And what was -- how long did you all -- before you actually put on hands on it and began putting stuff up, how long did y’all spend thinking about it?
A Gosh. We’ve been thinking about this since January, from the point of one ballot-marking device being placed in our office to make some determination of how much space will be used for it, and then shortly after that, we received the
booths from Inclusion Solutions and was [sic] able to put that
ballot-marking device in side of that booth. And so we’ve been
playing around being very creative with the space that we have
trying to determine how they will fit and what’s the best
solution for privacy.

Q And so you’ve been thinking about the advance voting
location for weeks, essentially?

A Yes, sir.

Q And when you all actually went and set it up, was it
that Friday before?

A Yes.

Q How long did y’all spend trying to get set up?

A So when I left the office on Friday, the equipment
was already positioned in our office, and there was a group
that stayed about 3 or 4 hours after 5 o’clock positioning our
units. And then on Saturday, some of our workers were there
bringing in resources from their -- we have an event planner in
our office, so backdrops. They spent probably about 8 hours
trying to provide privacy.

Q So 5 hours on Friday and 8 hours on Saturday?

A Probably about 6 hours on Saturday.

Q And how many BMDS did you all wind up being able to
get in that location?

A 8.

Q If you’ll turn to ACC BOER 092, which is Exhibit 16.
I think it’s already in the record, but you can take a look at it there. I’m not going to tender it again. Is that a photograph?

(Respondent’s Exhibit 16 identified.)

A Yes, it is.

Q Was that taken -- do you know when that photograph was taken?

A It was taken Monday morning, and I’m not sure what time, but I thought it would be a good idea to have it.

Q Right. Turn, if you would, to Defendant’s Exhibit 38, which is ACC BOER 0377. The Board has probably figured this out, but we’ve marked the individual exhibits, but they’re in Bates number order, even though that’s not necessarily the logical order. Can you identify this document for me?

(Respondent’s Exhibit 38 identified.)

A Yes. This is a polling station inspection report provided by the Secretary of State’s Office, and it was used to survey our locations.

Q Is it still in use now? Is this the same setup list you use now?

A I believe it is.

Q Would you blow up on the monitor, I guess, the last three rows? Would you read the next-to-last block for us?

A In precincts in which optical-scan voting systems were used, what’s the --
Q. No. I’m sorry. I misdirected you. In the next-to-last block which starts were the voting compartments.

A. Were the voting compartments, voting machine, or DRE units arranged in the voting room in a manner to allow monitoring by poll officials and to permit the public to observe the voting without affecting the privacy of the electors while voting in the...

Q. Is there -- would you train your poll workers to follow this checklist even though it still references the DREs?

A. Actually, who conducts this survey are my area managers, and they do this every year, but this right here is -- looks like an inspection that’s done once our voting it set up.

Q. And who will do that inspection?

A. So normally, the Secretary of State’s Office, when they send someone out, but my area managers, they also conduct the same survey on Election Day on their visits to the polling locations.

MR. MITCHELL: I would tender Defendant’s Exhibit Number 38.

MS. MCGOWAN: What’s that document -- we have no objection to them.

(Respondent’s Exhibit 38 admitted.)

MR. MITCHELL: And the next thing I want to do is get some exhibits entered. Can we just stipulate them, or do
I need to go through one by one? It’s 54-70 in our book.

(Respondent’s Exhibits 54-70 identified.)

MS. MCGOWAN: If they’re the agendas that were published, then I have no -- we can stipulate them.

MR. MASHBURN: What’s the exhibit number? I’m sorry.

MR. MITCHELL: It’s Exhibits 54-70, and what those are are the agendas, and then I’ll talk about --

MR. MASHBURN: That’s exhibit numbers, not page numbers, right?

MR. MITCHELL: Yeah, let me give you -- that’s a fair question. Let me give you the page numbers. It’s ACC BOER 0445 through 0470.

MR. MASHBURN: That’s Exhibits 54 through 70?

MR. MITCHELL: Yes.

MR. MASHBURN: Thank you.

BY MR. MITCHELL:

Q Those documents, are those the agendas for the meetings of January?

A Yes.

Q Okay. And for example, the -- if you’ll take a look at Exhibit Number 59, which is ACC BOER 0456, that’s the summary minutes, correct?

A That’s correct.

Q All right. But at the top, it’s got unapproved. Can you tell us why it’s stamped unapproved?
A So the following meeting, February 4th -- actually since December, I believe, all of the minutes are -- January, I believe. Since January 2020, all of our minutes haven’t been approved by the Board because the minutes were not provided the day of the meetings.

Q So the clerks, they’ve given the summary minutes -- they’ve done the minutes that they’re supposed to do under the Open Meetings law. They just simply haven’t been approved by the Board. Is that a fair statement?

A Well, the clerks were the ones who were taking the minutes before the Board elected officers. And when the Board elected officers, it was under the understanding that the new Secretary would begin with the minutes, and I just asked this week if the Assistant Secretary who I appointed as our administrative assistant, Lisa Perkins, I asked that she go ahead and provide some type of outline of these meetings so we would be in compliance with the open meetings act.

Q Okay. Now, if you’ll take a look at Exhibits, well --

MR. MITCHELL: I tender 54-70.

MS. MCGOWAN: No objection.

(Respondent’s Exhibits 54-70 admitted.)

BY MR. MITCHELL:

Q Okay. Take a look at Exhibit 71, if you would, ACC BOER 0474 through 0506. We’re going to talk about 72 also, but
right now I’m just talking about 71. Can you identify that
document for me?

(Respondent’s Exhibit 71 identified.)

A    I know one of these documents is one that I used at
the presentation to the Board prior to the hearings, and if my
memory serves me correctly, this one particular is the one I
introduced to the Board in the initial presentation of un-
merging the precincts.

Q    That would have been in January or the first meeting
in February, correct?

A    Yes.

Q    Okay. And then the exhibit PowerPoint that’s behind
me, tab 72, which is BOER 0507 through 0539, what is that?

(Respondent’s Exhibit 72 identified.)

A    This presentation was presented before the Board
during the hearings on February 19th and 25th, I believe, the
dates.

Q    Did you prepare both of these documents?

A    I did.

Q    And they’re maintained in your office?

A    Yes.

MR. MITCHELL: I would tender 71 and 72. Tender 71
and 72?

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 71 and 72 admitted.)
BY MR. MITCHELL:

Q Were you here when Ms. Fourchette was testifying?
A I was.

Q Do you know -- do you happen to know what location
she was talking about?
A It sounded like our elections office.

Q Give me a minute. Let me just confirm that I’ve
gotten in all the exhibits that I need to introduce for this
witness.

MR. MASHBURN: Mr. Chairman, if I could --

MR. RAFFENSPERGER: Yes, sir.

MR. MASHBURN: Just to help with this, I’ve got you
not having in 36 and 16.

THE COURT REPORTER: So do I. Same.

MR. MITCHELL: All right. I will tender Exhibits 36
and 16.

MS. MCGOWAN: No objection.

(Respondent’s Exhibits 36 and 16 admitted.)

MR. MASHBURN: I’ve got those as Athens 16 and 17. Is
that how you have them?

MR. MITCHELL: Yes.

THE COURT REPORTER: Everything else is in.

MR. MITCHELL: Thank you. Thank you, Ms. Sosebee.

MS. MCGOWAN: I have no questions. Thank you. At
this point, we have no further witnesses other than we do
have questions for Chairman Evans, but I understand that
the County intends to call him as a witness, so as long as
we have the opportunity to question that witness during
their case, then we have no further witnesses.

MR. RAFFENSPERGER: Okay. Call your first witness.

MR. MITCHELL: We call Lisa McGlaun.

THE COURT REPORTER: Do you swear or affirm the
testimony you are about to give will be the truth, the
whole truth, and nothing but the truth?

THE WITNESS: I do.

Whereupon,

LISA MCGLAUN

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MR. MITCHELL:

Q  Good afternoon.

A  Hi.

Q  Tell the Board your name, please.

A  Lisa McGlaun.

Q  All right. And would you tell them what your role
with the Board of Election and Registration is?

A  I’m the Elections Assistant, working under Director
Sosebee.

Q  And how long have you worked for the Board of
Elections?
I took the first position with the Board of Elections as an assistant poll worker -- I’m sorry, assistant poll manager at our advance voting location in April of 2018.

Q So you started out as a volunteer, how long have you been on staff?

A Well, poll workers are actually paid.

Q Okay.

A So shortly after that, I started going in because they asked me to go into the office to work as a clerk, so it was only after I’d worked advance voting one time, so in May–June timeframe, I started coming into the office.

Q And that’s May of ’18?

A Yes.

Q And tell us, if you would, what kind of training you’ve had with regard to elections?

A Since that time, I’ve enjoyed the career so much I just took advantage of every opportunity I could to learn. I finished the GROC certification. I finished the GEOC certification. I’ve attended two conferences, which would be 24 hours of state training, I believe, that would be the way it was stated. At our last conference, I had the opportunity to present, so I feel like I’ve done everything I could in the short amount of time that I’ve had to learn to learn as much as I possibly could.

Q And kind of moving to what we’re talking about today,
when did you become aware or start to work with or familiarize
yourself with the Dominion system that Georgia is moving to?

A  Okay. So at our first conference that I went to in
Jekyll Island, which was back last May of ’19, I saw the system
then, but, sort of what Charlotte said, at that time, Georgia
was -- I think, ES&S was the vendor for Georgia at that time.
So we were paying more attention to that one assuming that that
might possibly be the way that Georgia would go when they
bought equipment. So like Charlotte, I didn’t spend as much
time with Dominion, but I did see the machines at that time. I
began to pay attention to them more in September when I
received the first photo of what it would look like.

Q  And what about demonstrations? Did you handle that?
A  I did.

Q  If you would take the notebook that’s in front of you
and would take a look at Exhibit 14, which is ACC BOER 0086 and
0087.

    (Respondent’s Exhibit 14 identified.)

A  Okay.

Q  Can you identify those photos for me?
A  So Exhibit 14 is a demonstration that we did at
Athens Career Academy, which is a high school here in town. We
took the voting machines out and demonstrated them there,
presenting them to the students who would be moving up and
possibly voting on these things very soon. And what was the
other one you wanted?

Q   The one right behind it.

A   That is also at Career Academy.

Q   Are you in these photographs?

A   I am.

Q   Do they accurately depict the area where you are doing the demonstration that day?

A   They do.

MR. MITCHELL:  I would tender Defendant’s Exhibit 14.

MS. MCGOWAN:  No objection.

(Respondent’s Exhibit 14 admitted.)

BY MR. MITCHELL:

Q   Take a look, if you would, at Exhibit Number 1 in the notebook.  What were -- when you learned that the State was moving to the Dominion product, what were -- what did you do in preparation to begin to get ready for the switch?

(Respondent’s Exhibit 1A identified.)

A   Well, first, we went to training, and I learned as much about them as I possibly could.  Then, we began to talk about how the previous equipment was going to be cleared out of the warehouse, how we were going to stage the new equipment in the warehouse when we received it.  We began talking about how this was all going to work in our polling locations and what changes we would have to make, how we would train our poll workers on these.  I needed -- I and the other people who went
to training on our staff needed to be as well-versed as we could in order to pass on that information to the poll workers.

Q  What were -- what were some of the things that you needed to work with in your polling locations?

A  Well, I discovered more clearly at our conference -- I mean, this email is a little bit before our conference, but when we went to the conference in December, I discovered very clearly that electrical issues were going to be a challenge for me personally because I don’t know anything about electricity except what I learned in high school, so to map out a circuit was not something that I was familiar with. So I knew that we were going to depend on this electrical survey contractor to at least give us the guidelines that we would follow in order to correct any problems that we had.

Q  Let’s take a look at Defendant’s Exhibit Number 1. What is Defendant’s Exhibit Number 1?

A  You’re asking me what is it?

Q  Yes.

A  It’s an email that I sent to, I believe, Scott Tucker, who at the time and still is one of the representatives for Dominion that we talk to. And I guess at that time I thought that -- maybe I was still learning who all of our contacts were. I thought maybe at that time he might know something about our electrical surveys and when they would be coming out.
Q Could you move down and highlight the middle of that email? When you wrote -- when you emailed him on the 13th, what were you -- you mentioned the electricity. When you said, I thought it was everything, what did you mean by that?

A That’s actually not in front of me, and I’m having trouble reading it somewhere.

Q Can you see it?

A Not really.

Q All right. Let me --

A Oh, thank you. Did I just turn to the wrong page?

Yes, and I mean, they did inspect -- Okay. So in all fairness to Scott, it was not under Scott’s purview. He was trying to give me some additional information to lead me in the right direction, so he was actually trying to solicit information from me about what was it I was actually asking about. So my comment back to him was I thought that -- when I said I thought it was everything actually I was referring to everything including ADA compliance. I just thought he was going to come out and maybe possibly help us with the arrangement of polling locations. I really didn’t know what he was going to do. He or she.

Q So you’d begun to think about the polling location arrangement, but you weren’t aware of who was actually going to assist you with that?

A No. And I knew that this was more for electrical. I
just didn’t know what all he would be charged with doing.

Q All right. Take a look, if you would, what -- over the course of -- tell us what you did with regard to that issue, the electrical issue.

A Well, like I said, not knowing much about how this was all going to work with dealing with electricity and the equipment and what the capa -- what it would really require, I waited for him to come out. And then I planned -- he was with us for a week, going to each location with me, and Lanie went to some of them. I went to some of them. I wasn’t able to go to all of them because of other obligations that I had. We did split up the duties, and between the two of us, we were with him at every location.

Q Did they have to upgrade the electrical system in a number of the locations?

A Yes.

Q Both the government’s locations and some of the schools?

A Yes.

Q Okay. Who paid to do this work in schools?

A I don’t have that knowledge.

Q All right. Now, the -- do the -- what was the reason that had to be done? And it may be self-evident, but why -- why did you have to have upgrades?

A After learning more, just gleaning information from
the surveyor that came out and reading information that was
provided to us from Melanie Fourchette and through Chris Harvey
and the Secretary of State, learning more about how the UPS
units, the battery backups worked, and what their requirements
were going to be and listening to what he was saying because he
was not supposed to advise us about what to do. He was just
there to do the surveys. I also learned that, so I began to
listen to him very closely to what he was saying and what he
was doing. And it was an issue that there were not enough
circuits in the buildings to support the amount of machines
that were supposed to be put into the polling locations.

Q    The new circuit, the new outlets are added, correct?
A    Yes.

Q    Did they -- did you have the machines -- was that
done after February when the machines were delivered or was it
done before that?
A    This was before. This was about a week before
Christmas.

Q    And did the layouts that we’ve seen -- have you seen
the layouts from Ms. Lessard?
A    Yes. Lanie and I have gone over them.

Q    I’m sorry. What did you say?
A    Lanie and I have gone over them.

Q    Okay. Did you have those scale drawings before you
did the electrical or before they did the electrical work?
A: No.

Q: And did you have any input into where they were putting the outlets or anything like that?

A: I told them what our requirements were, and I knew that I was working within what their electricians, the school district electricians and the county electricians, felt like they could do within the space. But they were all very gracious and did exactly what we asked. They added -- I told them that we needed at least two outlets on a circuit in order to make this feasible because a lot of our locations, the problem was they had a lot of outlets, but not enough circuits. There were maybe five outlets on one circuit, and that’s useless to me when I can only plug in a certain amount of UPS’s into the circuit. So I asked them to reduce it -- reduce the amount of outlets on the circuit and when it needed something different like more outlets and more circuitry, to add that, and they did.

Q: Have you been out to the sites where circuits and outlets were added --

A: Yes.

Q: -- once it was done. Have you discovered that there are still going to be some sites that are challenges given the numbers of cords and what--have-you?

A: I’m sorry. Say that again?

Q: Have you discovered that some of the sites are still
going to be challenging because of the number of cords and the number of units?

A Well, I still have some concerns, yes, but I feel like it’s something that we can do. It just takes trying.

Q Have you -- have you looked at -- you said you’ve gone over with Ms. Lessard the most recent set of those scale drawings?

A Yes, in the time span that we had, which, you know, is not -- yes. We looked at them -- the longest amount of time together was yesterday or the day before, before we left work.

Q Can you identify whether you were going to be able to plug everything up that you’re going to need to plug up or are you going to have to move some stuff around?

A I believe we’ll be able to plug everything in.

Q Are you going to have to move anything around to do that?

A Well, her drawings are not final. And so I assume that when we get there and actually put things into the space and see how it actually looks and the flow of voters that there will be changes that will have to be made.

Q Now, the -- take a look at Exhibit Number 7. Can you identify this document for me?

(Respondent’s Exhibit 7 identified.)

A It’s an email between -- that I sent to, I believe she’s the administrative assistant for our facilities
management department.

Q And does this kind of help us tie down when you were going to get the equipment?

A Yes.

Q All right. When was that?

A The 2nd. We actually received it on February 3rd.

Q Did you receive it in waves the way we heard about earlier?

A Yes. We did.

Q Take a look at Exhibit 33 if you would. That’s ACC BOER 0170.

(Respondent’s Exhibit 33 identified.)

A Okay.

Q Can you iden -- it’s a six-page document. Can you identify these for me?

A This is the -- I don’t know if you would call it a Bill of Lading, but it’s what the truck driver had with him, the packing slip of what was on the truck when we received our first delivery. This is not the DRE -- I’m sorry, the BMDs. This is when we received our EMS system and the ballot on-demand printer and the ICC.

Q Is there a document among these receipts or these Bill of Ladings that tell us when we got the BMDs?

A The one on February 3rd, which would be the next one 0171.
Q Was this the day you took delivery of all of them except the demo model?

A No. This was the majority of the equipment. We still had not received at that time -- at that time, we received one ATI unit. We received the other 33. They came at a later time.

Q And what did you do with the equipment when you got it?

A Took a deep breath, gathered everyone together, and tried to figure out how to get it all off the pallets and into our warehouse, and we had that done within a day.

Q You didn’t take them out to any of the polling locations and play with them at that time?

A No. I mean, this was the beginning of February. We didn’t have time for that.

Q And that -- would that have even been proper to do?

A No. It would not.

MR. MITCHELL: I tender Defendant’s Exhibit 33.

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 33 admitted.)

MR. MITCHELL: I would tender Defendant’s Number Exhibit 1 as well.

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 1A admitted.)

MR. MITCHELL: And I would tender Exhibit Number 7.
MS. MCGOWAN: Which one was that?

MR. MITCHELL: That was the email that they had taken

--

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 7 admitted.)

BY MR. MITCHELL:

Q All right. Go back to -- or turn over to Exhibit 13, which is ACC BOER 0082 through 0085. I think one of these pages is in, but I would present them as a bulk exhibit. Whose handwriting is this?

(Respondent’s Exhibit 13 is identified, in its entirety.)

A That is mine.

Q And can you identify these handwritten notes for us?

A These are notes that I took -- whenever I’m on a conference call or listening or watching a webinar, I always take handwritten notes. It’s just part of my background, the way I learn. So these are my handwritten notes from a conference call that was on Feb -- January 10th.

Q Do you know -- the comment that you recorded, do you know who made that comment?

A I really can’t say, because at this point in the call, it may have been that they were taking questions and answering the questions on the fly and sometimes that would have been whoever was on the conference call that was
appropriate to answer that question. So when I wrote out on
the side -- when I -- just in all transparency, I wrote the
note of when the conference call was and that Mr. Harvey, who
is usually the one who runs the conference calls, that’s why I
noted it out to the side, so when I submitted this, you would
know what it was.

Q The comment “Do not buy yet. Hold off. State
looking into providing” was that -- was that a comment made by
whoever was on the phone from the Secretary of State’s Office?

A Reading that comment, that was -- the blackout
screens was the discussion that had been going on in the office
among us, and it had been going, I know it had been going on
with other counties around the State. So it was mentioned on
the call, the blackout screens were mentioned on the call. And
then the rest of it is basically my note to self and what to
tell Charlotte, not that that was -- not that it was the
State’s intention to buy them for us. It was we shouldn’t buy
them yet. They’re looking into the possibility of providing
them.

Q Is that something the staff had considered doing?

A We had considered all kinds of things. And that was
-- seemed to be one of the easiest options.

Q All right. Turn over to the next page, ACC BOER
0083.

A Okay.
Q   Again, your notes? Is this your handwriting too?
A   It is.
Q   And this is actually going back in time a little bit, isn’t it?
A   Yes.
Q   What’s the date of this call?
A   October 17th, 2019.
Q   And again, was it -- was Mr. Harvey on the call?
A   It’s my recollection that he’s been on every call that I’ve been on.
Q   And the note that we have here: interest in BMDs, people getting into close space to observe, allowed but privacy must regulate access enclosed space, clear barriers are going to be very important, was that your note or was that a comment made by the Secretary of State’s representative?
A   From reading the way that’s phrased, it would have been something that was being said on the call and I was paraphrasing so I could remember.
Q   Was it coming from the Secretary of State’s representative or was it coming from one of your colleagues?
A   Oh, no. It would have been said on the call.
Q   So when you were making notes, you were either writing down what the Secretary of State’s representative was saying or you were writing, kind of, your --
A   Notes to self.
Q -- notes to self. And when you say that it had been a concern and discussed, does that mean among your other colleagues --
A Yes.
Q -- around the state?
A Mmm-hmm.
Q Do you know whether this call was one of those North-South regional conference calls at this time or was this a statewide one?
A I put in the note to you that it was a webinar, so to me that would have been not one -- this would have been before we started the Friday calls, so it would have been a webinar that would have been a regional program.
Q And that would have been basically everybody --
A Within our region, right.
Q What is your region?
A I knew you were going to ask me that. That’s a question for Charlotte. I’m sorry.
Q Okay. I was just wondering. All right. If you’ll turn over to the next one, 0084, can you identify this one for me? Again, your handwriting, correct?
A Yes.
Q Okay. What is -- what is this one a note of?
A This was the February 13th webinar with Mr. Harvey and that was actually written at the time of the call because
this is the beginning of the page. This was the one where he
presented the layout drawings of what would be a good, you
know, effective layout and what might not be.

Q And so when this webinar was going on, you all had
those drawings in front of you?
A They were presented at that time. That was the first
time I had seen them.

Q And the comment there: it’s okay to face BMDs to the
wall, err on the side of privacy, be creative, make them
private, was that again a comment made by the Secretary of
State’s Office or was that a note to self?
A That would have been paraphrasing what was said on
the call.

Q And again, when you say said on the call --
A It would have been the speaker on the call who was
instructing us and giving us -- imparting information to us.
It would have been their words that I’m paraphrasing.

Q If you’ll take a look at the last page, 0085, again,
your handwriting?
A Yes, sir.

Q Okay. Can you tell us what this was?
A It was the same -- obviously, the topic came up again
and the advice was again, turn them to the wall, heavy tape to
secure the cords, be creative. And then my note to self: find
cord solutions for early voting.
Q So there’s going to be -- in some of those locations, are you going to be able to move those tables away from the walls and still have enough space?

A I think in the majority of them, yes. I mean, I do have concerns, but like I said, until I get in there with the tables, it’s kind of the same thing that you found with our early voting location. You can plan it all out in your mind, scale drawings and everything else, and until you get in there and actually work with it, there’s always -- I mean, I’m a perfectionist, so I want to know up front what I’m getting into, but there’s always that little bit that I worry about until it’s actually done. So that’s what I’m talking about. There’s a little bit that I still -- I want to see it, and then I can tell you 100%.

Q And we’ve talked about -- you heard me talk with Ms. Sosebee about the six that are a particular concern, the small locations. Do you concur that those are concerns especially after you get the tables out?

A They are a concern with space. I mean, they’re very small.

Q And what type of -- does Athens-Clarke County own the tables they’re going to use?

A We own 30, I believe it’s 30 tables that we have for our own resources that we can send out. The rest of the tables we’re going to rent from a rental supply company here in town.
Q  What size?
A  Well, when I discussed renting the tables with them, the amount that we needed, they told me they might not have enough 6-foot tables available, so they were going to fill in with 8-foot tables.
Q  And when you say 6-foot table, is it a 6-foot table like this, which is about 6 by 18 inches or is it the larger 6-foot tables like what I call church dinner tables?
A  No. It’s just -- well, it’s not the narrow -- I would consider those a narrow table, so I guess you would call it a 6-foot banquet table.
Q  And if you don’t have enough sixes, what are you going to use?
A  The eights.
Q  And how many booths are you going to put on the eights?
A  Three.
Q  How many on the sixes?
A  Two.
Q  Let’s go back a minute. Take a look at Exhibit Number 20, which is ACC BOER 0140 through 0142. (Respondent’s Exhibit 20 identified.)
A  Okay.
Q  Can you identify Exhibit Number 20 for me?
A  This is an email that I sent to Mr. Dexter Fisher,
who is, I believe, the Chief of Operations. I don’t know his
official title, but he is my contact at Clarke County School
District. That’s where I start when I need anything down in
school locations.

Q And the spreadsheet attached to the email, did you
prepare that spreadsheet?

A I did.

Q And what -- what is that?

A It was a way for --

Q What does it tell us?

A Okay. It tells -- it was telling Mr. Fisher the
locations -- well, basically, it was going to tell him the
locations I wanted him to have an electrician to look at. And
I was telling him what was existing at the time in those
locations, so I was telling him that at Whit Davis School, we
use the gymnasium. There are 4 usable outlets in that space.
There’s two existing circuits.

Q The -- with regard to -- this is January 23rd. Had
they completed this work?

A Yes.

Q And the Clarke Central Gym -- Clarke Central High
School, what is the -- what is the polling location at Clarke
Central? It’s not the actual gym, is it?

A No. It’s in the front lobby of the gym.

Q Okay. And that’s one of the areas, one of the six
that’s potentially a problem?
A Right.
Q That’s a small area?
A It’s really not that it’s so small. It’s actually larger than a couple of our locations. It’s just a very odd layout. There’s only -- one of the walls is not really a wall. It’s a trophy case, so there aren’t really any outlets on there except that we did discover two outlets on the back side of that trophy case that are usable. So it’s just a very odd space to configure things in.
Q Okay.
A It’s not a nice rectangle -- rectangular room.
MR. MITCHELL: I would tender Exhibit Number 20.
MR. GERMANY: No objection.
(Respondent’s Exhibit 20 admitted.)
MR. MITCHELL: And I would also tender Exhibit 13.
MR. GERMANY: No objection.
(Respondent’s Exhibit 13 admitted, in its entirety.)
BY MR. MITCHELL:
A Oh, and I apologize. There was also a notes section that I didn’t see.
Q Did you prepare those notes as well?
A Yes.
Q Okay. How did you determine the number of voting machines that you would have to plug in at each polling place?
A I did not make that determination. Director Sosebee made that determination.

Q Okay. Did she talk with you about it?

A Well, I knew it was based on her calculations and it was based on the State’s law of one for every 250 voters.

Q Okay. So that’s how the determination was made, not necessarily how many you could get into an electrical --

A No, because we knew we had to follow the state law.

Q Similar document for the county billings, if you’ll take a look at Exhibit 32, which is ACC BOER 0169. What is that document?

(Respondent’s Exhibit 32 identified.)

A Do you mean -- I’m sorry, 32?

Q 32.

A Okay. Let me try the book. This is the spreadsheet that I developed for the Athens-Clarke County electrician that was going to go out to the county buildings.

Q You created this document?

A Yes.

Q And the -- this spreadsheet and the one you did for the schools, what was the basis of the information you put in these spreadsheets?

A We had not received our electrical surveys back yet, so it was the information from my notes that I gleaned from going around with the surveyor. I took notes of the,
basically, the information that he was taking note of.

Q    And after you got the notes back from the inspector, did you compare them?

A    I looked at them. I can’t say that I compared them completely because I knew that when I went out, I was taking notes of everything that he took notes of. When I looked at the documents, I didn’t really see any additional information in them that I didn’t already have.

Q    Was Ms. Sosebee’s characterization of the challenge of setting up advance voting at the office accurate?

A    Yes.

Q    Were you there for the full 15 hours or whatever it was?

A    I was there on Friday afternoon. I believe we were there until about 8 o’clock, and then we came back on Saturday. I had -- I believe I left -- I had to leave before some of the other, some of my other coworkers left, but I know I was there for probably three hours or more, and then they were there an additional time.

Q    Did you go there on Monday morning --

A    Yes.

Q    -- when advance voting starting? Was the location set up on Monday morning when you all started like it was on Saturday afternoon?

A    Yes.
With all the work that you did, what were you -- what were you trying to accomplish by reducing the number of devices and hanging the curtains and all that kind of thing?

We were trying to accomplish so that the voter would feel secure that no one was looking over their shoulder, that we were giving them the best possibility ballot security that we could within the small space that we have.

MR. MITCHELL: That’s all that I have.

MR. MASHBURN: Do you want to put in 32 before you step away?

MR. MITCHELL: Oh, I tender Exhibit 32.

MR. GERMANY: No objection.

(Respondent’s Exhibit 32 admitted.)

MR. GERMANY: No questions. Thank you.

MR. RAFFENSPERGER: Next witness.

MR. MITCHELL: We call Lanie Lessard.

MR. RAFFENSPERGER: For scheduling time purposes, how many more witnesses do you expect today?

MR. SELLS: Three, after Lessard.

MR. RAFFENSPERGER: Okay. Thank you.

THE COURT REPORTER: Do you swear or affirm the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

Whereupon,
LANIE LESSARD

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MR. MITCHELL:

Q   Would you tell the Board your name, please?

A   Lanie Lessard.

Q   And what is your role with the Board of Elections and
    Registration?

A   Elections clerk.

Q   And in that role, what do you do?

A   I’m Area Manager on the date of elections and prior
    to elections. I work with training the election -- the poll
    workers. I help get the supplies ready and maintain the
    machines, making sure they’re ready to go, doing the logic and
    accuracy testing and so forth on the machines.

Q   How long have you worked for elections here in
    Athens?

A   Well, I started --

Q   How long have you been on staff?

A   On staff, about five-six years.

Q   And prior to that, how long -- what did you do prior
    to being on staff?

A   I was a poll worker and then poll manager.

Q   And what polling -- are the precincts that Athens has
    now the same as when you were working as a poll worker?
A  I think they are. At that time, I wasn’t concerned with all the other locations. I was just concerned with mine.

Q  Okay. And over the last three to four months, have you had the opportunity to be in all the locations?

A  Yes, I have.

Q  And in all the advance voting locations?

A  Yes.

Q  And what was your purpose in being at all those locations?

A  While it was different things. So one case I was actually helping to do a demonstration and then I was going over with the state inspector to show him the sites, to help him identify, you know, where we were going to be voting and what the electrical systems were in each location.

Q  And what is your role with regard to setting up the polling locations?

A  Well, now, it has become to try to help make sure the machines are attached to the right receptacles and not, you know, have any issues with overloading the system.

Q  And what else do you do with regard to locating the machines and laying out the precincts?

A  Well, what I’ve started doing is working on the actual CAD drawings of the layouts based on sketches that I had made on going out with the inspector from the State and with the county electrician and with the school electrician.
Q  Had you done the scale drawings like we’ve seen today prior to this year?  Had you done them for previous elections?
A  I did it for my precinct, but I didn’t do it for others.
Q  So this is the -- is this the first time that they’ve -- that you’ve done this for all the precincts in the --
A  It’s the first time I’ve done it.  Yes.
Q  Do you know whether it’s been done before?  Have you seen scale drawings from others?
A  It had been done when they first -- when we first started using the old DRE machines and at that time, again, I was working in my precinct.  I sort of had blinders on.
Q  Had you ever gotten anything from the Office of Elections for your precinct or was that just what you had done?
A  I had done them.
Q  What is your background with regard to -- why do you do that?
A  I am an interior designer.
Q  And you have access to a piece of software you can use for doing this type of thing?
A  Yes, sir.
Q  Let’s take a look at -- in the notebook in front of you, take a look at Exhibit -- what’s been previously admitted as Exhibit Number 11.  I’ll take you to about a third of the way through, starting at ACC BOER 0030.  What’s the date on
163   1  this email?
2       A    March 9th.
3       Q    And the from, Lanie Lessard, that’s you.
4       A    That’s me.
5       Q    All right. And the -- do you have these drawings in
6       this form prior to last weekend?
7       A    I did in a very rough draft.
8       Q    You had it in rough --
9       A    I had the rough draft sketches that I had made.
10       Q    Okay. When you say sketches, you’re talking about
11       hand sketches?
12       A    Yes, sir.
13       Q    And the -- are these that we have before us in
14       Exhibit Number 11, are they final today?
15       A    No, sir.
16       Q    Have you made any changes to the scale drawings since
17       you provided these Monday morning?
18       A    Only on paper with a pencil. I haven’t finalized
19       them on the CAD program yet.
20       Q    Okay. And with -- the notes that you made on the
21       paper, what was the basis on that? What have you been doing
22       the last couple of days?
23       A    Well, again, I went back to the schools primarily
24       because I had not had a chance to see all of the schools yet
25       after the, you know, we had talked about doing the drawings, so
I just wanted to see them with my eyes and with my drawings.

Q Had you been back in the locations since the electrical systems had been upgraded?

A Yes.

Q And is that -- let’s walk through one of these since there’s not an actual formal legend so that everybody’s familiar when they’re looking at this exactly what -- what we’re looking at. So turn over to ACC BOER 0031. Are you looking at it?

A Yes.

Q All right. And although this is one of the smaller sites, would you say that the symbols we have on here is representative of what we’re going to see on the other drawings?

A Yes.

Q And we’ll go through -- and if you -- once we go through this one, we’re going to turn over to the other ones and if there’s anything that we see on the others that’s not on this and we need to talk about it, you’ll let me know.

A Sure.

Q All right. The way it’s configured in the book -- well, can you give it a half clockwise turn? Okay. Along the top, the very top line just outside the boundary, what is that, that number? It’s like 19.

A 19 feet, 4 inches. That’s the dimension across the
interior of that space.

Q  And then, and the way we’ll do this is we’ll just come from there inside the building. What is the thing in the middle at the very top? What is that, the square or the two squares?

A  That is a 6-foot table that represents 2 voting booths.

Q  And again, this, is it scale?

A  Yes. They were done as to scale drawings, but because of printing them large enough to see, they are not to any particular scale as they are printed.

Q  But we can get the -- we can get the idea from these what it’s going to look like if you had to move things around.

A  Right. I mean, actually, some of them are so small if I had done them at a scale to fit this paper, you wouldn’t be able to tell me.

Q  The two red circles that are in the middle of that box, what are those?

A  Those represent the quad outlet that was installed by the Winterville -- by the Winterville electrician.

Q  On these drawings, are we going to be able to tell which electrical outlets were installed just for this election and which ones were existing?

A  On this particular drawing, the single ones are existing. The new ones are the double ones. The two that are
together representing the quads that were installed.

Q  Is that going to be true on the other drawings as well or do you know?

A  No. I got a little more creative after that.

Q  Okay.

A  I changed to color coding, but it’s still not finalized.

Q  What is the color coding just so we know?

A  Well, I just wanted to make sure that each circuit was a different color to make it easier to see because these little numbers just weren’t showing up.

Q  If you go to the -- on this, if you go to the left, there’s a red circle and then what looks to be a yellow triangle. What is that?

A  It represents the receptacle number above and the breaker number below.

Q  Okay. Now, standing in front of the box, you’ve got -- it’s, like, an oval with wings. What does that represent?

A  It’s a head shot, over-the-head shot of a person’s body.

Q  Are the persons in your program drawn to scale? Are they scale as well?

A  No. Well, nobody --

Q  I understand what you’re saying. Generally speaking --
Yes, sir.

-- in general scale that -- I get it. Now, in the middle, what do the red arrows represent?

Just sort of a traffic pattern. We try to have as many precincts as possible where we have an in and an out flow, using one entrance to go in and a difference entrance to come out, and this is representative of that. In just about all the drawings, I tried to kind of give an indication of the traffic flow.

When -- and then the kind of wave, half S, serpentine line, what is that?

That is separating the enclosed space from a more public space.

Would you go out to the whole document? So this, is that going to be a hard barrier like a cubicle wall?

It can be a rope with stanchions. It can be tape on the floor. It can be a row of chairs. It’s whatever the -- whatever we can use to provide a separation.

Okay. And then what is this table right here (indicating)?

Sorry.

You’ll have to -- it’s in the middle -- it’s in the middle room right in the midst of the ballot location.

Okay. That is -- that’s representative of a mag -- what I call a magnifier station. It’s a ballot review station,
so someone might want to look at something through either reader glasses or a magnifying sheet on top of their ballot. The ballots are printed right next to it.

Q Have you put one of those in each one of the locations?
A Yes, sir. I have.

Q Do those need to be in the enclosed space?
A Yes, sir.

Q And why is that?
A Well, they can’t take that ballot outside of the enclosed space.

Q Got it. This over here to the left about a third of the way down this particular wall, what is that (indicating)?
A Each location has a manager’s table and a provisional table. I kind of like to keep those two together, and so some of them are configured in straight lines and some are configured in a T shape or an L shape.

Q And what are the dimensions of the table -- or the S that you’ve put in here?
A They’re all 6-foot tables.

Q Okay. So either the tables that Athens has or they’re renting, that’s what’s going to be used in the polling places.
A A lot of the sites provide them for us as well, and there’s some that -- they’re all 6-foot tables for the most
Q And they’re all the 6-foot banquet tables like Ms. McGlaun --

A Well, some of them might be dining tables or they might be conference tables, but they’re 6-foot tables.

Q All right. Let’s see. And then, this area right here with the four locations or places, what are those (indicating)?

A Those represent the poll pads, which is the new form of checking in.

Q And is there a certain number required of those in each location?

A I’m not sure of the details of the requirements, but I’m thinking it’s based on the number of voters.

Q Is that how you chose the number that you put in here?

A That was not my purview. I didn’t do that.

Q And then, the -- these two boxes down here. What do those represent (indicating)?

A The larger box is the ballot box. That would be the scanner, tabulator, and the bin underneath it which would catch all the ballots. And then the last little smaller box represents the sticker table, where someone would get that beloved sticker.

Q The little peach sticker?
A    Yes, sir.

Q    Now, you’ve only -- in this particular drawing, you’ve only got 4, as I count them, 4 people in the polling location. On Election Day, there’s not ever going to be a time when there’s only going to be 4 people in this space, is there?

A    That depends on the time of day and how it’s controlled by the poll workers. There’s enough room for there to be 10 poll -- 10 voters.

Q    How many poll workers -- did you ever work Winterville?

A    No, sir.

Q    Do you know how many poll workers are going to be at Winterville or how many have been assigned?

A    10 traditional poll workers.

Q    Do most of them generally show up for work that day?

A    Oh, yeah.

Q    Does that include the manager?

A    Yes, sir.

Q    Right. If you would, just take a minute, and turn the pages, the next 19 pages, and if you see something that is different that we need to explain to the Board what the symbol or the thing is --

A    Well, first off, I would apologize that the drawings are not very dark because this is a color document. It shows up a lot better on my computer screen.
Q    Sure.
A    So it’s really hard to tell where the exact
placements are. And what I was doing with these was to try to
show different turns and directions for each of these voting
booths. So the larger areas, like the one following the page
we just looked at, which was -- you’re looking at now, 32, is a
large gymnasium, and there’s a lot more flexibility in where we
can put the voting booths around the room and not so much
concern as far as whether you have something against the wall
or out from the wall. And you have, in larger areas, you’ll
notice here we have 10 poll pads. So every one of them is just
very unique based on space.
Q    Do you still have your book open to the Winterville
drawing? Hold your hand there and turn over to Exhibit 28 but
keep your -- keep that place right there.
A    28?
Q    Exhibit 28, I’m sorry. The tabs on the side, go over
to 28.
A    Okay.
Q    You’ve seen this document before. It’s a spreadsheet
--
A    Yes, sir.
Q    -- and for Winterville, it says that there’s supposed
to be 10 ballot-marking devices in that location. Am I reading
that correctly?
A  Yes, sir.
Q  And how many do you have on the scale drawing that you have over there?
A  10.
Q  Where are they?  I count 8.
A  You see the wheelchair?
Q  I do.
A  That’s 2.
Q  Okay.
A  Next to that, 2 more.
Q  Right.
A  Oh, you’re right.  There are only 8.  Sorry.  There are 8 at this point, and that’s why I put the word preliminary on there.
Q  So are there -- as we sit here today, are you aware of any other locations where there needs to be additional ballot...
A  Yes.
Q  Can you id -- can you tell us which ones those might be?
A  Well, particularly, Howard Strout, which is 2B.
Q  2B, which is ACC --
A  Number 34?
Q  -- BOER 0034, Precinct 2B, so that one’s supposed to have how many?
A 18.
Q And how many are located in there now?
A Let’s see -- 2, 4, 6, 8, 10.
Q Any others like that that you can think of?
A No, sir. And I just found out 2 that we have -- I didn’t realize there were outlets on the floor which give us another opportunity for putting them there.
Q Now, the -- with regard to -- you heard my conversation with Ms. Sosebee about the 6 smaller locations, which are Multi-Modal, the 3 fire stations, Clarke Central Gym, and Winterville. I hadn’t heard that Strout Elementary had a size problem. Is that more of a where the outlets are arranged problem?
A Strout actually has plenty of outlets and plenty of circuits. It’s the floor space.
Q So that’s another location where there’s some concern about whether we’re going to be able to get it --
A Well, this is an active school. They’ll be in session that day, and the gymnasium or the cafeteria are not available.
Q Are -- for the setups that you’ve applied on these, are these the same setups that were used when the DREs were in use the last several years?
A No, sir.
Q This is different?
A: Well, we used them around the walls without any problem, and there was never any issue with electrical outlets, so there was a less -- less of that kind of concern.

Q: Take a look at Exhibit 15, if you would. Behind tab 15, it’s ACC BOER 0088 through 0091. Can you identify those photographs for us?

(Respondent’s Exhibit 15 identified.)

A: That is the Transit Center.

Q: What we call Multi-Modal?

A: Multi-Modal.

Q: Are you in one of the photographs?

A: Yes.

Q: They accurately represent what was depicted?

A: Yes.

Q: Did you -- you didn’t take them, obviously, but did you take any of the ones you’re not in?

A: No.

Q: I may have already asked you this. When do you plan on finalizing the scale drawings?

A: Between now and Wednesday, next Wednesday.

Q: When you -- when you were -- they weren’t done until this past weekend. Did you focus on any in particular when you were -- over the last several weeks as you were putting them together?

A: Not any more than the others. It just takes time
because we have to figure out where the locations are going to be, especially in the smaller size.

MR. MITCHELL: Okay. Thank you, Ms. Lessard.

MR. GERMANY: No questions.

MR. RAFFENSPERGER: Okay. Next witness?

MR. SELLS: The Respondents call Ms. Laura Camacho.

THE COURT REPORTER: Do you swear or affirm the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

Whereupon,

LAURA CAMACHO

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MR. SELLS

Q Good afternoon, Ms. Camacho. Would you please state your name for the record?

A Yes, good afternoon. My name is Laura Camacho.

Q And thank you for being here. Would you tell the Board in what County you live?

A Clarke County.

Q And are you registered to vote?

A Yes, I am.

Q And have you voted in the presidential preference primary?
A Yes. I did the early voting.
Q And on what day did you do the early voting?
A That was the first day. I think it was a Monday, March 2nd.
Q And did you cast your vote on one of the ballot-marking devices?
A Yes.
Q And did you have concerns as you voted or after you voted with regard to your privacy of your ballot or the ability of someone to see who you’re casting a ballot for?
A Yes. I was a little surprised that I didn’t see enough privacy barriers around the machines. Like it seemed like they should have had a barrier, like a soft one, like a curtain, but the curtain on the further side of the machine I was using, it was like a foot lower than the machine instead of being hanging on the side. There was some separation, but it was minimal, and it didn’t feel like a super private situation, like, there were not a lot of people there, but if there had been, it could have been a problem.
Q Now, did the voting booth where you cast your ballot have a blue plastic screen on the side of it?
A Yeah. There was some kind of plastic barrier coming out, but it didn’t feel very big. It was, I don’t know, 10 inches, 7. It was fairly small.
Q And you feel like that wasn’t enough to protect the
secrecy of your ballot?

A    If I’m -- if I’m not trying to look, it’s not like I could see everything on the other screen, but I felt like if maybe if I took a step or two back, I was able to see the other machine and vice versa somebody voting on the other machine, it would not be that difficult.

Q    Now, in the machine that you voted at, if there were someone next to you, would they have to walk past your machine?

A    Yes.

Q    Okay.

A    Definitely.

Q    And would that add to your concerns about privacy?

A    Yes. That was very noticeable, yes.

Q    So if someone had walked behind you to get to the machine next to yours, they would have been able to see the face of your ballot, correct?

A    Probably, that was my first thought. That this is going to be a problem.

MR. SELLS:  Okay. I don’t have any more questions.

MR. GERMANY:  Just a couple of questions.

CROSS-EXAMINATION

BY MR. GERMANY:

Q    Ms. Camacho, thank you for being here. Was there someone next to you when you voted?

A    Not at the moment. The only person that was sitting
next to a machine was one of the workers, and she was sitting next to it, but she was in a lower position.

Q    Did anyone walk behind you while you were voting?

A    I’m not sure. I don’t think they did. I was a little unsure, but I don’t think it happened.

Q    Gotcha. So you were concerned something may have -- could happen, but you’re not concerned that your actual privacy, your ballot, was compromised.

A    I’m not sure. I got help from the workers, because you get even -- you’re given this paper scan and they help [sic] me take it to the machine. And I was, like, flipping it over to make sure they weren’t seeing, so it didn’t feel -- I didn’t feel threatened. I don’t think they cared who I was voting for, but it felt like if somebody wanted to see what I was doing, they could have. I don’t know if anybody did.

MR. GERMANY: Thank you.

MR. SELLS: No further questions for Ms. Camacho.

MR. RAFFENSPERGER: Okay. Thank you, ma’am.

THE WITNESS: You’re welcome.

MR. RAFFENSPERGER: Next witness?

MR. SELLS: The Respondents call Annemarie Zimeri.

THE COURT REPORTER: Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.
Whereupon,

ANNEMARIE ZIMERI

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MR. SELLS:

Q    Good afternoon, Ms. Zimeri.
A    Good afternoon.

Q    Thank you for being here. Would you state and spell your last name? State your name and spell your last name for the record.
A    Yes. Annemarie Zimeri, Z as in zebra, I, M as in Mary, e-r-i.

Q    And in what County do you live?
A    Athens-Clarke.

Q    Are you a registered voter?
A    Yes.

Q    And have you cast your vote in the presidential preference primary?
A    Yes.

Q    When did you cast your ballot?
A    Super Tuesday, the 24th.

Q    That would have been last Tuesday?
A    Yes.

Q    Okay. And did you use the ballot-marking device at the elections office?
A  Yeah, the downtown Board of Elections.
Q  And did you have concerns about the privacy of your ballot or the secrecy of your ballot given the way that the machines were set up?
A  Yes. I wasn’t as concerned about my ballot on that date because there weren’t voters filling all the booths, but it was clear to me that I would have been able to see other voters as I passed their booths. And the screens this year are almost perpendicular, whereas in the past, they were kind of laying down, and once you cast your vote, whomever you cast your vote for comes up in large font, and it’s -- it’s very clear to read from a distance. So if I were to walk to the booth that I walked to past the other three booths that were open, I would have easily been able to see it, and the poll workers -- it’s a very small space, so the poll workers stationed there I’m sure could see what I was doing, and they certainly could see the paper because I had trouble with getting it to read in the scanner as well.
Q  Did your booth have the blue plastic privacy screen attached to it?
A  No. I recall at the top there was some cloths hanging down, and in the past, where there was the horizontal voting machines, there were these plastic measures up, but they weren’t -- they were on the sides of the booth. They weren’t on the sides of the actual screen.
Q. And so was it possible to see over those things on the sides to look at another machine while you were standing to vote?

A. I didn’t try. I think you would as the past witness said have to back up a step. I think my concern is more while you’re standing there to wait, the Board of Elections volunteers standing there and approaching your voting machine being able to see what others are doing.

Q. If someone were walking behind you?


MR. SELLS: Thank you. Those are all the questions I have.

MR. GERMANY: Just a couple of questions.

CROSS-EXAMINATION

BY MR. GERMANY:

Q. Did anybody walk behind you while you were voting?

A. No. As I said, I was -- there were very few people in there when I went there.

MR. GERMANY: Okay. Thank you.

MR. SELLS: Our next witness is going to take a while. Would the Board like a break at this point?

MR. RAFFENSPERGER: Yeah. We’ll take a 10? 15? Be back at 3:30.

MR. SELLS: Okay.

(Court in recess.)
MR. RAFFENSPERGER: Okay. If we could -- everyone take their seat and settle down, and we’ll get going with the next witness. So Counselor, call your next witness.

MR SELLS: The Respondents call Mr. Jesse Evans.

THE COURT REPORTER: Do you swear or affirm the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes.

MR. RAFFENSPERGER: Okay. If everyone in the audience could be quiet now, thank you.

Whereupon,

JESSE EVANS

having been duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MR. SELLS:

Q Good afternoon, Mr. Evans.

A Good afternoon.

Q Would you state your name for the record?

A Jesse Evans.

Q And what is your relationship to the Athens-Clarke County Board of Elections and Registration?

A I’m a Board member, and I’m the Chairman of the Board.

Q And how long have you been a member of the Board?
I’m in my fourth year.

And how long have you been Chair?

I was selected by my peers on January 21st of this year, and so since that day or the end of the meeting, so my first meeting as Chair would have been on February 4th.

What is your educational background?

I went to -- I got my undergraduate degree at the University of Louisville. I majored in philosophy and psychology, and I minored in political science, history, and Latin American studies. I came here to UGA afterward and -- because I knew I wanted to teach, government civics actually, and UGA was the top, like, the fourth ranked in the nation program at the time for secondary education, so I came here, went to UGA for my Master of Arts in teaching. I specialize in political science, and I also got a reading endorsement while I was doing that.

Okay. And so what do you do for a living then?

I teach government civics at a high school here in town, a Title 1 public high school. This is my seventh year doing that.

And how long have you been a voter in Athens-Clarke County?

Well, I voted, you know, when I was in school here, so that would be 2011, around there, so, you know, going on around 9 years.
Q    And as a voter in Athens-Clarke and as a member of
the Board of Elections, are you familiar with the polling
places used in elections here in Athens-Clarke?
A    I am. I’ve voted in four different locations
throughout my time here, and those locations are still used,
you know, today. And as a Board member, I have visited polling
locations, you know, during elections to make sure everything
was going smoothly.
Q    I want to begin by directing your attention to the
issue of un-merging polling places that was discussed a little
bit earlier by a number of witnesses. Do you recall that
testimony?
A    I do.
Q    Okay. What was the issue with polling places having
been merged and why was that problematic?
A    IN November 2018, we had really long lines at these
locations. They had combined -- we had combined polling
locations -- precincts, two into one location, and, you know,
5,000, 6,000 voters instead of 2 or 3,000 in each, so there
were very, very long lines, and people, quite naturally were
upset, including myself. I was very upset about it. You know,
some people can’t wait that long to go, and it’s seen as a form
of voter suppression to have long, like, lengthy lines, and
that’s not something I want us to be doing here in Clarke
County.
Q And so what did the Board do to try to address that issue?

A Well, right after the election we acknowledged within meetings and the staff -- we talked about how this was unacceptable and that they should be un-merged. I spent the next -- so since late 2018, early 2019, it’s been a recurring topic that I’ve raised, and I kept being told we’ll get to that later. We’ll get to that later, like, you know, that’s not the priority right now. We’re on this right now. We’ll come to that later. And so that sort of series of event happened all the way up to end of 2019, and finally, we met to discuss this January, once at, I think it was the January 21st special meeting, and that was the first time we actually had a serious conversation and looked at, like, proposals, and we’ve continued that process from there to now.

Q Okay. So the Board first put it on its agenda for the January 21st, 2020 special meeting, this issue of trying to un-merge the polling places to reduce the number of voters at each -- at the ones that were being un-merged?

A That was the -- yeah, that was the first time we actually sat down and discussed actually doing it, like looking at the data, looking at possible locations and stuff. As I said, I brought this up in previous meetings since late 2019 [sic], early 2019, but this is the first meeting we had to actually do that --
Q   Okay.
A   -- to actually act upon that.
Q   I’d like to show you Exhibit 3, which is Bates Number 0004 to 0006, Board of Education -- excuse me, Board of Elections Bates Number 0004 to 0006, and it’s marked as Exhibit 3. It is in the book in front of you.
   (Respondent’s Exhibit 3 identified.)
A   What was the page?
Q   It’s the other book.
A   Oh, this book?
Q   It’s tab 3.
A   This book?
Q   Yes. So can you identify this document?
A   Yes.
Q   What is it?
A   It’s a letter from the Lawyers’ Committee for Civil Rights Under Law, the NAACP, and the People’s Agenda. It’s dated January 20th, 2020.
Q   And did you, as a member of the Board, receive this letter?
A   I did via email, and we also discussed it or had it provided to us on paper on the 21st of January.
Q   And can you summarize the content of this letter?
A   I can. Basically, these three organizations were concerned what -- that we were trying to look at un-merging the
polling locations for the polling locations that had been
merged so close to the presidential primary -- pref -- for
March 2020. So they were basically telling us that we
shouldn’t do that and that we’re actually not legally permitted
to do so because we were in the 60-day window of doing that,
and if we did act on that, then there would be action taken
against us.

Q So they advised you that you couldn’t -- it was too
late in effect to change polling locations for the March 24th
primary. What was the Board’s reaction to this letter?

A Well, we were advised by staff that we -- like the
staff concurred with this, and we definitely wanted to comply
with this. It was frustrating for me because again, we had
been waiting since 2018 to do this, and I’ve been trying to,
you know, reduce polling -- voting lines with these locations,
and I didn’t want to repeat the issue from 2018, but we decided
to -- we agreed that we couldn’t do it for the March elections,
so we decided to move forward and do it for the May 2020
elections.

Q The May primary?

A Yes.

Q And has, in fact, the Board voted to un-merge several
of the precincts for the May primary?

A We have.

Q And when did that vote take place?
A March 3rd.
Q March 3rd?
A Of 2020.
Q And could the un-merging of those several polling places alleviate some of the privacy concerns that we’re discussing here today?
A Possibly. We haven’t actually seen sketches for the other locations, so it’s possible because -- and I say it’s possible because we’d be reducing the number of people assigned to a polling location which would reduce the number of polling -- sorry, voting booths and machines needed at those polling locations. So it’s possible.
Q Okay. So I want to ask you about your awareness of the privacy issues with the new ballot-marking devices. When did you first hear that there might be privacy issues with the new machines?
A I think people began approaching me about this as early as November 2019. But -- and, you know, the media picked it up as well. There were, you know, articles put out about this, particularly one in Dooly County. It was put out February 5th, I believe. I think 11 Alive might have done that one, but voters and poll workers in that area were concerned about it. Members of our community began speaking up at our meetings about it, and so, yeah. I became aware of it around November 2019, but also, staff was telling us that these
machines were -- we had a lot more machines, they were
significantly larger in size, and this was just a concern as
far as how we were going to fit -- where we were going to fit
these and how we were going to fit them all in.

Q Given your familiarity with polling places in Athens-
Clarke County, what did you make of those concerns?

A Those are very valid concerns. I’ve voted, like I
said, in four different locations. I’ve voted in Lake Clarke,
I’ve voted in Winterville, I’ve voted at -- at Clarke Central,
and I’ve voted -- so Lake Clarke, Winterville, Clarke Central,
oh and Cedar Hills High School. Yeah.

Q And Winterville is one of the polling locations that
we were discussing earlier on the screen, right?

A Correct.

Q So what did -- did the Board raise the privacy issue
with staff?

A Yes.

Q Approximately when did that take place?

A Maybe late, like, December 2019, January 2020 is when
we really began talking seriously about, like, okay, we’ve got
to do something about this to make sure that we’re protecting
ballot secrecy.

Q Okay. And let’s see. If we could put up Exhibit 9,
which is already in the record, and it should be behind tab 9
in your book, if you’re not already there. And for the record,
can you identify this document?

A  Yes. This is an email that I sent on January 30th to Director Sosebee and I cc’ed the Board, my fellow Board members, ACCBOE staff, our local assistant county attorney who’s been helping us as the Board of Elections, and the Assistant City Manager of Athens-Clarke County. And -- go ahead.

Q  And this is dated January 30th, 2020, right?

A  Yes.

Q  And you had discussed the issue of ballot secrecy prior to the day on which you sent this email, right?

A  Yes, absolutely. We actually went very much in detail in the January 21st meeting.

Q  Okay. In addition to the requests or questions in this email, did you ask staff to provide the Board with any other information?

A  Do you mean at this point at January 30th or ever?

Q  Ever.

A  Oh, so after we had -- so during the February 4th regular meeting, Board members -- or excuse me, members of the public continued to come and speak about their concerns about secrecy and we as a Board requested from staff that they provide to scale drawings, like floor plans, of each of the 20 polling locations that would be used on the March 24th election day. So we wanted to -- we wanted to do it. We wanted to be -
- like the staff kept saying we can do this. We can do this. And we were like okay, we want to, like, see that we can definitely do this, so please produce these -- these floor plans, and staff agreed to do that. And we asked that they be provided well in advance of the March 3rd meeting, so that we would be able to, you know, process that, look at that before we get to the meeting.

Q Okay. Just to be clear, why did you want the drawings or sketches?

A Because there’s a variety of -- like, each polling location is very different, and there’s a -- so the space is very different, the layout is very different, and we had already been briefed that there were some concerns from staff about whether or not we were going to be able to actually use the number of BMDs required by law for the one per 250 rule. We talked about that in the January 21st meeting. And we really needed to see to scale drawings to know that we were going to be protecting ballot secrecy. I -- I teach government civics, right? Like, this is the law. Like, there are several statutes. It’s the Georgia constitution, it’s the state statutes, and it’s the federal statute actually too. And I teach government civics. I’m very passionate about, you know, democracy, voting, and I wanted to make sure -- sorry. The phone call was a little bit of a distraction there.

So the -- I’m also familiar with, as a teacher of
government civics and in Georgia and growing up in Kentucky, I’m familiar with voter suppression efforts throughout the history of the Southeast -- Southeastern United States, and I just don’t want that to be the case here. We have not allowed voter suppression, and ballot secrecy is a very serious thing, and it’s required by law.

Q And there are other requirements of the law with respect to voting as well, right?

A Yes. So we have one voting booth or BMD -- we were told BMD -- per 250 voters assigned to a polling location, but we’re also required to -- our poll workers are required to monitor the machines while in use to prevent any sort of tampering or if there’s any sort of, you know -- as Director Sosebee mentioned earlier, like, people -- some people like to take pictures of things, and they’re not supposed to have their phones out, so like we’re supposed to be able to -- there are three things really, like, protect ballot secrecy, be able to monitor all equipment when it’s being used, all BMDs, and then the third thing is we have to have one for every 250 people assigned to a polling location. We have to one voting booth or BMD.

Q Okay. I want to focus in on that one per 250 requirement. How did you become aware of that requirement?

A I believe it was staff that told us about this.

Q And did staff prepare a chart showing the number of
BMDs required by law in each polling place?

A They did. On January 21st, we looked at -- it was an electrical survey estimate provided by staff initially, and they had the required number of BMDs for each polling location listed right next to each polling location.

Q All right. If we could look at Exhibit 71, which is already in the record, and specifically, Bates ACC BOER 0477?

A Say it again?

Q Okay. 0477. It’s in Exhibit 71. Do you have that in front of you now?

A Yes, sir. Thank you.

Q Okay. And I believe Ms. Sosebee testified that this was a PowerPoint presentation that she presented to the Board at a January or February meeting. Does that look familiar to you?

A It looks familiar, not identical to the one that we were shown, but it does look familiar.

Q Okay. And I know she presented multiple PowerPoints, and you may have seen a chart very much like this one on several occasions, and she said the numbers may change, but what was your understanding of the column that says BMDs required?

A So per the one -- the one voting booth per 250 rule, this is the number required by law that we are required that we have to have one voting booth for every 250 people, so that’s
the total number required based upon the number of voters assigned to each voting location.

Q Okay. And if we could do a side-by-side with Exhibit 28, which is also already in the record. That was one Ms. Sosebee testified about. Okay. That’s Exhibit 28. And Ms. Sosebee testified about this exhibit earlier, has the Board seen this or have you seen this document before today?

A I’ve seen documents like this, so yes. This is a pretty standard sort of table that we would look at going into Election Day. Honestly, I don’t recall seeing this particular document though.

Q Okay. So the Board saw these electrical survey estimates showing the number of BMDs required at the polling places?

A Mm-hmm. And I’ve seen previous -- so this is the same 20 polling locations that we’ve had in recent elections, and I’ve seen very similar numbers on those as well for similar documents like this.

Q Okay.

A As far as the active voters at each location.

Q Now, by the start of early voting last Monday, had the Board received the drawings that it asked for showing the positioning of the BMDs, the required number of BMDs, in the polling places in a manner that would protect voter privacy?

A No. We did not.
Q   Now, I want to focus your attention to the beginning
of early voting, advance voting, we’ll call it. Did you show
up on the first day of advance voting at the elections office?

A   I did. It’s something that, you know, we as Board
members, that I’ve definitely done it during elections during
my tenure as a Board member, just going to polling locations
and popping in to make sure everything is going smoothly,
offering any assistance that I can provide if there’s ever
anything that needs to be addressed, things like that.

Q   Okay. And describe what you did and what you saw
when you arrived at the elections office on the first day of
early voting.

A   When I walked in, I saw the setup -- the booths and
the machine set up to my -- to my right as I walked in the
door. At my one o’clock -- as if you know my 12 o’clock were
right in front of me, and my one o’clock were the four voting
booths that were right next to -- right in front of --
normally, when you walk in, there’s -- you go to that one
o’clock, and there’s a sliding window that, like, staff is
behind. So there’s a, you know, a wall. There’s staff office
spaces and stuff behind that wall. So that’s where people
would go, where the public would go to, like, talk to staff,
but on that day, there were four voting machines in front of it
set up with a curtain on one side and a curtain on the other
side as well. So I went to talk to staff to check in and see
how things were going, so if I go back to my 12 o’clock as I’m walking in the door -- in the front door, if I keep going -- there’s a door that locks. There’s a locked door that the general public don’t [sic] have access to open unless a staff member helps them with that.

So I went back there and began speaking with staff. I saw someone that I knew that was actually there to qualify, and we spoke for a little bit in the hallway right there. There was a gentleman sitting right in front of me being helped by staff, a member of the public, so there were two members of the public in the back at the time. And then as you walk through the door, you know, there’s a hallway and you’ve got offices and stuff on the other side or on the left and little areas and working spaces to the right, but to my immediate right, that’s where the desk is, where staff sits to greet public and speak to them, you know, through that sliding window. And there were two staff members there, sitting there. One, who was closest to me, was speaking to the gentlemen sitting in the chair in the hallway, and the other was sitting further down on the other side of the desk.

Q And what did you see?

A So we got -- I was speaking and checking in about stuff and talking at people, and I just sort of glanced as I was talking. I was, like, looking around just like anybody does when they’re talking, and I glanced to my right, and I
could see the screen of the voting machine, the BMD, through the window, through the sliding glass window area. Like, I could see that, like, just right there in front of me, which to me is a violation of ballot secrecy. Nobody is supposed to be able to see the ballot that somebody is using to vote. Go ahead.

Q    About how far away from the voting machine, the face of the BMD, were you at that point?

A    5 feet, 6 feet? You know, I mean, it’s hard, like -- you know, I was right there by where the desk is where they sit. You know, when they’re greeting, so when they’re looking out through the window, as staff members are. So, like, I was in the hall right next to that, and I was looking at an angle. As other people have discussed, over here how that angle could be a problem with ballot secrecy, I was at an angle, and there was the machine right there.

Q    Was there a voter at that machine while you were looking at it?

A    There was not.

Q    If there had been a voter at that machine in front of the BMD, from the angle at which you were looking at it, would you have been able to see the face of the screen?

A    Yes.

Q    Did it matter to you from a privacy perspective that you were in essentially a non-public area?
A No. Because absolute ballot secrecy means that no -- even staff members -- we, the members of the Board of Elections, ACCBOE staff, nobody is supposed -- poll workers -- nobody is supposed to be able to see who you are selecting on your ballot, so and besides that, there were also members of the public coming in and out of the hall to quality or to have any of their voting issues troubleshooting -- like, the staff was troubleshooting I believe the gentleman who was sitting down. So it wasn’t like there weren’t members of the public back there to begin with. There were members of the public back there. And ballot secrecy is ballot secrecy. It doesn’t matter who sees it.

Q Now, there’s a photo of the elections office set up in the record, and I’d like you to look at that. It’s Exhibit 12, and if it’s all right with the Board, I’d like to hand the witness a laser pointer so he can point out what he’s seeing on the screen.

MR. RAFFENSPERGER: Sure.

BY MR. SELLS:

Q You turn it on with that red button. It is Bates, within Exhibit 12, 0079. All right. So Mr. Evans, what I’d like for you to do as best you can is use the laser pointer to show the Board what it is that we’re looking at and how that ties into your experience when you visited the advance voting site last Monday.
A: Okay. So these pictures -- both of these pictures would have been taken like right in front of the main entrance, like when you walk through, so it’s basically, like, stepping through. This one is looking at what I was calling the one o’clock here (indicating). That’s what I was describing. This area is the one o’clock with -- these are the windows that staff is behind. This is the booth right there (indicating), the one closest to the window. That’s the booth with the machine that I could see the screen for through the window, right through this window right here (indicating). And the window looks further to the left behind the curtain there (indicating), but, like, that’s what I saw.

Q: Okay. So just to be clear on that last point, the window in the office is partially obscured by the screen in the photo.

A: In the photo.

Q: But you were able to see through that window when you were standing in the back office?

A: Yeah. I was on the other side of this wall right here -- this wall right here (indicating). That’s where the staff offices and stuff are, most of them. There’s one that’s outside of it, but so I was back there. Basically, if I turned about, you know -- if that’s one o’clock, just turned to 12 o’clock, you’re walking into the row. I walked through, and I was on the other side of that door next to the desk that was
right behind these windows right here (indicating). And I did
that, and I myself saw the ballot-marking device screen through
that window.

Q  Okay. And how about the photo on the right? Can you
orient us as to how that is...

A  Yeah. That’s actually the 3 o’clock. You walk in --
this is the one o’clock (indicating). That’s the 3 o’clock
(indicating) for walking right in the front entrance.

Q  Okay. And guarding the staff windows on the one on
the right, correct?

A  There’s this curtain here --

Q  Mmm-hmm.

A  -- that’s that curtain there in that picture
(indicating).

Q  Okay.

A  So there’s, like, not staff -- there’s no -- this is
the front of the building. There’s no staff windows or
anything like that on that side.

Q  Was there any other aspect of the configuration or
arrangement of the voting booths that gave you a concern about
privacy?

A  Yeah. So you can see that they’re side-by-side here.
These two are side-by-side, and as multiple people today have
spoken about, if a person needs to get to the far machine
there, they have to walk past this machine here (indicating).
Okay. So as you’re walking past this machine here (indicating) and to get to that machine over by the window, you can actually see the ballot, the BMD screen. Same thing applies to the reverse side. You can actually -- as you’re walking through here, right, to get to this area in the back (indicating), you could possibly see this screen here, and if you need to use the far machine in that corner over there, you have to go past this machine here, and you can see that screen as well (indicating).

Q  Now, how did what you saw on the first day of advance voting impact your concerns about privacy at the Election Day polling locations?

A  So we had been assured -- staff had told us on February 4th that there were no privacy concerns for early voting locations, so they were not providing us with drawings, like to scale drawings, for those locations. And staff assured us that there would be no issues whatsoever on those early voting sites, but that they would provide us with sketches for the 20 polling locations for Election Day. And so when I showed up to the one location where we had actually used the electronic -- the BMDs, for early voting, and I see that ballot secrecy is being violated. That caused me great concern because this is the one location that had been reviewed so far that staff had guaranteed us there would be no issues with this, and there was ballot secrecy violations in more ways than one. So that led me to really -- it confirmed the need for us
to be able to see the -- the drawings for each of the 20 polling locations for election day, but also, like, we needed to act to stop this from happening continuing with early voting, so we needed to stop it from happening here, at that location, but also we needed to prevent it from happening at the other -- at any other locations that were going to be utilized in early voting because again, we’d already -- we’d been told there were no concerns of ballot secrecy for early voting locations and then the only one that they’ve done so far, that staff had set up so far, the ballot secrecy was violated.

Q And as we’ve already, I think, been told, there were 10 machines allotted for this location, but there weren’t 10 deployed, were there?

A No. There were 8. And that’s because of the size and secrecy issues, as well.

Q So the Board had its regular meeting on March 3rd?

A We did.

Q Which was the second day of early voting, I believe?

A Yes.

Q So the day after you had this experience at the elections office. What did the Board do in response to the concerns that you saw?

A Well, we had -- we had not received the to scale drawings as we’d been told we would, and actually, on the
February 25th meeting, it was a hearing, a public hearing, about unmerging, we actually reminded staff that we needed to see those drawings before -- before, like, the March 3rd meeting, and they were never provided. And so we discussed the issue with this location, and we also looked at the two diagrams that were shown earlier today that were provided by the Secretary of State’s Office. And we, as a Board, the majority of us realized that we cannot guarantee ballot secrecy at this point with the information in front of us, and in Clarke County, there was no way for us to guarantee ballot secrecy. Like, protecting ballot secrecy was impracticable.

There was no way, like, that we had seen that it would actually be done, and they were already being -- it was already being violated, so we voted to stop the violation of ballot secrecy and to utilize the Cobb County pilot -- the program that Cobb County had piloted for hand-marked paper ballots as a way to guarantee ballot secrecy in our community.

Q Now, you mentioned the diagrams, and Ms. Sosebee went over those earlier that she had provided the Board with, the Secretary of State’s diagrams indicating which polling places would be set up according to that general layout. Do you recall receiving those at the March 3rd meeting?

A I do.

Q And why were those not enough to reassure you and the Board?
Well, the Board members, as well as members of our public, spoke about the issues with the two diagrams and how they were not satisfactory in meeting the requirements for -- even just the diagrams themselves are problematic as far as meeting the requirements for ballot secrecy and monitoring of the machines while in use. But also, like, when discussing those diagrams, you know, there was a lot of uncertainty about what would be actually, like, happening, where people would be, what -- we were missed a lot of the, like, equipment that’s required to be in the room, and actually, the two diagrams, they were in no way to scale as far as, like, it wasn’t a floor plan to scale so we could actually see the evidence that shows that we can do this at all of our locations. And that was concerning to the Board members.

So as of the time that the Board made its decision that brought us here today, it had not seen any scale sketches of the actual Athens-Clarke County polling places showing that the BMDs could be configured in a way that provided the number of required BMDs and guaranteed ballot secrecy at the same time, correct?

Yeah. We -- we hadn’t even seen hand-drawn sketches either. Like, we hadn’t been provided those either. Like, no -- nothing to scale, no hand-drawn sketches that staff apparently had available somewhere that we never saw, and it was -- so yeah. One machine -- one voting booth or machine for
250 people, ballot secrecy, and the monitoring of equipment while in use, those three things -- we had no evidence that we could do those three things at that moment in time.

Q   Now, since you’ve received the notice of this emergency hearing, you have seen diagrams such as the ones we were going over with Ms. Lessard just a few minutes ago, correct?

A   Yeah. That was over the weekend, yeah.

Q   And what’s your reaction to those diagrams?

A   They’re problematic. So they -- we are required to have a certain number of BMDs, a certain number of voting booths, and as shown earlier today, like, Winterville does not have the required number. There were only, like, -- I went, line by line, each polling location, like, looking at all of the diagrams and also comparing them to the required number of BMDs that we’d been provided by staff -- with those numbers. And I think 3, maybe 4, had even the number of voting booth set up on the diagram that’s required by law, only 3, maybe 4 out of 20. So -- and even those were problematic with ballot secrecy, so -- ballot secrecy and monitoring of equipment.

Q   Were any of the diagrams that you reviewed in your view consistent with the guidance diagrams provided by the Secretary of State’s Office?

A   I don’t recall any of them being, like, consistent with the two diagrams. You could see that the people in the
diagrams are actually on the inside of the machines instead of, you know, instead of the machines facing the wall, the machines were facing the interior. And in some of them, you’ve got some machines facing the wall and some of the machines facing the interior, so no. I didn’t see those drawings actually complying with either of the diagrams.

Q    Do you continue to have concerns about the ability to guarantee ballot secrecy given the number of BMDs that are required by law in each polling place in Athens–Clarke County?

A    I do. As I said, the sketches -- and staff has said the sketches, they’re not finalized, and -- but they’re the only evidence that we have. And at this point, I haven’t seen evidence that we are actually going to be able to meet those three things, the one per 250, the ballot secrecy protection -- absolute ballot secrecy protection, and the monitoring of equipment while in use.

Q    Now, if you saw such a diagram, would your reaction change? In other words, if you saw a diagram that was consistent with the guidance diagrams provided by the Secretary of State’s Office, had a required number of BMDs, and ensured ballot secrecy, what would your reaction be to something like that?

A    If I saw diagrams that, like, were to scale that had the number of required BMDs, that protected absolute ballot secrecy, and that allowed for the monitoring of equipment while
in use, then, clearly, yeah. I would want to go ahead and continue with using the electronic equipment that we were planning to use at that specific location. There would be no reason for us to not use it if that specific location supports those three things. However, I haven’t seen that, but I -- you know, that’s something that the Board would have to revisit and make a decision about. If we do actually see that evidence that we can do that, that’s what we’d do. Well, that’s what I would want to do. We’d have to have a vote for that.

Q But as we stand here today, you haven’t yet seen that evidence, correct?

A Correct. I have looked at all 20 of the diagrams that have been provided over the weekend, and I looked at them more than once and took notes and not a single one seemed to -- to meet all requirements by law and to be in compliance with the Secretary of State’s guidelines and meet those three things that we’ve discussed the one in 250, the ballot secrecy, and the monitoring of equipment while in use.

MR. SELLS: May I have just a moment to confer? I need to tender Exhibit 3, please? It’s the one that’s not on the record. Yes, Exhibit Number 3. It’s the letter from the Lawyers’ Committee.

MS. MCGOWAN: No objection.

(Respondent’s Exhibit 3 admitted.)

MR. SELLS: And those are all the question I have
right now.

MR. RAFFENSPERGER: Counselor?

CROSS-EXAMINATION

BY MS. MCGOWAN:

Q Good afternoon, Mr. Evans.

A Good afternoon.

Q I want to -- we’ve talked a lot about the March 3rd meeting when the Board’s vote occurred. At that meeting, the Director, Ms. Sosebee, did present her privacy plan to the Board as to how she planned to lay out each precinct in order to accommodate voter privacy, correct?

A When you say privacy plan, are you referring to the two temp diagrams provided by the Secretary of State with each -- with polling locations, like, listed on the bottom of those two things, is that what you’re referring to?

Q Yes.

A Yes.

Q And didn’t she tell the Board at that time that she was confident that they could achieve voter privacy at each location by turning the voting booths?

A By turning the voting booths?

Q According to the layout that she presented.

A Oh, so using, like, for the ones that were listed on diagram 1 and then the ones that were listed on diagram 2, you mean that way?
Q    Yes.
A    Yes.
Q    Why don’t you trust her determination?
A    So I -- for a variety of reasons. One is we were
      assured ballot secrecy would be -- absolute ballot secrecy
      would be protected for the early voting site at the Board of
      Elections Office, and it wasn’t. I saw it with my own eyes.
      Two, I’ve personally been to these locations, and I, like, am
      familiar with the locations from voting at four different
      locations, two of which were the smaller locations that were of
      concern with space, but I’ve also visited others as well, so my
      own experience from voting and also being a Board member --
      it’s my fourth year. My own experience with this community led
      me to that, but also the diagrams that she showed were
      problematic for reasons that I’ve already discussed.
Q    Well, let’s talk about not the early voting location,
      but the other precincts that are planned for Election Day on
      March 24th, the day of primary when those will be in use. You
      said that you had asked for to scale drawings of those, and as
      you sit here now, you know that those were in process at the
      time, right?
A    I’m sorry. Could you clarify the question?
Q    The drawings done by Ms. Lessard. You had asked for
      precinct layouts that were to scale, but your testimony today
      is that you were not given those by March 3rd. Is that right?
A: We were not provided any sort of sketches, hand-written sketches or to scale sketches, before that meeting or at that meeting.

Q: Why not wait then until you had been provided the sketches?

A: We were already violating ballot secrecy at a location that we were told -- we were assured --

Q: But that was an early voting location, correct?

A: Yes, ma'am.

Q: And that one is not going to be used on -- come March 24th, the primary day?

A: Yeah. I think that what I'm trying to say is that we had already -- we had taken the word, the assurance of our staff that that would not be an issue and that ballot secrecy would be protected, and that was just not the case. Like, it was -- so we trusted staff with that location, and it was violated. Like, so, and also my own experience, again, being at these location throughout the community led me to be pretty skeptical actually based on what I've seen of these locations and what staff told us about the problems, you know, their concerns. We needed evidence, okay. Like, and we had to stop the violation of ballot secrecy right then. It wouldn't be acceptable to just allow a ballot secrecy violation to continue.

Q: So it's your testimony today that you lost all
confidence in the Director and her staff based on your one
experience at the early voting location in the office?

A    That’s -- no. That’s not true. There is -- there
are reasons and previous experiences with the staff throughout
my duration that have eroded our ability to trust that they --
that it would done.

Q    So even though the Director of Elections came forward
with her plan to achieve privacy that she believed was
workable, you still decided that the Board needed to move
forward on March 3rd to vote to move forward with hand-marked
paper ballots instead?

A    This is the last meeting that we had before March
24th, that we had scheduled before March 24th. And as I’ve
said, it was already -- we were already violating ballot
secrecy at the early voting location, and we needed to stop
that, and we needed to prevent that from happening at any other
-- any other early voting location and also prevent that from
happening at any of the polling locations on Election Day.

Q    Let’s talk about your experience at the early voting
location on March 2nd, and if I could turn your attention back
to that photograph. That’s document ACC BOER 0079. I think
it’s here.

A    Do you mind if I -- so you said that I decided
something, and I just want to make it clear that I alone didn’t
make any decisions. This was a vote done by the Board itself.
Q    Fair enough, but you made the motion, correct, to
move forward with --

A    No.

Q    -- hand-marked paper ballots?

A    I did not.

Q    Well, in your opinion, that was at least -- your
personal decision, you voted in favor of moving forward with
hand-marked paper ballots?

A    I was one of three Board members of the five Board
members -- a five member Board that voted for it, and I did not
vote to make a motion for that.

Q    Turning to your experience at the Board of Elections
office, I believe your testimony was that -- we’re looking at
the photograph on the left. There is a series of -- it looks
like three windows behind the voting booths, and you were
actually in that office space back there?

A    Mmm-hmm.

Q    Looking into the voting space through the window,
correct?

A    Not intentionally. I was just standing --

Q    But that’s where you were looking?

A    That’s where I was, yes.

Q    Do voters go back there?

A    Yes.

Q    During the vote?
A  Not when they’re voting, but yes. Like, that day
whenever I came on that day, I had gotten off of work. I went
by to check it out and to make sure that everything was going
well and when I walked through that door, which -- so again, if
this is one o’clock, further this way would be a door
(indicating), so I went through that’s door that’s locked, but
I went through that door, and there were two members of the
public on the other side of the door already. Like, there was
a gentleman sitting in a chair, speaking to, like, a staff
member was addressing a concern to that person, and one of our
-- actually one of our Commissioners was coming into quality
for the election.

Q  Isn’t it possible that the poll workers could prevent
traffic from -- from going back into that space?

A  I’m sorry?

Q  Isn’t it possible that the poll manager, who is
responsible for directing voter traffic, could prevent voters
from going into that space?

A  The doors are locked, like, the only way you’re
getting on the other side of that door is if somebody opens it
for you.

Q  Okay. So we could -- you could keep voters from
being in that space since the doors lock by not allowing them
back there, correct?

A  So -- okay. The door is locked, and if you wanted to
prevent anybody from going through a locked door, the answer is yes. But when I went on the other side of that door and actually, in my previous experience as well, voters have been on Election Day -- or not on election day, during early voting, been in that area when they were having their problems addressed. I’ve seen it myself.

Q My question is isn’t it possible to prevent voters from being in that area while there is voting going on?
A Yes.

Q Also, those are windows, right?
A Yeah, well, yes.

Q Could they be covered up?
A Yeah, it’s possible.

Q This is just one of the early voting locations, right? There are at least -- the one that’s going on right now, but three more will be opened up next week.
A Four more.

Q Four more. Did you visit any of those locations?
A I’ve been to multiple of those locations, yes.

Q Did you -- how recently?
A Well, we had our March 3rd meeting at one of them, which is the library.

Q But you don’t have any assessment as to why it’s not possible to achieve voter privacy at those locations?
A I do. And it’s --
What’s that assessment based on?
My experience in those locations.
But you haven’t seen the setup, correct?
There is -- there is not setup to be seen. Like, nobody’s -- I don’t know what you mean. I’m using my own experience with the locations, my own experience of seeing the machines set up this way, and that’s what I’m using to make these -- like, say that I need to make sure that we don’t have continued violations. And also the fact that the Board’s trust in staff when they assured us that they wouldn’t be doing -- violating ballot secrecy at this location -- was the Board -- the staff did not live up to the assurances that they said.
And so even though the Director and the staff told -- advised the Board that they could achieve voter privacy for the other advance voting locations, you assumed contrary to that testimony, is that correct?
I -- so I saw it violated here after receiving assurances, and I didn’t have any evidence that it would be able to actually be done in any of the other locations.
Did you ask the county attorney’s office to give you an opinion as to whether it was impossible or impracticable to use the BMD touch screens?
I personally did not.
Do you know if any Board member did?
I don’t recall if that was actually the question that
Q    In fact, the county attorney at the March 3rd meeting actually advised you against moving forward with moving to hand-marked paper ballots, is that correct?
A    My recollection is that the -- the county attorney did not say one way or the other that it was actually, like, practicable. He said that if we did this, then it would be challenged -- it’s likely to be challenged. And, like, so that’s my recollection is that he said that it is likely to be challenged is what he said if we do that. I don’t recall him ever saying that it’s definitely practicable to do that.
Q    Did your -- the county attorney tell you at that time about the lawsuit that had been filed in Sumter County?
A    He did mention that, yes.
Q    Have you seen a copy of the Superior Court’s order in that case?
A    I have.
Q    I’m sorry?
A    Yes.
Q    What is your understanding of the Court’s order in that case?
A    I’m sorry?
Q    What is your understanding of how the Judge ruled in the Sumter County case?
A    So it’s my understanding that there are multiple
components to that case and it’s ongoing, like still, that the
Judge did give a decision about the request for him to direct
the Sumter County Board of Elections to switch from BMDs to
dpaper ballots, and it’s my understanding that in his decision,
hhe said that it’s up to the Board, the local election
officials, like, to make that decision, and they had to -- and
he said in his decision that they need to protect absolute
ballot secrecy while also ensuring that machines are being
monitored when they are in use.

Q So I’ve handed you a copy of that Sumter County
order, have you -- is that the particular order that you
reviewed?

A I looked at multiple things. I’ve looked at
summaries, I’ve looked at video actually of the Judge giving
the decision that I just described, and I’ve looked at -- I
believe I’ve seen this as well, but I can’t be sure.

Q Okay.

MS. MCGOWAN: I’d like to tender that as Exhibit 9.

(State’s Exhibit 9 identified.)

MR. RAFFENSPERGER: Entered.

(State’s Exhibit 9 admitted.)

BY MS. MCGOWAN

Q Did you consult with the county attorney’s office and
get an opinion on when the use of paper ballots is permissible
under Georgia’s election code?
A Did I seek out our county attorney and ask that is what you’re saying?
Q Yes.
A Me, personally?
Q Yes.
A We discussed as a Board in Board meetings that county attorneys were present at that question.
Q And did you get an opinion from the county attorney’s office at those meetings?
A Like, did they, like, give an official --
Q Yes.
A -- opinion?
Q Correct.
A Not that I recall. I don’t recall that.
Q Do you think that information would have been useful in making this determination whether you should switch to hand-marked paper ballots?
A Maybe, but I read the statute myself. I’ve seen the statute, like, I have the book with me. There’s a green book sitting right there that I take with me to Board meetings and that is the relevant statute. It has to do with impracticability or impossibility -- are in that book, and I’ve read it and actually showed it to the Board member next to me during our discussion on March 3rd, that actual statute.
Q The vote that occurred on March 3rd to move forward
with hand-marked paper ballots, did that just apply to the
presidential preference primary or is it for all future
elections?
   A  I’m sorry. Would you say that one more time?
   Q  The vote that occurred on March 3rd, where the Board
approved moving forward with hand-marked paper ballots instead
of the BMD touch screens, does that apply to just the
presidential preference primary or to all elections moving
forward?
   A  The vote was just for this presidential preference
primary.
   Q  Is it your position that the Board will reconsider
its position for the May primary?
   A  Would you explain what you mean by that?
   Q  So do you plan to use the BMD touch screens for the
May primary?
   A  As long as we can meet statutes that say that we have
to have one BMD and voting booth, for every 250 people assigned
to the polling location, and we have -- we’re guaranteeing
absolute ballot secrecy, and that we’re able to ensure that all
equipment can be monitored while in yes, then yes, we would
continue with that if we could do that. There’s time between
now and then that we may be presented with, you know, other
evidence possibly. I don’t know. But we haven’t made a
decision about that as a Board.
Q    You testified at the March 3rd meeting that the Board also discussed un-merging polling locations, is that --

A    Yes.

Q    -- correct? And you -- you mentioned that you believe that this could help alleviate some of the concerns with voter privacy, right?

A    Maybe, maybe not. Like, again, I’m going to have to see the diagram, you know, with these particular spaces that we’re -- that we’re using for the four new locations, so that, you know -- and compare that to the required number of BMDs for that location. And also, I have to see -- so staff was telling us on February 4th that the way that they were going to go about protecting ballot secrecy is turning the machines a particular way, so in order for us to know that that’s possible and practicable, we have to see the diagram showing -- to scale diagram showing that that’s possible and practicable.

Q    At some point -- I believe it was January or February, maybe you can help me with the precise date -- but did the Board vote to invoke a Plan B or come up with a Plan B?

A    The Board, after hearing -- seeing -- hearing from the public concerns about secrecy after seeing the pictures of the inventory that we were getting, after hearing from the staff concerns about the size and the number of machines that we -- the increase in size and the number of machines that we were receiving for the new systems, the Board -- I’m sorry.
Repeat your question.

Q  Do you understand Plan B to be to move to hand-marked paper ballots as opposed to using the BMD touch screens?
A  No. Plan B is what we literally said during the -- like we talked about it, like, in the meeting where we did this, like -- we wanted to use the process that Cobb County piloted in November of 2019 at the order of Judge Tothenberg. You know, we wanted to use that as our process for the backup plan, if for some reason it became impossible or impracticable to continue with the electronic voting equipment, the BMDs.
Q  This Cobb County pilot that you have referred to a number of times, you understand that that was part of a court order, correct?
A  Yes.
Q  And are you a party to that litigation?
A  No.
Q  Did you receive any legal opinion from your county attorney if the -- what you're referring to as the Cobb County pilot, was an available legal alternative for Athens-Clarke County?
A  Are you asking me if the county attorney told me if we could or could not do that?
Q  Correct.
A  I don’t recall the county attorney telling us we cannot use this process particularly as a Board to make a pilot
saying this is the way we’re going to do this.

Q    Did you ask for an opinion whether or not it was
legally permissible to invoke what you’ve called the Cobb
County pilot program?

A    Again, attorneys are in the meetings with us whenever
we’re having our meetings, and they speak up whenever there’s
an issue with legality and whenever they realize an issue.

Q    One moment please. Ms. Sosebee testified earlier
that she received curtains along with the -- the voting booths.
Isn’t it an option for the County to install the curtains on
the booths?

A    I’m honestly not sure about that because again, we’re
supposed to be monitoring the equipment. It’s my
understanding, particularly in agreement with what the Judge in
the Sumter County case said, that the equipment should be
monitored while in use. So if you’ve got a curtain around a
machine and a person inside it, how could it possibly be
monitored while in use?

Q    Are you familiar with OCGA 21-2-267, concerning the
use of privacy screens and curtains and those kinds of things?

A    I’d have to read the statute to know if I’m familiar
with that or not.

Q    Are you aware that this particular code provision
allows counties to use curtains, screens, or doors on the upper
part of the front of each compartment or booth so that in the
marking thereof they may be screened from the observation of others?

A. Again, I’d have to see the statue myself to know that.

Q. But you would agree that you didn’t consult that provision or read that provision you went forward with your vote on March 3rd?

A. The provision saying that --

Q. That curtains could be used for privacy?

A. With -- with the electronic voting equipment?

Q. Yes.

A. In ways that obstruct the ability to monitor the equipment, it says that?

Q. It says the language that I have just read. Had you read this provision before voting on March 3rd?

A. Not that I recall. It’s possible, but I don’t know.

There are a lot of statutes in that book.

MS. MCGOWAN: I have no further questions.

MR. RAFFENSPERGER: We have a few -- the Board members have a few questions for the witness. Mr. Worley?

THE WITNESS: Ma’am, did you want this back?

MS. MCGOWAN: Oh, yes. Thank you.

MR. WORLEY: Thank you, Mr. Chair. Mr. Evans, I was struck by something that you said in your testimony, and I wrote it down, and I think what you said was -- and this
is in reference to the early voting location. You went in
on, I think it was on March 2nd, the first day of early
voting and saw that early voting location at the main
office, is that right?

THE WITNESS: Yes, sir.

MR. WORLEY: And what you said was you came to the
conclusion that we had to stop the violation of ballot
secrecy right then. Isn’t that what you testified to?

THE WITNESS: That was in reference to the March 3rd
meeting, like, so the March 3rd meeting was what I was
referring to when I said that we needed to stop it right
then.

MR. WORLEY: Well, you didn’t think when you saw the
problems on March 2nd -- you didn’t think you had to stop
it -- stop it at that point?

THE WITNESS: So in my experience with staff
throughout my tenure, my concerns are often dismissed as --
-- and we’re often told, like, you know, basically, like,
that we’re treated as if our concerns aren’t basically
worth acting on. We already had tension with staff with
this. We had staff behaving toward us in very
unprofessional ways with this topic, and, like, I didn’t
feel comfortable addressing it in that moment with the
staff.

MR. WORLEY: So on the day, on March 2nd, when you
were there in the office and you could see through the window to the voting booths, you didn’t say anything to the staff at that point to say hey, we need to stop this. We need to do something.

THE WITNESS: Not in that moment, sir.

MR. WORLEY: Okay. Was there anything that you saw there on that day that raised concerns about how the staff was able to monitor the election equipment?

THE WITNESS: So the curtain, if you pull up the curtain --

MR. WORLEY: I think it’s page 79, ACC BOER 0079. There.

THE WITNESS: So there were staff members when I went standing to the, like -- in this picture here, like, there were staff members standing to the left, like, you know, in this area over here, where it would be over here (indicating). And so -- and there was a staff member sitting behind the window back there, so the only concern that I would have had would have been monitoring what was happening on these machines in the back here or, you know, and from this angle here, you can’t really see what a person is doing to a machine from this angle (indicating). So that would have been my concern with the tampering issue.

MR. WORLEY: And your concern about the tampering
issue or an inability to monitor, is that reflected anywhere in the Board minutes?

THE WITNESS: When you say the Board minutes...

MR. WORLEY: The minutes of the Board in this period leading up to March 3rd.

THE WITNESS: It’s in the recordings. We’ve had — minutes have not been verbatim minutes, but we do have recordings of meetings online, and we have discussed these issues.

MR. WORLEY: I don’t have any further questions.

MR. RAFFENSPERGER: Ms. Le?

MS. LE: Thank you. Thank you. I do have a couple questions. That configuration up there, is that typical of other configurations in the past? You’ve been on the Board for four years, you said?

THE WITNESS: This is my fourth year.

MS. LE: Fourth year. And is that configuration similar to other configurations in the past with the DREs?

THE WITNESS: Actually, no. Like, that’s not the way they’ve been set up in the past.

MS. LE: But not side-by-side ever?

THE WITNESS: Oh, you mean the side-by-side piece?

MS. LE: Yes.

THE WITNESS: Yeah. The DRE situation, they would have the side-by-side and the DREs could be laid back, so
that that would less of an issue for people to go and see

MS. LE: But they are side-by-side, and the concern
you had where when someone walks behind one, it would have
been the same for the four years you’ve been there, no?

THE WITNESS: No, ma’am. Because the DREs -- so the
DREs had smaller screens, they could be laid -- these
machines are almost vertical, right? And they’re bigger
screens, and they’re more brightly lit, and, like, the
text is, like, different as well. Like, with the DREs,
you could actually lay them back and as I believe Director
Sosebee said earlier, our staff was actually trying to,
like, find a way to lay these machines down, and they were
advised not to do that. So it was a different experience
with the previous system than with this system.

MS. LE: Because -- but the DREs are also upright
too, right? So were those a concern back then and what do
you do about that to protect the privacy?

THE WITNESS: No. I guess what I’m trying to say is
the DREs did not sit in this position, like, necessarily.
They can be folded back, and there were smaller screens
and different lighting, like it was a very different
experience with voters, like, visually. That’s -- that’s
a very different thing than this. This is a very
different system than what was used before.
MR. RAFFENSPERGER: I have a couple questions. One, really goes to a little bit what Mr. Worley -- Mr. Worley just asked you. But if you saw that situation -- I’m just on the window on the left -- why didn’t you approach one of the, I believe Ms. Sosebee works actually out of that location if it’s the main place where I visited once. Why didn’t you go over and grab her and bring it to her attention and just go grab some 8 ½ by 11 white paper or a piece of drafting paper and just tape it up from the wall, if it was such a concern to you?

THE WITNESS: As I stated before, there have been, like -- there’s been some tension recently and unprofessional behavior towards Board members by staff. And particularly, when -- there’s a difference between when we’re in a public meeting, and not always but usually if we’re in a public meeting, it’s one way, but if we’re not actually in a public meeting, there are -- other things are said. And I just felt more comfortable addressing it as a Board instead of as an individual.

MR. RAFFENSPERGER: Okay. And I guess when you had your Board meeting, was there any transcript or a video made of that meeting?

THE WITNESS: Which meeting, sir?

MR. RAFFENSPERGER: When someone asked you if the county attorney gave you any legal advice --
THE WITNESS: The March 3rd meeting?

MR. RAFFENSPERGER: The March 3rd meeting.

THE WITNESS: Our meetings are recorded, sir.

MR. RAFFENSPERGER: The meeting has a recording. Do we have a transcript of that because you stated that the county attorney did not give you any advice that you would not prevail, and you would put yourself or your county in a precarious position, and I’d like to know if there is a transcript of that or the video?

THE WITNESS: Sir? Do you mind if I clarify? That’s not what I was saying earlier. I was not saying that the county attorney didn’t say that we would be -- that we would be challenged. I didn’t say that. I didn’t say that, like, the county attorney didn’t say -- like, I was saying that the county attorney never gave a decision on whether or not this was actually practicable or possible. That’s what I was saying.

MS. MCGOWAN: Mr. Secretary, there is audio recording of the meeting, and we’re happen to admit that into the record. We could get a copy if opposing counsel would agree to stipulate, then we could put that in the record.

MR. MITCHELL: I’ve got it on my computer. We can drop it onto the flash drive and just put it in the record as Plaintiff’s Exhibit 75.

(Respondent’s Exhibit 75 identified.)
MR. RAFFENSPERGER: Yeah.

MS. MCGOWAN: We’ll figure it out.

MR. RAFFENSPERGER: Okay. Thank you.

(Respondent’s Exhibit 75 admitted.)

THE WITNESS: Do you mind, sir, if I say one more thing that’s relevant to this? Is that okay?

MR. RAFFENSPERGER: Go ahead. Be quick.

THE WITNESS: So back in November 2018, our county attorney Ben was giving the Board very bad legal advice. I was the one person, like, on the Board looking at the statute. Like, we had members of precincts had petitioned for recanvass, and they submitted a petition for recanvass, and we were being advised by our county attorney, like, that we could vote not to do this even though the statute says if the three electors in a precinct petition for recanvass, that we shall do that. The word was shall, and he was trying to talk us out of it and saying vote no and don’t do this. So with all due respect to county attorneys, they’re there to advise, but the decision rests with the Board, and we made the right decision that day, the Board did, in continuing to do the recanvass, but it was a -- I mean, it was a battle, like, to do the right thing. And our county attorney at that point was not on the right side of that battle, so in my experience, county attorneys don’t necessarily have the
final say on the legality of something, and that’s not
their area of expertise necessarily. Election law is not
their area of expertise. That’s my experience.

MR. RAFFENSPERGER: Mr. Worley?

MR. WORLEY: I just wanted to follow up on something
you said. Essentially, you said you weren’t comfortable
taking your concerns to the staff.

THE WITNESS: By myself and in that moment.

MR. WORLEY: Yeah. Well, wouldn’t it make more sense
to take your concerns to the staff or go to the other
Board members and then go to the staff rather than
changing the method of voting for every person in Clarke
County?

THE WITNESS: So we -- we met as a Board the very
next day, and we were looking at, like, we were expecting
prior to that meeting to see the evidence that we could
actually meet these three standards that I’ve been
referencing, one machine for every 250 voters in a polling
location, absolute ballot secrecy, and monitoring election
equipment while in use. This here doesn’t satisfy that.
That arrangement doesn’t satisfy those requirements. And
it’s not just seeing through the window. When a voter is
walking past, they can see the screen. Like, to get from
here -- excuse me, here, like walking from here to here
(indicating). If a voter is here to get to that machine,
a person can see their ballot when they’re, like, walking by that other person. So it wasn’t just seeing it through the window, it was this configuration here as well that was a concern.

And we had already been assured by staff -- like, staff had assured us repeatedly that this wouldn’t happen, that this ballot secrecy would not be violated at any of these advanced polling locations. And also, staff had assured us that we would be provided in advance the evidence that we needed to know that we can guarantee absolute ballot secrecy. And they just didn’t provide it, sir. And that’s why -- based upon the information we had at the time, that’s what we made our decision on on March 3rd.

MR. WORLEY: And you didn’t make any attempt on March 3rd to work with the staff to reconfigure that configuration?

THE WITNESS: Are you asking -- that specific configuration there?

MR. WORLEY: Yeah.

THE WITNESS: Did we go to the Board office and try to help them figure them it out? Is that what you’re asking?

MR. WORLEY: Yeah. Did you ask them, or did you tell them you need to reconfigure this? These are our
concerns. What can you do to fix this?

THE WITNESS: We were in a Board meeting at the library, sir. The Board meeting was at the library. It was not at the Board of Elections office.

MR. WORLEY: Right. But you didn’t bring up the issue? You didn’t say --

THE WITNESS: We did bring up --

MR. WORLEY: -- at the Board -- at the Board of Election office, you haven’t configured in properly. How can we change that configuration at the Board of Elections office.

THE WITNESS: So I think you heard earlier that the staff worked, has been working for months to come up with this configuration, and they worked for 13 hours to get that as their best work, right? That’s the best that they thought they could do, so, like, I don’t -- you’re saying that I should have gone to the Board of Elections office and rearranged their equipment for them or...?

MR. WORLEY: I’m asking you if you had any discussions with them at that point about your concerns and asked them to change that configuration.

THE WITNESS: In that moment at that meeting, we did not ask them to change the configuration.

MR. RAFFENSPERGER: Matt Mashburn?

MR. MASHBURN: I just have a request. Can we make --
can we enter the audio recordings of the March 3rd Board
meeting and the March 9th Board meeting into the record?

MR. MITCHELL: Yes, sir.

MR. MASHBURN: Thank you.

MR SELLS: We’d actually like to enter all of the
meetings since January into the record, audio recordings.
I think just about all of them have been referred to
today.

MS. MCGOWAN: We have no objection to that.

MR. RAFFENSPERGER: Okay. Order.

MS. LE: I’m sorry. I have one more. I think the
last one.

MR. RAFFENSPERGER: Yes, ma’am.

MS. LE: What I’m hearing today, and tell me if I’m
hearing correctly, is that you said earlier you don’t have
a lot of faith in your staff or the confidence --

THE WITNESS: We -- sorry.

MS. LE: -- and -- and the other thing I also heard is
you don’t have faith -- I’m paraphrasing -- in your
attorneys, your Board attorneys either, so what will the
Board do going forward in terms of operations?

THE WITNESS: So what I -- what I was saying about
the staff is we would like -- we would like staff to show
us actual diagrams to scale. They can create the diagrams
and show us these diagrams, so we can know that they can --
that they can actually -- we can actually do what they say they’re going to be doing because they said they were going to be doing it with this machine -- with this setup here, and it didn’t happen. So that’s what I was saying is that we need to be able to be provided actual evidence as a Board to make decisions and not just we’ll do our best. That’s not acceptable as a Board of Elections.

And then the other thing was about the attorney -- clearly, we’re going to seek legal counsel. That’s what we do. The Board is the decision-making body. We ask for legal counsel, and then we make a decision based upon what they say, but also based upon what our knowledge is collectively. So that’s, like -- it’s not that the county attorney is the decision maker for the Board. The Board is the decision maker, and we take into account all the evidence that we can get including what the county attorney says. That’s what I mean.

MR. RAFFENSPERGER: Thank you.

THE WITNESS: Thank you.

MR. RAFFENSPERGER: Next witness? Sir, we’re -- you’re done.


MR. MITCHELL: I need to tender Exhibit 15. It was the photograph of the diagrams. I talked to Ms. Lessard about those.
MR. RAFFENSPERGER: Okay.
MS. MCGOWAN: No objection on those.
MR. RAFFENSPERGER: Ordered. Number 15.

(Respondent’s Exhibit 15 admitted.)
MR. SELLS: We have no other witnesses.
MR. RAFFENSPERGER: Do you have any closing comments?
MS. MCGOWAN: Yes. Thank you, Board, for your time today. I will be brief because I know we’ve -- we’ve been here a long time. To put it simply, Georgia’s election code requires that all counties use the ballot-marking device and optical scanner system that was approved by the General Assembly once it was certified by the Secretary of State that it complies with Georgia law, which is has been. This is not discretionary. There is a clear mandate from the General Assembly that counties use this equipment, and as we all know, the State made a significant investment in the Dominion system, funded over $1 million worth of equipment to Athens-Clarke County that is now not currently being used.

Now, certainly no one -- no one here today is arguing that voter privacy is not a legitimate concern. It is protected by the State constitution and in the election code. But it is not justification for scrapping the equipment all together and switching to hand-marked paper ballots. The Secretary of State’s Office understands the
privacy concern and that is why it provided training
materials and manuals and diagrams to help staff at the
county level decide how they can best lay out their
equipment and provided solutions on the phone with staff
as to how they could achieve voter privacy. Here, the
Director of Elections clearly took this issue seriously.
She developed a privacy plan and frankly, it was ignored
by the Board.

The Georgia election code and the Board’s rules only
permit the use of hand -- paper ballots in an emergency
situation, when the use of voting equipment is impossible
or impracticable. That’s the language in the statute.
What this means is a technical malfunction of the
equipment, when it simply just doesn’t work. Now, as Mr.
Germany explained when we started the day off today,
impossible or impracticable does not mean inconvenient.
It doesn’t mean when it’s the preferred policy choice of a
county board. The Georgia Supreme Court has defined --
well, we all know what impossible means, but the Georgia
Supreme Court has defined the term impracticable as it’s
used in statute, and they have said to say that something
is impracticable is to say that it reasonably cannot be
done. It does not mean merely that it is inconvenient.

Now, here, we certainly don’t dispute that this was a
difficult decision before the Board and that they were
weighing competing interests between privacy and how to set up their locations and accommodate the number of voting booths that they had to provide by law, but here, I think it’s pretty clear from the Chairman’s testimony that the Board didn’t really even consider whether privacy was achievable. It seemed to be a foregone conclusion when they went to vote. The staff worked hard as we saw to come up with a privacy plan. They had sketches made. The Board didn’t wait to review those for each polling location. They instead moved forward with a hasty vote.

This vote was also against the advice of the county attorney. At the meeting, since the audio will be admitted into the record, you will hear them talk about this situation and how the same situation happened down in Sumter County and the very argument that voter privacy issues mandated that counties switch to hand-marked paper ballots that had already been rejected by the judge down in Sumter County. I was present at that hearing in Sumter County. What it was was an emergency hearing on a writ of mandamus where a voting rights organization had sued the County Board trying to force them to use hand-marked paper ballots based on privacy concerns. The Superior Court judge rejected that emergency motion, denied it, and what the judge found there was not the Board had discretion to make that decision. What the judge found was that there
wasn’t evidence that it was impossible or impracticable to achieve voter privacy, and many of the same exhibits and evidence were presented at that hearing as was today, where the judge was persuaded that options that were provided by the Secretary of State’s Office to achieve privacy were -- could be employed by that particular Board.

It’s also important to note that in addition to being able to achieve voter privacy with the BMD touch screens by using screens or curtains, any voter that has a concern about the privacy of their ballot and prefers to vote on paper can do so under Georgia law. Any voter can request an absentee ballot and vote by absentee ballot.

There’s been some discussion and testimony about this Cobb County pilot. As the Board is likely aware, this pilot was ordered by Judge Totenberg in the Curling case last summer. That plan was to test out an emergency back-stop in case the new Dominion equipment either didn’t come in on time, wasn’t available to be used, or hadn’t been certified by that time. It was not presented as an alternate option for counties. And the judge in that case has certainly not ordered that this back-stop plan be put into place.

So to conclude, we believe the evidence establishes that the Athens-Clarke County Board of Elections committed
violations of the Georgia election code, specifically 21-2-300, which requires that all counties use the Dominion ballot-marking devices with optical scanners. We’ve also cited codes 21-2-265, 266, and 267, which require Boards to approve polling locations that can accommodate the equipment that is required.

As far as options that are available to the Board, OCGA 21-2-33-.01 provides the particular remedies that are available. The Board can order the Athens-Clarke County Board of Elections to cease-and-desist using hand-marked paper ballots in a way that violates the election code. A public reprimand is also a remedy that is available. The Board can order that the County pay the Secretary of State’s investigative costs, which I understand for this matter have become substantial because this has turned into a full-time endeavor for -- for many staff members of the Office since the emergency hearing was announced.

The Board may also impose a civil penalty of up to $5,000 per violation. The appropriate penalty is within the Board’s discretion. It’s also within your discretion to determine what’s a violation? A violation could be each paper ballot that was cast improperly or it could be for each day the Board of Elections is not in compliance with the law, so it’s up to you to determine both the amount per violation that should be imposed and the number
of violations.

In addition to the statutory provisions, as the notice of hearing provides notice of, we believe that there’s also been violations of the SEB rule 183-1-12-.01 and 183-1-14-.02.

MR. SELLS: I want to again thank the Board for wading out here in all this testimony. I’m not sure you signed up for 7 hours of a hearing, but that’s what we delivered today. I want to respond to a few things that my friend on this side of the table just said.

Number one, she said that hand-marked paper ballots are only available under Georgia law in the event of a technical malfunction. That is simply not the law. 21-2-344 is the statute which has existed for quite some time, and it allows the use of paper ballots when voting machines become impossible or impracticable to use or not practicable -- not practicable is the actual language.

And there is an Attorney General opinion directly on the point, and I’ll get that citation. It is 1997 Georgia opinion of the Attorney General, at page 7. This was a 1997 opinion authored by Michael Bowers to Lewis Massey, the Secretary of State. And the issue there was not a technical malfunction, it was an impracticability or impossibility because the ballot language was too long to fit on the voting machines that were in use. And so that
became impracticable, and Mr. Bowers cites the 344 and
says now applied to this situation, you’ve got
impracticability and so you should use hand-marked paper
ballots in order to maintain compliance with Georgia law.
So I think it’s clear that this failsafe can apply other
than in situations where there is a technical malfunction
or a power outage.

There’s a separate section of Georgia code that
applies to the emergency ballot situation, and that does
apply not only to a technical malfunction or to a power
outage, but it also applies in situations where the line
is more than 30 minutes long, so there’s yet another
provision there. But that’s not the provision that the
Athens-Clarke County Board of Elections relied on. The
Board of Elections here relied on 21-2-344.

Ms. McGowan also said that voter privacy is not a
justification for scrapping ballot-marking devices, and we
respectfully disagree with that position. Ballot secrecy
is a constitutional right under Georgia law, and if it is
impossible or impracticable to guarantee that right using
the machines, then -- in a particular situation, then it
is not only possible but actually a duty of a County
Elections Board to declare that to be impossible or
impracticable.

Now, having said that, this is not a case, and I hope
it became apparent from Mr. Evans’ testimony, where the Athens-Clarke County Board of Elections took the position that the BMDs can never be used in a manner that is consistent with voter privacy or ballot secrecy. That is not our position. The position is what you heard here today that we couldn’t fit enough machines, the required number of machines, in the space allowed in a way that would comply with the Secretary of State’s diagrams that were specifically promulgated in order to guarantee ballot secrecy.

And in fact, even though the Board of Elections didn’t have any sketches at the time they made this decision, the ones we have seen look an awful lot more like Mr. Harvey’s examples of what not to do than what to do. And there is a real problem in Athens-Clarke County particularly with respect to about six polling places of whether you can fit the number of machines in the space in a manner that is remotely consistent with what Mr. Harvey laid out. And so this Board, being unable to add polling places or move polling places to a larger location, really did find itself between a rock and a hard place, and it may or may not be the only Board in the State dealing with those issues.

This is not about any other County. This is about the polling places that exist in Athens-Clarke County, and
the ones that, frankly, we’re stuck with for the March 24th primary. We can make changes for the May primary, and we’ve already done that, and we can make more changes, if necessary, for the November election, and I think the Board indicated -- Mr. Evans indicated willingness to do that if necessary to comply with all of the legal requirements.

You heard Ms. McGowan say that this was a difficult decision by the Board, and it certainly was. It was not a hasty decision. Ballot secrecy was one -- was an issue the Board had asked about repeatedly for months and had asked them to provide more than mere assurances that ballot secrecy would be respected given the constraints that the Board was facing. The Board did not receive those drawings, and it -- given the information before it, it made what is clearly a reasonable decision. It may not be the one that the State Election Board would make. It may not be the one that another county would make.

But I think that in order to find a violation of law here, the State Election Board needs to find that no reasonable Board would find it impracticable to meet its many obligations under the law with the use of ballot-marking devices. Again, if the Board -- if this Board applies any other standard, then you take away discretion and you open the courthouse door to litigants who want to
capitalize on that lack of discretion to get judges to substitute their opinions for those of Boards of Elections around the state.

I will close where, in a way, I began, and it was part of Mr. Evans’ testimony as well, that this Board remains open-minded and willing to work not only with staff but also with the Secretary of State’s Office to try to come up with a solution that works in Athens–Clarke County that respects voter privacy, complies with the legal obligations for the number of voting booth required, and also complies with changes -- the restrictions on changing a polling place so many days before an election. We can’t change polling places before the presidential primary, but there may be other things that we can do, working with the Secretary of State, that would provide a technical solution here. In fact, the Secretary of State’s Office clearly has diagramming capabilities. I suggest that might be one area where we could collaborate and come up with the kind of evidence that the Board has been requesting for a way to allow them to ease back into the polling places in a way that respects voter privacy.

Voter privacy, ballot secrecy is clearly something that is important to the Board. It is a constitutional right, and it is one of several things that the Board has to consider when equipping its polling places and moving
forward with elections. I think it’s beyond dispute based on the evidence in front of you that this Board did its level best, given the information in front of it to try to accommodate all of the many requirements that it faced. So if -- I think with that, I’ll rest.

MR. RAFFENSPERGER: Any Board members have any comments or input? Would you make a -- go ahead.

MS. LE: I think what I heard today is a little bit concerning with how Clarke County -- Athens-Clarke County Board and its staff work, and we’re up against a very important year. Elections is a demanding business to begin with, but what I heard today is concerning, and I hope -- it seems to be a, you know, disconnect between the Board and its, I guess, staff if you want to call it that, but I really hope you guys find a way to better communicate. It has to happen or else what I feel like -- the impression I got from this, hearing the testimony, especially that of Mr. Evans, is that this, what has been brought today, seems more like an event of miscommunication between the staff and the Board --

MR. RAFFENSPERGER: Excuse me.

MS. LE: -- because it could be resolved another way, the Board decided to take this extreme measure. I don’t see impossibility or impracticability based on the definition with the law because I don’t hear that other
options haven’t been explored, like the windows, and, you
know, those are very concerning, I understand. But
they’re not impracticable for this. So I think there’s
some here for the Board and its staff to figure out how to
make this work. You’re up against a big year. There’s a
lot on you, I understand. I was in elections, I
understand. But we’re not talking about is it easy or is
it hard? We’re talking about is it impracticable. And by
that standard, I don’t see it here today from what I’m
hearing. And it is my sincere hope that you guys figure
it out and work with the Secretary of State’s Office. I
think it can be done. Other counties are doing it too.

MR. RAFFENSPERGER: Worley? Mashburn?

MR. MASHBURN: The two major problems that I see with
the Respondent’s case today was that there’s actually been
no evidence introduced that anybody actually ever saw a
ballot be cast. There is a hypothetical idea that
somebody may be doing this, if they were doing that, could
have maybe seen something. The Chairman’s testimony today
was that he saw a screen and that had there been a voter
there, he believed that he might have been able to see the
vote, but he didn’t see an actual vote be cast. So I
think you’ve got the burden of the proof, the Board had
the burden of proof of establishing impossibility and
impracticably -- impracticability. And I don’t think they
met their burden of proof because they didn’t introduce anybody today that actually saw a ballot be cast. There were two witnesses who said they were concerned about it. They didn’t see a ballot be cast. They didn’t testify that somebody else saw their ballot being cast. So there was no evidence.

Now, the absence of evidence also creates the second problem in your case. And I don’t think I’m the only person to see this, but there’s a lot of dysfunction going on in that office between the Board and the staff. There’s a lot of dysfunction, but the problem is not whose fault is it? Or who didn’t give me what I wanted? It was do we have enough evidence to make a determination that it’s impossible or impracticable? And the Chairman’s testimony again solidified that there wasn’t the evidence. He didn’t get the evidence that he wanted. And so the -- the default position is that it is possible and it is practicable. And in fact, that was the testimony of the Elections Supervisor that she said that, so to move off the default of possible and practicable, you have to have convincing and clear evidence that it’s not. And the testimony that we heard today was well, the staff didn’t get me the information from which to make that determination. Well, if that’s the case, the status quo applies, and you don’t make the change. So those are the
two things that I’m very concerned about with the Respondent’s case.

    MR. RAFFENSPERGER: Mr. Worley?

    MR. WORLEY: First of all, I compliment the attorneys, and I compliment both sides. I particularly compliment Mr. Sells because I think he has a very difficult case, and I think he made a reasonable argument. But I don’t think -- I don’t think the Board, the Athens-Clarke County Election Board has actually been reasonable in what it’s done. I do think that the standard is if you want to make a change like this, you have to show that it’s impossible or impracticable. The Elections Supervisor testified that she told the Board it was not impossible or impracticable. And in this case, having listened to her testimony and the testimony of the other members of the staff and the testimony of the Chairman of the Board, I come down on the side of the Elections Supervisor.

    And I think, after having heard the testimony, that I really don’t think the Board was being reasonable and dealing with its concerns by making a wholesale change in every precinct when from the facts that we have, there are reasonable concerns about ballot privacy and secrecy in some limited number of precincts, but to me, the appropriate way to deal with that is not to make a
wholesale change as it was done. So I think -- I think the Board did violate the law. I think they do have the burden in showing impossibility and impracticability and they did not do that. I think they violated the statute in terms of an appropriate penalty. I would favor ordering them to cease-and-desist from using the hand-marked ballots at this point, and I would defer in further penalties until such time as the Secretary of State’s Office has had a chance to work with the Board to reach a resolution of these privacy concerns, and if that can’t be done, then I would consider a further penalty at that time.

MR. RAFFENSPERGER: Well, I’m in agreement with many of the comments that have been made by the Board. I’ve heard an awful lot of management dysfunction, and I’ve heard the Chair of the Board has an issue and believes that the county attorney has given bad legal advice, so he has no confidence in the county attorney’s legal ability and then has also expressed dissatisfaction with county election officials. I have traveled to many of the counties throughout the State, and one thing I really have spoken highly of is the personal integrity of our county election officials, that -- it doesn’t really matter what side of the aisle they’re on. What 100% of them, what I have found, is they want to do a good job in the process.
But it’s not our job to handle the day-to-day management of Athens-Clarke County elections, but I would highly recommend that you work collegiately as a team because this is a very important year. We’re trying to keep lines down because we’re expecting over 5 million people to show up for the November election, so therefore, when you, you know, decouple your precincts and have additional precinct locations, I think that’ll be a good thing, and that’s the right path that you’re on.

But I concur with my members that have spoken so far today that I don’t think that you’ve provided clear and convincing proof in your case and that you have actually, you know, violated, you know, the sections of code and SEB rules as stated by the Attorney General’s Office.

Accordingly, we can bring this to a vote, but what I’m going to recommend first off is I would recommend a cease-and-desist, a public reprimand — which I think we’ve just given you right now — but also we’ve had some investigation costs, and, you know, we’re going to — we’ll work that up and I believe that we should assess that, and we’re going to send you an invoice for that because I think that is the appropriate reaction.

But also, you’ve been voting, you know, with hand-marked paper ballots for a week, and the question is what is the appropriate day for you to be ready to go back to
ballot-marking devices? And if you think you could stand
it up and have it done tomorrow, then that would be it.
But obviously, it’s 5:20 tonight, and I don’t think you
can do that, but if you can try it Friday, and maybe I
should ask Ms. Sosebee, once it’s finished, you could
stand that back up?

MS. SOSEBEE: Tomorrow.

MR. RAFFENSPERGER: You would actually be ready
tomorrow morning?

MS. SOSEBEE: Yes.

MR. RAFFENSPERGER: Mr. Germany, you look like you
want to say something?

MR. GERMANY: Please. I was just going to add --
MS. LE: You can have my mic.

MR. GERMANY: Sorry. I was just going to add that
given what I heard today as well, I think it will be
difficult to work to come up with a solution that’s not
ordered by the Board. I think that cease-and-desist order
does accomplish that. I was going to propose a fine where
we basically put a -- well, if they say they’re back in
compliance, we’ll suspend it, given a certain time. Based
on Director Sosebee’s statement that they can be back in
compliance tomorrow, I don’t think a fine will be
necessary, other than the investigative costs.

MR. RAFFENSPERGER: Okay.
MS. LE: I was actually going to -- I was thinking of making that proposal myself, which is $5,000 per day until full compliance to the satisfaction of your office at which point you can suspend.

MR. RAFFENSPERGER: Okay.

MR. GERMANY: I was thinking along the same lines, but given what Director Sosebee said, you know, I would be comfortable without imposing a civil penalty at this point.

MR. WORLEY: I -- it would be my preference to vote on some of these proposed penalties separately because I, for one, don’t feel comfortable assessing the investigative costs without actually knowing what they are, so I would make a motion to order the Athens-Clarke County Board of Elections to cease-and-desist using hand-marked ballots immediately.

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Do we have any further discussion? All those in favor of issuing a cease-and-desist to Athens-Clarke County, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MR. MASHBURN: I will support the Chairman’s -- Secretary’s remedy for administrative or investigative costs. And the reason -- the reason why I support that
idea is because our -- I had an open mind coming in, and
as I heard the testimony develop today, what I -- what I
started hearing is that there was a kind of a
misunderstanding about decisions being made about policy
and the implementation of the policy and I was like, okay.
There’s a simple disagreement. There’s a simple
misunderstanding there. But as the day went on, it
sounded like there was more than that, and the concern
that I have is that the citizens of Athens–Clarke County
who want to vote with electronic devices were denied that,
and it was stripped from them on a one-person vote. And
so they, the people that want cast a ballot on paper have
the right to do so. It’s well established, and the
Supreme Court has already held that. And so there needs
to be something more. There does need to be a remedy for
that. The other problem is the equipment was provided by
the taxpayers of the State of Georgia, if I’m not
mistaken.

MR. RAFFENSPERGER: You’re correct.

MR. MASHBURN: It wasn’t bought by Clarke County, and
so Clarke County wasn’t putting away their own equipment
in their own county doing their own thing. They were
dealing with equipment bought by the taxpayers all over
Georgia. So there does need to be more than just the
cease-and-desist and the reprimand, so I support strongly
the motion made by the Chairman to propose the
investigative costs.

MR. RAFFENSPERGER: Mr. Germany, did you want to add
something to that?

MR. GERMANY: I would -- I would support that as
well. I do think we should talk about what those costs
would be, and frankly, you know, I think we are all
cognizant of the fact that we don’t want necessarily to
punish the citizens of Athens-Clarke County or the County
Commission for what seems to be some dysfunction on the
County Elections Board. So I think a reasonable number
for that would be $2500. I think that’s very low. I
think the investigative costs are probably more than that,
but I think that’s a reasonable number to get the point
across that there is a monetary component of this.

MR. RAFFENSPERGER: To Mr. Germany’s point, I ran
some numbers this morning and that was over $16,000 before
I started calling, you know, someone in the accounting
department, so I think your number is very fair. And I’ll
let it go at that. Do you want to make a motion?

MS. LE: Does that include the $5,000? Or is that a
separate one?

MR. RAFFENSPERGER: No. That’s a separate one.

MS. LE: Oh, okay. I motion for a fine of $2500...

MR. GERMANY: Investigative costs.
MS. LE: Investigative costs.

MR MASHBURN: I second the motion to impose the investigative -- investigative costs of $2500.

MR. RAFFENSPERGER: Any further discussion? Hearing none, all those in favor of the $2500 investigative cost to be assessed to the County Election Board of Athens-Clarke County, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed?

MR WORLEY: No.

MR. RAFFENSPERGER: Motion carries.

MS. LE: I’d like to propose, just to ensure timely compliance, $5000 per day per violation, per day per violation until Athens-Clarke County is in full compliance to the satisfaction of the Secretary of State’s Office.

MR. RAFFENSPERGER: At which time it will be waived?

MS. LE: It could be waived.

MR. RAFFENSPERGER: Do we have a second?

MR. MASHBURN: I’ll second that.

MR. RAFFENSPERGER: Do we have any discussion?

MR. WORLEY: So is it our understanding that if they revert to the ballot-marking devices tomorrow, there will be no penalty?

MR. RAFFENSPERGER: That is correct.

MR WORLEY: Okay.
MR. RAFFENSPERGER: Any further questions? Comments?

I’ll call the question. All those in favor of proposal introduced, the motion before us, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

Does anyone have any more information -- any further comments before we adjourn?

MR. WORLEY: I would just have one further comment.

There’s been some discussion about dysfunction between the Board and the staff. We’ve heard testimony today. I don’t see anything that the staff has done improperly in this situation, and I just wanted to state that on the record.

MR. RAFFENSPERGER: If that was a motion, I’d second it. Being it not, and it’s late in the day, this meeting is adjourned.

(Meeting adjourned 5:30pm)
CERTIFICATE

STATE OF GEORGIA
COUNTY OF DEKALB

I, Kaitlin Walsh, Certified Court Reporter, hereby certify that the foregoing pages numbered 2 through 257 constitute a true, correct and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 16th day of April, 2020.

Kaitlin Walsh, CCR, CVR
CCR #: 5910-3132-3171-2256
Athens-Clarke County Board Elections and Registration

March 11, 2020

$1,039,000 (1)

$16,000 (1)

$2500 (4)

$5,000 (3)

$5000 (1)

$640,000 (1)

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advised (8)

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Min-U-Script®

Steven Ray Green Court Reporting, LLC  
(19) NAACP - Office
Athens-Clarke County Board Elections and Registration

March 11, 2020

Min-U-Script® Steven Ray Green Court Reporting, LLC

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**Min-U-Script®**

Steven Ray Green Court Reporting, LLC

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(35) 2010 - 9th


OFFICE OF SECRETARY OF STATE

J. Brad Raffensperger, Secretary of State of the State of Georgia, do hereby certify that

the attached four (4) pages are true and correct copies of the Dominion Voting System Certification issued on February 19, 2020; KNOWiNK Electronic Poll Book Certification issued on January 17, 2020; KNOWiNK Electronic Poll Book Certification issued on October 11, 2019; and the Dominion Voting System Certification issued on August 9, 2019; all as the same appear on file and record in this office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of my office, at the Capitol, in the City of Atlanta, this 9th day of March, in the year of our Lord Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fourth.

[Signature]

Brad Raffensperger, Secretary of State
OFFICE OF SECRETARY OF STATE

J. Brad Raffensperger, Secretary of State of the State of Georgia, do hereby certify that

the Dominion Voting System (EAC Certification Number DVS-DemSuite5.5-A), consisting of the Democracy Suite 5.5-A Election Management System Version 5.5.12.1, EMS Adjudication Version 5.5.8.1, ImageCast X Prime (ICX BMD) Ballot Marking Device Version 5.5.10.30, ImageCast Precinct (ICP) Precinct Scanning Device Version 5.5.3-0002, and ImageCast Central (ICC) Central Scanning Device Versions 5.5.3-0002 and 5.5.3.3, manufactured by Dominion Voting Systems, Inc., 1201 18th Street, STE 210, Denver, Colorado 80202, has been thoroughly examined and tested and found to be in compliance with the applicable provisions of the Georgia Election Code and Rules of the Secretary of State, and as a result of this inspection, it is my opinion that this kind of voting system and its components can be safely used by the electors of this state in all primaries and elections as provided in Chapter 2 of Title 21 of the Official Code of Georgia; provided however, that I hereby reserve my opinion to reexamine this voting system and its components at anytime so as to ensure that it continues to be one that can be safely used by the voters of this state.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of my office, at the Capitol, in the City of Atlanta, this 19th day of February, in the year of our Lord Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fourth

Brad Raffensperger
Brad Raffensperger, Secretary of State
OFFICE OF SECRETARY OF STATE

I, Brad Raffensperger, Secretary of State of the State of Georgia, do hereby certify that

the KNOWiNK PollPad Plus 2.5.0 electronic poll book, a product of Know Ink, LLC, 2111 Olive Street, Saint Louis, MO 63103, has been thoroughly examined and tested and found to be in compliance with the applicable provisions of the Georgia Election Code and Rules of the Secretary of State, and as a result of this inspection, it is my opinion that this kind of electronic poll book and its components can be safely used in all primaries and elections in this state as provided in Chapter 2 of Title 21 of the Official Code of Georgia; provided however, that I hereby reserve my opinion to reexamine this electronic poll book and its components at anytime so as to ensure that it continues to be one that can be safely used in this state,

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of my office, at the Capitol, in the City of Atlanta, this 17th day of January, in the year of our Lord Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fourth

Brad Raffensperger, Secretary of State
OFFICE OF SECRETARY OF STATE

J. Brad Raffensperger, Secretary of State of the State
of Georgia, do hereby certify that

the KNOWiNK PollPad Plus 2.4.7 electronic poll book, a product of Know Ink, LLC, 2111
Olive Street, Saint Louis, MO 63103, has been thoroughly examined and tested and found
to be in compliance with the applicable provisions of the Georgia Election Code and Rules
of the Secretary of State, and as a result of this inspection, it is my opinion that this
electronic poll book and its components can be safely used in all primaries and elections in
this state as provided in Chapter 2 of Title 21 of the Official Code of Georgia; provided
however, that I hereby reserve my opinion to reexamine this electronic poll book and its
components at anytime so as to ensure that it continues to be one that can be safely used in
this state.

IN TESTIMONY WHEREOF, I have hereunto set my hand and
affixed the seal of my office, at the Capitol, in the City
of Atlanta, this 11th day of October, in the year of our
Lord Two Thousand and Nineteen and of the
Independence of the United States of America the
Two Hundred and Forty-Fourth

Brad Raffensperger, Secretary of State
THE STATE OF GEORGIA

OFFICE OF SECRETARY OF STATE

I, Brad Raffensperger, Secretary of State of the State of Georgia, do hereby certify that

the Dominion Voting System (EAC Certification Number DVS-DemSuite5.5-A), consisting of the Democracy Suite 5.5-A Election Management System Version 5.5.12.1, EMS Adjudication Version 5.5.8.1, ImageCast X Prime (ICX BMD) Ballot Marking Device Version 5.5.10.30, ImageCast Precinct (ICP) Precinct Scanning Device Version 5.5.3-0002, and ImageCast Central (ICC) Central Scanning Device Version 5.5.3-0002, manufactured by Dominion Voting Systems, Inc., 1201 18th Street, STE 210, Denver, Colorado 80202, has been thoroughly examined and tested and found to be in compliance with the applicable provisions of the Georgia Election Code and Rules of the Secretary of State, and as a result of this inspection, it is my opinion that this kind of voting system and its components can be safely used by the electors of this state in all primaries and elections as provided in Chapter 2 of Title 21 of the Official Code of Georgia; provided however, that I hereby reserve my opinion to reexamine this voting system and its components at anytime so as to ensure that it continues to be one that can be safely used by the voters of this state.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of my office, at the Capitol, in the City of Atlanta, this 9th day of August, in the year of our Lord Two Thousand and Nineteen and of the Independence of the United States of America the Two Hundred and Forty-Fourth

Brad Raffensperger, Secretary of State
Good morning and Happy Thursday...

Below is the list of equipment ACCGov Elections will receive from the State's Budget:

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<td>478</td>
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Please let me know if you have any questions.

Best,
Charlotte

Charlotte Sosebee, Director
Athens-Clarke County Board of Elections
155 E Washington Street***Athens, Georgia 30601
706-613-3150

"If you only have one Smile in you, give it to the people you Love!"
- Maya Angelou
Special Training Topic
Precinct Layout – Privacy

Firefly > Training > Polling Place Information

EFFECTIVE/PREFERRED PRECINCT LAYOUT - BMD SCREENS SHIELDED

STATE'S EXHIBIT

A-CC BOER-0232
Special Training Topic
Precinct Layout – Privacy

Firefly > Training > Polling Place Information

EFFECTIVE/PREFERRED PRECINCT LAYOUT - BMD SCREENS SHIELDED

A-CC BOER-0233
School and BB-Cedar Shores High School
Cleveland Road School, 6C/7A-Timothy Road School, 7B Avon Regional Library, 8A/1B-Centers
High School, 4B-Memorial Park, 2A/5B-Whitfield Road School, 5C-Chessex Street School, 6A-
1C/1D-WHIT Davis School, 2A-Juni Hanes School, 2B-Howard B School, 3A-Carrie Central

Layout #2

Poll pad check-in

Waiting
Voter
Waiting
Voter
Waiting
Voter

Effective/Preferred Precinct Layout - BMD Screens Shielded

A-CC-BOER-0081

3/3/2020
Backup Procedures
Using Emergency Paper Ballots
Using Emergency Paper Ballots

If an emergency situation makes utilizing the electronic ballot markers impossible, impracticable, or if emergency ballots are otherwise needed as determined by the election superintendent, the poll officer shall issue the voter an emergency paper ballot that is to be filled out with a pen after verifying the identity of the voter and that the person is a registered voter of the precinct. While the determination of an emergency situation is in the discretion of the election superintendent, the types of events that may be considered emergencies are power outages, malfunctions causing a sufficient number of electronic ballot markers to be unavailable for use, or waiting times longer than 30 minutes. (SEB Rule 183-1-12-.11 (2) (c) & (d))

Items Needed:
- Emergency Ballots
  - The election superintendent shall cause each polling place to have a sufficient amount of emergency paper ballots so that voting may continue uninterrupted if emergency circumstances render the electronic ballot markers or printers unusable. For any primary or general election for which a state or federal candidate is on the ballot, a sufficient amount of emergency paper ballots shall be at least 10% of the number of registered voters assigned to a polling place. (SEB Rule 183-1-12-.11 (2)(c))
  - Emergency Ballots must be secured prior to use.
- Pens
  - Dominion Voting Approved Pens
    - Sharpie Fine Point Black (part #: 30001 SKU: 071641300019).
    - Paper Mate Flair M Medium Point Black, (part #: 8430152, SKU: 041540843016).

Voting Procedures:
- The poll officer shall verify the identity of the voter and that the person is a registered voter of the precinct.
- On the Poll pad, the poll officer will select "Emergency Ballot" instead of "Touchscreen," and hit "submit" in order to finalize check-in of the voter. No voter access card is needed or created.
- The poll officer shall provide an emergency ballot to the voter that is to be filled out with a pen.
- The voter shall mark their ballot with a pen in an area that provides voter privacy.
- The voter shall scan their ballot in the scanner connected to the ballot box.
- Emergency ballots shall not be treated as provisional ballots, but instead shall be placed into the scanner in the same manner that printed ballots in the polling place are scanned.
- All unused emergency ballots shall be placed into a secure envelope and sealed such that the envelope cannot be opened without breaking such seal.
IN THE SUPERIOR COURT OF SUMTER COUNTY
STATE OF GEORGIA

COALITION FOR GOOD
GOVERNANCE, et al.

Petitioners,

v.

JAMES GASTON, et al.,

Respondents.

CIVIL ACTION

FILE NO.
20CV00077(S)

ORDER

This matter came before the Court at an emergency hearing on
February 26, 2020 on the Petitioners’ “Emergency Motion for Section 412
Hearing and Relief” filed on February 24, 2020 (“the Emergency Motion”).
The Emergency Motion was filed contemporaneously with Petitioners’
“Verified Petition for Writ of Mandamus and Complaint for Prospective
Petition was amended late on the evening of February 25, 2020 to add a
verification, correct a defendant’s name, and substitute a plaintiff.

¹ Petitioners are the Coalition for Good Governance, a Colorado nonprofit corporation;
Craig Walker, a registered voter in Sumter County who was substituted for Terence
Clemons in the Amended Petition; Jeanne Dufort, a registered voter in Morgan County;
and Aileen Nakamura, a registered voter in Fulton County.
The Verified Petition, as amended, includes three counts, requesting:
(1) an order under O.C.G.A. § 21-2-412 requiring Respondents to use hand-marked paper ballots instead of the new Dominion Ballot-Marking Devices (BMDs) to preserve ballot secrecy by the use of hand-marked paper ballots; (2) a writ of mandamus under O.C.G.A. § 9-6-20 requiring Respondents to maintain the absolute secrecy of the ballot; and (3) equitable relief under 42 U.S.C. § 1983 regarding the alleged violation of ballot secrecy. The prayer for relief also sought attorney fees from Respondents.

The Court moved expeditiously to set a hearing after consulting with counsel for both parties and held a hearing with all parties represented by counsel on February 26, 2020 at 3:00pm. Given that the hearing was set so quickly after the filing of the Amended Petition, Respondents did not file a written response in objection to the Emergency Motion but rather presented their opposition orally at the hearing. A court reporter transcribed the hearing.

Upon consideration of Petitioners' Emergency Motion and argument of counsel for Petitioners and Respondents, the Court hereby denies the Emergency Motion.

* Respondents are the members of the Sumter County Board of Elections in their official capacities, specifically James Gaston, Shirley Latimore, Marty McDonald, Rhonda Reddick, and Carson Walker.
CONTENTIONS OF THE PARTIES

Petitioners allege that Respondents are not obeying the Georgia Constitution, which commands that “Elections by the people shall be by secret ballot,” Art. II, Sec. 1, Par. 1., and O.C.G.A. § 21-2-379.22(5) which prohibits the use of ballot marking devices unless they “[permit] voting in absolute secrecy so that no person can see or know any other elector’s votes.” Petitioners allege that the size and brightness of the screens on the Dominion BMDs and their upright positioning, and the size of the font, makes it impossible for voters to vote in “absolute secrecy.” Petitioners submitted a variety of photographs that were admitted into evidence without objection, showing visible screens of BMDs being used in voting. Petitioners further allege that it is “impossible or impracticable” to use the BMDs in conformity with Georgia law and election rules, including the (a) ballot secrecy laws and (b) O.C.G.A. § 21-2-267 and State Election Board Rule 183-1-12-.11(4) (which requires the polling place to be arranged “to allow monitoring of each voting system component by the poll officers while the polls are open” and the ballot marking devices to “be arranged in such a manner” as to “allow monitoring of the devices by the poll workers” and to maintain “the security of such units against tampering, damage, or
other improper conduct;” (c) the “number of voting stations” requirement of O.C.G.A. § 21-2-367 (b) (“at least one voting booth or enclosure for every 250 electors”); and (d) with the physical limitations of the existing polling locations, which cannot be moved in advance of the upcoming elections. As a result, Petitioners request this Court find that since it is “impossible or impracticable” for Dominion BMDs to be used in a manner that protects the secrecy of the ballot and complies with these other Georgia laws, Respondents should be ordered to conduct the election using hand-marked paper ballots, as provided in O.C.G.A. § 21-2-281 and State Election Board Rules 183-1-12-.11(2)(c) & (d).

Respondents allege that Petitioners are advocates for hand-marked paper ballots and that reconfiguring polling places fully addresses Petitioners’ concerns, because it is possible to utilize the BMDs consistent with the monitoring requirements of state law while also protecting the right to a secret ballot. Respondents further raise a variety of other arguments, including (a) that mandamus is not the appropriate remedy because Petitioners request the Court direct officials how to exercise their discretion and (b) that voters do not have a constitutional right to a particular method of voting. Respondents further submitted drawings
prepared by the Secretary of State which they allege show how polling places might be configured and photographs of other methods that prevent BMD screens from being visible by persons other than the voter. These drawings and photographs were admitted into evidence without objection.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court first determines that it has jurisdiction over the Amended Petition. While there may be some question about out-of-county Petitioners, there is at least one Petitioner with standing to raise the issues in the Amended Petition. There was no dispute about venue.

The key issue for determination by the Court was whether it was “impossible or impracticable” for the BMDs to be deployed in a way that (1) protects the absolute secrecy of the ballot while (2) allowing sufficient monitoring of the BMDs in use.

Having heard the argument and considered the evidence submitted by the parties, the Court finds that Petitioners have failed to carry their burden of proving that it will be “impossible or impracticable” for Respondents to deploy the BMDs in a manner that protects the secrecy of the ballot while allowing sufficient monitoring. It is not for this Court to
devise how best to configure the BMDs. Instead, it is the Respondents' responsibility to comply with Georgia law.

CONCLUSION

Based on the foregoing analysis, the Court DENIES Petitioner's Motion for Emergency Relief.

So ORDERED this 2nd day of February, 2020.

JUDGE R. RUCKER SMITH
Superior Court of Sumter County
In The Matter Of:
Secretary of State
State Election Board Hearing

April 15, 2020

Steven Ray Green Court Reporting, LLC
404 733 6070
THE OFFICE OF THE SECRETARY OF STATE

STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD HEARING

2 MLK JR. DR. SE
SUITE 810 WEST TOWER
ATLANTA, GEORGIA 30334

April 15th, 2020
10:15 A.M.

PRESIDING OFFICER: BRAD RAFFENSPERGER
SECRETARY OF STATE

STEVEN RAY GREEN COURT REPORTING, LLC
Kaitlin Walsh, CCR
Atlanta, Georgia
APPEARANCE OF THE PANEL

Secretary of State Brad Raffensperger, chair
Rebecca Sullivan, vice chair
David Worley
Matthew Mashburn

ALSO PRESENT IN ORDER OF PRESENTATION

Ryan Germany
Transcript Legend

(sic) - Exactly as said.

(ph.) - Exact spelling unknown.

-- Break in speech continuity.

... Indicates halting speech, unfinished sentence or omission of word(s) when reading.

Quoted material is typed as spoken.

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MR. RAFFENSPERGER: Well, the first item before us on the agenda will be the approval of the board minutes from February 28th, 2020 and March 11th, 2020. As that has been presented to the members, now would be the appropriate time for a motion. Do we have a motion?

MR. MASHBURN: This is Matt Mashburn. I make a motion that the Board minutes from both meetings be approved.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Rebecca will second.

MR. RAFFENSPERGER: Do we have any discussion?

MR. WORLEY: This is David Worley. There appears to be a duplicate paragraph in the minutes of March 11th, 2020, so I would amend the motion to pass the minutes with the duplicate paragraph deleted.

MR. MASHBURN: I view that -- Matt Mashburn views that as a friendly amendment and has no objection.

MR. RAFFENSPERGER: Okay. That being said, we have a motion before us with the amendment as proposed by Mr. Worley. All those in favor, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: None opposed? Motion carries.

Okay. We now have the time for public comments, and I understand, Bre, that you’ll be quarterbacking that for us
and coordinating that, so we’ll call on the first public
comment. I’ll turn it over to you, Bre.

MS. THOMAS: Okay. If you would like to make public
comment, on the toolbar there is an option to raise your
hand, or you can write in the questions box if you would
like to make a public comment. We’re first going to start
with Joy Wasson and Liz Throop. You can speak now.

MR. RAYBURN: This is Kevin Rayburn. As a reminder,
everyone has two minutes. Please state your name and
where you are from for the record before you begin, and we
will have a timer going off after two minutes. Please
respect the time, and please --

MS. WASSON: Hello.

MR. RAYBURN: -- keep comments to the rules that are
up for discussion today. Thank you.

MS. WASSON: Okay. Can you hear me?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: Yes.

MS. WASSON: Hi. I’m Joy Wasson, a DeKalb County
voter. On March 27th, there was a hearing on a violation
of the Help America Vote Act, known as HAVA. The
complaint was brought by Coalition for Good Governance,
who presented compelling and overwhelming evidence that
secrecy of the ballot was violated in numerous counties in
Georgia with the new Dominion voting system. It was clear
from the witnesses that the machine’s design flaw and space considerations made it impossible in most configurations for the systems to comply with Georgia laws. There would be no doubt to reasonable people hearing and seeing the evidence presented that the finding should be that the privacy requirements under HAVA were not met.

The Secretary of State’s Office dismissed the Plaintiffs’ claims and ultimately concluded that no violation occurred despite the fact that the witnesses had each personally observed scores of non-secret touch screen ballots. I’ve observed these myself. The State once again told Georgia’s counties that they must assure voter privacy and were free to be creative with solutions.

Athens-Clarke County recently adopted a resolution to restrict ballot-marking devices to a number that can be arranged to comply with secrecy and use hand-marked paper ballot voting stations in the remaining space to comply with required number of voting booths per electors. Athens-Clarke has been punished by this body when trying to move to a better solution of all hand-marked paper ballots. That would be the best given the current pandemic physical distancing guidelines in place. I applaud Athens-Clarke for working to protect voters and urge the SEB to do the same.
MR. RAYBURN: Thank you. You came in just under two minutes. I appreciate that comment.

MS. WASSON: Thank you, and Liz Throop is with me. She’s next.

MR. RAYBURN: Okay. As a reminder, if everyone would please keep your comments focused on the rules on the agenda today. Thank you.

MS. THROOP: Well, thanks. This is Liz Throop, and I live in DeKalb County. This is related. Another thing -- a lot of questions about voting on social media. People are asking what if I didn’t get a ballot application? What if I’m not over 65 or disabled? What if I didn’t put my birth date on the application? What if I voted for the presidential primary already? Why do I have to state my party? What if I don’t have stamps? What if I prefer to vote in person? Many of these questions have simple answers. Could the State Election Board ask the Secretary of State to put an FAQ on their webpage? Thank you.

MR. RAYBURN: Thank you for your comment.

MS. THOMAS: All right. So next we’re going to have Saira Draper, and you are unmuted, and you can speak now.

MS. DRAPER: Right. Thank you. Good morning, everyone. Can you hear me?

MS. THOMAS: Yes.

MR. RAYBURN: Yes.
MS. DRAPER: Wonderful. So, good morning. My name is Saira Draper, and I’m the Director of Voter Protection for the Democratic Party of Georgia. I see that the Board will consider an emergency rule today about ballot drop boxes, and I wanted to say that I’m pleased that you’re considering options to expand opportunities to vote at a time when in-person voting is severely restricted. And for those of you who do not know, ballot drop boxes are secure metal boxes where voters can drop off their vote-by-mail ballots postage-free. Given that the State is not providing postage for ballots, the uncertainties about the future of the USPS, and that in-person interactions are a health risk, offering limited contact options to voters is prudent. By offering drop boxes, you are limiting the pressure on and the risks to our counties, poll workers, and voters.

That said, for the roll out of drop boxes to be effective, there are certain minimum standards that must be met. So first, drop boxes must be fully funded by the State. Counties across Georgia are heavily burdened right now and simply cannot be expected to raise additional funds in addition to everything else. Georgia has received $10 million federal dollars for elections through the CARES Act that are use it or lose it funds. Providing safe ballot access is the most important use of these
funds. The State must step up to provide these essential
drop boxes. Each county should be offered funds for at
least one drop box and jurisdictions with larger voting
populations should be provided funds for additional drop
boxes.

Second, if the drop boxes are to be utilized, they
must be plentiful and accessible 24/7. Research shows
that jurisdictions that offer greater access to ballot
drop boxes see higher rates of use. Ideally during this
time of pandemic, drop boxes will be located outside, so
that voters can access them while limiting interaction
with others. Offering drop boxes behind locked doors
available only for certain times carries the same risk as
in-person early voting. We must allow Georgians to drop
off their ballots at a time that works for them.

And third, drop boxes must be made available in
advance, but at least three weeks before Election Day, in
line with Georgia’s early vote period. We know that drop
boxes for ballots are a secure, viable alternative to
forcing Georgians to endanger themselves by voting in
person, and we must provide that alternative to every day
voting — we must provide that alternative for every day
voting, not just Election Day. Offering counties the
option to put up drop boxes —

MR. RAYBURN: That’s time.
MS. DRAPER: without providing them the support for resources to do so is an empty gesture. County election officials are dealing with unprecedented challenges right now: an overwhelming influx of vote-by-mail applications that need to be processed safely and quickly, staff shortages, and closures of polling locations.

MR. RAYBURN: Thank you. Sorry. The two minutes are up. We appreciate your comment.

MS. DRAPER: Oh, okay. Yeah.

MR. RAYBURN: Thank you.

MS. THOMAS: All right. So next is Jeanne Dufort. You are unmuted, and you can speak now.

MS. DUFORT: Good morning. I’m from Madison, Georgia. Revall Burke died on April 5th from coronavirus with symptoms developed 5 days after he served as a poll worker in Chicago. He was 60. And letters are going out to poll workers and voters who may have been exposed in at least 4 Chicago voting precincts on March 17th. In coming weeks, we’ll hear about exposures, illness, and yes, death in Wisconsin from voters and poll workers exposed to coronavirus last Tuesday. Georgia’s overall peak is projected to be around May 1. Conditions when early voting in person begins in 159 counties two weeks later are -- they’re going to be like they are today and consider why we’re meeting virtually today.
The plan to use touch screens to mark ballots requires at least 6 common touches of tablet screens, access cards, printers, and scanners. Would you feel safe today as a poll worker sitting at a table for 12 hours as voter after voter came within 3 feet of you? Why would you feel any safer on May 18th or even June 9th?

Last Monday, Secretary Raffensperger held a press conference, and instead of addressing his plans to help poll workers and voters get through the upcoming election season with their health and lives intact, he chose to announce a voter fraud task force. Because it’s tradition in Georgia to pretend that voter fraud is a real thing, while voter suppression is not. He offered no answers about the reported shortage of poll workers, no answers about how to protect workers and voters, no ideas about how the upcoming election might be redesigned to require fewer resources and less contact.

There are ways to make in-person voting safer for both poll workers and voters. Distributing hand sanitizers and wipes and telling election directors to try harder is not enough. Why is this not at the top of your agenda today? It’s top of line for election directors and boards across the state. Some, like the Jackson County Board of Elections, are beginning to speak out. None of us chose this pandemic, but we are all called to respond.
When you look back at this time, will you be proud that you, the SEB, did everything possible to protect poll workers and voters while ensuring that everyone who wants to vote is able, or will you sit this one out while Georgia poll workers and voters face the same terrible choices Wisconsin citizens faced last week? I hope --

MR. RAYBURN: Thank you, Jeanne. The two minutes are up. We appreciate your comments.

MS. THOMAS: All right. Next is Stacey Hopkins. And you may speak now.

MS. HOPKINS: Hello?

MS. THOMAS: Yes. We can hear you.

MS. HOPKINS: Okay. My question is in light of the reports that absentee ballot applications were erroneously sent out to registered voters with the incorrect mailing addresses and being designated as undeliverable by the US Postal Service, will the Secretary of State’s Office mail the new applications out to those voters to -- and ensure that they are not also reported on the NCOA database? If that is the case that they are reported, this would also erroneously create the criteria for them to be eligible to begin the process of being removed from the voting rolls in accordance with the FDRA. How does the State plan to remedy this problem to ensure that every registered voter has the option to use absentee ballots in this particular
13 election cycle?

MR. RAYBURN: Thank you.

MS. THOMAS: Thank you, Ms. Hopkins. Next, we will have Representative Park Cannon. And you can speak now. Ms. -- Representative Cannon, you are self-muted. Okay. You can speak now.

MS. CANNON: Are you able to hear me?

MS. THOMAS: Yes.

MS. CANNON: Well, I want to say thank you for gathering here in these times. I do agree that it takes all of our collective leadership to help secure the vote in Georgia’s 2019 elections. I am a State Legislator in Fulton County, the county with the largest voting population in the state. I bring concern today that the public notice for today’s meeting was sent less than 24 hours before the meeting, being stated to being sent at 11:42am. Even though we are in a state of emergency, there is much concern for voting and public concern at that.

I bring concern that during today’s presentation and considering of State Election Board proposed amended rules related to provisional ballots, prompt notification of absentee ballot rejection, the definition of a vote, and the optical scan recount procedure that we need more work on this. We have been allocated $10 million in the CARES
Act for our state related to voting, and I hope that we will pay attention and do what is best to provide public notice to Georgians on how the vote will be counted fully in 2019. Thank you for being here today.

MS. THOMAS: Thank you, Representative Cannon. Next, we will have Aileen Nakamura. You may now speak.

MS. NAKAMURA: Hi. Can you hear me?

MS. THOMAS: We can hear you.

MS. NAKAMURA: Okay. Hi, I’m Aileen Nakamura from Fulton County. I believe what I and so many of us witnessed five weeks ago in Athens-Clarke County was a grave dereliction of duty by this Board. The ACC, Athens-Clarke County Board, showed that it was impracticable or impossible for them to use the oversized touch screen equipment in adequate numbers in the current polling places while abiding by 3 important legal requirements. One, provide every voter absolute ballot secrecy. Two, provide one machine for every 250 voters. And three, provide visibility for poll workers to monitor the machines to prevent tampering.

The only law that the -- that the state lawyers talked about was the mandate for all 159 Georgia counties to use a uniform system of voting. They ignored the evidence of non-compliant precinct layouts showing that the machines simply cannot be installed in current
precincts in a manner that protects voter privacy. This Board relied on the County Election Director saying that she thought she could fit up polling places even though she had not been able to provide the Board with specific layouts to show that it was feasible.

So after 7 hours of testimony, most of it was ignored. With 4 lawyers and an engineer sitting on the State Election Board, not one member of the SEB bothered to ask any questions related to ballot secrecy or polling place layout or equipment anti-tamper monitoring. And not one SEB member commended the ACC Board for doing the lawful and right thing for their voters, protecting their constitutional right. Instead, 4 lawyers and an engineer ignored all of the legal and logical reasons why ACC rightly decided they had to stop using particular equipment and then reprimanded them for not getting along with their election staff, but failed to find any method of protecting a secret ballot with the touch screens. And on top of that, they slapped them with fines so that other counties would not follow in their footsteps.

It’s abundantly clear that the Georgia State Election Board is only interested in defending the Secretary’s poor choice of a BMD voting system. Shame on the SEB. Georgia voters deserve better. A State Board should enforce the law, not driven by a goal of justifying the Secretary’s
improper choice of a voting system. Thank you.

MS. THOMAS: Thank you. Next, we will have Libby Seger. You are now unmuted, and you can speak.

MS. SEGER: Good morning. My name is Libby Seger, and I am a voter from Fulton County, where I am a student at Georgia State University. I’m here today to talk on some of your proposed rules. However, I would like to say that at this point, I do feel like myself and the rest of us who continue to attend these meetings and speak at them are beginning to sound like a broken record. How many times are we going to have to repeat ourselves until people like you actually start listening to the people you represent?

So for starters, I’d like to say that choosing to make an unreadable barcode the official vote of Georgia is just ridiculous. If we can’t read a QR code, how are we supposed to ensure that what we’re being [sic] voted for, is actually what we’re voting for? The official and final vote of Georgia should be verifiable by Georgia voters everywhere without the need of some expensive scanner to do it for them.

And as for your optical scan recount procedure, it makes absolutely no sense. The purpose of a recount is to verify the result. You can scan the same QR code once, twice, a hundred times, but the answer will never change.
If this rule is adopted, Georgia voters will never truly know whether my vote or that their vote, the vote they intended to cast, was the one that actually counted. So I’m asking you to protect our right to vote by not adopting these rules and redefining the official vote. Georgia voters deserve to have confidence in who they’re voting for, especially at a time like this when everything else in life seems so uncertain. Thank you.

MS. THOMAS: Thank you, Ms. Seger. Next, we will have Elisa Goldklang. You are now unmuted, and you can speak.

MS. GOLDKLANG: Okay. Hi, my name is Elisa Goldklang. And first of all, I want to thank you all for having this virtual meeting, though a little bit more notice would have been better. As you all know, I always say my father and my grandfather served and that you serve, and I think our number one priority right now is protecting poll workers and citizens. And right now, as many Americans have died as died in the American Revolution. Do you understand that -- in five months? It’s not going okay, and this is not going to be the only election where COVID is going to be a problem. It’s going to peak again in the fall. My father is a gastroenterologist, my mother was a [sic] endoscopy nurse, and my husband and I are both in the medical field, and
We’re very aware, and we’re very concerned about our poll workers and about our citizens. And the touch screens are an absolute no. They cannot be used during this time. We cannot expose our poll workers and our citizens to each other because the virus lingers for 72 hours in the air, and it lingers on hard surfaces. You must, for the safety of everyone, use absentee ballots or vote-by-mail, whatever you want to call it, and your poll workers need to use gloves when they open those letters.

The fact that you’re refusing to do that is like a hospital administrator saying that oh, they have a new machine that’s going to do great work in surgery, but all the surgeons say, no, it’s really unsafe. People are going to die. But you all are like that hospital board, and you’re like, well, you know, the company said it was great, so we’re going with the company, and we’re not listening to the surgeons. You’re doing the same thing with the — with the machines. You’re not listening to the computer scientists and the elections security experts because you don’t have any on your Board, and the one that you had on the SAFE Commission, you didn’t listen to. So this is — clearly, you are doing this for profit and for money and for power. And I am ashamed, and I am embarrassed for our State.
But most of all, I am worried about everyone’s health. You know, my mother passed last month, and it’s horrendous. I do not want anyone else to go through this, but right now, we are 10 times as many dead as on 9/11. And a little bit about myself, I lived in New York City in 9/11, and it’s beyond horrible. So please, put your egos aside and save our citizens. Thank you.

MS. THOMAS: Thank you, Ms. Goldklang. And next, we have Laura Walker. And you are now able to speak.

MS. WALKER: Hi. My name is Laura Walker. I live in Muscogee County, and I’m the Chair of the Muscogee County Democrats. And I wanted to echo a previous comment that in-person voting for this May/June in-person -- obviously -- election period is not safe yet, and it’s not going to be safe. It would be one thing if we had valid data that connected, you know, outbreaks to causes, et cetera, you know, to be able to target how it is spreading, where it is spreading in different counties. But we don’t. We just saw within the last 24 hours that Georgia is lagging far behind other states. We are 45th out of 50 as far as how many people we are able to test. We just don’t have the proper data to make a decision about safety here. Because we are touching screens and the cards and the paper, it is, you know, it’s unsafe for voters and poll workers and election, you know, county election boards
alike.

Know that -- I know that if we did make the decision or the decision was made to go full on absentee voting for this election, the Democratic Party of Georgia and all of our counties are ready to, you know, phone bank to help people with this, you know, spreading the word so that they know and we can answers about, you know, what they should do and how they should, you know, make sure that they get the ballot to the county boards, et cetera. You know, we would do our best to help, you know, spread that so that people would know what to do and could do it probably. But I just think it’s just not safe. It’s not safe for anyone. And that’s it. Thanks for listening.

MS. THOMAS: All right. Thank you, Ms. Walker. Next, we will have Jacqueline Elsner. And you are unmuted, and you can begin speaking now.

MS. ELSNER: Thank you. I’m Jacqueline Elsner in Athens, Georgia, and I’ve attended Athens-Clarke Board of Elections meetings regularly since September 2019 and observed the performance of our Election Director and of our Board of Election members. I attended the March 11 meeting -- hearing -- at the UGA Center. I want to stand in support of my Board of Elections. The decision to protect ballot secrecy was honorable, and it was awful. I’m ashamed that my Mayor and 8 of my 10 Commissioners
could not see it that way. But that’s not where I am today.

We are talking definition of vote in 183-1-15-.02. As I understand, in the Dominion System, the definition of vote is the QR code. And no one except the proprietary software of Dominion can read the QR code. So that is -- let’s make the definition of the vote the actual names of people I voted for on my ballot. And I help with poll worker training. I sadly have to say I could not be a poll worker in 2020 because of COVID-19, and there’s a code of conduct at Athens-Clarke County that you can’t work for a candidate if you’re going to be a poll worker, and, you know, that was a priority of mine to work for a candidate.

Okay. So beyond the Dominion touch screen, you take out your ballot, which, of course, the QR code is my vote not the name there, and you walk over to the scanner, and you put it face up into the scanner. Well, the scans -- the poll workers have to make sure they’re looking at that, the voter. This is not ballot secrecy. I mean, we are -- we’re so many directions of violation of ballot secrecy.

I -- I attended SAFE Commission meetings in 2017 and 2018 and in 19 and I am not proud of our State Election Board. I’ve seen Mr. Harvey testify to terminal
incompetence. I’ve seen Mr. Germany testify to things
that don’t make a lick of sense. So I’m asking you to
protect our ballot secrecy, to protect our voters and our
poll workers. Thank you.

MS. THOMAS: Thank you, Ms. Elsner. So that ends our
section for public comment.

MR. RAFFENSPERGER: Okay. This is Secretary Brad
Raffensperger. Next, we have the presentation and
consideration of State Election Board proposed amended
rules. Now, like we’ve done at the last two meetings, if
we could have our Chief Counsel Ryan Germany go through
183-1-12-.18 on provisional ballots and explain what we’re
doing there, and then we’ll take Board questions and
comments.

MR. GERMANY: Yes, sir. Thank you, Mr. Secretary,
Board members. The rules for consideration on our agenda
today are changes that we had made to already adopted
rules that we have adopted through the rule posting
process in response to comments that we have received. We
did not receive any additional written comments on these
posted rules.

Rule 183-1-12-.18, regarding provisional ballots, the
only change to the rule we’re making is we’re taking out a
phrase, and I guess this was noticed by counties, that
required -- it sounded like it required an electronic poll
book at the provisional ballot station. So we’re clarifying that the polling place shall have an electronic poll book that includes a master list of registered voters but not a separate one for each provisional ballot station. And that’s the only change there. I’m happy to take any questions.

MR. RAFFENSPERGER: Any members have any questions? If not, now would be the appropriate time for a motion.

MR. MASHBURN: This is Matt Mashburn. I move that the rule be adopted as published.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Okay. Do we have any discussion on this proposed rule? Hearing none, I’ll call to action. All those in favor of accepting provisional ballot rule 183-1-12-.18 as presented, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: And those opposed? Let the record show none opposed. Motion carries. Okay. Next one we have up is 183-1-14-.13, prompt notification of absentee ballot rejection. Mr. Germany?

MR. GERMANY: Thank you, Mr. Chairman. The change we’re making to this rule is again in response to the comments received. The existing rule required the county to attempt to notify the elector by telephone and email if
the telephone number or email is on the elector’s voter registration record. What we’re adding in this rule is “or absentee ballot application.” So it’s telephone and email contact is required if that information is on either the voter registration record or the absentee ballot application. So that’s the change we’re making here.

MR. RAFFENSPERGER: Do we have any questions from any of the Board members?

MR. WORLEY: This is David Worley. This is not a question, but I just wanted to say for the record that this entire rule I think is a great improvement over preceding practice, and it will ensure that voters are notified promptly if their absentee ballot application has been rejected.

MR. RAFFENSPERGER: Okay. And I guess to Mr. Worley’s -- this is Secretary Raffensperger. And to Mr. Worley’s point and also to some of the comments that were made about notification, I do like that we’ve added “or absentee ballot application,” so as these applications are out there, if people put down their phone number or get a new phone number that we don’t have, it gives us that opportunity to make sure that we can contact them if we have to contact them. And so I hope they put that out there if we need to, but I think this is another way to really make this more accessible to more voters, so I
think it’s a very solid improvement. Is there any other comments from any of the Board members?

MR. MASHBURN: This is Matt Mashburn. And first, I’d like to commend the Secretary for making this absentee ballot application available. I -- I think the Secretary was ahead of the curve on this one, and so much of COVID-19 has been reacting to things, I think the Secretary was ahead of the curve, and I commend him for that. I received my absentee ballot application in the mail, and I saw the place where you could add your email and your phone, and I did it, and it was very simple and easy, and I sent it back. So I think is a very good change. It’s very helpful, and I echo David’s excellent comments as well and would make a motion that it be adopted as is.

MR. RAFFENSPERGER: Do we have a second on that motion?

MR. WORLEY: This is David Worley. I will second that.

MR. RAFFENSPERGER: Okay. Do we have any further comments from any members? Hearing none, all those in favor of proposed rule 183-1-14-.13, prompt notification of absentee ballot rejection, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Let the record show
none were opposed. Motion carries.

MR. GERMANY: The next rule on our agenda is rule 183-1-15-.02, definition of a vote. Again, these are updates we posted in response to comments we received before we adopted this rule. The edits are we’re adding a few sections that if there’s any discrepancy between the voter’s mark on a hand-marked ballot or the printed choices on a ballot-marking device ballot that the voter’s mark or the printed text shall control and be counted, but also stating that nothing herein shall be deemed to disallow the use of ballot scanners for tabulation of ballots. We’re also adding a section that says a vote cast on an optical scan ballot marked by an electronic ballot marker shall be the choice that’s indicated by the printed paper ballot. I’m happy to take any questions on those updates.

MR. RAFFENSPERGER: Any members have any questions or comments? Hearing none, now would be the appropriate time for a motion, if the Board is so inclined.

MR. MASHBURN: This is Matt Mashburn. I make a motion that the rule be adopted as published.

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: I hear a second. Do we have any further discussion from any Board members? Hearing none, all those in favor of adopting rule number 183-1-15-.02 as
presented, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Let the record show no one was opposed. Motion carries.

MR. GERMANY: The next rule is 183-1-15-.03. This is the recount procedure. And again, this is making updates based on the comments we received prior to adopting this rule. There’s two, kind of, main changes. One, we go into a little more detail in subsection 1C about how the county is supposed to test the scanners before they conduct a recount. And we also add a section 2, which is recount by manual hand count, which provides for how to conduct a manual hand recount if, basically, no scanners pass the testing or a court orders it. I’m happy to take any questions.

MR. RAFFENSPERGER: Members, do you have any questions? Hearing none, now would be the appropriate time for a motion if the Board is so inclined.

MR. MASHBURN: This is Matt Mashburn. I make a motion that the rule be adopted as published.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: We have a second. Discussion from the members? Any further discussion? Hearing none, all those in favor of adopting rule number 183-1-15-.03,
signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, let the record show it was passed unanimously. Mr. Germany?

MR. GERMANY: The next rule for consideration -- this is the emergency rule on absentee ballot drop boxes that we’ve been working on, and I appreciate Kevin Rayburn’s work in our Office, as well as Lynn Bailey and other counties that we’ve been working with on it. This would be a response to the COVID-19 situation that’s ongoing to try to add an additional way for people to return absentee ballots. The way it works now is you -- obviously, you can return your ballot through the mail or you can drop it off in-person with your County Registrar. What this would do is allow the County Registrars to establish one or more secure drop boxes at their office or in other -- on other government property in their county. The point would obviously be that some counties are currently closed, and so this will hopefully allow another way to have a contactless return of your absentee ballot.

We pulled a lot of this, these rules, from Colorado’s rules. They have drop boxes for their absentee ballots, and that’s something they’ve had for quite a while, so it’s not -- we’re trying not to reinvent the wheel.

I will -- as we finished this, which was not too long
before this meeting, we went over a few comments we
received from the Rules Working Group members, and some
we’ve incorporated in the version that you have and some
have not, but, obviously, we can discuss all of them.
There was -- there was a suggestion that we make this
mandatory that each county have at least one, and while
that’s understandable, my concern on that is that, you
know, some counties have been asking about this and I
think will utilize it. Other counties may not be prepared
to do that on such short notice. I think if we do end up
adopting a permanent rule on this based on how we see this
process working, that would be appropriate, but to put
this as a requirement on counties right now with what they
face, I don’t think it’s appropriate. Frankly, I think if
we let the counties who are interested do it, I think
we’ll probably see widespread adoption from other counties
once they kind of have that roadmap from the counties that
are interested.

The other comment was about a drop box being securely
fastened to the ground or an immovable fixture. And there
was some concern about how that would work on a drop box
located indoors. Ms. Bailey from Richmond County was the
one concerned about that, and her and I talked about it,
and I think she’s now okay. Obviously, the security of
the boxes is paramount, that no one can walk off with them
or otherwise tamper with the ballots in them. So I think we’re okay with that requirement.

We also added -- Mr. Mashburn brought up that we should make sure that the people who are handling the ballots, as they return them from the drop boxes, are sworn, just like poll officers. So we’ve added that in paragraph 10. And then, we added -- in number 9, we added a requirement that a drop box shall be clearly labeled official absentee ballot drop box and that each drop box location shall have signage clearly displayed -- or clearly displayed signage developed by the Secretary of State regarding Georgia law with the absentee ballot harvesting and destroying, defacing, or delaying deliberately ballots. And that’s also consistent with what they do in Colorado, where they have kind of like a warning on charity drop boxes that says here is the law basically regarding soliciting charitable donations from drop boxes.

That’s the rule. This would be an emergency rule so this would -- this would not be for posting. This would be for -- it would take effect immediately as we get it to Delores in administrative procedures. It is -- and this rule, as it’s written, applies only to June 9th, 2020. So, and then, it’s repealed as -- by operation of law because it’s an emergency rule and states must, but even
with that, this rule is only applicable to June 9th, 2020. This has been something that the Rules Working Group has discussed. Something that we want to consider, I think, going forward anyway, so it basically would allow counties to utilize secure drop boxes for the primary election, and then the Board would have to come back and do a permanent rule after that. And I’m happy to take any questions.

MR. RAFFENSPERGER: Any Members? Do you have questions for Mr. Germany?

MR WORLEY: This is David Worley. I have a question.

MR. RAFFENSPERGER: Okay.

MR. WORLEY: Is -- by limiting it to the June 9th election -- historically, the run-off is considered part of the primary election. Would this rule apply to the run-off?

MR. GERMANY: I think the way it’s written it would only apply to the general primary and not the run-off. If the Board wanted it to apply to the run-off as well, I think we could -- we could say that for, you know, the general primary and the run-off. But as it’s written, it only applies to the June 9th election.

MR. RAFFENSPERGER: Any further comments?

MR. GERMANY: I would make one other comment. It’s that we are looking at, you know, per the Secretary’s direction, our office is looking at whether and how we can
use grant money to, you know, from the federal government
for COVID-19 to help counties establish these locations.
Not really relevant to the rule, but just so the Board is
aware.

MR. RAFFENSPERGER: I believe that we had some public
comment to that effect.

MR. MASHBURN: This is Matt Mashburn. I would like
to commend Ryan and his team, Kevin and his team, for a
well-thought-out proposal. As I read it, I had questions
in my mind that was well, what about this or what about
that? And as I kept reading, there was the answer. So I
think this rule reflects a lot of thought that went into
it and a lot of well, what about this and what about that?
And just playing things out in their minds about how
things were going to happen, and so, just -- they did a
great job with this, in my opinion. And as a result, I
move that the Board adopt this rule as published.

MR. RAFFENSPERGER: Do we have a second?

MR. WORLEY: This is David Worley. I’ll second it.

MR. RAFFENSPERGER: Okay. Do we have any further
comment?

MR. WORLEY: This is David Worley again. I have some
comments. I think this is a very good idea. I am anxious
to see how it plays out in the primary and how -- what we
may need to do to use it later in the year. I -- this is
the first Board meeting that we’ve had since the Secretary
decided to mail almost 7 million absentee ballot
applications to voters, and I want to compliment the
Secretary on that decision. I think that was the right
decision. I think this rule will help carry out that
decision. And I just think it’s the right thing to do.

MR. RAFFENSPERGER: Thank you, Mr. Worley. Any
further comments? Hearing none, all those in favor of
adopting the emergency rule, absentee ballot drop boxes,
as presented today, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, the
motion passes unanimously. I don’t see anything else to
be brought before the Board today. Do any Board members
have any business they’d like to bring for our
consideration this morning? Hearing none, I’ll ask for a
motion for adjournment.

MR. WORLEY: This is David Worley. I move that we
adjourn this meeting of the State Election Board.

MR. RAFFENSPERGER: Second, anyone? Anybody want to
second this?

MR. MASHBURN: Second.

MR. RAFFENSPERGER: Any opposed? Motion carries.
Thank you very much for your time and being here on such
short notice. If any of our Board members or any of our
staff need them for any other emergency procedures as regards to COVID-19, we will reconvene, but thank you very much for your input with our Counsellor, also, the Rules Working Group for their efforts, and also, with all the decisions we’ve made so far, they’re really trying to put voters first and our election workers. So we are working together and being very mindful of the situation we have on the ground, so with that, I wish you all the very best. God bless and good day. Thank you.

(Meeting adjourned)
CERTIFICATE

STATE OF GEORGIA
COUNTY OF DEKALB

I, Kaitlin Walsh, Certified Court Reporter, hereby certify that the foregoing pages numbered 4 through 34 constitute a true, correct and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 12th day of May, 2020.

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Steven Ray Green Court Reporting, LLC

April 15, 2020

(9) within - 9th
In The Matter Of:
SECRETARY OF STATE
State Elections Board Hearing

May 18, 2020

Steven Ray Green Court Reporting, LLC
404 733 6070
THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA  

IN THE MATTER OF:  
STATE ELECTION BOARD HEARING  

2 MLK JR. DR. SE  
SUITE 810 WEST TOWER  
ATLANTA, GEORGIA 30334  

May 18th, 2020  
9:00 A.M.  

PRESIDING OFFICER: BRAD RAFFENSPERGER  
SECRETARY OF STATE  

STEVEN RAY GREEN COURT REPORTING, LLC  
Kaitlin Walsh, CCR  
Atlanta, Georgia
APPEARANCE OF THE PANEL

Secretary of State Brad Raffensperger, chair
Rebecca Sullivan, vice chair
Anh Le
David Worley
Matthew Mashburn

ALSO PRESENT IN ORDER OF PRESENTATION

Ryan Germany
Transcript Legend

(sic) - Exactly as said.

(ph.) - Exact spelling unknown.

-- Break in speech continuity.

... Indicates halting speech, unfinished sentence or omission of word(s) when reading.

Quoted material is typed as spoken.

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PROCEDINGS

MR. RAFFENSPERGER: Good morning. This is Secretary Brad Raffensperger. I wanted to call this meeting to order. We’ll begin with an invocation and Pledge of Allegiance.

(Invocation)

(Pledge of Allegiance)

MR. RAFFENSPERGER: Okay. I wanted to just check to see if I have all of my Board members with me if you’d just say yes when I call your name. Mr. Worley?

MS. THOMAS: He is here. Mr. Worley, it’s asking for you to put in an audio... there he is.

MR. RAFFENSPERGER: Ms. Sullivan?

MS. THOMAS: He’s on now.

MR. RAFFENSPERGER: Ms. Le?

MS. LE: Here.

MR. RAFFENSPERGER: Great. Great.

MS. LE: Good morning.

MR. RAFFENSPERGER: And Mr. Mashburn?

MS. THOMAS: He’s not on yet.

MR. RAFFENSPERGER: So we’re still waiting for Mr. Mashburn to join us.

MS. THOMAS: Mmm-hmm.

MR. RAFFENSPERGER: Okay. Well, let me know when he gets on board. We have enough for core. We also have
today on the agenda the approval of the Board meeting minutes from the April 15th, 2020 special called meeting. And, members, those are before you today. You’ve had a chance to review them. Do you have any comments or questions on that? If not, now would be the appropriate time for a motion.

MR. WORLEY: This is Mr. Worley. I’ll make a motion to approve the minutes.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: I’ll second it. This is Anh.

MR. RAFFENSPERGER: Hi, Anh. Thank you.

MS. LE: Good morning.

MR. RAFFENSPERGER: All those in favor in approving the Board minutes as presented, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Motion carries. Thank you.

Okay. We have public comments on the proposed emergency rule. Jasmine, I believe you’re organizing that.

MS. THOMAS: Okay. Mr. Mashburn is on now.

MR. RAYBURN: Mr. Secretary, Matt Mashburn has joined, so we’re getting his audio set up. And everyone who wants to make a public comment, please use the raise your hand function on the webinar, that way we can put down your name and call you for that. So please use the raise my hand or raise your hand function so we know who
wants to make a public comment.

MR. RAFFENSPERGER: Great. Are we ready to begin that then?

MS. THOMAS: Yes. So we’re going to first start with George Balbona.

MR. RAFFENSPERGER: Okay. Mr. Balbona.

MS. THOMAS: And you may speak now.

MR BALBONA: Check. Check. Can you hear me?

MS. THOMAS: Yes.

MR. BALBONA: Okay. Real quick, I attended the State Election Board’s emergency hearing in Athens-Clarke County and that was an absolute travesti -- travesty of justice. Ballot secrecy is both impossible and impracticable. I have some questions for you. Since Georgia is going mainly to absentee ballots, will Athens-Clarke County get their fine money back?

I’ll like to also state that I’m sick of the SEB cherry-picking which laws you enforce. You claim -- claim that having state-wide uniformity is an important law and paramount, but I informed David Worley that Fulton County is utilizing BMD carriers no other county is using, and they’re spending $2.6 million to do so, which is $76,000 more than they’re BOC-approved, by the way. So that’s different equipment, different procedures, and Fulton County is utilizing a ballot box which is a different size
and actually sent back the unit which the scanner sits
upon back to Dominion. So you practice what you preach.
I have not heard word one about anybody raising a ruckus
about how Fulton County, the largest county, most populous
county in the State, is using equipment that is different
than everybody else, procedures that are different from
everybody else. This is ridiculous, okay? And it needs
to be addressed.

And since everyone is going to try to be using, you
know, mailed in absentee ballots, I don’t see why Athens-
Clarke County, that was ahead of the curve, is getting
penalized for it. I wish you could see what I have on my
screen. It’s a picture of Brian Kemp. I figured maybe
you guys would pay attention because he seems to be the
only person you’ll listen to. That is not what your job
is. Thank you.

MR. RAYBURN: All right. Thank you, Mr. Balbona. We
have put the emergency rule that’s going to be up for
discussion today on the website. It’s part of the agenda.
It was also sent around to those on the list serve. And
to make this a productive meeting, we ask that everyone
try to restrict your comments to the emergency rule that
is going to be discussed today, and we greatly appreciate
that.

MS. THOMAS: All right. Next, we have Liz Throop.
You are now able to speak.

MS. THROOP: Thank you. This is Liz Throop, and I live in DeKalb County. Can you hear me?

MS. THOMAS: Yes.

MS. THROOP: Thank you. I can’t speak to the proposed emergency rule because I didn’t find that on the website, but at the Faith in Freedom Forum last month, Secretary Raffensperger encouraged voters to bring their absentee ballots to the polling place saying you can decide to drop it in here or if it’s up to you, how you want to handle that. It’s true that some counties do accept completed absentee ballots at polling places during election -- during early voting. However, they don’t accept them on Election Day. Surely, this restriction confuses and intimidates voters who might otherwise vote safely by absentee instead of going to vote in person during the pandemic.

The Coalition for Good Governance has been asking the SEB for months to allow voters to drop off completed ballots at their polling place. Dropping off completed absentees at one’s regular precinct on Election Day would be convenient and seem logical, especially to counties where voter [sic] drop off ballots already at early voting. Poll workers could be designated as absentee ballot clerks, and absentees could be delivered to
election offices right along with provisional ballots, memory cards, and tabulation tapes after polls close. These ballots would arrive at election offices about the same time that absentee ballots arrive from ball -- from the county drop boxes. The SEB should suspend this restriction on drop offs of voted absentee ballots on Election Day. This would be convenient for voters, reduce confusion, and reduce possible exposure of voters and poll workers to the virus. Thank you.

MR. RAYBURN: Thank you, Ms. Throop. We appreciate your comments.

MS. THOMAS: Next, we have Garlan Favorito. You can now speak.

MR. FAVORITO: Thank you, Mr. Chairman. As founder of Voter GA, I first want to thank you for sending a mail-in ballot application to all Georgia voters. It was the right thing to do, even though you received some unjust criticism for that. Like the rest of our members, I do not want to chance the barcoded votes on an unverifiable ballot-marking device. I already applied for my absentee ballot back on March 20th and still have not received it. I’ve found others in Fulton County who have waited even longer than I have because the County at one time apparently had a backlog of over 100,000 applications. It’s not just Fulton though. Many counties have a backlog
of thousands of applications and it appears hopeless that we will get our ballots in time for the election.

There’s also tremendous confusion resulting from the attempt to combine the presidential preference primary and the Georgia primary election. We should have learned our lesson in 2017 when we were ridiculed nationally after the voting system failed when the Secretary of State’s Office attempted to combine the Sixth District race with other elections.

In addition, there’s ballot confusion in Gwinnett County, where voters are only getting half a ballot with partisan races and no non-partisan races. Another voter there is being unjustly denied the right to vote because he is falsely listed in the wrong database that the Secretary of State is using to track felons. I have explained to your office that the voter has no convictions, but there seems to be no interest in correcting this problem so the voter can vote.

Mr. Chairman, I am inviting you or any one of the Elections Division to have the opportunity to address all of these concerns by joining our Zoom meeting at 11am today immediately following this Board meeting. The Zoom link can be found at the voterga.org events tab, and I urge you or someone to join the meeting, and we’ll give you time to discuss whatever you’d like to discuss.
MR. RAYBURN: All right. Thank you, Mr. Favorito.

MS. THOMAS: All right. Next, we have Jonathan Grant. You may speak now. Mr. Grant? Jonathan Grant, you may speak now. All right, so we’ll come back to Mr. Grant. Next, we’re going to have Jeanne Dufort. You may speak now.

MS. DUFORT: Good morning. I’m the first Vice Chair of the Morton County Democratic Committee and also a member of the Coalition for Good Governance. These are challenging times to be sure. County election officials are straining under a triple threat. It’s the biggest year of the four-year election cycle. Most will be using the new election system for the first time, and we have a pandemic.

County election officials and voters deserve more from the State Election Board than two emergency rules. Your rule authorizing ballot drop boxes is a good rule, and today’s rule which we’ve just seen five minutes ago will help. It’s insufficient. It’s not enough. You need to permit and encourage county election officials to use all of their authority to protect the election. Without that support, county election officials face impossible choices. They’re watching the Secretary of State break the law when he chooses, compromising ballot secrecy by substituting a folded sheet of paper for the sealable
envelope required by law and ignoring the deadlines for mailing absentee ballots to voters. And they watched you, the State Election Board, punish the one county which tried to make sense of conflicting rules by providing constitutionally protected secret ballots and the required number of voting stations. That would be Athens–Clarke County.

Are you, the Board, charged with operating the State’s elections in a uniform manner, aware that some polling places will have only one third of the voting stations required by law while others will have their full complement, which means some voters will endure terrible lines, others not so much? Are you aware that the training materials provided by the State do not mention long lines as a reason to implement your emergency ballot rule despite the Secretary of State’s repeated statements including while voting for the rule that no one should wait more than thirty minutes to vote?

Counties need options to streamline in-person voting while minimizing contact. Voters need options to be sure they can get a mail ballot with time to return it. Counties need to know they will not be punished when they make responsible choices to protect their voters. Choose to be part of the solution, not part of the problem.

MR. RAYBURN: Thank you, Ms. Dufort. Ms. Dufort,
thank you.

MS. THOMAS: All right. Next, --

MR. RAFFENSPERGER: Is that it?

MS. THOMAS: -- we have Ailene Nakamura. You may now speak.

MS. NAKAMURA: Can you hear me?

MS. THOMAS: Yes.

MS. NAKAMURA: Great. Okay. Good morning. The proposed rule wasn’t available to the public until a few minutes ago, so my comments have to do with the pandemic. For months now, those of us volunteering with the Coalition for Good Governance have been sending letters, speaking at County and State Election Board meetings, and talking to voters and county election officials in the hopes of helping Georgia have safer and more secure elections. We’ve been mentioning easy, cost-saving improvements like dropping off absentee mailboxes at polling places during early voting and Election Day, which the majority of election supervisors we’ve talked to think is a great idea. During the pandemic, we’ve sent letters with procedure recommendations from voting experts that would help counties with the huge influx of absentee ballots that they’re experiencing right now and also help keep polling places safer for voters and poll workers to prevent situations like Wisconsin had.
So it’s truly disappointing that the only time the Secretary of State’s Office starts listening to us is when we file a lawsuit. In fact, after absentee mail ballots were to the wrong addresses of over 400,000 voters, the Secretary announced that they would send those missing ballots to the right addresses only after we filed suit. Due to the pandemic, we will have fewer voting machines than required by law, fewer polling places, and fewer poll workers, all leading to long lines at many polling places. Add to that the fact that new poll workers are going to have a lack of training because they’re only getting trained with videos without any hands-on training, so that will add more time and confusion.

So it seems ridiculous that the Secretary is not making the most obvious decision to keep voters and poll workers safer during the pandemic. It’s a decision that some Pennsylvania counties that use the same Dominion voting systems as Georgia have already made. They are going to use hand-marked paper ballots with disposable pens instead of virus-spreading touch-screen machines. It takes much less time to vote on a paper ballot, so it’s quicker to vote, wait times are shorter, and so are the lines, and it also gives you the ability to have other great options like curbside voting from your car. Please do the right thing and prioritize voter and poll worker
safety. Thank you.

MR. RAYBURN: Thank you, Ms. Nakamura.

MS. THOMAS: Next, we have Saira Draper.

MS. DRAPER: Good morning. My name is Saira Draper, and I am the Director of Voter Protection for the Democratic Party of Georgia. Today I’d like to speak with you about the current lack of and voters’ need for real-time reliable information from the Secretary of State’s Office about the vote by mail process. I’d like to share with you the story of one voter’s efforts to vote safely in the upcoming primary to highlight this issue.

In April, the voter received an application to vote by mail. By April 15th, she had filled out the application correctly, taken a photo of it with her phone, and emailed it to her county. The voter checked MVP regularly to see the status of her application. Days went by, then weeks. MVP did not indicate her application had been received. The voter considered submitting a second application or calling the county, but because the voter knew the county was processing a large number of applications, she tried to remain patient.

After waiting nearly a month though, she took action. The voter was pregnant and didn’t feel she could risk the heightened virus exposure that comes from voting in person. The voter, who had connections at her local
elections office, was able to communicate directly with the county election supervisor about the status of her application. The voter checked MVP later that day. For the first time, it indicated her application had been received. It also indicated that her ballot had been issued. Her ballot arrived nine days after the ballot issue date on MVP. It was disconcerting to the voter that MVP had proved to be an unreliable source of information.

The voter opened the ballot. Rather than finding the inner envelope that she was accustomed to, there was a sheet of white paper curiously called a privacy sleeve. The voter checked the Secretary of State’s website for information on whether the sleeve needed to be sealed, but there was no information.

I can attest to the truth of this story because this is my voter story. In some ways, my story is typical of what many Georgians are experiencing right now. In some ways, it is not. I wonder if I would still be waiting for my ballot if I did not have access to information and people as part of my job.

The most common question that Georgia Democrats have received over the past week is can I still go vote in person if my absentee ballot never arrives. It is incredibly troubling that Georgians are frustrated with the vote by mail process to the point that they’ve been
forced to consider taking their risk and the health of our
-- taking -- risking their health and the health of our
poll workers and election staff in order to vote.

There’s a bigger issue at play here, and that is
this: what is the State doing now to prevent these issues
from happening again in November? The general election is
less than 6 months away, and it is clear that COVID is not
just going to disappear. How is the application process
being streamlined? Will you be sending Georgia voters
applications to vote by mail? Planning and transparency
now will go a long way to assuring voters that November
will not be a repeat of June 2020. The State’s lack of
communication and action to aid voters for the June
primary is already concerning, but make no mistake, it
will be reckless endangerment of voters if we do not
swiftly correct course now to prepare for November. Thank
you.

MR. RAYBURN: Thank you, Ms. Draper.

MR. RAFFENSPERGER: Next speaker?

MS. THOMAS: Next, we have Marilyn Marks. You may
now speak.

MS. MARKS: Thank you. This is Marilyn Marks. I’m
the Executive Director of Coalition for Good Governance.
Coalition for Good Governance has been seeking a court
order to improve poll worker health-safety conditions that
would permit an early scanning of the ballots, and we appreciate the Board’s attempt to address that issue today, but we urge you to instruct staff to go back to the drawing board on this one. It needs some work.

As the email that we sent you this morning details, there are numerous confusing and conflicting provisions in the draft rule that we’ve seen. We saw a draft rule, but unfortunately, we did not see the final rule before this meeting. It was not posted. Such conflict and confusion and omissions that are in the proposed rule will serve to create controversy rather than clarity. The county election officials already have had an overwhelming number of new issues and concerns to deal with, and they deserve absolute clarity, not more confusion, in any rule that the Board promulgates as an emergency measure.

We have detailed 11 points in our email this morning that require immediate attention before this rule is promulgated. For example, it seems that the terms tallying, tabulation, processing, scanning, and counting are used somewhat interchangeably, and at other times, it’s clear that they do not mean the same thing. Without more clarity, it’s inevitable that the county officials will unintentionally violate the rules and potentially the underlying statutes and then have to deal with partisan controversy. They deserve better than this.
Also, we’d like to note that it is unclear as to the
difference in the rights and responsibilities of monitors,
poll watchers, observers, and public observers. All of
those terms are used in this rule. Again, it’s essential
that the clarity -- that clarity is required for the rule
to be effective.

We detail more of this in our email this morning. We
urge you to review that carefully, and we urge you to
consider those things before you promulgate any rule on
the early scanning of mail ballots. Thank you.

MR. RAFFENSPERGER: Next speaker?

MS. THOMAS: All right. So next, Jonathan Grant?

You may speak now. Jonathan Grant?

MR. RAYBURN: That’s all the public comment, Mr.
Secretary.

MR. RAFFENSPERGER: Okay. Well, thank you for your
comments. Now, we have on our agenda the presentation and
consideration of the proposed emergency rule. If we could
have our General Counsel Ryan Germany go over that. I
believe they discussed this with the Board members. We’ve
also got the input from our counties. Mr. Germany?

MR. GERMANY: Thank you, Mr. Chairman. So the rule
in front of us today is an emergency rule allowing early
processing of absentee ballots. I want to thank all the
members of the Rules Working Group for a lot of helpful
back and forth on this. Particularly, Ms. Bailey in Richmond County was very helpful in helping us put this together.

So as each of you know, this current election, the June 9th election, is shaping up to look very different than elections in Georgia usually look. To give you some statistics, as of this morning, we have had 1,438,000 absentee ballot applications accepted. Out of that 1.4 million, 1.319 million of those absentee ballots have been mailed. The rest are, of course, in the process of being mailed. And out of those 1.3 that have been mailed, 1.25 million have already been delivered to Georgia voters. 360,173 ballots have already been accepted -- been returned and accepted by county election officials. I think the last presidential preference primary, general primary, there was 36,000 total absentee vote by mail ballots cast in the entire election. So we’re already at well above that in orders of magnitude. This is more absentee ballots than have been accepted -- than were accepted in the November 2018 election. I think there it was only 250,000 absentee ballots.

So I think what we’re seeing is Georgia voters have, for 15 years, had the opportunity to vote no excuse absentee, and what we’ve seen here for obvious reasons is a huge increase in voters interested in utilizing that
option. So we’ve made some changes. Obviously, a part of that increase is due to the Secretary’s decision to mail out absentee ballot applications to every voter. And then, I think, you know, you guys have made other additions like the drop boxes, and basically, we’ve just seen counties have to really go to being able to process a large amount of absentee ballot applications and that was difficult, I think. I saw some numbers this morning. Cobb has 130,000 absentee ballots that they’ve issued. Fulton has 110,000, and I know they’re still -- they’re still accepting applications today.

So that leads me to this emergency rule we are considering. With this many absentee ballots coming in, if there is going to be a way to get results any time quickly after the election, we think we need to allow counties to start processing these absentee ballots early. And one thing they can -- that they’re able to do and come up with is not tabulate them because, you know, we don’t want -- we don’t want to do earlier tabulation than is already allowed because that can -- there’s just issues with those numbers being out there. We don’t want them to be known. And so, with the new system, you’re able to scan the ballot without tabulating it, similar to early voting. Basically, where if you go early vote in person, you scan your ballot through the scanner, but your ballot
is not tabulated until, you know, those ballots are
returned back to the -- to the county election office and
the election management system.

So the emergency rule -- I’ll go through it here, the
proposed rule. For the election held on June 9th, 2020,
counties can start the second Monday prior to the Election
Day processing absentee ballots, and what that means is
they are allowed to open the outer envelopes -- by this
point they’ve already read the back of the envelope,
checked the signature, determined whether or not to accept
it. If it’s been rejected, you know, that’s a separate
process, so these are only for -- this is only for once
the applic -- the ballot’s already been accepted. They’re
allowed to open the outer envelope, remove the contents,
and then scan the absentee ballot. However, no person
shall tally, tabulate, estimate, or attempt to tally,
tabulate, or estimate the actual votes.

So the three things we were kind of trying to
accomplish in this rule: one, we’ve got to make sure
there’s a process that can be followed that will basically
help the counties keep things organized. So that’s why
we’ve limited it to absentee ballots shall be processed in
batches of not more than 100, and at least 3 persons who
are registrars, deputy registrars, poll workers, or
absentee ballot clerks must be present for the processing
of absentee ballots. They have to have a reconciliation form to make sure that the number of ballots matches the number of envelopes and vice versa and sign their name to it. They also have to then keep those batches together once they’re scanned so you can keep track of okay, this has been scanned, and then they’re put in a secure ballot container. So we want to make sure there’s a good process.

The other thing that we want to accomplish is we do want to make sure that it’s available to the public, but it’s got -- it’s got to be securely available because the third thing we were trying to accomplish in this rule is keeping in place ballot secrecy. So, you know, the process to remove the -- to separate the outer envelopes from the ballot with the security sleeve around them and the rule says that has to be done in such a way where they can’t be matched back to one another after the fact.

One thing that we spent a lot of time on with the Rules Working Group is the observers and the monitors. The process is open to the public and that’s -- those are the observers, the public observers. Designated monitors, who can be designated by the state political parties or the nonpartisan or independent candidates that are on the ballot -- they can also be there to monitor. And we try to monitor -- to set the guidelines for that process based
on the current guidelines for poll worker -- sorry, poll
watcher monitoring in the tabulation center. And so
that’s in number 12 of the rule, and we list that the
superintendent may designate locations that allow the
monitors to monitor the process and those locations shall
include areas that let them -- let them view batching the
ballots, reconciliation of envelopes to ballots, scanning
the ballots, duplication of ballots, adjudication of
panels -- adjudication of ballots by review panels, and
sealing the ballots after scanning, and that’s modeled
after the poll watchers in the tabulation center.

We also modeled this rule after the existing early
tabulation statute, including the restriction on cell
phones, laptops, audio or video recording devices, or
other communication devices. They can’t be in the room.
There’s also some prohibited activities from anybody, from
the monitors or observers interfering with the processing
of the ballots, bringing in any photographic or other
electronic monitoring or recording devices, engaging in
any kind of campaigning, taking any action that endangers
the secrecy of the ballot, touching any ballot or ballot
container, and then again tallying or attempting to tally
any votes, and then communicating any information that
they might see about a vote on a ballot.

So those are the things we were trying to accomplish
and again, I’m thankful for the -- to the Rules Working
Group because there was a lot of helpful comments that we
incorporated into this, and we were working on it as late
as yesterday. But we envision, if the Board decides to
pass this emergency rule, the Secretary of State Elections
Division will send out some guidelines to the counties
that, you know, are a little more specific about some of
these processes. We didn’t want to get into those, I
think, in the rule. The purpose of the rule is really to
allow the county to do this, set some guidelines, set, you
know, set the guard rails, and then we’ll send out some
more specifics about how exactly, you know, we think these
things should be accomplished in the guidelines we issue
to counties. I’m happy to take any questions.

MR. RAFFENSPERGER: Do we have any questions or
comments from any of our Board members?

MR. WORLEY: Mr. Chairman, this is Mr. Worley. I
have a question for Mr. Germany.

MR. RAFFENSPERGER: Yes, sir.

MR. WORLEY: Mr. Germany, in the guidelines -- in the
guidelines that you send to the counties, do you
anticipate emphasizing that monitors and observers do have
a right to view the election from a -- from an appropriate
location and make sure that county election officials know
that that is still a right that needs to be preserved in
this rule?

MR. GERMANY: Yes. Yes. I think we do want to make that clear. You know, it definitely needs to be a public process. The county election official does have authority to set reasonable regulations, again copying from the poll watcher statute, especially, you know, it’s a little complicated in these times with social distancing requirements and all that, but that’s certainly something we can include in the guidelines, Mr. Worley.

MR. WORLEY: All right. Thank you.

MR. RAFFENSPERGER: Any other members, any questions? Hearing none, now would be a good time for a motion, if someone is so inclined.

MR. MASHBURN: This is Matt Mashburn. I move that the rules be adopted as published.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: This is Anh, Anh Le. I’ll second that.

MR. RAFFENSPERGER: Great, a second. The rule is before us. Do we have any additional comments any members would like to make before we bring it to a vote?

MR. WORLEY: Mr. Chairman, this is David Worley. I have just a brief comment. I appreciate the efforts that the members of the Rules Working Group and Mr. Germany and Mr. Rayburn and others did in putting these rules together. There was considerable comments and revisions
that were made that I think improve the rule. I don’t think it’s a perfect rule but given Mr. Germany’s assurance about the guidelines that we’ll be able to flesh out this rule, on the whole, it’s a rule that I will support.

MR. RAFFENSPERGER: Thank you, Mr. Worley. Any additional comments from any Board members?

MR. MASHBURN: This is Matt Mashburn. First, I would like to apologize to everyone for my being late. I had a little technical difficulty that I had to work through, so I apologize to everyone and their time for both the Board members and the public, so I apologize for that. But I think for this once in a lifetime unprecedented emergency, this regulation attempts to balance transparency and security with a methodical, orderly, observed, and safe processing system and it also supports the timely release of results once the polls close, so I support it and vote for it -- will vote for it.

MR. RAFFENSPERGER: Thank you, Mr. Mashburn. Any additional comments? Hearing none, all those in favor of the emergency rule as presented, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, motion carries. I don’t believe we have anything else before us today, so therefore if we have a motion for
adjournment, I’ll entertain that at the present time.

MR. MASHBURN: Move to adjourn, Matt Mashburn.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second, Rebecca Sullivan.

MR. RAFFENSPERGER: All those in favor?

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Motion carries. The meeting is adjourned. Thank you for your time. Thank you for getting up. Sorry that this was a little bit earlier than normal, but enjoy the day, and God bless your service.

Thank you.

(Meeting adjourned 9:45am)
CERTIFICATE

STATE OF GEORGIA
COUNTY OF DEKALB

I, Kaitlin Walsh, Certified Court Reporter, hereby certify that the foregoing pages numbered 4 through 28 constitute a true, correct and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 18th day of June, 2020.

Kaitlin Walsh, CCR, CVR
CCR #: 5910-3132-3171-2256
SECRETARY OF STATE
State Elections Board Hearing
May 18, 2020

$2.6 (1)
6:22

$76,000 (1)
6:22

[sic] (1)
8:23

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14:23

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In The Matter Of:
SECRETARY OF STATE
State Election Board Hearing

July 1, 2020

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THE OFFICE OF THE SECRETARY OF STATE

STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD HEARING

2 MLK JR. DR. SE
SUITE 810 WEST TOWER
ATLANTA, GEORGIA 30334

July 1st, 2020
8:00 A.M.

PRESIDING OFFICER:  BRAD RAFFENSPERGER
SECRETARY OF STATE

STEVEN RAY GREEN COURT REPORTING, LLC
Kaitlin Walsh, CCR, CVR

Atlanta, Georgia
APPEARANCE OF THE PANEL

Secretary of State Brad Raffensperger, chair
Rebecca Sullivan, vice chair
Anh Le
David Worley
Matthew Mashburn

ALSO PRESENT IN ORDER OF PRESENTATION

Ryan Germany
Transcript Legend

(sic) – Exactly as said.

(ph.) – Exact spelling unknown.

-- Break in speech continuity.

... Indicates halting speech, unfinished sentence or omission of word(s) when reading.

Quoted material is typed as spoken.

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PROCEDINGS

MR. RAFFENSPERGER: I think we can call the meeting to order. Once again if we could just do a quick roll call and make sure that everybody’s here. Rebecca Sullivan?

MS. SULLIVAN: Present.

MR. RAFFENSPERGER: David Worley?

MR. WORLEY: Present.

MR. RAFFENSPERGER: Anh Le?

MS. LE: Present.

MR. RAFFENSPERGER: And Matthew Mashburn?

MR. MASHBURN: Present.

MR. RAFFENSPERGER: Okay. We’ll lead off with a quick word of prayer and the Pledge of Allegiance.

(Invocation)

(Pledge of Allegiance)

MR. RAFFENSPERGER: So good morning. I appreciate everyone being up at 8 o’clock this morning. So anyone that’s listening understands, one of our Board members actually has a deposition at 9 o’clock, so we really have to end promptly at 9 so they can get on with that. So we’ll be moving through this and hear a few comments. Because I know we all have busy schedules and I don’t want to take too much time out, I wanted to take a moment to thank each and every county elections official and all of
those poll workers that worked so hard to help us reach a record turnout on June 9th despite COVID and the challenges it brought. We know we will face similar challenges in the elections to come. In today’s meeting, I hope to see a systemic use of the rules that we had in place in June to help people exercise their right to vote.

I also want to let Georgians know that we are all going to work together to make the elections in August, November, and January a success. Working together, we will learn the lessons from June. And, with the full understanding that we will likely see three times the voter turnout in November, I am proud of the work this Board has done to make voting easier for today and in the future, and I hope to dwell on those accomplishments and put the weaponization of election administration by both the left and the right behind us.

Before I have any of the Board members comment, we have a review of the approval of the Board meeting minutes there before the Board from the -- May 18th. We all should have had a chance to review those. Now would be the appropriate time to make a motion if you’re so inclined.

MR. WORLEY: This is David Worley. Mr. Secretary, I would make a motion to approve those minutes.

MR. RAFFENSPERGER: Do we have a second?
Ms. Le: This is Anh Le. I second it, the motion.

Mr. Raffensperger: All right. Any further comment?

All those in favor of approving the Board minutes as presented, please do so by signifying aye.

The Board Members: Aye.

Mr. Raffensperger: Any opposed? Motion carries.

Okay. Board members, before we get into public comments, do you have any comments that you’d like to say? If you’d just identify your name and then if you want to share a few comments with the Board and the public.

Mr. Worley: Mr. Secretary, this is David Worley. I would like to share a comment. And that is that I think the Secretary should be complimented for mailing out absentee ballot applications to every person, every active voter, in the run-up to the primary. I think the current pandemic made that entirely necessary, and I think the conditions that led to the mailing of those absentee ballot applications continue and will be continuing in the months leading up to the November election. I think it’s imperative for the Secretary to do that again, and I know he’s been subject to criticism from people in his own party about that, but I think the current situation demands that absentee ballot applications be mailed out to voters again in advance of the November election.

As the Secretary noted, we may have three times as
many people wanting to vote in November as voted in the primary. If we do not have a very robust absentee ballot program, we will see an absolute disaster in November, and so I just wanted to encourage the Secretary to reconsider his position about mailing out ballot applications, absentee ballot applications, between now and the November election. Thank you.

MR. RAFFENSPERGER: Thank you. Any other members?

Okay. Now, let’s -- we’ll have a moment for public comments. We’ve allocated two minutes per speaker, and I don’t know if anyone has just added their name to that list, but if we don’t get through everyone before we need to take up the emergency rules, we’ll just hold you over after we vote on those emergency rules. But I want to make sure that the public comments are specifically addressed according to the consideration of the extension of the emergency rules. If it’s on another matter, then we’d like to hold you on after just because we do have to break at 9 o’clock at the latest. I want to make sure we have suff -- sufficient time to really have discussions over the emergency rules among the Board members. So with that, who is our first person with public comment?

MS. THOMAS: All right. So first, --

MR. RAYBURN: Matt, did you have a comment you wanted to make?
MR. MASHBURN: I did. I did. Again, I’m sorry that the lines were long on June 9th. There were things that — that were beyond people’s control, like a pandemic. And for those things, I thank the voters for their patience. There were people in lines, and there were people on the news reports, and they said I’m staying here and I’m going to stay as long as it takes and I’m going to vote, and I was so proud of those voters, and we can’t do enough to thank them.

There are things that can be done better, and the Secretary of State, the General Assembly, and the State Board of Elections are already looking at these things and making changes and new ideas. For example, the Secretary’s suggestion to place an IT technician in each and every precinct, especially in Fulton County at opening time, to make sure that the machines, printers, and scanners are up and running is a great idea and one that I wholeheartedly support. And just for some perspective, there were two million -- two million Georgia primary voters on June 9th, but in the general primary of 2016 there were 887, not even a million, and in 2018, there were just under a million. So under Secretary of State Raffensperger’s leadership, state-wide Georgia was able to process double the normal general primary turnout.

Now, the problems that we experienced, and primarily
in Fulton and Metro Atlanta, were not unique to Georgia. Every state, Wisconsin, Pennsylvania, now Kentucky -- especially every large city, including the District of Columbia, which has held an election during this pandemic, has had strikingly similar issues, problems, and wait times. The last Metro Atlanta precinct on June 9th closed around 10:15 according to the AJC, but the very same night in Washington D.C., voters were in line past midnight up until 1AM, and not many people have heard about that problem.

The Secretary was proactive, and I commend him for this, he sent out warnings long before the election about wait times. On May 20th, he was warning for Georgians to seriously consider using absentee ballots. He warned of long wait times because of fewer workers. We were concerned about the health. He warned about sanitation with increased wait times. He warned about the need to cancel absentee ballots was [sic] also going to slow down the process, so he sounded the alarms early and often about this. And just to give you an example, four years ago in 2016, approximately 37,000 voters submitted absentee ballots. In this election, it was over a million, and Secretary of State Raffensperger personally took the initiative to do that, and he reduced the number of voters standing in line, and his initiative succeeded
in reducing the number of voters standing in line by over one million voters.

The problem is all that postage costs a lot of money, and in this time of budget shortfalls, I’m going to have to disagree slightly -- well, as to method not as to purpose -- with my friend and colleague David Worley because of this time of budget shortfalls and teachers and state workers are afraid of furloughs and layoffs. Unlike the Federal government, the State government is -- decreasing budgets is a zero-sum game, so the money for postage is going to have to come from somewhere, come from parks or libraries or seniors. It’s going to have to come from some other area, and so I support the Secretary’s initiative that he stated to try and get the same or similar result, and I agree with a very robust effort here, but shifting the primary effort away from snail mail and to instantaneous online request which uses zero cost of postage. The Secretary of State, I think, is correct that taxpayers don’t need to spend millions of dollars in postage to mail applications to people who have demonstrated they don’t want to use them.

Now, the primary was a good opportunity to show people who had never voted how [sic] an absentee works how to do it, and I applaud the Secretary’s initiative on doing that. But now that people know how to do it and we
know which people responded well to it and which ones
didn’t do it, I agree with the Secretary’s idea to try and
move this online, and people who can -- who want to use
the mail can still use the mail, but people who want to
register online can do that. So I think the Secretary was
absolutely correct -- I agree with David, the Secretary
was absolutely correct in sending the applications for the
June election. It had a tremendous success and half the
voters voted by absentee rather than standing in line.

Also, and good news that’s not widely reported, I was
very encouraged to personally observe Fulton County’s
tabulation center this past Monday as it passed it’s post
alleg -- post-election logic and accuracy audit. And it
conclusively showed with great margin that there was no
need to hand count all of the ballots, so congratulations
for Fulton County for passing their audit. That was
tremendous.

State-wide, 152 of 159 counties, there were
relatively bumps and hiccups. And for example, in my home
county of Bartow, we didn’t have a single machine delayed
opening, and we had dramatically shorter wait times even
though we handled double the normal vote load. We did
have one closing. It was because the fire department
didn’t show up on time to unlock a building, and that’s
the kind of thing that just normally happens in elections
every now and then.

So I think the Secretary of State is being proactive. I think he’s watching out for the taxpayers. I agree wholeheartedly with setting up a system to register online for absentee ballots and even now, you can go to mvp.sos.ga.gov and get registered for an absentee ballot, so I agree with a very robust effort to promote absentee ballots, but I would like to do it online rather than do it by snail mail. And we paid for postage for 6 million people that didn’t want to use absentee ballots, but we didn’t know that until we did it, so it was correct to do it then, but I support shifting it online now. So -- but as David said and as the Secretary said, there’s a lot to do between now and November, and I am absolutely committed and I know the Board is committed, the Lieutenant Governor is committed, and the Secretary of State is committed, and everybody is going to pitch in, and we’ll pull together and hopefully have much better results. Thank you.

MR. RAYBURN: And before we go to public comment, I would just ask if your comment is not on the proposed rules, you hold off.

MS. THOMAS: All right. So first, we have Jeanne Dufort for public comment. You may speak.

MS. DUFORT: Good morning. My name is Jeanne Dufort. I’m a Morton County voter, first Vice Chair of the Morton
County Democrats, and a member of the Coalition for Good Governance. Last summer, we all knew that rolling out a state-wide voting system during the busiest year in the four-year election cycle was an ambitious and risky endeavor. And then the COVID-19 pandemic came along and said hold my beer. Those of us who believe in the new system and those of us who do not must be united on one front: that election officials across the state have literally exhausted themselves and their staffs in service to our recent primary elections. And voters stepped up, enduring long lines and doggedly tracking absentee ballots. They deserve our gratitude. Instead, the Secretary of State offers blame most of the time, except for today. Thank you for your remarks today. I find that reprehensible and remarkably tone-deaf for an elected official.

The presidential and general primaries had record turn-out. The new system had a stress test beyond what anyone imagined, and now is the time to access what worked and what must be improved before November. Thank you for extending the two rules you’re considering today. About a million Georgia voters cast their vote in person, checking in with the no-ink poll pads, selecting candidates with the Dominion image cast ballot-marking tablets, and then printing ballots, for some reason casting them with the
ballots -- with the precinct scanners. And about a million Georgia voters used hand-marked paper ballots, filled out at home and mailed in or dropped off in secure drop boxes. These ballots were opened and scanned on central scanners in election offices across the state.

Over the course of the last year, the Coalition for Good Governance has proposed rules to improve the voter experience, reduce workload for counties, and improve citizen oversight of elections. Things could have been better if you had adopted our rules. It’s not too late for November. Please consider some of these as you consider emergency rules. Thank you.

MR RAFFENSPERGER: Thank you. Our next speaker? Who’s our next person?

MS. THOMAS: So next, we have Shea Roberts. You’re self-muted right now.

MS. ROBERTS: Got it. Hi, my name is -- oops. My name is Shea Roberts, and I’m a Fulton County voter and the democratic nominee for State House District 52. Your emergency paper ballot rule wins an award for the best idea kept locked in a broom closet. Take a hard look at the training materials you developed to support this rule because virtually no counties were prepared to use the rule. With such a critical new rule, it’s important that training materials be clear.
Counties must know: one, the difference between provisional and emergency ballots. Provisional ballots are used when the voter cannot be fully checked in. They may be in the wrong place or may -- may not provide proper ID. Voters may mark a provisional ballot, but they do not cast it in precinct. Provisional ballots do not always count. Emergency paper ballots are used when the machines malfunction or when wait times exceed 30 minutes. Voters both mark a paper ballot and cast it at the precinct scanner. Emergency ballots always count. When to use emergency ballots? Some believe all machines must be down for at least 30 minutes.

We believe the emergency paper ballot rule can be used to increase capacity for in-person voting. A ballot on a clipboard becomes an additional voting station. Marking a paper ballot is actually faster than using the tablet and printer. With record turnout predicted for the November election, proper implementation of the emergency paper ballot rule just makes sense. Thank you.

MR. RAFFENSPERGER: Thank you. Our next person for public comment?

MS. THOMAS: Next, we have Saya Abney.

MS. ABNEY: (very distorted sound) Hi, my name is Saya Abney, and I’m a Fulton County voter. There is a current demonstration that voting with poll pads inhibits voters
in many instances. While it’s true that last minute changes in poll worker (???) with voter conditions. It’s also well-documented that sometimes the poll pads are simply wrong. A demonstrated law from the Coalition for Good Governance is we must be allowed to cast the ballot if their MyVoter page shows them in the precinct where they’re checking in. Reporting the inaccuracies in your electronic poll books was common among the 50,000 voter complaints compiled by the MyVoter hotline during the 2018 midterms. State Senator Jasmine Clark has testified in federal court about her experience during the 2018 runoffs, where she was told that she was at the wrong polling place during the check in process. As a state senator, she knew exactly where she was supposed to cast her ballot, and after several minutes of phone calls, the issue was mysteriously resolved.

The Secretary of State encourages voters to rely on the MyVoter page when checking the status of their absentee ballot, reviewing their ballot, and when planning (???). Allowing the voter to cast a ballot in the precinct shown on the MyVoter page, even though it conflicts with the electronic poll-pad, would mitigate harm that could be caused by (???) or sending voters to the correct precincts and allowing voters to cast their vote. Thank you.
MR. RAFFENSPERGER: Thank you. All right. Next comment?

MS. THOMAS: All right. Next, we have Isabel Gambino. You’re self-muted right now.

MR. RAFFENSPERGER: Ms. Gambino?

MS. GAMBINO: Okay. Can you hear me?

MS. THOMAS: Yes. We can hear you.

MR. RAFFENSPERGER: Yes. Go ahead?

MS. GAMBINO: Do you skip Joy from our list? I just want to make sure --

MS. THOMAS: I don’t see Joy’s name as being -- as attending.

MR. RAYBURN: Your time is running. Please go ahead and make your comments.

MS. GAMBINO: My name is Isabel Gambino, and I’m a Fulton County vote -- voter. Demand for absentee mail ballots soared to record heights in the recent primary. Our rule, first proposed last fall, allows voters to deliver absentee mail ballots to any location at which they would be eligible to vote in person and have their ballot accepted. This rule will reduce administrative handling while increasing voters’ certainty that their votes have been accepted. The rule designates an absentee ballot clerk in each early and Election Day polling place, giving the voters the option of delivering their absentee
mail ballot at any place they would be eligible to cast
their vote in person. Upon presentation of proper ID and
recognition of eligibility through the standard check in
process, the ballot would be accepted with no further ado.
Special absentee ballot check in lines could be
established.

Allowing election workers to accept voters’ absentee
ballots at early voting locations and at Election Day
precincts -- and at Election Day precincts is a win-win
for all. For voters, it eliminates the risk of mailed
delivery -- having a ballot rejected for minor
discrepancies. And for election officials, it reduces the
office work of mail ballot envelope verification and
associated ballot-related security. This change will
provide voters who wish to vote a paper absentee ballot at
home the opportunity to cast a ballot at their home
precinct on Election Day with the advantage of the latest
election information, and this change will permit voters
who have a visual or dexterity difficulty with computer
screens and operation to vote their ballots with paper and
pen at home and cast it on Election Day in their home
precinct.

In short, adapting this new election rule strengthens
civic participation in our democracy, and everybody wins.
Also, given that the budget is a concern, it costs less to
handle a mail ballot than an in-person ballot. You’ll need to do much better. Georgia was a national joke. We are the ones labeled —

MS. THOMAS: All right. Next, we have B Wasson or Joy Wasson.

MS. WASSON: Joy. Hi, I’m Joy Wasson, a DeKalb County voter. The Secretary has projected perhaps two and a half times the turnout in November that what we saw in June. We’re likely to see huge numbers. Expanding capacity for in-person voting depends partly on number and size of polling places and staffing, but the SEB rules also affect capacity. I saw poll pads down on Election Day at poll opening. I see the countless voters waiting hours to vote. This problem checking in put an immediate stop to all voting. In November, counties must deploy more poll pads. One poll pad for every one thousand registered voters in a precinct should be the minimum required. In addition, it would make so much sense if you would create an emergency voter check in rule as counterpart to your emergency paper ballot rule. Many voters and poll workers have said bottlenecks in the primary began with slow check in.

Two of Coalition for Good Governance’s previously proposed rules will speed voter check in. First is the requirement that paper poll book backups be available in
every precinct and used when the poll pads are not working
or when check in lines exceed 30 minutes. The second
previously proposed rule that would help speed checkup --
check in is -- of voting is allowing voters to cast a
regular ballot if they’re in a precinct shown on their
MyVoter page. The paper -- the backup paper poll book
would be printed after records are updated from early
voting, and it would be used as the official record if
there were a discrepancy or any problem with the e-poll
book. This would go a long way in keeping lines moving if
poll books are down. Adding paper poll books -- poll book
check in stations is a low-cost way to expand capacity and
reduce wait times. Thanks.

MR. RAFFENSPERGER: Thank you for your comment. Our
next -- who do we have next?

MS. THOMAS: All right. Next is Liz Throop. You may
speak.

MS. THROOP: Hello. Can you hear me?

MS. THOMAS: Yes.

MS. THROOP: Thank you. I’m Liz Throop from DeKalb
County. It’s timely and urgent that recount procedures
are updated for the new voting system. And there are few
things more nerve-wracking for candidates and their
supporters than races that wind up in a recount. There
have been some close contests in this election already.
Haber -- Habersham took four days to recount a commission race. A house in Cobb took three days. Yesterday, a recount for a commission seat in Gwinnett was settled by counting votes for only two of the five candidates. Public trust in elections is never more fragile when -- than when there are winners and losers that are only a few votes apart.

We’ve proposed some amendments to the recount rules that ensure that public observation is meaningful and that the results are trusted. Over the past months, it’s been my privilege to observe elections and ballot processing across Georgia. I’ve gotten to meet election workers and officials who are doing their very best to run fair and efficient elections, but restrictions on public observation vary widely, and this is especially problematic for recounts when the stakes are so high. Your guidance could prevent arbitrary restrictions on public access to recounts.

Secondly, because most of Georgia’s ballots encode voters’ choices in QR codes, it’s critical that for any election to have a meaningful recount, it must be preceded by a meaningful audit of the human readable portion of those ballots. Our proposal is straightforward. If an election is close enough to warrant a recount, then there must be a thorough audit prior to that recount. Thank
MR. RAFFENSPERGER: Thank you for your comment. Next speaker?

MS. THOMAS: Our next speaker is Ailene Nakamura. You may speak now.

MS. NAKAMURA: Hi, I’m Ailene Nakamura from Fulton County. Now that we’ve re-proposed rules that Coalition for Good Governance proposed months ago, it’s necessary to mention that had the State Election Board done its job and promulgated better rules and procedures, June 9th could have been a success instead of a disaster. The Secretary seems to just make up procedures and keeps breaking existing laws himself, all the while threatening counties that do try to follow the law. What am I talking about? The Secretary decided to hire an outside vendor in Arizona to send absentee ballots to Georgia voters, and while it was a good idea, he did not have the authority to do so because sending absentee ballots is in the purview of counties, not the Secretary of State. He should have asked for an emergency rule to enable him to do so.

And those absentee ballots themselves broke the law in two ways. They were not sent out with an inner envelope to protect ballot secrecy, and they had the wrong date of May 19th on it. But the Secretary must think that the law does not apply to him. And we have evidence that
some people threw away those absentee ballots thinking they had the wrong ballot or that they had missed the election. And Athens-Clarke County can attest that when they tried to obey all voting laws and found that they could not do so using the touch screen voting machines, the Secretary and this Board held a 7-hour hearing and told the County that they must use the equipment the Secretary purchased and threatened them with fines if they used hand-marked paper ballots, all because the only law this Board cared about is that all 159 counties use the unlawful BMDs.

And let’s talk about the most important rules the SEB has failed in promulgating: recount rules, as Liz mentioned, ballot secrecy, which is one of the laws Athens-Clarke tried to preserve, audit rules, which are currently nonexistent, yet crucial. It is absolutely unconscionable that this Board is letting counties use brand-new equipment that counts bar codes with no audit rules and inadequate recount rules. And last, the SEB must ensure that every vote counts, which should be the fundamental rule of election, yet did not happen in this election. Thank you.

MS. THOMAS: So next -- next, we have Libby Seger.
You’re self-muted right now. Okay. You’re good now.

MS. SEGER: Hi. My name is Libby Seger, and I am a
voter from Fulton County, and I’m also a student at Georgia State University, where I’m the President of the Young Democrats. COVID has affected our primary -- primary elections in so many ways, to that point that counties were literally scrambling to secure polling places and poll workers. Social distancing rules changes -- had changed completely how we conduct in-person voting, but sadly, ballot secrecy was still forgotten.

Ballot secrecy is granted in the Georgia Constitution and it’s also required by the Help America Vote Act, known as HAVA. The law that enabled ballot-marking devices says that they must permit voting in absolute secrecy so that no person can see or know any other electors’ votes. Election boards are required conduct all elections in a manner such as to guarantee the secrecy of the ballot. It is absolutely clear that under the law in Georgia, ballot secrecy is not optional.

And yet, here we are. When I voted on June 9th at where I live, I could see everybody’s screen from inside, not to mention that I could -- I was within 6 feet of everybody voting, and there were no COVID guidelines in act. But we have these new voting tables with bright screens that stand upright, allowing your votes to be seen from across the room or even outside. We’ve been here at every single meeting since fall, asking you to provide the
counties with a solution to this problem that the
Secretary of State created when he chose these Dominion
tables. You spend most your time meting out penalties
for people who don’t follow the law. What is your answer
to the election superintendents across the state who are
required to use this equipment? November is coming soon
and to handle the expected turnout, every one of those
33,000 ballot-marking tablets will have to be used on
Election Day. So what is your plan for protecting ballot
secrecy? Thank you.

MR. RAFFENSPERGER: Thank you. Our next speaker?

MS. THOMAS: Next, we have Rhonda Martin.

MS. MARTIN: Hello.

MS. THOMAS: You may speak now.

MS. MARTIN: Okay. Hello, my name is Rhonda Martin,
and I live in Atlanta, and I am on the Board of the
Coalition for Good Governance. The foundation of our
democracy is the right of the people to vote, to have
their votes counted, and when counted, to have their votes
accurately reflect their intentions. The key to ensuring
that votes counted equate to votes cast is the risk-
limiting audit. I commend you for your efforts to
introduce risk-limiting audits to Georgia. I attended the
trial RLA on Monday in Fulton County. I watched as people
lined up to roll the die to create the seed for the
pseudo-random number generator used to select the ballots for use in the audit. I watched as people retrieved ballots and filled out tally sheets. It was an interesting and reassuring process. All of the activity almost made me forget that the exercise was totally meaningless.

In order for an audit to be valid, you must have trusted source documents, showing the votes that have been cast. Hand-marked paper ballots are trusted source documents. The output of electronic ballot-marking devices are not and can never be trusted source documents. I know you all envision a process where each voter carefully verifies their selections on the paper summary produced by the electronic ballot-marking device so that these documents can then be considered trusted. This just doesn’t happen. Research has shown that less than half of the voters take the time to carefully review their votes when asked to do so. Further, even when voters try to verify the paper summary, less than half noticed when errors had been introduced. It should be noted that this statement is not controversial. It is the most widely replicated experimental result in election security. There is literally no evidence to the contrary.

My ballot from the June 9th election had over 40 contests. Very few humans can memorize touch screen
ballot content at the level needed to verify a ballot card
of this length for accuracy and completeness. Bottom
line? The paper trail that electronic ballot-marking
devices offer cannot be used as the basis for an audit
because voters cannot verify the accuracy of the ballot
summary codes. The good news --

MR. RAYBURN: Thank you, Ms. Martin.

MR. RAFFENSPGERGER: Okay. I think, I’m watching the
clock here, I think we need to move onto the consideration
of the extension of the emergency rules and then come back
to the balance of public comments that we haven’t gotten
to, unless there’s just one or two left. But I think
there’s a few more than that.

MR. RAYBURN: There’s only one more left, Mr.
Secretary.

MR. RAFFENSPGERGER: Oh, okay. Let’s finish that.

Great.

MS. THOMAS: So next, we have Marilyn Marks.

MS. MARKS: Yes, good morning. I’m Marilyn Marks,
the Executive Director of Coalition for Good Governance.
I urge you to adopt -- to adopt an emergency rule today to
immediately ban the use of the software application
settings that are being used to suppress certain mail
ballot and provisional ballot votes. There are thousands
of legal votes not being counted because of this software.
Georgia law protects the voters by mandating that every mark for which the voter intent can be determined must count, but the software application is programmed to disobey this mandate.

The new software application works in conjunction with the ballot scanners. The scanners read the hand-marked votes, the votes are recorded, but then the system is instructed not to count those recorded votes if those votes are light marks, x marks, check marks, or other light, non-uniform marks. This should really be a scandal for this Board that the system that is being used is programmed not to count thousands of votes that the system recorded.

Counties are handling this very differently. They’re treating the voters and votes differently from county to county. Some are trying to partially compensate by remarking those ballots by hand duplication. That method is causing thousands of ballots to be hand-duplicated, scores of thousands of ballots, which is notoriously error-prone and completely unnecessary and does not catch all of the uncounted votes. This is not normal. Other states that are running mail ballot operations, their experience is well under one percent for ballots that need to be duplicated. The system is out of control in Georgia.
We saw the impacts of this improper software application yesterday happen in a Gwinnett recount where 13 votes separate two candidates out of 104,000 votes in a ballot race. The Board refused to consider the clear votes that remained uncounted in the stacks of ballots, so this Board today should order the Secretary to immediately stop the use of the software application that purposely does not count votes and instead order the counting of all legal votes. Thank you.

MR. RAYBURN: Thank you, Ms. Marks. So Mr. Secretary, I misspoke. There are some additional speakers, but we can get to them after the consideration.

MR. RAFFENSPERGER: All right. We’ll need to. So we’ll go ahead with the consideration of the extension of emergency rules. Mr. Germany, good morning. I don’t know how to want to go about it, but dig into it.

MR. GERMANY: Yes, sir. Thank you, Mr. Secretary. There’s two rules I would ask the Board to consider today, and they are both the emergency rules we passed. It’s the secure absentee ballot drop boxes and then the early processing of absentee votes. In both of those rules, the State Election Board limited them to the election held on June 9th thinking that we’d want to see how -- how they held up. And the indication from -- from our counties is that they both work well. And so -- then the counties
have asked that we extend those rules.

So on the secure absentee ballot drop box rule, the only changes that we’re making are deleting the reference to “for the June 9th election only.” And again, this would still be an emergency rule that would be in place for six months. To make this permanent, we will have to go through the whole process which, you know, I envision us doing before the November election, particularly for an audit rule we’ve been working on, and then we need to add these 12 to make this permanent, if that’s what we want. So we’re making -- we’re getting rid of the reference that limits these to the June 9th election.

And for the drop box rule, I added some opening procedures. When we adopted the rule last time, we were already in an election, so I wanted to add, kind of, opening and closing procedures where counties have to follow that, if the boxes are closed and then emptied prior to closing before election. Those are the changes that we have there.

And the other change that we made, and this was from the request of counties, is that the current rule says the boxes have to be emptied at least once every 24 hours. We’ve had some comments from counties that that became quite an extensive endeavor to do every day, and before -- the week before the election, there was not really a lot
of ballots in the drop boxes. So we’re changing it to
before the second Monday before the election, so
basically, before the week before the election, they have
to empty the drop boxes at least once every 72 hours.
That’s at least once, obviously, so, you know, if it’s a
more crowded area, you might need to do more than that.
And then, for the week before the election, it’s at least
once every 24 hours, which is the standard rule. So those
are the changes we’re making there. I’m happy to take --
well, I’ll go ahead and present the other one too.

Processing absentee ballots, again, the changes we’re
making there are getting rid of the reference limiting it
to June 9th, and then just some -- some slight wording
changes. One comment that we got was on what counties
have to put in their notification they’re going to use in
procedures. I think what we saw is we -- we required
telling us when they’re going to start, but that made it a
little bit difficult for people to know exactly when it
was going to happen every day, and so the new notification
procedures require the counties to say when they’re doing
the early processing on a -- on a daily schedule. I think
that’ll be helpful for monitors and observers. And then,
of course, that would be published on the Secretary of
State’s website in addition to on the county website. I’m
happy to take any questions on both of those from the
Board if there are any.

MR. RAFFENSPERGER: Do we have any questions? Any questions or input from Board members?

MR. MASHBURN: I -- this is Matt Mashburn. Out of respect for our colleague Board Member Worley, I will go ahead and make a motion that both be adopted as proposed, so that we can see if there’s a second and begin discussion to be respectful of his time.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: This is Anh Le. I’ll second it.

MR. RAFFENSPERGER: We have a second. Okay.

Discussion from Board members?

MR. WORLEY: This is Mr. Worley. I appreciate the Board’s consideration of the fact that I have a, you know, a work commitment later this morning. I have arranged to push back that deposition, so I -- I can stay until 9:45 to allow a full discussion. As far as these rules go, I appreciate Mr. Germany’s efforts in adopting comments that were -- that came to me that I passed on to him about some changes that needed to be made with the rules. I think both rules worked well in the primary and should be adopted for the general election.

MR. RAFFENSPERGER: Any other comments? We have no further comments. Now is the appropriate time to bring this to a vote. All those in favor of -- let’s vote on
this -- the motions together, so all those in favor of
approving emergency rule 183-1-14-0.6-0.14 and emergency
rule 183-1-14-0.7-0.15, do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, the
motion carries. Okay. Mr. Worley, since you have
additional time, would you like to talk before we go back
to public comment or would you like to -- what is your
preference, finish up public comment?

MR. WORLEY: I’d like to hear the additional -- my
preference would be to hear the additional public comment.

MR. RAFFENSPERGER: Okay. We’ll go back to public
comment then, Mr. Germany?

MR. GERMANY: Yes, sir. Thank you.

MR. RAFFENSPERGER: Okay.

MS. THOMAS: So next, we have George Balbona. You
may now speak.

MR. BALBONA: Hi, I’d like to start by saying that
Board Member Mashburn’s comments were incredibly
obsequious, as usual, and inaccurate. As Rhonda pointed
out, what occurred on Monday was not a logic and accuracy
test, it was in fact a risk limiting audit, and perhaps
before becoming a State Elections Board member, he should
know the difference.

I listened to Gabriel Sterling, the state-wide Voting
System Implementation Manager, flat out lie to the Governmental Affairs Committee last week. When asked if they were going to Runbeck, you know, the company that printed ballots on the other side of the country in Arizona, for the presidential election, he said, and I quote, there is no Georgia vendor that can do this, end quote. No. That’s not true. There was a big GAVRIO, which is the Georgia Association of Voter Registration and Elections Officials, conference in December in Savannah, and at that -- at that conference, one of the vendors was Tattnall, who’s based in Reedsville, and they have been printing ballots for Georgia since the early 1960s. Furthermore, in 2008, -- this is straight from their literature -- they began printing optical scan ballots and is currently a certified printer of Dominion voting systems. They also say that they’ll use their own personal fleet of trucks to hand deliver ballots, so I’d like to know why we chose Runbeck on the other side of the country?

I also don’t want to listen to excuses from Georgia SOS employees who are pathologically incapable of accepting blame. Who I would like to hear from are the Dominion voting employees, such as Tom Feehan, the Senior Project Manager who had a direct liaison with Gabriel Sterling at the Georgia Secretary of State’s Office, Scott
Tucker, the only one anyone ever seems to know about, Beau Roberts, the Dominion Customer Relations Associate. The first and the third, Tom joined in August of 2019 to Dominion and Beau joined in October 2019 to Dominion, so yeah, that’s great.

I’d also like to have some words with Kathy Smothers (ph.) and Mitch Pedrell (ph.), who are the Dominion training specialists, and all the — Brad was very happy about the historic four-day GAVREO conference in December. It had over 700 local and state elections officials who, no doubt, were using it to meet the OCGA 21-2-100 mandatory training hours. And —

MR. RAYBURN: All right, Mr. Balbona. Thank you for your comments. That’s exceeded your time.

MR. MASHBURN: Mr. Secretary, this is Matt Mashburn. I’m going to ask for indulgence here and just go ahead and make a statement that personal insults against the Secretary’s staff are out of order, and I’m all for free speech, and so just go ahead and put down a marker that if there’s any more personal attacks on the Secretary’s staff — personal attacks on me are fine. I don’t care about them. I care about them, but I don’t let them hurt my feelings. But any personal attacks on the Secretary’s staff, I will immediately move that the speaker be placed out of order and that his time be cut off.
MR. RAFFENSPERGER: Okay. Next speaker?

MS. THOMAS: Next, we have Aklima Khondoker. You're self-muted now. Okay. You're good to go. You may now speak.

MS. KHONDOKER: Hi. Thank you, and my name is Aklima Khondoker. I'm a voter from Butts County, and I am the Georgia State Director of All Voting is Local. I'm also a voting rights advocate and a lawyer. What I heard are -- what I heard today overwhelmingly are [sic] that we have inconsistencies in our elections administration between and among counties. And I echo many of the solutions that I heard on this call. I'm going to keep my comments to the rules, but I do request a follow-up after the meeting to talk open -- to talk about the overwhelming issues that I saw on Election Day.

I do want to say this: we need more uniform requirements and not just allowances and suggestions to our county elections administrators if we hope to have elections that run smoothly. Successful elections need established standards required for all counties to follow. And while these two suggested rules today and the proposed changes will allow for a lot of improvements for our elections, what we need are those standards in uniformity throughout all counties to make sure that they all adhere to the same rules so that voters have equal access to the
So let me say this. I heard from David Worley that we should absolutely have more absentee ballot applications sent out to more voters, and I do agree with that. I think I heard from Gabriel Sterling today that our last voting site closed officially in Georgia at 10:30PM or so. Well, I’m here to say that there was a South Fulton location, Christian City, where the last ballot was cast well after midnight under the glow of police lights because police showed up to intimidate voters and voting rights advocates and election protection workers that were there to help voters. So I just want to clarify that the conditions on Election Day were very horrendous for certain voters, while they may not have been for others.

So what we must have is uniformity throughout our elections so that all voters have equal access to the ballot. Moving forward, drop boxes must be available in all 159 counties and not just at the discretion of county elections officials. It must be mandated and paid for by the State so that voters from all 159 counties have equal access to the ballot. Voters also need clearer and more accessible information about the drop boxes, information about drop box use and availability should be published in more forms and not just on the counties’ --
MR. RAYBURN: All right. Thank you.

MR. RAFFENSPERGER: Our next speaker?

MS. THOMAS: Next, we have Adam Shirley. You may now speak.

MR. SHIRLEY: Good morning. Can you hear me okay?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: Yes.

MR. SHIRLEY: Thank you. Thank you to each of you for your sacrifice and dedication. I am thankful that we all share the goal of making it as easy as possible for all Georgia voters to register and vote as safely and reliably as possible. We -- I think we can all agree we have room to grow from what happened in June. I’m hopeful that we use the months that we have to make the adjustments.

I’ve served on the Clarke County Vote Review Pad, and as you are aware, Georgia state law makes it clear that x marks and check marks are acceptable ballot marks. Despite an x or a check not satisfying the State Election Board’s rule that we need to shade the oval, state law also makes it clear that when the voters’ intent can be clearly discerned, our vote shall be counted, must be counted.

In Clarke County, we learned that the absentee ballot scanner was programmed to classify votes in three ways
based on the percentage of circle that was shaded. When
the circle was darkened 12 percent or less, it was
classified as a blank contest and was flagged that way.
We discovered in Clarke County in 16 percent of the
ballots we adjudicated, voters who used x marks or check
marks, which is fully complaint with state law, frequently
had their votes go uncounted. Worse still, in Clarke
County, the software we’re using did not send blank
contests to adjudication. The only way we bumped into
this was when we would consult the rest of the ballot to
inform our decision about the voters’ intent on the
contests that were flagged for adjudication.

I know, for example, in Oglethorpe County, blank
contests were automatically flagged for adjudication.
This suggests that the superintendents had discretion on
what types of ballots to flag for adjudication. I hope
I’m misunderstanding this because it doesn’t seem to
square with our objective for a uniform, state-wide voting
system. The problem that I’m seeing is that different
counties use different settings with their absentee ballot
scanner software.

So please, to help us solve this problem, please
order Dominion to update the scanner software so that
circles that are at least 1 percent filled in are counted
as ambiguous and sent to humans for review. It might mean
that we have to unnecessarily adjudicate many contests
that were legitimately blank, but it’s the only way to be
sure that we catch the x’s and the check marks that are
allowed by state law but can easily fall to less than 12
percent of the circle. And second, please -- thank you
very much for your time.

MR. RAYBURN: Thank you. To clarify in response to
that, while there is a statute that talks about marking a
paper ballot and mentioning an x or check mark, that does
not apply to our current state-wide method of voting.
That is a very old statute that only some municipalities
can use, and it doesn’t refer to optical scan ballots. It
refers to old ballots that have a box next to candidates,
and those are hand counted. So while there is a statute
out there, it does not apply to our current system. Our
current system’s law and rule requires for optical scan
ballots that the voter fill in the oval. So I just wanted
to clarify that. Thank you.

MR. RAFFENSPERGER: Thank you, Kevin. Next speaker?

MS. THOMAS: Next, we have Jasmine Clark. You are
self-muted right now.

MS. CLARK: Okay. Hi. Are you able to hear me?

MS. THOMAS: Yes.

MS. CLARK: Okay. So first, I want to say thank you
for you all considering and now adopting the extension of
those rules. I think that we all can see what’s happening as far as the coronavirus numbers, and I think the best plan of action for November is to hope for the best but over-plan for the worst. If we are in for a worse situation than we were June 9th, then we can anticipate fewer poll workers, higher demand for absentee ballots, and more voters that vote in person. And so, again, I’m encouraged that we are going to extend the absentee ballot drop boxes, but I would also encourage us to consider making this a permanent fixture in Georgia elections.

Secondly, I’m also encouraged that we’re going to begin opening our absentee ballots earlier. I would encourage an even earlier start date than we had for the June 9th primary. Third, I want to echo David Worley’s proposal that we do send out ballot applications. I understand the cost associated with this, but I also want to -- want us to be mindful that not everyone follows these meetings and knows to check certain websites. And so, I think there would still need to be a cost associated with directing people to the website anyway.

Next, I really would like to see the scanning of -- I would like to see software scanning experts to really figure out what’s going on with the discrepancies on the high-volume ballot scanners. And lastly, we are probably going to see an unprecedented, historic number of absentee
ballots in Georgia in November, and I would like to see more scanners for ballot counting in order to reduce the amount of time that it takes to count those ballots and certify elections. We want this done right. We also want it done timely. I’m sure most voters would agree. We don’t want to wait until the middle of December to know who our -- our party’s -- or who our new representatives and, you know, et cetera are.

And then finally, I want to echo another person’s comments about the guidance on emergency ballots. This was not clear on June 9th. And we saw this in Gwinnett County, where precincts did not exactly know what to do and gave provisional ballots instead of emergency ballots. And so, that --

MR. RAFFENSPERGER: Okay. Next speaker?

MS. THOMAS: Next, we have Wanda Mosley. You may now speak.

MS. MOSLEY: Good morning. My name is Wanda Mosley. I’m a Fulton County voter, and I’m with an organization called Black Voters Matter. I’m speaking today because what I saw on June 9th was an absolute disaster, a failure of just about every part of the system of elections in our state. We made headlines for all the wrong reasons as usual. As my friend Aklima mentioned earlier, I personally witnessed the last voter emerge from Christian
City in Fulton County at 12:35 AM. There’s no way we can
do a victory lap and say that we’ve done a good job with
regards to elections.

Voting rights advocates estimate that about 52
percent of all Georgians resided in a county where polling
times had to be extended beyond the normal 7 PM end-time.
The Lawyers’ Committee for Civil Rights Under the Law, the
folks that man the 866-OURVOTE hotline estimate that
nearly 70 percent of all the calls they got on June 9th
were from the State of Georgia. I see here in these
proposed rules there’s something with regards to having
information listed on the county board of election
website. Sirs and Madams, please understand that not all
159 Georgia counties have a website for their board of
elections.

One of the things that this Board is tasked in doing
is ensuring that there is uniformity in the administration
of elections in our state. There is no way to expect
there to be uniformity and equity when you look at a
county like Randolph with about 7700 people and then the
county where I reside, Fulton, the largest county in the
state. So at this point in time is where we need
leadership, our Secretary of State, to come forward and
fill the gap, offer guidance, and advocate for all 159
counties, but especially those smaller counties. We can’t
place the same expectations on a county with less than
10,000 people as we do with Fulton, Cobb, and DeKalb. We
saw the struggles with absentee ballots in the Metro, so
we can only imagine that our smaller rural counties are
going to have even more challenges again, unless
leadership, this body, the Secretary of State, come
forward and help these counties.

MR. RAYBURN: All right. Thank you.

MR. RAFFENSPERGER: Thank you. Next speaker?

MS. THOMAS: Next, we have Melanie Ray. You may now
speak.

MR. RAYBURN: Go ahead, Ms. Ray.

MS. THOMAS: Melanie Ray? Okay. So next, we have
Tracey Baker. You may now speak.

MR. RAYBURN: Go ahead, Ms. Baker.

MS. THOMAS: You’re self-muted.

MS. BAKER: Okay. Can you hear me now?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: Yes.

MS. BAKER: Okay. I yield my time to the next
speaker. Thank you.

MR. RAYBURN: Thank you.

MR. RAFFENSPERGER: Next person?

MS. THOMAS: Next, we have Laura Walker. You may now
speak.
MS. WALKER: Hi, my name is Laura Walker, and I’m a Muscogee County voter. My husband and I retired here in Columbus after 25 years of Army service, where we often used absentee ballots, which we had extreme faith in, just as an aside. I’m the Chair of the Muscogee County Democrats and a Fair Fight Action volunteer. And through those two organizations, I did a lot of outreach prior to the primary via text and phone to answer voter questions. I can tell you that many Georgia voters were confused and not confident at all about the different changes in voting in regard to the new system and to the changes brought about by COVID. This distrust is simply heart-breaking because of its preventability.

I urge the Board to adopt the following actions, possibly using some of the over one billion dollars that the federal government sent to address COVID in Georgia that is left over, and I think that elections would certainly fall within that purview. And these actions are: to ensure proper training of county election officials, to mail absentee ballot request forms to all registered voters not just active voters, to create a secure online portal for absentee ballot requests for the November elections, to ensure voters can track absentee ballots to increase the trust in the process, to create a central processing -- sorry, central processing
centers across Georgia for mail ballots, mandate enough paper ballot backups and allow immediate use in conjunction with voting machines, to mandate paper backup for poll books and train poll workers on how to use them, to fully fund technicians in every polling location for November, to guarantee fully funded drop boxes in every county available 24 hours a day, and to inspect every early vote and Election Day polling location for adequate electrical capacity. We -- oh, perfect. Thank you.

MR. RAYBURN: Thank you for your comment.

MS. THOMAS: Next, we have Hillary Holley. You may now speak.

MS. HOLLEY: Good morning. My name is Hillary Holley, the Organizing Director with Fair Fight Action. After this disorganized and haphazard rollout of the new election system that failed every 2019 pilot program, the June 9th elections were met with another unprecedented obstacle, which was COVID-19. The Secretary of State decided to mail absentee ballot request forms to all of Georgia’s active voters and neglect eligible inactive voters. The State Election Board allowed but did not mandate counties to set up drop boxes which was warmly welcomed here in a state known for voter suppression. Allowing counties to set up drop boxes was a positive step that allowed voters to drop off their completed mail-in
ballots. We ask that the State Election Board mandate drop boxes in all of Georgia’s 159 counties, and the Secretary of State to provide funding for these drop boxes.

After -- we are seeing tremendous spikes in COVID-19, due to the Governor’s inactions, so it’s critical we ensure all voters who would like to return their mail-in ballots in the drop boxes have access. Thousands of voters have shared their voting experience with us. Fair Fight Action has heard from various voters who experienced issues with drop boxes, such as voters dropping off their ballots before 7PM on Election Day, yet having their ballots rejected with the reason given being that the ballots were received too late to be counted. These voters had their ballots rejected and their votes not counted despite doing everything right and dropping their ballot off before the received deadline.

So going forward, it is imperative that all counties are trained by the State on maintenance, best practices, and usage procedures to ensure that voters who choose to use drop boxes have their votes counted. The State must act now and provide the necessary guidance, resources, funding, and training to use these novel drop boxes. They are an asset to expanding ballot access but must be properly maintained, and counties must have the proper
resources to employ them. This guidance must be developed quickly and distributed to county election officials so mistakes and mish -- missteps we saw on June 9th do not occur in November. Please act now and thank you so much for your time.

MR. RAYBURN: Thank you for your comments.

MR. RAFFENSPERGER: Thank you. Next speaker?

MS. THOMAS: Next, we have Alexia Niketas. You may now speak. You’re self-muted right now. Alexia Niketas?

Okay. Next, we’ll have Garlan Favarito. You may now speak.

MR. FAVORITO: Mr. Chairman, Georgia was ridiculed again nationally for a variety of problems we encountered in the June 9th primary, but almost none of the reports covered the five most critical problems that this Board needs to understand. Number one, not a single Election Day or early voter in the State of Georgia was allowed to cast a verifiable vote. Approximately a million voters were forced to cast unverifiable votes in encrypted QR codes that they cannot read. Number two, Georgia counties certified election results without auditing a single one of nearly two million votes cast. In fact, most Georgia races will never be audited.

Number three, no meaningful recount was conducted anywhere in Georgia because this Board required recounts
to re-scan encrypted votes in QR codes and simply reprint previous unverifiable results. Number four, mail-in ballot adjudication teams in five counties uncovered a state-wide scanning defect, causing tabulators to fail to count an estimated tens of thousands of votes that should have been included in certified results according to 21-240-438, and that does apply to all voting methods in chapter 2.

Number five, Election Day and early voters were forced to cast votes on a type of system that national experts repeatedly told us is not secure and it was even banned in Colorado and Texas. None of these five most critical problems were caused by coronavirus. Georgia’s new voting system has not solved a single problem that was inherent in the old system, and that system was ruled unconstitutional and banned in Georgia beginning this year. It does no good to increase voter turnout when you cannot ensure votes will actually be counted. The public will never trust this system no matter how much taxpayer money you spend trying to convince them it’s secure. The roughly $3 million that will be spent during the next 10 years is the greatest swindle in Georgia history.

I’m Garlan Favorito, Co-Founder of Voter GA. I have 40 years of IT experience and 20 years of part-time research into electronic voting systems. We have led the
election integrity fight since 2006 here in Georgia.

MR. RAYBURN: Thank you, Mr. Favorito.

MR. RAFFENSPERGER: Next speaker?

MS. THOMAS: Next, we have Elisa Goldklang. You’re self-muted right now.

MS. GOLDKLANG: Hi. This is Elisa Goldklang. Thank you so much. First, I would like to thank the Secretary for sending out the absentee ballots. Because of the COVID pandemic, I think that was the proper thing to do, and thank you, Mr. Worley, for those comments. I appreciate that.

And I know that at the last week’s hearing, Secretary Raffensperger said that the virus was dissipating, but unfortunately, that’s not the case. It is increasing, and we just have to really take care of voters, and we have to be careful about them. And we need to make sure that we’re sending out absentee ballots to all of them, and I understand the postal issue, but perhaps if we used a local Georgia company to send things out, maybe it would be better. I do appreciate you putting together the online system, but as so many have said, not all counties have an online system and not all voters have online systems. We were fortunate to be able to download our request and then we dropped them off into the drop box, and I would like to thank you all so for passing the drop
box rule, those emergency rules today. They’re very important.

But I also agree with the other voters that we must have emergency ballots available, must. I like the fact that people could bring in their absentee ballot on voting day, and the QR codes are an issue. So there can be no risk-limiting audits. There can be no meaningful audit because you’re only counting the number of votes people cast. You’re not actually counting the hand vote because the receipts they give us — we have no idea if what’s written on the receipt is actually copied into the QR codes since the computer only reads the QR code.

So these are real serious issues, and we should always have — and I’m old enough to remember when you went to a polling location, and they had a little book, and they looked you up, and they put a little x. Yep, she showed up. You need to have one of those paper books again because there have been so many issues with the poll books and the electronic equipment. Thank you so much.

MR. RAYBURN: All right. Thank you for your comment. And to clarify that, it is required under Georgia law and our counties are sent and have paper poll books of the voters in each precinct at the polling places. So that is currently the practice in law.

MR. RAFFENSPERGER: Thank you, Kevin. Next speaker?
MS. THOMAS: Okay. So next, we’ll have Alexia Nikitas. You’re still self-muted. And then one more time, Melanie Ray, you may now speak.

MR. RAYBURN: That’s all. That’s all the public comment, Mr. Secretary.

MR. RAFFENSPERGER: Okay. Thank you for all the comment. Do we have any other items that the Board members would like to, you know, that are not on the agenda, but would like to bring forward to our attention right now?

MR. WORLEY: Mr. Secretary, this is David Worley, and I would like to say a couple of things. First of all, I think this is probably Mr. Rayburn’s last Board meeting before he goes on to work for the Election Assistance Commission, and I just wanted to compliment him on his hard work over the years. He is -- I think he’s done a very good job for the Secretary of State’s Office and in assisting the State Election Board, and I’m very appreciative of everything that he’s done.

MR. RAYBURN: Thank you, Mr. Worley.

MR. WORLEY: You’re welcome. More than welcome. Secondly, I wanted to say something about the rules that have been proposed again by the Coalition for Good Governance. Those rules were proposed earlier, and I said at the time that I thought the rule on mail ballot return
was a good rule, that we needed to have that, but that it
might be too difficult for election officials to do this
year, given the volume of other changes that they would
have. I also thought that -- that’s their proposed rule
number 1.

I thought that their proposed rule number 2 on
MyVoter precinct was not really necessary or -- being able
to vote in the precinct where MyVoter page says you’re
located, and their proposed rule number 3 about paper poll
book backups was also not really necessary. The
experience from the primary and the reports and
observations that I’ve been told about lead me to believe
that those two additional rules are now necessary, and
that the mail ballot return is also something that we need
to be doing, so I support those three proposed rules, and
I would make a motion now that we adopt them.

MR. RAFFENSPERGER: Okay. We have a motion before
us. Do we have a second? Do we have a second? Hearing
no second, motion dies due to lack of having a second.

MR. WORLEY: Thank you, Mr. Secretary.

MR. RAFFENSPERGER: Okay. Do we have any other
comments or questions?

MR. GERMANY: Mr. Secretary, this is Ryan. I just
wanted to echo Mr. Worley’s comments. For those who are
listening who don’t know, Kevin Rayburn, our Deputy
Elections Director and Deputy General Counsel, has been appointed by the US Election Assistance Commission to be their next General Counsel. It’s a great, I think, recognition of the expertise that he has in elections. I don’t think there’s a better elections lawyer in the county, so Georgia’s loss is certainly the country’s gain, and I’m glad that he will be continuing in that -- in his role of serving elections across the country. We’re sad to see him go, and he’s been a great asset to Georgia elections and the Secretary of State’s Office, and I just wanted to say it’s been a pleasure working with him, and thank you for all your hard work.

MR. RAYBURN: Thank you.

MR. RAFFENSPERGER: Well, I will comment also on that. Kevin Rayburn, you know, came to the State of Georgia, you know, from Tennessee, and when I became Secretary of State, there were many solid people we had who were already in place and Kevin was one of them. With the new voting system and all the different things that that entailed and really looking at House Bill 316 and then the changes that we’ve had to make in the code book and also with the state election rules with the new machines, with the ballot-marking devices, it was a big list. And his confidence and what he brought to the table and his work ethic -- effort, we couldn’t have cleared
those hurdles if it wasn’t for, you know, Kevin Rayburn’s work. And I think the Elections Assistance Commission has found a very, you know, solid, one of the best election attorneys in the country.

And we hope that this will help the EAC actually, you know, pick up the pace on the good work it does do. One of the strong suits of the EAC is because the Commission is two Republicans and two Democrats is that nothing moves forward unless it truly is bipartisan. I think that’s a good thing because elections should not be partisan. What they really need to be is a process. How do we get the process better so we can engage voters so that everyone has that confidence? And that really requires a bipartisan attitude and also requires deep integrity, and Kevin Rayburn has very solid and deep integrity, so I wish him well. We will miss him, but we understand it’s a tremendous honor, and we wish him the very best.

MR. RAYBURN: Thank you, Mr. Secretary.

MR. RAFFENSPERGER: If we have no other new business before us, I think now would be the appropriate time to make a motion for adjournment.

MR. MASHBURN: I move that we adjourn.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Do we have any other comments?
MR. WORLEY: Just Mr. Secretary, it’s David Worley. Just again I want to thank the Board members and the Secretary for accommodating by schedule by beginning this meeting so early this morning. Thank you all.

MR. RAFFENSPERGER: Well, our pleasure, David. Thanks for being here. All those in favor of adjourning, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Motion carries. Thank you so much for meeting early this morning and doing the people’s business, and God bless you all. Thank you. Meeting adjourned.

(Meeting adjourned 9:25AM)
CERTIFICATE

STATE OF GEORGIA
COUNTY OF DEKALB

I, Kaitlin Walsh, Certified Court Reporter, hereby certify that the foregoing pages numbered 4 through 56 constitute a true, correct and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 28th day of July, 2020.

Kaitlin Walsh, CCR, CVR
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Steven Ray Green Court Reporting, LLC

July 1, 2020
In The Matter Of:
SECRETARY OF STATE
STATE ELECTION BOARD

August 27, 2020

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THE OFFICE OF THE SECRETARY OF STATE

STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD HEARING

2 MLK JR. DR. SE
SUITE 810 WEST TOWER
ATLANTA, GEORGIA 30334

August 27th, 2020
9:00 A.M.

PRESIDING OFFICER: BRAD RAFFENSPERGER
SECRETARY OF STATE

STEVEN RAY GREEN COURT REPORTING, LLC
Kaitlin Walsh, CCR, CVR

Atlanta, Georgia
APPEARANCE OF THE PANEL

Secretary of State Brad Raffensperger, chair
Rebecca Sullivan, vice chair
David Worley
Matthew Mashburn

ALSO PRESENT IN ORDER OF PRESENTATION

Frances Watson
Chris Harvey
Gabriel Sterling
Transcript Legend

(sic) - Exactly as said.

(ph.) - Exact spelling unknown.

-- Break in speech continuity.

... Indicates halting speech, unfinished sentence or omission of word(s) when reading.

Quoted material is typed as spoken.

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MR. RAFFENSPERGER: Good morning, everyone. I wanted to call the State Election Board to order. Before we get started since we are on a webinar, if we could just do a roll call of all the Board members? If you could just identify yourself, so we can get you. Is David Worley on?

MR. WORLEY: Yes, I’m here.

MR. RAFFENSPERGER: Great. Okay. Next, Rebecca Sullivan?

MS. SULLIVAN: Present. I’m here.

MR. RAFFENSPERGER: Okay. Anh?

MS. THOMAS: Anh’s not here. She’s not on.

MR. RAFFENSPERGER: Anh Le? I don’t hear Anh. Matt?

MR. MASHBURN: Matt Mashburn is here.

MR. RAFFENSPERGER: Okay. Are we showing that Anh Le is on or is she still calling in?

MR. GERMANY: She’s not going to be able to make it this morning.

MR. RAFFENSPERGER: Okay. Great. Okay. Well, we have four, and so we’re ready to go. Well, I’ll begin this with an invocation and a Pledge of Allegiance, if we could do that.

(Invocation)

(Pledge of Allegiance)

MR. RAFFENSPERGER: We have before us the Board
minute meetings from last meeting. If anyone -- I guess 
everyone had a chance to review that. If someone would 
like to make a motion, now would be the appropriate time. 

MR. WORLEY: This is David Worley. I make a motion 
that we approve the minutes of the August meeting. 

MR. RAFFENSPERGER: Do we have a second? 

MS. SULLIVAN: Second, Rebecca. 

MR. GERMANY: Rebecca seconded. 

MR. RAFFENSPERGER: Okay. All those in favor, 
signify by saying aye. 

THE BOARD MEMBERS: Aye. 

MR. RAFFENSPERGER: Any opposed? Motion carries. 
Okay. Before we get to public comments, if any Board 
members would like to offer a few comments, now would be a 
great time to do so. Then, we’ll roll into public 
comments, and I don’t know how many people have signed up 
so far for that, but we’ll talk about that to make sure 
that we really get into the investigation report, and if 
we have so many public comments, then we’ll need to have 
those afterwards. But let’s first -- Board members, if 
any of you would like to offer some comments before we 
begin today, the floor is yours. Okay. Hearing none, 
public comments. How many people do we have signed up for 
public comments so far? 

MS. THOMAS: One, two, three, four -- we have four so
MR. RAFFENSPERGER: Okay. Well, great. Go ahead and have the first person, and I believe we have a time limit of two minutes.

MS. THOMAS: All right.

MR. RAFFENSPERGER: And please provide your name and where you reside, city or county.

MS. THOMAS: Okay. So first, we have Jacqueline S. Elsner. You’re self-muted right now.

MS. ELSNER: Am I muted? Hello, I’m Jacqueline Elsner from Athens-Clarke County, and I was a monitor for a local nonpartisan cont -- candidate in the June 9th primary in Clarke County for the opening of the absentee ballots. And so I observed that, and I was also an observer while our Clarke County Voter Review Panel was going over the, you know, the ballots that were flagged for them to look at, and so then I -- I was able to visually see the types of mar -- voter marks that the Voter Review Panel was looking at. You know, not every one, but a few, and I could see, and it was explained to us that the scanners had highlighted some problematic things that the Voter Review Panel discussed and came to unanimous decisions, but it was clear that there were some check marks and some x’s that voters had made which are valid voter marks by the Georgia Constitution and, you
know, they -- they weren’t being picked up by the Dominion
scanners.

And so at the August 10th State Election Board
meeting, y’all decided okay, you’re going to push the
scanners down to a ten percent low mark of, you know,
observing voter marks, but our Georgia Constitution
doesn’t talk about a scanner setting. It talks about
check marks and x’s are valid voter marks. And so I’m
asking you to adjust everything about your State Election
Board rulings so that valid voter marks are counted as
valid marks.

And then I listened to my Clarke County Board of
Elections meeting to certify the June 9th primary and
heard the attorney for Clarke County, Attorney Judd Drake,
instruct the Board of Elections that they absolutely could
not bring this up. They could not use the actual
experience of their Voter Review Panel to say we need to
look more at some more votes that didn’t get counted, and
I was appalled that the county attorney that my taxes pay
for is telling my election board members they cannot go
back and look at valid votes. So I ask you to please do
whatever -- you know, reduce the percentage of the ballot
marks that -- a check and an x by the Georgia Constitution
is a valid vote. Thank you.

MS. THOMAS: All right. Next, we have George
Balbona. You’re self-muted right now. Okay. You may speak. Mr. Balbona, you may speak. Okay. We’ll come back to Mr. Balbona. Next, we have Helen Butler. You’re self-muted right now.

MR. RAFFENSPERGER: Morning, Ms. Butler.

MS. THOMAS: Ms. Butler, you’re self-muted right now.

You’ll have to unmute yourself.

MS. BUTLER: I’m sorry. Am I un-muted now?

MS. THOMAS: Yes, ma’am.

MR. RAFFENSPERGER: Yes, you’re good.

MS. BUTLER: Okay. Good morning. I’m Helen Butler, and I’m a resident of Morgan County. I really want to say it’s imperative we find solutions for the issues around absentee balloting which is on the agenda today, and I’m specifically addressing that because voters were made to stand in lines, potentially being exposed to the coronavirus, in order to cast their vote. These issues didn’t just happen in Fulton. I know they happened in other Metro areas but were more pronounced because of Fulton’s numbers. I want to commend Ms. Nuriddin on the Board of Elections who was sounding the alarm and trying to fix those problems along with the public and Fulton voters. But as I see it, I hope that Fulton is coming with a plan to correct those issues.

And some of those issues that I think need to be
addressed are as follows: absentee ballot applications must be issued from the date received and not held with indiscriminate dates for processing or not processed at all, and I know the Secretary of State did a contract with Runbeck to help with the processing of these ballots, but we must have a quicker delivery time to reach voters less than the 16 days or more in order for them to know what is happening. The absentee ballot applications via electronic means, and I mean email effects -- they must have a system that will capture and process in a timely fashion. What was happening -- none of the electronic applications got processed unless you actually followed up with the Board of Elections and redid them if the voter knew how to do that. They didn’t have enough staff to process applications and ballots, and they must have a robust communications system for alerting voters regarding the status of their ballots so that they’re not confused and not unaware of what’s happening. The cancellation process at the polling location must be improved so that they don’t have to wait -- voters don’t have to wait for them to get someone --

MS. THOMAS: Thank you, Ms. Butler. All right. Next, we have Jeanne Dufort. You are self-muted right now.

MR. RAFFENSPERGER: Good morning, Ms. Dufort.

MS. DUFORT: Good morning. Many of us across the
state work tirelessly to make sure that it’s as easy for
all of us to register and vote as it is for some of us.
The rapid shift to mail voting this spring was
unprecedented and created real operational challenges for
many counties. Sheer willpower got many of the smaller
counties through the surge in applications, but for the
larger counties, it was not enough, and some voters, too
many voters, suffered.

But fast tracking this complaint against Fulton
County, moving it ahead of much older complaints, is
simply election theater. It reminds me of the rushed
hearing in Athens when you punished a Board that was
simply making the best decisions it could to protect
ballot secrecy. Politicizing the State Election Board is
simply wrong, and it erodes public confidence in
elections. Georgia chose to fast track implementation of
a new resource-intensive system, and then a pandemic hit,
and the vulnerabilities were exposed in a terrible way.
Your duty is work constructively with counties, not punish
them for trying to handle an unprecedented workload and
falling short. Fulton County must do better. We all
agree on that, but this is not the path to get there.
Thank you.

MR. RAFFENSPERGER: Thank you, Ms. Dufort. Mr.
Balona, if he -- if he wants to speak again, he was, I
guess, self-muted last time. Mr. Balbona?

MR. BALBONA: Check, check. One, two. Can you hear me?

MR. RAFFENSPERGER: Yes, sir.

MR. BALBONA: Hello.

MR. RAFFENSPERGER: Go ahead.

MR. BALBONA: George Balbona, Cobb County. To promulgate rules and regulations, those are the five first words of the State Election Board’s duties. Promulgate means to promote or make wildly known — widely known, rather. I was unlawfully removed from a polling location on August 11th, 2020 by four Marietta police officers. I was peacefully observing post-election activities. Georgia election codes provides the public the right to peacefully observe elections, yet four police officers were unaware of this even after I repeatedly cited Georgia election code. I met with Marietta Deputy Chief Farrell last week, and he apologized for my treatment.

I’m waiting for the Georgia State Election Board to apologize to me for being so blatantly remiss in their duties. The Deputy Chief and major I met with had over 57 years of police experience between them, and they claimed to have never heard of the Georgia election code I cited. They promised to train every Marietta police officer on Georgia election code immediately. The State Election
Board should properly train all Georgia law enforcement on Georgia election code immediately.

Furthermore, this is not a one-time occurrence. On November 7th, 2017, a dozen peaceful observers were removed from the Fulton North Annex by the Fulton marshal hired for elections security. We cited election code, had an email from Chris Harvey, had a letter from ACLU, and had Lieutenant Sweeney, the officer who hires all elections security in Fulton County on speaker phone all telling him that we had the right to observe, and unbelievably, the marshal refused to hear any of it and evicted us. Enough is enough. Do your job and properly train all Georgia law enforcement on Georgia election code, and while you’re at it, properly train election security and poll workers as well. Thank you.

MR. RAFFENSPERGER: Thank you, Mr. Balbona. Do we have any other folks that have signed up for public comments?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: The next person?

MS. THOMAS: Next, we have Shannon Everly.

MS. EVERLY: Hi, good morning. Can you hear me?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: Yes.

MS. EVERLY: Okay. Great. I would like bring up a
couple of points. After speaking with a number of my friends regarding their absentee ballot application process and also experiencing this myself, on the MyVoter page when you log in, you know, under your name and birth date, et cetera, under the absentee ballot request information, it says that if you wish to mail or fax the absentee ballot -- you know, it gives a link to your county registrar, but it specifically says mail or fax. It does not say email.

I had to -- I spent probably two hours trying to figure out that I could email the application. I had to make the phone call and find that out, and many people won’t realize that. Even though when you click through, there is an email address, but it does not indicate in the instructions that email is a valid option. That would be a very simple change to the webpage of MyVoter page that would provide -- that would facilitate the process, make it much quicker, because many people may not realize they can email the application, and then they end up mailing it, which, of course, slows down the whole process. So I think that would be a very easy fix on the webpage.

Another easy fix on the webpage: on the actual application for official absentee ballot, line 7 requires the signature of the voter. It does not specify that an electronic signature is insufficient. Many voters may not
realize that it has to be handwritten. In the
instructions, it should say that you must print this page
and handwrite your signature or mark. That would be an
easy fix again to the webpage. It will not necessarily
work for everybody because not everyone has a printer, but
it would at least facilitate -- it would help prevent the
issue where people who don’t have printers sign with an
electronic --

MS. THOMAS: Thank you, Ms. --

MR. RAFFENSPERGER: Thank you for that input, Ms.

Everly. Do we have any other people that would like to
speak this morning?

MS. THOMAS: Yes. Next, we have Aileen Nakamura.

MR. RAFFENSPERGER: Good morning, Ms. Nakamura.

MS. NAKAMURA: Hi, can you hear me?

MR. RAFFENSPERGER: Yes.

MS. NAKAMURA: Good morning. I’m Aileen Nakamura.

As a Fulton County voter, I am deeply offended by the
Secretary of State’s repeated attempts to cast Fulton as
the only county that had problems around the June 9th
election. In fact, the matter at hand today, the
processing of absentee ballots by Fulton, is a direct
result of the Secretary’s own doing. First, while he
rightly chose to send out absentee mail ballot
applications to all active voters due to COVID-19, his
failure to communicate with counties and let them know the plan before the press release was the beginning of the problems with absentee ballots for June.

I was flabbergasted to learn during the April Fulton BRE meeting that the Secretary had not even reached out to Fulton before his announcement to discuss how the vote by mail effort would impact Fulton and how the State perhaps intended to help. Did he even anticipate what problems such a huge county would face? Let’s remember that Fulton has 780,000 active registered voters. That’s more than the populations of four states.

Second, there’s the Secretary’s unilateral decision to use Runbeck in Arizona to send out the actual absentee ballots, which is likely illegal. OCGA 21-2-384(a) part 2 clearly states that only a county’s absentee ballot clerk or board of registrars can mail out absentee ballots. Even in an emergency situation like a pandemic, the Secretary surely can’t just choose an out-of-state vendor to send out ballots without an emergency rule by the SEB. And what about all of Runbeck’s errors and missteps that occurred in sending out absentee ballots. Coalition for Good Governance has documented many such errors. Who is accountable for those? Shouldn’t it be the Secretary himself? Clearly, the Secretary has a personal stake in blaming Fulton County for the disaster of June 9th as a
scapegoat for himself. There is a huge conflict of interest with the SEB acting on behalf of the Secretary’s Office in this persecution of Fulton County, when the Secretary is the Chair of the SEB. I ask you to stop this fiasco and work to help counties solve actually pressing problems before November. Thank you.

MR. RAFFENSPERGER: Do we have anyone else that would wish to speak?

MS. THOMAS: Yes. Next, we have Garlan Favorito.

MR. RAFFENSPERGER: Mr. Favorito?

MR. FAVORITO: Mr. Chairman, voters were repeatedly told that we needed this new unverifiable voting system to establish a paper trail, but voters were not told they will never be able to view that paper trail to make sure election results are correct. We were alerted when this new unverifiable system produced suspicious results in a nonpartisan Gwinnett County runoff, and we sought to view a small subset of the paper trail while in the custody of the county elections director. That request was made prior to certification, but the county attorney denied our public access required by Georgia law under OCGA 21-2-72.

The race in question produced inexplicable results. An incumbent judge won a landslide victory in a five-way primary, but then lost the runoff in a 60 to 40 percent landslide. Her vote totals went from 60,000 to -- in the
primary to 19,000 in the runoff despite no major event occurring during that time that would have impacted the result. A Voter GA analysis of the result showed that the incumbent judge won in 55 to 61 percent of verifiable mail-in absentee votes in some precincts while receiving only 15 to 22 percent of unverifiable early in-person votes cast concurrently in the same precinct.

These bizarre results are unprecedented in Georgia election electronic voting history, but attorneys showed no interest in making sure the correct candidate won. Instead, they were only concerned about covering up the paper trail and this new system that is costing taxpayers $300 million over a ten-year period. I would file an Election Board case about this violation of law committed by the county attorney, but the last time I filed a case about vote counting corruption, the Inspector General claimed she lost my case after her office confirmed that they had it. The only recourse now is to sue for election transparency where Georgia taxpayers will be forced to pay for the legal battle if you fight to continue conducting secret elections. Thank you.

MS. THOMAS: Next, we have Aunna Dennis. You’re self-muted. Okay. You’re unmuted.

MS. DENNIS: Good morning. My name is Aunna Dennis, and I’m the Executive Director of Common Cause Georgia,
and I am also a Fulton County voter. The Secretary of State’s plan to send every active voter an absentee ballot was undoubtedly a good one. However, counties had little time to prepare and had lack of resources to do so. Because of this, across the state we saw the county elections staffs struggle to process record voting numbers of absentee ballot requests. We also saw emailed requests that were being sent back to the voters because the county’s server couldn’t handle the sudden increase of volume, and no one had thought to increase the bandwidth, and many counties couldn’t. We saw absentee ballot requests being mailed to physical addresses instead of knowing addresses resulting in return requests, wasted dollars, and delays for voters. We saw counties where return instructions included an email for an entirely different county, completely wrong emails, and wrong addressees.

And yet, county election staff worked diligently to do their best to make absentee ballot requests that were — that were processed, voters to be assisted, when they didn’t even understand what the delays would be. Absentee ballots were counted, and elections were conducted, imperfect and in the middle of a global pandemic. Fulton County faced many issues, as we all know, in part because it’s the most populated county in Georgia. As the issues
were exacerbated, there were mistakes. We have no intention of saying that these mistakes were not made and that they were intentional.

However, unless the Secretary of State’s Board intends to conduct an investigation to hold hearings for mistakes that were made over multiple counties, by the vendors -- with the vendors, and the Secretary of State’s Office and its mistakes, that there’s an opportunity just to only scapegoat Fulton County, then there’s a problem that we see across Georgia, and it needs to be remedied for November and not just for the June primary. The Fulton County and other counties have recognized their mistakes and the focus should be on fixing them and preparing them for the upcoming elections. Thank you.

MR. RAFFENSPERGER: Thank you. Next speaker?

MS. THOMAS: Next, we have -- next, we have Nan Gartenberg.

MS. GARTENBERG: Hello. Yes. My name is Nan Gartenberg, and I’m a voter in Fulton County, and I told -- I’ve tried to get all of my movers to get to -- to actually participate. I did send an email to J. Shannon -- I don’t know if y’all received it -- on July 27th regarding some of my concerns. One of the biggest concerns is that the state voter page must be redesigned for easier use. It is very unclear as to what subsection
we’re meant to click if a voter needs more information. There are a couple of nonpartisan companies that could be contacted for a redesign, and even the Fulton County website is much easier to use. It seems like the state voter page is actually designed to actually confuse people. So I’d like to -- I think that a redesign of the webpage is something that should be done as soon as possible.

The other thing that I have a question about is your hold to deny people who request an absentee ballot about the signature matching laws. Signature matching is a pseudo-science, and I’m not sure -- I’d be very interested to know how that actually is applied when denying people an absentee ballot. I don’t know if people are being -- have they been trained and are applying uniform nondiscriminatory standards to signature matching and also if there’s a problem with an absentee ballot request, is the voter notified and has the -- and do they have an opportunity to cure whatever the issue is? And so those are just two of my many, many issues that I have with the whole program.

In addition, -- oh, I guess the third --

MR. RAFFENSPERGER: Thank you for your comments. Our next speaker?

MS. THOMAS: Next, we have Katrina -- Katrina Dinkle.
MR. RAFFENSPERGER: Ms. Dinkle?

MS. DINKLE: Can you hear me?

MS. THOMAS: Yes.

MS. DINKLE: Okay, good morning. Thank you to the Board for all you’re doing to conduct our elections during these times. I’m a long-term voter with Fulton and want to voice my concern regarding something a little different. It’s regarding the OSCE and observers from the Russian Federation of elections. The OSCE is an international election monitoring organization, for those of you who don’t know, of which the US is a member. It is based in Vienna. The Russian Federation of Elections is also a member, and -- excuse me -- historically, teams of election observers, including the Russians, have been allowed to observe our elections in some states.

Given the overwhelming consensus by both US intelligence agencies as well as the Senate that the Russians did and will continue to attempt to interfere in our elections, I would respectfully request that the Secretary of State reject any request by this organization to meet with Georgia election officials or observe. My understanding is they were allowed to do this by then Secretary of State and now Governor Brian Kemp in Fulton County during the midterms in 2018, and according to state law, the OSCE would need your express permission and
consent, as many states consider this illegal. Please say no to Russian election observers from the OSCE. Thank you.

MR. RAFFENSPERGER: Thank you for your comments. Next speaker?

MS. THOMAS: Next, we have Mark Swanson.

MR. SWANSON: Hi. Yes. Can you hear me?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: Yes.

MR. SWANSON: Thank you. I am a senior citizen, and I was deprived of voting in the primary on June 9th by the failure of Fulton County to send me an absentee ballot which I had requested well -- well before the election and followed up with emails and phone calls, none of which were ever responded to. That’s water under the bridge at this point. Right now, I’m quite concerned because on August 20th, I emailed my application for an absentee ballot, as did my wife separately, for the November 3rd election. The same day I sent it, I received an email from the Elections Voter Registration entitled an office absentee ballot request which indicated and confirmed that they had received my email, and it gave instructions then in how to follow up on my request for an absentee ballot.

This is where it gets interesting. I followed the process to check with the Secretary of State’s ballot page
-- or voter ballot page, and it shows that I had -- they had received my application for the August -- the primary runoff election, which I never submitted an application for. And it said it had sent me one before that, which I never received. I still have not received a ballot for the November 3rd election. I’m very concerned, and I’ve never had any of my phone calls or emails responded to except by electronic means in a general sense, not specifically to me, so there is something wrong with the Secretary of State’s Office and perhaps with communication with Fulton County because I never sent in an application for the runoff, and I have sent one in for the November 3rd election, and they said they received it, but there’s nothing indicating that it has been proc --

MS. THOMAS: Thank you, Mr. Swanson.

MR. RAFFENSPERGER: Next speaker?

MS. THOMAS: Next, we have Sallie Pecora-Saipe.

You’re self-muted right now.

MS. PECORA-SAIPE: Hi, I’m Sallie Pecora-Saipe. You can hear me?

MS. THOMAS: Yes.

MS. PECORA-SAIPE: Okay. I’m a resident of Fulton County. I have been out of town due to COVID, and -- since February. When I realized I couldn’t travel back to Georgia, on April 17th, I emailed my absentee ballot
application to Fulton County for the June 9th primary.
When it was about a month into it, I went to MyVoter page,
and yes -- and, you know, there was nothing about it,
although I did have the confirmation from Fulton County
that -- when they had received my absentee ballot
application. I pursued this with MyVoter page. I tried
pursuing it with the Secretary of State’s Office. I -- I
reached out to anybody I knew to try to get my absentee
ballot application in. It was finally processed the
beginning of June. And I knew that it was being sent,
probably from Arizona, but had to reach me in Connecticut,
and I had to be able to have it down in Georgia by
Tuesday, June 9th. And I was prepared to overnight mail
it.

However, that absentee ballot was not received by me
in Connecticut, but on Saturday night, (distorted sounds)
guess what came in that night? And by the way, our mail
comes in late. And that was my absentee ballot. It was
sent to my Georgia address, not to Connecticut. I was
deprived of being able to vote. I find it so negligent on
the county and on the state. I want to know how best I
can apply now for an absentee ballot.

MS. THOMAS: Thank you, Ms. Pecora.

MR. RAFFENSPERGER: Next speaker?

MS. THOMAS: Next, we have Priscilla Smith. You’re
self-muted right now.

MR. RAFFENSPERGER: Ms. Smith?

MS. SMITH: Good morning. Can you hear me?

MS. THOMAS: Yes.

MS. SMITH: My name is Priscilla Smith. I live in Marietta, Georgia, Cobb County. I want to appreciate all the things that my -- the previous speakers have brought to light. I don’t appreciate the scapegoating of counties by the Secretary of State’s Office. I don’t appreciate the way that Mr. Balbona was treated when he was -- I’ve seen the video. He was perfectly in his right to do what he was doing. He was not in any way being obstreperous or causing any trouble. He was simply being a citizen observing.

I’d also like to bring it to the attention of the Secretary of State’s Office that at the last Cobb County Elections Board meeting, there were some irregularities that Mr. Balbona observed in the -- and brought to the attention of Cobb County Elections Board that did nothing, paid no attention to the irregularities that he brought to light. I’d also like to request that while I don’t want to scapegoat counties, and I also would like to remind everyone that Cobb County Elections Board voted unanimously to request CARES fund from Cobb County Board of Commissioners to send out absentee ballot request forms
to all active voters in Cobb County, the Cobb County 
Commission did not even make it an agenda item for 
discussion. It did come up in discussion, but only 
because it had to, and there was no opportunity for CARES 
money to be spent in the way that it was supposed to be 
spent, which is for elections support.

However, the irregularities that happened in Cobb 
County on June 9th with the primary were ridiculous. You 
had people waiting 5 hours in South Cobb County with the 
majority African American and people of color living -- 
and you had absolutely no problem in other parts of Cobb 
County that are more affluent and disproportionately low 
people of color. Thank you very much for the opportunity 
to speak.

MR. RAFFENSESPERGER: Thank you, ma’am. All right.

Next speaker?

MS. THOMAS: Next, we have Patty Nathan.

MR. RAFFENSESPERGER: Ms. Nathan?

MS. THOMAS: You’re self-muted right now.

MS. NATHAN: Can you hear me now?

MS. THOMAS: Yes.

MS. NATHAN: Okay. Good morning. I’m Patty Nathan 
in Fulton County. Given the state of the Postal Service 
and how much longer it takes to receive mail, you should 
mail absentee ballots the day after Labor Day on Tuesday,
September 8th. Anything later will be or at least appear to be an act of voter suppression. Thank you.

MR. RAFFENSPERGER: Next speaker?

MS. THOMAS: Next, we have Liz Throop. You’re self-muted right now.

MS. THROOP: Hi, can you hear me?

MS. THOMAS: Yes.

MS. THROOP: Hello? Hi, I’m Liz Throop. I live in DeKalb County, and I want to applaud the Secretary of State for sending absentee ballots out for the June 9th election, and I agree that Fulton and other counties could have done a better job with processing those ballots, but I want to point out something based on my experience. I taught graphic design for 20 years, and about 15 years ago, I really struggled with having dozens of students sending image-based files to my email. It would overload it and shut it down. It took a couple of semesters for me to design a workflow so that those image-based files were limited in size, so they were in an appropriate format, and so they would go to an address that wouldn’t overwhelm my inbox.

It immediately shocked me when the Secretary of State allowed people to email in their ballots because I knew that that was going to be a problem, and in fact, from what I’ve heard, that might be the case with Fulton and
other counties. I want to point that a denial of service
attack is exactly this kind of problem. Someone -- an
attack means it’s malicious, but sometimes it’s
inadvertent. When you send too much traffic to an
address, it shuts it down. That’s a very well-known form
of hacking, and I just hope that that is taken into
consideration during these discussions today. Thank you.

MS. THOMAS: All right. Next, we have Paula
Bosworth, you may speak. Okay. We’ll come back to you.

Ms. Howze, Elizabeth Howze?

MS. HOWZE: Morning.

MS. THOMAS: Yes, we can hear you.

MS. HOWZE: I’m Elizabeth How -- I’m Elizabeth Howze.

I’m speaking for myself and Paula Bosworth from DeKalb
County. State Elections Board Chairman and Secretary of
State Raffensperger has spoken out frequently against
voting by absentee ballot. He knows very well that
absentee ballots are both a long used and very secure way
for citizens in the United States to vote. There is
simply no reason to question the validity and integrity of
absentee balloting. None whatsoever. What will the State
Election Board do to see that he stops misleading Georgia
voters?

Raffensperger is very well aware of the consent
decree the Republican National Committee agreed to in 1982
preventing the GOP from engaging in voter intimidation
practices aimed at minority voters, and he is well aware
that the consent decree was updated in 1987 because his
party, the Republican Party, had created a voter challenge
list of black voters, and he is well aware that the decree
was violated again in 1990 and 2004, as the Republican
party attempted again to intimidate black voters. The
consent decree was lifted in January 2018. What will the
State Elections Board do to assure that Raffensperger will
not engage in voter intimidation practices of any kind,
including absentee ballot intimidation, from now through
the election in November?

In the past five years, how many times has the State
Election Board or the Secretary of State investigated
suspected absentee ballot fraud in Georgia? What was the
nature of the voter fraud? In those investigations of
suspected voter fraud, how many times has it been
determined that absentee ballots were cast fraudulently,
and how many times was it determined that problems with
absentee ballots were inadvertent? How many cases of
suspected voter fraud were prosecuted? Of those, how many
resulted in convictions? Thank you.

MR. RAFFENSPERGER: Thank you. Do we have any other
speakers?
MS. THOMAS: Yes, we have one more.

MR. RAFFENSPERGER: Okay.

MS. THOMAS: Ms. Paula Bosworth? Oh, she was with the one before. All right. That’s it.

MR. RAFFENSPERGER: That’s it. Okay. Well, I guess on the agenda next is the investigation report of new cases, and today we’re going to meeting just due to the number of cases with Fulton County today, and in the coming months, we’ll be looking at other areas. Mr. Germany, do you want to introduce and give an overview? And then I believe that Mr. Harvey and other people, Ms. Frances will be -- Ms. Watson, will be speaking about this also?

MR. GERMANY: Yes, sir. Frances Watson is going to give a brief overview.

MR. RAFFENSPERGER: Okay.

MS. WATSON: All right.

MR. RAFFENSPERGER: Go ahead, Ms. Watson.

MS. WATSON: Sure. Good morning. This Fulton County investigation was opened as a result of receiving over 250 complaints from Fulton County residents that they did not receive their requested absentee ballot, the results of which will show that many did not receive their absentee ballots because they were never processed by Fulton County. Before I present the case findings, I would like
to have the Elections Director, Chris Harvey, to provide
the Board with some context of what was taking place and
the steps that were taken leading up to the June 9th
election. Mr. Harvey?

MR. HARVEY: Thank you. Good morning, Mr. Chairman
and Election Board members. This is Chris Harvey, the
State Election Director, and I want to take just a few
minutes and sort of set the stage for this. I know that
the Secretary and the Board members have been keeping up
with events that have been going on throughout the state
this year with elections, but I want to try to put it in a
little bit of context. I think some of the public
speakers spoke well about the things that the county
workers have been doing since -- since the pandemic hit,
and I want to talk a little bit more about that, and then
move specifically into some of the background in Fulton
County. So if you’ll give me a couple of minutes and let
me give you a little bit of background, I think that will
be helpful.

I want to start by reading an email that I got on
April 2nd. I got this email from Claire Moseley, who’s
the Election Director in Early County down in Southwest
Georgia, and as you’ll recall, the Albany area was hit
particularly hard with the COVID-19. And Early County is
a small county. It’s a rural county. And this is what
she wrote, and what she wrote is representative of many, many conversations I had with elections officials throughout the state as February turned into March turned into April turned into May.

And this is -- this is what she wrote: "This is an update on what is really going on in our counties. We have roughly 10,000 people in our county with about half that living here in Blakely. We are all scared. We are one of the hotspots for the virus, according to our numbers. We have 41 known cases here and two deaths so far. If you do the math per capita, that is an extremely high number, and these are people, not numbers. As far as EMS can tell, the majority have originated from a funeral in Albany with a huge birthday party in Blakely afterwards. In our county and city government, our mayor, chief of police, and 8 other workers have tested positive, as well as several county workers. We are working with -- we are working in our office with our doors closed and locked to the public but serving our voters and candidates as best we can."

"Our grocery store manager is positive. When we have to go there, I am so afraid of whatever is around and whoever is infected but may be asymptomatic and still spreading the disease. After grocery runs, we unload outside our homes and wipe down every single thing we buy
before taking it into our homes. There is literally not a
single business open except grocery, hardware, and
pharmacy. We know these people, and when they pass away,
their service must be private so their loved ones don’t
know how many people really care. It’s just awful down
here, and we hear daily that it will get worse.”

“We have five precincts and usually run about 25 to
30 poll workers. I don’t see how we are going to handle
this part as we, Julie and I, can’t work all the
precincts, and so far we have only 5 poll workers who are
willing to work in the presidential preference primary
because of the virus. And I’m afraid to even contact
these now that it’s gotten so much worse. I have reached
out to several students, both in high school and college,
and they were mostly interested, but all their parents
said no. I completely understand their concern. I as a
parent, who had my daughter work as a poll officer from
age 16, would not allow her to do it now. Poll worker
training is a major concern as well. I could not -- I
could try by precincts so that we wouldn’t go over the 10-
person gathering, but the fact is they aren’t going to
come. Those that can are not leaving their homes. I
can’t imagine a good election outcome with the unseasoned
poll workers that I may be able to come up with. We have
worked so hard under already quite daunting conditions to
ensure a successful rollout of the new voting equipment.”

“The county administrator and the Board of Commissioners are not in favor of opening our office to voters. I have told them that this is not something -- this is not something we can choose not to do, but they are concerned about putting us and the other poll workers at risk for exposure. All of our precincts are county-owned so we don’t have to worry about others being involved, but the Commissioners are concerned about opening our county precinct buildings to voters. They also pointed out that the President, the Commission, and the City has a shelter-at-home ordinance in place through April 30th, so do we just ignore that and open early voting anyway?”

“These are not ordinary times. These are desperate times. I have thought many times over the past few weeks that though I have been at my wit’s end in elections over the past 23 years, I have never been able -- I have never been made to choose between my job and my life. I feel like this is where we are right now, and I’m really scared, and I’m sad too and frustrated. I’ve never considered myself old, but now I realize that I am a 63-year-old” and she describes some conditions and her concern for her family. She closes by saying, “I don’t know what the answer is, but this is where we are, and I
will keep you updated as it goes. Thanks for listening. 
Very sincerely, Claire Moseley.”

And again, that’s representative of dozens and dozens of phone calls I had with county election officials throughout the state. Since that time, and this was -- this was after we had moved the presidential preference primary and moved the primary election -- since then, I also want to point out that last week we had the death of an election superintendent in Chattooga County. Judge John Payne succumbed to the coronavirus and died after almost 50 years as a probate judge and election superintendent. He was, to a large extent, sort of the heart and soul of the elections up in North Georgia. He could have retired and gone home, but he stayed at his post and conducted the primary election, and he is no longer with us.

I also want to point out, and it will come out in this hearing I’m sure, the death of the Fulton County election worker -- I believe, Ms. Walker -- who died as a result of COVID-19 in the process of what we’re going to be talking about today. I can tell you that at least three members of my team here in the Secretary of State’s Elections Division have lost close family members to COVID-19. Many county election officials have lost family members and friends as well, and Ralph Jones, who is the
absentee ballot manager in Fulton County, and family members were sickened, fortunately was able to overcome COVID-19. I point out too that when the virus hit with its full force, the legislature disbanded and went home. The Secretary of State’s Office started working from home. The county elections officials didn’t have that luxury. They had to keep working. They had to deal with machines. They had to deal with poll workers. They had to deal with absentee ballots. And I think that’s important to set as a backdrop for this.

So let’s go back briefly to June of 2019, when we announced the new Dominion voting system. We gave the counties and the Secretary of State’s Office an aggressive but achievable timetable in order to get the equipment into the state, get the equipment to the county offices, get the election officials trained and comfortable with the equipment. We had to get poll workers trained on new systems and procedures. We had to get the public educated and experienced using the new voting system, and we had to have the county election offices basically change almost everything they did. Again, it was a tall order that the counties in every respect responded to. To go from a system that used very, very little paper for 17 years to go to a fully paper-based system was not an easy thing for the counties to do, but they responded well,
enthusiastically, and heroically.

So in late 2019 and early 2020, our office worked with our partners at Dominion Voting System, with KnowInk Poll Pads, and with our Center for Elections system to get to begin this integration of the new voting system. We held in-person training -- training bootcamps for each county that consisted of about four days of intensive training. We held webinars on specific procedures and equipment. We produced and publicized online quick reference guides, instruction manuals, emergency procedures, and similar materials. We held regional trainings in county offices for refreshers and updates. We conducted many demonstrations throughout the state for the public so that they could see and try the new voting system, learn how it operated, and those instructions included many for communities and associations of voters with disabilities. We produced videos in multiple languages for public education.

And we even -- when we looked at the election calendar, we selected the March 24th presidential preference primary to roll out the system because believe it or not, that’s the easiest election of the year. You’re talking about, generally speaking, you know, one contest on the ballot. It would give the voters an opportunity to get in, use the system quickly and
efficiently. It would give the counties an easy
opportunity to roll it out, and that seemed like a good
idea at the time. Of course, nobody knew what we were
going to have to deal with.

By contrast, the -- the state primary that was
scheduled for May is probably the most complex election to
hold. You’ve got -- essentially, you’re holding two party
primaries and a nonpartisan election, the longest ballot
of the year, the most complication in terms of signing
ballots. And so we wanted to give everybody a -- a
relatively easy run for the first system. As you know,
the pandemic hit hard, and we had to revise this calendar.
We had to first delay the presidential preference primary
from March to May, and then we had to combine those
elections and move them back to June to try to give
counties and the public the resources and opportunity to
deal with the pandemic. But again, at every opportunity,
the counties responded heroically and creatively to the
challenges.

And when it became clear to the Secretary of State
that in-person voting was going to be compromised either
with fear of the virus or actually with the virus,
Secretary Raffensperger made the decision to mail pre-
filled absentee ballot applications to 6.9 million active
Georgia voters. Of course, as the Board knows, no-excuse
absentee voting has been available for over a decade in Georgia, but it hasn’t been widely used. It’s always been sort of a third distant cousin to in-person voting on Election Day and then advance in-person, usually making up about five percent of the votes cast in an election. And so a lot of people may have known in theory that it could be done. Many people had not actually done it themselves.

And one of the challenges was going to be to get the applications from the voters to the counties, get them processed, and get the ballots out. So what we did was we contracted with Runbeck Voting Systems, as you’ve heard, to -- to process the ballots and remove from the counties the requirement that they actually print the ballots, stuff the ballot envelopes, make sure the right ballots get assigned. We automated the process, and we did this in conjunction with mailing out the applications. I can tell you that in states that do large-scale vote by mail, you know, they recommend that this process be transformed over the time of years rather than weeks. We simply didn’t have that luxury. We worked extremely diligently to get partners on board. It wasn’t a perfect system. We didn’t do everything right, but we tried to communicate what we were doing with the counties.

The counties received the information enthusiastically when they realized it was going to take a
lot of the front end work off of them. They saw the
numbers of applications coming in and most of them
realized they would not have been able to process the --
the ballots going out themselves. It simply would not
have worked. They didn’t have the people. They didn’t
have the space in order to get that done.

And so, you know, the -- the ballots were sent out by
Runbeck. They were received by the voters. Many -- as I
mentioned, many counties ran out of space to process the
applications. They ran out of people to do the
applications. In many cases, they were working with
reduced or significantly shortened staff, and, you know,
again, we tried to work with the counties throughout this
process to make sure they understood what was going on, to
give them updates about when things were happening, give
them resources they could follow up with. Everybody was
learning together and working together to get this done
and keep the ballots flowing as much as possible.

Shifting a little bit towards the specific issues in
Fulton County, we realized that -- we started receiving an
influx of emails and calls from Fulton County voters that
voters had not received their absentee ballots after
several weeks. In many but not all cases, the voters had
emailed their ballots to the email provided on the
application. I kept in fairly regular contact with the
management staff of Fulton County and let them know about the rising tide of complaints. I spoke with Rick Barron and Ralph Jones at times to let them know what was going on, and they replied back problems they were having with managing a lot of the email applications. The numbers were big. They were having a hard time getting them routed to people who worked with them, and they had problems with their servers and printers trying to print off some of the ballots.

I learned that their offices were shut down for several days after the death of the employee that I mentioned before and that Ralph Jones had himself taken ill with COVID-19, further hurting their abilities to manage the flood of applications that were coming in. I continued to stress the importance and the need to process these applications and ballots quickly, and they communicated to me their efforts, that they were -- they were trying their best.

While this was going on, Fulton County was also reporting that they were well-staffed with poll workers, and those were mostly coming from other furloughed county workers from other county agencies. While that was the initial report, they continued to report as we kept in touch that they were beginning to lose large numbers of poll workers, and they were also losing polling places.
They were having polling places back out and having to find new polling places, having to combine polling places in order to provide voting locations for all their voters. This was exacerbating the problem dealing with absentee ballots because it was drawing resources away from that.

They also communicated to me that they were -- they had made the decision to wait until they had processed all the other absentee ballot applications before doing the ones that had come in by email. I didn’t think that was a good idea and pointed out that voters who had applied for their absentee ballots as early as April had not gotten ballots, had not gotten any communication, which resulted in them sending in more applications which was adding to the snowball that was building already and was making the problem worse. This was going to manifest itself in some problems that we’ll deal with in future hearings.

I got -- in regular calls with -- with Fulton County leadership, I got I think well-intentioned promises that they would go ahead and process the 80,000 plus email applications. I was told they were going to hire temporary workers to deal with them, but I don’t think it was -- it wasn’t until after Memorial Day that they were able to get to all of them. And when an absentee ballot is returned to the Fulton County Office, it has to be entered into our voter registration system, the E-net, so
that the voter gets an update that it had been received. Well, they hadn’t been entered those in as they came in, so voters whose absentee ballots had been accepted were not getting updates when they checked MyVoter page that their absentee ballot had been received, which again, created the snowball getting bigger again because then they were sending in additional applications or they were calling or they were sending in emails saying what happened to my ballot? And it took -- it took Fulton County a while to recover and get those entered in so that people were getting regular updates and could see the status of their absentee ballot. And again, this -- this caused -- this contributed to the erosion of confidence, I think, in the Fulton County Election Office.

The other issue with difficulties processing absentee ballots and getting absentee ballots out or receiving them back in is that when somebody is issued an absentee ballot in the voter registration system, it marks them as having gotten an absentee ballot in the voter registration system. So if they go to vote in person on Election Day, they have to go through a process of canceling the ballot, which again, slows down the process and increases the wait times. I know that’s not specifically what we’re talking about today. That’ll be dealt with in future investigation, but I think it’s important to realize that
there are far-reaching effects that a failure to process absentee ballots efficiently can have.

I want to also say, you know, I don’t want there to be any mistake. Everything I said at the beginning of my comments about the heroic work done by the election officials statewide also applies to the election officials in Fulton County. I was in regular communication with Rick Barron, Blake Evans, and Ralph Jones, and they consistently tried to adapt to changing conditions. I didn’t see any evidence of dereliction or indifference from them. I think they tried. Unfortunately, I believe the processes in Fulton County trying to deal with the absentee ballots was insufficient and ineffective, and it shifted problems from one area to another, and the inability to identify key problems early and apply new solutions contributed significantly to a significant number of voters in Fulton County not being able to vote absentee and probably not being able to vote at all.

Chief Investigator Watson is going to detail the cases as I finish speaking. Lastly, I just want to say that the day after the election in June, I walked down to Fulton County Election Office. I spent about two hours with Rick Barron and Blake Evans in their office asking about how we could provide support or help them improve. I’m pleased to report that we had many subsequent
conversations about changes and improvements, and my team and I are standing by to provide as much support as we can going forward. And so I just wanted to provide that background and context as Chief Investigator Watson goes into the specifics of the case. Thank you.

MS. WATSON: Okay. This is Frances Watson, and we’ll start with the case. It’s Fulton County Case 26 -- 2020-016, and with the absentee ballot applications mailed to all the active registered voters, the county saw a tremendous increase in the absentee ballot requests, not only through the mail but fax and email. The email provided on Fulton County’s webpage prior to the election and on Election Net to send the absentee ballot applications to was elections.voterregistration@fultoncountyga.gov.

This email inbox was set to distribute to a group. Ralph Jones advised it was distributed to 20 inboxes, so one email with an attachment of an absentee ballot is multiplied by 20. 20,000 absentee ballot requests with attachments times 20 is 400,000 emails with attachments. This caused an issue with email not having server space, according to Mr. Jones. The attachments that were received included PDFs, JPGs, and also many other files that would not print. This created an issue with the printer and the inability to print out all the
applications. There was some intent at reconciliation of what had been received, what had been processed, but there was no checks or verifications.

Ralph Jones advised due to the printing issues, clerks worked straight from the email and did not print a copy. Ralph Jones, the Chief Registrar, advised once the email was distributed to be worked, he deleted the emails to preserve server space. When asked how they planned to retain the emailed absentee ballot application to comply with 21-2-390, Mr. Jones advised that IT might be able to provide them if needed.

Many that requested absentee ballots both by mail and by email did not receive them. Some were able to go to the poll and wait in the long lines and sign an affidavit to vote at the poll. This created problems at the poll locations with poll workers not being able to reach anyone at the county to verify if the voter had cast the absentee ballot before allowing them to vote on the machine. Some poll workers were not familiar with how to deal with the voters that had requested an absentee ballot and what steps they needed to take. The complaints concerning the absentee ballots -- our office alone received 254 complaints, which we’re still receiving comments notifying us that they didn’t receive their June or their August absentee ballot.
Regarding absentee ballots, we mailed a letter on -- or an email to each complainant requesting them to complete a questionnaire. We asked how did you -- how did you request your absentee ballot, when did you request it, did you ever receive it, were you able to vote, et cetera. Approximately half that returned the questionnaire replied that they requested by mail, and half by email.

An example of the complaints that we received -- I’ll read this complaint from one of the residents, Fulton County residents. "I requested an absentee ballot two months early. Though I spent several hours on this request and filling out the application and emailing it and two follow-up phone calls with elections official to confirm that I could have the absentee ballot sent to my alternate address where I am quarantining with my family, my vote was still effectively suppressed. My absentee ballot was sent to my permanent address rather than the temporary address, again, even though I spent much time ensuring it would go to the right place. On top of that, my ballot request status online never updated to even show the absentee ballot had been mailed, making it impossible for me to track the status. I was unable to -- due to work commitments to drive the 200 miles necessary to pick up my absentee ballot at the permanent address it was sent to or to vote in person, so again, I am very disappointed
in the Georgia Elections Board for their handling of this
election. When I vote in November, if it’s done via
absentee, I expect it will be sent to the correct
address.”

A second complaint: “my wife and I emailed our
absentee ballot requests April the 2nd. My wife received
an email stating that her request had been processed and
to check the MyVoter page and that ballot would be mailed.
I received nothing. I checked her page and could not find
anything, so we called the number as instructed and
reached an answering machine which said she would be
called right back. The call was never returned. Over two
months is plenty, repeat, plenty of time to send out two
ballots. No excuses. It is also inexcusable to not
return a phone voicemail which has been solicited on your
part. Meanwhile, my 98-year-old mother received not one
but two absentee ballots. Everything is documented and
saved. You have a big problem. Will you reply to this or
will it also fall on deaf ears or blind eyes?
Incidentally, both of the ballots requested are
Republican. This is the first time I have missed voting
that I can recall.”

Examples of the responses continued, further
examples. Most of them were requested in early April.
“April the 7th, 2020, received the email confirmation of a
request that it was processed on May 29th. There is no entry in Election Net that it was entered or processed.” “Absentee ballot request submitted on April the 4th.” A voter in Alpharetta called Fulton County on May the 20th when they still had not received their ballots and were told they had a problem with the overwhelming number of applications coming in and that they should receive their ballots soon as the very week she called, the issues had been resolved. The ballot still did not arrive, and they called Fulton County again and were told that the county processed it May the 30th. By Election Day, they still did not receive a ballot. They are caregivers for an elderly person and did not want to risk exposure but were forced to go to the poll in order to vote. At the time of the completion of the questionnaire, they still had not received an absentee ballot. And those examples continue. I believe that I sent all of the complaints to the Board for them to review.

Our findings in this case: out of the 254 complainants that reported they did not receive an absentee ballot, at least 107 of those responded that they did not otherwise vote in the election which was verified through Election Net. 105 of the absentee ballot applications were never entered into the Election Net system to generate an absentee ballot. This is just those
that reached out to our office to submit a complaint. I anticipate the numbers to be much higher for those that did not receive their ballots, as evidenced in the large numbers that went to the poll or did not receive an absentee ballot and completed an affidavit. And that concl --

The violations: there’s sufficient evidence to show that Fulton County received via mail and email absentee ballot applications that were not processed and entered into the system as received or to be processed. A violation of OCGA 21-2-384(2), failure to process and mail requested absentee ballots. And we’re recommending this case to be bound over to the Attorney General’s Office for this violation. And we also would like to have Gabe Sterling to provide the Board with some additional comments. Gabe?

MR. RAFFENSPERGER: Gabe Sterling?

MS. THOMAS: You’re self-muted right now, Gabe.

MR. STERLING: It says green on my thing. Can you hear me now?

MS. THOMAS: Yeah.

MR. STERLING: Okay. All right. What I’m going to be asked to do is kind of to say what the State is doing to address some of these issues as we move forward into the election time for November 3rd, as the early vote is
only about 45 days out. Specifically, in the absentee ballot situation, the State will again take some of the burden off of all of the counties. The State will be sending 565,000 rollover ballots through the vendor Runbeck and Dominion, and on top of that, we have told the counties that we will -- all of the applications that they put into the e-net system by the same date we do the rollover list, which will be the week of September 14th, probably by September 18th, we will also mail all of those as well. As of -- as we sit here today, there’s 565,000 on the rollover list and about 100,000 that have already been entered into the e-net system for the November 3rd election.

We will do this for all the counties with the exception of Gwinnett. As some of you may or may not know, they had to enter into a -- a settlement for a lawsuit with the Democratic Party of Georgia wherein the settlement was that they have to make an irregularly large-sized envelope to handle both sets of languages, Spanish and English, which makes automating that process essentially impossible, and it makes the mailing cost for both the outgoing mail and incoming mail between $1.60 and $2 depending on the ballot size. So there’s no way we can do that. However, we have put together a partial solution wherein we can print the ballots and organize them by
precinct to make it easier for them to be able to hand
stuff them themselves, but we’ve not -- we’ve been unable
to find a vendor to handle it simply because of the size
of that. I do know their attorneys went back to the
Democratic Party of Georgia to try to see if they could
come to another solution, and they are going to stick with
the settlement they have. This settlement was done pre-
COVID, so at the time, it didn’t seem like it had a big
impact. Now, in COVID, it obviously does.

Another large thing we’ve done to take care of the
processing issues is we are -- we built out an online
ballot request portal. We have code tested it, security
reviewed, and stress tested the new portal, and we are
very close to launching it. We are planning on doing it
very soon. And what this will do is this will allow the
voter, using five pieces of information, their first name,
their last name, their date of birth, their driver’s
license or state ID number, and their county, to identify
the voter. That takes them into an online situation where
they are allowed to request their ballot, where they want
it mailed and everything. This will cut down on entry
errors and loss errors when these things are sent in and
touched by many, many human hands over and over again.

What happens now sort of mimics the workflow of our
online voter registration where the information is put in
by the voter. It goes to a dashboard at the county level where a county worker will review the application and say yes or no. It will automatically populate E-net, and then they can fulfill that ballot after that. It’s going to make it a lot easier, take a lot of work off of them, and cut down on errors and loss. So we anticipate that being a very successful project to help them, the counties, do their work, and it will also provide some more transparency to the voter because as soon as they submit that, an email will be sent to them saying on this date, we received your absentee ballot application, and here’s some information about how you can track it on the MyVoter page.

So -- another thing we’re working at which is not finalized yet which follows on the same thing with the absentee ballots is a way to do ballot tracking proactively, where a voter can put it their cell phone and/or email and be proactively informed when their ballot is mailed to them, when it is received, when it’s been processed back in. So they have a lot more transparency as opposed to what’s happened. We saw in Fulton and other counties where they’re sort of left in the dark other than going to MyVoter page and if the county hasn’t put it in yet, there is no update to MyVoter page because that is where the information comes from. It’s from the counties
themselves. So the tracking of the ballot, more proactive
ability to get to the MVP, is one of the big things for
that.

Now, the big lift we have is going to be on Election
Day. And one of the things that we have done already for
all of the counties including Fulton is provide a check-in
data analysis to show where they may have either
logistical issues or poll worker training issues. We
basically took them from the poll pad check-in data. We
looked at anything that opened -- we had different levels
of opening, and they were color-coded to make it very
visibly easy to see where they were having poll worker
issues or logistics issues.

Along with that, we are working with counties on an
analysis of each polling location they’re going to have
and their equipment allocations to make sure they will
function both on a line management perspective and a
throughput perspective because at the end of the day, as
we have told the counties repeatedly, this is a math
problem. One of the really big lifts we’ve had to do is
to change the -- the thought process of everybody involved
in elections because for years having paperless voting
with the DREs, you could just throw extra equipment into
it -- into a polling location, and your problem is solved.
When you add the component of paper, regardless of system,
you have a throughput issue on those things, so as we’ve said many times and the Secretary has noted, if you have one voter go through every 25 seconds, you can get 1,725 voters through a polling location with a single scanner on a 12 hour Election Day. That’s it.

So what we’ve done is we’ve asked all the counties to give us their equipment allocations for each and every polling location, and then we can see the number of voters they have assigned to those polling locations. We’re running an algorithm on the front end to make sure they can process properly the number of people to get through there, and on the back end we’re saying if they get the anticipated turnout to come out, if they can get them all through the scanner or the scanners that they’ve set up, then what we’re going to do is we’re going to have a color-coded system again where essentially, green means this polling location is going to be good to go. Yellow means you’re going to have to rethink this polling location somewhat by either adding equipment and/or people, and then there’s the one we don’t want to see a lot of which is the red, that there’s no way, no how, no matter how much equipment and how much -- how many people you have there, this is not going to be a functioning location.

This is in part to address the sort of -- we can’t
have a one-size fits all which many people want to try to do. In Lumpkin County, we see they have a single polling location with over 22,000 voters there, and they have been doing this for a while, and it functionally works for them right now. And we’re running it through, and it seems like it’ll work again. What we saw, as an example, in Fulton County at Park Tavern, that was literally one of the faster processing locations in the state, but they had 16,685 voters, I believe, assigned to that location, so when they opened -- and they were doing 160 voters an hour. So they had 350 people in line when they open the door, so if you’re processing 160 voters an hour with 350 people in line at the door, the math shows you you are never going to catch up. So that’s why we’re working with them on that to add more counties, and I’ll get to some of that in a minute.

So far of the 159 counties, 142 counties have sent us their initial equipment deployments, so our data analysts are going through those now. We hope to be able to get the initial analysis out to many of the counties next week so they can look at any changes we might need to do as far as reallocation of resources or people. Fulton County -- we’ve asked all counties to look at how they’ve deployed their voters, and Fulton County is doing a good job so far -- are on a good path of additions. They’ve moved from
164 polling locations in June to 174 in August. Their Election Board met -- I believe it was last Thursday and added 18 more. I’ve been working directly with some of their consultants in trying to find some more locations, and there’s about 15-20 more in the queue right now they’re trying to bring in.

On poll workers, as many of y’all have seen and heard per Secretary Raffensperger’s direction, we have had a very strong push to add more poll workers even before COVID because we knew we wanted to have more younger poll workers to come in. So we’ve been -- I’ve seen a lot of success since June 9th and along with partners as diverse as the ACLU and the Metro Atlanta Chamber of Commerce, we have handed over nearly 8500 names of those who would like to be poll workers. And our intent at the Secretary of State’s Office per Secretary Raffensperger’s direction is to make sure that any and all people who want to be helpful, even if they can’t be a poll worker, it’s our intention to then put them out there as potentially a field tech as well.

And on that front, the Secretary of State’s Office is working with our vendor, our counties, and other state agencies to deploy a field tech to each and every polling location to address any training issues that crop up. As we saw on June 9th, most issues that were quote-on-quote
equipment issues had to actually do with poll workers
being unfamiliar with the equipment because of the
inability to do a lot of hands-on training due to COVID.
And once we saw what happened if a tech got there who was
familiar with the equipment, they could easily address the
two main things that we saw. One, holding the power
supply button down for the BMDs for more than five
seconds. We’ve also put a sticker onto those UPS’s so
they know. It says please hold power button down for more
than five seconds. And the card encoders in the poll pads
being upside down, we’ve also added a sticker to those
that says this side to poll worker. Now, it still takes
some work to get some of these things done to make sure
everything is done properly, but those were the main
things we saw.

So these field technicians will be trained on all
five pieces of equipment, shown the top three things that
go wrong with them, and here’s the top couple of fixes.
So they’re not the full techs that have been there to
understand the EMS, the election management system, and
all the various parts of this. These people are
exclusively dedicated to making sure the equipment works.

We’ve also piloted -- and many of you might seen --
working with ESRI, a GIS-based line management and
technician deployment tool. That’ll be deployed to each
county and each tech will be putting in line wait times so we can identify issues early on at the state and county level to make sure we have resources available to make sure those counties allow voters to continue to vote no matter what.

We’ve begun and we’ve started the process of working with IBM to deploy their Watson artificial intelligence tool to better and more quickly answer voter questions through both chat and through the phone in the time leading up to an election and Election Day. We think that’ll take a lot of work and move -- off our call center and move people more quickly to the answers they need in a way they’re comfortable with.

We’ve continued to work with Fulton and all of the counties to be better prepared for absentee ballots, early voting, and Election Day. We have seen Fulton escalate the issues that they saw on their Election Day to their county leadership level, people like Dick Anderson and Richard Bailey, who we’ve been working well with. And we’re working in a transparent way to address these issues together.

We are planning for the tsunami of voters for the coming Election Day. As Secretary Raffensperger has stated, we anticipate 2 to 2.5 million voters on that day, and it’s going to take a lot of team effort to make sure
those get done, and all of our work is going to be trying
to get as many people as possible to take advantage of the
pre-election day voting, both through early voting, the
three weeks plus the mandated Saturday, and the absentee
voting. We feel that the absentee portal and us taking
the rollovers and anything done by mid-September off of
the counties will really help the counties to be able to
focus on that last amount of those and put their resources
to where they need to put them.

And I just wanted to say again, thanks for the work
you do, members of the State Election Board, and thank you
to all the county elections workers who are doing their
heroic, hard work as Mr. Harvey pointed out every single
day coming into the office when most of their colleagues
are not to make sure the November election is a success
for each and every voter regardless of their zip code
because that is what we are all working for.

MR. RAFFENSPERGER: Thank you, Gabriel Sterling.

MS. WATSON: Okay.

MR. RAFFENSPERGER: Ms. Watson, do you have any other
information to present?

MS. WATSON: No, sir. That concludes my findings.

MR. RAFFENSPERGER: Okay. Well, do we have any Board
members that would like to ask a few questions of Ms.
Watson or Chris Harvey or Gabriel Sterling?
MR. WORLEY: I’m sorry. This is David Worley. I have a question for Ms. Watson. Of the complaints that you received --

MS. WATSON: Yes, sir.

MR. WORLEY: -- about the failure to send absentee ballot appli -- applications, how many were emailed ballots or -- I’m sorry, emailed requests and how many were mailed-in applications?

MS. WATSON: Out of the applications -- or the complaints, it came out to being approximately 50/50, with mail and email.

MR. WORLEY: Thank you.

MR. RAFFENSPERGER: Good question. Ms. Watson, of the total absentee ballot issues that were raised statewide, what percentage did Fulton County represent?

MS. WATSON: Fulton County was approximately -- I would -- I don’t have the exact numbers, but I would say at least 75 to 80 percent were Fulton County.

MR. RAFFENSPERGER: Thank you. And they represent -- Fulton County voters as a percentage of registered voters represent what percent of voters in the entire State of Georgia?

MS. WATSON: Let me -- let me check. I do not have that information in front of me.

MR. RAFFENSPERGER: Would that be about 10 to 11
percent, Mr. Germany?

MR. GERMANY: Yes, sir. That sounds right.

MR. RAFFENSPERGER: Okay. Any other members? Ms. Sullivan or Mr. Mashburn?

MS. WATSON: Yes, Mr. Raffensperger. The attorney for Fulton County is also on the line --

MR. RAFFENSPERGER: Okay.

MS. WATSON: -- that wishes to speak.

MR. RAFFENSPERGER: Sure. Could you provide your name and please go ahead and address the Board, please?

MS. PALMER: Yes. All right. Good morning. Can you all hear me?

MR. RAFFENSPERGER: Yes.

MS. PALMER: Okay. Thank you. This is Amanda Clark Palmer. I wasn’t sure kind of where on the agenda I’d get a chance to speak up, so I just wanted to make sure you all knew that I was here on behalf of Fulton County along with my partner Don Samuel. What I would like to do is make a brief statement and then I have Rick Barron, Ralph Jones, and Karen Fickland, who are all employees at the Board of Elec -- Fulton County Board of Elections, who are on the line. And I’d like you to hear from Ms. Fickland briefly after I get done speaking.

Chris Harvey said a few of the things I had planned on saying this morning with regards to the state of our
world back in March and April and May, and I will endeavor not to repeat what he has said already, but March 14th has become one of those days that we talk about in terms of where were you then. Where were you when you realized school would be shut down for two weeks? Where were you when you realized you wouldn’t be going back to the office the next day? And where were you on the day when you thought the worst-case scenario was that we might have to shelter-in-place at home for a few weeks? If somebody had told us back on March 14th that our grade schoolers, a large majority of them, would be starting school virtually in the fall, and masks would become de rigueur, we would have been shocked and despondent.

As time marched forward into April and May, we realized that there would be no going back to normal. Most people were riddled with anxiety, trying to figure out what activities were safe to do, who was safe to be around. When we brought our groceries home, we wiped them down with a Clorox wipe and left them in the garage for days until we thought and hoped the virus was gone. We knew very little about the COVID-19 virus and what we thought we knew changed every day as doctors and scientists learned more about how this virus was transmitted.

So it’s against this backdrop that you should
consider today’s issue. The primary vote scheduled for March 24th -- March 24th was quickly pushed back to May 19th. All the plans that Fulton County had in place for the March 24th primary had to be quickly and drastically changed and without much guidance on how voting in person could be done safely, and I say that because the medical community was still learning about the virus, and therefore, the guidance that they were giving us was changing and evolving on a daily, if not hourly, basis. Not only did the day of the primary change, but the way we voted changed. It was the first statewide test of the new voting system which added paper ballots to our elections for the first time in almost two decades.

Then the primary election was postponed again, this time to June 9th. This year, Fulton County had an unprecedented demand for absentee voting. They saw one-hundred-and-forty-fold -- one-hundred-and-forty-fold increase in absentee by mail applications, and the number of ballots actually returned increased a hundred-fold over the 2016 general primary. This phenomenon was not limited to Fulton County, and according to our Secretary of State, Georgia smashed its record for absentee turnout by over 400 percent. So as I said, it’s worth mentioning that Fulton County was not the only county who faced challenges with the June 9th election. We’ve heard already about
some of the challenges that the other counties were experiencing, and I know that other Metro-Atlanta counties like Gwinnett, DeKalb, Cobb County were also having problems. And I’m sure that the county workers in those counties just like the ones in Fulton did their absolute best to ensure every citizen who was eligible to vote could do so safely.

And as we’ve heard -- excuse me -- Director Chris Harvey say this morning and I’ve heard him say on previous occasions, those efforts could be appropriately described as heroic, and I absolutely think that word applies to the efforts of Ralph Jones, Rick Barron, and every other Fulton County employee involved in this election. And we appreciate Chris Harvey’s comments this morning, recognizing the overwhelming problems facing Fulton County, as well as every other county.

So it should surprise no one that there were some challenges with this dramatic increase in demand for absentee by mail voting. So you’ve heard a little bit about this already, but I want to highlight three things. First, there was a time period in early April where the staff at the Fulton County office could not come into the office because it had to be completely sanitized and decontaminated after staff members tested positive for COVID-19, including Ralph Jones, who you’ve already heard
had to be hospitalized to treat the illness, the COVID-19 illness that he contracted. A longtime staff member tragically died from the virus in early April, and when the staff returned to the office on about April 20th, they had to process a lot of absentee applications.

So second, the applications could be returned to the county by email or by mail, and for the applications that were sent in by email, as you’ve already heard, they were sent to an email address that went to 20 different people, which means that one email from a voter actually resulted in 20 emails going to a Fulton County staff member -- or staff members. This overloaded the email system, and it took time to get the system back up and running.

I want to just point out quickly that we disagree with something that’s been stated already. It was stated earlier that -- so the email address that was -- that was printed on the document that went out from the Secretary of State’s Office, that email address was, I believe, elections.voterregistration, and there was a statement made earlier that that email address was on Fulton County’s website prior to those documents going out, and that’s just incorrect. The email address that was on Fulton County’s website earlier this year was ale -- elections dot -- I believe it’s absentee ballot. And you can go back and verify that using, like, a web archive --
if you google way back machine, you can go back and look
at what Fulton County’s website looked like in April, and
it did not have the elections.voterregistration email
address on there. And this is important because the other
email address that I -- that I just mentioned, elections.absentee, that only went to one person and had
that email address been used, it likely would have
alleviated the problems that they had with the overload of
their email system. Now, Fulton County’s website has
since been updated. It now uses -- it now says that your
email should go to elections.voterregistration, and they
did that so as not to confuse the voters.

Finally, there were printing issues with printing the
applications that were sent in by email because there was
no standard format in which the application would be
returned, and by that, I mean that some people sent them
as JPG files, some sent them as PDFs, some people actually
kind of took pictures and actually embedded the picture in
the email, so some of the files could not be printed by
the printers in the county office. I also want to point
out that it is -- it is not correct that we processed the
emailed applications last. That is incorrect. We
processed applications that were received by mail and
applications that were received by email at the same time.

So as I said, we appreciate all the comments that
have been made already, including by Chris Harvey, recognizing the overwhelming problems that Fulton County and the other counties faced, but we disagree respectfully with his conclusion that the problems were not remedied or addressed quickly enough or sort of highlighted flaws in Fulton County’s systems because we think they don’t take into account sort of the other factors that were caused by the pandemic, you know, losing the ability to have our employees in the office and being exiled from the office. I mean, the fact of the matter is that many of the problems that this pandemic caused for Fulton County with absentee voting were addressed. Not a hundred percent, but not ninety-nine percent -- I’m sorry, not a hundred percent, but most of them were addressed.

Fulton County successfully processed the vast majority of the absentee applications they received. They received approximately 28,000 emailed applications and approximately 116,000 paper applications for a total of over 144,000 applications. The hearing notice in this matter says the State received over 250 complaints from Fulton County residents about not receiving their requested absentee ballots for the June 9th election. This represents an error rate, well, of only .17 percent. Of course, one person who is denied their right to vote for whatever reason is one too many, but in light of the
challenges that the COVID-19 pandemic presented, the short
timeframe the county had to respond to the changing
primary dates, and the unprecedented demand for absentee
by mail in voting, Fulton County performed heroically,
admirably, and successfully in carrying out the June 9th
primary election. Additionally, Rick Barron and his team
have identified some improvements to implement going
forward that will hopefully prevent some of these issues
from recurring, and if you want to hear more about that,
we can give you some details.

So in summary, we believe that no punitive sanctions
of any kind are warranted or appropriate in this matter,
including referral to the Secretary of -- I’m sorry, the
Attorney General’s Office. Punishment is designed to
deter certain behavior. That is the essence and purpose
of punitive sanctions. Imposing sanctions or referring
the matter in this case will only serve to deter
qualified, hard-working people from ever signing up to
work for a county agency like the Election Board. It
sends precisely the wrong message to the people at the
Fulton County Election Board who worked so hard to achieve
the optimal results under circumstances that were
unforeseeable and monumentally challenging. This Board
should conclude that there were many problems that need to
be overcome [sic] -- overcome, but these problems are not
man-made and did not occur because of recklessness,
negligence, or malfeasance on the part of any of the
people who worked tirelessly -- tirelessly at the Fulton
County Board of Elections.

That concludes my remarks. I would like you all to
hear a short statement from Ms. Karen Fickland, if now is
the appropriate time to do that. So if now is the
appropriate time, if -- Rick, if you could have Ms.
Fickland -- if you all could unmute yourselves so she
could speak?

MS. THOMAS: Are you -- are they under Ralph Jones?
MS. PALMER: Yes, ma’am. That’s it.
MS. THOMAS: Okay.
MS. PALMER: Thank you.
MS. THOMAS: Yeah, they’re self-muted right now.
MS. PALMER: Ralph, can you -- there should be a
microphone button that you can plug -- push and it’ll turn
green, so you can start speaking. Or they’re on the
phone. Is there some way to unmute them if they’ve dialed
in on the phone?

MS. THOMAS: No. I can’t -- can’t unmute them if
they’ve dialed in on a phone. They would have had to log
in on a computer, but it looks like there’s three people
that are logged in as Ralph Jones right now.

MS. PALMER: Yes. If you could bear with me one
second, let me -- I’m going to call Mr. Jones directly, and we’ll get this figured out.

MR. JONES: Okay. Hold on. Oh.

MS. FICKLAND: Hello? Good afternoon, can you hear us? No, they can’t hear us still.

MS. PALMER: I can hear you.

MS. FICKLAND: Oh, okay. Sorry. All right. Hi, my name is Karen Fickland. I’m the Registration Supervisor here. Just wanted to make a small comment about what we were going through during that time, so the increase in the number of applications that we had was probably ten times more than anything we’ve normally received for an election cycle. And I’ve been here 22 years, and I’ve never seen an election like that before.

So on March 16th of this year, we were notified that our office would be closed until further notice due to COVID-19. Mr. Jones had us -- had us to come [sic] into work for the next two Mondays, so we could meet and discuss a work plan. At the end of the second week, I believe it was around the 2nd or 3rd of April, our postman reached out to me to tell me that we had a half a bin of mail, which equates to about 9 trays. On the following Monday when we reported to work, there was a full bin, which is approximately 18 trays of mail to be processed. At that point, the mail room staff was coming in --
started coming in daily, along with a few other staff members that would report at least two days a week to assist. After that point, the mail steadily increased from the one bin to between two and three full bins daily.

Around the same time, the applications sent in via email and fax also started increasing. On several occasions during the first two weeks, we had issues printing those applications. Our IT department had to come down at least twice a week to assist us with the issues. At the end of the month, the volume of email attachments was so heavy that the system crashed, and it took the IT department several weeks to correct those issues. We were working overtime to deal with the dramatic increase in absentee ballot applications. We were working anywhere from two to four hours extra a day, including working on the weekends. Our ability to efficiently process those applications was hindered by the fact that most people were working from home with only a few of us in the office.

On top of the increased workload, we had -- we had some very difficult personnel issues happening at the same time. Mr. Jones started feeling poorly in late March. It seemed to get worse over the next week. He tested positive for COVID-19 and was ultimately hospitalized. Despite this, Ralph made himself available via phone and
email, but he still had his own health and recovery to focus on. We had another staff member also to get ill [sic], and she too was hospitalized, and unfortunately, she passed away on April 15th. When the information of her passing was shared in the office, it was devastating. Emotional -- it was a devastating emotional impact to our office. We were all touched by her passing, and it took a toll on our production. The office had to be shut down for four days, so it could be sanitized and made safe to return to work.

I know that I personally did my best to process every absentee application we received, and I believe that everyone else in the office also did their best. I would never intentionally try to keep anyone from exercising their right to vote, and none of my coworkers would intentionally keep any Fulton County citizens from being able to vote. We did our best despite all the challenges we were facing due to the pandemic. Thank you for your time.

MS. PALMER: Thank you all. This is Amanda Clark Palmer again. I just want to let you know that Ralph Jones and Rick Barron are also available if anyone has questions for them.

MR. RAFFENSPERGER: Do they want to speak before we ask questions, or do they want to make a presentation or
any comments?

MS. PALMER: No, they do -- I don’t believe they have any comments or statements to make. They’re just available to answer questions.

MR. RAFFENSPERGER: Okay. Thank you very much.

Well, Board members, do you have any questions for the Fulton County election officials or any other questions for any of the presenters that you’ve heard so far?

MR. WORLEY: This is David Worley. I had several questions for --

MR. RAFFENSPERGER: Please go ahead, Mr. Worley.

MR. WORLEY: -- for Ms. Palmer, I guess, or whomever can answer these questions. It sounds as if the office was closed for cleaning for a total of 4 days, is that correct?

MR. JONES: Yes.

MR. BARRON: Yes, that’s correct, and they also -- staff took two days off for bereavement after Beverly Walker died.

MR. WORLEY: Okay. How many of the email applications that were received were never processed?

MS. PALMER: This is Amanda Clark Palmer. If I could -- I don’t know that we have the answer to that, in part because, you know, we know that the number 250 was in the complaint. We don’t have the names of those people. We
did look at some of the names that were -- the last names
that were in the State’s PowerPoint presentation that we
just looked at. And then at least -- at least for some of
them, we think that some of those applications were
processed. There’s at least one person who did have his
ballot mailed to him. So I apologize that we can’t answer
that. It’s really due to a lack of knowing who all the
complainants were and being able to track down what
happened with them.

MR. WORLEY: Well, but shouldn’t the office be able
to know of these vast numbers of applications that were
coming in how many they never got to? And that leads to
my second question. Of the mail applications that were
sent in, how many of those were never processed?

MR. BARRON: Mr. Worley, we processed every
application that we received. Now, whether -- whether
they were processed later is one thing, but every
application that we received, we believe we processed.

MR. WORLEY: Well, when you say later, do you mean --
I mean, what do you mean by later?

MR. BARRON: Well, --

MR. WORLEY: Do you mean after the primary?

MR. BARRON: I think just based on -- on what you
heard from -- from our attorney, we had -- we had major
issues processing applications out of the email, and so
some of those were not processed in what we consider to be a timely -- anyone would consider to be a timely manner, but we went back through all -- all of the emails to make sure that we processed all of the time.

MR. JONES: Twice.

MR. WORLEY: And -- and what about the mail in applications? I mean, were they processed in a timely manner? And I guess I have a question. What do you consider a timely manner? I mean, when were --

MR. BARRON: Well, most --

MR. WORLEY: -- the last -- I’m sorry. When were the last email -- I’m sorry, the last mailed in applications being processed? On what date before the primary?

MR. BARRON: We -- I mean, we processed them all the way through Friday night before the election.

THE COURT REPORTER: I’m sorry. This is the court reporter.

MR. WORLEY: And -- And -- I’m sorry. And were all of them processed by that Friday night, all of the applications?

THE COURT REPORTER: Excuse me. Sorry, sorry, sorry. This is the court reporter. I know there’s two men on that one line. Can you tell me who’s speaking, please? Thank you.

MR. WORLEY: Yes. This is David Worley.
MR. BARRON: This is Rick Barron.

THE COURT REPORTER: Thank you. I meant Mr. Barron.

Thank you, Mr. Worley.

MR. WORLEY: Those were all the questions that I had for now.

MR. RAFFENSPERGER: Are there any other Board members that have questions?

MR. MASHBURN: This is Matt Mashburn. I have a few. Rebecca, do you have any? Would you like to go first?

MS. SULLIVAN: Go ahead, Matt.

MR. RAFFENSPERGER: Go ahead, Matt.

MR. MASHBURN: Okay. As you were talking about the processing, as the representatives of Fulton County were talking about the processing of the absentee ballot applications, did you use the bar code to process the applications faster or not? And how was -- and if not, how was that decision made?

MR. JONES: What is he asking?

MS. FICKLAND: It’s about that barcode that was on the applications.

MR. BARRON: But they didn’t process any faster. I mean, the barcode didn’t speed up processing. I mean, that was -- we used it. Some people were processing --

MR. JONES: Not for the application.

MR. BARRON: Yeah, for the application, it didn’t
speed it up, using the bar code. I mean, one of the --
one of the main things about data -- data entry is you
want to keep your hands on the keyboard, so if you -- you
process looking at the voter registration number -- I mean
I think some people might have preferred just to use the
scanner, but you’re taking your hands off the keyboard at
that point. So it -- I think it was up to -- it’s up to
the individual user how they did it, but I processed many
applications. I spent hours processing applications, and
it was no faster to use the -- the bar code scanner.

MR. MASHBURN: All right. And so y’all -- y’all --
you entered them manually the whole time?

MR. BARRON: Yeah.

MR. MASHBURN: Okay.

MR. BARRON: You have to process all of them
manually. The barcode scanner doesn’t do anything except
to just bring up the name, and then you have to do the
data entry, so if you take your hand off of the barcode
scanner to -- to do the data processing, it -- you’re
taking your hand off the keyboard. It’s better just to
look at the application and just do the data entry.
Nothing -- it doesn’t speed -- it doesn’t speed up the
process.

MR. MASHBURN: Okay. Thank you. The next question I
have is with -- I’m very sympathetic, and I think the
descriptions that people have made of -- of heroic work by
election workers and supervisors and management is an
accurate description because it was certainly
unprecedented times, and also, I want to also just state
in advance that I’ve found everybody at Fulton County to
be, especially Ralph Jones, to be uniformly kind,
cooperative, helpful, open, and very welcoming. So I -- I
don’t think any of this inquiry on my part at least
indicates -- and I don’t think any other member of the
Board has that opinion either that this is saying that
people in Fulton County are bad people, but I’ve always
found them to be very kind and welcoming and very open and
friendly. But we also have to kind of get to the root of
these issues, and so while COVID was a problem, an
unprecedented problem, the question with regard to email
multiplications of one email turning into, you know,
multiples, 20, 40, whatever, that wasn’t COVID-related,
was it?

MS. PALMER: This is Amanda Clark Palmer. I’m just
going to answer your question. I agree. That’s not
COVID-related, but that’s why I made a point to say that
the selection of that email address was not something that
Fulton did, and I’m not pointing fingers here. I don’t
think anybody, you know, intentionally tried to choose an
email address that was not the best one, and I will also
say that that issue has been addressed. We’ve also
addressed the problem with the printers. We have also
standardized the format in which we will accept email
applications. Mr. Barron has gotten some grant money for
Fulton County that will enable him to buy additional
equipment and pay for additional staffing, so Fulton
County has taken steps to make sure that the issues that
happened with the emailed applications do not occur in the
future.

MR. MASHBURN: Does Fulton County -- this is Matt
Mashburn again. Does Fulton County know whether -- I know
the counties talk to one another. Did Fulton County
receive any information that -- that other counties were
having similar problems? And if so, was Fulton County’s
response similar to these other counties or different, and
if it was different, how so?

MS. PALMER: I’ll let Mr. Barron address that one
because I know that he -- he was speaking to people in
other counties.

MR. BARRON: Most -- most of our discussions with
other counties happened after the election, so we -- you
know, it was indicated to me that many counties had
similar issues to us. I mean, you know, I think during
that time, all of us -- all of the counties were focused
on their own issues, and so we weren’t -- we weren’t
speaking on a regular basis before the June election
because we were just buried. And I think one of the
things that -- when our office -- the mail started coming
in at the time -- in big numbers at the time that Mr.
Jones was out who oversaw that -- that process and Ms.
Walker died, and so we were -- we were tens of thousands
of applications behind at the time we started data entry
because -- because of the office being shut down, so it
put us in the hole right -- right off the bat.

MS. PALMER: Mr. Barron, this is Amanda Clark Palmer.
Could you also say, you know, a few sentences about how
having an online, you know, portal or website to apply for
an absentee ballot would fix this problem?

MR. BARRON: Yes, and I know that the State is
putting together a portal, and it should be ready next
week, but that is going -- that is going to -- that is
going to alleviate most of these issues because, you know,
on a portal -- it would have be helpful for all of the
counties to have a portal up, you know, back then. And I
was told by US Digital Response that one could have been
put up, you know, within -- within a week or two. And I
think a portal is something that would have enabled all of
the counties -- you need an intake mechanism in which to
track everything. If you don’t have that intake
mechanism, then -- and you have a situation such as us
where we had a group email set up, and you have
applications going to multiple boxes, and it shuts down
the system, it -- it complicated matters for
reconciliation. But if you have something going through a
dashboard, which would be a portal, then -- and it’s right
on Election Net, it makes it much easier to -- to track
everything that you do.

There was -- once -- none of us, we weren’t prepared
with the way our email boxes were set up for the influx to
have, you know, tens of thousands of emailed applications
come in, and I think one of the issues that you have is
you have some emails come in with multiple attachments.
You have some come in with -- with applications that were
embedded into the email. You had these extension files --
the extension types that were that coming in. There was
no standardization. That was another thing that should
have been set up at the very beginning is that there
should have been a standard set up, maybe whether -- it
could have just been JPGs and PDFs were the only things
that were accepted, but that wasn’t the case. We were
getting movie files. We were getting all sorts of files.
We couldn’t -- we couldn’t print them. And we were
going all of them -- we have nice commercial printers,
commercial copier printers, but they -- we were -- they
were -- what’s it called, Ralph?
MR. JONES: They were spooling.

MR. BARRON: They were spooling. And so you would send a print job over, and people were send -- multiple people would send the print jobs over, and you’d have this spooling happening. And then at first, people didn’t realize that all of the applications weren’t printing out and so what we’ve done to rec -- we’ve standardized everything now so that we only accept the JPG and PDF applications, and if they aren’t in those formats, we reject them. We’ve had to do that in order -- so that -- in order for us to be able to print them off of our printers because we -- my staff knew early on that there were certain file extensions we could not print, and they would cause the printers to spool. And in addition to that, we had to have people from Canon in here to -- to reset the printers multiple times before everyone realized what was happening, but when we -- we ran out of memory also because all of the email boxes were full from all of these extensions and large file sizes.

MS. PALMER: Mr. Barron, this is Amanda again. Am I correct that you don’t anticipate those problems again because of the portal, because of getting more printers, and because of standardizing the way you’re going to accept applications by email?

MR. BARRON: No. I think those -- we got those set
up on July 20th, and since then, we’ve had much better success, especially through the email. We’ve -- we processed more ballots for the August election, our August runoff for Sheriff and District Attorney, than we did for the presidential election in 2016. And so, I believe that, you know, we -- we’re well on our way to be able to serve the voters for November.

MS. PALMER: Okay. Great. Thank you.

MR. WORLEY: Mr. Secretary, this is David Worley. I had another question.

MR. RAFFENSPERGER: Please go ahead, Mr. Worley.

MR. WORLEY: And Ms. Palmer, either you can answer this or -- or perhaps it would be better if Mr. Barron answered this question, but -- and while it’s not the subject of today’s complaint, I would like to know the answer. I have received -- I did receive at least four calls from Fulton County voters prior to the August runoff who had requested absentee ballots by mail or by email and never received their ballots. How would you explain that if you have fixed these ballots?

MR. BARRON: These are applications or...?

MR. WORLEY: These were people who sent in applications, by email --

MR. BARRON: Can you provide --

MR. WORLEY: I will provide you the names after the
call. Happy to do that. But they never received their
ballots.

MS. PALMER: Why don’t you let us look into that,please, so we can verify that they were processed and
figure out where the disconnect is? Because there are --
as you know, there are other people involved in the
process of getting an absentee ballot out.

MR. GERMANY: This is Ryan --

MR. WORLEY: Sure. I will send those names to Ms.
Palmer at her law firm email.

MS. PALMER: Thank you very much.

MR. GERMANY: This is Ryan Germany. I was just going
to ask Frances — did you also receive complaints, similar
complaints, about the runoff in Fulton that Mr. Worley was
just referencing?

MS. WATSON: Yes. I did. I can provide those names
also.

MR. BARRON: And I think they were — we need to see
what date they came in on too because most of our — the
reconciliation process that we put in place started — I
think it was either July 20th or 21st.

MR. RAFFENSPERGER: Any other Board members? Ms.
Sullivan, do you have any questions?

MS. SULLIVAN: Sure. This is Rebecca Sullivan. I
think we all recognize the tremendous challenges that were
faced by Fulton County in the primary, and I certainly appreciate the efforts that were made by the county election officials to meet those challenges. I think what we’ve got before us today is whether or not there was a violation of the election code for failure to timely process the absentee ballot applications. I heard that Fulton County disagrees with a couple of points that were made in the presentation this morning, but does Fulton County deny that at least a hundred absentee ballot applications were not processed in a timely enough manner to allow those applicants to vote an absentee ballot?

MS. PALMER: So this is Amanda Clark Palmer, and my response to that is I don’t -- I can’t answer that, just because as I said before, we don’t have all of the names of the people who complained, so we haven’t been able to go through, you know, and troubleshoot what happened with each person. We do not deny that there were people who had their absentee ballot -- or I’m sorry, whose application for an absentee ballot was not processed. I just can’t say to you that we agree with the 150 number.

MS. SULLIVAN: Okay. Thank you.

MR. RAFFENSPERGER: Do we have any other questions from our Board members?

MR. MASHBURN: This is Matt Mashburn. I do have a question. There was an issue earlier during Frances’
presentation about that there were email applications that
had been deleted, and there was an indication that she
inquired whether they could be recovered and was told that
they might be recovered. What’s the current status of
those applications? Are they found or are they deleted?

MR. JONES: This is Ralph Jones. I can answer that
one. In order for us to be able to process that, some of
the staff had to remove the emails from their particular
email box. We said we asked one staff member to not
remove any of their emails, so we do have a record of all
emails that have come in, but everybody else in order for
them to maintain a system with the email system was
removed. But we do have one staff member who retained
every email that came in for the June election, so we do
have a record of all emails that have come in.

MR. MASHBURN: Thank you, Ralph.

MR. RAFFENSPERGER: Okay. Do any other members have
any questions for anyone from Fulton County or any of the
presenters this morning? Mr. Germany, do you have any
other questions that you would like to ask?

MR. GERMANY: No, sir. The only thing -- Frances is
raising her hand.

MR. RAFFENSPERGER: Okay.

MR. GERMANY: But the only thing I would say is -- is
to add a little bit of context. You know, we did -- we
have obviously dealt with every county throughout this.
Other Metro counties experienced similar issues,
particularly related to the emailing in of applications,
and they experienced problems at the beginning similar to
what Fulton was regarding server space and things like
that because the volume, as everyone knows, was
unprecedented from an absentee voting perspective. I
think one thing that we saw that happened is for instance,
in Cobb County, they recognized the problem and they were
able to resolve it fairly quickly by adding additional
server space. In Fulton County, they weren’t able to, and
it kind of snowballed and turned into a much bigger
problem, and obviously, some of that is due to COVID and
the Fulton-specific issues, and, you know, I think some of
that was probably just not recognizing the problem at the
beginning and responding to it. And, you know, by putting
off processing applications, it basically just allowed the
snowball to grow.

MR. RAFFENSPERGER: And Ms. Watson? You wanted to
add some additional comments?

MS. WATSON: Yes. I would just like to request that
Fulton County provide a hard drive with the absentee
ballot email requests to our office, if that’s possible.

MR. RAFFENSPERGER: Would that be possible for Fulton
County to provide that?
MS. PALMER: This is Amanda Clark Palmer. I don’t see why it wouldn’t be.

MS. WATSON: Okay. Thank you. That’s all I have.

MR. RAFFENSPERGER: Thank you. So this case is before the Board, SEB Case Number 2020-016, Fulton County, processing absentee ballots. What is the position of the Board on this matter?

MR. WORLEY: This is David Worley. I have a couple of comments before stating what I think my position is. First of all, there were problems in a lot of counties on Election Day, and those problems related to the machines. It related to a lack of poll workers. It related to a number of things that caused severe problems in the June primary which we all know about. I don’t necessarily think it’s fair at this point to single out Fulton County for the problems that they’ve had that related to the absentee ballot applications.

On the other hand, while the -- the COVID phenomenon as Ms. Palmer said was not limited to Fulton County, it seems that the large extent of problems with the processing of absentee ballot applications were clearly -- clearly evident in Fulton County, and I don’t think that -- now that the case is before us, I don’t think that we can ignore that. And if one person being denied their right to vote is too many, 250 is certainly too many. And
-- I mean, it seems clear from the testimony that we've heard today that while there was a severe problem with the email applications at Fulton County, there was also a problem with the mailed in applications, where it seems that over a hundred were never processed. So our job at this point is to decide whether there's probably cause to refer the case to the Attorney General or not, and there's no question in my mind that there is probably cause to do this.

But beyond that, this is going to be a severe problem is November if it's not fixed. We're going to have 5 million people trying to vote in Georgia. If half of them vote by absentee ballot as they did in the primary, then we're going to have huge numbers of absentee ballot applications that need to be processed correctly, and we're going to have huge numbers of people who are wanting to know whether their ballot is going to be processed. And if it's -- they don't get the ballot, then they're going to show up at the polls on Election Day, and we're going to have a repeat of the problems that we had in the primary. So this problem has got to be fixed, and I'm very sympathetic to the problems that Fulton County and election workers in other counties had, but there is almost no margin for error anymore in processing absentee ballots and making sure that November's elections work.
So that is my view, and I hope that that message is clearly conveyed to Fulton County and every other county in this state and to the Secretary of State’s Office, which is doing its best, I know, to fix this and other problems. But -- but there is just no margin for error anymore. So all that having been said, I don’t think that we have any choice but to bind this over under the standards that we normally use for adjudicating cases -- to bind this over to the Attorney General’s Office, and I would make a motion that we do that.

MR. RAFFENSPERGER: We have a motion before the Board. Do we have a second?

MS. SULLIVAN: I’ll second that motion. Rebecca Sullivan.

MR. RAFFENSPERGER: Ms. Sullivan has seconded. Do we have any further comments before we bring this to a vote? Do any Board members wish to speak further on this?

MR. MASHBURN: This is Matt Mashburn. I’m the junior member of the Board, so I defer to Rebecca, if she’d like to go first.

MS. SULLIVAN: Please go ahead, Matt.

MR. MASHBURN: Thank you. I’d just like to address a couple of issues, some that were raised in the public comments section, but -- but are relevant here in that one thing -- I don’t think Fulton County is being unfairly
scapegoated because the problems that they’re being reviewed on actually happened, and an interesting thing about the scapegoat is the scapegoat is innocent, and all the sins are placed on the scapegoat. So I don’t think anybody is scapegoating Fulton County here and certainly not the Secretary. I think to accuse the Secretary of that was unfair and certainly not -- not warranted by the facts. I think there’s a -- there is a systems management issue definitely at Fulton County, and it has to get fixed. It’s widespread. It’s consistent, but it just has to be fixed, and it has to be fixed now.

And there’s two parts of that in that I applaud Fulton County, especially Robb Pitts, the Chairman of the Commission, and I told him this personally when I saw him that I was so proud that he had taken such proactive steps with arranging for the arena to be used as a polling place, and so I don’t think that I’m -- I don’t think that what we’re acting on today shows that we don’t appreciate Fulton County’s efforts at remedying the situation. But one of the things that we always hear in public comment is this might lead to voter suppression. Well, what’s the evil of voter suppression? The evil of voter suppression is disenfranchisement, and as my colleague David Worley correctly pointed out, that -- that happened here. And so, I agree with David, and I agree with Rebecca’s second
of the motion that this be bound over. And I will vote accordingly. Thank you.

MR. RAFFENSPERGER: Do we have any other Board members that wish to speak? So I understand that we also have a complainant that’s in on this call, and he would like an opportunity to speak. Would the Board members wish to hear from this complainant or go straight to the vote?

MR. WORLEY: Yes.

MR. RAFFENSPERGER: If you could go ahead and connect them?

MR. GERMANY: Yes, sir.

MS. THOMAS: Mr. Kevin Ward?

MR. RAFFENSPERGER: Mr. Ward.

MS. THOMAS: You’re self-muted right now.

MR. RAFFENSPERGER: Mr. Ward?

MS. THOMAS: Mr. Kevin Ward?

MR. RAFFENSPERGER: Mr. Ward, you can speak now. If you are muted, unmute your phone and you can begin. Mr. Ward?

MS. THOMAS: We can move to that next one. Kimberly, no. She’s not on. Douglas? He’s not on either. Was Brandy Tanner...?

MR. GERMANY: I think you should just proceed with the vote. Sorry about that.
MR. RAFFENSPERGER: Okay. No worries. This is before us. Do any of the Board members wish to make any comments? Hearing none, I’ll ask to bring this to a vote. All those in favor of binding SEB Case Number 2020-016, Fulton County, processing absentee ballots, over to the Attorney General’s Office, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none opposed, motion carries. Is there any other comments or new business that members would like to bring before the Board, or should we have a motion for adjournment?

MR. WORLEY: This is David Worley. I’d move that we adjourn.

MR. RAFFENSPERGER: Do we have a second?

MR. MASHBURN: Second.

MS. SULLIVAN: Second.

MR. MASHBURN: Matt Mashburn.

MR. RAFFENSPERGER: All those in favor of adjournment, do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: We are adjourned. Board members, thank you so much for your time and effort, and thank you very much for diligently pushing into these issues and the time -- the additional time it’s taking to this kind of weird election year, during a big election year with big
turnout and also with the COVID-19 situation and with the new election system. Once again, I wanted to thank all the county election officials if they’re listening in on the call. I appreciate all the efforts and know the challenges that all of us face this year. God bless you all. Thank you. Meeting is adjourned.

(Meeting adjourned 11:24AM)
CERTIFICATE

STATE OF GEORGIA
COUNTY OF DEKALB

I, Kaitlin Walsh, Certified Court Reporter, hereby certify that the foregoing pages numbered 4 through 95 constitute a true, correct and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 22nd day of September, 2020.

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In The Matter Of:
SECRETARY of STATE
STATE ELECTION BOARD MEETING

October 3, 2020

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THE OFFICE OF THE SECRETARY OF STATE

STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD HEARING

2 MLK JR. DR. SE
SUITE 810 WEST TOWER
ATLANTA, GEORGIA 30334

September 3rd, 2020
9:00 A.M.

PRESIDING OFFICER: BRAD RAFFENSPERGER
SECRETARY OF STATE

STEVEN RAY GREEN COURT REPORTING, LLC
Kaitlin Walsh, CCR, CVR

Atlanta, Georgia
APPEARANCE OF THE PANEL

Secretary of State Brad Raffensperger, chair
Anh Le
David Worley
Matthew Mashburn

ALSO PRESENT IN ORDER OF PRESENTATION

Frances Watson
Chris Harvey
Amanda Clark Palmer
Transcript Legend

(sic) - Exactly as said.

(ph.) - Exact spelling unknown.

-- Break in speech continuity.

... Indicates halting speech, unfinished sentence or omission of word(s) when reading.

Quoted material is typed as spoken.

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PROCEDINGS

MR. RAFFENSPERGER: It’s 9AM, and we’ll begin, and I’ll call the meeting into order, and if we could start off with — Matt, since you’re here, do you want to do the invocation?

MR. MASHBURN: I’d be glad to.

(Invocation)

(Pledge of Allegiance)

MR. RAFFENSPERGER: Okay. Okay. If we could just do an official roll call, Mr. Worley, are you here?

MR. WORLEY: Yes, I’m here.

MR. RAFFENSPERGER: Great. Ms. Le?

MS. THOMAS: Ms. Le, you’re self-muted right now.

MR. RAFFENSPERGER: Ms. Le?

MS. LE: I’m here. Yes. I’m present.

MR. RAFFENSPERGER: Great, and Mr. Mashburn’s here.

MR. MASHBURN: Yes.

MR. RAFFENSPERGER: And myself. We have everyone. Okay. Item number two on the agenda is the approval of the board minute meetings from August 27th, 2020. Members of the Board, you have that before you to review. Now would be the appropriate time for a motion.

MR. WORLEY: This is Mr. Worley. I make a motion that we approve the meeting minutes of the August 27th meeting.
MR. RAFFENSPERGER: Thank you, Mr. Worley. Do we have a second for that? Do we have a second?

MR. MASHBURN: This is Matt Mashburn. I second.

MR. RAFFENSPERGER: We have a second. Do we have any comments about the meeting minutes, any additions, changes, or anything else you wish to make? Hearing none, all those in favor of the minutes as presented, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? None opposed.

Motion carries. Okay. Now, we move on to the third point of the agenda, public comments. And I believe our staff member, Ms. Thomas, will be managing that process. How many folks do we have signed up for comments?

MS. THOMAS: So far, it’s about ten folks.

MR. RAFFENSPERGER: Ten folks. We’ll allow two minutes each, and we’ll go ahead and handle that right now, so who is the first person we have?

MS. THOMAS: First, we have Liz Throop.

MR. RAFFENSPERGER: Okay. Ms. Throop, good morning.

MS. THOMAS: You’re self-muted right now.

MS. THROOP: Good morning. Thank you. I’m Liz Throop, and I live in DeKalb County. The first duty of the State Election Board is to supervise and coordinate the Office of the Secretary of State and others to obtain
uniformity in practices and proceedings and legality and purity in all primaries and elections. The fifth duty of this Board is to investigate the administration of elections and to report violations to the Attorney General or appropriate DA for further investigation and prosecution. No investigation into Fulton County’s role in the June 9th absentee ballot delay can be meaningful without this Board’s thorough review of the role of the Secretary of State.

Why did the Secretary of State tell 6.9 million voters to go ahead and send emails with image attachments to counties without first establishing dedicated email addresses and servers to handle the traffic? Did Secretary Raffensperger even ask counties if this was going to work? Small counties, especially those with sparse Internet availability, might not have had troubles, but Fulton has over 800,000 registered voters. What email account do you use that can handle that kind of traffic? While Fulton’s actions weren’t criticism, your actions will be a sham unless you take an honest look at all the relevant parties. Thank you.

MR. RAFFENSPERGER: Thank you. Our next speaker, please?

MS. THOMAS: Next, we have William Brown.

MR. RAFFENSPERGER: Mr. Brown?
MR. BROWN: Can you hear me?

MR. RAFFENSPERGER: Yes, sir.

MR. BROWN: Okay. Thank you. I didn’t understand the instructions last week, so I was planning on speaking then, but here I am now. My name is William Brown. I live in Sandy Springs, Fulton County, and I have three parts of my comments. One is my obtaining and submitting an absentee ballot for the June 9th primary. My wife and I mailed the absentee ballot request on April 10th. She received hers on April 27th, and eventually her vote was received by the county on May 22nd. Mine never arrived.

In 11 exchanges with 5 different people, Secretary of State’s Office, Fulton County, and my representative in the Georgia Senate, eventually, I received a ballot May 26th. I put it in a drop box May 28th.

Next, I tried to learn what happened to my ballot. I made status requests starting June 5th through -- excuse me, June 5th through July 20th. 14 exchanges, 8 people, Secretary of State, Fulton County, and the Georgia Assembly rep -- 7/20, July 20th, I filed an Open Records Request. My GA representative said my vote had not counted. I learned that from him on August 5th. I emailed the ORR administration on August 17th because I had no response, despite the law requiring a three-day response.

I received an ORR administration email on August 19th,
saying it appears Fulton County never received my ballot. So I’d like to ask, how do I find out where my ballot is? I put it in the drop box, and according to the Secretary of State’s ORR administration, it never was received by Fulton County. That’s the end of my comment. I want to find out how to know what happened to my ballot, and I think that will help everyone in case the same thing happens to them.

MR. RAFFENSPERGER: Thank you, Mr. Brown. Our next speaker?

MS. THOMAS: Next, we have Patty Nathan.

MR. RAFFENSPERGER: Ms. Nathan?

MS. THOMAS: You’re self-muted right now.

MS. NATHAN: Good morning. I’m Patty Nathan from Sandy Springs, Fulton County. Rather than expending our limited state and county resources on investigating Fulton County, you should be resolving all the technical issues and breakdowns across the state. Problems so significant that they required at least 20 counties to extend their voting hours. Thank you.

MR. RAFFENSPERGER: Thank you, ma’am.

MS. THOMAS: All right. Next, we have Rhonda Martin.

MR. RAFFENSPERGER: Ms. Martin?

MS. THOMAS: You’re self-muted right now.

MS. MARTIN: Can you hear me?
MR. RAFFENSPERGER: Yes.

MS. THOMAS: Yes.

MS. MARTIN: Okay. My name is Rhonda Martin. I am a Fulton County voter and a board member of the Coalition for Good Governance. At a recent Fulton County Board of Registration and Election meeting, I presented my Christmas in November wish list. I’d like to share it with you now. The first gift I want for me and all Georgia voters is an efficient portal to use to request an absentee ballot. Thank you for already granting this wish. I found the new portal very easy to use, and MyVoter page shows that my application was received, and my ballot will be issued on September 18th.

Second, I want drop boxes distributed throughout the state in obvious and convenient locations. With all of the concerns about the USPS, drop boxes are going to be more important than ever. Unfortunately, there’s a lot of confusion about drop boxes. When discussing concerns about this recently with friends, many seemed to think that drop boxes were available at their polling places. It only makes sense, right? This underscores the importance of accepting absentee ballots in the usual places that people go to vote. They don’t want to stand in line. They have done their homework. Let’s let them turn it in and get the credit in the easiest possible way.
The third gift I want is for the scanners to be configured to reliably count every vote that a human would count. Technology should support our efforts not subvert them, and during adjudication, vote review panels should be encouraged to consult the original paper ballots whenever the ballot images seem unusual, for instance, when it appears that a voter has cast an entirely blank ballot. What’s that about? Vote review panels should feel comfortable investigating these issues.

Finally, when ballots are being hand-duplicated, I want the election laws and rules of Georgia to be followed. I want duplicate ballots to be marked as such and labeled so that the originals can be referenced when conducting audits. I hope you all are feeling generous and will do all you can to make my dreams for this next election come true. Thank you.

MS. THOMAS: Next, we have Laura Walker. You’re self-muted right now.

MS. WALKER: Good morning, everyone. My name is Laura Walker, and I’m from Columbus in Muscogee County, and I just wanted to volunteer to be a witness or someone that you question when you investigate all of the counties that had issues in the June primary. Muscogee County had -- probably about 10 of our precincts had early morning problems getting set up and delays because of deliveries
of machines, and we had lines all day at about five of our 
precincts. Our voting time was extended out -- from all 
of our precincts until 9PM, and we had line warmers out at 
one of our precincts who did not -- were not able to 
finish voting until 10PM that night, so I’m sure you’re 
not singling out Fulton County for any reason. I look 
forward to giving you my testimony or assistance when you 
come to check out all of the counties that had issues 
because of lack of thoughtful and realistic procedures for 
the state. Thank you.

MR. RAFFENSPERGER: Ms. Frances Watson heads up our 
investigation commission, so that’s who you should reach 
out to. Thank you. Our next speaker?

MS. THOMAS: Next, we have George Balbona. You’re 
self-muted right now.

MR. BALBONA: Can you hear me?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: Yes, sir.

MR. BALBONA: Hi, it’s George Balbona. I’m from Cobb 
County. I took a little field trip yesterday to go down 
to Chatham County, Savannah, to observe the hand recount 
for the State House District 163 election which -- run-off 
-- which was decided by 20 votes, razor-thin, worth a hand 
recount. I had a quick question. Clearly, -- let me say 
hand recount one more time. Why was there a Dominion
Voting Systems representative present all day for a hand recount? What purpose could he possibly serve? This is looking at paper, and that’s not really their forte. So, on top of being there all day, in a rather Three Stooges kind of way, whenever I tried to look at his name on his — on his credentials, he would flip it over or cross his hands over it. This is not transparency. He would not let me see his name. We played this game all day. Why?

On top of that, Russell Bridges and Thomas Mahoney, that’s the Elections Supervisor and the Chairperson of the Board of Elections, intimidated and threatened at least three people including myself, who were observers, with removal, unlawful removal. On top of that, I was made aware that Russell Bridges, the Elections Supervisor for Chatham County, doesn’t provide responsive information when somebody submits an Open Records Request. That is utterly unacceptable. I think he should be told by the Secretary of State about OCGA 50-18-70. This isn’t optional. You can’t choose to not follow Georgia Election Code, okay, or any part of OCGA, really. This cherry-picking is getting ridiculous. I just submitted two Open Records Requests this morning, one to Chatham County Board of Elections and one to the Secretary of State. I hope I will receive my responsive — initial response in three business days, and that they, you know, the cost —
anyway, --

MR. RAFFENSPERGER: Next speaker?

MS. THOMAS: Next, we have Aklima Khondoker.

MS. KHONDOKER: Hello, can you all hear me?

MR. RAFFENSPERGER: Yes.

MS. KHONDOKER: Thank you for convening this meeting, and thank you to everybody and your wonderful comments. I just want to say that I echo a lot of the sentiments that I heard from William Brown, from Patty Nathan, from Rhonda Martin, from Laura Walker, from other speakers today, and anyone who wants to get in touch to talk about these issues to work together and with the Secretary of State’s Office, my name is Aklima Khondoker. My email address is aklima@allvotingislocal.org. I am the Georgia State Director at All Voting is Local. We are a campaign housed with a leadership conference, and we are dedicated to promoting and protecting voting rights.

Now, Fulton County’s processing issues were apparent because it is one of our most populous counties, not because other counties did not experience issues. Fulton’s volume of applications and ballots outpaced other counties, so it makes sense that similar complaints were not wildly publicized. But as Mr. Worley noted at the last meeting, one person denied their vote is too many, and we must work together to ensure that no voter is ever
disenfranchised. We, along with other voting rights
groups, have recommended that the Secretary of State’s
Office provide clear mandates and uniformity for all
counties to follow not just suggestions, so that
processing delays due to an influx of absentee ballots do
not jeopardize votes.

Specifically, applications must be issued immediately
and not held for indiscriminate processing times. The MVP
site must also be updated immediately with when
applications and ballots are received and processed.
Absentee ballots must be sent to voters immediately with
enough time for voters to cure any issues, and more staff
is necessary to ensure that all counties can process
applications and ballots correctly ahead of time. Your
office must provide mandatory directions to county offices
so that our voters are not disenfranchised in November.
Investigating individual counties is not enough.

We are open to working with the Secretary of State’s
Office, to communicating with voters, and helping the
process along. Please connect with us. Again, my name is
Aklima Khondoker. My email address is
aklima@allvotingislocal.org. We are connected with other
civil partners in doing this work. Please connect with
us. We are happy to work together to ensure that our
elections work more efficiently and effectively for all of
our voters. Thank you.

MR. RAFFENSPERGER: Thank you, ma’am. Next speaker?

MS. THOMAS: Next, we have Dawn Ginnaty. You’re self-muted right now.

MS. GINNATY: Good morning.

MR. RAFFENSPERGER: Good morning.

MS. GINNATY: Thank you for the meeting and allowing us to speak. My name is Dawn Ginnaty. I’m from Fayette County. I am a proud voter and very happy that we are all on the same page. We all want to have equitable elections. However, what we saw -- the lines that we saw, the suffering that we saw for -- in order for people to be able to vote in the -- in the last several elections is an embarrassment as a Georgian. I’m sure we all feel embarrassed, and that’s why we’re all here, and we’re all -- want to work hard for the next election. And it’s this Board’s responsibility to make sure that that happens throughout all of Georgia.

We should be investigating any -- any long lines that occurred in the last elections and ensure that that doesn’t happen going forward. Every person’s right is to be able to vote. All the speakers made wonderful points. I especially want the gentleman who had missed -- was unable to vote or his vote wasn’t counted, how can -- you know, when you have that, you need to -- we all need to
know why that happened. A vote was cast. It was presented, and it wasn’t counted. The precinct -- we’ve heard that there are precincts that are being changed and maybe larger precincts areas. I want to know that -- how are the voters being -- being notified of the changes in their precincts. It’s wonderful that the -- there’s a large facility in downtown Atlanta that will house a precinct --

MS. THOMAS: Thank you, Ms. Ginnaty.

MR. RAFFENSPERGER: Thank you. Next speaker?

MS. THOMAS: Next, we have Paula Bosworth. You’re self-muted right now. You’re unmuted. You can speak now.

MR. RAFFENSPERGER: Okay. Next person? That’s the tenth speaker. Is there one more? That’s it? That’s everyone?

MS. THOMAS: That’s all.

MR. RAFFENSPERGER: Okay. Great. Thank you for your public comments today. Before we get started with the investigation, we’d like to allow our Board members to make any opening comments that they might have. Mr. Worley or Ms. Le, would you have any opening comments that you would like to share with the Committee and the public before the investigation is opened?

MR. WORLEY: This is Mr. Worley. I do have an issue that I want to make a statement on. Earlier this week,
Judge Ross in US District Court issued a ruling allowing counties to count absentee ballots that are returned within three days after the election as long as they were postmarked on Election Day. I’ve had the opportunity to read Judge Ross’ ruling. It’s carefully thought out. It’s a very reasoned decision. I think it sets a standard that is consistent with how we treat military ballots, and I think it’s the right thing to do.

There were a number of claims that were brought in the case that Judge Ross dismissed, but she did rule on behalf of the Plaintiffs on that one issue, and I think she did so correctly. I was disappointed to read in the paper that the Secretary of State planned to appeal Judge Ross’ decision. I don’t think that’s good or -- I don’t think it’s good for the State. I also don’t think it’s good for the voters. I think an appeal or the prospect of an appeal will only lead to more confusion. I think it’s important that we have a consistent rule right now that is understood by all the counties.

So number one, I would urge the Secretary of State not to appeal Judge Ross’ decision. Let’s respect it, deal with it, and move on. Second, I intend to inform the Attorney General and our outside counsel in the case that I have no wish to appeal that decision as a party in the case and to instruct them not to file an appeal on my
behalf. Thank you.

MR. RAFFENSPERGER: Thank you. Do we have any other Board members that wish to speak? Mr. Mashburn?

MR. MASHBURN: I -- I’m going to take my mask off just to make my transmission more clear. I also read Judge Ross’ opinion, and I appreciate my colleague David’s comments. I think, as usual, his comments are well thought out and well spoken. I just happen to disagree with the conclusion that he has drawn in that military ballots have a special place in that we have heroes out on the front lines defending the country in harm’s way, and so a little bit of extra accommodation in that regard doesn’t bother me.

The thing that I am concerned about -- and David and I and the rest of the Board and the Secretary of State, the staff of the Secretary of State, and the counties have been working so hard to respond to COVID, and in fact, we have drawn -- some report had us number one in the nation for responding to COVID in the steps that we have taken. And so the Board has been proactive, the Secretary of State has been very proactive, the staff has been very proactive, and we’ve worked very, very hard to set up a carefully balanced system. And one of the precepts that I’ve always followed is that votes should not be cast after the polls have closed.
And the judge’s order, by allowing votes to be counted as long as they’re postmarked by midnight, I fear is going to create a problem with campaign staffs who have now heard the results of the election going to those voters who have absentee ballots that haven’t been cast, and -- and -- I fear -- my fear and one of the fears that we’ve -- as we’ve crafted, carefully crafted, this system through months and months and months of hard work, has been that we don’t want to increase the likelihood or the incentive for ballot harvesting or voter intimidation.

And I fear that in the five hours after the polls close and the midnight that these order opens up the citizens of Georgia to intimidation. It opens up to ballots being cast after the polls have closed that will be counted. And therefore, I would instruct please the Secretary of State’s Office to immediately appeal, and if they need one of the parties to authorize it, I authorize the immediate appeal, and I hope -- while the majority of that opinion I thought was well reasoned and well thought out, I hope this portion of the opinion will be reversed on appeal. Thank you.

MR. RAFFENSPERGER: Thank you, Mr. Mashburn. Do any other members have any comments on any issues that they’d like to discuss before we get into the investigation report?
MS. LE: This is Anh Le, and I would just echo some of Mr. Mashburn’s thoughts. I -- I definitely appreciate Mr. Worley’s thoughts, but I don’t think that UOCAVA voters and local voters, in state voters if you will, can be completely compared -- I guess on equal grounds, in terms of availability and resources. For one, we’re making special rules for local voters or in state voters such as drop off boxes and other accommodations that UOCAVA voters do not have access to.

There’s also voters overseas with timing considerations, dates, you know, with how fast and how soon the ballots can get to us here in the state, and sometimes they’re a day behind, day ahead. So they’re -- it can’t be completely in parallel. And those rules are made -- or the laws for the three days extra for UOCAVA are to accommodate those differences. And given the resources that we’re doing and making available to in state voters, I don’t think it’s completely correct to make one completely in sync with the other given the different accommodations that they need. And I think for that reason, I would lean towards Mr. Mashburn’s thought on this one. Although I very much appreciate Mr. Worley’s thoughts as well.

MR. RAFFENSPERGER: Thank you, Ms. Le. I will say that we always want to be -- make sure that for our
military voters, that we reach out to them. When you think about their dedication and sacrifice, we always want to make sure because they’ve gone above and beyond the call of duty because when they do sign up for military service, in effect -- I mean, it’s in effect a blank check and sometimes that check gets cashed. They pay the ultimate price of their life, so if there’s anything that we can do to just extend those three days for our military overseas, then we’ll help those folks. And also, if you think about things that we’ve done in the past, that my father had the opportunity to take advantage of after he fought in World War II -- we’ve always done these things. I think it’s a wonderful thing about our nation, and so I appreciate the comments of Ms. Le about the strong distinction between the sacrifice that the military folks make for our nation, and so we’re very grateful for that.

With our investigation report, Ms. Watson, we’ll turn that over to you with the new case. And then you might have some other speakers, but I’ll let you introduce them, if you want to present SEB Case 2020-027. The floor is yours.

MS. WATSON: Yes. That’s correct. Yes, at first, I would like to have the Elections Director Chris Harvey to say a few words before I present.

MR. HARVEY: (sound goes in and out, Mr. Harvey
repeats his comments later in the meeting.) Good morning, Mr. Secretary. I just wanted to say a few words before this presentation starts. I don’t feel like I need to rehash the comments I made last week regarding the COVID response. (???) I just want to remind the Board members that (???) I also want to say just a word or two about Fulton in response to some of their comments and things that they said, the idea that this is a kind of persecution case of Fulton County. I disagree with that characterization. I think that (???) I think one of the differences here is that we see so many problems sort of rose through the (???) and I think the goal is to identify issues and find solutions in order to work together so that (???) we want to make sure we’re working with them and working towards a resolution with them. (???) So I just wanted to remind the Board of the situation that Fulton County and the rest of the state is in (???) and sort of identify that it’s not a -- it’s not exclusive to Fulton County. It’s something that we’re dealing on (???)

MR. MASHBURN: Mr. Secretary, may I ask that the record from the previous hearing be included in today’s record?

MR. RAFFENSPERGER: Is there any objection? Hearing none, so ordered.

MR. MASHBURN: Mr. Secretary, this is Matt Mashburn.
I move that the record from the previous hearing be included -- as unanimous consent, to the record from the last hearing being included in this hearing.

MR. RAFFENSPERGER: Any objections? Hearing none, so ordered.

MS. WATSON: Okay. I’m ready to present. Again, this was SEB 2020-027, Fulton County, and this is mainly dealing with issues that were presented on Election Day. The -- the first category of complaints involve polls opening late, and we identified 12 locations that opened late, Adams Park Library, Camp Truitt Senior Center, Clifton Church, Jackson Warren T School, Lindsay Street Baptist, Morris Brandon, Park Tavern, Pittman Park, Southwest Arts Center, the Fairmont, Wills Park Recreation Center, and Woodland Elementary School. Two polls received the wrong equipment. They were swapped. One received the other and had to be delivered, which created an issue with them opening late. One of the complainants stated they showed up to vote at 6:45 and at 7, they were still not ready. We were told at 7:30 that they were waiting on supplies. The polls did not open until 7:50, then it took other 40 minutes for the voting to begin.

We had many complaints from voters that their polling locations were changed, voters at the incorrect polling location due to the poll location changes and reports that
they received no notice of the change. There were 45 polling locations that were changed, eight due to renovations, one was closed, and 32 due to COVID-19 closures or concerns, and four the reason was unknown, and this was according to Fulton County. Many of the voters received a notice in the mail that was dated May the 22nd, 2020, but was not received until after the election on June 9th, 2020. This created confusion and delays at the polls with voters showing up at the incorrect location and not being able to find where they were supposed to go.

There were many complaints due to the long lines. Overwhelmingly, the biggest complaint was the long lines and the slow rate that the line was progressing, reported up to wait times of 6 hours. Some of the issues that resulted in the lines were due to some of the polling locations having to be relocated or changes in the polling locations. It created some locations that had many voters that were assigned to that location with not enough resources to process in a timely manner. For example, Park Tavern that had approximately 16,000 voters assigned to the location on Election Day.

Poll worker lack of training led to delay in setting up, operation of, and trouble-shooting basic issues with the equipment. The wrong equipment and/or supplies not available created delays in waiting for equipment and
supplies to be delivered. The inability of the poll
managers and the poll workers to contact the elections
office on Election Day: poll managers expressed difficulty
in reaching the elections office to report issues,
requesting assistance, and verifying voter information.
The delay in technical support, an example was Christian
City -- City requested a technician at 7:30AM and did not
arrive [sic] until 3:30PM.

Complainants report the reasons for the long lines
were not enough poll workers, poll workers not properly
trained, and polls opening late. Forty-nine percent of
the poll managers expressed that they did not feel that
they were adequately trained at operating the voting
machines. Thirty-five percent of the poll managers did
not believe they had adequate staff on Election Day.

The ADA issues that were reported -- we had two
complaints. The second, possibly on Baptist Church
precinct, there was no headsets, the ATI, available at the
poll site for a voter who experiences blindness to cast a
private ballot. Also, at Peachtree Hill Recreation Center
polling site, a voter who experiences blindness could not
independently verify information and party affiliation on
the tablet upon arrival. There was no headset, the ATI,
or controller available on site upon arriving. He chose
to stay and wait until they could get that equipment there
on site. Once it was on site, the poll workers had
difficulty in setting it up and operating it. It took
over four hours for him to be able to -- to cast his vote,
but he stayed and made sure that that was done.

Multiple poll locations without the required signs
posted: this is also bound to be the case in the August
election. When the investigators were out doing their
poll monitoring, some of the signs that were not posted:
the card of instruction, the notice of penalties, the
voting rights poster, voting instructions, and the notice
of the elderly. There were no oaths signed by the poll
workers at the Messiah precinct in Pittman Park. There
was no seal on the scanner at one location, and no poll
worker badges at Pittman Park. St. James Methodist Church
precinct advised two voters they did not have an extended
hours paper ballot with the PPP available for them to
vote, so those two voters cast ballots without the PPP on
the ballot.

We identified training as an issue, a lack of
training. The poll managers that we talked to, we asked
them what their experience in working at the polls were.
We found that, overall, that they were not new to being a
poll manager, but they were new to this equipment. Most
poll workers had little if any training on the actual
machines themselves. The online training that Fulton
County offered did not properly prepare the elections staff to conduct the election. They did not know how to set the equipment up. Some reports were that they were having problems turning the machine on. They didn’t know to hold the button down for a few seconds to make the -- to power on up the equipment. They didn’t know how to deal with the issues such as paper jams and error messages. They had great difficulty in reaching anyone at Fulton County to get assistance when they had issues at the poll location. Some precincts had techs and some did not. The poll workers expressed not having enough training in provisional ballots, emergency ballots, and extended hours procedures.

Poll managers voiced complaints regarding instructions that were not clear, requested more hands-on training with smaller class sizes, and basic troubleshooting and training on equipment for the poll workers to include mock set-up and closing, training in all the new forms with checklists for each package at the end of the night to make sure everything is included in their packages. Equipment issues that were reported to us from the poll managers in our phone interviews and in their questionnaires: they expressed concerns in the poll pads that they had false positives when scanned driver’s licenses. The search looks for various match points, and
it’s up to the poll worker and the voter to verify the
information is the voter, but we’re still researching this
to verify exactly what the issue is there.

The poll pads failed to show the voter registration
number, needed to be rebooted, would go offline or fail to
sync. If the voter access card was not inserted into the
encoder all the way, it wasn’t -- it failed to sync
properly. The card would not properly encode. This
created a situation where the voters would go back, and it
would have to be encoded again, which, again, created a
delay. The BMDs failed to power on, again, a training
issue on how to set up and power on. Display asking for a
code: a training issue to identify what the codes are and
how to deal with those -- those displays. The need for
the BMD to be reset, error signals -- it stopped working,
invalid activation code, again, addressed through
training. At 8:30 to 9PM, BMDs started to shut down,
which, I believe, is a training of how to set up the power
supply for the machines.

The scanner paper jams, repeated complaint: in our
poll monitoring, -- this came up more in Fulton County --
there was a metal box that Fulton County had that seemed
to have a paper jam. There was some internal ledge that
the paper would catch on and would not drop fully into the
-- into the box. Again, reported that UPS failed, and
they had to be rebooted and that they were too slow.

Supplies and forms not provided on Election Day:
there were no recap forms provided to the precincts. To
resolve the issue, as the machines and paperwork were
submitted to the warehouse, the recap forms were completed
by other staff with the managers being contacted later to
come in and sign the forms. Some did not have the poll
zero count sheet, the numbered list form, or provisional
inner and outer envelopes. Not enough seals were
provided. When they would have to open up the ballot box
in order to clear a jam, they would have to take the seal
off, and then you have to reseal it, so you’re using more
seals when you’re having to -- having to do that
throughout the day. Printer paper, power strips, missing
cords for the poll pads, missing extension cord for the
carry box, missing log-on passwords for the poll pads --
fifty-four percent of the poll managers that we spoke to
advised they did not have adequate supplies for Election
Day.

Our recommendations are that we’re recommending that
Fulton County Board of Election and Registration and
Fulton County Director of Elections Richard Barron be
bound over to the Attorney General’s Office for the listed
violations. If you would like for me to read all of the
violations, I would be happy to do so.
MR. MASHBURN: I ask for unanimous consent that the violations be included directly in the record.

MR. RAFFENSPERGER: Any objections? So ordered.

MS. WATSON: That concludes my presentation.

MR. RAFFENSPERGER: Okay. Fulton County, if you could speak at that podium there, that way we’ll pick you up on the mic.

MS. PALMER: Good morning. My name is Amanda Clark Palmer. I’m here on behalf of Fulton County. I was at the hearing last week, so it’s nice to see some of you in person, and good morning to everybody else who’s on the phone. Yet again, Fulton County finds itself in the crosshairs of this Board for alleged that occurred during the June 9th election. As we said at last week’s hearing, the June 9th election was unprecedented in just about every aspect, and the employees of the Fulton County Board of Elections exhibited heroic efforts to conduct a successful and inclusive election.

These employees and the volunteers who assist during an election are people who strive every day to achieve the most efficient election process that is possible. Their efforts to maximize absentee voting, early voting, and Election Day voting reflect their belief, shared by all, that our country, state, and county depend on the voting electorate for our democratic system of government to
thrive. Not a single Board member, staff member, poll worker, or volunteer has ever shirked his or her responsibility, and they receive very little credit for their work. They do not deserve to be vilified, and yet, that is how they feel right now, being the only county that has been called to account before this Board for the June 9th election. No one who works for the Board or the County Registration and Election Office is perfect. No one is clairvoyant or able to predict natural disasters, such as a pandemic, but they are absolutely above reproach when it comes to their dedication to their jobs.

It’s not possible to overstate the effect the coronavirus pandemic had on the elections in June and August, to say nothing of the absentee ballots and early voting in the spring and summer months. You heard about that last week, and I’m not going to repeat my comments today, but you know that despite all the challenges Fulton County faced, the staff continued to do their work, handling over 140,000 absentee ballots for the June election, which was a gargantuan increase of the expected amount, and ultimately pulled off an election where 233,000 people voted.

The State Board did recognize Fulton County’s efforts at the hearing last week and yet found probably cause to bind the case to the Attorney General because it seems
that a violation is a violation, and that’s all it takes
to bind a case over. Respectfully, I say that is
insulting because it seems only to apply to Fulton County.
The issues that Fulton County experienced during the June 9th election were not unique to them. I heard some of the callers mention issues with other counties this morning, and we know that many other counties, including ones in our metropolitan area, as well as rural counties that are hours away, experienced long lines, malfunctioning voting machines, and not enough poll workers, just to name a few. All issues caused by the pandemic.

If a violation is a violation, then why is it that not a single notice of violation has been issued to any other county in the state for the June 9th election? If a violation is a violation and nothing more must be shown, it would seem that notices of violation should have been issued to virtually all 159 counties in our state. Perhaps the Secretary of State receives more complaints about Fulton County, but Fulton County also has the largest number of voters. Fulton County is where the Secretary of State had its investigators going to various polling locations, looking for any possible election law violations.

Now, I’m not here to suggest that that’s actually what this Board should do. I don’t think you should
chastise Cobb County, Gwinnett County, DeKalb County, or Chatham County. I think you should praise each and every one of those counties for their dedication to this election.

The Fulton County Election Board and the staff that work tirelessly from March -- really, earlier than March through today to improve voting procedures accept responsibility for the problems that occurred despite their best efforts, and we’re prepared to address those violations that are contained in your notice of hearing. We also submitted a letter brief yesterday, which I believe was included in your materials, where we really gave a lot more specifics in responses to some of the allegations, and you know that we’re not claiming they were no problems. We recognize there were, and we’re not claiming that the election ran flawlessly, and we know there were problems with the machines, and the signage, and the lines, but we explained to you what the cause of those problems were.

And I think more importantly, and what I really want to focus on, is the steps that Fulton County has taken to make changes and improvements and things that have been implemented to address those issues that arose in June. And so I want to highlight some of those for your consideration today. First, Fulton County has made
arrangements to increase the number of the advance voting locations for the November election to 24. They didn’t plan to have only, you know, 5 to 8 early voting locations available for the June pandemic, but with the fears about the coronavirus, as well as the extremely late notice of the renovations to Grady High School, that was really ripped from their control, but they now have made arrangements that are in place to make sure they have 24 advance voting locations for the November election. And as you know from our brief, in the June election, there were only 5 locations available at the beginning of the early voting period, and that number increased to 8 by the third of the week -- by the third week of advanced voting.

Second, Fulton County has resumed in-person training. They were unable to conduct in-person training for a time period before the June 9th election, but that has been resumed and will be conducted frequently and at regular intervals before the November election. And in fact, there will be some poll workers, you know, by virtue of having worked in the various Election Days coming up to November, who will have received multiple in-person training sessions before the November election. And previously, poll workers had to pass a 10-question examination at the end of the training in order to be certified as a poll worker. That has been changed, and
they now have to pass a 20-question examination before they are certified.

Third, Fulton County will have a technician present on site at every precinct on Election Day. These people will be available and trained to deal with any technical issues that arise with the equipment. There will also be three call centers available with approximately one hundred operators to answer calls from both poll workers and voters with any concerns on Election Day.

We will have -- by virtue of having more locations available, we're going to have fewer voters per location, and that will improve the issue with lines and delays in voting. Fifth, the poll workers are going to have more experience with these new machines, and we fully expect to see fewer technical issues with people not remembering where to go to troubleshoot any problems with the machines. So we will no longer have, you know, people who are novices at working these new voting machines.

Sixth, with improved absentee ballot procedures, we expect that absentee voters will not be showing up at the polls insisting on their right to vote, which ultimately causes a delay because the poll worker has to prepare an affidavit and follow some certain procedures in order to cancel that previously requested absentee ballot. And we want to thank and applaud the State for creating the
online portal that we think is going to be able to greatly facilitate the absentee voting process.

And since we talked about included the minutes from last week, I would ask you all to remember the other comments that we made about improvements in the absentee ballot process that we talked about last week. We can also address if anybody has any questions about the specific alleged violations or any other questions that you have. We have some employees with us here. Rick Barron is here, as well as Nadine is here. Johnny Harris is here. They are employees of the Fulton County Board of Elections. Johnny can speak to training, and Nadine can speak to supply issues and equipment issues, if anybody has any questions for them. So at the end of this matter, this Board should vote to close and dismiss the matter rather than taking any other action. And to be fair and just, you should also thank the hard work of the Fulton County Elections Board and their staff, and they deserve far more than just a simple we bind this over to the Attorney General’s Office based on probable cause.

MR. RAFFENSPERGER: Are there any other comments anyone on your side would like to make?

MS. PALMER: No. That’s why we submitted the brief yesterday because otherwise, I think I’d be standing up here for probably 30 more minutes, but if any of the Board
members have questions, we do have the people I mentioned who are available to answer them or address them, or I could do that as well.

MR. RAFFENSPERGER: Okay. Thank you, Ms. Palmer. Let’s hear from the first person who’d like to speak. If they could provide their name, and then expound on the issue that they’ve had.

MS. THOMAS: So the first complainant is Micah Ascano.

MR. RAFFENSPERGER: Okay.

MS. THOMAS: Yes, sir. You’re able to speak now.

MR. RAFFENSPERGER: Go ahead, sir.

MR. ASCANO: Thank you. So again, I’ve submitted some comments in writing, and I’ll highlight a few points from -- from what I submitted before, but when I showed up to the polling place early, for early voting, I mean, the line was fairly long, but a poll worker told me it was only about an hour wait, and I figured that must be correct because we’re all trying to socially distance, space it out, and that would make it longer. About an hour and a half later, they said it was going to be about another hour, and at the end of the day, it took close to four hours. I -- I looked back at my watch and my schedule and realized it was about three hours forty-five minutes from the time I stood in line to the time I walked
out the door, and that doesn’t include parking or anything else or getting there, which is a good chunk of my day, when I originally intended to take my lunch break, go vote, and get back to work. So I had to manage a lot with my boss to say, like, I’m so close to voting, and then I’ll get back to work.

But for me, it’s -- it’s very frustrating to see some people leave the line. One gentleman had his wife pick him up, take him to a gas station to go to the bathroom, and come back because he didn’t know if there were facilities at the front of the line or if they were accessible due to the pandemic. There was no food or water offered until I probably got up near the front of the line. I don’t know if that’s common or part of the voting process because honestly, I’ve never had to be in the line long enough where I’d think about going to the bathroom, getting water, or needing a snack to stay awake.

It -- it was a very frustrating experience that again, I think someone just mentioned that most of the problems were on Election Day. This was early voting. It was four hours in the middle of the day, early voting, and to see people in such miserable conditions and such confusion and not much communication from poll workers. No signage where we were in the back of the line to call anyone to ask for, you know, what’s going on, can we fix
this -- there was just no communication, no process. And even when we got inside, it wasn’t even clear where you could vote. The machines honestly -- because there were multiple sides to the machines, well, we didn’t know there was a backside, so consistently I saw one of the backsides of the machines not being used because who would go behind the machine to look to see if you could vote there? It wasn’t intuitive, and it was just a very frustrating experience.

Again, I’ve mentioned most of this already in my written comments. But I wanted to reiterate some of those things and just say as kind of extra color commentary that I -- the machines may be new, but the demographic of the poll workers tends to be more older people, who, in my experience, are less technically savvy, and if that’s your demographic of people working the polls, you need to have the process and technology to cater to that demographic. I voted in August at the Atlanta Hawks stadium to a much younger demographic who was very comfortable with the technology, and one of them flat out told me it really wasn’t that hard, but that’s because they’re a younger generation who understands technology. And I’ve personally worked with dealing with process technology with a lot of older employees, and I have to build the process and technology around them at their level, and to
me, that just makes common sense, and I don’t know if that’s a fault of a particular department or the vendor or whoever, but to me, that seems like a fundamental thing. You don’t take the highest, most complicated piece of technology and give it to someone who can’t turn on the iPad. And sorry, I’m frustrated, but those are my comments, and I thank you for your time.

MR. RAFFENSPERGER: Do we have another speaker?

MS. THOMAS: That’s the only one right now.

MR. RAFFENSPERGER: That’s it?

MS. THOMAS: Yeah. If anyone else would like to speak towards this case, please raise your hand right now or write in the comments box so we can give you a chance.

MR. RAFFENSPERGER: Okay. Well, we’ve heard from Fulton County. We’ve heard from the complainants, though there may be some other comments. Board members, we have before you SEB Case 2020–027, what comments would you like to make or what questions do you have, or do you want to make a motion about -- what is the disposition of the Board?

MR. WORLEY: Mr. Secretary --

MR. RAFFENSPERGER: Mr. Worley?

MR. WORLEY: I’m sorry. Ms. Le can go ahead.

MR. RAFFENSPERGER: No. It’s -- Mr. Worley, you go ahead. You spoke up first. Go ahead.
MR. WORLEY: All right. I had -- I had -- before making any comments, I had a number of questions for Ms. Palmer.

MR. RAFFENSPERGER: Okay.

MR. WORLEY: Ms. Palmer, thank you for the letter brief. That was very helpful and cleared up a lot of issues in my mind, but I did want to follow up on a few of the points that you made. First, on page 4 of your letter brief, you have an item 4 that begins, “the complications with absentee ballots,” can you see that?

MS. PALMER: Yes.

MR. WORLEY: Okay. I -- I had a question regarding a statement you make there. You say though the number of absentee voters reduced the number of Election Day voters, this was more than offset by the number of Election Day voters who came to the poll after having registered as an absentee voter, which required the preparation of an affidavit, et cetera. Are you really saying that -- I mean, is that really mathematically possible? Because it seems to me what you’re saying is that most of the people who requested an absentee ballot didn’t get one, and I -- I’m sure that -- I certainly hope that that’s not the case.

MS. PALMER: Yes, Mr. Worley. What I meant -- not that there was a one for one in terms of the number of
voters, but that the people who had to come to the polls
because they had some kind of issue with their absentee
ballot would increase the amount of time it took for them
to vote. You know, it would take longer for somebody like
that to vote than it would for somebody who was just
coming to vote without having requested an absentee
ballot, and so that extra time, you know, would delay the
line and impact the, you know, time and speed with which
that particular precinct may be able to process their
voters. That’s what I meant.

MR. WORLEY: Okay. Thank you. I had some other
specific comments about -- or specific questions about
some of your responses that you itemized later in the
letter brief. Item two that -- about the Fulton County
Board of Elections failed to provide at least one
electronic ballot marker, do you see that? I’m sorry.

MS. PALMER: Oh, yes. Over on page 5?

MR. WORLEY: Yes. On page 5, and you indicate that
for item number two the precinct workers were instructed
over the phone about where to find the unit and that
problem was resolved.

MS. PALMER: On Election Day. They -- it was part of
the online training that they received, where all of the
supplies were located on the carrier, and then on Election
Day, there was one precinct that called and said, you
know, we can’t find the headset, and they were instructed over the phone where to find it.

MR. WORLEY: Okay. And then on your response to item three about the necessary Election Day forms, in your response, the second paragraph, you say the zero-county sheet was not provided in the Secretary of State’s supply store and Ful -- Fulton County was told not to bother using it. Who -- who told Fulton County that?

MS. PALMER: Could you bear with me one second, and I’ll get the answer to that for you?

MR. WORLEY: Sure.

MS. PALMER: I’m going to ask Ms. Williams, who’s here in the room. So Mr. Worley, my understanding is that Fulton County was told by their Chief, Mr. Evans, not to use it, and this was -- and Mr. Barron has confirmed that other counties received the same instructions with regard to that particular form.

MR. WORLEY: Okay. Thank you. And then finally, there’s an allegation that Fulton County -- and this is your response four on page six, for your response to item four on page six. The Fulton County Board of Elections violated OCGA section 21-2-99, instruction of poll officers and workers in election procedures. Could -- could you just elaborate on what -- why it is that you think Fulton County is not responsible for that kind of
violation?

MS. PALMER: Sure. So as I noted in our response, you know, they naturally had limitations with the pandemic on how to provide training that were kind of two-fold. And these -- these were things that were outside their control. Number one, they actually had trained over a thousand people in person before, you know, the pandemic hit. So then the pandemic comes, and now they have a large number of people who had previously been trained call them -- communicate to them and say I’m not going to be a poll worker anymore. Right? I don’t feel comfortable doing it. So they lost all of those people that they had previously provided in-person training to.

Secondly, given the conditions of the pandemic, and I would again ask everybody to kind of remember what, you know, life was like in March and April. I think that was really before we were wearing masks. It was before, you know, things had started to open back up in our state, and people were -- were really reluctant to leave their homes, which necessitated that Fulton County had to develop an online training within a very short time period. And they did that. It was -- Mr. Harris, am I correct? Was it a three-hour online training for --

MR. HARRIS: Closer to four.

MS. PALMER: Closer to a four-hour online training
session that they developed. It was offered multiple
times, and then they also did webinars with their poll
workers right before the June 9th election, where the poll
workers could call up and ask questions, and it was, you
know, more of an interactive thing. You know, look, I
recognize that virtual training, especially when you’re
dealing with new equipment, is not as good as in-person
training, but I just -- given the limitations that they
were facing at that point in time, I don’t know what they
could have done differently. You know, we’re dealing with
new machines.

I want to echo something that the complainant said
when he called. It does turn out that most poll workers
tend to be older. I think there are plenty of people of
all ages who are comfortable with technology, but I think
it’s fair to say as a general rule maybe people who are
older are less comfortable with technology, and I’m
certain that has some kind of impact when we’re talking
about this particular issue.

But they had a multi-hour training session. They
gave a test at the end of it to certify that people were,
you know, paying attention and retaining the important
information. You know, I just -- I don’t know how you can
turn at Fulton County and say well, if there were problems
at the polls that day, you know, with people who -- who
didn’t retain the information, you know, maybe because they didn’t have that hands-on experience or for whatever reason. I don’t see how Fulton County should be held responsible for that violation, given all the other circumstances that were at play.

MR. WORLEY: Thank you. Those are all the questions that I have. I’ll have some motions to make at the appropriate time.

MS. LE: I have a question for Ms. Palmer. This is Anh Le.

MR. RAFFENSPERGER: Go ahead, Ms. Le.

MS. LE: Ms. Palmer?

MS. PALMER: Yes.

MS. LE: I just wanted to ask if you can clarify -- I think you did -- you clearly laid out all the different steps that Fulton County took in training the poll workers, and in abstract, it sounds good in the sense that there’s a test and the materials fit together, opportunities -- multiple opportunities to ask questions -- as interactive as virtual can get. But given that it still fell short and in your words, not as good as in-person training, can you elaborate on what can -- what has been done, other than going through the steps in terms of substance and achieving that end result which is getting trained poll workers sufficiently trained, regardless of
the method of training, whether it’s in person or online, adequately and sufficiently trained and ready for this and future elections? I don’t think that the age gap should be -- I think it’s a consideration in terms of if someone isn’t as familiar with technology, but your training sessions, I’m assuming, should address all the different levels of -- of familiarity with technology. I’m assuming. So could you elaborate on how your county, Fulton County, is going to close that gap that they clearly missed in this last election, in terms of training? Even though I understand some steps were taken, I’m looking for substance. Thank you.

MS. PALMER: Sure. I’d be happy to. So Fulton County, as I said before, has resumed the in-person training. It’s offered multiple times at different locations throughout the county so that there are plenty of opportunities to be trained. I was just observing, on Tuesday I believe, down at the building that the Fulton County Board of Elections offices are in. They were conducting an in-person training. It was a small class size so that, you know, people could ask questions. They had the equipment in front of them to use it and interact with it.

And then as I said before, they’re -- we’re going to have poll workers who because they have now worked
multiple elections have more familiarity with the
equipment, so they’re going to have that kind of
institutional knowledge that they bring with them. And
then also as I said before, we’re going to have
technicians at every site in the November election who
will be on site and dedicated to that precinct, you know,
to be there to troubleshoot any problems there may be, and
we’ve expanded -- the number of people who were the call
center for the June 9th election was also impacted by
COVID. It was a lower number than Fulton County had
wanted to and anticipated having, and so they now have --
they will have a hundred people in the call centers for
the November election. So those few steps that I’ve just
outlined will address that issue that you raised.

MS. LE: Thank you.

MR. RAFFENSPERGER: I understand that we now have
four complainants. If we could have the first additional
complainant -- if we could have the first one?

MS. THOMAS: So first, we have Cigdem Oktem. You’re
unmuted, and you can speak now.

MR. OKTEM: Thank you. I hope you all can hear me.

MR. RAFFENSPERGER: Yes.

MR. OKTEM: Perfect. Thank you. My name is Cigdem
Oktem, and I just wanted to share a couple of thoughts
here. I echo the comments that have been shared by
others. I also was in the four-and-a-half-hour line to vote, encountered the kinds of issues that are being discussed, but beyond that, I also observed -- because I did do the subsequent vote, you know, did the subsequent voting opportunity that we had and did that in a different location. And so here’s something that I think is worth considering.

Given the fact that the current process requires voters to go through three separate lines to register, to check in and get the key card to then vote, and then to turn the key card in, if everything goes smoothly, we’re still talking 6 to 7 minutes, and that was a concern. As I think about anticipating the kind of volume we’re going to talk about for the fall, for the November elections, so I wanted to just be clear here that as you all are thinking about and very thoughtfully addressing the changes that are needed to ensure everything goes as smoothly as possible, the fact that the process itself even under the best circumstances does require a certain amount of time -- I hope that’s being taken into account so that that’s part of the assumption in looking at how many locations would be sufficient, how many poll workers, et cetera. Because that was a big concern that I noted when I kind of took a step back from the in the moment and looked at the overall process.
And just one thing to reflect on as well as I’m listening to the conversation here, there is one thing that is a little disconcerting which is I recognize that there was a crisis afoot and that impacts things, but most organizations have, you know, scenario planning and crisis planning scenarios that they walk through in advance so that when unexpected issues come up, there’s at least some sort of sense of a plan or what could be done. I haven’t heard any of that, so to the extent that that’s something worth considering for the future, I wanted to bring that up because most organizations these days both non-profit and for-profit are really dialing up their crisis planning and their scenarios because things happen that are unexpected. So I just wanted to share my thoughts on these and again, went through the painful process that everybody else has spoken about and beyond the observations I had, which they have already shared so I don’t want to repeat it, the fundamental underlying process itself, I think, calls for looking more closely at the number of resources that are needed to ensure everything goes smoothly. So thank you.

MR. FLETCHER: Hello? Can you hear me? Hello, can you hear me?

MS. LE: Hello, this is Anh. I can hear you, but I don’t hear anyone else.
MS. THOMAS: We can hear you. We can hear you.

MR. FLETCHER: (distorted sound) My name is Maceo Fletcher. I’m from Fulton County. I would like to say hello to David Worley. We’ve worked on campaigns in the past together. But my question is why is it that there’s always problems centered around minority areas, whether it’s the polls being moved or polls being closed or merging the polls or different aspects, but it’s always something preventing a mass of people from voting. And they can’t vote because there’s a problem or a technical difficulty, and we know because we see them out there. Jesse Jackson came in and the ACLU found it was suspicious, so it seems like there’s always some sort of voter suppression in the minority areas. I can’t hear anything. Can you fix the audio, please? This feels like voter suppression right there.

MR. WORLEY: Hello, this is Mr. Worley. Did Ms. Palmer want to respond to that?

MR. RAFFENSPERGER: Would anyone like to address any of the comments or questions that they brought up?

MR. HARVEY: I hope you’re not talking about the last call. I couldn’t understand it. Okay. But generally, the questions or comments that have been made -- and I understand there may have been some difficulty hearing me when I made my comments at the beginning of the meeting,
so I’ll -- I’ll reiterate them again, I think, for the people on the webcast. Again, I wanted to just reiterate what I said in the previous meeting about the situation that Fulton County and the rest of the state were under in the June election. All those comments made then, I would repeat them, but save everybody the time to actually go through that.

Some of the questions -- and I responded also at the beginning of the meeting to the issue or the idea that Fulton County was somehow being unfairly singled out or criticized. I don’t think that’s -- that’s an accurate characterization. The numbers of complaints we got and sort of the depth and scope of the complaints indicated to me that there were some pretty fundamental issues that we wanted to make sure we got resolved before November. Yes, there were other counties that had problems, and frankly, there are a number of other counties that have investigations that are being undertaken by Ms. Watson and her team, and they will eventually get their time going.

The fact was that when Fulton County had some -- some real obstacles and some real road blocks, they had a much harder time recovering as the day went on, and they weren’t able to get ahead of it. Other counties had issues with delivery of equipment. They had lines. They seemed to be able to recover a little bit. And so, as I
mentioned I think last week, the day after the election, I walked down to the Fulton County Office and sat in Mr. Barron’s office, and we spoke for about two hours, and we talked about what can we do to make this try to work? What can we do so this doesn’t happen again? What resources do you need? What can we do to help you guys? Because as everybody knows, it’s the county that actually runs the elections. We certainly support. We certainly create an environment, hopefully, where they can be successful, but really, we don’t open any polling places. We don’t deploy equipment. We don’t select poll workers, train them, and things like that.

So over the -- the, you know, series of the last couple of weeks since June -- or couple of months, I guess now, I’ve had regular communication with Mr. Barron and members of his team. I think we’ve made a lot of progress, but again, to why we’re here today is because I think it was important that -- that Fulton County understood the gravity of what was going on, and if we saw the similar kinds of systematic problems that we saw June, regardless of what the COVID situation was, we thought there were going to be problems.

I’ve said before that if somebody had told me in January or when we were at our conference in December of last year -- if somebody had told me that deploying a new
voting system would be the fifth or sixth hardest thing we
would have to do in elections this year, I think I would
have, you know, quit and done something else. The fact is
all these issues that came up that Fulton County dealt
with were problems that every county dealt with. You
know, some really rose to the challenge. Many were, you
know, had challenges and had issues that they were able to
deal with.

So my thought in this is that we want to continue to
build partnerships with counties. We want to solve
problems. We want to leverage our office’s ability to
provide solutions so that when the voters go to November
or when they actually start in mid-October, early October,
they have a great experience and that Fulton County is
able to provide the level of service for the county that I
absolutely know they intended. But I know Mr. Barron, I
know Mr. Jones, I know Chairperson Cooney are interested
in providing for the citizens of Fulton County.

If I could just mention a few things that we’ve done
in partnership with Fulton County that I think are moving
towards to that end, like I said, I probably speak with
Mr. Barron once a week. We have large county conference
calls with the ten largest counties in the state so that
we can address their specific needs and specific issues.
We’ve talked about having -- basically exchanging liaisons
on Election Night so that Fulton County has somebody in
our command center, and we have somebody in their command
center so that we can have immediate communication back
and forth. We don’t have to miss phone calls and wonder
what’s going on.

One of the things that we knew was a problem was the
absentee portal, and we launched that last week, and it
has been really a tremendous success. I think everybody
recognizes that. I know when we have some of our regular
callers of the State Election Board, when they’re praising
our efforts of the election absentee ballot portal, you
know that it’s a success, and we’ve seen over 50,000 --
we’ve got about 10,000 absentee ballot applications a day
on that portal, and counties are responding incredibly
well.

And we’ve sent over 4,000 applications to Fulton
County for people that want to become poll workers. As a
matter of fact, I had a conversation with Mr. Barron after
this last week and the week before about what they’re
going to do with all these folks, and how they, you know,
they can’t even absorb all that, so they’re going to build
a reserve list, and they’re going to have people as
backups, and they’re going to maybe offer some of those
people to be Dominion technicians.

So the fact that I think the Secretary of State’s
Office and Fulton County recognized immediately that there were some problems and that we’ve worked together -- I told Mr. Barron that I knew that -- that issues would come up in the press and public things would be said, but it was my commitment that we work together in a partnership so that the citizens of Fulton County, the citizens of Georgia, are best served, and they’re the ones that get to vote. And I think we’ve been largely successful to that end, and I think this hearing is kind of a continuation of that process, and as was mentioned by several Board members last week, the real goal is to have a successful election in November and to identify the things -- it’s encouraging to hear some of the responses that were presented that Fulton County’s already done to improve it, so I think we’re on the right track. I want to continue that partnership. We’ve got about two months to go, and I think everybody -- I know everybody at the Secretary of State’s Office and I believe everybody at Fulton County wants to make this the best election that Georgia’s ever seen.

MR. RAFFENSPERGER: Well, Board members, I’ll put it back in your hands. This is before you. I don’t know if you have any comments or if you want to make a motion.

MR. WORLEY: Mr. Secretary, this is David Worley. I’m -- I’m having a little trouble hearing you.
MR. RAFFENSPERGER: Mr. Worley, it’s back to the Board. Do we have any comments or does anyone want to make any motions at the present time. Ms. Le? Mr. Mashburn? Mr. Mashburn has a -- the floor is yours.

MR. MASHBURN: First, I think Fulton County’s attorneys have made an excellent presentation today. Fulton County has been well-represented, and their attorneys have done an excellent job and have presented their case very well. One thing that I did appreciate was when there was something that needed to be admitted, they just admitted it rather than fight every single last point to the bitter end, so I think that helped a lot.

One thing I would like to address though specifically is I might have misread the letter last night, but I read that Fulton County was being vilified, and I heard today during the excellent presentation by the attorney that they felt vilified, and so I wanted to -- I wanted to kind of address that in that I’ve been down at Fulton County as a member of the public observing, credential poll watcher, credential tabulation person for over 30 years, and I’ve never been treated with anything other than respect and kindness and friendliness and helpfulness, and so I don’t believe this Board or the Secretary of State and certainly not I have any intention to vilify anyone at Fulton. I’ve been very respectful -- or very appreciative of the
kindness that they’ve shown me through these years or the
friendliness and count them as very kind and diligent
public servants, and I appreciate all the work that we
have -- that they do for the citizens of Fulton County and
Georgia.

But -- and so I want to be very clear that the
takeaway from at least my comments and I think I hear the
Board saying the same thing was not that the county
workers go home and say that we’ve been picked on or
vilified, and that was their takeaway. So I just wanted
to be real clear about that. Being the junior member of
the Board, Mr. Worley, my colleague indicated that he was
prepared to make a motion, and so I would yield the floor
back with the Secretary’s permission to Mr. Worley for his
motion.

MR. RAFFENSPERGER: Mr. Worley, the floor is yours.

MR. WORLEY: Well, before I make the motion or maybe
a series of motions, I just wanted to make some general
comments. First of all, the problems that were
experienced on the primary Election Day were not unique to
Fulton County. I think we need to recognize that and
address that and I think the -- I hope and I do think the
Elections Division is addressing that problem with other
counties, and there, I expect, will be complaints filed
against other counties as a result. But when -- when 20
counties in the state have to hold their polls open beyond 7PM, clearly that’s a problem, and it’s obviously not isolated to Fulton County. I also think that some of the problems that were brought to our consideration today were directly related to the pandemic, to poll workers not showing up, to longstanding precincts deciding that they no longer wanted to be precincts -- polling locations, that is, and I don’t really know -- I mean, I think that Fulton County handled that as best as they possible could.

So that being said, I also think that we need to consider the complaints that we have today in light of our past practice in similar situations, and it’s generally been our practice, and I think it should remain our practice, that we take into account how responsive the county has been, how willing the county has been to correct problems that we’re dealing with. And I do think that Fulton County has been very forthright, very cooperative in dealing with these problems. They certainly are taking these matters very seriously and working very hard to make sure that these issues don’t come up again in November.

So with all that being said, there are a couple of the items that have been complained about that I think ought to be dismissed. And the first is the failure of the Board of Elections to provide at least one electronic
ballot marker that meets the requirements to be accessible
to individuals with disabilities. It seems clear from the
evidence that Fulton County actually did provide that
equipment. The poll personnel were not able to find it
immediately, but they did eventually find it, but that
Fulton County did provide that. So I would make a motion
that that alleged violation be dismissed.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: Mr. Worley, I’d like to just add a thought
to that. For that one voter, I think -- let me rephrase.
I think this is a training issue, and it’s something that
Fulton County has spoken about either, but it’s also
something that’s in control of the Fulton County, I guess,
poll workers or their domain in the sense that, you know,
for that one voter who comes in and needs -- and it takes
a while or in some cases, if they can’t find it, that one
voter, it affects him one hundred percent.

So I move to -- I would not support the motion to
dismiss that because it’s something they could address in
voting, and I would echo everything you say and Mr.
Mashburn is saying. I haven’t been in elections on the
operations side. I do appreciate the nuances and the
challenges that come with every day, under normal
circumstances, let alone under a pandemic. I mean, that’s
-- it’s hugely challenging to say, and that’s an
understatement. So I do appreciate what these counties, the challenges they may go through, and it’s not lightly that I say that because I know it’s challenging. But we’re in the business of ensuring the right to vote, not a privilege to vote but the right to vote is carried out to the best that we can. And I think in that case, I would not want to dismiss -- in the case of -- I think you’re talking about number two -- to dismiss that, but lead that back in so that the Fulton County Board can address in terms of the training. So I would not support that motion.

MR. RAFFENSPERGER: Do we have a second? Motion fails due to lack of second.

MR. WORLEY: Okay. Thank you.

MR. RAFFENSPERGER: Do you have any other --

MR. WORLEY: Yes. I have some other motions. The next motion -- and this is item three in the letter brief of Fulton County. The allegation is that the Board of Elections failed to provide necessary Election Day forms, and it seems that the only form that is at issue is the zero-county sheet, which was not provided in the Secretary of State’s supply store, so I would move to dismiss that allegation.

MR. RAFFENSPERGER: Well, they mentioned the Secretary of State’s Office -- they can address whether
the Secretary of State’s Office provided that form. Ms. Watson or Mr. Harvey?

MS. WATSON: Yes. There was additional forms: the recap form was not provided to any of the precincts, and the numbered list form, and the inner and outer provisional envelopes were not provided. They were provided, but they ran out, and they had to be resupplied at some locations. Some locations didn’t receive the necessary supply. I’m sorry?

MR. RAFFENSPERGER: Was that a Fulton County issue or a Secretary of State issue?

MS. WATSON: That was -- Fulton County did not provide those.

MR. RAFFENSPERGER: Okay. We have a motion. Do we have a second? Hearing none, motion fails. Do we have any other motions?

MR. WORLEY: Yes. I have two other motions that I would make. Well, three other motions. Let me -- let me start with the items that are indicated as items five through seventeen in the letter brief that Fulton County submitted. Those do appear to be the minor types of violations for which we normally issue a letter of instruction to Fulton County or to any county, and so I would make a motion that we send a letter of instruction to Fulton County on the items listed as numbers five
through seventeen in their letter brief.

MR. RAFFENSPERGER: Do we have a second? Do we have a second?

MS. LE: I would respectfully modify that motion to items six through seventeen.

MR. WORLEY: I’d accept that as a friendly amendment.

MR. RAFFENSPERGER: Okay. So we have that before us, items six through seventeen. Any further comment on that? All those in favor of that motion?

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Motion carries. Okay.

MR. WORLEY: And then I would have two further motions, Mr. Secretary. The first would be relating to item four in the letter brief, which is the allegation that Fulton County violated the code by its training of voters, failure to properly train the voters -- I’m sorry, the election workers. It seems to me that under all the circumstances here of the pandemic that everyone is dealing with that Fulton County did the best that they reasonably could be expected to do under the circumstances of the pandemic. And so I would move to dismiss that allegation.

MR. RAFFENSPERGER: Do we have -- is that a motion?

MR. WORLEY: Yes. That’s a motion.

MR. RAFFENSPERGER: Do we have a second? Do we have
a second? Motion dies due to lack of second. Do we have any --

MR. WORLEY: Okay. And then I’d have one --

MR. RAFFENSPERGER: Go ahead.

MR. WORLEY: -- final motion. And this relates to the first item in the letter brief about polling places not being open. Apparently, there were 12 polling places that were not open on time. And again, I think we have to consider this in light of the pandemic and the large number of precincts that were -- where the church or the school decided, often at the very last minute, that they would not be a polling place. Again, I don’t think that is something that is within Fulton County’s control to such an extent that we should hold them responsible for a violation of the code because the election precinct opened somewhat late. I just don’t think that that’s fair or reasonable.

I also don’t think we should be in the business of referring to the Attorney General every time a polling precinct opens somewhat late. There are remedies for that. When those precincts are open late, they are held open late in the evening, and they should be, obviously. And I don’t want to encourage any county to not work extremely diligently to open the polls on time. That has to be done for the adequate operation of our election
system, but given that there were 12 locations out of well over 150 locations that Fulton County operates and that those seemed to be, based on the evidence, related to these in many cases unforeseeable precinct changes -- polling location changes -- I don’t think it’s appropriate to bind that over to the Attorney General’s Office. I would make a -- so at the very least or at the very most, I think we should send a letter of instruction because of that, but I do think it’s more appropriate under the circumstances that that allegation be dismissed, and I would make a motion that it be dismissed.

MR. RAFFENSPERGER: Do we have a motion -- a second to dismiss? Hearing none, motion fails.

MR. WORLEY: Then, Mr. Secretary, I’d make one final motion to send a letter of instruction to Fulton County regarding the 12 polling locations that were not available at 7AM.

MR. RAFFENSPERGER: Do we have a second? Hearing none, that motion fails also. Do we have any other Board members that would like to speak or present a motion?

MS. LE: I just want to add to -- or comment on Mr. Worley’s thoughts on the polling -- this is Anh Le, for the record -- thoughts on the polling places opening late. We have in the past, if I recall correctly, sent to the AG’s Office polling places that don’t open on time for
various reasons, and -- and I think you’re right, Mr. Worley, to the fact that, you know, this is caused a lot by the pandemic, but the fact that it opened late -- we have bound it over for -- part of the reason being for that voter who comes at 7, asks for time off or to come in late to work to vote, and has to leave because the polling place didn’t open. You know, again, for that one voter, that is one hundred percent denial of that person’s right or impairment of that person’s right to vote, even if we were to extend it to 8, 9, 10 o’clock at night. So it is very much important that when we say we’re going to open on time at 7 o’clock that we do, in fact, open on time. So for that reason, I don’t take it lightly that when we’re supposed to open at 7, that we don’t -- for the simple fact that we compensated late at night, to me, is not parallel compensation.

So for that reason, I move to bind the rest of the items to the AG’s Office, not in the spirit of prosecution, but hopefully, in the spirit of finding -- having more time to work it out with Fulton County to find a viable resolution to these problems so that we can mitigate them in the future and perhaps as a model for other counties who may encounter similar problems in the future as well. I think there’s a lot of hope for that, and I think that we can achieve that. So I’m not asking
to bind over so that we can prosecute or vilify Fulton County in any way, but perhaps to give it more time so that we can -- the Secretary of State’s Office and the AG’s Office and Fulton County can collaboratively work out a more meaningful path going forward on those items.

That’s my motion.

MR. MASHBURN: Second.

MR. RAFFENSPERGER: We have a motion. Oh, second.

Any further comments?

MR. WORLEY: I’d like to just make a couple of comments. This is Mr. Worley, for the record. First of all, I appreciate the comments that Ms. Le has made, and I certainly agree that every, you know, every voter who is inconvenienced by the polls being open late is a serious problem. But I’m afraid that we’ve adopted a standard here which means that every time now a poll is held open late because it opened late in the morning, that we’re going to have to refer that to the Attorney General for investigation. And that happened in 20 counties on primary day so I fully expect that we will get reports from the Secretary of State on each of those counties and that we will refer those over to the Attorney General for investigation, each one of those. That’s the standard that we seem about to set, and I don’t think that’s the right standard to set.
Beyond that, I just want to make one final comment.
Last week, for the issue of absentee ballot applications,
I took the position that those needed to be referred over
to the Attorney General because that was a very serious
situation of denying persons their right to vote. That
situation to me was a much more systemic problem that took
place over a long period of time that was not related as
directly to the pandemic as the Election Day issues that
we’ve been dealing with today. So just by way of
explanation, I just wanted to explain that that’s the
distinction that I made and the position that I took last
week and this week. Thank you. That’s all.

MR. RAFFENSPERGER: Mr. Mashburn, do you wish to
speak?

MR. MASHBURN: Yes, sir. For the discussion before
we vote on the motion, I don’t -- I’m not voting on the
motion on the basis that we have agreed that every single
late opening precinct is a referral. I’m -- I see a big
difference between one precinct opening late because say
as an example, the fire department failed to bring the
keys on time at 6:30 in the morning, and so they’re --
they’ve fixed the problem, but they did open late. But 12
is a different matter than one, so I am going to vote for
the motion, but I -- I don’t believe that my vote is
setting a standard that every single late-opening precinct
is a cause for referral.

MR. RAFFENSPERGER: Any other additional comments?

MS. LE: And this is Anh Le, and those are my thoughts as well. I do not think this is the one size fits all, blanket standard, that any time for any reason whatsoever -- as with every case that’s come before us, there are lots of facts, and it’s facts-based. So, and, you know, to the extent that it is out of -- completely out of the county’s control and not something that they can address through training or better practices, then I think that deserves a different look than something that’s otherwise under their control and could be improved with training. So my motion also does not mean it’s a blanket, universal, any time you’re late you’ll be bound over to the AG’s Office for prosecution.

MR. RAFFENSPERGER: Hearing no further comment, all those in favor of the motion as presented, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed?

MR. WORLEY: No.

MR. RAFFENSPERGER: Motion carries. Okay. There’s some other items on this list. What is the will of the Board?

MR. MASHBURN: I think we got them all. Did we?
MR. WORLEY: I think Ms. Le’s motion was to refer everything other than the items that we had voted on a letter of instruction on to the Attorney General.

MR. MASHBURN: I agree. Yes, I agree. That was my understanding.

MR. RAFFENSPERGER: Okay. Great. So that concludes our work then. Do we have any additional comments from any of the Board members?

MR. MASHBURN: Before we adjourn, I would like to make one additional comment, and that is I would like to commend the Secretary of State and the staff for the online portal. I used it myself, and the whole process from beginning to end took less than a minute, and that included a confirming email that I received, as well as an online message that confirmed it, so I just think that was a terrific rollout. It worked perfectly, and the whole process took me less than a minute from beginning to end, so I just wanted to take a minute to commend the Secretary and the Secretary’s excellent staff for getting this up and running and just did a great job with it.

MR. RAFFENSPERGER: Any other members? Mr. Worley? Ms. Le?

MR. WORLEY: This is Mr. Worley. I have heard good reports about the portal as well, and I commend the Secretary for getting that rollout done. Of course, the
proof is in the pudding, and Mr. Mashburn will be very happy when his ballot comes shortly after September 19th, I guess. And I just hope everything continues well with the operations of that portal. Does the Election Division have any figures yet as to how many people have used the portal so far?

MR. RAFFENSPERGER: I believe we’re at 80,000 right now. Mr. Harvey is shaking his head yes. And I think we’re adding fifteen to twenty thousand a day, so it’s been very well received.

MR. WORLEY: Well, that’s excellent news. Thank you.

MR. RAFFENSPERGER: Thank you.

MS. LE: This is Anh Le. I’ve also used the portal, and it’s -- it’s great. I had a great experience with it. Thank you.

MR. RAFFENSPERGER: Now would be the appropriate time for a motion for adjournment, if anyone would like to so move.

MR. WORLEY: So moved.

MR. MASHBURN: Second.

MS. LE: Second.

MR. RAFFENSPERGER: All those in favor?

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: We are adjourned. Thank you.

(Meeting adjourned 10:52AM)
CERTIFICATE

STATE OF GEORGIA
COUNTY OF DEKALB

I, Kaitlin Walsh, Certified Court Reporter, hereby certify that the foregoing pages numbered 4 through 71 constitute a true, correct and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 28th day of September, 2020.

Kaitlin Walsh, CCR, CVR
CCR #: 5910-3132-3171-2256
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Steven Ray Green Court Reporting, LLC

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**Secretary of State Election Board Meeting**

**September 3, 2020**

- 22nd (2)
- 26th (1)
- 3rd
- 4th
- 5th
- 6th
- 7th
- 8th
- 9th
In The Matter Of:

SECRETARY OF STATE
STATE ELECTION BOARD

September 10, 2020

Steven Ray Green Court Reporting, LLC
404 733 6070
THE OFFICE OF THE SECRETARY OF STATE

STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD HEARING

2 MLK JR. DR. SE
SUITE 810 WEST TOWER
ATLANTA, GEORGIA 30334

September 10th, 2020
9:00 A.M.

PRESIDING OFFICER: BRAD RAFFENSPERGER
SECRETARY OF STATE

STEVEN RAY GREEN COURT REPORTING, LLC
Kaitlin Walsh, CCR, CVR

Atlanta, Georgia
APPEARANCE OF THE PANEL

Secretary of State Brad Raffensperger, chair
Rebecca Sullivan, vice chair
Anh Le
David Worley
Matthew Mashburn

ALSO PRESENT IN ORDER OF PRESENTATION

Frances Watson
Ryan Germany
Chris Harvey
Transcript Legend

(sic) - Exactly as said.

(ph.) - Exact spelling unknown.

(???) - Audio feed unclear

-- Break in speech continuity.

... Indicates halting speech, unfinished sentence or omission of word(s) when reading.

Quoted material is typed as spoken.

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PROCEEDINGS

MS. THOMAS: Good morning. We're going to go ahead and get started with the meeting. If you would like to make a public comment, please go ahead, and raise your hand now, or write in the questions box that you would like to make a public comment. You can go ahead, Secretary.

MR. RAFFENSPERGER: Good morning, everyone. This is Brad Raffensperger. Thanks for bearing with us. We had five minutes of technical difficulty upgrading, so thank you for bearing with us. I'd like to call this meeting to order, and right now what we'll do is invocation and Pledge of Allegiance, so I'll read that.

(Invocation)

(Pledge of Allegiance)

MR. RAFFENSPERGER: Now, before we get started, I'd like to go ahead and call roll call. Rebecca Sullivan, are you --


MR. RAFFENSPERGER: Hi, Rebecca.

MS. SULLIVAN: Hi. Good morning.

MR. RAFFENSPERGER: Good morning. Ms. Anh Le?

MS. LE: Good morning. Present.

MR. RAFFENSPERGER: Good. Mr. David Worley?

MR. RAFFENSPERGER: Good morning. Okay. Mr. Mashburn? I think he’ll be joining us a bit later, so we’ll get started. We have a forum to begin. Before us, we have the updated minutes. If everyone’s had a chance to look at that, I think we recorded everyone’s roll call votes -- our votes last time, got that correctly. Has everyone reviewed that? Are there any additional changes? If not, now would be the appropriate time for a motion.

MS. THOMAS: And Mr. -- Mr. Mashburn is here.

MR. RAFFENSPERGER: Oh, great. Good morning.

MR. MASHBURN: Good morning, everyone.

MR. RAFFENSPERGER: Okay. The minute meetings, do we need any changes, or are those correct? Now would be a good time for a motion if they are correct.

MR. WORLEY: This is Mr. Worley. I’ll make a motion to approve the minutes.

MR. RAFFENSPERGER: Thank you, Mr. Worley. Do we have a second?

MS. LE: I’ll second that motion. This is Anh Le.

MR. RAFFENSPERGER: Thanks, Anh. All those in favor of approving -- do we have any further discussion? All those in favor of approving the meeting minutes, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed? Motion carries.
Okay. We’ll have the public comments. Before we get into that, we’d like the public comments -- if you have any public comments today on any of the proposed rules, now would be the appropriate time to do that. And Bre, you’re going to triage everyone, you know, people signed up and you’re ready to go?

MS. THOMAS: Yes, sir.

MR. RAFFENSPERGER: Okay. First person that would like to speak?

MS. THOMAS: First, we have Mr. George Balbona.

MR. RAFFENSPERGER: Mr. Balbona?

MS. THOMAS: You’re self-muted right now.

MR. BALBONA: Over a month ago, I submitted an Open Records Request with the Secretary of State’s Office, 2020-728. I requested copies of the Runbeck invoices, postage invoices, and mailed tracking information. I only received the Runbeck invoices, which, oddly, were submitted by Dominion Voting Systems, not Runbeck. I’m quite sure Runbeck has a billing department. Why did Runbeck print three-and-a-half million envelopes for 1.5 million ballot requests? Why did they mark up the costs nearly four hundred percent? Why are the invoices -- where are the invoices for postage? And why did Georgia pay $39,000 for mail tracking information when we have nothing to show for it?
I recently requested a poll pad recap sheet from Marietta polling -- from our Marietta polling location from the primary election. The SOS had left this off of a previous ORR I had submitted for recap sheets. When I received the poll pad recap yesterday, I was shocked to find that it was redacted. This is an elections document. Their sole purpose is transparency. I’ve never seen nor heard of an elections document being redacted. More damning still is what SOS tried to hide from me -- was the fact that the security seal on one of the poll pads was broken.

It is not the purpose of the Georgia Secretary of State to selectively cover up issues with the administration of Georgia elections. I’m glad to see that the SEB is handling so many cases and complaints today. It’d be better if the vast majority of these cases were not from 2016 and 2018 when we were still using DREs. We have plenty of current problems to address with the new poll pads, BMDs, and scanners.

Lastly, shame on Secretary of State Brad for his recent double-voting stunt. Didn’t we pay over $100 million for a supposedly high-tech voting system to prevent such issues? Brad’s nebulous statement to the media was voter intimidation, plain and simple. Georgia deserves better from the Secretary of State than poorly
veiled threats. Thanks.

MS. THOMAS: Thank you, Mr. Balbona. Next, we have Dan Gasaway.

MR. RAFFENSPERGER: Mr. Gasaway?

MR. GASAWAY: Yes. Can you hear me?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: Yes, sir.

MR. GASAWAY: Well, first, I would like to thank all of you for your service to the State of Georgia. My name is Dan Gasaway. I served three terms in the Georgia House of Representatives. In my knowledge, I am the only candidate in the history of Georgia to overturn the same election twice because of county-level election corruption and malfeasance. In 2018 and 2019, I found intentional county-level illegal activity in my Georgia State House election sufficient to overturn two consecutive elections. Both cases were forced to trial by those intent on protecting corruption in our state election system.

Since then, I’ve spent two years and over a hundred thousand dollars of my own money in an attempt to personally advocate for increased integrity in the Georgia election system. I have exhausted every avenue at the state level to bring the county-level election office corruption, all across Georgia, to the attention of local and state authorities, who should be accountable. Today,
I am convinced that the political will to not exist in Georgia to fix our system, even though the fix is simple with today’s technology. Both political parties share equally in the blame.

In conclusion, today I ask you in your capacity as the State Election Board of Georgia to reach out to our federal delegation, our Congressmen, and US Senators -- reach out and request US Justice Department help. I believe the only way we will get necessary reform in Georgia is to have law enforcement and law enforcement that brings prosecutions at the local level. Those who make the choice to game the system are breaking the law, no matter if they are voters, county election superintendents, candidates, or local county commissioners. Too many have fought and died for this most basic civil right. This is the right on which all other rights depend. Election integrity is achievable in Georgia only if those in positions of power decide to choose it. Thank you for your time and your service to our great state.

MR. RAFFENSPERGER: Thank you, Mr. Gasaway.

MS. THOMAS: All right. Next, we have Jeanne Dufort.

MR. RAFFENSPERGER: Ms. Dufort?

MS. DUFORT: Good morning. My name is Jeanne Dufort. I’m a Morgan County voter and a member of the Coalition
for Good Governance. During the June primary, many of us who served on vote review panels around the state were shocked to observe that the new system was discarding some perfectly clear votes. Vote review panels are the backstop for our elections by making up for the limitations of technology. We look at ballots that either cannot be scanned or have marks that the software can’t figure out. We also make certain ballots that need to be duplicated are done so faithfully. We’re there to make sure every vote counts as cast.

Your proposed changes to rule 183-1-15-.02(2), definition of vote, are confusing at best and dangerous at worst. Two DNE defer to the opinion of the vote review panel, no matter how the vote is marked, as long as the intent is clear. That controls over scanner tabulation. Voter intent controls, the bipartisan vote review panel decides. So why in the world would you screw that up by adding (k)(2), detection of less than ten percent of the target fill in of the target area surrounded by the oval shall not be considered a vote for that selection?

If you know anything about scanned images and election software, you understand that many factors outside of voter control influence that calculation of ten percent. How light or dark is the printed oval? What ink is in the voter’s pen? What scanner is used, and was the
ballot perfectly straight as it was scanned? Vote review panels make up for the limitations of technology. Humans are better at some things than machines. It’s a system that works.

Voters want to be confident their votes will be counted as cast. This proposed rule destroys that. Let the vote review panel do its work. Let humans discern what the computer cannot. Thank you.

MR. RAFFENSPERGER: Thank you.

MS. THOMAS: Next, we have Tessa Saxon. You’re self-muted right now. Ms. Tessa Saxon, you’re self-muted.

MS. SAXON: Hello. Good morning.

MR. RAFFENSPERGER: Good morning.

MS. THOMAS: Good morning.

MR. RAFFENSPERGER: Go ahead.

MS. SAXON: Okay. My name is -- my name is Tessa Saxon, and I received a -- excuse me, I’m sorry. I received a letter stating that Mr. Frank Scoggins from Thomas Elections -- the supervisor -- talked to me on the 11th of 4 of 2016, and I had explained to him that he -- I explained to him that I did, in fact, do two absentee ballots, applications for myself and my 87-year-old grandmother, who was bedridden, being that we were first time trying to vote [sic]. According to Mr. Scoggins, he stated that I filled out an application for my demised
mother, which her name was Gloria Willis.

Since my mother had recently passed, I was grieving and going through a lot and was the only caregiver that my grandmother had. It was not intentionally or willfully -- it was a mistake or human error. I was trying to really see -- excuse me because I’m nervous. I was just trying to see -- I would have never tried to willfully, I mean, force a vote for a deceased person, being that I knew my mother was deceased. I was having my -- at the time, my grandmother was bedridden, and I made a human error, and I just want -- I’m just asking the Court and the voting relations -- I mean, and everyone to forgive me for this mistake. Thank you.

MR. RAFFENSPERGER: Thank you. Next speaker?

MS. THOMAS: Next, we have Priscilla Smith. You’re self-muted right now. Priscilla Smith, you are self-muted right now. You’ll have to unmute yourself. Okay. Next, we have Michael Pernick.

MR. PERNICK: Good morning. My name is Michael Pernick. I’m an attorney with the NAACP Legal Defense and Educational Fund. Thank you for the opportunity to speak this morning. We are pleased that you’re taking steps to clarify the instructions provided to absentee ballot voters through your proposed changes to rule 183-1-14. We think it’s important to modify your proposed rule in
several ways, and we’ve provided our recommendations to you in our written comment letter. I’d like to focus my comments today on two specific issues.

First, it’s important to educate voters on how they can vote in person even if they requested an absentee ballot. Voters have two options. They can bring their absentee ballot to their precinct and surrender it, or if they lost, forgot, or never received their absentee ballot, they can still go to their precinct to vote. The poll managers are supposed to verify that their absentee ballot was not received. Given the significant increase in absentee voting and the possibility of postage service delays, there is a risk that a substantial number of voters may not receive their absentee ballots in time to vote, and it is critical that voters who request an absentee ballot are educated about both options for in-person voting.

Second, it’s important to inform absentee ballot voters in the instructions how to use the two envelopes provided with their absentee ballot and what to do if they are not provided with both envelopes. Notwithstanding the requirement under Georgia law that absentee voters must be given an inner and an outer envelope, during the June primary absentee voters were only provided the outer envelope. The instructions provided to absentee voters
incorrectly directed them to use two envelopes. This caused voter confusion. The SEB has the power and responsibility to address these issues by clarifying the instructions that appear on the absentee ballot, as well as the uniform instructions that are separately provided to all voters. Thank you for your consideration.

MS. THOMAS: Edgardo Cortes? You’re self-muted right now.

MR. CORTES: Yes. Good morning. Thank you for allowing me the opportunity to speak this morning. I’m Edgardo Cortes, former Commissioner of Elections in Virginia. I work as an elections security advisor for the Brennan Center for Justice. I’d like to speak this morning regarding two proposed rules. We have submitted lengthier written comments on these proposed rules. But the first one is rule 183-1-15-.02, subsection (2)(k). It has to do with the -- with the threshold for flagging ballots for adjudication.

We have two recommendations here based on the experience in other states that use the exact equipment that Georgia is now using to count these ballots -- to scan the ballots. The first one is requiring -- we would recommend that Georgia require the use of red oval ballots, as opposed to black oval ballots, to make it easier for the machines to distinguish when there are
marks made by the voter.

We would also recommend changing the thresholds to be between five percent and twenty-five percent. We believe that these thresholds have been looked at over time over a number of election cycles, again in states like Colorado that use the same equipment as Georgia and have found to most accurately get at capturing votes. There was a comment earlier that spoke about not accidentally, you know, prohibiting people from voting because the mark is off, and so we do believe that these changes will greatly improve the process for counting ballots, particularly since voters in Georgia may be unaccustomed to properly filling out the absentee ballots and use them in state. And we do appreciate the Board taking a look at this and looking to learn from the recent election, and we hope that you will change those thresholds.

The next proposed amendment I’d like to speak to is 183-1-14-.06, subsection (3). It relates to the absentee ballot instructions. Again, we have submitted lengthier comments, but we do feel it is imp -- the two points I want to highlight are the recommendations to include accompanying graphics for voters in terms of how to properly fill in the ovals on the ballot, which we have provided examples of in conjunction with the experts at the Center for Civic Design. And then I would also, you
know, -- we would also like to emphasize that having the instructions include information about voters that have not received a ballot or how they can go to vote in person and the processes and steps for doing that will be very important. We saw, particularly in the primary, some delays related to --

MS. THOMAS: All right. Thank you, Mr. Cortes.

Next, we have Stephen Day. You may now speak.

MR. DAY: Gwinnett County -- I have sat on several ballot adjudication panels, and I offer that the proposed rule that states quote, “wherein detection of less than ten percent of the fill in target area of the ballot oval shall not be considered a vote,” unquote, will result in the disenfranchisement of a number of Georgia voters. I have personally witnessed and adjudicated check marks and circles around ballot ovals that did not engage the ovals or barely engaged the oval and definitely had less than ten percent of the oval filled, but the voter’s intent was still very obvious. This proposed rule would not count that vote.

Therefore, it is simply a bad rule that disenfranchises voter intent. The ballot scanner needs to be set to kick out ballots for review with less than twenty percent down to zero percent of the oval filled as long as there are detectable marks within a reasonable
distance of the oval. This practice occurred in Gwinnett during the primary and worked well.

A second point I have is under the criteria to be used by the Secretary of State to select an audit. There is this -- there is this specific criteria stating quote, “the ability of a county to complete the audit before the state certification deadline,” unquote -- I believe it should be removed as an evaluation criteria. The accuracy of votes cast should be the only concern, not how long it will take a county to do the audit. The state has the power to grant certification extensions -- extensions.

Don’t let county inadequacies in completing an audit in a timely manner interfere with ballot accuracy validation.

So in summary, please set ballot scanners to detect all marks on or around the ovals, no matter how small, and reject those for panel -- vote panel adjudication that have under twenty percent of the oval marked, even if there is no mark directly on the oval, but in an area around it. And second, please remove as a criteria to be used for audit selection by the Secretary of State the time it will take a county to do the audit. Thank you very much.

MR. RAFFENSPERGER: Thank you.

MS. THOMAS: Next, we have Aunna Dennis. You’re self-muted right now. You may now speak.
MS. DENNIS: Good morning. Thank you. Good morning.

My name is Aunna Dennis, and I am the Executive Director of Common Cause Georgia. Thank you for the opportunity to comment on the new rules governing the audit preparation and the conduct in 183-1-15-.04. First, we encourage the State to issue rules instructing poll workers to encourage voters to review their marked ballots. If the ballot-marking device misprints a voter’s choices, and the voters don’t catch these mistakes, this audit can’t correct the problem, and the election choices of those voters will not be accurate.

Second, we recommend that the rules not limit counties as auditing a single contest. We recommend that the presidential race and at least one other be audited. Third, the transparency of this audit must be increased. The dice roll should occur at the previous announced public meeting, and the public should be able to view the creation of the seed and its input into the audit tool. The adjudication of ballots should be publicly observed and audible. Each ballot should be projected on a screen so that the public can view and hear the adjudication process.

Finally, for the — the following should be published on the Secretary of State’s website: the notice of the public meeting to establish a random seed, what contests
are be targeted as soon as the decision is made, the risk
limit as soon as the decision is made, the random city as
soon as it’s generated, the ballots manifest as soon as
they are generated, the cast of the vote record, the poll
list of the sample as soon as they are generated, the
final report and results of the audit as soon as they’re
finished, and the discrepancy report when it’s generated.
Thank you for the opportunity to speak today. I will be
happy to answer questions in writing.

MR. RAFFENSPERGER: Thank you.

MS. THOMAS: Next, we have Lee Hol -- Holsworth. Lee
Holsworth?

MR. HOLSWORTH: Yes. Hi, I’m Lee Holsworth. Can you
hear me okay?

MS. THOMAS: Yes, sir.

MR. RAFFENSPERGER: Yes, sir.

MR. HOLSWORTH: I have a case, 2017-004. I -- I’m
just unfamiliar with this procedure of the meeting and
wanted to get an idea at what point during this meeting my
case would be coming up.

MR. RAFFENSPERGER: Mr. Holsworth, what case number
are you, and what county are you from?

MR. HOLSWORTH: Fulton.

MR. RAFFENSPERGER: Fulton?

MR. HOLSWORTH: Yes, sir.
MR. RAFFENSPERGER: Mr. Germany, do you want to
discuss -- because Fulton cases -- I know their counselor
has reached out to us, and some cases will be continued.
I don’t know if this is one of them.

MR. GERMANY: Mr. Secretary, this one is on the
agenda, and it’s -- it’s currently a letter of instruction
case. And Mr. Holsworth, when that -- when we call those
cases, you can ask for this case to be removed for
discussion, and at that point, you’ll be able to speak to
this case.

MR. HOLSWORTH: All right. And -- and are we
talking, like, an hour from now or what timeframe?

MR. GERMANY: I -- I can’t really -- I mean, probably
at least an hour. Yes, sir.

MR. HOLSWORTH: Okay. All right. So I just stay on
through the meeting until -- until I’m called?

MR. GERMANY: Yes, sir.

MR. RAFFENSPERGER: Yes, sir.

MR. HOLSWORTH: All right. Thank you very much.

MR. RAFFENSPERGER: Thank you. Next speaker?

MS. THOMAS: Next, we have Elizabeth Howze. You’re
self-muted right now.

MS. HOWZE: Good morning.

MS. THOMAS: Good morning.

MS. HOWZE: Good morning. At your meeting on August
27th, I asked you several questions. What will the State Election Board do to see that Secretary of State Raffensperger stops misleading Georgia voters? And two, what will the State Election Board do to ensure that Secretary of State Raffensperger not engage in voter intimidation of any kind from now through the election in November?

In the two weeks since that meeting, Secretary of State Raffensperger has gone out of his way to do both. Among other actions, he has announced that a thousand people voted twice in the June 9th election. Intentionally, he assures us, without offering the public any investigatory evidence. In my own experience, I know a number of people who did not receive any confirmation that their absentee ballots had been received and accepted right up until Election Day, the morning of Election Day, and to presume intent is -- is really just outrageous -- malintent is outrageous.

He has moved thousands of voters to inactive status, violating the federal prohibition about interfering with voting within 90 days of an election. He’s made unsupported claims that absentee voting opens up elections to voting fraud when we know from years of experience that it doesn’t, and he’s appealed a federal judge’s decision to allow a grace period of three days for absentee ballots
to be counted.

These -- these and many other examples I could offer up if there were more time -- but they lead to one clear confusion [sic] that Secretary of State Raffensperger, like his predecessor Brian Kemp, is practicing voter intimidation and suppression on a grand scale. We all know that the impacts of his actions will be greatest among African Americans and other minorities. Georgia voters are honest. They don’t deserve a Secretary of State who tries to frighten and mislead them. Thank you.

MR. RAFFENSPERGER: Next speaker?

MS. THOMAS: Next, we have Margaret Arnett. You may now speak.

MS. ARNETT: Hi. We get numerous questions from voters about whether they can bring their absentee ballots to the voting precincts to submit them, whether it be during early voting or on Election Day. It would be -- most definitely be helpful to voters if the SEB could authorize this as an acceptable practice across the state. Also, due to the USPS service delays, we get an incredible number of questions from voters about whether they can drop their absentee ballot request forms in the county drop boxes. There are some counties that are allowing this, but most are not, as by code, these boxes are only to be used for absentee ballots. I guarantee it will be
incredibly helpful to voters if the SEB would authorize
the county drop boxes to be able to accept absentee ballot
request forms across the state. The SEB has truly worked
very hard to make voting easier and more accessible for
voters, and I feel that these two rules will truly
continue that effort for voters across the state, and many
thanks to the staff for coordinating today’s call. Thank
you.

MS. THOMAS: Next, we have James Bomar. You’re self-
muted -- I’m sorry.

MR. BOMAR: Good morning. This is James Bomar.
Thank you for being recognized. I’m calling in regarding
SEB case number 2016-179. It’s a case of voting twice
back in 2016. I don’t have any visual on my screen only
audio and wanted to know if there was an agenda, or if I
could get some sort of idea about when these cases will be
reviewed.

MR. GERMANY: Mr. Bomar, this is Ryan Germany. There
is an agenda on the State Election Board website. Your
case has actually been continued at the request of Fulton
County’s counsel, so I apologize but that case will not be
heard today.

MR. BOMAR: Okay. Thank you.

MS. THOMAS: All right. Next, we have Lonnie Hollis.
You’re self-muted right now. Lonnie Hollis?
MS. HOLLIS: Okay. I’m on. I was calling to see if I would be able -- I wanted to be able to speak on the case for Troop County when it comes up or if it’s going to be heard today.

MR. GERMANY: Yes. If you want to speak to a specific case, and you know, the time for all that is when the case is called later on at the end of the public comment on proposed rules or for other things related to cases.

MR. RAFFENSPERGER: Okay. Thank you.

MS. THOMAS: Next, we have Joy Wasson. You’re self-muted right now

MS. WASSON: Good morning. I’m Joy Wasson, a DeKalb County voter, and I want to state my strong agreement with Jeanne Dufort’s comments in opposition to your proposed changes to rule 183-1-15-.02(2), definition of a vote. The State has purchased subpar software, and there are too many variables in scanning to allow your ten percent threshold to determine what constitutes a vote. A citizen’s vote should never be discarded because a specific instance of scanning their ballot failed to adequately read their intent due to circumstances outside their control and when they’re not present to clarify what their vote should be. Thank you.

MS. THOMAS: And next, we have Liz Throop. You’re
self-muted right now.

MS. THROOP: Thank you. I’m Liz Throop. I’m a DeKalb voter. Please do not pass rules that fail to align with Georgia statute. 21-2-386 covers the tabulation of absentee ballots once polls have closed. This law is oddly silent about how voter marks on those ballots should be adjudicated. Hand-marked ballots from precincts, however, are evaluated on discernible voter intent, but that is a separate law. SEB rules that say voters must fill in ovals completely fail to resolve whether all hand-marked paper -- all hand-marked paper ballots with voter marks such as x’s and check marks should be counted. This body can propose clearer statutes that count every absentee vote. We need clarity, not more layers of ambiguity. Thank you.

MR. RAFFENSPERGER: Thank you.

MS. THOMAS: All right. And just one more. Lon Fezmer [ph.]?

MR. RAFFENSPERGER: Go ahead.

MS. THOMAS: You may speak. You’re self-m -- okay.

All right. That’s it.

MR. RAFFENSPERGER: That’s it?

MS. THOMAS: Mmm-hmm.

MR. RAFFENSPERGER: Okay. Well, thank you very much for your public comments. On the agenda, we have the
Attorney General report as item number five, but the Attorney General has another meeting that they need to head on out to, and we’re going to move that up, if that will be -- if there’s no objection from any of our Board members to move them up, and then I’ll have Board member comment after we have that, if that works for all of our Board members. That being -- hearing no objection, it’s -- Mr. Germany, can you put the Attorney General or the Assistant Attorney General who is speaking for their office today?

MR. GERMANY: It’s Charlene McGowan, and let’s see. We’re looking -- Bre is looking for her.

MR. RAFFENSPERGER: Okay.

MS. THOMAS: Charlene? Ms. Charlene, if you’re on the call, please raise your hand or write in the comm -- in the questions box, and I can unmute you.

MR. RAFFENSPERGER: While you find her, Board members, normally I like to open it up to comments. Ms. Sullivan, Ms. Le, Mr. Worley, or Mr. Mashburn, would any of you like to, you know, offer comments before we get into the Attorney General’s report and then we’ll have the Attorney General’s report? Okay. We’re back to the Attorney General’s report.

MS. MCGOWAN: Yes. Mr. Secretary, this is Charlene McGowan from the Attorney General’s Office. Can everyone
heal me?

MR. RAFFENSPERGER: Yes, we can.

MS. MCGOWAN: Well, thank you, Mr. Secretary and to the Board members, for accommodating me earlier in the agenda. On the Attorney General’s agenda that I’m here to present today, we have nine consent orders and one dismissal for the Board’s consideration and approval. Two of the consent orders were presented at the last meeting in December -- were pulled at that time due to a lack of quorum, that is case number 2015-100 for DeKalb County and then also the consolidated consent order for Fulton County. So we’re presenting those again today, if there is a quorum available to -- to vote on them. I’m happy to answer any questions that the Board members may have about any of these individual cases, but if you don’t have any questions, my recommendation is that the Board vote to approve the consent orders and dismissal that are listed on the Attorney General’s agenda.

MR. RAFFENSPERGER: Board members, you have the consent orders before you. What is the will of the Board?

MR. MASHBURN: This is Matt Mashburn. I’ll -- I’ll kind of take them in order. Fulton County 2015-079, I’ve carefully reviewed the file and find the proposed consent order to be just and fair and meeting with the circumstances and move for it to be accepted.
MR. RAFFENSPERGER: Okay. We typically vote all of these in block, and pull them out --

MR. MASHBURN: Oh, I’m sorry.

MR. RAFFENSPERGER: -- if there’s any of them that need further discussion, if any Board members have an issue with each particular one, but if we’ve reviewed those in total, we can then handle them in motion that would work as opposed to individual motions. Mr. Mashburn, would you like to reconsider your motion?

MR. MASHBURN: Very good. Yes. I have reviewed the two cases and the dismissal and find them all to be appropriate and just and meeting the circumstances and move that they be accepted as proposed en masse all together.

MR. RAFFENSPERGER: We have a motion before the Board. Do we have a second? Okay.

MS. SULLIVAN: I’ll second that. This is Rebecca Sullivan.

MR. RAFFENSPERGER: Thank you, Ms. Sullivan. Okay. We have a second. The motion is now on the floor for discussion. Would any member like to discuss any of those individual cases before we ask for a vote? Hearing none, all those in favor of the motion as presented, signify by saying aye.

THE BOARD MEMBERS: Aye.

MS. MCGOWAN: Thank you, Mr. Secretary. I believe that is the end of the Attorney General’s agenda, and I have nothing further.

MR. RAFFENSPERGER: Thank you very much. Okay. I believe now we’re back to investigation reports. Mr. Germany?

MS. WATSON: Yes. That’s correct. I believe that we have the consent cases that are first, if there’s any that we’d like to be pulled from that to be presented, or if you want to vote on those in block?

MR. RAFFENSPERGER: What is the will of the SEB?

MR. WORLEY: This is Mr. Worley. There are some of the consent cases that I would like to have pulled and discussed individually.

MS. WATSON: Okay.

MR. RAFFENSPERGER: Yes.

MR. WORLEY: Those would be case numbers 2016-046, Troup County.

MR. RAFFENSPERGER: Okay.

MR. WORLEY: 2017-069, City of Sparta.

MR. RAFFENSPERGER: Okay.

MR. WORLEY: Case number 2018-059, Baldwin County.

MR. RAFFENSPERGER: Okay.
MR. WORLEY: 2018-066, I believe that’s Jefferson County.

MR. RAFFENSPERGER: Okay.

MR. WORLEY: And 2018-101, Fulton County.

MR. RAFFENSPERGER: Got it. Okay.

MR. WORLEY: And that’s all.

MR. RAFFENSPERGER: Do any other Board members want to pull any of these other cases?

MR. MASHBURN: This is Matt Mashburn, and pardon my disorganization here but can you advise me whether case Gwinnett County, case number SEB 2019-009 is in this batch?

MR. RAFFENSPERGER: Yes, it is. It’s on the bottom of my page there. Would you like that pulled?

MR. MASHBURN: Yes, please. I’d like to pull that please.

MS. WATSON: Okay.

MR. RAFFENSPERGER: Okay. And any other members, anything else you want pulled out? Okay. Then, Mr. Mashburn, I just want to make sure. We’re pulling out Gwinnett County 2019-009. There’s also a Gwinnett County, voter registration application, 2019-022. Are you okay with leaving that there or did you want that pulled also?

MR. MASHBURN: Thank you, Mr. Secretary. That’s actual -- these were companion cases, and I would like
both of them to be pulled. Yes, please. Thank you.

MR. RAFFENSPERGER: Okay.

MR. MASHBURN: I appr -- I appreciate it. Thank you very much.

MR. RAFFENSPERGER: Members, anything else that you’d like pulled? If not, what I would propose to do: if someone would make a motion to approve all the other cases, and then we could move those off the docket, and then we can pull out all those 2, 4, 6, 7, cases and have those presented for individual consideration.

MR. MASHBURN: This is Matt Mashburn. I will make a motion that we do precisely that and approve all cases as recommended except for those that have been pulled.

MR. RAFFENSPERGER: Okay. Do we have a second?

MS. SULLIVAN: Rebecca Sullivan will second.

MR. RAFFENSPERGER: Okay. Any further discussion?

Hearing none, all those in favor of voting for these consent cases as presented except the ones that are being pulled out for further consideration by the Board, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, okay. That’s that. Ms. Frances, I guess the first one for us to consider then would be 2016-046, Troup County.

MS. WATSON: Yes, sir. Tab number three, 2016-046:
the complaint in March and April of 2016 is that multiple complainants reported that Troup Election Board member Jason Creel had been publicly endorsing for election a Lewis Davis, a candidate for Troup County Commissioner. The complainants state that they believe this is a violation of Mr. Creel’s oath as a Board member as stipulated in the official code of Georgia 22-2-70-15(b). Also relevant is 22-2-214(c), which addresses prohibited political activities of county election Board members.

The investigation revealed on February 25th of 2016, Troup County Commission candidate Lewis Davis held a fundraiser at the Gray Hill community center at West Point for the purpose of initiating his campaign. Among his attendees was the Jason Creel who currently sits as a member of the Troup County Board of Elections and Registration at that time. Mr. Creel was appointed to the Board in January 2015 by the Troup County Republican party. This occurred during the time that Mr. Davis was serving as the Chairman of that party.

As part of the event, attendees were giving the option of paying for a table at a cost of $250. Mr. Creel did so and was listed on a poster at the event as having been one of the several table sponsors. At the conclusion of the event, all the attendees had their photograph taken with Mr. Davis while holding a sign that read “I stand
with Lewis.” Mr. Creel’s photograph was made with Mr. Davis as well, and the photograph was then posted, along with others, on Mr. Davis’ campaign Facebook page.

On February the 13th, 2016, the photograph was posted on the Troup County Citizen Facebook page, a political blog and forum site. The site called the photograph proof of corruption and blatant cronyism. On March 18th, blog readers were urged to contact the Office of the Secretary of State to complain about the photograph and its implications. Ultimately, five individuals contacted the Investigations Division to complain.

Mr. Creel’s involvement at the fundraiser along with the photographs taken at the event have been the only evidence offered by either the complainants or the witnesses. Creel asserts that he has maintained impartiality in regards to the Lewis Davis campaign and will continue to do so. Creel does not believe that the provisions of his oath stretch to the point that they dictate his political involvement while acting as a private citizen and not as a Board member. The recommendation is -- you know, the issue of the statutes that were cited, 22-2-70-15(b) and 22-2-214(c): we recommended the case be dismissed as there was no evidence to substantiate any impartiality in the conduct of Mr. Creel while conducting the duties as a Troup County
Election Board member.

MR. RAFFENSPERGER: Members, do you have any questions or comments?

MS. LE: Hi, Ms. Watson. This is Anh Le. I don’t think the facts that you put in there support this. I don’t think it’s in there but let me be ask you this to be sure. There’s no evidence that Mr. Creel was wearing a badge that identified him as a Board member or he -- he probably isn’t being paid from the Board to be -- at any time or at least during the time he was there. There’s no county resources that were used for this event by him, correct?

MS. WATSON: None to my knowledge.

MS. LE: And he did not identify himself as a Board member but just as a private citizen at this event, or you don’t have any facts that say or support that he identified himself as a Board member, correct?

MS. WATSON: I do not have any facts that support that he was there in an official Election Board member capacity.

MS. LE: Okay. Thank you.

MR. RAFFENSPERGER: Any other members have any questions, comments, concerns?

MR. WORLEY: This is David Worley. I don’t have a question, but I do have a concern. First of all, I asked
that the case be pulled because it wasn’t clear from the report why the recommendation was being made, so that has been clarified. But I have another concern, which is I’m not sure how the statute which requires that election boards remain impartial is intended to deal with a situation where a Board member is supporting a candidate, and I -- my preference in this case would be to refer it to the Attorney General’s Office for an interpretation of the two -- the two statutes involved and how they should be interpreted when an election board member is supporting a particular candidate. So that’s -- that’s what I would like to see happen here.

MS. LE: This is Anh Le. I -- I have a question, a follow-up on that one, on Mr. Worley’s thoughts. Given that Mr. Creel has a First Amendment right and he was using his private time and no county resources and didn’t implicate the Board in this private event that he attended in his personal capacity, I think it might be unfair to prolong his case for the sake of our need for clarification. I think that maybe if this is an option, I would like to perhaps escalate a question where -- or an opinion -- request an opinion letter from the AG’s Office to clarify Mr. Worley’s points without involving Mr. Creel in those or prolonging his matter. Would that be acceptable?
MR. WORLEY: Well, that would be acceptable to me.

This is Mr. Worley.

MR. RAFFENSPERGER: Does anyone --

MR. MASHBURN: This is Matt Mashburn. I think both Anh Le and David make excellent points in that when I was reviewing this, I came across -- there’s a 1968 Attorney General opinion that says it’s okay to serve as a -- as a Democratic party member, committee -- committee member, and that didn’t violate it, but that it was not okay -- in a 1986 opinion, it was not okay to display signs while a business is using -- is being used as a registration site. So I do think that we would be benefitted by an updated opinion by the Attorney General’s Office, but I am sympathetic to Anh Le’s point as well, and I make a motion that the case SEB 2016-046 be dismissed, but with the condition that a request for an opinion by the Attorney General’s Office on this question be submitted.

MR. WORLEY: This is Mr. Worley. I would second that.

MS. THOMAS: I’m sorry.

MR. GERMANY: Sorry, it was muted. Go ahead, Mr. Secretary.

MR. RAFFENSPERGER: Oh. We have a motion before us by Mr. Mashburn, seconded by Mr. Worley. All those members in favor of the motion as presented, signify by
saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

Thank you. Next case, case number 2017-069, City of Sparta, Hancock County.

MS. WATSON: Yes, sir. In this case, it’s tab -- excuse me, tab number 10, City of Sparta, Hancock County.

On November 6th, 2017, complainant Richard Allen Haywood filed a complaint when Elections Superintendent Aretha Hill challenged him and removed his name from the ballot.

Mr. Haywood states the challenge hearing was held on November the 6th, 2017 at 10am, and he was not notified so he could attend. He states his attorney obtained an injunction late on Monday from Superior Court Judge William Fryer to keep his name on the ballot. The notification was given in writing via email and through a standard US postal mail to Mr. Haywood, the email four days prior to the meeting, and the US postal mailed three days prior. The remaining issues concerning the challenge were handled through an injunction issued by the court that he was to remain on the ballot. We’re recommending the case be dismissed as there was no election code violations substantiated for the notice.

MR. RAFFENSPERGER: Okay. Board members, do we have any questions about this case? Any comments or concerns?
MR. WORLEY: This is Mr. Worley. There were -- there were two reasons that I asked for this case to be pulled and discussed. One is that the statute 21-2-6(b) states that the superintendent upon his or her own motion may challenge the qualifications of any candidate referred to in the subsection, and apparently, the election superintendent challenged the qualifications of the candidate. There’s no indication in here of -- well, the elections superintendent has not cooperated at all with this investigation it seems. So it’s difficult to determine the basis on which she made that challenge which was overturned by a court immediately, and it seems to me that if she didn’t have a basis, there was a violation. We can’t determine if there’s a basis because she’s not cooperating, and under these circumstances, I would refer this case to the Attorney General.

MR. RAFFENSPERGER: Any comments or is that a motion?

MR. WORLEY: Well, I would make that in the form of a motion to refer it to the Attorney General.

MR. MASHBURN: This is -- this is Matt Mashburn. I’m very concerned when there’s a lack of cooperation with the investigators, and this was my first batch of cases, and just the incredible amount of work that these investigators put into these cases -- it just astounded me how thorough they were. But it disturbs me when -- when
an elections superintendent is not cooperative with the investigators and so I would second Mr. Worl -- Mr. Worley’s motion.

MR. RAFFENSPERGER: Okay. Do we have any discussion? Hearing none, let’s call the question. All those in favor of Mr. Worley’s motion to refer this back to the Attorney General’s Office, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MS. WATSON: Okay. The next case that we have is tab number 24, which is Baldwin County, 2018-059. In September of 2018, the Legal Director of the ACLU, Sean Young, reported that according to Georgia Shift, the Baldwin County Elections Office was requiring copies of photo identification to accompany any voter registration turned in by Georgia Shift. Sean Young also stated the Baldwin County Elections Office held irregular office hours that prevented Georgia Shift from turning in voter registration applications during regular business hours. Sean Young alleged the Elections Office was closed from 12 to 2:30 on one or more weekdays.

It was verified that in 2016 Baldwin County was using the voter registration forms that were provided by our office. The wording on the forms was in the process of being changed to include the word “or” in the sentence.
The sentence states, “if you are submitting this form by mail and you are registering for the first time in Georgia, you are required to submit proof of residence either with this form or when you vote for the first time.”

Baldwin County was processing all voter registration applications they received, regardless of if proof of residency was provided or not with the application. A letter is mailed to the voter to advise the requirement for proof of residency, and the voter registration in the system is flagged to require proof at the time the individual shows up to vote. The Baldwin County Elections Office would regularly be closed for lunch with a sign posted on the door. A part-time person was hired to cover during the lunch periods so the office could remain open during the business day going forward. We recommended the case be dismissed with no violation.

MR. RAFFENSPERGER: Okay.

MR. WORLEY: This is Mr. Worley, Mr. Secretary. If I could explain why I asked that this case be pulled, I’m not concerned about the hours that the office being open because that seems to be resolved by the investigation, but there’s an issue in this case about the use of voter registration forms, and essentially, someone in Baldwin County was trying to conduct voter registration efforts.
They had gotten a form from the Baldwin County Elections Office that was not accurate, the -- in that -- in that the form was requiring submission of photo ID, a copy of a photo ID with the form, which is not required under Georgia law.

The former Secretary of State had agreed that those forms would -- would -- should not be used, essentially, and the forms were revised, but the investigation seems to indicate that the State has a supply at least at one point of more than 130,000 of these old forms. And the spokesperson for the former Secretary who was quoted in a newspaper article that local officials had been trained to accept all of the voter registration forms without asking applicants for a photo ID or proof of residence, and it seems that at least some counties are still using the old forms. And this is leading to some problems.

So I -- I wanted this case pulled so we could just discuss and find out, perhaps from Mr. Germany or anyone else, whether these old forms are still being used, and how this problem might be corrected.

MR. RAFFENSPERGER: Okay.

MR. GERMANY: Hi. This is -- this is Ryan Germany. My understanding is that they were using the old forms, and at the time the form was changed, some counties still had existing supplies, so new supplies would be sent with
the new form. We’re continuing to, you know, work on updating the voter registration form still. In Baldwin County, I think the investigation found that all the registrations were accepted, so I don’t think -- I don’t think the report shows -- they couldn’t substantiate that there was any -- Baldwin County was putting any photo ID requirement in actuality. And that’s -- so I think that’s kind of the point that you brought up, Mr. Worley, that they were accepting the form, not requiring photo ID. The old form didn’t require photo ID either, but it, you know, allowed you to say it to fulfill the HAVA ID requirement. So I think that -- I mean, that’s really the point that the investigation found.

MR. WORLEY: Well, I agree with that, but I guess my question is have the counties been instructed that a new form is available and that they should not use these old forms?

MR. GERMANY: The counties were instructed at the time consistent with what you said that yes, if you have old forms -- if you receive old forms, continue to accept them. Photo ID is not required. The old form didn’t require photo ID either, so that’s -- it’s kind of a, you know, -- it’s not completely accurate. It was -- it simply allowed photo ID to fulfill the HAVA ID requirement in federal law. That requirement has not changed. It
was, frankly, some wording on the form that was changed. So to answer your question, yes. Do they know if they receive an old form -- sometimes counties receive forms from -- I mean, they have Secretary of State Max Cleland on them. I don’t know where they -- where people get the forms, but if they come in, you know, they are to accept them, and they all know that there’s not a photo. I mean, they should all know that there’s not a photo ID requirement to register to vote.

MR. WORLEY: Okay. Well, I get it if they’re -- if they get an old form, they’re to accept it, but are they handing out any of the old forms --

MR. GERMANY: Here’s the thing. There’s no evidence in the case that any county was requiring it. The investigation found the opposite. They were accepting the forms without a photo ID requirement.

MR. WORLEY: I’m sorry, Mr. Germany. That’s not what I said. My -- and I think you are correct. Well, I think there’s actually some confusion in the report because -- but in any event, my question is are any of the counties handing out the old forms?

MR. GERMANY: I’m going to -- I’m looking at Chris Harvey. He would know better than me.

MR. HARVEY: This is Chris Harvey. As far as we know, no. We’re not providing them to the counties. It’s
not inconceivable that, you know, a county has them in stock or that some of these organizations that are doing voter registration drives have old stock that they’re using, so I don’t -- I don’t think I can say absolutely that every county elections and registration office has purged every old form or that, you know, registration groups or advocacy groups have either. We’ve -- we’ve advised the counties to err on the side of accepting forms, even if they’re from previous administrations or previous iterations. But we’re certainly not providing them to counties to use now.

MR. WORLEY: Okay. But so the counties have not been instructed that if they have old forms, they should stop using the old forms and get new forms.

MR. HARVEY: Over the course of several years, that — that -- I can’t say we haven’t done that, or we have. I can reiterate to the counties now, but I can’t remember any specific direction in the course of the last five years when that was done, although it may have been.

MR. GERMANY: At the -- at the time, my recollection was we told them, you continue to use your existing stock of old forms, but that was, of course, you know, years ago, so I assume those have been used at this point.

MR. RAFFENSPERGER: I think what I’m hearing is a concern that perhaps it would be best if the Secretary of
State’s Office would send out notification to every county
to discontinue using old forms. Here is the new form, so
that there’s clarity of that because enough time has
lapsed, and the newer forms should be used. Is that what
I’m hearing from you, Mr. Worley, that you’d like to see
something like that?

MR. WORLEY: Yes, Mr. Secretary. That would be my
strong preference. Thank you. As far as --

MR. RAFFENSPERGER: So we’re happy to --

MR. WORLEY: As far as this particular case is
concerned, I would agree that it should be dismissed.

MR. RAFFENSPERGER: Okay. So part of your motion, if
you would, make a motion to dismiss. Would you like to
then ask the Secretary of State’s Office to send out an
email notification to all 159 counties and attach the
updated form so that they have an official receipt?

MR. WORLEY: Yes. I would make that motion. Thank
you.

MR. RAFFENSPERGER: Is that the motion then? Members,
if you would agree, do we have a second of that?

MR. MASHBURN: Second.

MR. RAFFENSPERGER: Okay. Any further discussion on
this matter? Hearing none, all those in favor of the
motion as presented, signify by saying aye.

THE BOARD MEMBERS: Aye.
MR. RAFFENSPERGER: Opposed? Motion carries.

MS. WATSON: Okay. The next case is tab number 28. It’s case number 2018-066, Jefferson County, voter intimidation. In October of 2018, our office received several complaints of a possible voter intimidation in Jefferson County. On October the 15th, 2018, the Leisure Center Director Tammy Bennett reported that seniors who wanted to vote were going to be transported to the poll by a Jefferson County transit bus. The arrangements were made in advance for the first day of advance voting.

On October the 15th, a representative from Black Voters Matter also came to the senior center to talk to the seniors about voting. The tour bus for Black Voters Matter was in the parking lot, and the seniors were offered a tour of the bus. Then, an offer was made to the seniors that anyone wishing to go to vote could get on the bus, and they would take them. Ms. Bennett, the Director of the Leisure Center, advised the seniors that they would take them to vote but not then and asked them to get off the bus, which they did.

Out of the 72 seniors that were known to be in the Leisure Center on October the 15th, it was found that 57 voted in the election, one requested an absentee ballot but did not return it, 7 did not vote, and 7 were not registered to vote. There was no one located that advised
that there were any threats or force or violence or any
acts to intimidate any person to vote or to refrain from
voting. We’re recommending the case be dismissed.

MR. RAFFENSPERGER: Okay.

MR. WORLEY: Mr. Secretary, this is Mr. Worley. The
reason that I asked that this case or that the results of
this case be announced, I have taken the position in the
past that cases that have gotten some public notoriety or
cases that involve an elected official who’s been the
subject of an accusation should not, as a general matter,
be -- be resolved on a consent basis because that doesn’t
really provide the public any information about why the
case was dismissed. And that’s why -- that’s why I asked
that this case be discussed, and the next case, the Fulton
County case that I had pulled, be discussed for that
reason. This situation in Jefferson County received a lot
of national press attention, and if we are going to decide
that there was no violation, I just think it should be
something that should be made more available to the
public, and Ms. Watson has publicly announced the results
of the investigation and that satisfies my concern. Thank
you.

MR. RAFFENSPERGER: Any other members have any
questions, comments, concerns? Hearing none, what is the
will of the Committee?
MR. MASHBURN: This is Matt Mashburn. I move that SEB number 2 -- 2018-066, Jefferson County, be dismissed.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: Anh -- Anh Le seconds.

MR. RAFFENSPERGER: Any further discussion? Hearing none, all those in favor of dismissing SEB case 2018-066, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

Okay.

MS. WATSON: Okay. The next case is tab number 37. It's 2018-101, Fulton County, conduct at polling places. In November of 2018, a Naomi Harrington, a polling manager for the Southwest Arts Center polling location in Fulton County, reported a voter was extremely nasty to her and the clerks. The incident took place during advance in-person voting on November 1st, 2018 for the November 6th general election. Fulton County elections also reported that Betty Price [ph.] was disruptive during early voting. This incident took place during advance in-person voting on November 28th, 2018 for the December 4th, 2018 runoff election.

The investigation revealed that the voter at Southwest Arts Center polling location was identified as Antoinette Singh, S-i-n-g-h, at the time of the complaint.
Ms. Singh advised that she requested an absentee ballot but received an application for an absentee ballot in the ballot. It was too close to the election, so she had to go to the polling place to vote. Ms. Singh states there was not enough seating or voting machines at the polls and no sample paper ballots. She denies the allegations that she was nasty to the -- to the clerks. The poll worker making the complaints when shown a photo of Ms. Singh states that she was not the person that caused the problem at the poll.

As to the reported incident with Betty Price, she stated she did not recall any incident at the poll, but she is familiar with the machines having worked the polls but does not recall writing down the machine counts. All of the poll workers recall Betty Price being loud at the polls and upset that she was asked what she was doing. It was noted that Betty Price had waited until all other voters had left the machines before she approached. Two of the three poll workers advised that she did not interfere with any voters or poll workers. One poll worker advised that she was disruptive. We’re recommending the case be dismissed.

MR. RAFFENSPERGER: Okay. Members? Do we have any questions, comments, or concerns? Hearing none, do we have a motion before the Board?
MR. WORLEY: This is Mr. Worley. I would make a motion that this case be dismissed.

MR. RAFFENSPERGER: Do we have a second?

MR. MASHBURN: Second.

MR. RAFFENSPERGER: Do we have any further discussion? Hearing none, all those in favor of dismissing SEB case number 2018-101, Fulton County, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed? Hearing none, motion -- case is dismissed.

MS. WATSON: The next case is tab number 41. It’s 2019-009, Gwinnett County, voter registration. Lynn Ledford with the Gwinnett County Board of Registration and Elections emailed the Georgia Secretary of State’s Office reporting three voter registration applications that she states appeared to be false registrations. Three voter registrations were submitted with similar information with variations of the name, address, and date of birth. The registrations were submitted in February of 2019 by a third-party organization conducting voter registration drives. The name of the voter registrations was Chris or Christopher Shakir [ph.] All attempts to locate and interview Mr. Shakir have not been successful. Mr. Shakir does have a valid voter registration form from 2018.
We’re recommending the case be dismissed, as there is no verifiable proof of the identity of the individual that completed the three voter registrations.

MR. RAFFENSPERGER: Okay. Any questions, comments, concerns from the Board?

MR. MASHBURN: This is Matt Mashburn. The reason I asked for this one to be pulled and the companion case to be pulled is that it appeared to me from reviewing the case file -- is that we’ve got six fraudulent voter registrations emanating from a boyfriend and a girlfriend -- between them, appear to have generated six fraudulent voter registration applications, and as far as I can tell, there was zero cooperation and even, you know, hiding from the -- from the investigators, so I would actually like for this to be referred to the Attorney General so that they might use additional investigative powers include the power of subpoena to get to the bottom of this. I think this is very serious and should be referred to the Attorney General.

MR. RAFFENSPERGER: Was that a motion?

MR. MASHBURN: And move that it be -- move that it be referred to the Attorney General, along with its companion case.

MR. RAFFENSPERGER: And that is case 20 -- 2019-022?

MR. WORLEY: This is David Worley. I would second
Mr. Mashburn’s motion.

MR. RAFFENSPERGER: Okay. Any further discussion?
Okay. Hearing none, all those in favor of moving case 2019-009 and 2019-0 --

MS. MCGOWAN: Mr. Secretary? Mr. Secretary, I’m sorry to interrupt. This is Charlene McGowan with the Attorney General’s Office. I would just like to clarify that it is the State Election Board that has subpoena authority. If -- if further investigation is warranted on this case, then I would suggest that it’s the Board that uses a subpoena to do further investigation.

MR. RAFFENSPERGER: Okay. Board members, you’ve heard from the Attorney General’s Office.

MS. WATSON: Mr. Secretary, we can certainly take the case back and do some fur -- further follow-up to try to locate these individuals for statements and further information.

MR. RAFFENSPERGER: I believe it’s the will of the State Election Board that you use full subpoena power and additional -- whatever resources to bring to bear to the full degree to get to the bottom of the matter.

MS. WATSON: Okay.

MR. MASHBURN: Oh, and with that information -- this is Matt Mashburn -- I withdraw the motion but do request that the investigators investigate this and the companion
case using all available techniques and powers at their
disposal.

MS. WATSON: Okay.

MR. RAFFENSPERGER: Any further action required for
us to send that back, Mr. Germany, or does that -- or do
you want a motion for that?

MR. GERMANY: In the past, I think it’s just been a
motion to basically send back for inve -- or further
investigation.

MR. MASHBURN: I move that this be sent back for
further investigation, please.

MR. WORLEY: This is Mr. Worley. I would second that
motion.

MR. RAFFENSPERGER: Any further discussion? All
those in favor of moving back case number 2019-009,
Gwinnett County, and 2019-022, Gwinnett County, signify by
saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed? Motion carries
unanimously. It’s moved back for additional
investigation. Okay.

MS. WATSON: Okay. Next up is the letter of
instruction cases.

MR. RAFFENSPERGER: Do you want to take a -- let’s
see. We’ve been going here for a while. Can we take a --
so it’s 10:27, come back at, say 10:35. Is that enough
time for everyone to check messages and we’ll back at
10:35, take a six, seven-minute break? Does that work?

    MS. WATSON: Yes, sir.

    MR. RAFFENSPERGER: Okay. Thanks.

(Meeting break)

    MR. RAFFENSPERGER: Okay. It’s 10:35, and the letter
cases are before us. Do we want to have Ms. Watson
discuss those, or are there some that the Board members
would like to pull out that we can vote as entire group
for these? Board members, you have the letter cases
before you. Are there any that you want to push -- pull
out for individual discussion? Okay. Hearing none, what
is the will of the committee for the letter cases? Should
we read out all the numbers or go straight down the list?

    MS. LE: I’m sorry. I’m sorry, Mr. Chairman. This
is Anh Le. I didn’t unmute myself fast enough. Could I
hear --

    MR. RAFFENSPERGER: Okay.

    MS. LE: -- could I ask one of the cases, I believe,
20-17 and 20-19 about the ballot box drop box cases be
pulled please? Okay.

    MR. RAFFENSPERGER: Which numbers are those?

    MS. LE: Sorry.

    MS. WATSON: Tab number six. Go ahead. It’s 2020–
017 and 2020-19.

MR. WORLEY: And Mr. Secretary, --

MR. RAFFENSPERGER: Someone faded out there. Can I hear that again?

MS. WATSON: Tab --

MR. WORLEY: Mr. Secretary, -- oh, I’m sorry.


MR. RAFFENSPERGER: Okay. And was that Mr. Mashburn I heard or Mr. Worley?

MR. WORLEY: It was Mr. Worley, Mr. Secretary. I believe that Mr. Holsworth, who spoke in the public comment, was here to talk about one of these letter cases, I think the Fulton County one. I’m not absolutely sure.

MS. WATSON: That is correct. Tab number 55, 17-004.

MR. RAFFENSPERGER: Okay.

MR. HOLSWORTH: I’m still here.

MR. RAFFENSPERGER: Any other members of the Board?

MR. HOLSWORTH: This is Lee --

MR. RAFFENSPERGER: Are there any other cases that we’d like to pull out? Okay. Hearing none, if the Board would like to then vote on all the cases en masse except 2017-004 and 2020-017 and 2020-019. We’ll pull those out for individual consideration of those. Do we have a motion?

MR. WORLEY: I will make that motion. This is Mr.
Worley.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second, Rebecca Sullivan.

MR. RAFFENSPERGER: Any further discussion? All
those in favor of pulling out all cases except the ones --
the three that we’ve pulled out, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Okay. Motion
carries. Okay. SEB case number 2017-004, Ms. Watson?

MS. WATSON: Yes, sir. In January of 2017, Fulton
County Director of Elections Richard Barron reported that
an elector allegedly campaigned within the 150 feet
boundary of the Johns Creek Environmental Campus polling
station on October 29th. Investigation revealed that the
Respondent Lee Allen Holsworth admitted to wearing a hat
that contained a slogan “Make America Great Again” on and
inside the Johns Creek Environmental Campus polling
station when he voted. And we’re recommending that Mr.
Holsworth be issued a letter of instruction for violation
of 21-2-414(a).

MR. RAFFENSPERGER: Okay. I believe Mr. Holsworth
was -- called in earlier. Is he -- would he like to
address the Board?

MS. THOMAS: He’s here. He’s -- his audio just went
out. Mr. Holsworth, it’s asking you to put in a PIN. A
PIN has been sent to you.

MR. RAFFENSPERGER: Okay. In the meantime, do any of the Board members have any questions, comments, or concerns?

MR. WORLEY: This is David Worley. I just wanted a little clarification. Did -- did the hat that Mr. Holsworth is said to have been wearing have a candidate name on it or not?

MS. WATSON: No. It did not.

MR. WORLEY: Okay. Because there’s a statement in the findings that says poll worker, Ms. Baker, advised this investigator that the hat the Respondent was wearing had the words “Vote for Donald Trump” on it and so did an assistant poll manager.

MS. WATSON: I’m looking at that.

MR. WORLEY: Just looking at the last two sentences of the findings portion of the report.

MS. THOMAS: And while they’re looking at that, Mr. Holsworth, the PIN has been sent to you in a chat. If you could put that in, so you can unmute yourself.

MS. WATSON: Yes, sir. I do see that that is what the investigator confirmed that the hat did say that.

MR. WORLEY: Okay.

MS. WATSON: It did display “Vote for Donald Trump.”

MR. RAFFENSPERGER: Okay. If we could get Mr.
Holsworth on the --

MS. WATSON: Should we just try to call him?

MS. THOMAS: Yeah.

MS. WATSON: I’m going to try to call him on the phone.

MR. RAFFENSPERGER: Thank you.

MS. WATSON: Hi, Mr. Holsworth. I’m going to put you on speaker, so you can speak to the Board members. One second.

MR. HOLSWORTH: Okay.

MS. WATSON: All right. Go ahead, Mr. Holsworth.

MR. HOLSWORTH: Yeah, I’m so sorry, but my phone dropped twice in a row. So sorry, so I missed -- I heard the beginning of when they were reading what had happened when the investigator called me back. I’m so sorry about that.

MR. RAFFENSPERGER: No -- no worries. Mr. Holsworth, one of the Board members asked a question. Did you endorse the candidate or was it just a slogan?

MR. HOLSWORTH: It was just a slogan.

MR. RAFFENSPERGER: Do you have any further comments that you’d like to present to the Board?

MR. HOLSWORTH: You know, I always wear a hat. I’ve had skin cancer, so I’m supposed to always wear a hat, and the hat I was wearing around election time -- I thought it
was interesting that all of the notes from this said
something about Trump on it, and the hat is a red hat that
says “Make America Great.” There’s nothing about Trump on
any of it. And I wasn’t -- didn’t feel I was reactionary
or anything like that. I was just going in to vote. At
the time, I don’t even know if there were any other voters
there. When they asked me to take it off, I was so
surprised, but I did it. I took it out to the car, left
it in the car, and came back in and voted, so it wasn’t
like there was any kind of a confrontation or anything. I
just was surprised that they asked me to do that.

MR. RAFFENSPERGER: Any questions from any Board
members?

MR. HOLSWORTH: No. I was just surprised it took --
I’d forgotten all about this thing. It was, like, three
years ago. The letter that said an investigation was
unfolding -- I’d forgotten all about it.

MR. RAFFENSPERGER: Board members, do you have any
questions for Mr. Holsworth? Thank you, sir.

MR. HOLSWORTH: Thank you, sir.

MR. RAFFENSPERGER: All right. This is before you
right now. We’ve had a clarification. We know what he
was wearing.

MR. HOLSWORTH: Sorry. Were you asking me a
question?
MR. RAFFENSPERGER: No. I think we’re good. It’s before the Board, if they want to make a motion on what they -- what they would like to do with this case.

MR. MASHBURN: This is Matt Mashburn. I move that the case be resolved by a letter of instruction.

MS. LE: Hey, Matt. This is Anh Le. Seeing that Mr. Holsworth complied when asked and was not aware of the violation and was agreeable, I also second that motion.

MR. WORLEY: This is Mr. Worley. And this -- this may sound like a strange thing for me to say, but I don’t think we should send him a letter of instruction because I don’t think that it’s -- I just don’t think it’s a violation to wear a “Make America Great Again” hat that doesn’t say vote for a particular candidate on it. Even though it’s well known that people who are wearing those hats might be supporting a particular candidate, I just don’t think it’s technically a violation of the statute, and therefore, I don’t think he should get a letter of instruction. So I will be voting against that motion for that reason.

MR. RAFFENSPERGER: Okay. Do we have any further comments?

MR. MASHBURN: Yeah. Just by way of further comment, the -- I think we’ve -- well, if I could -- if I could just make a comment after we’ve voted very -- very brief,
but I’m prepared to vote.

MR. RAFFENSPERGER: You’re prepared to vote?

MR. MASHBURN: Yes.

MR. RAFFENSPERGER: Okay. Any further comment about the motion? All those in favor of the motion of sending a letter of instruction for SEB 2017-004, signify by saying aye.

THE BOARD MEMBERS: (except Mr. Worley) Aye.

MR. RAFFENSPERGER: Those opposed?

MR. WORLEY: No.

MR. RAFFENSPERGER: So I hear two ayes and Mr. Worley opposed. Do we have any other votes that we need to pick up?

MS. SULLIVAN: Rebecca Sullivan also voted aye.

MR. RAFFENSPERGER: You did? So it’s three. Motion carries. Okay. Fayette County, 2020-017, is before us now.

MS. WATSON: Yes, sir. This case is tab number 62, Fayette County, absentee ballot drop box. The absentee ballot drop box in Fayette County was not in compliance with the SEB rules. It was found during inspection on May 27th that the absentee ballot drop box was not made of durable material, did not minimize the ability of liquid to be poured into it, was not securely fastened to the ground, did not have signage regarding the Georgia law
relating to absentee ballot harvesting, destroying, defacing, or delaying delivery of ballots. On July the 20th, 2020, it was determined that a replacement box had been ordered, and they were not using the old box -- the Fayette County. The recommendation is that Fayette County be issued a letter of instruction for violation of SEB rule 183-1-14-.06-.14(6)(7)(5).

MR. RAFFENSPERGER: Okay. Members, -- Ms. Le, I believe it was you that wanted to pull this case out. Did you have any questions, comments, or concerns?

MS. LE: Yes, sir. Thank you. I had pulled this and the next case out -- the next case being 2020-019 -- for the same reasons, that is, the four questions on the questionnaire were both -- were all no’s, which is summarized by the investigative report just now, and I think that’s -- that’s a concern, given that we’re expecting a decent amount of absentee ballot drop box usage in the next election, and I’m curious to know what -- I guess what the counties are being trained -- some kind of assurance that they’re prepared to accept the large volumes and not using boxes that are makeshift because that’s all they had on hand like we hear in this case. I guess I’m asking for both cases if I may -- if not, my question will be the same on the next case, which is what training or what assurances are we getting from the
counties? I understand that this passing election, it sounded like in one case that they couldn’t order it in time, the secure drop boxes, but what about this next election? What’s being done to rectify this and to ensure that the counties do have what they need or get what they need in place in time for the next election, being in November? Thank you.

MR. RAFFENSPERGER: Okay. Mr. Germany? We’ve had a couple of questions about that.

MR. GERMANY: Yes, sir. Chris, I think Chris is best to answer that.

MR. HARVEY: Mr. Secretary, members of the Board, this is Chris Harvey. A couple of things have been done for the counties to make sure that they comply with the SEB rules regarding the ballot drop boxes. One is our office has a grant program whereby we reimburse costs of up to $3,000 for the purchase and installation of the absentee ballot drop boxes. You know, in some cases they’re relatively expensive to install, so we’re reimbursing up to $3,000 for one or more absentee ballot drop boxes.

Secondly, we’re making sure that the counties are aware of the rules, the updated rules, regarding the requirements for the drop boxes. You know, we understand that the rules are relatively stringent, and we’ve sent
out several directives to the counties making sure that
they’re aware of the requirements and that they follow
them or contact us with any questions. And lastly, we’ve
been working with some groups that are trying to leverage
private -- private industry resources to try to get
additional funds for counties to install additional drop
boxes.

So that process is ongoing. We don’t have anything
final to report on that, but we’ve been in regular
communication with the counties to make sure they
understand the -- the role of the drop boxes. Frankly,
I’ve encouraged counties to implement as many drop boxes
as they reasonably can, and we’re seeing they’re taking
advantage of it.

MR. RAFFENSPERGER: Thank you.

MS. SULLIVAN: This is Rebecca Sullivan. I have some
concerns that in both of these cases it looks like neither
county had acceptable drop boxes, so they made the
decision to use unacceptable ones rather than not use drop
boxes at all. Is that something that the Secretary of
State’s Office has addressed?

MR. HARVEY: As far as that goes, we -- I always tell
the counties they need to follow SEB rules. You know, I
make the rules clear with them. We talk about it on
conference calls and in written directions, and I -- I
always tell the counties that they’re ultimately
responsible for complying, so that’s -- that’s our
position. I can’t -- I tell the counties I can’t excuse
them deviating from state law and State Election Board
rules.

MS. WATSON: And this is Frances Watson. Also, we
did follow up with these -- these cases, and the first one
with Fayette County, they stopped using the drop box until
they could get their permanent drop box in place and the
same with Spalding County. We did verify that the new box
arrived on May 28th and was placed in service on June the
3rd of 2020. So we did follow up to make sure they had
the regular box that was in compliance in place.

MS. LE: This is Anh Le. I -- my biggest concern is
-- is, you know, the faith and confidence of the voters
that absentee ballots are secured and can be trusted, and
-- and I think it is in Georgia. We do a great job in
that regard, and the counties are doing an excellent job.
I just don’t want there to be an opportunity for, you
know, somebody out there to take advantage of the counties
kind of being on their own and then bring into question
the integrity of our vo -- absentee ballots.

So on that -- against that backdrop, I am curious to
know if, Chris, if you are going to be doing more between
now and November then just kind of -- I know you’re doing
a lot with this, but I’m curious to know will there be any more proactive kind of county assurances reporting that they are, you know, secured. Yes, all boxes are checked because if there’s a violation, you’re absolutely right. We will enforce that. But that’s after the fact, and then that’s after the election. So I’m just curious to know will there be any more communications in this regard and enforcement in this regard?

MR. HARVEY: This is Chris. Yes. I think it was last -- as recently as last week, I sent out the updated rules and adopted rules and reminded counties that they’re doing that. I know that when the monitors go out to monitor both in advance voting and on Election Day, they will be checking all of the drop boxes to make sure that they comply with the -- with the standards. And again, we’ll keep reiterating it to the counties. The counties generally do provide us with the locations of the drop boxes so that we can -- we can know where they are, and we can check on them. And I field probably two or three calls a week from county directors asking questions about absentee ballot drop boxes.

MS. LE: And I’m sorry. One last question: are we doing spot checking of these locations? Knowing -- knowing that the counties have their drop boxes, and once they’re set up, they’re notifying you. Is there any plan
to do spot checking just to ensure?

    MS. WATSON: Yeah, this is Frances Watson, and we do
have an absentee ballot drop box inspection form, so
during early, advance, and during election, we -- we would
also check those while we’re doing the other polling place
inspections.

    MS. LE: Thank you.

    MR. RAFFENSPERGER: And that -- this is Brad
Raffensperger. And that would be for all 159 counties,
we’ll be making sure we hit every single county to make
sure those people’s absentee ballot drop boxes comply with
the law and SEB rules.

    MS. WATSON: Okay.

    MR. RAFFENSPERGER: Okay. Do we have any further
discussion about 2017 or 2020-017? And Ms. Le, since
Spalding County is similar but different, I don’t know if
you would like to make a motion for both of those at the
same time, or if you’d like to -- if you’d like to, you
know, do those individually?

    MS LE: Mr. Chairman, I -- those were my only
questions for 20 -- cases 2020-017 and 2020-019. They’re
the same concern, and I feel that I’ve gotten my answer,
so if the Board is -- is okay, I’ll make a motion to -- I
think I was going to originally make a motion to also have
a consent order in there requiring the counties to send
some kind of compliance assurance, but given that Ms. Frances Watson has said that we are doing spot checking, and Mr. Harvey is continuing his vigorous communications with the counties, I would move to issue a letter of instruction for both of these cases, if that’s okay with the Board.

MR. RAFFENSPERGER: Do we have a second?

MR. WORLEY: This is Mr. Worley. I would second that.

MR. RAFFENSPERGER: Any further discussion? All those in favor of the motion for 2020-017 and 2020-019, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed? Motion carries.

Okay. New cases, do we have anyone that is here to talk about the cases? We can move them to the front of the line.

MS. WATSON: Do you want to do the dismissal -- Mr. -- Mr. Raffensperger, if you would like, I could go over the cases that were granted continuance, so that we can --

MR. RAFFENSPERGER: Okay.

MS. WATSON: -- or those that -- tab number 65, Fulton County, 2020-022.

MR. RAFFENSPERGER: Okay.

MS. WATSON: Tab number 67 through tab number 71,
Fulton County cases continued. Tab number 76, which is 2016-070, Gilmer County, was continued. Tab number 77, Hancock County qualifying, continued, and tab number 78, Long County 2016-110, was continued, all at the request of the attorneys due to conflict.

MR. RAFFENSPERGER: Okay. What’s the first one that you want to present before the Board?

MS. WATSON: The first case is 2020-014. It’s Fulton County absentee ballot drop box case. In this case, in May of 2020, an email from Fulton County Elections indicated multiple locations of absentee ballot drop boxes still required surveillance system installations and repairs. On June 8th of 2020, it was reported that an individual located the keys to the absentee ballot drop box and the lock at 2757 Main Street, East Point, Georgia, 30344.

The investigation revealed the company installing and repairing the surveillance equipment provided a statement that the location did in fact have working surveillance equipment. It was discovered, however, that the camera recordings were not being stored for the required amount of time. The code states the recordings are to be stored for at least 30 days after the election certification or at the conclusion of any election contest. Fulton County was only storing the video for 14 days from the time it
was recorded.

A voter dropping off his absentee ballot at the East Point Library observed the keys to the drop box locks. He describes the keys as being on a stretchy, spooling type cord with one key inserted in one lock and the other in the second lock. He was able to turn the key and open the absentee ballot drop box and observe the absentee ballots inside the box. He closed the box, relocked it, and took the keys to the East Point Police Department because there was no one in the library location to turn the keys over to. He saw a policeman outside the police department. He approached the policeman, gave the keys to the police officer, who did not ask him his name, told him they were to the absentee ballot drop box, and asked him to safely return the keys.

And we’re recommending in this case that it be bound over to the Attorney General’s Office for Fulton County Board of Elections and Registration and Richard Barron, Fulton County Director of Elections for Board rule 183-1-14-0.6-.145, secure absentee ballot drop boxes, when they deployed a video surveillance system that does not retain video surveillance footage until 30 days after the election certification or completion of any election contest, and 21-1-386(a)(1)(a), safekeeping, certification, and validation of absentee ballots, when
the key to the absentee ballot box was left in the drop box while the box was in use.

MR. RAFFENSPERGER: Okay. Do we have any questions, comments, or concerns? Anyone want to speak for Fulton County on this?

MS. THOMAS: Ms. Palmer, you’re unmuted, if you would like to say something.

MS. PALMER: Okay. Thank you. Good morning, everyone. I sent Mr. Germany a very short memo which addressed in part this complaint last night, and I apologize for sending it somewhat late, but I hope you all got it. Just briefly on behalf of Fulton County, I want to let you all know that they have purchased the necessary equipment in order to retain the surveillance footage for the time period required by the rule. That equipment has been purchased and should be in place in about two weeks from today.

As to the allegation with the key, we got some additional information this morning just hearing Ms. Watson relate what she did. That was not in the complaint that we received, and frankly, just with the information that was in the complaint, there was really no way to research and respond to the issue with the key. What I would suggest to the Board, we’re asking you to just dismiss and close this complaint given that Fulton County
has purchased the equipment which will bring them in compliance with the rule, and I would ask you to do that for both potential violations, given that the equipment, you know, being able to record the surveillance footage should also address the issue -- the security issue, which, you know, in this instance allegedly the key was found in the drop box.

So, you know, without -- without further information about, you know, the key being turned in -- I believe the copy of the complaint I got said that there was no report made at the East Point police, and they couldn’t verify that the key had, in fact, been turned in. You know, without any way to sort of validate that -- you know, I don’t know what the Attorney General could do and investigate, but in any event, the end result would be that the new equipment that’s put in place would address the issue of security at the absentee ballot drop boxes. Thank you.

MR. WORLEY: Well, this is Mr. Worley. Perhaps the investigator could subpoena somebody in Fulton County to find out where the key is and how it got back to Fulton County from the East Point drop box.

MS. PALMER: If the Board wants to do that and give us more time to follow up on that particular question, we’d be happy to do that. I mean, we didn’t even know
before this morning that -- the description about the key
being in the lock or it being on the particular type of
key chain, so if the Board would give us more time to
respond to that specific allegation, we’d be happy to do
it.

MR. RAFFENSPERGER: I think then from what I’m
hearing one of our members and perhaps the Chairman would
like to see this sent back for additional investigation to
come back at a later time.

MR. WORLEY: This is Mr. Worley. I -- I think that
the allegations as they have been made are enough to refer
it to the Attorney General’s Office, but I’m certainly
willing to have the investigation continued before we do
that, so that we can completely find out the facts and
give Fulton County an opportunity to find out what
happened to that key, so I would make a motion that we ask
the investigator to conduct a further investigation.

MR. RAFFENSPERGER: Before I ask for a second, Ms.
Watson, if this were sent to the Attorney General’s
Office, do they do any -- would they do any additional
investigation or what would be -- what would the Attorney
General’s position be on this?

MS. WATSON: My understanding is that they do not
have investigators to follow up on that, so it would --
would be best to refer it back to us for additional
follow-up.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: Anh Le, I second that.

MR. RAFFENSPERGER: Do we have any further discussion? Mr. Worley’s motion of 2020-014, all those in favor, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Case is sent back for additional investigation.

MS. WATSON: The next case is tab number 66, which is 2016-060, Fulton County, ballot proof. In this case, it was May 2016, Fulton County Board of Elections and Registration Dwight Brower self-reported that a person who was not a candidate for Fulton County Superior court judge had been mistakenly placed on the ballot for the upcoming May 24th, 2016 non-partisan general election. The investigation confirmed that this was the case. The candidate should have been listed on the Atlantic judicial circuit but was instead listed on the Atlanta judicial circuit in error. Fulton County responded by posting notices at the polls and mailing ballot error notices along with absentee ballot forms. We recommend that Fulton County Board of Elections and Registration and Dwight Brower be bound over to the Attorney General for violation of 21-2-283 and SEB rule 183-1-12-.023(a)(3).
MR. RAFFENSPERGER: Okay. Do we have anyone to speak

--

MS. PALMER: Yes.

MR. RAFFENSPERGER: -- for Fulton County?

MS. PALMER: This is -- thank you, Mr. Secretary.

It’s Amanda Clark Palmer again. That issue for the ballot

I would note for the Board was unintentional, but it was

also discovered and self-reported by Mr. Brower, the

Elections Director. I want to just make clear for the

Board that Robert Russell -- he was the candidate who was

running in the Atlantic circuit but erroneously appeared

on the Atlanta circuit ballot. He did also appear on the

Atlantic circuit ballot. His race was not impacted by

this issue, and, in fact, he was the only candidate for

his office.

Because of the timing when Fulton County discovered

this issue -- I don’t have the exact date just given the

age of this issue that we’re talking about, but Mr. Brower

recalls that it was recovered -- discovered in advance of

the election. They were able to deactivate or invalidate

the race because polling had not started, and the race did

not appear in Fulton County’s election results. So given

that there were no consequences from this error and that

it was unintentional, self-reported, and immediately

corrected by Fulton County when they noticed it, we’re
asking the Board to close and dismiss the case.

MR. RAFFENSPERGER: Okay. Members of the Board, any additional questions, comments, or concerns?

MR. WORLEY: Mr. Secretary, this is David Worley. I had a question for Ms. Palmer. How is it that the name of Mr. Russell appeared on the Fulton County ballot in the first place?

MS. PALMER: Give me one second to refer back to my notes. The only information I have -- I just frankly don’t know enough about the process of how the ballot is put together, but the information that our ha -- that I have from the Elections Director is just that they mistakenly inserted that candidate’s name into the candidate race listing for the Atlanta judicial circuit.

MR. RAFFENSPERGER: Okay. Any other questions?

MS. LE: This is Anh Le, Ms. Palmer. I know this case is back in 2016. What kind of proofing procedural changes has Fulton County enacted to safeguard against these issues since 2016 and now? Do you know?

MS. PALMER: I don’t know. I don’t have any particular response to that question.

MS. LE: Thank you. Ms. Frances Watson, do you know how many more cases -- or do you have it off the top of your head that Fulton County has had proofing issues since 2016?
MS. WATSON: I do not know. I would have to research that.

MS. LE: Okay.

MR. RAFFENSPERGER: Thank you. It’s now before the Board. Is there -- what is the will of the Committee?

MR. WORLEY: This is Mr. Worley, Mr. Secretary. I would make a motion that we send a letter of instruction on this matter to Fulton County.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: I’d like to make a -- this is Anh Le. I’d like to make a friendly amendment to that, Mr. Worley, if it’s all right? I think this is something the Board used to -- the State Board used to do more is issue a consent agreement or consent orders with the county, but if that’s an option, I’d like to amend Mr. Worley’s motion by adding in there a requirement or proof of training in regards with respect to ballot proofing for Fulton County. So whether it takes the form of a letter of instruction with a follow up or a consent order or a hybrid of the two, I would like to see if we can add that to the motion.

MR. WORLEY: I -- I would accept that amendment.

MS. LE: So if the motion passes, I think what -- what Fulton County could do is give some kind of follow up, whether it’s some kind of written confirmation that they put in training in place. Is that correct, Mr.
Worley? Is that the amended motion?

MR. WORLEY: Yes. That would be fine.

MR. RAFFENSPERGER: Okay. It is before the Board.

All those in favor of the motion as presented...

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, motion carries. Okay. Next case?

MS. WATSON: The next case is tab number 73, which is 2016-063, Stewart County, absentee ballots.

MR. RAFFENSPERGER: Oh, 62, there it is. Got it.

MS. WATSON: We received reports of voting irregularities with the May 24, 2016 general primary election, the November 8, 2016 general election, and the July 31st, 2012 general primary election in Stewart County. In allegation one, two, three, seven, eight, nine, ten, and eleven, there was no substantiation that there was no evidence or proof of the allegation.

As to allegation number four that some electors in Stewart County were not placed in their proper voting district, the investigation revealed that 18 electors were assigned to the wrong voting districts. Larry Westbrook challenged the electors and the Board of Elections and Registration and determined they were assigned to the wrong district. Chief Registrar Todd Black placed the electors in their proper voting districts.
In allegation number five that the Board of Elections and Registration did not have voter registration cards for all the electors in Stewart County, Diane Powell advised prior to her going to work for Stewart County, it was determined that some voter registration cards were missing. Diane advised that around approximately 2014, the Elections Office mailed out voter registration cards requesting the electors to complete them and return them. Neither Diane Powell or the absentee ballot clerk Ann Bennett could advise how many voter registration cards were still missing.

In allegation six that some election documents from the May 24, 2016 general primary election were not delivered and sealed containers to the election clerk of Superior court, they were housed in the elections office instead. It was found that DRE takes a CD copy of the elections database, and then the testing form absentee ballot oath envelopes and cast absentee ballots and provision ballots were not delivered to the clerk of superior court.

In allegation twelve that during the November 8, 2016 general election the assistant poll manager, Pauline Harvey, of the Omaha precinct left to pick up some food. The precinct was manned by the poll manager and the assistant poll manager to conduct an election during her
absence. The poll manager advised she gave the assistant manager permission to go and pick up food for the poll workers.

And additional findings were: during the investigation, the investigator advised Diane Powell in May of 2016 that an elector was still listed as active but was, in fact, deceased. The name in the information was provided in order to update the status. In December of 2016, it was found that the elector was still listed with an active status. The information was provided to Todd Black, and the status was updated right away.

We’re recommending that in allegation four, Stewart County Board of Elections and Registration be bound over for a violation of 21-2-226(b), when 18 electors were not properly placed in their voting districts. In allegation five, Stewart County Board of Elections and Registration and Diane Powell be bound over to the Attorney General’s Office for violation of 21-2-236(a), periods of retention of registration cards, in that they do not have all the voter registration cards of electors whose name appeared on either the official list of electors or the list of inactive electors; 21-2-381(4)(b)(1), determination of eligibility by ballot clerk, in that they failed to compare the identifying information on some of the applications with the information on file at the
Registrar’s office. The investigator learned from
Elections Supervisor Diane Powell they did not have some
of the electors’ voter registration cards on file,
allowing some of the voters eligible to vote on absentee
ballot by mail even though they were not able to compare
their signature or mark on the application for the voter’s
registration card.

In allegation six, Stewart County Board of Election
and Registration and Diane Powell be bound over for
violation of 21-2-500(a), delivery of voting materials, in
that they failed to deliver election documents from the
May 24, 2016 general primary to the clerk of superior
court, and in allegation 12, Stewart County Board of
Election and Registration and Todd Black, the Chief
Registrar, Shonda Crews [ph.], the poll manager of the
Omaha precinct, and Pauline Harvey, assistant poll manager
of the Omaha precinct be bound over for 21-2-090,
appointment of chief manager and assistant managers, in
that during the November 8th general election, they did
not have their required three poll workers present at the
precinct, and Diane Powell be bound over to the Attorney
General’s Office for violation of 21-2-231(e)(1), removal
of names from the list of electors, in that she failed to
remove the -- and update the electors list and remove
Margery McBride [ph.] who had been deceased when she was
notified of that information. And that concludes the report.

MR. RAFFENSPERGER: Okay. Do we have anyone from Stewart County?

MS. WATSON: I believe Diane Powell did send a letter that was put in the link ahead of the meeting.

MR. RAFFENSPERGER: Okay. Members, do you have any questions, comments, or concerns?

MR. WORLEY: Mr. Secretary, this is David Worley. I would make a motion that we accept Ms. Powell’s letter into the record.

MR. RAFFENSPERGER: Okay.

MS. SULLIVAN: Second.

MR. RAFFENSPERGER: Any comments, concerns, questions?

MR. MASHBURN: No objection.

MR. RAFFENSPERGER: No objection. It’s entered. Do we have a motion on case number 2016-063?

MR. WORLEY: Mr. Secretary, this is Mr. Worley. I would make a motion that we bind over this, the particular allegations, as recommended by Ms. Watson to the Attorney General’s Office.

MR. RAFFENSPERGER: Okay. Do we have a second?

MS. SULLIVAN: Second, Rebecca Sullivan.

MR. RAFFENSPERGER: Any further comments? Hearing
none, all those in favor of binding over to the Attorney
General’s Office SEB case number 2016-063, Stewart County,
absentee ballots, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none,

MS. WATSON: Yes. On May 11th, 2016, we opened an
investigation into a residency issue alleging -- alleged
in Gwinnett County. The allegation in the complaint is
that a candidate for representative in the 99th district
and her father had voted in elections using an address
where they had not lived. The reported allegation was
that House District 99 Representative candidate Brenda
Lopez Romero and her father Emiliano Lopez Romero had
voted in elections using an address where they did not
leave.

After conducting interviews and reviewing documents,

it was determined that the Lopezes moved from 4737
Trailblazer Court NW, Lilburn, Georgia in 2012. It was
confirmed through voter certificates that Brenda Lopez
continued to use the Trailblazer address to vote in May

Emiliano Lopez voted in the elections of November 4th,
2014 and March 1, 2016 using the Trailblazer address.

We’re recommending that Brenda Lopez Romero be bound over
to the AG’s Office for violation of 21-2-451, 21-2-562(a)(1) and Emiliano Lopez Romero be bound over to the
AG’s Office for 21-2-451(c) and 21-2-562(a)(1).

MR. RAFFENSPERGER: Does anyone want to -- is anyone here to speak to that?

MS. WATSON: No one has raised their hand.

MR. RAFFENSPERGER: Okay. Members of the Board, do we have any questions, comments, or concerns?

MR. WORLEY: Mr. Secretary, this is David Worley. I -- I have a concern. I think this case should be bound
over, but I think -- in a case involving an alleged violation by a state representative, I think it’s very
unfortunate that it has taken so long to investigate this case and bring it to the Board’s attention. I believe it
-- I believe it was on a previous agenda and was continued, so I certainly understand that, and I certainly
understand how time-consuming these investigations can be, and this is a very detailed report. I would just hope
that in the future when there’s -- for the benefit of everyone, including the accused or the Respondent, when a
public official is -- when an allegation of this kind is made against a public official, it can be given a high
priority in investigation. That’s all.

MR. RAFFENSPERGER: Okay. Ms. Watson, when this was continued, was that -- was that coming from our end, or
was that coming from the defendant’s end?

MS. WATSON: It was a request from the Respondent.

MR. RAFFENSPERGER: Okay. Do we have a motion before the Board?

MR. WORLEY: This is David Worley. I would make a motion that we refer this case to the Attorney General’s Office.

MR. RAFFENSPERGER: Okay. Do we have a second?

MS. LE: It’s Anh Le. I second.

MR. RAFFENSPERGER: Do we have any further comment? Hearing none, all those present that would like to refer this, 2016-065, Gwinnett County, residency issue, to the Attorney General’s Office, do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries unanimously. SEB case 2016-112, Gwinnett County, campaign activities.

MS. WATSON: On July 27th, 2016, the Gwinnett County Board of Elections and Registration submitted a complaint of a candidate having entered a polling location during the May 24th, 2016 general election. The complaint alleged a candidate for House District 99, Brenda Lopez Romero, had become involved in a voter complaint at the Iglesia Nueva Jerusalem polling location and had entered the poll to speak with the poll manager.
It was confirmed that the poll location was court ordered to remain open until 7:42PM. During the extended hours, it is required by code that those casting a ballot do so on a provisional ballot. One voter entered and asked how long it would take and was told approximately 30 minutes. The voter decided that the length of time was too long and exited the poll location. The candidate made contact with the voting outside who reported that he had not voted as it would take too long. The candidate went into the poll location to speak to the poll manager with the voter. The candidate was given the same information that it would take approximately 30 minutes to vote a provisional ballot. The voter decided to complete the process, and once he started the process, the candidate exited the polling location. We’re recommending that Brenda Lopez Romero be bound over to the Attorney General’s Office for violation of 21-2-414(d), as she physically entered the polling place other than her designated polling place for purposes other than voting.

MR. RAFFENSPERGER: Okay. Do we -- do any Board members have questions, comments, or concerns? Hearing none, what is the will of the Board?

MR. MASHBURN: This is Matt Mashburn. I make a motion that this be bound over to the Attorney General as recommended.
MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second, Rebecca Sullivan.

MR. RAFFENSPERGER: Okay. Any further comments, questions, or concerns? Hearing none, all those in favor of sending case number 2016-112 over to the Attorney General’s Office as presented, signify by saying aye.

THE BOARD MEMBERS: Aye.


MS. WATSON: That case was a continuance that was granted. The next case --

MR. RAFFENSPERGER: Oh, it was. Okay. Got that.

Next one?

MS. WATSON: 2016-114, Clayton County, unsecured voter registration apps, tab number 79.

MR. RAFFENSPERGER: Got it. Okay.

MS. WATSON: On August the 1st, 2016, the Office of the Secretary of State opened an investigation into unsecured voter registration applications. The complaint originated when an investigator with the Clayton County District Attorney’s Office located 158 voter registration applications by a dumpster in southern Clayton County. 850 voter registration applications were received by Clayton County Board of Elections and Registration on
April 26th, 2016 from Clayton County Board of Education
from a voter registration drive conducted April 22nd
through the 26th of 2016 in the school system.

On July 29th, the Clayton County District Attorney
investigator received a call directing him to 1940
McDonough Road in Jonesboro. It was reported that voter
registration applications were discarded in the dumpster.
158 voter registration applications were recovered by the
dumpster. Interviews with the reporting party elections
staff and maintenance staff did not reveal the person that
was responsible for removing the documents and disposing
of them. We’re recommending Clayton County Board of
Elections and Registration be bound over to the Attorney
General’s Office for violation of 21-2-224(d), as they
failed to place eligible electors on the official list of
electors, entitling those electors to vote in the May
24th, 2016 general primary election, and 21-2-225(a), as
they failed to preserve the confidentiality of original
registration applications, and 21-2-226(a), they failed to
determine the eligibility of persons applying to register
to vote in the May 24, 2016 general primary election.

MR. RAFFENSPERGER: Okay. Are there any questions,
comments, or concerns from the Board?

MR. WORLEY: This is Mr. Worley. I have a question
for Ms. Watson. Ms. Watson, were these 158 people
subsequently placed on the voter rolls in Clayton County?

MS. WATSON: Yes, sir.

MR. WORLEY: Okay. Thank you.

MS. WATSON: If they were eligible.

MR. RAFFENSPERGER: Okay. Any other questions? What is the will of the Board?

MS. SULLIVAN: This is Rebecca Sullivan. I’ll make a motion that we bind the Clayton County Board of Elections and Registration over to the AG’s Office for the listed violations.

MR. RAFFENSPERGER: Do we have a second?

MR. WORLEY: This is David Worley, and I second.

MR. RAFFENSPERGER: Okay. Any other comments? I’ll call the question. All those in favor of sending case number 2016-114 to the Attorney General’s Office, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

Next SEB case?

MS. THOMAS: Before we move to the next case, if you would like to make a comment, please write in the questions box your name and your case number. That’s how we’ll know that you’re -- that you would like to speak for whichever case we’re on.

MR. RAFFENSPERGER: Okay. Next case?
MS. WATSON: Yes. The next case, Webster County, poll workers. A Secretary of State investigator conducting a polling place inspection in a Webster County precinct during advanced voting for the May 24th, 2016 general primary -- during that inspection, he noted that only two workers were present to staff the precinct instead of the required manager and two assistant managers. The investigation revealed on May 12th, 2016 during early advance voting, Webster County Elections Office -- only one manager and one assistant manager were working. Deputy Registrar Bonnie Whitt advised that she had decided to staff the poll with only two workers during early advance voting due to low voter turnout and budgetary constraints. We’re recommending Webster County Board of Elections and Registration and Bonnie Whitt, Deputy Registrar, be bound over to the AG’s Office for 21-2-90.

MR. RAFFENSPERGER: Thank you. Do we have anyone from Webster County?

MS. THOMAS: No, sir.

MR. RAFFENSPERGER: Members, do you have any questions, comments, or concerns? Do we have a motion?

MR. WORLEY: This is Mr. Worley. I make a motion that we bind over this case to the Attorney General’s Office for the allegations contained in Ms. Watson’s
report.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second.

MS. LE: Anh Le, second.

MR. RAFFENSPERGER: Okay. All those in favor of sending 2016-117, Webster County, over to the Attorney General’s Office, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, motion carries. Next case?

MS. WATSON: Next case is Twiggs County, absentee ballots, 2016-120. Twiggs County Chief Magistrate David Brown filed a complaint with the Secretary of State’s Office citing issues in his county involving absentee ballots and instances of felons voting during the May 24th, 2016 election. All the allegations were investigated and predominantly found to be unsubstantiated. It was verified that Shannon N. Carden [ph.] completed and signed voter registration applications and absentee ballot applications in her children’s names, Katie Blankenship and William Blankenship. Shannon Carden then voted the absentee ballots in the names of her children, Katie Blankenship and William Blankenship and signed their names on the oaths. We’re recommending Shannon N. Carden be bound over to the Attorney General’s
Office for 21-2-562(a)(1) and 21-2-568(a)(2).

MR. RAFFENSPERGER: Do we have anyone from Twiggs County?

MS. WATSON: No.

MR. RAFFENSPERGER: Members, do we have questions, comments, or concerns? Now would be an appropriate time for a motion if that is the will of the Board.

MR. MASHBURN: This is Matt Mashburn. I make a motion that the case be bound over to the Attorney General’s Office as recommended.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: Anh Le, I second.

MR. RAFFENSPERGER: Okay. Do we have any comments? Hearing none, all those in favor of binding over to the Attorney General’s Office case number 2016-120, Twiggs County, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

Next case?

MS. WATSON: Next case is 2016-121, Glynn County, petitions. On August 15th, 2016, Glynn County Elections Supervisor Tina Edwards sent a letter to District Attorney Jackie Johnson concerning nomination petitions submitted to the Elections Office by Shawn Brown and Tommy Harrington. Ms. Edwards reported the following: that upon
review of Shawn Brown’s nomination petition, they
discovered two signature entries of deceased voters, that
Shawn Brown’s nomination petition included a signature
effect from a member of the Elections Office staff whose
name was entered without her consent, that Shawn Brown’s
nomination petition revealed 199 unmatched signatures out
of 419 signatures, that Tommy Harrington’s nomination
petition revealed 207 unmatched signatures out of 614
signatures.

Ms. Edwards advised the false signatures entries
violated 21-2-170(d)(4) and the fraudulent entry of the
voter’s signature with a violation of 21-2-562(a).
District Attorney Jackie Johnson states her office will
await the outcome of the Secretary of State’s
investigation and any administrative proceedings until
making a determination as to whether criminal charges are
warranted.

The investigation reveals -- as to allegation one,
the investigation confirmed that two deceased electors’
names were listed on Shawn Brown’s nomination petition.
Neither Shawn Brown nor the other circulators interviewed
admitted to signing the names on the nomination petition.
As to allegation two, it was verified that the names
Stephanie Atkinson and Amy Atkinson were fraudulently
signed on the nomination petition. Shawn Brown and the
circulators deny signing any electors’ names on the nomination petition.

As to allegation three, it was verified that some names on the nomination petition of Shawn Brown were, in fact, signed fraudulently. The forms were signed under oath that Shawn Brown was the sole circulator, but, in fact, he was not. In reference to allegation four, it was verified that some names on Tommy Harrington’s nomination petition were fraudulent. Mr. Harrington and the circulators interviewed denied signing electors’ names to the petition. Mr. Harrington’s nomination petition forms had oaths signed in the names of Robert Harrington, Isiah Chester, Joe Harrington, Joyce Harrington, and Otis Harrington. They all state that they did not sign the oath as circulators. Mr. Tommy Harrington admitted that he signed some of his relative’s name to the petition that they were circulators, when, in fact, they were not. Mr. Harrington stated that he signed their names so his name would not be the only one on all the forms. We’re recommending Shawn Brown be bound over for 21-2-562(a)(1), fraudulent entries, and Tommy Harrington, 21-2-562(a)(1), fraudulent entries.

MR. RAFFENSPERGER: Okay. Do we have any questions, comments, or concerns from the Board? Okay. Now would be the appropriate time for a motion if that’s the will of
the Board.

MR. WORLEY: This is Mr. Worley. I would make a motion that we bind over this case to the Attorney General’s Office for the allegations alleged.

MS. SULLIVAN: This is Rebecca Sullivan. I would second.

MR. RAFFENSPERGER: Any further comment? All those in favor of binding over to the Attorney General’s Office case number 2016-121, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, case is bound over to the Attorney General’s Office. Next case?

MS. WATSON: 2016-122, Glynn County, voter registration. In August of 2016, Elections Supervisor Tina Edwards reported the following allegations: on August the 2nd, 2016, Jackie Dove registered to vote in person. She advised on August the 4th, 2016, Jackie Dove returned to their office to obtain a voter’s photo identification card. Tina Edwards states Jackie Dove provided an original copy of his birth certificate to complete the citizen verification process.

She advised on August the 9th, 2016, they received a challenge of Jackie Dove’s eligibility to remain registered by his ex-girlfriend Gina Croft [ph.]. Tina
Edwards states Gina Croft provided a written statement that James Henry Dove assumed his brother’s identity to register to vote and receive a photo identification card in his brother’s name, Jackie Dove.

Tina Edwards states during the general primary election held on May 24th, 2016, candidate for County Commissioner At-Large, Post 2, Julian “Puddy” Smith, who had registered in another state at the time of his candidacy while casting a ballot in Glynn County. Tina Edwards states during the general primary election held on May 24th, candidate for County Commissioner At-Large, Post 2, Julian “Puddy” Smith visited various polling locations on Election Day.

The investigation revealed as to allegation one, James Henry Dove could not be located to be interviewed. Gina Croft did provide a statement confirming the allegation regarding Mr. Henry Dove submitting a voter registration fraudulently. As to allegation two, it was confirmed that Mr. Smith did have a previous voter registration in another state prior to moving to Georgia. He did not vote in the previous state after moving to Georgia and registering in Georgia. He thought the previous registration would have been cancelled automatically. As to allegation three, it was verified through interviews and witness statements along with a
statement from Mr. Smith that he did visit several
precincts to check to see how things were going. He
states he was not campaigning, as he was running
unopposed. We’re recommending James Henry Dove be bound
over to the AG’s Office for 21-2-561(2) and also Julian
Smith be bound over for 21-2-414(b), prohibition of
candidates from entering certain polling places.

MR. RAFFENSPERGER: Okay. Any questions, comments,
or concerns from any of the Board members? Hearing none,
now would be the appropriate time for a motion.

MS. LE: This is Anh Le. I move to bind this over --
this case over to the AG’s Office.

MR. RAFFENSPERGER: Okay. Do we have a second?


MR. RAFFENSPERGER: Okay. All those in favor of
binding over the case to the Attorney General’s Office,
signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Case is bound over.

Next case?

MS. WATSON: Next case is 2016-154, Glynn County,
voter registration. The Brunswick, Georgia chapter of the
NAACP held a voter registration drive at two local high
schools. They did not turn in the applications from those
drives until after the mandatory deadline. The voter
registration drive at Glynn County Academy and Brunswick
High School on September 27 and 28th of 2016 -- there was
an evacuation due to Hurricane Michael that was ordered on
October the 6th of 2016. The residents were allowed to
return, and the Elections Office was reopened on October
the 11th of 2016. The statewide deadline for the voter
registration for the November election was October the
11th of 2016.

56 voter registration applications were submitted on
October the 13th, two days after the deadline for
registration for the November election. Mr. Fields, who
was the President of the Brunswick chapter of the NAACP at
that time, was contacted, and he indicated that he turned
in the voter registration applications and took full
responsibility for them being turned in later. We’re
recommending John E. Fields be bound over to the AG for
21-2-224, registration deadlines.

MR. RAFFENSPERGER: Okay. Any questions, comments,
concerns from any of the members? Hearing none, now would
be the appropriate time for a motion.

MS SULLIVAN: This is Rebecca Sullivan. I’ll make a
motion that we bind this case over to the AG’s Office as
recommended.

MR. RAFFENSPERGER: Okay. Do we have a second?

MR. MASHBURN: This is Matt Mashburn. I second.
MS. LE: This is Anh Le.

MR. MASHBURN: Anh Le, go ahead.

MS. LE: No, sir. I like your motion.

MR. RAFFENSPERGER: Okay. Do we have any further comment? Hearing none, all those in favor of binding over case 2016-154 to the Attorney General’s Office, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, motion carries. Okay. Next case?

MS. WATSON: Next case is 2016-123, Dooly County, challenge hearing. Dooly County Resident Melvilla West filed a complaint alleging that Brenetta Childs and the Dooly County Board of Elections and Registration did not follow the correct procedure when they challenged the qualifications of a candidate who was running for a seat on the Dooly County Board of Education. Investigation revealed that a challenge hearing was scheduled by the Dooly County Board of Elections. The candidate, Amelia Hayward, was notified verbally regarding the hearing. A written notice was not provided. We’re recommending that Brenetta Childs, Dooly County Elections Supervisor, and Dooly County Board of Elections and Registration be bound over to the AG’s Office for 21-2-060.

MR. RAFFENSPERGER: Okay. Do we have questions,
comments, or concerns? Hearing none, now would be an appropriate time to make a motion.

MR. WORLEY: This is David Worley. I would make a motion that we bind this case over to the Attorney General’s Office.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Second, Rebecca Sullivan.

MR. RAFFENSPERGER: Okay. Do we have any discussion? Hearing none, all those in favor of binding over to the Attorney General’s Office case number 2016-123, Dooly County, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries unanimously. Okay. Next case?

MS. WATSON: 2016-124, Walker County, poll watcher issue. In September of 2016, we received complaints regarding poll watcher issues during the general primary election held in Walker County. There were two complainants that submitted the following allegations. A person described as a campaign manager allegedly threatened a county employee with bodily harm. This was based on a YouTube video of poor quality and determined not to be under the SOS venue as this did not occur at a poll or with a poll official. Allegations two through nine were unsubstantiated. The Republican Party properly
submitted requests for official poll watchers. Interviews with 11 poll managers found no evidence to support any violations of the election code or rules for those allegations.

Allegation ten, a poll manager allegedly hindered a poll watcher from observing the tabulation at the Armuchee precinct. The poll manager requested the poll watcher observe from a distance that he believed was unreasonable. The code does not specify what is considered to be a reasonable distance. The poll watcher advised he could not see the machines or hear the poll workers during tabulation. The complainant is requesting that reasonable distance be defined. There was no violation substantiated in that complaint.

Investigation revealed -- the original allegation was not substantiated. However, during the investigation, it was verified that candidate Mike Bearden did visit two poll locations for purposes other than voting on May 24th, 2016. We’re recommending Mike Bearden, the candidate for County Commissioner, be bound over to the AG’s Office for 21–2–414(d).

MR. RAFFENSPERGER: Okay. Do we have any questions, concerns, comments from the Board? Hearing none, now would be the appropriate time for a motion, if you’re so inclined.
MS. LE: I move to bind this case over to the AG’s Office. This is Anh Le.

MR. WORLEY: This is David Worley. I second.

MR. RAFFENSPERGER: Thank you, Mr. Worley. Okay. Any comments? Hearing none, all those in favor of binding this over to the Attorney General’s Office, case number 2016-124, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: The case is bound over. Okay. Next case?

MS. WATSON: Yeah, the next case is 2016-129, Athens-Clarke County, UOCAVA deadline. On September 26th, 2016, the Athens-Clarke County Elections Office self-reported one UOCAVA ballot that was not transmitted by the September 24th, 2016 UOCAVA deadline. Investigation showed the ballot request for Elector Stibbins [ph.] was submitted on August 1. Paula Williams advised when processing the ballot, she failed to hit the add button, which would have enabled Mr. Stibbins to receive the electronic ballot. The ballot was discovered and sent on September 26th, 2016, two days after the deadline. We’re recommending Athens-Clarke County Board of Elections and Registration and Athens-Clarke County Elections Supervisor Paula Williams -- at the time -- be bound over to the AG’s Office for 21-2-384(a)(2), and the attorney for Athens-
Clarke County is on the -- on the line.

MR. DRAKE: Yes. Hello, Board members. This is Judd Drake. I’m the attorney for the Athens-Clarke County Board of Elections and Registration. As indicated, this matter was self-reported. I have Paula Williams available if necessary, but we feel like -- in addition, she can talk about how we’ve instigated policy and procedures so that this will not happen again. We feel like this would be a case that would be appropriate for a letter of instruction.

MR. RAFFENSPERGER: Okay. Members of the Board, you have a representative from Athens-Clarke County here today. Do you have any questions for them or any additional comments?

MR. WORLEY: This is David Worley. I have a question for Mr. Drake. Mr. Drake, could you let us know the steps you’ve taken to ensure this will not happen again?

MR. DRAKE: Yes, sir. I have Ms. Paula Williams. She’s the absentee ballot clerk. I’ll let Ms. Williams advise the Board. Give us one second.

MS. WILLIAMS: I believe what happened was that when I was working in E-net, I accidentally clicked off where you put in that they’re a UOCAVA voter and didn’t realize it at the time, so now I’m doing double checks on that to make sure that I’m not doing that. I also copy the --
when I put it into the UOCAVA vote, I also copy the email address into a separate spreadsheet, and I had done that on this particular gentleman, so that told me that I had it in the UOCAVA bucket at one time, but accidentally unclicked it and didn’t realize it. Any questions?

MR. RAFFENSPERGER: Mr. Worley, did that answer your questions?

MR. WORLEY: Yes. I’m fine with that explanation.

Thank you.

MR. GERMANY: Mr. Secretary, this is Ryan. There was an attorney on the line earlier for a case that’s already been bound over, case number 2016-063. For some reason, he wasn’t able to speak. Would he be able to speak now, Bre?

MR. RAFFENSPERGER: Well, let’s finish up Athens-Clarke County first.

MR. GERMANY: Okay. Sorry.

MR. RAFFENSPERGER: And then we’ll come back to that after we handle this matter that’s before us right now. So the Athens–Clarke County case that’s before you. What is the will of the Board?

MS. LE: This is Anh Le. Ms. Williams, you have not made this mistake since 2016 again, correct?

MS. WILLIAMS: I’m sorry. Could you repeat the question?
MS. LE: Yes. Yes, ma’am. Since 2016, this case being a 2016 case, you’ve not had the same issue again, correct?

MS. WILLIAMS: Correct.

MS. LE: Okay. Mr. Chairman, I move to issue a letter of instruction.

MR. WORLEY: This is Mr. Worley. I would second Ms. Le’s motion.

MR. RAFFENSPERGER: Okay. All those in -- any further comments? All those in favor of the motion before us, case number 2016-129, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Any opposed? Motion carries. Let’s handle the other Clarke County case. Perhaps that’s the same attorney. And then we’ll come back to Stewart County, if that will work for you, Mr. Germany. Case number 2016-168.

MS. WATSON: Yes, sir. In this case, on November 7th, 2016, Clarke County Elections Office self-reported that an error had occurred in the processing of an absentee ballot application, which led to the failure in the delivery of the ballot to the applicant voter. Bradley Dunbocker [ph.] submitted an absentee ballot application that was received on October 27th, 2016. The application was processed and mailed the following -- the
following day, but the apartment number was not listed on
the address. The undelivered absentee ballot was returned
to the Elections Office on November 7th, 2016, the day
before the election, and too late to send a ballot to the
correct address. We’re recommending Clarke County Board
of Elections and acting Clarke County Elections
Superintendent Cora Wright and Clarke County absentee
ballot clerk Paula Williams be bound over to the AG’s
Office for 21–2–384(2) and 21–2–381(b)(2).

MR. RAFFENSPERGER: Okay. Do we have anyone from
Clarke County that wants to speak to this?

MR. DRAKE: Yes, sir. This is Judd Drake again on
behalf of Athens-Clarke County. As indicated by the
elections staff and the Secretary of State’s Office, we
did self-report this violation as well. We have in this
case also implemented policies and procedures to make sure
this does not happen where an apartment number is left
off. I’d like — I have Paula Williams, the absentee
ballot clerk, who is here to provide those policies and
procedures for the Board. We believe based on our having
self-reported and our actions taken to avoid this
happening again that this case would be appropriate also
for a letter of instruction. Ms. Wa — Ms. Williams will
now talk about what’s been done.

MS. WILLIAMS: When we receive an absentee ballot
that has an alternate mailing address, we circle that with a bid red Sharpie pen so that that always draws attention to that address, and when we enter the addresses, we are double checking that. Then, we put the labels actually on the envelopes. We’re also putting one of the mailing labels on the application at the same time, so we’re also double checking again that we’re using that alternate address. Any questions?

MR. RAFFENSPERGER: Members, need any additional information? What is the will of the Board?

MR. WORLEY: This is Mr. Worley. Given the isolated nature of the violation, the steps that have been taken to correct it, and the Board’s being here today to explain the situation with their counsel, I would make a motion that we send Athens-Clarke County a letter of instruction in this case.

MS. SULLIVAN: This is --

MR. RAFFENSPERGER: Do we have a s --

MS. SULLIVAN: This is Rebecca Sullivan. I’ll second.

MR. RAFFENSPERGER: Any additional comments? Hearing none, all those in favor of issuing a letter of instruction for SEB case 2016-168, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none,
motion carries. That’s Clarke County. Mr. Germany, you mentioned that attorney for Stewart County was on the line and wanted to have an opportunity to speak about SEB case 2016-063. We’ve already sent that over to the Attorney General’s Office. Would there be an objection from the Board of reopening that to allow the attorney to speak on that and reopen for consideration?

MS. SULLIVAN: No objection. No objection.

MR. RAFFENSPERGER: Hearing no objection, let’s reopen that Stewart County, absentee ballots, and can we get the attorney on there, and we’ll --

MR. MINTER: Hello?

MR. RAFFENSPERGER: Yes, hello. Go ahead.

MR. MINTER: Hello, Mr. -- Mr. Secretary?

MR. RAFFENSPERGER: Yes, sir. Go ahead.

MR. MINTER: Oh, good. You can hear. Thank you, Mr. Secretary and members of the Board, for allowing me a chance to speak. It was incredibly frustrating to hear the item come up and not be able to speak at that time.

My name is Binford Minter. I represent Stewart County, and I have since 2017. I did send a letter to Ms. Watson in response to these allegations yesterday, and what I’d like to bring to the Board’s attention is that all of these allegations that arise from 2016 -- and some of them actually came from Mr. Larry Westbrook, who is now the
Chairman of the Board of Elections. You see, there has been a complete turnover in the Board of Elections after the 26 -- 2016 election, and I would say in large part in response to these allegations. You may recall that I spoke with former State Senator Josh McCown from the State Election Board two years ago also arising from matters that had come up under Ms. Diane Powell’s supervision of the Board of Elections.

Ms. Powell has not been employed by the Board of Elections for maybe -- at least 4 years. Mr. Todd Black, he has not been employed by the Board of Elections since 2017. He was replaced by Ms. Alfreda Hudson in 2017, and all of the Board -- the members of the Board of Elections, there’s been turnover there. In fact, some of these allegations arose from a case that I filed on behalf of candidates that were challenging the Board -- the former Board of Elections’ refusal to put their candidacy on the ballot. And for example, when they denied petitions by independent candidates, their signed petitions, one of the reasons Mr. Black gave on the witness stand was that they didn’t have voter registration cards to match signatures on certain individuals, and so they canceled certain signatures.

So I just want the Board to understand that there really has been a turnover to address that, and the new
Board is taking elections security very seriously. They have done a lot of training. As I said, Mr. Black is no longer employed. Mr. Larry Westbrook has been the Chairman since 2017. Ms. Alfreda Hudson, who formerly served on the Board but is now the Election Supervisor, did send me an email when I asked her to provide more information concerning the registration card matter, which I surmised was probably one of the ones more important to the Board, and with permission, I’ll read that.

She said that “our procedures are pretty simple. When absentee ballot applications are received in the office, we process -- process them immediately into E-net stating the requested date and due date. We then log that application with all pertinent information, registration number, request ballot date, and issue date. When the absentee ballot has been received by our office, I immediately check the signature for validation, process the ballot in the E-net system stating the date and time it was returned, log the ballot, secure the ballot in a lock safe, securing the ballot until the night of the election. This process helps and has proven effective the last election. To my knowledge, the amount of ballots that we receive at one time is rare, but the organization process we use has worked.”

And I would just add that showing how seriously they
take security, they have inserted security cameras in the
office of the Board of Elections, and they have not had
any problems with any missing documents since that time.
They do put boxes over the cameras during elections to
make sure they do not capture anyone’s vote inadvertently
or otherwise intimidate any person.

And as to the one instance, Ms. Shonda Crews [ph.]
who was a poll manager in allowing Ms. Pauline Harvey, a
poll worker, to go get lunch for the poll workers --
first, Ms. Crews is the daughter of Ms. Pauline Harvey.
Ms. Harvey is no longer a poll worker. The Chairman of
the Board of Elections, Larry Westbrook, did concede to me
yes, that was an error that should not have happened, and
they have addressed that with all poll workers.

But as I said, in short, there’s been a complete
turnover. None of the people that are affiliated with
these allegations are -- are still with the Board, with
the one exception that Ms. Crews, due to her experience,
has now been appointed as of this week to the Board of
Elections. But as I said, her mother is no longer a poll
worker. But given what I’ve said, we would ask if the
Board would consider just a letter of instruction.

MR. RAFFENSPERGER: Okay. Well, members of the
Board, I believe we’ve already moved this over to the
Attorney General’s Office but wanted him to have the
chance -- the opportunity to speak before us. And so, now
would be the appropriate time if we want to reconsider our
previous motion and make a new motion. Now would be the
appropriate time, or we could stand with our original
decision.

MR. MASHBURN: This is Matt Mashburn. I’ll make a
motion to recall our previous disposition in this matter
so that it can be reconsidered with an inclusion of the
attorney’s comments.

MR. RAFFENSPERGER: Okay. Do we have a second?

MS. LE: I’ll second.

MR. RAFFENSPERGER: Okay. Any additional comments
from the Board? Hearing none, all those who would like
the matter reconsidered -- or the motion, signify by
saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, this
matter is now before. I believe a new motion might be
made. What is the will of the Committee with the
information that we have now before us?

MS. LE: This is Anh Le. Oh, excuse me. Please, go
ahead.

MR. MASHBURN: No, go ahead.

MS. LE: Oh, okay. Given the age of this case and
the attorney has made it clear that there have been a lot
of changes made, you know, -- I think that just because there’s turnover it doesn’t necessarily mean that the county should not account for mistakes made, but in this case, it seems like he’s laid out some serious steps that have been taken to address these issues by a whole new team. Given that consideration, I would like to propose that we issue a letter of instruction -- a very strongly worded letter of instruction, and any further violations we could reconsider callbacks to this case as well, if they were to have the same violations again in the future.

MR. RAFFENSPERGER: Do we have a future?

MR. WORLEY: This is David Worley. I would second that motion. And if I could also just note for the record, I had a little difficulty unmuted for the previous motion. I would have voted aye on that motion, just for the record.

MR. RAFFENSPERGER: Okay. Thank you, Mr. Worley. Okay. The motion is before us. All those in favor of the motion, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: And those opposed? Hearing none, motion carries. Okay. Looking at our schedule, it’s 12:10, and I know that -- if we could do a short break, would 30 minutes work for the Board, and then we come back, say, at 12:40? Would that work for the Board?
MR. WORLEY: That would be fine with me, Mr. Secretary.

MR. RAFFENSPERGER: If there’s no objection to that, we’ll reconvene. Does that work, Mr. Mashburn?

MR. MASHBURN: Yeah, I was going to ask do we just mute and stay on, or do we disconnect and reconnect?

MR. RAFFENSPERGER: Just mute and stay on. That’s probably the easiest. That way we don’t have to worry about reconnecting, and we’ll just come back at 12:40.

Thank you.

MR. MASHBURN: Very good.

(Meeting break)

MR. RAFFENSPERGER: Okay. Members, thank you. Hopefully, everyone is back. We’re ready for the next case, which I believe is 2016-131, Bartow County.

MS. WATSON: That’s correct.

MR. RAFFENSPERGER: Okay.

MS. WATSON: On Oct -- on October the 4th, 2016, we received a complaint from Bartow County Elections Supervisor Joseph Kirk regarding a possible absentee ballot fraud issue. The investigation revealed that an absentee ballot application was submitted for a [sic] Eva L. Roth [ph.], and the ballot was sent to her. The ballot was verified through tracking through FedEx delivery to have arrived on September the 23rd, 2016 at 2:58PM. It
was verified that Eva Roth passed on September 22nd, 2016. The signed absentee ballot was marked and submitted to the Bartow Elections Office. The signature did not match, and in following up, Mr. Kirk determined that Eva Roth could not have signed the ballot and made the complaint to our office.

Thomas Roth, the son of Eva Roth, admitted to the investigator that he had made a mistake and had signed the ballot and returned it. We’re recommending Mr. Thomas Roth be bound over for 21-2-562, and also Mr. Roth did call after he got his notice in the -- of the meeting in the mail, and he advised that he would not be calling in. He reiterated that he knew how his mom wanted to vote, and he did complete her absentee ballot. He said that we could send him a fine or send him whatever, but he was not going to pay it.

MR. RAFFENSBERGER: Okay. Well, Mr. Germany, could you clarify for the Board and anyone who’s listening in, someone that does this, what are the potential fines and penalties -- what is -- what is that state statute?

MS. WATSON: Mr. Secretary, Mr. Ryan had to step out for just a second.

MR. RAFFENSBERGER: He did? Okay. Well, in the meantime, members of the Board, this is before you. Do you have any questions or comments for our investigator or
about this case in general? Hearing none, what is the disposition of the Board?

MS. SULLIVAN: I’ll make a -- this is Rebecca Sullivan. I’ll make a motion that we refer this to the Attorney General’s Office with, you know, a request for a recommendation if the Respondent fails to cooperate.

MR. RAFFENSPERGER: Okay. Do we have a second?

MR. WORLEY: This is David Worley. I will second that.

MR. RAFFENSPERGER: Okay. Do we have any further comments? Hearing none, all those in favor of referring this -- binding this over to the Attorney General’s Office, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, case is bound over --

MR. WORLEY: Aye.

MR. RAFFENSPERGER: Thank you. Okay. The next case?

MS. WATSON: 2016-146, Peach County, absentee ballot.

Peach County resident Cheryl Lowery filed a complaint alleging that interim Peach County Elections Supervisor Marsha Gosier did not mail out absentee ballots in the time mandated by Georgia law. Investigation revealed Supervisor Gosier acknowledged that she did mail out some absentee ballots after the three-day timeframe. Ms.
Gosier states that she had a backlog of requests for absentee ballots and was the only person qualified to process the requests. A review of the absentee ballot log revealed approximately 130 absentee ballots that were mailed after the three business day deadline. There were 480 requests for absentee ballots total. We’re recommending that Marsha Gosier, former Peach County Elections Supervisor, and Peach County Board of Elections and Registration be bound over for SEB rule 183-1-14-.11, mailing and issuance of ballots and 21-2-384(a)(2), mailing of ballots.

MR. RAFFENSPERGER: Okay. Is there anyone from the public or the county to speak on this matter?

MS. WATSON: No, sir.

MR. RAFFENSPERGER: Any Board members have any questions, concerns, comments?

MS. LE: This is Anh Le. I’m just curious to know because one of the comments is that, you know, there is low staffing, or they’re overwhelmed by the number of absentee ballots. Is that going to be an issue in the fall that’s coming up, or is this some issue -- from your investigation, do you have any inkling that they’ve addressed this sufficiently? I mean, it would be nice for them to be here, but I also am concerned about, you know, their ability to handle if -- the volume of absentee
ballots if this was an issue back then.

    MS. WATSON: Okay. I can check with Chris Harvey. I know Peach County does have a new Elections Supervisor at this time.

    MR. HARVEY: Yeah, this is Chris Harvey. I -- I can't say that, specifically, I'm aware of innovations or changes they've made. I'm not aware of -- of specific problems or new allegations regarding this, so that's -- that's the best I've got right now.

    MS. LE: Thank you.

    MR. RAFFENSPERGER: Thank you. Any other questions?

Do we have a motion?

    MS. SULLIVAN: Rebecca Sullivan. I'll make a motion that we bind this case over to the Attorney General's Office.

    MR. RAFFENSPERGER: Okay. Do we have a second?

    MS. LE: This is Anh Le. I would have preferred that the county showed up to explain if there had been any changes made and sufficiently satisfy our concerns, but since they're not here, I'll second that motion.

    MR. RAFFENSPERGER: Any additional comments from any Board members? Hearing none, all those in favor of binding over 2016-146 to the Attorney General's Office, signify by saying aye.

    THE BOARD MEMBERS: Aye.
MR. RAFFENSPERGER: Any opposed? Hearing none, motion is -- bind it over to Pe -- 2016-146 to the Attorney General’s Office. Okay. Next case

MS. WATSON: 2016-155, Fayette County, districting issue. In November of 2016, it was alleged that voters in precinct 10 along with possible other split precincts had been redistricted improperly, causing voters to receive incorrect ballots during advance voting for the November 8th, 2016 general election. Investigation revealed the Fayette County Board of Elections and Registration were under a federal court order to redistrict prior to the May 24, 2016 general primary election.

The acting Election Supervisor advised the order came at a time that the Election Supervisor was out on medical leave, the office was short on staff, and they were preparing for the May election. The acting Supervisor stated in the May election there were voters that were assigned to then correct House District 71 and 72. This districting issue was addressed in September -- our SEB 2016-079 and was bound over to the Attorney General’s Office. It was believed that all the districting issues were resolved after the May election. Then reports of incorrect districting were reported in precinct 10 during the advance voting for the November 2016 election.

Further investigation revealed 121 individuals were
improperly districted in precincts 5, 8, 10, and 14, commission district 1 and 4, with 82 having cast an incorrect ballot during the early advance voting. Mostly affected streets were corrected in the system. New express poll cards were created and delivered to Fayette County along with an updated electors list and a color-coded map being placed at the affected precincts so that voters could identify their districts. We’re recommending that Fulton County [sic] Board of Elections and Registration be bound over for 21–2–226(b) of the Georgia election code for failure to properly district 82 voters, resulting in them casting incorrect ballots for the November 8th, 2016 general election, and we do have someone on the line to speak.

MR. RAFFENSPERGER: Okay. Who would like to speak to that? If you’re on the line, please talk.

MR. STOUGH: My name is -- can you hear me? My name is -- my name is Patrick Stough. I’m with the county attorney’s office for Fayette County, and I also represent the Board of Elections. I want to reiterate that this issue came up as the result of a redistricting process that occurred following a court ordered redistricting, and it was compounded into a very short timeframe, and because of that, some errors were made, and I did appear before you back in, I think, December on the issue that came up
as part of the primary in 2016, and it appears that this
was part of the same registration process. Excuse me.

The -- the people that were overseeing that process
are no longer with the County Board of Elections, though I
think one of them is now with the Secretary of State’s
Office. And the -- the head of the elections department
at the time has since left the county and is now deceased.
We are currently -- we are prepared to make any changes
needed to make sure this doesn’t happen the next time we
do have to redistrict. We haven’t had any redistricting
since 2016, so there haven’t been any changes put in place
with that regard. The next time we do go through this
process, we’re prepared to take care of it.

MR. RAFFENSPERGER: Okay. Do any Board members have
any questions for the investigator or the Respondent?

MR. WORLEY: This is David Worley, Mr. Secretary. I
had a question for Mr. Stough. You say that these
problems were the result of the court -- the court-ordered
redistricting. The court-ordered redistricting dealt with
the school board districts and the county commission
districts. It had nothing to do with House District 71
and 72. How is it that those were not districted
correctly, given it’s --

MR. STOUGH: My understanding of -- oh, I’m sorry.

MR. WORLEY: -- not related to the court order.
MR. STOUGH: My understanding of this process -- and I’m not very familiar of the technical aspects of it, but from what I understand, new district combos had to be created for a number of the precincts in the county, and as part of those combos, the House Districts also had to be -- I’m not going to say reassigned, but they had to be attached to the particular streets or addresses that were affected, and I believe when that was -- when that process was being done, those -- those streets were not correctly identified in the right district. But I couldn’t speak to anything further on the technical details.

MR. WORLEY: No. I think that answers my question.

MR. RAFFENSPERGER: Okay. Thank you.

MS. LE: This is Anh Le.

MR. RAFFENSPERGER: Any more questions from any Board members?

MS. LE: Yes. This is Anh Le. Mr. Harvey, Chris Harvey, do we have a lot of training materials on redistricting that we can request the county to undergo?

MR. HARVEY: Actually, we do have some training material we can provide to the county. Of course, everyone is going to get to do redistricting soon when maps are redrawn. It’s a -- it can be a painstaking, deliberate process, but we do have materials we can -- we can provide.
MR. WORLEY: Mr. Secretary, this is David Worley. I have a comment and a motion. I -- as a Fayette County resident, I do appreciate that there have been changes in the office, but I think that given the -- the number of voters that were affected and the fact that we had previously referred a companion case to the Attorney General’s Office, I think that in order to be consistent, we should refer this case to the Attorney General’s Office as well, and I would make a motion that we do so.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Rebecca Sullivan. I’ll second.

MR. RAFFENSPERGER: Do we have any further comment?

Hearing none, all those in favor of referring case number 2016-155 to the Attorney General’s Office, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Those opposed? Hearing none, motion passes, and the case is bound over to the Attorney General’s Office. Next case?

MS. WATSON: Next case is 2016-157, Putnam County, repeat voting. On November 3rd, 2016, Putnam County Elections Supervisor Lynne Laseter reported a voter being allowed to vote twice in the general election. Ms. Laseter stated the voter’s name was Ariel Covington [ph.], and she voted on October 31st, 2016, and she return on
November 2nd, 2016 and voted again. Ms. Covington voted
twice during the early advance voting time period, the
first time on October 31st, 2016. Ms. Covington
complained that not all the local candidates were on her
ballot. She states she complained to a poll worker, who
told her to come back later.

Ms. Covington returned again on November 2nd, 2016
and submitted a request for a ballot. The poll worker
that was entering her information received a pop-up to
notify him that the voter had already voted in the
election. He did not register what the pop-up was, and he
forwarded Ms. Covington on through the process to get her
voter access card. We’re recommending Ariel Covington be
bound over to the Attorney General’s Office for 21-2-572
and Putnam County Board of Elections and Registration and
Lynne Laseter, Elections Supervisor, and Tim Davis, the
poll worker, be bound over for 21-2-592, and we do have
someone on the line to speak.

MR. RAFFENSPERGER: Okay. Who do we have on the
line?

MS. LASETER: Lynne Laseter, Putnam County Supervisor
of Elections.

MR. RAFFENSPERGER: Okay.

MS. LASETER: I just have a couple of things about
what we’ve done afterwards -- immediately after this
situation happened. We self-reported, and then I held a
training session on EasyVote to remind -- to remind my
poll workers that when you have a pop-up on your screen,
it is not something to be ignored and to assume that
somebody else down the line is going to catch it. We put
up extra signs about what voters should do if they think
that they have an issue with their ballot, and then I held
additional EasyVote training sessions the next morning for
the new poll workers coming in to work early voting. And
then I’ve included more extensive training for EasyVote
about what to do when pop-ups come and poll -- polling
place communication between poll workers and voters and
the poll manager and assistant managers. I would like
your favorable consideration on this topic. Thank you.

MR. RAFFENSPERGER: Thank you. This is the Chairman.
I have a question for clarification. So we have before us
both the actions of -- or lack of appropriate action of
the county, the Putnam County election office, but we also
have before us the voter who has voted twice, correct?

MS. WATSON: Correct.

MR. RAFFENSPERGER: And so there’s -- when a person
votes twice in Georgia, what are the potential penalties
and fines that that person could be facing if they vote
double -- twice?

MR. GERMANY: This is Ryan Germany, so double voting
statute in Georgia is -- let’s see.

MS. WATSON: 572.

MR. GERMANY: It’s 21-2-572 that says any person who votes in more than one precinct in the same primary or election or otherwise fraudulently votes more than once at the same primary or election shall be guilty of a felony and upon conviction thereof shall be sentenced to imprisonment for not more than one or less than ten years or to pay a fine not to exceed $100,000 or both.

MR. RAFFENSPERGER: Thank you. So I would surmise from that that the General Assembly when they passed that, they considered it a very serious thing. Do any Board members have any questions, concerns, or comments that they’d like to make about this matter brought before the Board today?

MR. MASHBURN: This is Matt Mashburn. This seems to be the instance of double voting, and I think both the Election Board has culpability here, potentially, or in my opinion, there is reasonable cause to believe that the Election Board has a problem, but also this -- the double voter, and so I would move that -- if it’s an order -- to refer this matter to the Attorney General and also to the local district attorney for prosecution -- investigation and prosecution, if warranted.

MR. RAFFENSPERGER: We’ve done that in the past. In
an early SEB on another case, it went both to the AG and also to the local district attorney, so I consider your motion -- or order. Do we have a second?

MS. LE: This is Anh Le. I’ll second that motion.

MR. RAFFENSPERGER: Do we have any discussion about the case before us? Hearing none, all those in favor of binding over case number 2016-157 both to the Attorney General and also to the local prosecuting attorney, do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any -- any opposed? Hearing none, motion carries.

MS. WATSON: Next case is 2016-162, Bryan County, qualification of elector. On November 3rd, 2016, the Bryan County Elections Office reported an unqualified voter voting in the general election. Administrative assistant Linda New [ph.] reported a voter named Donna May Moore [ph.] lived in Bryan County, but she was registered to vote in Chatham County. Ms. New states Ms. Moore filled out an application with her Bryan County address, and she was allowed to vote during advance voting. She advised the error was discovered when they attempted to enter her vote into E-net.

The investigation revealed Donna Moore moved from Chatham County to Bryan County. She believed that her
voter registration would automatically be updated. Donna
went to vote on November the 2nd in Bryan County and
provided her identification and her Bryan County address.
The poll worker processing Ms. Moore entered her
information in the system and pulled up an elector in the
system but failed to verify the address and name matched
Ms. Moore’s. The voter access card was issued under the
voter registration number belonging to another Bryan
County resident. We’re recommending bind over to -- for
Bryan County Board of Election and Registration, Cindy
Reynolds, Elections Supervisor, and Elizabeth “Betty”
Odem, the poll worker to the AG’s Office for violation of
SEB Board rule 183-1-12-.02(4)(b) for failing to verify
Donna May Moore was a registered voter in Bryan County and
a letter of instruction be issued to Donna May Moore for
violation of 21-2-216(a)(4), qualification of electors.
And we have a caller on the line.

MR. RAFFENSPERGER: Great. Our caller, if you’d
identify yourself --

MS. REYNOLDS: (very distorted sound) My name is
Cindy Reynolds, (???) supervisor. The case (???) is human
error (???) to process the voters in the election process.
In this instance, Beth Odem processed (???) honestly chose
the wrong voter and issued an (???) she then voted. We
will (???) due to human error that was unintentional.
Since Beth Odem is no longer working (???), I am unaware of any similar instances. We would ask for a letter of instruction, and (???) Thank you.

MR. RAFFENSPERGER: Okay. Did everyone catch everything that was just said?

MS. WATSON: No.

MR. GERMANY: No. We were going in and out.

MS. REYNOLDS: (still distorted sound) Yeah, you guys were too.

MS. THOMAS: Ms. Reynolds, do you have multiple log-ins to the webinar going on in one room next to each other?

MS. REYNOLDS: Yes.

MS. THOMAS: You may want to spread out, so we can hear you.

MS. REYNOLDS: (slightly less distorted sound) The case at hand was an unfortunate error. Poll workers trained in E-net to process (???) Instead, our poll worker, Ms. Beth Odem, processed (???) birth date (???) issued an access card. We don’t dispute the incident occurred due to human error (???) Since this incident, Ms. Odem is no longer employed by the Bryan County Elections (???) We would (???) letter of instruction. (???) Thank you.

MR. RAFFENSPERGER: Okay. Members of the Board, do
you have any questions or comments you would like to ask? Hearing none, what is the will of the Board? Members of the Board?

MS. LE: This -- this is Anh Le. I -- you know, I sit here, and I look at this, and I'm sure, like, a lot of you think, you know, we're sending cases over to the AG's Office and what can we get out of it when they do get over there. I just really wish we could get more training or some kind of assurance of -- I think there have been some changes made. Ms. Odem is not there. So I feel like if we can get a consent order in here somewhere instead of going to -- it sounds like a training issue. We can get more mileage that way than to send it to the AG's Office for prosecution for the county, and I think it was suggested to send Ms. Moore -- was it a letter of instruction? I think that would be acceptable. She sounded confused, but -- so if that's acceptable, I move to have a strongly worded consent order with a lot of training in this area for the county elections office and a letter of instruction to the elector.

MR. RAFFENSPERGER: Okay. Do we have a second?

MR. MASHBURN: Matt Mashburn, second.

MR. RAFFENSPERGER: Okay. Any further discussion? Hearing none, all those in favor of the motion as presented for case number 21 -- 2016-162, signify by
saying aye.

THE BOARD MEMBERS: Aye.


MS. WATSON: 2016-166, Habersham County, absentee ballot. In November 2016, Habersham County self-reported an elector had timely submitted an absentee ballot application for the November 8th, 2016 general election and did not receive a ballot from Habersham County due to a clerical error. The investigation revealed Gail Hayden [ph.] requested an absentee ballot from Habersham County on October 27th. The request was acknowledged by email by the Elections Supervisor.

November 7th, Gail Hayden called the Elections Office to inquire about the absentee ballot because she never received it in the mail. She was told that the ballot was inadvertently rejected in the absentee vote by mail ballot folder. Ms. Hayden was told that she would need to vote in person. Ms. Hayden was working out-of-state and was not able to vote in the election. We’re recommending Habersham County Board of Elections and Registration, absentee ballot clerk Olivia Schapansky be bound over for 21-2-381(2) and Habersham County Board of Elections and Registration and Elections, Supervisor Laurel Ellison, and absentee ballot clerk Olivia Schapansky be bound over for
21-2-381(2)(a) and Habersham County Board of Elections and
Registration, Elections Supervisor, and absentee ballot
clerk be bound over for violation of SEB rule 183-1-14-
.11.

MR. RAFFENSPERGER: Okay. Do we have anyone from
Habersham County that’s speaking on this matter? Okay.
Any Board members have any questions or comments? Do we
have a motion?

MR. MASHBURN: This is Matt Mashburn. I believe
probable cause has been established to believe that a
violation has occurred and move to refer it to the
Attorney General’s Office as recommended.

MR. RAFFENSPERGER: Okay. Do we have a second?

MS. SULLIVAN: Second, Rebecca --

MR. WORLEY: David Worley. I second.

MR. RAFFENSPERGER: Thank you, Mr. Worley. Any
further comment?

MS. THOMAS: There’s -- Mr. Secretary?

MS. WATSON: Mr. Secretary, I believe there may be
someone on the line. Just one second.

MS. THOMAS: Yeah. Olivia Schapansky?

MS. WATSON: The absentee ballot clerk, Olivia, is on
the line.

MR. RAFFENSPERGER: Okay. Then, we will -- we’ll
take your comments then. We’d like to hear you before we
take action. Go ahead, ma’am.

MS. THOMAS: Is she back? Okay. She’s here. You may speak now, Ms. Olivia.

MS. SCHAPANSKY: It was a human error. We are more vigilant with our filing system now.

MR. RAFFENSPERGER: Okay.

MS. ELLISON: This is Laurel Ellison. I’m the Elections Supervisor. I’ll -- I’m here as well, and I would just like to say that, you know, it was an error. It was late at night. I did put it on her desk. It just accidentally got put in a rejected folder instead of the stack to enter in. It was just, again, an error. It got picked up with another application that was being rejected, so it was not something that was done, of course, on purpose.

And, you know, we wish that we had heard from the voter a little bit sooner so that we could have tried to get her out one as soon as possible, but she did not contact us until the day before, and we just didn’t have any other options at that point. We did ask the State if we could email -- you know, of course, do anything electronically, and, of course, we could not, but we did try our best to do what we could, and, of course, we did self-report. And we didn’t -- you know, we wanted to make sure that yeah, we’re aware of what happened.
MR. RAFFENSPERGER: Okay. Thank you. We have a motion and a second. With the information just provided, do we want -- if you want to reconsider your positions, you know, now would be the appropriate time. Otherwise, I’ll just call the vote on that, so our two members who made the motion and the second, are you good with that? I’ll call the motion.

MR. MASHBURN: Yeah, I’ll -- I will -- I will remove or restate the motion.

MR. RAFFENSPERGER: Okay, Mr. Mashburn.

MR. MASHBURN: I believe probable cause has been shown that a violation did occur, and therefore, I recommend that the case be bound over to the Attorney General’s, as recommended.

MR. RAFFENSPERGER: Okay.

MR. WORLEY: It’s David Worley. I’ll second that again.

MR. RAFFENSPERGER: Okay. All those in favor of sending this to the Attorney General’s Office, case number 2016-166, Habersham County, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

MS. WATSON: Next case is 2016-174, Murray County, cast ballot. In November 2016, Murray County Elections Office reported that a voter had voted twice as the result
of an error in their office, but the voter had taken advantage of that error and intentionally voted twice. Michael Glen Odell [ph.] early advance voted in the November 8th, 2016 election on October 31st, 2016. On Election Day, Mr. Odell went to his poll location to verify that his vote had counted, and he was in the system as having voted during early advance voting. He states he went to the poll, filled out a voter cert -- certification, submitted his driver’s license, and received a voter access card. He questioned the poll worker issuing the voter access card about a voter voting twice. Mr. Odell reports that the poll worker stated that system would not issue a voter access card to someone that had already voted. Mr. Odell started to the machines and then went back and advised poll workers that he did early vote.

After calling the Elections Office and confirming that he was not listed as having voted, he was asked if he was going to vote. He said I guess I need to if you say I haven’t. Mr. Odell states he knows voting twice is illegal but thought that his early vote had not counted because of the information given him by the poll workers. We’re recommending Murray County Board of Elections and Registration, Murray County Elections Supervisor Larry Sampson, Deputy Elections Supervisor Connie Windler [ph.]
be bound over to the Attorney General’s Office for 21-2-431, when they qualified a voter to vote when, in fact, the voter had previously voted and was not qualified, and 21-2-433, as they allowed an unentitled voter to enter the enclosed space and SEB rule 183-1-12-.024. And we also recommend Michael Glen Odell be bound over for 21-2-562 and 21-2-572. And I --

MR. RAFFENSPERGER: Do we have anyone from Murray County to respond on the line here today?

MS. WATSON: I do not believe so.

MR. RAFFENSPERGER: Okay. Does the Board have any questions or concerns? Do we have a motion?

MR. WORLEY: I’ll make a motion to refer this case to the Attorney General.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: Rebecca. I’ll second.

MR. RAFFENSPERGER: Do we have any further comment? Hearing none, all those in favor of binding over to the Attorney General’s Office case number 2016-174, Murray County, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, motion is bound -- case is bound over. Next case?

MS. WATSON: Next case is 2016-175, Troup County, validation of provisional ballots. On November 29th,
2016, the Office of the Secretary of State opened an investigation into the validation duplication of provisional ballots during the November 8th, 2016 election in Troup County. The allegation that was self-reported by Elections Supervisor for the Troup County Board of Elections and Registration was that the Elections Supervisor had failed to duplicate the provisional ballots of persons that had voted out of precinct.

Investigation revealed 191 out of the precinct provisional ballots were not properly duplicated to determine what races the elector would be entitled to vote. The result was that voters voted in races they were not entitled to vote in. The recommendation is that Troup County Board of Election and Registration and Supervisor Andrew Harper be bound over to the Attorney General’s Office for 21-2-419(c)(2), validation for provisional ballots, 191 counts, and Board rule 183-1-12-.06(b) and (c), 191 counts. And we do have someone on the phone to speak.

MR. RAFFENSPERGER: Okay. Who do we have on the phone?

MS. THOMAS: Mr. Harper, you’re -- you’re self-muted right now.

MR. HARPER: Thank you. Members of the Board, this is Andrew Harper, Troup County Elections Supervisor, and
again, I just wanted to say thank you for allowing us to speak. I just wanted to say this was an error on our part, and we did self-report this error when we were recreating the provisional ballots. At that time, -- since then, Troup County has put procedures in place and has not done this again. The procedure we put in place is that the ballot has to be pulled and put with the provisional worksheets and everything when they’re recreating the work to be done and that research that has to be done. And so I just want to thank you for your time, but that procedure has been put in place, and we have not done this again since then. Thank you.

MR. RAFFENSEPHERGER: Okay. Board members, do you have any questions? Now would be the appropriate time for a motion if you’re so inclined.

MR. WORLEY: This is Mr. Worley. I appreciate the statement that was just made by the county, but I think the magnitude of the errors here were such that it deserves to be bound over to the Attorney General’s Office, and I would move to bind it over.

MR. RAFFENSEPHERGER: Do we have a second?

MS. LE: Anh Le. I’ll second that.

MR. RAFFENSEPHERGER: Thank you. Do we have any further discussion on this matter? Hearing none, all those in favor of binding this case number 2016-175, Troup
County, over to the Attorney General’s Office, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Hearing none, motion is bound over to the Attorney General -- or case is bound over to the Attorney General’s Office. Thank you. Next case, Thomas County.

MS. WATSON: Yes. Thomas County Elections Supervisor Frank Scoggins initiated a complaint after a voter submitted an absentee ballot application for herself and her deceased mother. On November 4, 2016, Tessa Saxon completed absentee ballot applications for herself and her mother Glorious Wil -- Glorious Willis, who died on October 26th, 2015. Glorious Willis [sic] advised that she’d mistakenly completed the application for her mother. Excuse me, Tessa Saxon advised she’d mistakenly completed the application for her mother, when she’d intended to complete the application for her grandmother, but it was determined that the grandmother was not a registered voter. We recommend Tessa Renee Saxon be bound over to the AG’s Office for 21-2-562, and she did -- Ms. Saxon did call in during the public comment.

MS. THOMAS: She’s still her.

MS. WATSON: She’s still on the line.

MR. RAFFENSPERGER: Ma’am, would you like to discuss
this further?

    MS. THOMAS: You’re self-muted right now, Ms. Saxon.

    MS. SAXON: Yes.

    MS. WATSON: We can hear you now.

    MS. SAXON: Like I stated earlier today, I mistakenly
    -- I was handling my grandmother’s affairs because she was
    bedridden, and I mistakenly filled out an absentee ballot
    for my demised mother for my grandmother. Like I said, it
    was an honest -- honest mistake. I didn’t willfully do
    it. I mean, -- and it was just a human error, and I was
    trying to get my grandmother to vote. I mean, because she
    was, like, 80-something, 87, and she hadn’t never -- she
    had never voted before. And I’m sorry about my mistake.

    MR. RAFFENSPERGER: Thank you, ma’am.

    MS. SAXON: That’s all. I forgot to say thank you.

    MR. RAFFENSPERGER: Thank you. Do the Board members
    have any questions about this case? Hearing none, now
    would be the appropriate time for a motion if you’re so
    inclined.

    MR. WORLEY: This is David Worley.

    MR. MASHBURN: Go ahead.

    MR. WORLEY: I appreciate the statement that the
    Respondent made. I would vote to refer this to the
    Attorney General’s Office so that they can discuss this
    matter with the Respondent and come to an appropriate
MR. RAFFENSPERGER: Do we have a second?


MR. RAFFENSPERGER: Well, I think while both of our members were saying that I heard compassion in your voices, but you understand that -- you made an appropriate motion also. That said, all those in favor of referring this over for the Attorney General’s careful consideration, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

Next case?

MS. WATSON: Next case is 2016-178, Liberty County.

On November 29th, 2016, Roger Wells, the Chairman of the Liberty County Republican Party, reported during the November 8th, 2016 general election that official poll watcher designation letters and badges were given to various members of the NAACP. Mr. Wells states it is their belief based upon the applicable statute that such action is not permitted, as the NAACP is not an official political party. He states the poll watcher badges issued did not designate in which precinct the individuals served.

The investigation revealed a request was submitted
for seven individuals to be designated as poll watchers for the November 8th election for the Liberty County branch of the NAACP. Liberty County Elections Supervisor Ella Golden approved the requests. We’re recommending the Liberty County Board of Elections and Registration and former Supervisor, Ella Golden, be issued letter of instruction for 21-2-408(a)(1), poll watcher designation, and SEB rule 183-1-13-.04.

MR. RAFFENSPERGER: Do we have anyone from Liberty County that wishes to speak from -- about this matter?

MS. WATSON: There’s no one on the line.

MR. RAFFENSPERGER: Or anyone from the NAACP? Okay. Mr. Germany, before we take this any further, for those who are listening in, perhaps we could explain to them, because we do have an election coming up, about poll watchers so that there’s an orderly process, and we want to make sure that the -- you know, all of our county elections folks -- we get requests from the political parties, but there’s also independent groups. If you want to just give a brief summation of -- perhaps, so that people understand the way forward really for, perhaps, the future as opposed to this issue here and then we’ll address this issue here.

MR. GERMANY: Yes, sir. Thank you. So Georgia law allows for credentialed poll watchers that political
parties and independent candidates on the ballot can
nominate, and there's a process to go -- to go through
that to give the proper notice to the county election
officials. And there's, of course, strict rules that they
have to follow while they are being a poll watcher. I
know a lot of times Mr. Mashburn and Mr. Worley have done
that before in that -- in that official credentialed poll
watcher capacity.

There's also sort of unofficial poll monitors, and
these are people who, you know, -- obviously, you know,
voting is public, and people can be not in the enclosed
space, but in the -- in the -- kind of around the polling
place generally, and they don't really have any additional
access or official status any more than any other member
of the public. So that's the distinction between those --
between those two groups.

MR. RAFFENSPERGER: Okay.

MS. WATSON: Mr. Secretary, I would also point out
that we did receive documents from Jones, Osteen, Jones
attorney's office to provide these letters to the SEB
Board. They were provided in your links.

MR. RAFFENSPERGER: Thank you.

MS. WATSON: And we also have speakers on the -- on
the line now.

MR. RAFFENSPERGER: Oh, we do? From Liberty County?
MS. WATSON: Yes, sir.

MR. RAFFENSPERGER: Okay. Would they go ahead then, please?

MS. THOMAS: Mr. Wells, you may speak.

MR. WELLS: All right. Can you hear me now?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: Yes, sir.

MR. WELLS: Oh, excellent. Thank you for taking our case this afternoon. I guess my biggest concern -- you’ve got all the information there. Both parties were represented, the Democratic party and the Republic party, as poll watchers, but we also had the NAACP members there at the polls, which was quite intimidating. Now, Ella Golden is no longer the Elections Supervisor, and we filed this complaint with a Dicky Brown [sic - Ricky] who was at the time the Board Chairperson of the Election Board but received no response whatsoever as far as our complaint. I guess our biggest concern going forward is that this precedent has been set with the Elections Board and the Elections Office. Now, we don’t want to see this repeated, as we were approached by many members as far as the intimidation factor went. Thank you. I’ll answer any questions you may have.

MR. RAFFENSPERGER: Do any Board members have any questions or comments?
MR. WORLEY: This is -- this is Mr. Worley. If the speaker could just explain what was intimidating about the NAACP being there?

MR. WELLS: It wasn’t intimidating to me, personally. I had issues just with the fact that they were there, but I was approached by many members -- I was acting in my capacity as Chairman of the Liberty County Republican party at the time and was approached and -- and told this was quite intimidating to a number of the people that went in to register their votes. I was not intimidated, but I’m not easily intimidated anyway.

Now, one of the biggest things, we were all required to wear our badges stating that we were poll watchers, and none of the members of the NAACP had poll watcher badges on. The only badges they had were the NAACP-issued badges. But again, we’ve received no response or confirmation of our letters of complaints by either Ella Golden or Dicky Brown.

MR. RAFFENSPERGER: Okay. Do we have further questions?

MR. MASHBURN: So -- yeah, this is Matt Mashburn.

MR. WELLS: Hey, Matt.

MR. MASHBURN: I’m trying to understand. So Liberty County’s position is they did not issue poll watcher credentials to a private organization.
MR. WELLS: But they did. I spoke personally with Ella Golden about it. They did issue those badges.

MR. MASHBURN: Okay.

MR. WORLEY: Wait a second. I’m sorry. And I’m sorry to interrupt, Matt, if you had another question.

MR. MASHBURN: No, go ahead. Go ahead, David.

MR. WORLEY: I thought you just said that the only badges the NAACP had were NAACP badges. That makes -- that doesn’t make it sound like that was issued by the county. Is that correct?

MR. WELLS: Well, as far as I could tell, they were issued, I was told that, they just didn’t wear them. They wore their NAACP badges predominantly.

MR. WORLEY: But it’s your understanding that the county actually issued them badges.

MR. WELLS: That is correct.

MR. WORLEY: Okay.

MS. LE: This is Anh Le. Ms. Watson, do you find in your investigation that the county did, in fact, issue these badges, albeit incorrectly?

MS. WATSON: They did approve the seven individuals as poll watchers, and as to the actual issuing of the badge, I’m trying to confirm that.

MR. WELLS: Now, we were listed as -- you had a particular precinct that you were to be present at, not
all of them, and I know they switched precincts on at least two occasions. And I was present for the counting of the absentee ballots, and the NAACP President was there at that meeting, and he had no badge on stating he was a poll watcher, just the NAACP badge.

MS. WATSON: They were issued, the -- the badges. We did document the photographs of the poll watcher badges but did not list the precinct to which they had been assigned to or tabulation center.

MR. MASHBURN: Well, this is Matt Mashburn, and I know all the members of the Board and the Secretary of State are very concerned about security at the polls, and perhaps, David and I are more sensitive to this than -- than others just because of our experience in -- in doing it, but the hundred-and-fifty foot -- we even call it the hundred-and-fifty foot protective bubble -- is really one of the key tools that the State has to protect against voter intimidation and interference with the election, and so that’s one of my hot button issues is protecting that bubble with all -- with all efforts. So I find that there is probable cause to believe that violation was committed in that poll watcher badges were issued to those who weren’t entitled to the them and would move that this be referred to the Secretary of State’s Office -- I mean, I’m sorry, the Attorney General’s Office.
MR. WORLEY: Well, this is Mr. Worley. The recommendation from the investigator was that it be -- that Liberty County be sent a letter of instruction, and I’m -- if Ms. Watson could just explain why a letter of instruction was thought to be the appropriate route.

MS. WATSON: Yes, sir. I believe -- you know, one is that Ella Golden was not -- is no longer there, and they are aware of the requirements at this time. The attorney Kelly Davis [ph.] also submitted the documents that I believe should be in your links that addresses remedial actions that they did take, so I felt that a letter of instruction would be appropriate since they took those -- those actions moving forward, and they’re aware of the code at this time.

MR. WORLEY: Thank you.

MR. MASHBURN: Okay. Cooler heads -- cooler heads have prevailed on my hot button, and so I’ll amend my motion to issue a letter of instruction.

MR. WORLEY: And this is Mr. Worley. I would second that.

MR. RAFFENSPERGER: Okay. Any further comments from the Board? Hearing none, all those in favor of the motion as presented for case number 2016-178, please do so by signifying aye.

THE BOARD MEMBERS: Aye.
MR. RAFFENSPERGER: Any opposed? Motion carries.

Next case, please?

MS. WATSON: 2016-183, Catoosa County, qualification of elector. In November 2016, Catoosa County Board of Election and Registration reported James David Waters [ph.] registered to vote on September 24th, 2016 and then voted in the November 2016 general election as a felon under sentence. He also reported a Michael Andrew Yates [ph.] registered to vote on August 30th, 2016 and then voted in the November 8th, 2016 general election while under sentence as a felon.

Investigation verified that James David Waters was still under a felony sentence when he registered and voted. The investigation confirmed that Mr. Michael Andrew Yates entered a plea under first offender and was eligible to register and to vote. We recommend James David Waters be bound over to the AG’s Office for 21-2-216 and 21-2-561.

MR. RAFFENSPERGER: Okay. Do we have anyone from Catoosa County?

MS. WATSON: No.

MR. RAFFENSPERGER: Okay. Do any Board members have any questions? Then perhaps now would be the appropriate time for a motion.

MR. WORLEY: This is Mr. Worley. I’ll make a motion
that we bind over Mr. Waters to the Attorney General’s Office and dismiss the charge against Mr. Yates.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: This is Anh Le. I second that.

MR. RAFFENSPERGER: Okay. Do we have any further discussion? Hearing none, all those in favor of the motion as presented for case number 2016-183, please do so by signifying aye.

THE BOARD MEMBERS: Aye.


MS. WATSON: Next case is 2016-184, Cobb County, cast ballots. In November 2016, we received complaints from three Cobb County electors who alleged they visited their separate poll locations to vote in the November 8, 2016 general election and were identified as having already voting in the election.

Susan Flythe [ph.] stated she went to vote at Lockheed Elementary School precinct and was told she had already voted. She was offered a provisional ballot, which she declined. Cobb County later searched for any record to indicate why Susan Flythe was identified in the system as having already voted. There was no voter certificate, and she was not on the numbered list of voters. It appears she was incorrectly given credit for
voting in the system.

The second complaint was from Kimberly Hatcher [ph.] who went to vote at Holy Family Catholic Church to vote and was told she had already voted. She was offered a provisional ballot that was later counted. Cobb County was also able to identify the data entry error that incorrectly gave credit to Kimberly Hatcher as having already voted absentee.

The third voter, Donna Crews [ph.], went to vote at Mableton Elementary School and was told she had already voted during early advance voting. She denied having done so. Donna Crews was offered a provisional ballot that was counted. Cobb County responded that there was no absentee application for Donna Crews and believed she was incorrectly given credit in the system as having voted absentee. Our recommendation is for Cobb County Board of Elections and Registration and Supervisor Janine Eveler be bound over to the AG’s Office for SEB rule 183-1-12-.02(4)(b), and we do have a caller on the line.

MR. RAFFENSPERGER: Okay. Who do we have on the phone?

MS. EVELER: Hi, this is Janine Eveler. Can you hear me?

MR. RAFFENSPERGER: Hi, Ms. Eveler.

MS. EVELER: Okay. Hi. So we do train our poll
workers that provisional ballots are our safety net, and so I’m glad to hear that all three of these voters were offered a provisional ballot, and as you’ve heard today, the reason we say that is because there are many places where a single keystroke or transposed digits can cause a clerical error. From what I’ve understood, Ms. Crews and Ms. Hatcher, they did vote their provisional ballots, and the ballots were counted before our certification. And what we have found is that these voters were marked incorrectly during the advanced voting period, and during that period for the 2016 election, we voted over 141,000 people during that advanced voting period. And what we have started doing now is that when the absentee applications are collected from the check-in windows, we have a worker that is assigned to go through them all to compare the label that was created on E-net during the voting transaction to the absentee ballot application, the advance voting application, to make sure that the right voter was -- was chosen.

As far as, for Ms. Flythe’s record, I -- I found that she was actually on the express poll record for a different precinct than the one that Ms. Watson said, but either way, if -- if the voter -- or the poll workers see that a voter is already marked as voted at the polling place, they are supposed to go through the voter
certificates to see if a voter was marked incorrectly. The poll that I show Ms. Flythe at was Sewell Mill 03, and they had over 1500 voters that day, so it may have been that they didn’t have the time to go through the voter certificates. In that case, our instructions are to offer the provisional ballot and then we go through the voter certificates during the provisional ballot period. So you know, I think we do have procedures in place for this now, and I would ask that you, you know, maybe consider a letter of instruction instead of the AG. Thank you.

MR. RAFFENSPERGER: Thank you, Ms. Eveler. Do the Board members have any questions for Ms. Eveler or for Ms. Watson? Now would be the appropriate time to make a motion, if you’re so inclined.

MR. MASHBURN: This is -- if I could ask -- this is Matt Mashburn. If I could ask one more question of Cobb County, just to make sure I understand it. So on the first case, Ms. Flythe, she was offered a provisional ballot twice and turned it down twice, but during y’all’s -- during the provisional ballot examination, you -- y’all would have discovered this error and had it been an error, her vote would have counted had she chosen to cast it, correct?

MS. EVELER: What we would have -- oh, I am on. We would have to go through the voter certificates during
that period, and so if she had not filled out a voter
certificate because this is the old system where they had
a paper voter certificate, and so then if we couldn’t find
a voter certificate, we would resolve that she had not
actually put it at the polling place and a different voter
was marked incorrectly. And so then her provisional
ballot would have counted if she had cast it.

MR. MASHBURN: And so one of the things we’re very --
you know, everybody in the whole process is concerned
about is that when -- when somebody doesn’t get to vote.
But as you’ve stated, the provisional ballot is the safety
net to make sure that -- that the people do get to vote
and so I’m somewhat persuaded in this case that the --
that the voter chose not to avail herself of that safety
net that was provided to her twice, rather than -- rather
than Cobb County did anything other than make the original
mistake to prevent her from voting, so in my -- in my
view, that’s a big mitigating factor in the case. And so
I’m inclined to accept -- to make a motion that we accept
your invitation to issue a letter of instruction.

MR. RAFFENSPERGER: Okay. Do we have a second on
that motion? Do we have a second? Okay. Motion dies for
lack of a second. This case is before you, members. What
is the will of the Board?

MS. LE: This is Anh Le. I would echo Mr. Mashburn’s
thoughts that when a voter’s ability to vote is denied or somehow impaired, that that’s something that we take seriously, and I know this is a mistake, and I tend to look at can we mitigate something through training or, you know, would we get more of out sending the counties back to training or ask for some kind of assurance that this won’t happen again, but I think in this case because the voters, while they were given provisional ballots, one -- and I believe if I read it correctly, she had concerns about that provisional ballot, but had the mistake not been made -- excuse me -- she would have been given the ballot to begin with, the original -- her true ballot. So I think for that reason I would like to move to send this to the AG’s Office.

MR. RAFFENSPERGER: Do we have a second?

MR. WORLEY: Well, I --

MS. SULLIVAN: This is Rebecca. I’ll second.

MR. RAFFENSPERGER: Okay. We have a second. Do we have any further discussion on this matter?

MR. WORLEY: This is Mr. Worley. I just wanted to say that I agree with Ms. Anh’s -- I’m sorry, Ms. Le’s reasoning and support the motion.

MR. RAFFENSPERGER: Okay. Any further comments?

Hearing none, all those in favor of the motion as presented for case number 2016-184, Cobb County, please
signify by saying aye.

THE BOARD MEMBERS:  Aye.

MR. RAFFENSPERGER:  Any -- any opposed?  Motion carries.  Thank you.  Our next case, please?

MS. WATSON:  The next case is 2018-100, which is Hall County, conduct at polling places.  In November of 2018, Hall County Elections Director reported the following allegations:  allegation one was that Maria Palacios used her cell phone in the polling place while voting was taking place after having been requested not to do so and allegation two that members of the Georgia Association of Latino Elected Officials (GALEO) organization caused a disturbance in a polling place in Hall County which prevented the poll officers from performing their duties contrary to OCGA 21-2-569.

The investigation shows the reported incident occurred at the First Baptist Church of Gainesville polling precinct.  Sue Geninas [ph.] was the poll manager.  Maria Palacios identified herself as a poll monitor.  When asked if she meant poll watcher, she stated that they would be considered poll watchers.  There was no application for a Maria Palacios as a poll watcher with the State or with Hall County.

There was a voter presenting proof of citizenship at the poll, and in order to process the voter, the poll
manager contacted the County Elections Director Lori Wurtz by phone. During this process, Maria Palacios was inserting herself into the situation. Maria Palacios did use her cell phone in the polling place. Witnesses advised she used the phone to take photos and video in the polling place. Mr. Gonzalez with GALEO advised that Maria used her phone to take notes about the incident. After the incident took place, a gentleman entered the precinct and confronted the poll manager, Sue Geninas, in a loud manner that caused the poll workers to be concerned for their safety. The poll workers requested law enforcement to be present at the closing of the poll for safety precautions.

The allegation that Maria Palacios interfered with poll workers was verified through statements of poll workers. Olga Fuentes [ph.] stated what they were doing was interfering in the sacrosanct process of voting. Ralph Magwell [ph.] stated Sue Geninas was under a lot of pressure from the one poll watcher early on and later Mr. Gonzalez. This pressure was relentless and totally unnecessary. Vito de la Ponte [ph.] states they stayed the whole day trying to disrupt the process.

Mr. Gonzalez was contacted and stated that he was not the person that went into the polling location. However, a Harvey Soto [ph.] advised that he was the person that went to the poll and advised that Sue Geninas was not
hostile to him, but that the poll worker named Vito started an argument with him.

Our recommendation is for Maria Palacios to be referred to the AG’s Office for 21-2-413(b), conduct of cellular phones prohibited, and 21-2-408 and Maria Palacios and Harvey Soto for 21-2-569, interfering with poll officers. And we do have speakers on the -- on the line.

MR. RAFFENSPERGER: Okay. If the speakers could identify yourselves and who you represent?

MS. THOMAS: So first, we’re going to Dr. Tom Smiley.

DR. SMILEY: Yes. Can you -- can you hear me?

MS. THOMAS: Yes.

MR. RAFFENSPERGER: Yes, sir. We can hear you.

DR. SMILEY: All right. I’m Tom Smiley, Chairman of the Hall County Board of Elections and Registration. Present with me is our Director of Elections, election staff members, poll workers who are knowledgeable of the incident, Board member Craig Lutz, and our county attorney. I want to thank you for hearing our concern today.

During voting on November 6th, 2018, at one of our polling places, you have information and an investigative report that there was a material interruption and interference with the execution of our poll officers’
duties, where they were willfully prevented to do their responsibilities, including their duties, and intentionally interfered with their responsibilities. We understand this incident was -- occurred with the persons you mentioned as well as the organization that you made mention of.

You have affidavits of eyewitness, mine included, which clearly indicate that our poll workers and voters were intimidated, experienced emotional distress, and actually feared for their safety, as evidenced by our poll workers feeling the need to ask local police for escort out of the building and one of our poll workers resigning from service because of the distress of this incident, which among other things involved yelling, continuous badgering, inappropriate cell phone use, all in the confines of the voting area and voting bubble, and the physical taking of a poll manager’s personal cell phone as she attempted to carry out her official responsibilities.

As an eyewitness, I can affirm that our poll workers, many of them senior adults, were visually shaken by this disruptive behavior, and this continued breach of polling place protocols by the offenders. In closing, please allow me to firmly insist that our poll workers must be protected. They must have confidence in their personal safety while performing their duties. A strong and
serious message must be relayed to all persons that
behavior as cited in this incident will not be tolerated.
Local election boards have a difficult time enough of
securing poll workers, and if we cannot ensure them of
local and state boards’ support, the quality of our
elections will be diminished. And I thank you very much
for allowing me to speak, and others are in the room if
you have any questions.

MR. RAFFENSPERGER: Members of the Board, do you have
any questions?

MR. WORLEY: I have a question, Mr. Secretary. Whose
-- whose phone was taken?

DR. SMILEY: The poll manager’s phone was physically
taken from her by members who created this disturbance.
I’m not exactly sure which of those mentioned in this case
-- I’m sure the investigator has that in your report, but
it was the lady who took the phone. And the poll manager
is present if you’d like to ask her specifically.

MR. WORLEY: No, I was interested in -- it was her
phone that was taken, the poll manager’s phone.

DR. SMILEY: It was the poll manager’s phone taken
from her physical presence.

MS. THOMAS: And we -- we do have two other callers
on the line that would like to speak as well, if you want
to hold your questions for them -- if you would like to
hold your questions until they speak as well.

MR. RAFFENSPERGER: Okay. Put on the next person.

MS. THOMAS: Next, we have Jerry Gonzalez. You may now speak.

MR. GONZALEZ: My name is Jerry Gonzalez, and I am the Founding and Executive Director of GALEO. Thank you to the Board for giving me the opportunity to speak today. I’ll like to say a few words about GALEO’s work. GALEO has been protecting the right to vote and helping voters for over 17 years, and we’re committing to doing -- to continuing to do so again in November. We’re concerned about Latino voters having access to the ballot in November, particularly in the midst of the COVID-19 pandemic and lack of access to Spanish information for elections statewide, with only Gwinnett County as an exception. As a result, we’re particularly focused on access to voting by mail since there will be a record amount of absentee voting the November general election.

As always, we’ll continue to work cooperatively with hard-working county election officials and employ a robust staff and volunteer training for our outreach efforts. As always, I am fully committed to ensuring that GALEO’s voter protection work fully complies with both Georgia and federal law and that it furthers the smooth administration of the upcoming election. I would like to add that this
is the first time GALEO has ever received a complaint from an elections director or poll worker or that it has ever been subject to an investigation.

Now, I’d like to talk about Election Day 2018. That very day, both GALEO and Harvey Soto received compliments from poll workers on how we were supporting their important work and the election process, specifically from Hall County and Gainesville. There’s some confusion surrounding this complaint that I’d like to clear up. It appears some folks alleged that I, Jerry Gonzalez, was at the polling place. I was not. I spent Election Day 2018, including the time during which the relevant events took place, in our offices in Norcross. I’d like to point the Board members to the last page of the investigator’s findings, which notes how I was misidentified and how the poll workers went on the GALEO website and were confused about whether I was at the precinct.

Now, I’d like to talk about Harvey Soto. He’s an endearing person with a very warm and friendly personality. Due to his stellar record and work with our organization, he was recruited to work for another organization. With regard to Mr. Soto, I understand that he arrived at the precinct very late in the day near the time that the polls closed. He approached the poll manager who told him that it had been quote, “a quiet
day,” end of quote. While Mr. Soto was then approached by a poll worker who was terse and difficult, the poll manager announced soon thereafter that the polls were closed, and Mr. Soto left. Given the late hour, it seems implausible that any conversation that took place at that time disrupted the voting process.

In closing, I’d like to add that COVID-19 has limited GALEO’s ability to fulfill our mission this year. Due to this unfortunate reality, GALEO will not be significantly involved in November’s election with a robust field operation for Get Out The Vote or voter protection in order to keep GALEO’s employees, canvassers, volunteers, voters, and poll workers safe with limited contact. We will, however, continue to employ our rigorous training processes for staff members and volunteers to ensure not only that everything GALEO does complies with Georgia law but that our staff members are courteous and kind to voters and hard-working election officials. Moreover, we at GALEO are committed to tightening our training and procedures to further support the voting process while protecting the Latinx community members’ right to vote.

GALEO takes compliance with Georgia law very seriously. Since this notice, we have redoubled our existing training pro -- processes for both staff and volunteers to further emphasize the need for bilingual
assistors of choice to comply with all necessary
requirements, and we have also made to sure to place
additional emphasis on the need to not disrupt the voting
process at the polling place when assisting voters
pursuant to the Voting Rights Act. Thank you very much.
I’m happy to answer any questions that the Board members
may have.

MR. RAFFENSPERGER: Do we have anyone else that
wishes to speak on this case?

MS. THOMAS: Yes. Next, we have Sean Young. You’re
self-muted right now.

MR. YOUNG: Okay. There we go. Can you hear me?

MS. THOMAS: Yes, we can hear you.

MR. YOUNG: Great. Dear members of the State
Election Board, my name is Sean Young, and I’m here on
behalf of Maria Palacios, who is with me here today. I
wanted to emphasize that I am representing Maria solely in
her individual capacity. Neither I nor Maria represent
GALEO or any other organization, and Maria is no longer
with GALEO. As her lawyer, I want to further emphasize
that I cannot and do not speak on behalf of anyone
involved in the instance -- in the incident, including Mr.
Gonzalez or anyone from GALEO, and I will only speak on
behalf on Maria.

I’m here today to respectfully ask that the Board
issue a letter of instruction in this case with respect to Maria. Maria is not here to contest any of the facts. Maria, like elections officials across the state, has a firm belief in ensuring that all registered voters are able to cast a ballot, but she also understands fully that there are proper rules and regulations that must be followed, especially those that protect hard-working poll workers, and that those rules, in following them, best ensures that poll workers can facilitate the voting process.

Maria’s understanding of these principles was tested in 2018. In the course of helping people vote, Maria’s good intentions led to conflicts with poll workers while she was using her cell phone, and she exchanged words. And we all know that certain roads are paved with good intentions.

Maria has been under investigation for the last two years, and she’s learned her lesson the hard way. She understands now how the use of cell phones in the polling place can contribute to voter intimidation and compromised election security. She understands the poll workers are on the frontlines of our democracy and how undue interference can disrupt as Olga Fuentes, one of the poll workers involved in the incident, eloquently described, quote, “the sacrosanct process of voting.” And Maria
understands the critical legal definition of what poll
watchers are and that they have a unique role. And she
understands other rules governing poll watcher
designations that are set forth in OCGA 21-2-408.

And I myself fully understand these principles. I
was a poll worker in the August 22 run-offs myself, and
most definitely would not have wanted anyone to interfere
with my hard work of facilitating the democratic process.

This is not going to happen again. As a remedial
action, she has agreed not to enter any Hall County
polling place this fall, period, except to cast a ballot.
She has also agreed not to involve herself in any kind of
poll monitoring activity in Hall County this fall. In
addition, she will be obtaining my legal advice in the
future on what she is and is not permitted to do, and I
will cooperate with election officials ahead of time to
resolve any issues, as I routinely do on many voting
related issues. Two years of investigation has made it
abundantly clear to Maria what’s right and wrong, so we
humbly and respectfully plead that the State Election
Board give Maria another chance and issue a letter of
instruction, just as you graciously issued a letter of
instruction with respect to the NAACP folks who were
alleged to have interfered with poll workers. Thank you.

MR. RAFFENSPERGER: Thanks, Mr. Young. Do we have
any other people that would like to speak on this case?

MS. THOMAS: No, that’s it.

MR. RAFFENSPERGER: Okay. Members of the Board, do
you have any questions for any of the presenters or for
Ms. Frances Watson?

MS. LE: Ms. Watson, this is Anh Le. I think it was
mentioned in here, but I don’t think the police was [sic]
called, is that correct? And if they were, do you know
what the resolution of that was?

DR. SMILEY: No, the police were called at the
request -- this is Tom Smiley, Chairman of the Board of
Elections, Hall County. The police were called at closing
time to escort our poll workers safely to their vehicles
as they were concerned about their safety, given the
activities of the persons involved in this incident, so
yes, they were called. I was there when they were called
-- Hall County was called. That is correct.

MS. LE: Thank you.

MR. RAFFENSPERGER: Do any other members have any
questions? What is the will --

MR. WORLEY: I don’t have a question. Sorry, Mr.
Secretary. It’s David Worley. I don’t have a question,
but I -- I did want to make an initial motion. Mr.
Gonzalez and GALEO are listed as Respondents in this case,
and the evidence seems to be clear that -- well, first of
all, that Mr. Gonzalez was not there, and second, I don’t
-- I don’t think we have a basis for holding GALEO
responsible for their volunteers. So I would make a
motion that Mr. Gonzalez and GALEO be dismissed.

DR. SMILEY: May I speak to that?

MS. LE: This is Anh Le. The individuals were there
representing GALEO. I’m sorry if I’m not pronouncing it
correctly, but GALEO, is that correct?

MS. THOMAS: Is your question for the Chairman or --

MS. LE: Sure. Sorry, Ms. Watson or the Chairman.

MS. WATSON: That is my understanding, yes, that they
were there on behalf of GALEO.

MR. WORLEY: Well, this is Mr. Worley. I -- I just
want to be clear about something, and I don’t suppose Ms.
McGowan is here to comment on this, but we -- I don’t
think we have a history of -- I mean, essentially, we hold
individuals responsible. We do hold State Election Boards
responsible, but I don’t know that we’ve ever referred an
organization to the Attorney General’s Office for this.

MS. WATSON: Yes, sir. They were listed as
Respondents, but the recommendation did not include Mr.
Gonzalez or GALEO. It was Maria Palacios and Harvey Soto.

MR. WORLEY: Right. That’s what I understood, but
since they were listed as Respondents, I thought it was
appropriate to make that motion just to be clear.
MS. WATSON: Okay.

MR. RAFFENSPERGER: Okay. Do we have a second for that motion?

MR. MASHBURN: This is Matt Mashburn. After reviewing carefully the record, I find that there is sufficient probably cause to believe that a violation has been committed by Maria Palacios and Harvey Soto, and therefore make a motion that both potential violations be referred to the Attorney General’s Office for processing.

MR. RAFFENSPERGER: Okay. We have already a motion on the floor though, Mr. Mashburn, that was Mr. Worley’s motion to, I guess, to clarify that -- Mr. Worley, if you want to clarify that motion that you were going to -- that you made --

MR. WORLEY: Yeah, I -- I -- just to make the record clear, since Mr. Gonzalez and GALEO were named as Respondents, I made a motion to dismiss them, Mr. Gonzalez and GALEO.

MS. SULLIVAN: I’ll second that motion.

MR. RAFFENSPERGER: That’s the motion that’s on the floor right now.

MS. SULLIVAN: And I’ll second that motion, Rebecca Sullivan.

MR. RAFFENSPERGER: Okay. Any further discussion on that specific portion? Hearing none, all those in favor
of the motion by Mr. Worley, please do so bysignifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Okay. Mr. Worley, that passed.

Okay, now, the other motion. Mr. Mashburn, you had a motion?

MR. MASHBURN: Yes, I have -- after careful review of the record and the evidence presented and the statements of parties both for and against, the report of investigation, I find that probable cause exists that violations have occurred and move that Maria Palacios and Harvey Soto be referred to the Attorney General for potential violations as recommended in the report of investigation.

MS. SULLIVAN: This is Rebecca Sullivan, and I’ll second that.

MR. RAFFENSPERGER: Thank you. Do we have any further discussion?

MR. WORLEY: This is David Worley. I just wanted to explain my position on this case. Our job is to determine whether there’s probable cause to refer the case to the Attorney General, and traditionally, we’ve taken the position that when one party says one thing and another says something different, that probable cause exists. In this case, the election officials have stated their side,
and Ms. Palacios does not seem to be contesting that, so I think there is probable cause to refer it to the Attorney General.

As for the suggestion that a letter of instruction be sent, I would not have a problem sending a letter of instruction if the only charge were using a cell phone in a polling location, but the charge of interfering with election officers or poll officers is -- is a more serious matter, and it needs to be treated more seriously than with a letter of instruction. Under the circumstances, since Ms. Palacios is represented by very competent counsel, I don’t have a problem referring it to the Attorney General’s Office, as I think the Attorney General and Mr. Young can come to an appropriate resolution of this case, but I think it’s more appropriate to be done in the form of a consent order than a letter of instruction, so I am going to support Mr. Mashburn’s motion.

MR. RAFFENSPERGER: Okay. Is there any other discussion? Hearing none, all those in favor of the motion presented by Mr. Mashburn for case number 2018-100, Hall County, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries. I believe that is the extent of our cases today. I think we’ve covered everything else. I think we’re now ready
for a presentation of proposed rules. If we could take a five-minute break for everyone, I think we might appreciate that, and then we’ll come back for the presentation of proposed rules. So we get back at, say, 2:18, how’s that? Six minutes.

(Meeting break)

MR. RAFFENSPERGER: Okay, everyone. We’re back on schedule here. Presentation of proposed rules: we have three rules before us today. The Rules Working Group has been working on that. Mr. Germany, do you want to start off that discussion, and then the members, I’m sure, will have lots of questions, so the floor is yours.

MR. GERMANY: Thank you, Mr. Secretary. This is Ryan Germany. The first rule that we have posted for public comment is rule 183-1-14-.06(3). This rule makes slight edits to the instructions on the absentee ballot. The point of this rule was to address some issues that came up in the primary. We were seeing a few comments on the rules.

One of them was a joint comment from the Brennan Center, Common Cause, the Center for Civic Design, and Asian Americans Advancing Justice. I think they made some very good points in that -- in that comment and some good suggestions. The problem is with absentee ballots going out next week there’s really not time for us to implement
these -- their suggestions, particularly the illustrations
they offer, in time for this election cycle. What I’d
like to do is send -- send those comments to our Center
for Elections systems to see how we could incorporate
those -- there is a space issue also. These are
instructions that go on the top of the absentee ballot, so
how we could incorporate those onto the ballot for -- for
future election cycles. But I would ask that for this
election cycle that we adopt the rule as proposed.

MR. RAFFENSPERGER: Mr. Germany, I have a question.
We have the, you know, illustration option. Would it be
possible, even though we can’t incorporate because of the
timeframe that we’re on -- is that something that we could
put on our website and also make available to counties so
that they can post that, so that there can be additional,
like, a link so that if people have questions, whatever
county they’re in or also with our website, is that
something that we could probably get that up and, you
know, get that information out there? You know, as long
as it aligns with what, you know, our procedures say.
We’re not saying, you know, two different things. Would
that be something that we should perhaps take a look at?

MR. GERMANY: Yes. That’s a good idea. I know we
are -- we are currently putting together some voter
education-type materials, specifically on absentee
ballots, and so I think this would be good to include on those materials or websites as well.

MR. RAFFENSPERGER: Okay. Board members, I know that several of you are on the Rules Working Group. Do you have any input or any questions for Mr. Germany or just comments in general?

MR. WORLEY: This is David Worley. I just wanted to say that I have reviewed the suggestions of the Brennan Center and the other groups, and I think they’re excellent suggestions, and I think we should move towards adopting them. Unfortunately, I agree with Mr. Germany that it’s really not possible to do that right now, but I think that it is a good idea to make them available to the counties and encourage their use.

MR. RAFFENSPERGER: Any additional comments, any other members? Okay. What is the --

MR. MASHBURN: This is Matt Mashburn. I -- I read their comments -- the comments that were provided as well and state -- and thought they were very good, especially -- especially, I liked the pictograms that have been discussed by everybody so far. I thought those were terrific. But I will make a motion that we approve the rule as posted.

MR. RAFFENSPERGER: Okay. Do we have a second?

MS. SULLIVAN: This is Rebecca. I’ll second that
motion.

MR. RAFFENSPERGER: Do we have any further discussion? All those in favor of passing rule number 183-1-14-.06 as presented, please do so by signifying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? Motion carries.

Thank you, Board. Also, for the record, let’s see if we can get this posted on Secure The Vote and get the pictograms up. I think it’s very important information, and this provides additional information for voters, and I think that’s always a good thing. Mr. Germany, next rule, please?

MR. GERMANY: Yes, sir. The next rule is rule 183-1-15-.02(2), definition of a vote. This is a rule where in response to some of the -- the issues we saw in the primary, we -- to provide a little background which I think is going to be reviewed for the Board, the election equipment that we have, the factory settings are -- well, first of all, this equipment introduces the concept of what’s called an ambiguous zone. That’s something that we did not have in the old system. It was either, you know, there was one threshold that was below that. If the scanner picked up a fill-in amount below that percent, it was not counted. Above that percent, it was counted. So this zone introduces the concept of an ambiguous zone,
with that -- it’s helpful and what that means is that if it’s in the -- if a scanner picks up a percent filled in of a bubble, then it flags the -- the ballot for human review.

The -- in the June primary, the ambiguous zone, we used the factory settings that -- you know, my understanding is what most of the Dominion customers use -- these are the settings that were used when the system was BAC-certified. You know, those -- that, of course, includes stringent tests for accurately counting votes. We did -- and those settings were a twelve percent low threshold, so anything below twelve percent was not counted as a vote and then an upper threshold of thirty-five percent. Anything above thirty-five percent was counted, and anything between twelve and thirty-five percent was flagged for human review.

And what this rule does is basically puts that concept into -- into SEB rules which I -- which I think is good, especially given the large increase in absentee voting. Of course, this only is an issue for absentee or other hand-marked ballots such as provisional or emergency ballots. So using the factory thresholds as a guide, the Center for Elections Systems conducted their own testing to see what we thought if we should make any changes to these thresholds with the -- and we basically found two
things.

One, anything really above twenty percent, so between twenty and thirty-five percent, when it was flagged for human review, it seemed that that mark was always going to be seen by the human as -- as a vote where it -- where it should be. So lowering the upper threshold down to twenty percent, what that will do is that will flag less for human review, which is good, I think, that it would automatically count the vote for the selection, and that will speed up the process, essentially. We decided to lower the lower threshold from twelve percent to ten percent in the proposed rule. What we saw in the testing was that, you know, even really at twelve percent, it seemed that even minimal marks were picked up, and lowering it to ten percent really ensured that the minimum marks were picked up for human review.

One thing to keep in mind is that as the rule -- the rule currently states, if any contest is flagged as ambiguous on the ballot, it’s going to kick out the entire ballot for human review, so it’s not just that one contest. You know, if any one contest is caught in the ambiguous zone, it will flag the entire the ballot for human review. I think that’s important because what we generally see is if people are marking the ballot improperly with check marks, x marks, for instance, they
generally do that consistently throughout the ballot. A check or x mark through the bubble is, you know, for mark testing, is always going to be at least ten percent. Frankly, it was going to be at least twelve percent. I think one of the commenters made the point a check or x mark next to the bubble might not -- might not pick it up because that’s outside of the target zone, but a check or a x mark within the bubble is -- is certainly going to be flagged for human review if not automatically -- automatically counted.

We did receive some comments on -- on this, one from the Brennan Center. The Brennan Center made the point that they believed red ovals are -- are better. I think that’s probably right. We are -- right now, I think we should make that more, the red ovals, aspirational, and, of course, we can’t do it for this election. Some of the long-time ballot printers that the counties work with in the state aren’t prepared for that right now, so I think we should give them some time to basically prepare for that, but I think it’s worth considering to move to red bubbles.

Right now, we have black bubbles. What that does -- or black ovals, I should say -- what that does is it adds basically a certain percent to the -- to the mark, so as the Brennan Center pointed out, in Colorado, one
jurisdiction that uses black bubbles, they have -- Boulder County, Colorado -- they have a lower threshold of nine percent and upper threshold of thirty-five percent. And that’s, I think, reflecting that the black bubbles, you know, depending on the -- black ovals, depending on the exact angle, something goes into the scanner, add about -- add about four or five percent to the -- to the marks. So instead of starting at zero, a blank mark is really four or five percent.

So I say all that to say I think that the thresholds that we posted, a lower threshold of ten, an upper threshold of twenty, will make sure that any ballot that needs to be is flagged for human review. And we’ll also ensure that ballots that -- that don’t need to be -- by lowering the upper threshold -- are automatically counted, which will hopefully speed up the entire counting process. I’m happy to take any questions.

MR. RAFFENSPERGER: Okay. Members, do you have any questions or comments or input that you would like to make?

MR. WORLEY: Mr. Secretary, I -- I had a couple comments. Maybe Mr. Germany would like to respond or not. I’m not sure that they’re in the form of a question. But first of all, I wanted to thank Mr. Germany for the work that he’s put in on this issue and the members of the
Rules Working Group as well, but particularly Mr. Germany, who has put a lot of effort into this. And I also appreciated the comments of the Brennan Center about the red ovals, and I’m glad to hear Mr. Germany react the way he did to that, and I think that’s something that we should certainly seriously think about moving to.

I’m concerned by some of the comments that were made in the public portion of our meeting today, or the public comment portion of the meeting. And particularly, those of Ms. Dufort and Stephen Day, who is a long-time member of the Gwinnett Election Board and in my opinion, one of the best-informed Election Board members that we have in the state, particularly on technical matters, and his concern that there -- if we establish these thresholds, that there are going to be votes that are not counted, where the intent of the voter is nonetheless clear, and I am concerned about that. And I wondered if perhaps Mr. Germany had any reaction to those comments, Mr. Day’s in particular, on that issue.

MR. GERMANY: Yes, sir. Thank you, Mr. Worley. I think Mr. Day was the one who made the comment that he saw check marks or x marks next to bubbles that might not pick up that -- that low threshold. We did see in our testing that check marks or x marks if they’re through the bubbles, then, you know, they’re -- like, for instance, in
the ones in the pictogram for the Brennan Center, all of those are going through -- are going through black at least the ten percent for human adjudication and probably they’re going -- they’re probably going to flag the twenty that will be automatically counted.

And the other thing I would point out is the scanner, it’s looking at individual contests, so if any individual contest meets -- meets that requirement, it kicks out the whole ballot. So for instance, in the issue that Mr. Day brought forth, if someone went next to the bubble in a lot of cases, and it basically didn’t pick up anything on the scanner, but they went through the bubble in other ones, that entire ballot is going to be applied for human review, and this rule says in reviewing any ballot flagged for adjudication, the vote shall be counted if, in the opinion of the vote review panel, the voter has clearly and without question indicated the candidate or candidates and answered the question for which such voter desires to vote, which just -- it’s the same standard that’s in existing law for the voter.

So the other thing I will add is the system is -- is also flagged to pick out or to flag for review any completely blank ballots, and the thinking on that is while it’s certainly possible that someone can just cast a blank ballot intentionally, the thinking on that is they
want to make sure look, are we missing something here? So if in the standpoint that someone missed basically every single bubble, and it’s referred to as a blank ballot, that would also be kicked out for -- for review. So I think -- I think the chances of -- with these thresholds of valid votes not being picked up are extremely low, and I think it balances it well with, you know, the need to be able to scan -- we expect a lot of ballots and a lot of absentee ballots, and there’s a need, of course, to be able to tabulate those in a -- in a timely manner.

MR. WORLEY: Mr. Germany, is there any way to set the scan so that it picks up marks that are near the oval but not in the oval.

MR. GERMANY: I understand that that is how it works, that there’s basically a target zone and it’s, you know, generally the part marked by the oval but it’s a little bit larger than that.

MR. WORLEY: And -- and then finally, Mr. Secretary, I had one more question, which is the rule that we’re adopting sets a standard that is not the same as the intent of the voter. The statute says that intent controls whether it’s a vote or not, and our standard is somewhat different than that because it’s possible to show intent and not have the mark picked up by the scanner. Has the Attorney General’s Office looked at that? Are we
able to essentially establish this standard that’s
different from the statutory intent?

MR. GERMANY: Well, I think the only way this is
different from statutory -- again, I think it actually by
and large -- 21-2-480 talks about ballot -- about
precincts using optical scanning equipment, which is what
we use. I will point out there’s been a lot of references
to 21-2-438, which is a statute that governs paper
ballots. Paper ballots in Georgia code are basically what
some municipality says, you know, the old-fashioned just,
you know, mark an x or a check on the actual piece of
paper. You know, that’s not optical scan. What we --
what we use statewide is optical scanning voting
equipment, and it says -- the statute says to vote black
in the oval or square next to the candidate of your
choice. It says marks made in violation of these
directions -- directions shall be disregarded in the
counting of the votes cast. So I think what we’re doing
is making sure that the intent is provided, and I think
these -- I think these thresholds accomplish that.

MR. WORLEY: Thank you. Those were all the questions
that I had.

MR. RAFFENSPERGER: Okay. Thank you, Mr. Worley.
Any other members have questions or input?

MR. MASHBURN: This is Matt Mashburn. I’d just like
to echo David’s commendation and complimentary words for Ryan Germany and all the work that he’s done and the input of the various groups and the hard work of the -- the hard work of the counties and the rule committee, and I think we’re doing a very good job of updating the system to help voters -- help voters vote. At some -- at some point, and I’ve seen this in the very contested races that get really -- really heated, at some point, the voter has -- has to follow the instructions to a certain level or else they’re deceding [sic] control to the counters.

And so I think this is -- I think these rules are working very, very hard to bend as far as they can to someone who simply won’t follow the rules, and -- and that was one of the advantages of the computers when Kathy Cox introduced them 20 years ago was that it didn’t allow the voter to -- to break the rules. They -- it forced the voters to follow the rules, and so that was one of the advantages of it. So I -- I think these rules and regulations that have been passed and proposed do more than just bend over backwards to try to help somebody who won’t follow the rules.

And so, you know, -- and the other thing about the upper percentage, and this is a question for Ryan. I just wanted to make sure that I’m right. In moving the -- the upper threshold from thirty-five to twenty percent, the --
the if it was a -- if it was at thirty-five percent, what
the computers would do is they would capture a ballot and
call it ambiguous when at a twenty percent level, it would
say oh, yeah, it’s definitely a vote. No problem, off it
goes. Is that right?

MR. GERMANY: No. What -- are you talking -- are
asking what they would do with these settings or what they
did under the factory settings that we used in June?

MR. MASHBURN: Well, just if -- you know, under a --
under a twenty percent threshold, that would have the
machine process more ballots than the thirty-five percent
threshold. The thirty-five percent would kick out more
for human review, even though it’s pretty clear that --
even though the computer had already said it was a vote.
So it sounded like we’re adding a step by having a higher
-- if we had gone with that higher threshold, it sounds
like we’re trying to -- we’re adding in a step and slowing
things down and introducing humans into something that the
computer’s already decided was pretty clear and didn’t
have a question.

MR. GERMANY: That’s -- that’s what we found in our
testing that really, the human review of things between
twenty and thirty-five percent wasn’t necessary because
there was not -- there’s not really -- the intent was
clear, and the humans were always going to come to the
same conclusion as the computer there. So I don’t think it’s necessary to flag those for human review. We can just go ahead and count them.

MR. MASHBURN: So it would -- it would -- to have that higher threshold would slow things down for no appreciable benefit.

MR. GERMANY: Correct.

MR. RAFFENSPERGER: Okay. Thank you.

MR. MASHBURN: Unless any other Board members or the Secretary have further comment, I will make a motion that we adopt the rule as posted and presented.

MR. RAFFENSPERGER: Do we have a second?

MS. LE: Anh Le, I’ll second that.

MR. RAFFENSPERGER: Do we have any further discussion? Hearing none, all those in favor of adopting rule 183-1-15-.02, please signify by saying aye.

THE BOARD MEMBERS: (except Mr. Worley) Aye.

MR. RAFFENSPERGER: Any opposed?

MR. WORLEY: This is David Worley. I vote no.

MR. RAFFENSPERGER: Okay. Let the record so state. Okay. Next rule?

MR. GERMANY: The next rule is 183-1-15-.04. These are the procedures for the risk-limiting audit that we are going to perform following -- beginning following the November election. As the Board knows, we, the Secretary
of State’s Office, and the counties have been conducting
pilot audits to -- to try to get ready for this. We’ve
had a lot of good partners helping us basically get ready
for this point. We conducted a successful pilot audit in
Glynn County a couple of weeks ago following the August
run-off that confirmed the results of the selected race
down there to -- I think it ended up with something like
0.4 percent, and we’re learning a lot of -- a lot of good
information about how to help counties prepare for this so
that -- and we will, of course, provide help along the
way.

So the point of the rule and the comments on the rule
were from Verified Voting who is an expert on these, and I
think was focused on the rule. And as it’s been pointed
out, I think our rule largely copies Rhode Island’s rule,
another state that just started doing risk-limiting
audits, and we -- we do list some things that aren’t
specific. We do that on purpose because, you know, we’re
still learning, but it does require a risk-limiting audit.
It provides that the audit shall be open to the public.
It provides procedures for how to -- how to take the race
that’s going to be audited, and I would ask that the Board
adopt the rule as posted.

MR. RAFFENSPERGER: Okay. Well, members of the
Board, do you have any public comment or questions that
you’d like to mention at this time?

MR. WORLEY: I -- I have a question. This is Mr. Worley. I have a question for Mr. Germany. Could -- looking at the rule, the first part of the rule, section 1 preparing for the audit, item 1 says following November general elections in even-numbered years, each county shall participate in a statewide risk-limiting audit with a risk-limit of not greater than ten percent, as set forth in this rule. Can you explain how the ten percent works?

MR. GERMANY: So the ten percent, what that means is basically the audit is supposed to confirm the result of the election to a ninety percent confidence interval. I think that’s the right term, and that’s basically what other states use that -- that do this. What that really does is it sets a minimum for us. Let’s see. In a lot of our pilot audits, the goal is you’ve got to have at least a ninety percent, you know, confidence interval. At the end of -- at the end of it, the confidence interval might be much higher, which is good. It can’t be lower. If it’s lower, than you have to keep counting, so really, what that sets is how many ballots are we going to have to count to -- you know, to try to reach that result, and that depends on the closeness of the race and other factors. Does that answer your question?

MR. WORLEY: Yes. I think it does. Thank you.
MR. RAFFENSPERGER: Do we have any other input or questions from our Board? If not, now would be the appropriate time for a motion if you’re so inclined.

MR. MASHBURN: This is -- this is Matt Mashburn. I’ll make a motion that the rule be adopted as posted and presented.

MR. RAFFENSPERGER: Do we have a second?

MS. SULLIVAN: This is Rebecca Sullivan. I’ll second.

MR. RAFFENSPERGER: Do we have any further discussion? Hearing none, all those in favor of adopting rule number 183-1-15-.04 as presented, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: Any opposed? None opposed? Did I hear someone opposed just for the record? So sounded like it’s unanimous, but I wanted to make sure I had that correct. Okay. Rule passes. That is all the items we’ve had on our agenda. We’ve had a long, busy day, but before we head out, is there any Board members that have any closing comments that you’d like to offer? I want to always give you that opportunity to speak before the Board and also the public that’s listening in. I’m not hearing anything today. I want to thank the Board members. I want to thank counsel, Ms. Watson, really, anyone that has
worked hard to get these cases before us to get us -- get this, the older stuff, off the docket but also adopt these new rules. This is a very busy time this year, obviously, dealing with the pandemic and having to be flexible to make sure that we can have a system that works for our voters of Georgia. So thank you very much. Now would be an appropriate time for a motion for adjournment.

MS. SULLIVAN: I move.

MR. WORLEY: Second.

MS. LE: This is Anh. Oh.

MR. RAFFENSPERGER: All those in favor of adjournment, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. RAFFENSPERGER: We are adjourned. Thank you so much.

(Meeting adjourned 2:51PM)
CERTIFICATE

STATE OF GEORGIA
COUNTY OF DEKALB

I, Kaitlin Walsh, Certified Court Reporter, hereby certify that the foregoing pages numbered 4 through 190 constitute a true, correct and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 9th day of October, 2020.

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