

In The Matter Of:
State Elections Board Meeting

October 3, 2023

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THE OFFICE OF THE SECRETARY OF STATE

STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD HEARING

GEORGIA STATE CAPITOL BUILDING
ROOM 341
ATLANTA, GEORGIA 30334

October 3, 2023
9:06 A.M.

PRESIDING OFFICER: Mr. Matthew Mashburn.
Chair, State Election Board

STEVEN RAY GREEN COURT REPORTING, LLC
Rebecca Barr, CCR
Atlanta, Georgia

APPEARANCE OF THE PANEL

Mr. Matthew Mashburn, Chair

Mrs. Sara Tindall Ghazal, Member

Mr. Edward Lindsey, Member

Dr. Janice W. Johnston, Member

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.

(Inaudible)- unable to be heard.

(Unintelligible)- impossible to understand.

1 P R O C E E D I N G S

2 MR. MASHBURN: Good morning. I'd like to
3 welcome everyone to the meeting of the Georgia
4 State Election Board on October 3rd. And I'm
5 Matt Mashburn. I'm the senior member of the
6 Board and will begin the meeting as the master
7 of ceremonies, I guess. We'd like to call the
8 meeting to order, and we'll begin with the
9 Invocation and Pledge of Allegiance, and I'll
10 ask Board Member Edward Lindsey, to do the
11 Invocation.

12 MR. LINDSEY: Thank you, Mr. Mashburn.
13 (Invocation.)

14 MR. MASHBURN: I'm going to ask Dr.
15 Johnston to lead us in the Pledge of
16 Allegiance. Please stand and face the flag.
17 (Pledge of Allegiance.)

18 MR. MASHBURN: Thank you. Please be
19 seated. The first order of business before
20 the Board is to elect an Acting Chair. So at
21 this time I'll accept nominations for Acting
22 Chair.

23 MR. LINDSEY: Mr. Mashburn, I move that
24 we nominate you as our Interim Chair until the
25 Governor appoints a permanent Chair.

1 MR. MASHBURN: Thank you. There's been
2 one nomination. Is there a second?

3 DR. JOHNSTON: Second.

4 MS. GHAZAL: Second.

5 MR. MASHBURN: That nomination has been
6 moved and seconded. Are there any other
7 nominations?

8 (No response.)

9 MR. MASHBURN: Is there a motion to close
10 nominations?

11 MR. LINDSEY: So moved.

12 MR. MASHBURN: Second, is there a second?

13 MS. GHAZAL: Second.

14 MR. MASHBURN: All those in favor of
15 closing the nominations, please indicate by
16 saying aye?

17 THE BOARD: Aye.

18 MR. MASHBURN: All those opposed?

19 (No response.)

20 MR. MASHBURN: The motion to close
21 nominations passes and now the motion is on
22 the question. All those in favor of electing
23 Matt Mashburn as Acting Chair until the
24 Governor appoints a permanent Chair, say aye?

25 THE BOARD: Aye.

1 MR. MASHBURN: All those opposed?

2 (No response.)

3 MR. MASHBURN: So Matt Mashburn is
4 elected as the Acting Chair. So -- thank you.
5 I appreciate the confidence placed in me by
6 the other Board Members so thank you very much
7 for that.

8 And now we'll move to the remainder on
9 the agenda. The first point on the Agenda is
10 the approval of the Board Meeting Minutes.
11 Has the Board had a chance to review the
12 Minutes?

13 (Affirmative responses.)

14 MR. MASHBURN: Are there any questions or
15 corrections to the Minutes?

16 MR. LINDSEY: Mr. Chairman, I'd move that
17 we accept the minutes of the August 1st, 2023
18 hearing.

19 MR. MASHBURN: There's been a motion to
20 accept the Minutes. There's been a motion to
21 accept the Minutes as written. Is there a
22 second?

23 DR. JOHNSTON: Second.

24 MR. MASHBURN: There's a motion and a
25 second. All those in favor say aye?

1 THE BOARD: Aye.

2 MR. MASHBURN: All those opposed?

3 (No response.)

4 MR. MASHBURN: The motion to accept the
5 Minutes is approved.

6 The next thing on the agenda is we have
7 received -- we would normally at this point
8 move to cases recommended to be dismissed on
9 the Agenda, but we have received a conflict
10 letter with an attorney who has actual
11 conflict for a hearing that he needs to get
12 to. And so we're acting as a courtesy to the
13 judge and a courtesy to the parties as well,
14 and a courtesy to the judge as well so the
15 judge doesn't have to rearrange the judge's
16 calendar to accommodate us. So we're going to
17 take those two cases out of order. And so
18 those cases are SEB2022-371 Cherokee County
19 and SEB2022-131 also Cherokee County. Mr.
20 Jordan is one of the parties. And -- I'm
21 going to mispronounce this. The lawyer's name
22 is Oles? Oles?

23 MR. OLES: Oles.

24 MR. MASHBURN: Ah, thank you for
25 correcting me. You're welcome to present from

1 your chair. You should -- there's a little
2 brass plate in front of you. It should have a
3 button that says talk.

4 MR. LINDSEY: Mr. Chairman, what issue
5 are we going to take up first?

6 MR. MASHBURN: Let's take up -- Counsel,
7 which one would you like to take first

8 MR. OLES: I believe we'll start with Mr.
9 Jordan's case.

10 MR. MASHBURN: Okay. You can use the
11 microphone now.

12 MR. OLES: Okay. I believe we'll start
13 with Mr. Jordan's case. I do not believe that
14 Ms. Blankenship has made it here yet. I think
15 she's still stuck in traffic.

16 MR. MASHBURN: Okay. So as a convenience
17 and courtesy, we'll take Mr. Jordan's case
18 first and that is case number 2022-131. It's
19 number 26 in your binder. It's number 26 in
20 your binder. Is the -- we'll give y'all a
21 second -- the Secretary of State's office to
22 get going. I appreciate y'all accommodating
23 the parties as well by taking cases out of
24 order. I know y'all work on these very hard,
25 so I appreciate y'all's accommodation as well.

1 So if you're ready, I'll turn on your mic
2 and we'll hear from the attorney general. Oh,
3 I'm sorry. We'll hear from the secretary of
4 state's office. I apologize.

5 INVESTIGATOR BRUNSON: Okay. Good
6 morning, Board. We'll start with SEB2022-131
7 Cherokee County complaint against Richard
8 Jordan, it's tab 26. So the Secretary of
9 State's Office of investigation received a
10 complaint regarding an issue that occurred at
11 the South Annex polling station, located at
12 7545 Main Street in Woodstock Georgia. This
13 occurred during early voting, June 17th, 2022,
14 for the June 21st 2022 election. It was
15 reported that elector Richard Jordan was
16 causing issues at the polling station. The
17 issues rose to the point that it resulted in a
18 request for the police to respond. And the
19 listed possible violations is 21-2-566,
20 interference with the primaries; 21-2-567,
21 intimidation of electors; 21-2-569
22 interference with poll officers, 21-2-597
23 intentional interference with performance of
24 election duties and 21-2-583, sub 3, removal
25 or destruction of election supplies. So

1 though not part of the original complaint, Mr.
2 Jordan did admit to taking a photo of his
3 complaint form while he was inside the voting
4 area. A clerk stated he observed Jordan take
5 a photo of his ballot. Body camera footage
6 captures Jordan taking a photo in the area
7 where he was filling out his complaint form.
8 Jordan had placed his ballot on the table
9 while filling out his complaint. He denied
10 taking a photo of the ballot. Woodstock
11 Police bodycam video shows the prohibition
12 notice posted on the wall in public view.
13 This notice warns the public that it's a
14 violation of the law to use your cellphone or
15 other electronic devices while inside the
16 polling area. Jordan claimed he was at the
17 polls to vote. He had previously filed a
18 complaint with the county and was told by Anne
19 Dover that his complaint is not a county
20 issue. Jordan began questioning the polling
21 staff regarding the QR codes and their
22 training. He picked up an absentee
23 cancellation form informing the assistant
24 manager that he was with the Republican Party
25 investigating voting irregularities. He later

1 told Investigator DeWeese of the secretary of
2 state's office that he was not sure he needed
3 a form and was confused. His actions caused
4 the assistant manager to have to leave her
5 station and contact the manager. The manager
6 then had to deal with the situation. A second
7 manager observed the situation and grew
8 concerned that it would escalate and had to
9 leave her station to call the police. Jordan
10 claimed that Woodstock Police Officers were
11 interfering with him while he was voting after
12 they arrived. Jordan stopped his voting
13 process after he printed his ballot. And
14 instead of scanning the ballot, he carried it
15 over to the manager and started questioning
16 her concerning the QR codes. He could have
17 completed his vote, and then requested the
18 complaint form. However, he chose to place
19 his ballot on the table face up. He was told
20 by poll personnel and workers to complete his
21 ballot and leave the polling station. The
22 police body camera footage does not capture
23 the entire event. It appears that Jordan
24 arrived and registered at 4:06 p.m. Woodstock
25 police were dispatched to the scene at 4:22

1 p.m. Jordan left sometime between 4:30 and
2 5:00 p.m. There were no other complaints
3 filed by the other electors that were present
4 during the incident. The manager was
5 ultimately able to retrieve the absentee
6 ballot affidavit form. In looking at the
7 police report from the Woodstock police
8 department, I'm just going to briefly provide
9 a summation of what was stated in that report
10 after they were called.

11 The officer was dispatched to a
12 trespassing call at that location. He entered
13 the building. He approached Mr. Jordan who,
14 according to the poll personnel was being
15 disorderly. He would not leave the polling
16 station when asked to by the polling staff
17 multiple times. He spoke with Mr. Jordan and
18 asked, is there a problem. He advised him he
19 needed to leave the building per the polling
20 staff's request. Mr. Jordan then threaten the
21 police officer's job and said that -- alleged
22 that the officer was looking at his votes.
23 The officer told him that he needed to cast
24 his vote and leave. Mr. Jordan refused to
25 leave and continued harassing about the voting

1 station and staff. Furthermore, after a few
2 minutes later Mr. Jordan finally submitted his
3 vote and left the building. The staff members
4 were really frightened about the whole
5 situation and advised that the male had been
6 at the polling station for an hour or so not
7 submitting his vote. Staff then told him he
8 needed to cast his vote and leave. Mr. Jordan
9 argued with the staff and wrote a complaint
10 about the situation at the polling station.
11 And that was it. He indicated see the body
12 camera footage for more.

13 So based on this incident for allegation
14 one, recommended there's not sufficient
15 evidence to sustain a violation of the Georgia
16 Code 21-2-566, interference with primaries.

17 Number two, there is not sufficient
18 evidence to sustain the violation of the
19 Georgia Code 21-2-567, intimidation of
20 electors.

21 Number three, recommended that there is
22 sufficient evidence to sustain a violation of
23 Georgia Code 21-2-569 interference with poll
24 officers, which states any person including
25 any poll officer who willfully prevents any

1 poll officer from performing their duties on
2 polls on him or her by this chapter shall be
3 guilty of a felony.

4 Number four, there is sufficient evidence
5 to support a violation of Georgia Code 21-02-
6 597, intentional interference with performance
7 of election duties. Any person who
8 intentionally interferes with, hinders or
9 delays or attempts to interfere with, hinder
10 or delay any other person in the performance
11 of any act or duty authorized on polls by this
12 chapter shall be guilty of a misdemeanor.

13 Number five, there is not sufficient
14 evidence to support a violation of Georgia
15 Code 21-2-583 sub 3, removal or destruction of
16 election supplies.

17 And finally, number six, there is
18 sufficient evidence to support a violation of
19 Georgia Code 21-2-413 sub (e), conduct of
20 voters, use of photographic equipment or other
21 electronic devices within a polling place. No
22 elector shall use photographic or other
23 electronic monitoring, or recording devices,
24 or cellular telephones while such electors is
25 within the enclosed space in a polling place.

1 MR. MASHBURN: Thank you for
2 presentation. Any questions for the inspector
3 from Members of the Board?

4 MS. GHAZAL: Mr. Mashburn.

5 MR. MASHBURN: Dr. Johnston.

6 MS. GHAZAL: I have --

7 MR. MASHBURN: Sorry. Let me get your
8 mic.

9 MS. GHAZAL: I have one question. Was
10 there any evidence that there were other
11 electors at the early voting location while
12 this was happening? And the rough number.

13 INVESTIGATOR BRUNSON: Yes. It was an
14 open and active polling location. Yes.

15 MS. GHAZAL: Okay.

16 INVESTIGATOR BRUNSON: Yes.

17 MS. GHAZAL: Do you know it was -- do you
18 have an sense of how many voters would have
19 been present at the time?

20 INVESTIGATOR BRUNSON: I don't see a
21 number.

22 MS. GHAZAL: Okay. That's fine. Thank
23 you.

24 MR. MASHBURN: Dr. Johnston had a
25 question, I believe.

1 DR. JOHNSTON: Question, Micheal, was
2 voting by others stopped or halted during this
3 period of time?

4 INVESTIGATOR BRUNSON: It doesn't
5 specifically say that, but the fact that these
6 poll workers had to divert and go and address
7 him and deal with him and call the police,
8 just based on that is one of the reasons why
9 we listed those violations because of the
10 disruption that was caused by the totality of
11 the incident.

12 MR. MASHBURN: Any other questions by
13 members of the Board for the Inspector?

14 MR. LINDSEY: None at this time. I may
15 have some after the respondent makes his
16 presentation.

17 MR. MASHBURN: Just to advise THE BOARD,
18 I just turned on all the mics. So everybody's
19 got a live, hot mic.

20 Counselor. We're ready to hear what you
21 might have for us, but one of the first things
22 I'd like to do is we have a lot of people that
23 watch these hearings over the internet, we
24 livestream them. But one of the things, I'd
25 just like to explain to the general public is

1 this Board is an administrative body. So even
2 if the statute says something is a crime, this
3 Board has no criminal authority to charge a
4 crime or prosecute a crime. So we're an
5 administrative body. We can send a case to
6 the attorney general's office where they would
7 proceed administratively. We can return it or
8 we can send it to a district attorney, but
9 that would be the district attorney's own
10 individual decision to charge a crime. So
11 this Board has no criminal authority. So
12 we'll use this case as an opportunity to
13 educate the public and just let everybody know
14 that.

15 But counsel, you ready?

16 MR. OLES: Yes, I am. Thank you.

17 MR. MASHBURN: Feel free to stand if
18 you're more comfortable. Lawyers like to
19 stand. Feel free to stand if you'd like to
20 you.

21 MR. OLES: You're right. Lawyers like to
22 stand. Respected Members of the Board, thank
23 you this morning for giving me an opportunity
24 to address these issues. I have the privilege
25 of knowing Mr. Richard Jordan. He's been a

1 member of the Cherokee County community for
2 his entire life. He's been involved in the
3 governmental aspects of the county for
4 probably at least half of that time if not
5 better. During that time he's cultivated a
6 reputation of sound judgment, of enthusiasm,
7 and above all, a passionate quest for the
8 truth when it comes to matters of government.
9 I want to observe a couple of things. First
10 off, in reviewing Inspector DeWesse report,
11 which is before you today, it is without
12 question that Richard Jordan was present in
13 the polling location that day in order to cast
14 his vote. He was engaged in the process of
15 casting his vote. Voting is a sacred duty and
16 right in this country. It is a privileged
17 activity, and it is certainly the case that
18 before we are to interfere with an elector's
19 right to cast their vote, there must be a
20 really significant reason for doing so. I
21 would submit to the Board in this case that
22 there was not in this case. And I will take
23 these charges in turn the ones that were
24 actually recommended. Elector Jordan came
25 into the polling station. He registered as he

1 was supposed to. There were no questions at
2 the time. He received his ballot. He
3 proceeded to the ballot marking device. When
4 he got to the ballot marking device and he
5 printed out his paper ballot, which as we all
6 know is what gets printed from the BMD and you
7 carry that and you insert it into the scanner
8 and that's when you vote. At the point that
9 he printed off his ballot, paper ballot, he
10 had a question. Now what do we know about
11 poll workers? And I'll go right to the statue
12 here, the regulation. Poll workers are there
13 in order to assist electors in casting their
14 vote. It is not just a question of
15 convenience. It is a matter of a positive
16 duty on the part of the poll workers to be
17 able to accept and to assist an elector who
18 has questions about the ballot. And I'll read
19 it to you. At least one poll officer shall be
20 assigned to assisting voters who have
21 questions while they are in the voting booth,
22 but before they approach the ballot scanner.
23 This is exactly the point at which Richard
24 Jordan asked his questions. What were his
25 questions about? As the investigator has

1 pointed out and the affidavits of record point
2 out, he had questions about his ballot. The
3 right person to go to with questions about
4 their ballot, were the poll workers. Again,
5 it was their job to answer those questions.
6 The regulations are even more clear. A voter
7 may request information from poll officers
8 concerning how to use the electronic ballot
9 marker or any other voting system component at
10 any time during the voting process. It is
11 undisputed that Richard Jordan was asking
12 about the voting process. He had questions
13 about the QR Codes. At least one Federal
14 Judge, Judge Totenberg, right over here in
15 federal court has ruled that that QR code is
16 unintelligible to people and elector Jordan
17 had legitimate questions about that. I would
18 submit that what's going on here today is not
19 a problem with what elector Jordon's conduct
20 was. The problem was the questions that he
21 was asking. They were uncomfortable questions
22 and they did not want to respond to these
23 questions. As further evidence that this is
24 what was going on before the police were
25 summoned -- well when the police were summoned

1 and they got there the evidence of record that
2 the investigator has available to him shows
3 the election supervisor Anne Dover coaching
4 the police officers ahead of time, telling
5 them -- when she was not there and she was not
6 present -- that this man was causing a ruckus.
7 Why was he causing a ruckus? The ruckus was
8 that he was asking questions about the ballot
9 and about the voting process. It is not
10 illegal for this man to ask those questions.
11 It was not -- he is not interfering with
12 election workers when they're doing their job
13 to answer his questions. During that process
14 the poll manager directed elector Jordan to
15 speak with election supervisor, Anne Dover.
16 How did he do that? She put a cellphone in
17 his hand. Our statutes are clear that the
18 poll managers have the authority to be able to
19 allow cellphones to be used, and I'll quote
20 the text, the statutory text of Section 21-2-
21 413. It says, provided however, that a poll
22 manager in his or her discretion may allow the
23 use of photographic devices in the polling
24 place under such conditions and limitations as
25 the election superintendent finds appropriate.

1 Not only did Richard Jordan have legal
2 authority to be using that phone, but it was
3 given to him by the poll manager. And this is
4 what the investigator is coming in and telling
5 us is a violation. Board Members, this is not
6 a violation. What is going on here is fairly
7 clear. Richard Jordan was being retaliated
8 against because he was asking uncomfortable
9 questions about the QR Code process. What was
10 going on here was that the poll workers were
11 trying to tamp down on that line of inquiry.
12 Now, there's some evidence that you haven't
13 heard here today. You have not heard evidence
14 that there were any voters around Richard
15 Jordan when he was asking his questions. That
16 is because there were none. Richard Jordan --
17 and this is clear from the evidence from the
18 bodycam -- elector Jordan was directed over,
19 away from the ballot marking devices. He had
20 asked to fill out a complaint form when he did
21 not receive answers. No one could tell him
22 the answers to the QR code question. So he
23 filled out -- he asked to fill out a complaint
24 form. He was sent to the standup booth where
25 we fill out -- you fill out ballots by paper

1 if you're unable to use the ballot marking
2 devices. So elector Jordan was over there
3 filling out his complaint form when in comes
4 the police. Elector Jordan at that point is
5 off by himself. He has spoken with the poll
6 workers and the poll manager. He had not
7 disturbed anyone else. There is no evidence
8 here today. There have been no electors
9 interviewed to say that they were in any way
10 interfered. There is no testimony in the
11 record, in the investigative report that any
12 of these poll managers were affected in any
13 manner, other than to be asked about this QR
14 code process. That is the nature of the
15 interference. That, respected Board Members,
16 is not a criminal violation. That is his
17 right going into there. Now, I do not know,
18 and I'm not here to speculate on what's going
19 on with election supervisor, Anne Dover, or
20 why she would tell the police that he was
21 creating a ruckus. But I am here today to say
22 that what Richard Jordan did in that polling
23 place was consistent with his privilege to go
24 and vote, consistent with his First Amendment
25 privilege to question the government as to the

1 voting procedures, consistent with Georgia
2 statutes, and consistent with Georgia
3 Regulations. And the fact that he is now
4 being subjected to criminal charges is a
5 travesty.

6 MR. MASHBURN: Well, again, the Board
7 doesn't have any power to impose criminal
8 charges against anyone. This is an
9 administrative hearing.

10 MR. OLES: Well, in consequence, I would
11 respectfully urge this Board not to pursue
12 this matter any further and to dismiss this
13 matter against elector Jordan. Thank you.

14 MR. MASHBURN: Thank you, counselor. Any
15 questions for -
16 (Applause.)

17 MR. LINDSEY: If I may, Counselor, is
18 that Mr. Jordan there?

19 UNIDENTIFIED SPEAKER: Microphone?

20 MR. MASHBURN: It's on.

21 MR. LINDSEY: I'm sorry. Is that Mr.
22 Jordan?

23 MR. OLES: Yes.

24 MR. LINDSEY: Okay. Can Mr. Jordan come
25 forward? Is he willing to come forward and

1 answer some questions?

2 MR. JORDAN: I would rather not speak at
3 this time. My attorney is representing my
4 interests.

5 MR. LINDSEY: Okay. Well, the problem
6 is, of course, I've got questions for you that
7 only you can answer. So I'm just going to let
8 you know that. So I'm going to direct the
9 questions where you want me to, but you're the
10 respondent and there's certain questions that
11 I have for you. So Counsel, let me ask you
12 this -- did Mr. Jordan vote in the 2020
13 election when the QR Codes were there?

14 MR. OLES: He did vote in the prior
15 elections.

16 MR. LINDSEY: Okay. So he voted with the
17 QR codes before, correct?

18 MR. OLES: That is my understanding.

19 MR. LINDSEY: Okay.

20 MR. OLES: Georgia used them, so I assume
21 he would have had to.

22 MR. LINDSEY: Okay. So he was aware that
23 the QR codes were being used when he went to
24 the poll -- the voting place to vote
25 electronically, correct?

1 MR. OLES: Mr. Board Member, I don't
2 think that many of us in this room are really
3 aware of what those QR codes meant back in
4 2020.

5 MR. LINDSEY: I understand, but Mr.
6 Jordan is active in his respective party,
7 correct?

8 MR. OLES: Yes.

9 MR. LINDSEY: And he is also someone
10 who's been interested in the election process,
11 correct?

12 MR. OLES: Absolutely. I think we all
13 are.

14 MR. LINDSEY: So can we assume that Mr.
15 Jordan knew the QR codes were being utilized
16 when he came to vote in the June -- I'm having
17 to make that assumption because your client's
18 not willing to come and talk.

19 MR. OLES: Yeah. No, I think it's fair
20 to say that he was aware that there was a QR
21 code. Even back in 2020 it was known that
22 they were used.

23 MR. LINDSEY: Yeah.

24 MR. OLES: But what I think wasn't fully
25 appreciated was the fact that the information

1 on the ballots that we fed into the machine,
2 it was not reading off of it --

3 MR. LINDSEY: Yeah.

4 MR. OLES: -- what we could read. It was
5 reading off of that code. And a lot of
6 information has come to light since then,
7 which is why --

8 MR. LINDSEY: But the problem -- the
9 problem is you're making assumptions. And
10 quite frankly, I'm left with the fact that
11 your client was someone active within his
12 respective party, as am I, for instance, had
13 voted previously QR codes, and was familiar
14 with the fact that QR codes were there. And
15 so I have to wonder if he was there to simply
16 make a statement regarding his disagreement
17 with QR codes, which we all have a right to do
18 so at an appropriate time and place. The
19 question is whether or not the polling place
20 is the time and place to do that. That's the
21 problem that I'm having here. If Mr. Jordan
22 was simply a citizen who'd never voted before,
23 shows up and sees the QR code for the first
24 time, is not familiar with the voting process,
25 has not been active on these sort of issues, I

1 might have a little bit more sympathy than
2 someone who does know this. And so it appears
3 to me, based on the fact that Mr. Jordan
4 hasn't been willing to come and talk, that he
5 was there quite frankly to make a statement
6 about his disagreement with QR -- and I
7 understand folks -- hold on. I understand
8 folks having a problem with QR codes. And
9 that's something that the legislature needs to
10 take up and some other people need to take up
11 at the appropriate time. The question is
12 whether or not making that statement at that
13 time in a polling place is the appropriate
14 time and place. We all know that we all have
15 a right to freedom of speech. You and I are
16 good lawyers. We both want to adhere to that.
17 The question is whether or not this is the
18 appropriate time and place to do so. You
19 understand my point?

20 MR. OLES: Thank you. I do. I
21 appreciate your point that you believe it's at
22 least conceivable that elector Jordon was
23 there in order to make a political statement,
24 if you will, about the QR codes rather than a
25 legitimate inquiry.

1 MR. LINDSEY: Yeah.

2 MR. OLES: I think the answer to this is
3 fairly straight forward. Let's go to the
4 evidence. Let's go to the affidavits that
5 were submitted. If you review those
6 affidavits, you will not find a single affiant
7 talking about Elector Jordan making statements
8 or preaching about his view of the QR codes.
9 What you will find is him asking questions
10 about how they operate. And for those of us,
11 including elector Jordan who are not involved
12 in the state's process with how these are
13 selected or how the machines are devised or
14 how the logic works. The only time that we
15 really have to ask a question directly is when
16 we're in that polling location asking the
17 people who have been trained -- and we know
18 the poll workers are not allowed to work there
19 unless they receive training approved by the
20 Secretary of State's office. So that's what
21 he was doing is asking the questions.

22 MR. LINDSEY: Well, the problem is that's
23 not the only time he could raise that. You
24 and I both know that. He could raise that
25 publicly. He can raise that at appropriate

1 meetings. I have numerous people come and
2 raise that issue right here at the public
3 inquiry times. I've had numerous people raise
4 that in emailss. I've had numerous people
5 raise that with legislators, who would be the
6 ultimate determinate on such issues. So
7 that's not the only time. The question is
8 whether it was an appropriate time. And given
9 the fact that what we do know about Mr.
10 Jordan, I think it'd be reasonable to assume
11 that he already was familiar with QR codes and
12 he already knew about his objections before he
13 showed up. And I'm sorry, but I have to reach
14 that assumption because he hasn't come forward
15 to talk.

16 MR. OLES: Well, as you know -- as you
17 know, it is with great care and concern that
18 one waives their right in the face of -- if
19 this Board sees fit to allow these -- this
20 situation to continue, then my client is going
21 to face criminal charges. And what you're
22 asking him to do is without being charged to
23 waive his Fifth Amendment privilege now. And
24 that's not something that I take very lightly.
25 And I think this Board should be respectful of

1 the fact that he has the Fifth Amendment
2 privilege. And what we're talking about, this
3 implicates --

4 MR. LINDSEY: Yeah.

5 MR. OLES: -- potentially facing not one
6 --

7 MR. LINDSEY: Yeah.

8 MR. OLES: -- but two felony charges out
9 of this. So without knowing more --

10 MR. LINDSEY: I understand your concern,
11 counselor.

12 MR. OLES: But I would encourage you
13 instead of speculating, as you've mentioned
14 several times, to take a look at the evidence.

15 MR. LINDSEY: I have taken a look at the
16 evidence, and I don't think I'm speculating.
17 I think I'm making a reasonable inference
18 absent your client's -- coming forward. And
19 keep in mind that this is a civil proceeding.
20 And as you well know, the failure to --
21 whether the assertion of your Fifth Amendment
22 rights in a civil procedure is much different
23 in terms of what an inference can be raised
24 from criminal. So as you're well aware. But
25 that's two lawyers going back and forth. And

1 I apologize to the rest of the crowd.

2 MR. MASHBURN: Other questions from Board
3 Members? Dr. Johnston?

4 DR. JOHNSTON: Yes. I have a concern
5 with the allegations in this case. Just
6 because the evidence for 21-2-569 interference
7 or preventing a poll officer from performing
8 duties can be a very subjective decision. And
9 also the violation of 597, interference with
10 duties can also be a very subjective decision.
11 So is asking a question interference? I don't
12 think so. Is harassing poll workers the
13 correct thing to do? No. I think we all need
14 to be very aware that the poll workers are
15 there to conduct the elections, and not answer
16 questions about the QR code or the voting
17 system. They're there to assist the voters
18 with voting. But do I think that this is a
19 proper case for citing evidence of
20 interference? I don't think so.

21 MR. OLES: I would agree with you. Thank
22 you. I believe the statutes are quite clear
23 that it is the duty -- it is the right of the
24 elector to ask questions if they have them.
25 And it is the duty of the poll worker to try

1 to answer those questions, if possible. Did
2 they do their duty? It appears that they
3 arranged for elector Jordan to speak with
4 election supervisor Anne Dover, was not able
5 to get the answers to his questions.
6 Eventually, he did not carry that forward. He
7 asked to be able to fill out a complaint form.
8 So I think the process here worked the way the
9 process was supposed to work under the
10 statute.

11 MS. GHAZAL: If I can --

12 MR. MASHBURN: Further questions from the
13 board?

14 MS. GHAZAL: Yeah. If I could ask the
15 investigator to recount the timeline, exactly
16 how long these events took at the polling
17 place.

18 INVESTIGATOR BRUNSON: So looks like Mr.
19 Jordan arrived and registered at 4:06 p.m. So
20 at 4:22 p.m. is when the Woodstock police were
21 dispatched to the scene. And then he left
22 sometime between 4:30 and 5:00.

23 MS. GHAZAL: So somewhere between 30
24 minutes and 1 hour?

25 INVESTIGATOR BRUNSON: Yes.

1 MS. GHAZAL: It seems to me that first
2 the role of poll workers -- now remember,
3 these are generally virtually volunteers.
4 These are people who are temporary workers,
5 who are there to assist people in casting a
6 ballot. It is not their role to explain the
7 policy behind the decisions of the legislature
8 and the systems that were chosen. We're
9 facing a crisis right now across the country,
10 across Georgia, because we are losing poll
11 workers. We are losing managers. We are
12 losing supervisors. There's not a single
13 metro county right now that is going to have
14 the same supervisor in 2023 and 2024 that we
15 had in 2020 because of the abuse that they
16 faced. Just asking questions is a massive
17 umbrella that can be exploited and abused. It
18 does not take 30 to 60 minutes to ask a good-
19 faith question.

20 MR. LINDSEY: If I may, Mr. Chair?

21 MS. BRUMBAUGH: Members of the Board, if
22 you would permit me to speak. I am Ann
23 Brumbaugh. I am the attorney for the Cherokee
24 County Board of Elections.

25 MR. MASHBURN: Hang on.

1 (Cross talk.)

2 MS. BRUMBAUGH: (Inaudible).

3 MR. MASHBURN: Let us finish with the
4 counselor, and THE BOARD questions for the
5 counselor --

6 MS. BRUMBAUGH: Sure.

7 MR. MASHBURN: And then we'll take -- the
8 Board will take that up.

9 MR. LINDSEY: Mr. Chairman, I really
10 think that this Board would benefit from
11 hearing from Mr. Jordan.

12 UNIDENTIFIED SPEAKER: We can't hear you
13 down here.

14 MR. LINDSEY: Thank you, very much.
15 Sorry. I think that the Board would benefit
16 from Mr. Jordan and in light of the attorney's
17 concerns of the criminal -- I'm going to move
18 to dismiss the criminal aspect in terms of --
19 it would only go to the power to refer it to
20 the Cherokee County DA anyway, and then take
21 up the remainder. So I would like to make the
22 motion at this time. And then let's sort of
23 deal ---

24 UNIDENTIFIED SPEAKER: We can't hear you.

25 MR. LINDSEY: And then let us deal with

1 the civil aspects.

2 MR. MASHBURN: Okay. Can you --

3 MR. LINDSEY: I'm going to move to
4 dismiss the evidence of the criminal aspects
5 contained in number four. I think the charge
6 of 21-2-597.

7 MR. MASHBURN: So the count would still
8 be pending, but it would just be stripped of
9 any criminal evidence; is that right?

10 MR. LINDSEY: Yes. That's what I'm
11 looking to do.

12 MR. MASHBURN: Is that a correct
13 statement of your motion?

14 MR. LINDSEY: That's what I'm looking to
15 do, strike it from any criminal aspects.

16 MR. MASHBURN: Is there a second to that
17 motion?

18 (No response.)

19 DR. JOHNSTON: Question.

20 MR. MASHBURN: We need a second first.
21 Is there a second?

22 DR. JOHNSTON: Second.

23 MR. MASHBURN: Okay. That's a second to
24 that motion. Now, discussion.

25 DR. JOHNSTON: I'd like to add to that to

1 drop 569 also.

2 UNIDENTIFIED SPEAKER: (Inaudible.)

3 DR. JOHNSTON: I'd like to amend the
4 motion to dismiss violation of 569 also.

5 MR. MASHBURN: Make sure that I correctly
6 understand. We're not moving to dismiss the
7 count. Just to strip it of any criminal ---

8 MR. LINDSEY: That's all I'm doing, yeah.
9 Mr. Chairman, I would ask that we simply limit
10 it to that at this point. There may come a
11 time to look at the other charges, but I'm
12 just simply looking to dismiss the criminal
13 aspects.

14 MR. MASHBURN: So there's been a motion
15 and a second to retain the count, but strip it
16 from any criminal aspect. All those - there's
17 been discussion. All those in favor say aye?

18 THE BOARD: Aye.

19 MR. MASHBURN: All those opposed?

20 (No response.)

21 MR. MASHBURN: So the motion carries. So
22 that count continues but is stripped of any
23 criminal aspect.

24 MR. LINDSEY: Counselor, I'm going to
25 with that once again -- I'm going to once

1 again offer your client an opportunity to
2 speak now that the criminal aspects have been
3 removed. And ask whether or not he would be
4 willing to answer my questions, or does he
5 continue to waive and simply go with the ---

6 MR. JORDAN: I would need to confer with
7 my counsel just a moment, please.

8 MR. LINDSEY: Okay.

9 MR. OLES: With your permission, one
10 second please.

11 MR. MASHBURN: We have a slight recess.
12 (Off the record 9:50 a.m. to 9:51 a.m.)

13 MR. OLES: With respect to the Board
14 under those conditions my client will speak
15 with you.

16 MR. LINDSEY: Okay. Thank you.

17 MR. JORDAN: Yes, sir. What can I --

18 MR. LINDSEY: If I can, Mr. Jordan, I'd
19 just like to ask a few questions. Political
20 party doesn't matter to me, unless you want to
21 state it. You've been active in the political
22 parties for a number of years, correct?

23 MR. JORDAN: Since 1962 when my father
24 served here as State Representative over here
25 at the capital.

1 MR. LINDSEY: I think that qualifies.
2 How about yourself in terms of your activities
3 in public office.

4 MR. JORDAN: I was elected in 1980 as the
5 youngest judge to ever serve the people of the
6 State of Georgia. And I was appointed in my
7 second term as the State Magistrate.

8 MR. LINDSEY: Okay. Congratulations to
9 you. And in regard to -- I ask your counsel,
10 you voted in the 2020 election when the QR
11 codes were being used, correct?

12 MR. JORDAN: I did.

13 MR. LINDSEY: And you were familiar with
14 the fact that QR codes were being used,
15 correct?

16 MR. JORDAN: I learned at the polling
17 place that indeed they were used. And
18 thereafter, I found out that it was quite a --

19 MR. LINDSEY: Controversy about them.

20 MR. JORDAN: -- quite controversy over
21 the use of those because of the inability to
22 read them or verify the actual written -- any
23 written --

24 MR. LINDSEY: I understand.

25 MR. JORDAN: -- responses in English

1 versus the QR code, which is the only thing
2 that's recorded on the flash drive that's sent
3 to the secretary of state's office.

4 MR. LINDSEY: I understand. And that's
5 an issue that is being debated at this time by
6 the -- with the courts and the general
7 assembly and elsewhere. And this was in 2020
8 that you became aware of that, correct?

9 MR. JORDAN: 2020 --

10 MR. LINDSEY: '21.

11 MR. JORDAN: '22 -- '21.

12 MR. LINDSEY: Yeah.

13 MR. JORDAN: Yeah, when all the --

14 MR. LINDSEY: So when you came to vote in
15 2022, you already knew the QR codes were going
16 to be on the ballot, correct?

17 MR. JORDAN: I assumed they would be.

18 MR. LINDSEY: Yeah.

19 MR. JORDAN: For two years we had
20 attended the monthly meetings for the Board of
21 Equalization -- I'm sorry. The Board of
22 Elections --

23 MR. LINDSEY: Yeah.

24 MR. JORDAN: -- at Cherokee County. And
25 we were not able to get any sufficient answer

1 after multiple responses -- request for
2 responses at the two minute inquiry period
3 open to the public.

4 MR. LINDSEY: So you and others had
5 raised the objection to the QR codes before?

6 MR. JORDAN: I had not personally --

7 MR. LINDSEY: But you had observed other
8 folks doing so?

9 MR. JORDAN: There was a group of
10 citizens that were concerned --

11 MR. LINDSEY: Yeah.

12 MR. JORDAN: -- mostly I call them mama
13 bears. They were very concerned for their
14 families and their children, and --

15 MR. LINDSEY: I understand.

16 MR. JORDAN: -- of course, election
17 integrity in general.

18 MR. LINDSEY: Yeah. And so when you
19 voted -- and when you came to the voting place
20 in -- I guess for the primary 2022, you knew
21 the QR codes were going to be -- would be
22 utilized. And would it be fair -- so what was
23 the purpose then as opposed to, you know, you
24 also knew that -- you being a sophisticated
25 voter, you also knew that you had the option

1 to vote by absentee, which would not have the
2 QR codes, correct?

3 MR. JORDAN: That's the reason I picked
4 up the ballot cancellation form.

5 MR. LINDSEY: Yeah.

6 MR. JORDAN: And I was reading it. After
7 I marked my ballot --

8 MR. LINDSEY: Yeah.

9 MR JORDAN: -- I was reading it. I
10 paused and one of the poll workers came up to
11 me and sir, can I help usher you over to the
12 tabulator to deposit your ballot. And I said,
13 well, ma'am, how do I know for certain that
14 this QR code accurately reflects my candidate
15 of choice. Sincerely, a legitimate question.
16 She said, I have no idea.

17 MR. LINDSEY: Yeah.

18 MR. JORDAN: I said can I speak with the
19 poll manager. She said, sure. She was
20 walking me over. So I walked on over. I
21 think her name was Ms. Waddell. I asked her
22 the same question. She said, I don't know. I
23 said, would it be okay if fill out a response
24 form, a complaint form, and get an official
25 response back from the Board of Elections as

1 to what the official policy is in my county,
2 Cherokee County. With all the controversy
3 going on, as to why we continue to not get an
4 alternative method of using a paper ballot.
5 And so that's what created the confusion, when
6 I picked up the ballot cancellation form. And
7 so I was trying to understand, could I cancel
8 it if I don't get a correct answer or get an
9 appropriate answer or a legitimate answer. So
10 that's when I walked over to the table to fill
11 out the --

12 MR. LINDSEY: Complaint form.

13 MR. JORDAN: -- complaint form. And as I
14 was doing that, the poll manager put her
15 cellphone in my hand and said Election
16 Director, Ms. Dover, would like to speak with
17 you. So I spoke with her and she basically
18 said there's nothing I can do. You'll have to
19 talk with the -- your state legislator and,
20 you know, began to --

21 MR. LINDSEY: Good advice and --

22 MR. JORDAN: And so at that point I
23 thought well, if I can fill out this response
24 form -- this complaint form and get a response
25 from the Board of Elections that would satisfy

1 me. And so I don't need to cancel my ballot.

2 MR. LINDSEY: Okay. The taking the
3 photograph -- you took a photograph of your
4 complaint or did you take a photograph of your
5 ballot.

6 MR. JORDAN: Of the complaint form.
7 After I was given consent by the election
8 director and poll manager to use an electronic
9 device as I was perfecting my vote while
10 standing there at the table, trying to vote,
11 until I was interrupted by two armed police
12 officers standing up next to my side.

13 MR. LINDSEY: Yeah.

14 MR. JORDAN: Demanding that I leave the
15 premises after I had been given consent to
16 perfect my vote and to actually complete the
17 complaint form.

18 MR. LINDSEY: Yeah.

19 MR. JORDAN: As a matter of fact, it
20 embarrassed me. It disturbed me at that point
21 when I'm trying to exercise my sacred right to
22 vote, my constitutional right, so therein lies
23 the question as to why I was -- I felt
24 accosted almost, like I was -- my vote was
25 actually being -- was being suppressed. And

1 so -- but I was able to fill out the form. It
2 took me about five minutes to fill it out in
3 long-hand.

4 MR. LINDSEY: Okay.

5 MR. JORDAN: At which time -- and I had
6 my German Shorthaired Pointer with me. I said
7 come on, Daisy. And so I asked -- I had asked
8 the police officer to stand, you know, ten or
9 twelve feet away as my ballot was in full view
10 on the table as I was voting, and he was
11 observing my ballot. And so he did -- he
12 complied. And so after I left, I asked for
13 his name and who he reported to so that, you
14 know, so that I could have an account of this
15 process. I was the only one in there that can
16 corroborate my story, had it not been for the
17 police bodycam.

18 MR. LINDSEY: Okay.

19 MR. JORDAN: All the rest of the poll
20 workers were paid. Yes, they were volunteers.
21 They were volunteering, but they were paid. I
22 was the only one not being paid, so I was
23 exercising my civic responsibility to vote my
24 conscience.

25 MR. LINDSEY: Okay. No other questions.

1 MR. MASHBURN: Questions from other board
2 members? Okay. Dr. Johnston.

3 DR. JOHNSTON: So, Mr. Jordan, you were
4 given permission to take a photo of the
5 complaint?

6 MR. JORDAN: I'm sorry?

7 DR. JOHNSTON: Were you given permission
8 to take a photo of your complaint?

9 MR. JORDAN: There was no -- I was -- it
10 was documented when I spoke with Election
11 Director Dover on her phone, at their
12 direction and their consent to use an
13 electronic device to document this process.
14 To fully document it, yes, I had to make a
15 photograph because I didn't know where or if
16 that complaint form would -- I didn't know
17 where it would get because -- I didn't know
18 where it would go. So, yes, I needed to
19 document it and I did document it with my
20 phone after I was given permission and consent
21 from the poll manager and the Board of -- the
22 Elections Director.

23 MR. LINDSEY: And I want to make sure I
24 understand. So you were saying that you were
25 given permission to take a picture of your

1 complaint?

2 MR. JORDAN: I was given consent to
3 document the process of speaking with Election
4 Dover on the phone --

5 MR. LINDSEY: Yeah, yeah.

6 MR. JORDAN: -- letting her know the
7 reason I was filing the complaint form and
8 document it. At which time the consent was to
9 go ahead and fill out the form. That form
10 cannot be documented because they did not have
11 a copier available.

12 MR. LINDSEY: Yeah.

13 MR. JORDAN: I just wanted to make sure
14 that I -- since I was given consent, that I
15 could make -- I took a copy of it because I
16 needed to confirm that. I was the only one
17 there that can corroborate my story.

18 MR. LINDSEY: All right. Let me ask it
19 again directly. Were you given permission to
20 take a -- to pull out your phone and take a
21 picture, yes or no?

22 MR. JORDAN: I can't answer that yes or
23 no. I said I was given consent to use an
24 electronic device to document the voting
25 process at that point.

1 MR. LINDSEY: I'm not sure why you can't
2 answer my question. I understand that you
3 talked to the folks back at the Cherokee
4 County Board of Elections. I understand that,
5 that they wanted to talk to you. What I don't
6 understand is whether or not you -- because
7 there is that prohibition against using --
8 absent someone saying oh, yeah, you can take a
9 picture of your complaint or you can take a
10 picture of something else. Absent someone
11 telling you that, that's what I want to know.
12 Were you given permission one way or the other
13 to take a picture of the complaint?

14 MR. JORDAN: Sir, I did not ask for
15 permission.

16 MR. LINDSEY: Okay. That's fine.

17 MR. JORDAN: They gave me their consent.

18 MR. LINDSEY: That's fine. I understand.
19 Thank you.

20 MR. MASHBURN: Other questions from the
21 Board?

22 (No response)

23 MR. MASHBURN: I have a couple questions
24 if I might.

25 MR. JORDAN: Yes, sir.

1 MR. MASHBURN: Did I understand -- and
2 you're not under oath, but we do have a -- we
3 do expect you to tell the truth but you're not
4 under oath.

5 MR. JORDAN: I will do nothing otherwise.

6 MR. MASHBURN: I appreciate that but it's
7 important that you be square with us. I
8 understood you to say that you asked one
9 question of one person and then you asked a
10 second question of a second person; is that
11 correct?

12 MR. JORDAN: The same question.

13 MR. MASHBURN: Okay.

14 MR. JORDAN: How do I know for certain
15 that this QR code accurately reflects my
16 candidate of choice.

17 MR. MASHBURN: And there were no other
18 questions?

19 MR. JORDAN: No other questions, except
20 that can I fill out a complaint form? I asked
21 the poll manager, at which time she said,
22 sure. And she walked over to the table and
23 that's when the phone call came in. And
24 that's when I was filling out the form and was
25 accosted by a couple of armed police officers

1 while I was exercising my right to vote.

2 MR. MASHBURN: I got that. So -- but you
3 would -- you probably -- you would probably
4 agree that it would be improper to ask a poll
5 worker questions about policy. Do you agree
6 with that?

7 MR. JORDAN: About politics?

8 MR. MASHBURN: Policy?

9 MR. JORDAN: Policy? That's the reason
10 that I wanted to document in a complaint form
11 if they could not answer. I wanted to
12 document it, so I could get documentation back
13 as to what is the official policy of my Board
14 of my Elections in my county, that as a
15 taxpayer, I pay those appointed officials to
16 determine -- and I even (unintelligible) to
17 Board of Elections members, they choose to
18 serve. And while they're serving, I expect
19 them to fully evaluate what their rights and
20 what their oath of office is. As Cherokee
21 County residents they've taken an oath, based
22 on what the Secretary of State has related to
23 them in the way of policy on the state level.
24 I'm asking, what is the policy of Cherokee
25 County in -- is there an alternative -- the

1 question is, is there an alternative paper
2 ballot measure. I was not given any other
3 option. I just asked the question. And --

4 MR. MASHBURN: But you didn't ask those
5 questions is your testimony, right?

6 MR. JORDAN: No, but I was looking at the
7 ballot cancellation form because I didn't know
8 if that was an option. That's what I was
9 looking for is there an option.

10 MR. MASHBURN: Okay. Thank you. The
11 Board is entitled to hear from witnesses that
12 it would like to, to fulfil its investigation.
13 That is one of the determinations -- that's
14 one of the rights the Board has. So if it is
15 the pleasure of the Board to hear from
16 Cherokee County, I would entertain that, if
17 that is the Board's will.

18 MR. LINDSEY: Okay. I would ask for
19 that.

20 MR. MASHBURN: Okay. By unanimous
21 consent, so ordered. Counselor, if you'd like
22 the microphone, you've got a button that says
23 talk or speak or something. I see you, there
24 you are. Let's test it to make sure you're
25 on.

1 MS. BRUMBAUGH: Good morning. I'm sorry,
2 I didn't mean to interrupt.

3 MR. MASHBURN: You have the floor.

4 MS. BRUMBAUGH: My name is Ann Brumbaugh.
5 I am the attorney for Cherokee Board of
6 Elections. With me today is Anne Dover, two
7 staff members and one of our board members --

8 (Microphone feedback)

9 MR. LINDSEY: That was me. I was trying
10 to turn you up a little bit. I'm sorry.
11 Let's try it again.

12 MR. BRUMBAUGH: All right. Are we good?

13 MR. LINDSEY: That's good.

14 MR. BRUMBAUGH: Okay.

15 MR. LINDSEY: There you go.

16 MR. BRUMBAUGH: With me is Ann Dover, the
17 elections supervisor, two staff members, and
18 John Wallace who is a board member. He is a
19 new board member as of July 1st. We are here
20 today on another matter. We were not planning
21 to speak on this. None of the poll workers
22 that were present at the South Annex that day
23 are here with us. What I would like to do is
24 add some details to the record that neither
25 side has presented. And I would also like to

1 say at the outset that Dr. Johnston is
2 correct. This is a very subjective standard.
3 Unfortunately, there is not any case law to
4 help you interpret it. But -- so you have to
5 ask yourself, at what point does asking
6 questions cross the line? And the evidence
7 that we haven't heard today is that this was
8 not this first time that Mr. Jordan had done
9 this. Mr. Jordan went to a different precinct
10 on the Friday before the May primaries and
11 made questions. The police were not called at
12 that time. A statement was made, I believe he
13 talked to you that day too. He was asking the
14 same questions. It was handled. We're not
15 here on that day. Three weeks later, four
16 weeks later, now we're at the runoff, comes
17 into this precinct and he starts doing the
18 same thing, but he escalates it. And I don't
19 know if you've seen the statements from the
20 poll workers, but they were scared. This
21 wasn't just questions. This was people who
22 were unable to do their work because they were
23 so frightened. That's how the police got
24 called. I think that if Mr. Jordan had kept
25 his behavior to where it was in the May

1 primary, or if he had simply just asked one or
2 two questions we wouldn't be here today. But
3 this was a situation which compelled people to
4 feel that they needed to call the police. It
5 scared them, it prevented them from being able
6 to do their jobs. And so I think the issue --
7 and if you haven't seen those statements, then
8 I would ask you to maybe adjourn and read
9 those statements. I don't know what you get
10 or what you don't get. But I think that the
11 context really has not been fleshed out on
12 either side. And that it is important to
13 decide whether this went to -- you know, went
14 beyond just asking a question or two and went
15 to the point where people couldn't do their
16 jobs and they were scared. And they would be
17 scared if Mr. Jordan came back into their
18 precinct. And I would also state that Ms.
19 Dover did not give Mr. Jordan consent to use
20 an electronic device on the phone when she
21 talked to him that day.

22 MR. MASHBURN: Any questions from the
23 Board for Cherokee County.

24 MS. GHAZAL: I have a quick one. I know
25 you are not here to speak on this, Ms. Dover,

1 but can you speak to the impact that this had
2 on your work as the election supervisor?

3 MS. DOVER: Yes, ma'am.

4 MR. MASHBURN: Hang on, hang on. Okay.
5 Give it a try.

6 MS. DOVER: Yes, ma'am. The poll workers
7 at this polling location, were very
8 intimidated. Some of them have decided not to
9 return because of this incident. I'm fearful
10 that this sets a precedent for people to
11 continue to treat poll workers in this manner.
12 As an elections official, I know several that
13 have quit because of treatment they were
14 receiving. I think it's very important that
15 this Board hears what poll workers are saying
16 and what election officials are saying.
17 Because what's going to happen is you're not
18 going to have poll workers and you're not
19 going to have election officials if we
20 continue to be abused.

21 MS. GHAZAL: Thank you. I'm going to use
22 this opportunity to just make a statement like
23 I usually do, which is casting dispersions on
24 the good work and the good will of our
25 election supervisors, our managers, our poll

1 workers, is incredibly counterproductive. And
2 we have to have the infrastructure to be able
3 to carry on this work. And making suggestions
4 that they have any motive, other than running
5 smooth elections, is not supported by the
6 facts and it is insupportable moving forward.

7 MR. MASHBURN: Counselor?

8 MR. OLES: Yes, sir.

9 MR. MASHBURN: You want might to want to
10 punch a button there.

11 MR. OLES: Okay.

12 MR. MASHBURN: I got you. Okay. Let's
13 test it.

14 MR. OLES: Thank you.

15 MR. MASHBURN: There you go.

16 MR. OLES: With all respect, certainly
17 our county election workers have a job to do,
18 but no less important in the scheme of our
19 country and the scheme of our Georgia
20 Constitution and the scheme of our federal
21 constitution, is the right of individuals to
22 vote. It is the right of individuals to be
23 informed about the process, the right of the
24 individuals to ask questions during the
25 process. And, frankly, a suggestion that by

1 asking questions, legitimate questions,
2 because electors don't understand the
3 intricacies of these systems that we depend
4 upon our elected representatives to select and
5 implement for us, The fact that you would say
6 that we can't have these people asking
7 questions because they're going to interfere
8 with this process, is an offensive one with
9 all respect.

10 MR. LINDSEY: Yeah, let me ask you this,
11 counselor. The folks in Cherokee County said
12 that he raised similar things at the previous
13 voting time period; is that correct? Yes or
14 no?

15 MR. OLES: His questions have never been
16 answered.

17 MR. LINDSEY: I understand that, but had
18 he raised -- was this something that he had
19 done before? Yes or no?

20 MR. OLES: He had asked questions before
21 about the election process --

22 MR. LINDSEY: And this time wouldn't be
23 the -- so this was not the first time that
24 he'd been at a polling place doing this. This
25 time apparently it escalated somewhat,

1 correct? Police were called.

2 MR. OLES: I think that if you go back
3 and reread the affidavits, you'll find that
4 there's --

5 MR. LINDSEY: I've read them.

6 MR. OLES: -- only one or two of those
7 people that claim that there was some
8 something that went on. The rest of them say
9 they didn't notice anything, that didn't see
10 anything. There was nothing unusual that they
11 noted. There were one or two that apparently
12 raised an issue. But it certainly wasn't all
13 of them. And there's plenty of evidence in
14 there, from which to conclude that elector
15 Jordan, didn't really interfere with anybody.

16 MR. LINDSEY: Okay.

17 MR. OLES: Nor is there any evidence in
18 this that it held up the voting process at all
19 for anyone.

20 MR. LINDSEY: Okay. Like I said before,
21 counselor, there's plenty of opportunities for
22 folks to raise their concerns. And the QR
23 codes are a matter of public debate and I
24 appreciate that public debate. I mean, there
25 are a lot of serious questions that have been

1 raised. The question is whether or not in a
2 polling place at the time of voting with
3 people who aren't involved in public policy
4 issue, if that's the time or the place to do
5 so. Thank you.

6 MR. MASHBURN: Any further questions from
7 members of the board? Dr. Johnston?

8 DR. JOHNSTON: Just a comment. Again,
9 I'd like to say that the determination of
10 whether there's a violation of either of these
11 statutes is very subjective. I celebrate the
12 right to free speech and the right to ask
13 questions. We have people that come here
14 every meeting and speak and ask questions. So
15 it's not that you can only ask them one time.
16 You can ask them every time you go to vote, I
17 suppose. But I do expect, and I do want
18 people that go to vote to be courteous,
19 respectful, and treat the poll workers just as
20 if they would want to be treated. And I would
21 hope that the poll workers don't fall for this
22 narrative that's been set up to use words like
23 escalate, frightened, scared, without good
24 reason. Was there a physical threat? Was
25 there really intimidation? Was there really

1 abuse? If there really is verbal abuse, we
2 want to deal with it, but I don't want things
3 to be made up.

4 MR. MASHBURN: At this time, the chair is
5 inclined to hear a motion. If there's a
6 motion. Dr. Johnston?

7 DR. JOHNSTON: I do not find that there
8 is sufficient evidence for violation of 569 or
9 597. And I would recommend dismissal with a
10 letter of instruction to Mr. Jordan.

11 MR. MASHBURN: There's a motion for a
12 dismissal with a letter of instruction. Is
13 there a second?

14 MR. MASHBURN: The chair hears no second.
15 The motion does not pass for lack of a second.
16 Are there any other motions?

17 MS. GHAZAL: I move that we refer this to
18 the attorney general's office.

19 MR. MASHBURN: There's been a motion that
20 the Board return -- send it to the attorney
21 general's office for processing. Is there a
22 second to that motion?

23 MR. LINDSEY: I would narrow that, Mr.
24 Chairman to --

25 UNIDENTIFIED SPEAKER: We can't hear you.

1 Speak up.

2 MR. LINDSEY: Thank you. You're right.
3 Okay. I would move to refer to the attorney
4 general's office regarding 569, and 597. And
5 I'll tell you where I'm going to go here. I'm
6 going to move for -- I'm going to ask for a
7 letter of instruction to Mr. Jordan regarding
8 the photographic aspects. I don't necessarily
9 think that needs to go to the attorney
10 general. But the first two, I think do need
11 to go to the attorney general.

12 MR. MASHBURN: The chair views that as a
13 friendly amendment. Member Ghazal?

14 MS. GHAZAL: Yes, I agree to that.

15 MR. MASHBURN: So we'll take that as a
16 motion and a second. Mr. Lindsey, if you
17 wouldn't mind restating your motion, just so
18 the court reporter has it clearly.

19 MR. LINDSEY: Just for the court
20 reporter, regarding the potential violations
21 cited in regards to 21-2-569 and 21-2-597,
22 regarding the civil aspects of that -- of
23 these violations, I would refer that to the
24 attorney general for further consideration.

25 MR. MASHBURN: Everybody clear on the

1 motion? Any questions with regard to the
2 motion?

3 (No response.)

4 MR. MASHBURN: Any discussion?

5 (No response.)

6 MR. MASHBURN: All those in favor of the
7 motion say aye.

8 MR. LINDSEY: Aye.

9 MS. GHAZAL: Aye.

10 MR. MASHBURN: All those opposed say no.

11 DR. JOHNSTON: No.

12 MR. MASHBURN: The motion carries.

13 MR. LINDSEY: Mr. Chairman, regarding the
14 third aspects, the photographic -- folks, stop
15 taking pictures. But I'm not -- I don't think
16 that necessarily rises to the level of the
17 attorney general in this particular case. So
18 I would move to dismiss with simply a letter
19 of instruction to Mr. Jordan as, you know,
20 informing him of the law and instructing him
21 not to do it again.

22 MR. MASHBURN: There's a motion to
23 dismiss with a letter of instruction on the
24 photographic count. Is there a second?

25 MS. GHAZAL: I'll second.

1 MR. MASHBURN: There's been a motion and
2 a second. Is there any discussion?

3 (No response.)

4 MR. MASHBURN: There's been a motion and
5 a second. There's no discussion, we're ready
6 to vote. All those in favor say aye.

7 THE BOARD: Aye.

8 MR. MASHBURN: All those opposed would
9 say no.

10 (No response.)

11 MR. MASHBURN: It carries unanimously.
12 The motion carries.

13 Counsel, thank you for your presentation.
14 You were well prepared and made very
15 passionate argument in favor of your client.
16 You did a really good job for your client. So
17 thank you for your presentation today.

18 We're ready to move to the second case if
19 your client has arrived?

20 MR. OLES: Yes.

21 MR. MASHBURN: Ms. Blankenship, welcome.
22 We're glad to have you. I hope it wasn't too
23 much trouble to get here. We're glad you made
24 it. Counselor -- we'll begin with the
25 Secretary of State's presentation. Give us

1 the case number and the tab number, please.

2 INVESTIGATOR KOTH: Tab 33, Case number
3 2022-371.

4 MR. MASHBURN: That would be Tab 33,
5 2022-371. We are ready for the presentation
6 of the Secretary of State's Inspector's,
7 please.

8 INVESTIGATOR KOTH: The Secretary of
9 State's office opened this investigation on
10 December 30th 2022, following a complaint from
11 a Cobb County resident. The complaint
12 reported observing a Facebook posting from a
13 Tennessee resident, Sharon Anderson. Anderson
14 reposted her daughter, Jessie (ph)
15 Blankenship's posting that read: Anybody need
16 help in order to get out and vote? Seriously,
17 gas money, a ride, a cup of coffee, a hand to
18 hold, until we get inside of course. Electionth
19 day is November 8 , 2022. Let's make history
20 together.

21 The allegation of vote buying made
22 against the respondent was substantiated.
23 There's sufficient evidence to suggest that
24 the respondent violated the law that prohibits
25 the giving or receiving, offering to give or

1 receive or participating in the giving or
2 receiving of money or gifts for registering as
3 a voter, voting, or voting for a particular
4 candidate when she offered such services on
5 social media.

6 In addition, Blankenship admitted the
7 Facebook site was hers and advised she would
8 take the post down. Anderson confirmed she
9 reposted her daughter's posting but had taken
10 it down by the time the investigator spoke
11 with her. There's substantial evidence to
12 support that Jessie Blankenship violated
13 Georgia Code 21-2-570.

14 MR. MASHBURN: Questions for the
15 Secretary of State's office from the Board?

16 MS. GHAZAL: Can you confirm the date
17 that the posting was taken down?

18 INVESTIGATOR KOTH: When it was taken
19 down?

20 MS. GHAZAL: Uh-huh. (Affirmative
21 response.)

22 INVESTIGATOR KOTH: Let's see. On
23 February 27th, the investigator made contact
24 with Blankenship by phone. After he
25 identified himself, she - he explained the

1 reason for the call. The posting was observed
2 on another site that appeared to be her mother
3 and that she -- on March 6th it was taken --
4 he contacted the Tennessee resident and she
5 admitted that the -- she reposted the post.
6 It didn't say exactly the date that it was
7 taken down.

8 MS. GHAZAL: Okay. So about 2023?
9 That's right?

10 MR. LINDSEY: How long was it up and when
11 did it come down?

12 INVESTIGATOR KOTH: How long what?

13 MR. LINDSEY: How long was it up and when
14 did it come down?

15 INVESTIGATOR KOTH: Well, we got the
16 complaint on the 30th and he didn't start
17 working on that case for a week or two. So by
18 the time that he made contact, it was taken
19 down when he contacted her, so -- within a
20 month.

21 MR. LINDSEY: Okay. And this was well
22 before the election? When was the election at
23 issue?

24 MS. GHHAZAL: This is the 2020 -- just to
25 clarify, this is the November 2022 election,

1 but the complaint wasn't -- the investigation
2 didn't start until 2023.

3 INVESTIGATOR KOTH: Yes, ma'am.

4 MR. LINDSEY: Oh, okay.

5 MS. GHAZAL: That's right. So -- Okay.

6 MR. LINDSEY: All right. Thank you.

7 MR. MASHBURN: Further questions from the
8 Board for the secretary of state's office.

9 (No response.)

10 MR. MASHBURN: Counsel, are you ready?
11 We'll hear from you.

12 MR. OLES: Thank you, respected Board
13 Members. My client Jessie Blankenship has
14 been a lifelong resident of Cherokee County.
15 She has no special skills, training or
16 knowledge in the area of elections or election
17 matters. But like so many people, she in
18 enthusiastic about her right to vote and other
19 people exercising their right to vote. There
20 is confusion in the law of the of State of
21 Georgia. Like many other states, the State of
22 Georgia does not have an explicit prohibition
23 against arranging rides to the polls. As a
24 consequence, there are numerous organizations
25 that have moved into this space. I can name

1 but a quite a few of them. There is -- in
2 just a little bit of looking -- The Arthur
3 Blank Family Foundation, offers assistance to
4 people that are trying to get to the poles.
5 The NACA offers a voter mobile -- has
6 conducted a voter mobilization campaign in
7 which they offer rides to individuals in order
8 to get to the polls. There's an organization
9 called Ride Share to Vote also offers
10 assistance to people needing rides to get to
11 the polls. All of these organizations are
12 dedicated around one intention and that is to
13 be able to assist people that want to be able
14 to vote, to get there. To be able to vote.
15 There is nothing wrong with this activity.
16 Certainly, the State of Georgia has not
17 legislated against it. And has not prosecuted
18 this activity. In fact, there is strong
19 federal law, federal law supporting this and
20 indicating that -- and I'll direct you to 11
21 CFR 114.4, which has to do with -- excuse me,
22 one moment -- which permits organizations
23 engaged in get out the vote drives to offer
24 and provide transportation to the polls or
25 places of registration. So all of this

1 together points out the fact that it is the
2 policy in the State of Georgia and across the
3 nation to be able to assist people when they
4 need to get to the polls. Now, yes, Georgia
5 does have a law against buying votes. And we
6 know that because we don't want politician
7 getting into office by offering a buck to any
8 voter who is willing to go out and sell their
9 vote and get them into office that way. But
10 if you look at the evidence that's been
11 presented by the Secretary of State, we're
12 looking at one Facebook posting, which was,
13 even by their own statements, a private
14 posting. It was not broadcast to a broad
15 area. It was sent to my client's relatives,
16 family members, and the gist of it, looking
17 again, I'm sure all of you have seen it. She
18 said: Seriously, gas money, a ride, a cup of
19 coffee, a hand to hold, until we get inside of
20 course. Election Day is November 8th. I do
21 not believe that there is anyone looking at
22 that that can understand that posting as
23 anything other than trying to assist someone
24 to get to the polls. That is exactly what
25 Georgia law permits. I believe that what the

1 secretary of state was focused on is the
2 statement "gas money". Specifically, they're
3 only focused on half of that statement, money.
4 And because it mentions money in there,
5 they're now bringing this charge, potentially
6 charging my client with a felony because she
7 had the audacity to attempt to help family
8 members get to the polls. But this is exactly
9 what we allow all of these other organizations
10 to do. Now, what is going on. The problem
11 here is the law of Georgia is not clear on
12 this issue. We tolerate all of these
13 organizations and indeed we encourage all
14 these organizations as the federal law states,
15 to help people get to the polls. But we do
16 not give anyone clear guidelines of where this
17 is acceptable or where this becomes across the
18 line into some sort of vote buying. There are
19 no -- there is no evidence in the record to
20 indicate that my client paid anything to
21 anyone or that she actually even provided a
22 ride to anyone. What she did was have a
23 Facebook post up for a little while. When it
24 was brought to her attention that there was a
25 problem with it, she took it down and that is

1 what the evidence here shows today. It does
2 not show that she's engaged in some nefarious
3 vote-buying scheme for a politician in order
4 to put them into office. And that is clearly
5 what the statute is intended to stop. That is
6 not what's going on here. And as to the
7 Arthur Blank Family Foundation -- full page on
8 the internet today. You can go out there.
9 They offer payment for a Lift ride, two ways
10 to get to the polls. And I ask you, how is
11 that different than my client offering a ride
12 or gas money, if you need that? So let's
13 focus on the first half which is the gas,
14 which is to get to the polls. She's not
15 buying a vote. What she is doing is enabling
16 the transportation. Now, is this a hundred
17 percent clear in our law, no, because we have
18 no regulations on this. We have no statutes
19 on this. So in this particular case here
20 today, what I'm asking this Board to do is to
21 issue some sort of instruction so that my
22 client, along with everyone in this room and
23 lots more like her know what it is that
24 they're allowed to do. Because if you look
25 out on the internet today, she had no reason

1 to believe that what she did was wrong, given
2 what's out there today. Thank you.

3 MR. LINDSEY: Mr. Chairman.

4 MR. MASHBURN: Any questions from the
5 Board? Mr. Lindsey.

6 MR. LINDSEY: Your client is a private
7 individual, correct? She's not part of any
8 organization?

9 MR. OLES: Yes, in this case, she's a
10 private individual.

11 MR. LINDSEY: Yeah. The fact of the
12 matter is we have gotten consent orders from
13 folks who acted in -- who thought they were
14 acting in good nature, being good citizens but
15 did raffles and whatever else if someone would
16 show that they had voted, or offered a Chick-
17 Fil-A sandwich if someone showed up with their
18 certificate. I may even disagree with some of
19 the contents of the law, but that was the law.
20 But if it was an organization that was doing
21 so we have done a consent order. You're
22 client, however, as a private individual. And
23 clearly, it is a little bit more ambiguous.
24 And we have, in case you want to know, tried
25 to clarify the law on where the line is.

1 We've taken up numerous cases recently
2 involving folks who were giving out free gas
3 at a gas station versus offering to put people
4 in a lottery, and whatnot. Mr. Chairman, at
5 the appropriate time, I'm going to move to
6 dismiss this one, but do so with a letter of
7 instruction. Now, let me ask you -- I'm going
8 to ask the client, go through you. She won't
9 do this again, will she?

10 MR. OLES: No.

11 MR. LINDSEY: All right. That's all I
12 want to know. Ma'am, you're not going to do
13 this again are you?

14 MS. BLANKENSHIP: No.

15 MR. LINDSEY: All right. That's what I
16 want to hear. At the appropriate time, Mr.
17 Chairman, I move to dismiss with a letter of
18 instruct simply clarifying what the law is and
19 what you are and are not permitted to do. And
20 then we can move on to other matters.

21 MR. MASHBURN: If there are no other
22 questions from the Board for the counselor --
23 (No response.)

24 MR. MASHBURN: Then Mr. Lindsey's motion
25 is in order. We've got a motion to dismiss.

1 Is there a second.

2 DR. JOHNSTON: Second.

3 MR. MASHBURN: There's been a motion and
4 a second, is there any discussion?

5 MS. GHAZAL: My only comment is to add
6 that I would continue to encourage folks to
7 give rides to the polls. It is 100 percent
8 lawful. It is a fantastic civic opportunity
9 and duty. And I would encourage people to
10 continue doing that. You just can't give
11 cash. I mean, that's -- offer rides, it's
12 great. No cash.

13 MR. MASHBURN: There's been a motion and
14 a second. Any further discussion?
15 (No response.)

16 MR. MASHBURN: A motion and a second, no
17 further discussion. We're ready to vote. All
18 those in favor would say aye.

19 THE BOARD: Aye.

20 MR. MASHBURN: All those against the
21 motion to dismiss will say no.
22 (No response.)

23 MR. MASHBURN: The motion carries. The
24 matter's dismissed with a letter of
25 instruction.

1 (Applause.)

2 Counsel, would you do me a favor? Would
3 you call the Judge and say you're done so they
4 can work on their calendar?

5 MR. OLES: I will.

6 MR. MASHBURN: I appreciate that.

7 MR. OLES: Thank you.

8 MR. MARSHBURN: Who's got the time?

9 MR. LINDSEY: It's 10:30.

10 MR. MARSHBURN: All right. So we've been
11 at this for an hour and a half. This is a
12 good time for a bathroom break, I think. So
13 everybody would appreciate a short break.
14 We'll break for 15 minutes.

15 (Short break 10:33 a.m. to 10:47 a.m.)

16 MR. MASHBURN: Thank you. Thank you.
17 This is the point in the agenda where the
18 cases are recommended to be dismissed. Just
19 for those that are watching and may not be
20 familiar with The Board's rules, what we
21 traditionally do is handle these in bulk
22 unless a Board Member would like to have a
23 case pulled out and have particular discussion
24 about it. If we could have order, please?
25 Thank you. Thank you. Okay so cases

1 recommended to be dismissed. We can proceed
2 in reverse seniority, so Dr. Johnston, you've
3 got the first -- if you want to pull any out.

4 DR. JOHNSTON: All right. Thank you.
5 I'd like to pull --

6 MR. MASHBURN: Wait -- I'm sorry. Okay.
7 Go ahead. I'm sorry.

8 DR. JOHNSTON: I'd like pull out case
9 SEB-2020-086

10 MR. MASHBURN: 2022-086. And --

11 DR. JOHNSTON: 2022-262.

12 MR. MASHBURN: 2022-262. Are there any
13 other cases that THE BOARD would like to pull
14 out?

15 MS. GHAZAL: Yes, 2022-237.

16 MR. MASHBURN: 237. 237.

17 MS. GHAZAL: That's number 10.

18 MR. MASHBURN: I think that's 227?

19 MS. GHAZAL: Yes, in fact, it is. I need
20 to bring my readers.

21 MR. LINDSEY: 227.

22 MR. MASHBURN: 227. Okay. Very good.

23 MR. LINDSEY: And also, SEB 2021-85, Tab
24 4.

25 MR. MASHBURN: 85, okay. I ask unanimous

1 consent that we just take them in order that
2 they appear in the binder if that's okay with
3 everybody?

4 MR. LINDSEY: Thank you, Mr. Chairman.

5 MR. MASHBURN: Without objection, so
6 ordered. Okay. The secretary of state's
7 office, you are up on Case number 2020-086,
8 please.

9 INVESTIGATOR BRUNSON: That would be tab
10 number 2?

11 MR. MASHBURN: Tab number 2, correct.

12 INVESTIGATOR BRUNSON: The Office of the
13 Georgia Secretary of State's reported to the
14 investigative division that complaints were
15 received that multiple Floyd County polling
16 places opened late, potentially violating
17 O.C.G.A. 21-2-403 regarding time for opening
18 and closing of polls, problems with ballots
19 not having precinct assignments during the
20 duplication process, and potentially violating
21 O.C.G.A. 21-2-483 sub(f) preparation of
22 duplicate ballots and SEB rule 183-1-12-.18
23 provisional ballots and inadequate emergency
24 ballots at some precincts, potentially
25 violating SEB rule 183-1-12-.11 sub 2, sub c,

1 conducting elections. So after looking into
2 the complaints, the investigation was unable
3 to identify any of the original complainants
4 or eye witnesses to substantiate or
5 corroborate any of the allegations received by
6 the secretary of state's office. The
7 investigation found that at the opening of the
8 polls technical equipment issues were
9 discovered, which caused a delay in their use.
10 Statements obtained from those involved
11 indicate that the polls were open on time;
12 however, due to the equipment issues emergency
13 ballots had to be used until the equipment was
14 functioning, which was about an hour after the
15 opening of the polls. As a precaution an
16 attorney obtained a court order to extend the
17 closing of the polls. The allegation that the
18 poll was not open for voting at 7:00 is
19 unsubstantiated. Statements indicate that
20 emergency ballots were used until the
21 equipment issues were resolved. The
22 investigation also found that during the
23 duplication process of ballots, the
24 duplication panel was provided erroneous
25 instruction from the election supervisor of

1 how to process the ballots. The panel was
2 instructed to use a ballot from any of -- any
3 of the precincts if they ran out of a
4 particular precinct. However, there is no
5 evidence to suggest that this was followed
6 through with action. Statements from panel
7 members indicated that they did not have a
8 need to use incorrect precinct ballots during
9 the duplication process. The allegation that
10 incorrect precinct ballot were used during the
11 duplication process is unsubstantiated. The
12 allegation that polling sites ran out of
13 provisional ballots is also unsubstantiated.
14 Poll managers were interviewed by Investigator
15 Braun stated that they had sufficient supply
16 of provisional ballots throughout the day.
17 Election staff stated that some polling sites
18 had to be resupplied throughout the day, but
19 that none of the sites ever ran out of
20 provisional ballots. One of the questions we
21 ran into with this particular case was the
22 opening of polls at 7:00. In this case the
23 poll was open, it's just that they had
24 technical issues. And in looking at the
25 statute it says that they have to be open at

1 that time. So that's one of the indicators as
2 far as why we weren't able to find evidence
3 that they weren't open at 7:00.

4 MR. MASHBURN: Questions from the Board?

5 DR. JOHNSTON: So my issue with this case
6 is actually about opening of the polls.

7 The report states that 50 percent of the
8 polls were not able to open at 7:00,

9 which is an alarming percentage of not
10 being able to open on time. And also,

11 the rules state or the statute states
12 that when we talk about opening the polls

13 we mean ready to vote. So it's not just
14 opening the doors and having people walk
15 in and stand around for 30, 45 minutes.

16 They should be able to go in and cast
17 their vote. And this ended up resulting

18 in a court order for the polls to remain
19 open at the end of the day. And when I

20 asked, I was informed that it was because
21 the provisional ballots were not used.

22 The emergency ballots were not used. So
23 my question would be if -- was there an

24 issue that there was no training for the
25 polling places to immediately begin using

1 paper ballots so that voting can commence
2 at 7:00 in the morning and not
3 inconvenience the voters?

4 MR. MASHBURN: Is that a question, Dr.
5 Johnston?

6 DR. JOHNSON: The question is: Is there
7 someone from the county that would like to
8 speak to that? I'd be happy to hear the
9 response.

10 MR. MASHBURN: Floyd County has a -- is
11 the respondent and so is entitled to be heard.
12 If anybody from Fulton County is here as the
13 respondent? They've been notified that their
14 case was on the dismissal calendar so it's
15 frequently that counties don't show up if
16 they've been notified that they're on the
17 dismissal calendar. So it's not unusual but,
18 if you'd like to be heard.

19 MR. LINDSEY: Mr. Chairman, I have
20 similar questions to Dr. Johnston in terms of
21 the sheer number of polling places. And, also
22 the question -- let me ask you this. Perhaps
23 the investigator knows the answer to this --
24 were there contingency ballots that were
25 immediately available to a voter to start

1 voting at 7:00 a.m.? This gets back to Dr.
2 Johnston's point. You know, to say your
3 polling place is open but you can't vote, your
4 polling place is not open, but do you know
5 whether or not they were paper ballots?

6 INVESTIGATOR BRUNSON: They had the
7 ballots but in looking at the reports, there
8 was some confusion as far as implementing
9 them. So there was an issue as far as the
10 confusion and that's why there was some delay
11 until they got things. I think they kept
12 trying to get through the technical aspects of
13 things and then, you know, finally they
14 figured out, you know, obviously it's what the
15 law says, it's use the emergency ballots and
16 that's what they did. So it just took a
17 little time.

18 MS. GHAZAL: So, if I might, I think
19 there's a training issue here and that
20 counties need to understand that the -- and
21 the secretary of state's office needs to
22 reinforce as we're moving forward, since we do
23 have so many new election supervisors, that it
24 is critical that emergency ballots are made
25 available to voters at 7 a.m. if the machines

1 are not working. My concern was with some
2 poor instructions, which luckily the panels
3 that were undertaking the duplication
4 recognized were wrong instructions. My note
5 here, I'll let everyone see it's: no, no, no,
6 no, no. Which is if you're duplicating a
7 ballot you must use the same precinct ballot.
8 You cannot use any random ballot. Those are
9 tracked. The legislature in SB 202 required
10 additional information on each ballot to have
11 the name, not just the precinct code on that
12 ballot so we would know how many ballots are
13 cast from voters from which precinct. That is
14 an important piece of data you cannot
15 substitute. And this is for anybody watching.
16 You cannot substitute a ballot from a
17 different precinct to replace one that you're
18 duplicating. From precinct A, you can't use a
19 precinct B ballot because it will not balance
20 out. You will not have the same number of
21 voters from each precinct and ballots from
22 each precinct. And that -- you can't do that.
23 You cannot do that. And, again, there is a
24 districting error issue which appeared not to
25 affect any votes or any voters, but when there

1 are districting problems that is -- generally
2 comes down to ballot proofing. And I'm pretty
3 sure every single meeting we've had -- the
4 last six meetings we've had issues with ballot
5 proofing. So, again, this is absolutely
6 critical because it leads to casting failures,
7 which leads to data not making sense.
8 Counties have got to double-down and really be
9 incredibly careful when they do the ballot
10 proofing. And I will step off my soap box for
11 the moment.

12 MR. LINDSEY: Yeah. For these reasons,
13 Mr. Chairman, I'm going to move to continue
14 this to the next calendar. And let me -- in
15 doing so, because I'd like to hear from Floyd
16 County. Let me -- in doing so, both to the
17 counties who are here today and to the
18 counties that are listening in and hopefully
19 the Floyd County will get a chance. If we
20 have an error like this, if you come before us
21 and you sort of lay out, okay, we see where
22 our mistakes were made but, you know, here are
23 the instructions. Here are the steps that
24 we're going to be undertaking immediately or
25 we have already undertaken to make sure it

1 doesn't happen again. We are far more willing
2 at that point to issue, perhaps a dismissal or
3 a letter of instruction as to what needs to be
4 done in the future and to acknowledge what
5 you've done in the past to make sure it
6 doesn't happen again. We have a very critical
7 election coming up in 2024. And which we are
8 going to be -- I'll use the term -- target on
9 our back around the country. We're going to
10 be a state that the whole country's going to
11 be looking at. And we need our folks to be at
12 their best. And we know folks are trying very
13 hard and they're working very hard. And we
14 want to be a collaborative body with our
15 county election boards. But this is the sort
16 of example that I'd like to hear from Floyd
17 County as to what they have done to make sure
18 this doesn't happen again as we approach the
19 2024 election. I'm not looking to fine them
20 necessarily, but I just simply want to make
21 sure that certain remedial actions have been
22 taken. And for that reason, Mr. Chairman, I'm
23 going to move to continue this to the next
24 calendar.

25 MR. MASHBURN: Would you also like to

1 take it off of the dismissal or do you want to
2 leave it on the dismissal and just continue it
3 to the next meeting or do you want to move it
4 off of the dismissal to the violations?

5 MR. LINDSEY: I think it ought to be
6 taken off of dismissal.

7 MR. MASHBURN: Put in a violation so that
8 Floyd County could get notice that they're --

9 MR. LINDSEY: Yeah, so they can get
10 notice, but with the understanding -- I'm sort
11 of hinting to Floyd County how to do this.
12 Come to us and tell us how you fixed it or how
13 you are fixing it so that in the '24 election
14 -- you're going to be dealt with far
15 differently than if you come here, lawyer up
16 and simply say we didn't do nothing wrong,
17 you're going to have a -- it's going to be a
18 lot rougher ride. But if you come to us and
19 tell us how you've already fixed this issue,
20 we're going to be working with you. And also
21 provide guidance to the other 158 counties as
22 we approach the '24 election. So hopefully
23 I've given enough of a hint to my friends in
24 Floyd County.

25 MR. MASHBURN: So there's been a motion

1 to continue it from this calendar to move it -
2 - also move it to the violations calendar and
3 hear it at the next available hearing or next
4 available meeting where it can be presented,
5 assuming Secretary of State's office is ready
6 and assuming Floyd County is ready. We'll put
7 it on the next available calendar. Is there a
8 second?

9 DR. JOHNSTON: Second.

10 MS. GHAZAL: Second.

11 MR. MASHBURN: There's second. Is there
12 any discussion?

13 (No response.)

14 MR. MASHBURN: No discussion. We're
15 ready to vote. All those in favor would say
16 aye?

17 THE BOARD: Aye.

18 MR. MASHBURN: All those opposed would
19 say no?

20 (No response.)

21 MR. MASHBURN: The motion carries.

22 The next case that I've got pulled out is
23 2021-085, which is in binder number 4.
24 Secretary of State's office?

25 INVESTIGATOR KOTH: Yes. The Secretary

1 of State's office received a anonymous
2 complaint, alleging a voter who lives in
3 Jonesboro Georgia, in Clayton County, and
4 voted in Muscogee County during the November
5 2020 general election. The Anonymous
6 complaint alleged that the voter fraud was
7 reported to the Muscogee County voter
8 registration office prior to the run off and
9 alleged that no verification actions were
10 taken to protect election integrity.

11 MR. LINDSEY: Here's my problem, Mr.
12 Chair, if I may?

13 MR. MASHBURN: Yeah. You have the floor.

14 MR. LINDSEY: There is a request to
15 dismiss something because there's an
16 allegation, a serious allegation of someone
17 voting twice. And we are being asked to
18 dismiss a case because someone's not
19 cooperating. We shouldn't be dismissing cases
20 because someone's not cooperating,
21 particularly on a serious violation, potential
22 violation such as voting twice. And so I'm
23 going to move to dismiss -- no. I'm going to
24 move to continue this one as was well. I will
25 ask my friends, the investigators to reach out

1 to this person again. And I would also ask
2 that the respondent be called in -- be called
3 to the next hearing and let's hear what she
4 has to say. Because I don't think that
5 someone not cooperating with you, ought to be
6 rewarded with a dismissal.

7 INVESTIGATOR KOTH: They did -- they sent
8 certified letters and --

9 MR. LINDSEY: I know that. I'm not
10 questioning you guys. I'm questioning the
11 individual who's not cooperating.

12 MR. MASHBURN: There's some -- is it
13 coming from the hallway? Would somebody mind
14 just do us a favor and go out there and ask
15 them to keep it down a little bit. Thank you.
16 Appreciate that. Y'all were hearing it too,
17 right? It wasn't just me? Okay. Okay. All
18 right. Thank you very much. I appreciate
19 your help. Thank you. Okay. So there's a
20 motion -- there's a motion.

21 DR. JOHNSTON: I'd like to ask more
22 information --

23 MR. MASHBURN: Okay. Let me get a second
24 first and we'll do it during discussion; if
25 that's okay? There's been a motion to

1 continue it off of the no violations calendar
2 and move it to violations calendar and hear it
3 at the next available hearing. Is there a
4 second?

5 DR. JOHNSTON: Second.

6 MR. MASHBURN: There's a motion and a
7 second. Now, is there discussion? Dr.
8 Johnston, you have the floor.

9 DR. JOHNSTON: Just a question of my
10 colleague, this is a question about double
11 voting or residency?

12 MR. LINDSEY: I think that -- you're
13 correct. It's residence. I misspoke.

14 UNIDENTIFIED SPEAKER: Microphone.

15 MR. LINDSEY: I misspoke. You're
16 correct.

17 MR. MASHBURN: So Mr. Lindsey says that
18 it's a residency question and not double
19 voting. So there's a motion and second,
20 further discussion?

21 DR. JOHNSTON: Mr. Chairman, I have a
22 question concerning the respondent Ms. Byrd do
23 the investigators know if she received or was
24 sent a precinct card?

25 INVESTIGATOR KOTH: Pardon me?

1 MR. MASHBURN: A precinct card.

2 INVESTIGATOR KOTH: Not sure. We pulled
3 her DDS and her voter registration Muscogee
4 County that was dated 10-5-2020. I don't know
5 about the precinct card.

6 DR. JOHNSTON: Is there a representative
7 from Muscogee County?

8 MR. MASHBURN: All right. if you'll
9 press the button. Press it again, please.
10 There you are. I got you. Let's test it and
11 see if we can hear you.

12 MS. BOREN: Testing 1, 2, 3.

13 MR. MASHBURN: There we go.

14 MS. BOREN: I'm Nancy Boren, I'm the
15 director of elections in Muscogee County. I
16 did respond to the investigator regarding
17 Erainnia Byrd. Ms. Byrd did register to vote
18 in Muscogee county. We had her voter
19 registration in our county and provided the
20 investigator a copy of that registration. The
21 Investigator contacted us at a later date
22 though and said that he had actually traveled
23 to Ms. Byrd's residence and it was empty and
24 that neighbors had attested that her apartment
25 had been empty for some time. And he provided

1 that information to us. At which point we
2 cancelled her -- her voter registration in
3 Muscogee County at that point. Prior to that
4 though, we also provided to the investigator
5 the documentation that we had where the voter
6 had registered appropriately in Muscogee
7 County. So she was a registered voter in
8 Muscogee County, but when we were provided
9 with the information that she no longer
10 resided in that apartment, we cancelled that
11 registration.

12 MR. LINDSEY: Yeah.

13 MS. BOREN: Obviously, we cannot verify -
14 - we have 200,000 people in Muscogee County.
15 So, you know, when a voter fills out a form
16 and provides the information they need to
17 provide especially The Department of Driving
18 Services, we register that voter.

19 MR. LINDSEY: Let me be clear, I'm not
20 questioning you guys. It's Ms. Byrd that I'm
21 questioning.

22 MR. MASHBURN: Yeah. Muscogee County is
23 not a respondent, just -- I want to be clear
24 to the people watching.

25 MS. BOREN: Oh, I thought Ms. Johnston

1 had requested --

2 MR. MASHBURN: No, no, you're good.

3 MR. LINDSEY: No, no, no, no, no, no.

4 MR. MASHBURN: No. We just wanted to
5 make it clear to the people watching.

6 MR. LINDSEY: Watching. I told him to
7 make it clear.

8 MR. MASHBURN: Muscogee County is not in
9 trouble.

10 MS. LINDSEY: It's Ms. Byrd that I have
11 questions about for her lack of cooperation.

12 DR. JOHNSTON: But, Ms. Boren, I do have
13 a question.

14 MS. BOREN: Sure.

15 DR. JOHNSTON: Is there a record that she
16 was sent a precinct card to this address that
17 has a empty apartment?

18 MS. BOREN: One has to assume that a
19 precinct card was mailed as that is normal
20 process. When we enter a voter registration
21 at the county level that is transmitted to the
22 state level, a precinct card is printed, sent
23 to the county and then we mail. Of course, if
24 it's returned to us as undeliverable or no
25 forwarding address, that would be noted in the

1 voter registration record.

2 DR. JOHNSTON: And there was no record of
3 that?

4 MS. BOREN: I can't confirm. I don't
5 know. Again, I would have to refer to Jarvis.
6 Typically, it's noted in Jarvis whether or not
7 that return mail is scanned in.

8 DR. JOHNSTON: Right. Thank you.

9 MR. MASHBURN: We appreciate you very
10 much. Thank you.

11 MR. LINDSEY: That's my motion. And let
12 me also state, and this is for our team, it
13 would be helpful to the counties in the future
14 when we list the counties, when we list the
15 case, to make it clear whether or not this is
16 a matter involving the County Election Board
17 or a private citizen within that county. I
18 think that would be helpful to them in the
19 future. But that's just simply an
20 administrative part for us.

21 MR. MASHBURN: I think that's a good
22 suggestion. That we indicate that the county
23 is the venue of the offense, not the offender.

24 MR. LINDSEY: Yeah.

25 MR. MASHBURN: So we'll be looking at a

1 way to make that more clear in the future, for
2 future agendas because that's a good idea.
3 Okay. So we've got a motion to remove it from
4 the no violations calendar. Place it on the
5 violations calendar and continue it until the
6 next available hearing. I think I got a
7 second on that. Give me another second, just
8 in case.

9 DR. JOHNSTON: I second.

10 MR. MASHBURN: So I've got a motion and a
11 second. Any further discussion?

12 (No response.)

13 MR. MASHBURN: All those in favor say
14 aye.

15 THE BOARD: Aye.

16 MR. MASHBURN: All those opposed would
17 say no.

18 (No response.)

19 MR. MASHBURN: Motion carries. The next
20 case that I've got pulled out is SEB2022-227.
21 It will be number 10 on your binder.
22 Secretary of state's office?

23 INVESTIGATOR KOTH: SEB2022-227.
24 Muscogee County buying votes and AB fraud.
25 The office of the Secretary of State received

1 an anonymous complaint alleging buying votes
2 and absentee ballot fraud in Muscogee County.
3 It is alleged that the Columbus Georgia
4 Community Warriors organization president
5 enticed the homeless with food, and money, to
6 complete mail-in ballots to cast votes for
7 Democratic President Joe Biden. It is also
8 alleged that the Community Warriors president,
9 along with his wife, completed ballots casting
10 votes for their adult children who did not
11 live with them. This was said to have been
12 done without their children's knowledge.

13 Mr. and Mrs. Clay told the Investigator
14 that they never requested, completed, or
15 submitted absentee ballots for their adult
16 children. Mr. Clay also said that he did not
17 entice homeless individuals with anything for
18 them to complete absentee ballots for
19 President Joe Biden and he stated that he
20 didn't submit any ballots for homeless
21 individuals. Mrs. Clay told the Investigator
22 that the organization, The Community Warriors,
23 does conduct food drives for the homeless and
24 that although her husband is the president,
25 other people are involved with the operation

1 of the organization.

2 The ElectionNet database indicates that of
3 Mr. and Mrs. Clay's three children only one of
4 them voted in the 2020 election. They told
5 the Investigator that their youngest child was
6 a freshman in college, and they did not vote.
7 Mr. Clay indicated that their oldest child is
8 not eligible to vote. Investigator spoke with
9 the only one of Mr. and Mrs. Clay's three
10 children who voted in the 2020 election and in
11 contradiction to the allegations made he told
12 the Investigator that he completed and
13 submitted his absentee ballot. The ElectionNet
14 database revealed that he submitted his
15 absentee ballot on 11-03-2020 and that Mrs.
16 Clay mailed in her ballot, which was received
17 on 10-02-2020.

18 There were no names, or other identifying
19 information provided for any homeless
20 individuals whom they allegedly enticed into
21 voting for Democratic President Joe Biden.

22 MR. MASHBURN: Questions from The Board?

23 MS. GHAZAL: Thank you. I had you pull
24 this case for a very particular reason, which
25 is the complainant here was anonymous. We

1 have no idea who submitted the complaint, and
2 it was completely unsubstantiated based on the
3 investigation. But I have seen time and time
4 again in the recent months of real pressure
5 and attacks against facilitating voting for
6 people who aren't housed. I've seen
7 suggestions that people who are registered at
8 homeless shelters should be challenged and not
9 allowed to remain registered. Making
10 complaints like this appears to me to be an
11 act of intimidation against groups who are
12 serving homeless communities with persons who
13 are unhoused, trying to support them and if
14 you don't have the courage to provide your
15 name and contact information if you're making
16 these allegations, I have to question the
17 motives of somebody who's doing that. People
18 who do not have permanent shelters still
19 retain their right to vote. They still retain
20 the right to remain registered. And they
21 retain the right to receive assistance from
22 their community, even if that assistance
23 includes providing absentee ballot
24 applications and using these locations as a
25 mailing address to receive that absentee

1 ballot. And I just wanted to make that point
2 very clear and this provided me with an
3 opportunity. I don't have any further
4 questions.

5 MR. MASHBURN: Okay. Thank you for your
6 comments. Any further comments on this case?
7 (No response.)

8 MR. MASHBURN: Okay. Then we will move
9 with The Board's unanimous consent and move
10 forward to case 2022-262, tab number 12. The
11 Secretary of State's Office has the floor.

12 INVESTIGATOR BRUNSON: The Secretary of
13 State's Office opened this investigation on
14 October 27th, 2022 after receiving an inquiry
15 from an individual from the American
16 Constitutional Rights Union regarding
17 potential absentee ballot fraud against
18 vulnerable individuals including senior voters
19 who are patients in nursing homes or
20 retirement facilities. This individual
21 reported receiving a tip from a Polk County
22 GOP Chair, Janet Ross. Ross reported she
23 witnessed an exchange between Polk County
24 Election employees and an unknown female who
25 had come to the Polk County Election's Office

1 to obtain paperwork regarding assisting voters
2 who could not file out their absentee ballots.
3 Ross then contacted the individual and
4 provided them with the information. And the
5 potential violation would be Georgia Code 21-
6 2-385, sub (a) and 21-2-385(b), which cover
7 the procedures for voting by absentee ballot.
8 The investigator reached out to the Polk
9 County Elections Director, Noah Beck,
10 regarding this issue. We requested a
11 statement and any information regarding the
12 female. Beck advised that he would provide
13 the name of the individual. On January 31st,
14 2023 Investigator Deweese received the name of
15 the unknown female from Polk County Deputy
16 Director, Stephen Walker. Walker also
17 clarified that he was not the person that
18 entered Noah Beck's office when Janet Ross was
19 in a meeting. On February 1st, 2023, DeWeese
20 contacted Ellis by phone. Ellis confirmed
21 that she was the person that came to the Polk
22 County Elections to obtain the information
23 needed to assist the patients in her care.
24 And that females name is Ryan Ellis. Ellis
25 stated she was asked by her employer to assist

1 the patients that could not fill out the
2 absentee ballots. Ellis confirmed that she
3 did take the oath provided by the election
4 staff. He asked her about the steps she takes
5 to determine if the patient is mentally
6 competent to cast the ballot. Ellis advised
7 that she conducts a brief interview assessment
8 of the patients she helps. Ellis was asked
9 about the patients in the memory care unit.
10 Ellis advised that if a patient is not capable
11 of understanding or does not do well on the
12 assessment, then she does not proceed with
13 filling out the ballot. Ellis provided the
14 list of the 13 names she assisted in filling
15 out ballots and registration forms. On
16 February 6th, Investigator DeWeese received a
17 written statement from Stephanie Welchel
18 confirming that she was the person that
19 provided Ellis with the oath and instructions
20 for transporting absentee ballots. On
21 February 17th, 2023 Investigator DeWeese
22 received Noah (unintelligible) written
23 statement, and the absentee applications and
24 oath envelopes for the ballots that Ellis
25 assisted with. Twelve of the 13 absentee

1 ballot oaths were provided. One voter did not
2 return a ballot. Investigator DeWeese
3 reviewed the applications and envelopes and
4 did not see any violations. The investigation
5 revealed that a third party alleged a female
6 later determined to be Ryan Ellis, unlawfully
7 assisted nursing residents to complete the
8 absentee ballots. That charge was
9 unsubstantiated. The Respondent is a
10 recognized care giver, employed at the
11 Rockmart Health and Rehabilitation Center as a
12 social worker and took the prescribed oath
13 required by law. Investigator DeWeese
14 confirmed with John Wilson, the administrator
15 for that facility, that responsibility of
16 assisting patients with absentee ballots was
17 Ellis's. Ellis complied with the Polk County
18 Elections Office legal requirements to be a
19 temporary absent ballot clerk. DeWeese
20 reviewed the applications and Oath envelopes
21 that Ellis assisted with and no violations
22 were discovered. It should also be noted that
23 the Secretary of State's investigation
24 division has not received any complaints from
25 any of the electors or their family members.

1 So ultimately there was no evidence to support
2 a violation of the Georgia Codes listed.

3 MR. MASHBURN: Comments or questions from
4 the Board?

5 DR. JOHNSTON: Yes, a question for the
6 investigator. Were all 13 electors contacted
7 and interviewed to confirm their consent for
8 assistance?

9 INVESTIGATOR BRUNSON: No, they weren't
10 interviewed.

11 DR. JOHNSTON: As my college just spoke
12 on the previous case, I think we need to take
13 extra steps to protect the right to vote, but
14 we also need to be very vigilant that the
15 voters are protected. And I would suggest,
16 just as a recommendation to counties, that
17 they use two-member teams or bi-partisan teams
18 to go to nursing homes or homeless shelters
19 where the call is made for assistance. I
20 would make a motion that we continue this case
21 and ask the investigators to interview the 13
22 electors and make sure that gave their consent
23 for an absentee ballot request and for the
24 vote.

25 MR. MASHBURN: There's a motion. Is

1 there a second?

2 (No response.)

3 MR. MASHBURN: Hearing no second the
4 motion does not carry. It fails for lack of a
5 second. Are there any other motions?

6 MR. LINDSEY: Let me preface why I have
7 not seconded this as it pertains to some other
8 cases.

9 MR. MASHBURN: Mr. Lindsey has the floor.

10 MR. LINDSEY: In that, you know, in this
11 particular situation we have a complainant who
12 did not actually witness the voting taking
13 place, but simply witnessed someone making the
14 applications. If there was a situation in
15 which a complainant actually first-hand saw
16 this taking place and questioned whether or
17 not someone was able to do something by their
18 own free will, I would most certainly be
19 seconding it. But since it was simply -- the
20 complainant was simply someone who saw someone
21 exercising what is legal under Georgia law in
22 terms of a caregiver, that's not enough for
23 me. So that's why I have not seconded it. I
24 will also add that, you know, this is
25 something maybe perhaps the legislature could

1 take up in terms of who should be assisting
2 folks in these homes, particularly if an
3 individual has indicated that they would like
4 only a certain family member to assist them.
5 But that's something for the legislature to
6 take up. There's no evidence that this
7 particular individual violated the law.
8 That's why I've not seconded.

9 MR. MASHBURN: Okay. So with that -- so
10 that one stays on the calendar. So we now
11 have been through all the cases that THE BOARD
12 have pulled. I've got 2 and 4 being continued
13 off of the calendar and the remaining cases
14 staying on the calendar. So is there a motion
15 by the Board to dismiss the remainder of the
16 cases, 2 through 16, with the exceptions of 2
17 and 4 in your binder?

18 MR. LINDSEY: So moved.

19 MR. MASHBURN: There's a motion is there
20 a second?

21 MS. GHAZAL: Second.

22 MR. MASHBURN: We've got a motion and a
23 second. Any discussion?

24 MS. SEABRUM: What were the numbers of
25 the case? Excuse me, sir.

1 MR. MASHBURN: Okay. Let me give you the
2 case numbers, I'm sorry. I was using binder
3 numbers so let me do the case numbers.

4 MS. SEABRUM: Okay.

5 MR. MASHBURN: Okay. Here you go. The -
6 - thank you for brining that up.

7 MS. SEABRUM: Okay.

8 MR. MASHBURN: 2022-086 has been pulled.

9 MS. SEABRUM: Okay.

10 MR. MASHBURN: Continued and moved to a
11 different calendar. 2021-085 has been
12 continued and moved to a different calendar.
13 And then the remainder of the cases shown on
14 the agenda is recommended to be dismissed,
15 have a motion to be dismissed and it's been
16 seconded.

17 MS. SEABRUM: (Inaudible).

18 MR. MASHBURN: Yeah, we don't take --

19 MS. SEABRUM: I had notified your staff
20 that --

21 MR. MASHBURN: Hang on let me find it.

22 MS. SEABRUM: SEB2021-012.

23 MR. MASHBURN: Hang on just a second.
24 Let me press your microphone. If you'll press
25 the button in front of you that says talk or

1 something

2 MS. SEABRUM: (Inaudible).

3 MR. MASHBURN: I got you. Can you first
4 identify yourself?

5 MS. SEABRUM: My name is Genia Seabrum
6 from Chatham County and I have a case. It's
7 basically the second one on the list, SEB2021-
8 12, absentee ballot processing. I was told by
9 your staff that, you know, that I would be
10 notified and have an opportunity to speak when
11 this case is being spoken upon.

12 MR. MASHBURN: Yeah. I regret that's -
13 that advice was an error. The complaint --
14 you're the complainant in the case?

15 MS. SEABRUM: Yes.

16 MR. MASHBURN: Traditionally or the Board
17 has adopted a policy recently since last
18 December, last year that we're trying to clear
19 cases off the calendar and move through them
20 quickly. And one of the hard choices that the
21 Board was forced to make is the decision of
22 whether or not to continue our policy of
23 allowing the complainants to present on the
24 case or not. And so that's just one of the
25 tough choices that the Board had to make was

1 that the complainants do not traditionally
2 speak on the matters. And so it's the Board's
3 investigation that's being heard, so I regret
4 that you were given incorrect information.

5 MS. SEABRUM: I was told that I would be
6 given an opportunity. Your staff member right
7 there told me.

8 MS. HARDIN: Your Honor, I was under the
9 impression --

10 MS. SEABRUM: And Mr. Miller also told me
11 that I would have an opportunity to speak when
12 my case came up.

13 MS. HARDIN: I was under the impression
14 that she was a Respondent. So I told her when
15 her case was brought up the Respondent's have
16 an opportunity to speak. I thought she was a
17 Respondent.

18 MR. LINDSEY: That being said, Mr.
19 Chairman, since she did come, and she was told
20 that -- that was a mistake. If ---

21 MS. SEABRUM: I got it in an email too,
22 sir.

23 MR. LINDSEY: Hold on. Hold on. Hold
24 on. I'm with you here.

25 MS. HARDIN: She also just asked this

1 morning before we started. It wasn't in
2 advance.

3 MR. LINDSEY: That's fine. But she drove
4 all the way from Chatham County. For that
5 reason, because she was incorrectly told that
6 she would have an opportunity to speak, she
7 came all the way from Chatham County, I would
8 ask that she be given a few minutes to speak.

9 MR. MASHBURN: The Board controls the
10 agenda. And a Board Member has made a
11 unanimous consent request.

12 MR. LINDSEY: Yes, sir.

13 MR. MASHBURN: That you be allowed to
14 speak, what three to four minutes? Two.

15 MS. SEABRUM: Is the case going to be
16 read out loud? It should be read out loud
17 what I'm responding to - my complaint.

18 MR. MASHBURN: Well, what the Board
19 Member is --

20 MR. LINDSEY: For that reason, Your
21 Honor, I -- I mean, Mr. Chairman, I would pull
22 number 3 as well. Let's hear it.

23 MR. MASHBURN: Okay. So there's been a
24 request by the Board Member to pull case
25 number 2021-012. Unanimous consent motion,

1 unless there's an objection, so ordered.

2 Okay. Case number 2021-012, Secretary of
3 State has the floor.

4 INVESTIGATOR BRUNSON: On January 5th,
5 2021, Investigator Chuck Miller was forwarded
6 a complaint involving the Chatham County Board
7 of Elections and alleged improper processing
8 on absentee ballots. This complaint alleges
9 that the improper processing of absentee
10 ballots by the Chatham County Registrar's
11 Office, while they were renting out office
12 space at the Savannah Convention Center. The
13 Convention Center's security cameras captured
14 video footage of Chatham County Registrar's
15 office workers, volunteers and staff entering
16 and exiting the building at various times. It
17 also depicted county as well as personal
18 vehicles parked on the premises and workers
19 loading and unloading these vehicles with
20 various supplies as well as absentee ballots.
21 The Investigator viewed footage a total of
22 three times with Ronnie Hickman, Savannah
23 Convention Center's Director of Operations,
24 along with the Chatham County Registrars
25 Sabrina German, Russell Rhoden, CEO of Tattnal

1 Ballot Solutions, along with Chatham County
2 Registrar's office staff. Footage depicted
3 staff members, workers and unidentified
4 persons entering and exiting the Savannah
5 Convention Center Building with supplies,
6 mail, as well as equipment. Later the camera
7 security video crashed, and all the bookmark
8 video footage of inside interest areas were
9 lost. The Registrar, along with her staff,
10 and the CEO of The Ballot Printing Company
11 denied witnessing or being involved in any
12 activity in violation of the State Election
13 Code. The complainant's original allegation
14 was that she saw an employee loading a box of
15 absentee ballots and leaving other ballots in
16 their vehicle unattended. When asked by the
17 investigator how she knew the items were
18 absentee ballots, she admitted that she did
19 not know and that it was speculation on her
20 part. Investigator Chuck Miller spoke with
21 the complainant Genia Seabrum concerning the
22 allegations and she stated the following, she
23 did not know for sure the contents of the
24 containers were absentee ballots. It was an
25 assumption since the election office was

1 working out of the facility. She watched the
2 video and felt that it needed to be brought to
3 someone's attention. And she -- her final
4 statement was she honestly did not know for
5 sure, but there seemed to be much going on.
6 So those were the statements. When I had the
7 investigator follow-up to find out when we got
8 this complaint, well how does she know, what
9 she was viewing was absentee ballots and this
10 was the statement that was obtained.

11 MR. MASHBURN: Questions for the
12 investigator from the Board?

13 (No response.)

14 MR. MASHBURN: Okay. All right. So I
15 still have a unanimous consent motion to
16 provide the complainant three minutes?

17 MR. LINDSEY: Three minutes.

18 MR. MASHBURN: Without objection, so
19 ordered. So let me make sure your mic's on
20 and you've got three minutes.

21 MS. SEABRUM: Thank you very much, Mr.
22 Chairman and the Board for allowing me an
23 opportunity to speak. I am from Chatham
24 County. We're one of the few counties that
25 not only has a Board of Elections, but we have

1 a Board of Registrars. They're totally two
2 separate departments. The Board of Registrars
3 contracted an off-site facility to process the
4 ballots. The report even stated that they had
5 shown video, they had seen video of ballots
6 going in and out. Therefore, an example there
7 was a gentleman that was walking out, he put
8 ballots right down in the main lobby area,
9 walked out to his car, took another box there.
10 Shut the trunk of the car -- you know how you
11 can tell in a video whether they click or not
12 that it's locked? Never was done. Came back,
13 picked up the other box and went -- it back
14 there. So not only was it left unsupervised
15 in the lobby area, but also in the car. Yes,
16 we do have -- sometimes we have the -- we have
17 the city or the county that picks them up.
18 But if you look at -- if you look at these
19 videos, and like you said, they've disappeared
20 now, so I -- I do still have some on my phone
21 that I would love to show you sometime. But I
22 am telling you, I've been poll watcher. I've
23 been active in my community. We have a lot
24 of, lot of complaints in Chatham County on
25 what's going on. And we never really get a

1 voice. I've always been about the right thing
2 to do. So I put myself out there, came up
3 here to report to you what I thought and felt
4 was truly wrong. And that it should be
5 investigated. Now, I watched some meetings a
6 couple, a couple of months ago, that basically
7 this Board requested a report from the Chatham
8 County Board of Elections or Board of
9 Registrars, a whole list of complaints to be
10 presented to the Board. I don't know if those
11 complaints have been provided. I know you
12 asked for them, but I don't know if they have.
13 It's very disappointing that Chatham County is
14 not here to speak or maybe to explain. I have
15 the pictures. I'll show each one of you.
16 There's something not right going on in there.
17 And it's like -- this is not personal. As we
18 all know, there is a major issue in Georgia.
19 And they are not feeling confident with their
20 votes -- that their votes counted. When I saw
21 this, I felt the need to report it. I am
22 begging you to please take under
23 consideration, to look further into this
24 investigation and not -- and not dismiss it.
25 There are things going on. And you didn't

1 hear everything. And I just honestly request
2 that. And like I said, we must do every
3 effort to make sure that our people that we
4 pay our money to, make sure that they follow
5 custody of ballots and protocols. And I'm
6 telling you, they were not followed here and I
7 just think that there could have been some
8 more investigation. And to say that the tapes
9 just disappeared off the network is just
10 totally unacceptable to me. Thank you so much
11 for your time. I really, really appreciate
12 it.

13 MR. MASHBURN: Thank you for your
14 comments.

15 MR. LINDSEY: If I may ask a question to
16 the investigator. Did we talk to the folks in
17 Chatham County about, you know, the -- in
18 terms of maintaining control of the absentee
19 ballots, which you talked about in particular,
20 but (Inaudible).

21 MR BRUNSON: Yes. We interviewed staff,
22 personnel etcetera. And I actually had the
23 investigator go back and talk to Ms. Seaburm
24 when I read this complaint, because it was a
25 pretty thorough job done as far as to who he

1 talked to -- he sat down and actually watched
2 this video before it crashed. He watched it
3 with the representatives, some of the
4 leadership for Chatham County. And then later
5 during Covid, I guess, is when it went down.
6 So, he actually saw the video himself, the
7 investigator did. And I had him follow-up to
8 find out, well if she made this allegation,
9 how did she know they were absentee ballots.
10 And what I read was that she didn't know. She
11 was speculating. This is the statement that
12 she gave the investigators. I wanted to make
13 sure that if she said she saw absentee
14 ballots, then that's what she saw. But on a
15 follow up interview she said she was
16 speculating. She didn't know what they were.
17 She saw an individual loading up things in
18 their vehicle, but she couldn't say for sure
19 that they were absentee ballots. So, I think
20 we did the --

21 MR. LINDSEY: Right.

22 INVESTIGATOR BRUNSON: -- did a pretty
23 thorough job in the investigating this and
24 even following back up with the complainant
25 regarding her allegations.

1 MR. LINDSEY: With regard to the
2 investigators observation on the tape of the
3 video, did he observe that certain items were
4 not being -- regardless of what was in them --
5 certain boxes were not being attended to at
6 all times while we're going in and out? He
7 may not have known what was in the box, but
8 did he observe what she's speaking of in terms
9 of boxes not being attended to at all times.
10 Do you understand my question? There was a
11 specific -- she raised one specific point,
12 among others, that somebody had boxes, was
13 carrying them in, put them down, left them
14 unattended. Went back to pick up another box
15 in the trunk that was unattended, and then
16 carried both of them. I'm just asking whether
17 or not that was on the tape that he saw?

18 INVESTIGATOR BRUNSON: There were so many
19 hours of video --

20 MR. LINDSEY: Yes.

21 INVESTIGATOR BRUNSON: -- that he saw --
22 because they were using that as another
23 location. So he saw individuals with paper --
24 with all kinds of supplies. When he
25 interviewed people, that's what they said,

1 they were bringing supplies, paper, you name
2 it. And so it was so voluminous as far as
3 the amount of footage that he saw that he
4 couldn't determine specifically, you know,
5 what she was referring to. There were so many
6 hours of video that were part of -- part of
7 what he reviewed.

8 MS. SEABRUM: Can I make one comment to
9 that?

10 MR. MASHBURN: Not yet, Mr. Lindsey has
11 the floor.

12 MS. SEABRUM: I'm sorry.

13 MR. LINDSEY: Yeah, if you can just not a
14 speech, just real specific to that.

15 MR. SEABRUM: All I want to say is I got
16 a phone call about two weeks ago from the
17 Secretary of State's Office asking me did I
18 know what was in those boxes. I was surprised
19 by it because don't you think Chatham County
20 Board of Registrar's should be telling him
21 what's in those boxes and not me. I just put
22 it out there for them to investigate. I
23 thought it was very unfair that I got a phone
24 call a couple of days -- when I've been
25 waiting for almost three years for this case -

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MR. LINDSEY: I understand that. I understand. I'm sticking to what you know. I don't mean to cut you off. I just wanted to try to get to that point.

MR. SEABRUM: I'm just begging you (inaudible) Chatham County.

MR. LINDSEY: I understand. I don't mean to be dismissive.

MR. MASHBURN: Ms. Ghazal, (inaudible) Ghazal?

MS. GHAZAL: Yes. I -- one note that I had made on this report was that there was no sign-in sheets, no logs. And I don't think that is something that has been required in the past, but I think that -- a couple of points. A lot of counties, a lot of large counties, are having to use ancillary facilities. And I think it would behoove us as a Board to look at the rules and see if there should be a mandate to have sign-in sheets for any facility that is processing ballots, whether they're voted or un-voted ballots, to have people -- if there is a building that has ballots and that is not the

1 election office, I think that should be a
2 standard practice and not just a best
3 practice, but a required one. So for the
4 record, I think that's -- as we look at rule-
5 making, we can add that so that we have a
6 solid record of exactly who is in the building
7 and in a room with a ballot. And I think this
8 is a good -- there was no violation on that,
9 because there's no rule. But I think there
10 should be.

11 MR. LINDSEY: But there is a rule in
12 terms of maintaining control of the ballots.

13 MS. GHAZAL: Yes.

14 MR. LINDSEY: Even though there's -- how
15 you do so is a --

16 DR. JOHNSTON: This just brings into
17 question the whole issue of how to handle
18 ballots and dual control is absolutely
19 necessary. Documentation is absolutely
20 necessary and complete chain of custody from
21 the moment the ballot is printed until the
22 ballot goes all the way through the process
23 and stored in the clerk of the court. So if
24 we cannot ensure that then we have a problem.
25 And we have to have documentation every --

1 every time that ballot is touched or moved or
2 conveyed or stored or packed it has to be
3 witnessed with a team. And I would prefer a
4 bi-partisan team and it needs to be
5 documented.

6 MR. MASHBURN: At this time, it's been
7 removed for discussion, but as to it's
8 disposition we're ready for a motion on this
9 particular case. And everybody check me 2021-
10 012 is what we're on, right?

11 MR. LINDSEY: Yes. Yes, Mr. Chairman.
12 Mr. Chairman, I would move to continue. I
13 would like to hear from Chatham County. And I
14 do understand my fellow Board Members
15 admonition regarding the clarity in terms of
16 the rules, but the rules do require
17 maintaining control. And it does appear that
18 there was a certain amount of chaos going on.
19 I haven't seen any evidence of nefarious
20 activity, but certainly chaos was going on or
21 at least a small level of chaos going on. And
22 similar to what I said to said to Floyd
23 County, I'd like to hear from Chatham County
24 if they've got this thing under control as we
25 go into the '24 election. And for that

1 reason, Mr. Chairman, I would move to continue
2 this matter. And I think my investigators did
3 a good job. I'm not questioning you guys, but
4 I would like to hear from Chatham County as to
5 how we're going to be able to maintain better
6 control over the ballots particularly as we go
7 into the '24 election. And for that reason, I
8 would move to continue.

9 MR. MASHBURN: And move it to a
10 violations calendar?

11 MR. LINDSEY: Yes.

12 MR. MASHBURN: So there's a motion to
13 continue the case 2021-012, to continue it and
14 move it to the violations calendar. It'll be
15 presented in the next available hearing when
16 it's ready. Is there a second?

17 DR. JOHNSTON: I second.

18 MR. MASHBURN: There's a motion and a
19 second. Discussion?

20 (No response.)

21 MR. MASHBURN: No discussion. All those
22 in favor would say aye.

23 THE BOARD: Aye.

24 MR. MASHBURN: All those opposed would
25 say no.

1 (No response.)

2 MR. MASHBURN: The motion carries.

3 MR. LINDSEY: And let me also say to
4 folks in Chatham County, who we've talked to
5 in the past, coming to us in December and
6 explaining how we're going to have better
7 control and how quite frankly, as my fellow
8 Board Member mentioned, we are looking at
9 rules that we will be implementing or
10 proposing at the next meeting, and this will
11 certainly be one of the - we're adding to the
12 list every day. And having not just Chatham
13 but the other Board folks out here on how to
14 maintain better security and what kind of
15 rules would be practicable would be very
16 helpful to us and we look forward to your
17 input. Thank you, Mr. Chairman.

18 MS. SEABURN: Thank you.

19 MR. MASHBURN: Okay. So case number
20 2020-086 has been continued. 2021-012 has
21 been continued; 2021-085 has been continued.
22 And the remainder of the cases that are now 5
23 through 16 in your binders are recommended to
24 be dismissed. If there is a motion in that
25 regard, I'm ready to hear it.

1 MR. LINDSEY: So move, Mr. Chairman.

2 MR. MASHBURN: There's been a motion. Is
3 there a second?

4 MS. GHAZAL: Second.

5 MR. MASHBURN: There's been a motion and
6 a second. Any discussion?

7 (No response.)

8 MR. MASHBURN: Hearing no discussion
9 we're ready to vote. All those in favor would
10 say aye.

11 THE BOARD: Aye.

12 MR. MASHBURN: All those opposed would
13 say, no.

14 (No response.)

15 MR. MASHBURN: Motion carries.

16 We're now moving to the violation cases.
17 The first case is 2018-110. The Secretary of
18 State has the floor.

19 INVESTIGATOR BRUNSON: Tab 17.

20 MR. MASHBURN: I'm sorry?

21 INVESTIGATOR BRUNSON: Everybody there?

22 MR. MASHBURN: Tab 17. Right. Yes, sir,
23 please.

24 INVESTIGATOR BRUNSON: Okay. The
25 Secretary of State's Office received two

1 complaints reporting alleged ballot issues in
2 the November 6, 2018, the general election in
3 Coweta County.

4 Complaint number 1 is regarding Britney
5 Bell, who reported she went to vote in Coweta
6 County on election day around 6:45 p.m. she
7 went to the firehouse polling place but her
8 assigned polling place was crossroads - was
9 somewhere else. Ms. Bell did not have her ID
10 with her. The poll worker told her that she
11 was the wrong precinct. She requested a
12 provisional ballot but the poll worker did not
13 give her one. Ms. Bell stated she eventually
14 left without voting and also it was at the end
15 of the day and there was no way she could get
16 to the correct precinct; she should have been
17 offered a provisional ballot ultimately.

18 Complaint number 2, the Coweta County
19 Election Supervisor Jane Scoggins reported
20 voter Ethellyne Watson voted twice in the
21 November 6, 2018 General Election. Ms. Watson
22 submitted the absentee ballot and then later
23 voted on Election Day. She apparently -- when
24 she showed up, apparently, she submitted her
25 envelope saying she was going to cancel her

1 absentee ballot, and then she was allowed to
2 vote a second time.

3 So regarding complaint number 1, the
4 complainant was not able to vote based on
5 wrong interpretation by a poll manager Sarah
6 Brooks. When Ms. Brooks was interviewed by
7 investigators, she indicated that if someone
8 does not have identification, she does not
9 offer them a provisional ballot. That is
10 obviously incorrect, and she should have
11 received one. And this is a violation of
12 O.C.G.A. 21-2-418 (a) that deals with
13 provisional ballots. That's complaint number
14 one.

15 Complaint number 2, Ethellyne Watson
16 voted twice in the same election when she
17 voted by absentee ballot, which was received
18 on October 12th, 2018. She also went and
19 voted a second time on Election Day, November
20 6, 2018. There is evidence to suggest that
21 she voted twice in the same election, although
22 during the interview she denies that. Ms.
23 Watson is -- I know that's a question that
24 often comes up. She's 84 years of age. When
25 this incident happened, she was 79. Her

1 actions are a violation of O.C.G.A. 21-2-572,
2 repeat voting in the same primary or election.
3 A subsequent violation based on Ms. Watson
4 double voting is the fact that Coweta County
5 Election workers should have checked the Board
6 of Registrars before allowing Ms. Watson to
7 vote. The fact they did not is a violation of
8 SEB Rule 183 114.09 regarding voting absentee
9 ballots. The potential violator is Jane
10 Scoggins the former elections supervisor in
11 Coweta County Board of Elections.

12 MR. MASHBURN: Questions from the Board
13 for the investigator?

14 MS. GHAZAL: Were you able to interview
15 Ms. Watson?

16 INVESTIGATOR BRUNSON: Yes. Yes. She
17 denied -- she denied that she voted that
18 second time on Election Day.

19 MS. GHAZAL: So she -
20 (Crosstalk)

21 INVESTIGATOR BRUNSON: (Inaudible)

22 MS. GHAZAL: She denies the in-person
23 vote --

24 INVESTIGATOR BRUNSON: Yes.

25 MS. GHAZAL: -- and not the absentee

1 vote?

2 INVESTIGATOR BRUNSON: Yes. She denied
3 the in-person.

4 MS. GHAZAL: And you have her voter
5 certificate and --

6 INVESTIGATOR BRUNSON: Yes. We have it
7 confirmed that she did, in fact vote a second
8 time.

9 MS. GHAZAL: Thank you. I want to just
10 point out that not only is the -- and this for
11 the benefit of anybody watching. Not only is
12 a denial of her provisional ballot a violation
13 of Georgia State Law, it is also a violation
14 of Federal law. 52-USC21082 requires that
15 people requesting a provisional ballot be
16 offered one under state law. So just putting
17 that out there.

18 MR. MASHBURN: Any other questions from
19 members of the Board for the investigator? Is
20 Ms. Watson here or anybody on her behalf?
21 Ms. Watson? Is anybody here from Coweta
22 County, Coweta County?

23 (Representative of Coweta County comes
24 forward)

25 MR. MASHBURN: If you'll press your

1 button your microphone. Thank you. Let's
2 test and see --

3 MR. LEE: Testing. Is it working? All
4 right. I'll stand up, I'm kind of short. My
5 name is Nathan Lee. I represent the Board of
6 Elections in Coweta County. Jane Scoggins is
7 with me. She's the former - they called it
8 election supervisor back then. And she
9 retired in 2022. She's on the election board
10 still. I have Ashely Gay; we now call her the
11 election director. She's the current election
12 director. Would you like me to address both
13 of these in one, while I stand; is that okay?

14 MR. MASHBURN: No objection. Go ahead.

15 MR. LEE: First, with respect to Ms.
16 Bell, Sara Brooks was our poll worker. She's
17 not here today. She's had to -- no, she can't
18 help out any more. Her husband is ill. She
19 has to stay at home with him. So she's not
20 here today, nor will -- she's unfortunately
21 not going to be able to help us with
22 elections. She apologized she can't be here.
23 She had to do that. She did remember getting
24 a phone call from the investigator. She
25 reported to Ms. Scoggins and made an

1 appointment to come meet at the election's
2 office with Ms. Gay. The investigator calls.
3 He had a family emergency. He had to cancel.
4 And that was the last -- somebody called back
5 and said -- called Ms. Brooks and said the
6 matter had been worked out. Ms. Brooks had
7 said it had worked out. Ms. Brooks does not
8 remember Ms. Bell does not remember talking to
9 Ms. Bell only remembers talking to the
10 investigator to arrange the meeting at the
11 office. And the second phone call -- if you
12 look at the report -- the investigator also
13 indicates he spoke to Ms. Scoggins who said
14 you should be given a provisional ballots.
15 Ms. Scoggins also does not recall ever
16 speaking to the investigator, only going to
17 the meeting where he was not able to attend.
18 That's all I have on that one unless the Board
19 has any questions.

20 MR. LINDSEY: Just wondering how the
21 woman -- Ms. -- with Ms. -- I'm sorry. Was
22 the voter able to somehow vote that day or
23 not?

24 MR. MASHBURN: Was the voter able to
25 vote?

1 MR. LEE: Like I said, we don't -- no one
2 has any recollection of this incident ever
3 even happening.

4 MR. LINDSEY: (Inaudible).

5 MR. LEE: They don't even recall somebody
6 saying I don't have my --

7 MR. LINDSEY: That's fine. Well, I
8 understand that, but you know, there's a
9 record of who votes.

10 MR. LEE: Oh, I don't know. I'm sorry.
11 I apologize.

12 MR. LINDSEY: Did anyone check to see
13 whether or not Ms. Bell actually figured out a
14 way to vote that day?

15 MR. LEE: I'm sorry. I don't have that
16 answer Mr. Lindsey.

17 MR. MASHBURN: Further questions from the
18 Board.

19 MS. GHAZAL: Have you had an opportunity
20 to review your training of poll workers, poll
21 managers on issuance of provisional ballots?

22 MR. LEE: Absolutely. And they're all
23 trained to give them a ballot. That's why --

24 MS. GHAZAL: Uh-huh. (Affirmative
25 response)

1 MR. LEE: -- you know, we would have
2 disputed this had we been given the
3 opportunity. So, yes. And the report said
4 Ms. Scoggins told the investigator that's the
5 procedure. But she has no recollection of
6 ever speaking to them either, so... But we're
7 here and we will do whatever the Board...

8 MR. LINDSEY: How easy is it to check and
9 see whether or not Ms. Bell actually voted?

10 MR. MASHBURN: Can somebody --

11 MR. LEE: Can I give the mic to one of
12 them?

13 MR. MASHBURN: Yeah.

14 MR. LINDSEY: How quickly can do so,
15 meaning can you do so today?

16 (Cross talk)

17 MR. LINDSEY: All right. I may continue
18 this case and find out.

19 MS. SCOGGINS: I would think that if she
20 was there at a quarter to seven and wanted a
21 provisional ballot that she would not have
22 been able to vote. I'm sorry. I wasn't
23 there.

24 MR. LINDSEY: It would be helpful to me
25 to know whether that woman figured out another

1 way to vote that day.

2 MR. LEE: I'm sorry. I couldn't hear
3 you.

4 MR. LINDSEY: I'd like to know whether
5 that woman voted.

6 MR. MASHBURN: Your colleague is hard at
7 work I see. We'll give her a second. Is
8 there any other questions while she's working
9 on that? Are there any other questions from
10 the Board so we can keep moving? Any
11 questions from the Board? Any questions from
12 the Board?

13 MR. LINDSEY: Well, in regards to the
14 double voting --

15 MR. LEE: Yeah, I'd like to address that.

16 MR. LINDSEY: Yeah, go ahead.

17 MR. LEE: Yes, sir, that's actually one
18 Ms. Scoggins was involved in that. She's
19 actually the one that reported it. And they
20 feel very firmly that it was an intention
21 double vote. I mean -- the packet -- the
22 envelope came, I mean, you can speak to her if
23 you'd like. She'd certainly be glad to answer
24 any questions. But she came in -- we believe
25 it was intentional effort to mislead and

1 double vote, which is why Ms. Scoggins
2 reported it to the State Board. And Ms.
3 Scoggins is actually -- if you don't mind if
4 she sits, she's had -- she's had, what, five.
5 She's being modest, she's had five surgeries.
6 And she got up here today. If she can sit --

7 MR. MASHBURN: Yeah, absolutely.

8 MR. LINDSEY: Please.

9 MR. LEE: She prepared a statement about
10 this, and she'd just like to address it.

11 MR. MASHBURN: Your microphone's on.
12 Let's test it out and see if we can hear you?

13 MS. SCOGGINS: Can you hear me?

14 MR. MASHBURN: Yeah.

15 MR. LINDSEY: Yeah.

16 MS. SCOGGINS: On the day that -- on
17 November 6th, 2018, Ethellyne Watson appeared
18 at the polls to vote in person. She took the
19 ballot that appeared to be the ballot she
20 received in the mail. It was still sealed and
21 since she was listed as voting as being issued
22 a ballot in absentee status on the express
23 poll. The express poll operator referred Ms.
24 Watson to the poll manager. The standard
25 procedure would be for the poll manager to

1 call voter registration and have the absentee
2 ballot cancelled before issuing a voter card.
3 The next day after the election, Ashley Gay
4 the assistant election's director was working
5 in Enet, and noticed that Ms. Watson's ballot
6 had been accepted and yet her unopened ballot
7 -- unopened mail ballot had been surrendered
8 at the polls. She called and told me -- I
9 asked Ms. Gay to check that surrendered ballot
10 and see what's going on. When she opened the
11 white sealed ballot, she found several folded
12 papers inside, so that it appeared to have the
13 ballot intact. I notified the Secretary of
14 State's Office and sent copies of the white
15 envelope with copies of what was in it. I
16 sent her registration card, her ballot
17 application, the yellow envelope, copy of her
18 driver's license, and the election day
19 numbered list showing where she'd gone in and
20 filled out the paperwork to vote.

21 In my 20 years of working elections, I've
22 always strived for accurate, secure, fair,
23 transparent elections. So when this happened
24 I was disturbed to say the least, and reported
25 it to the proper authorities, because I think

1 that's the right thing to do. After this in
2 Coweta County, we changed our policy. When
3 someone is listed in absentee status on the
4 poll pad or back then the express poll, they
5 no longer have to notify the poll manager.
6 They refer to a separate station. We set up a
7 station and at that station then the person
8 would go over there. They would call voter
9 registration. They would have the ballot
10 canceled in voter registration and then have a
11 piece of paper it would say who canceled the
12 ballot and the reason they canceled the ballot
13 and by whom and the reason and then they would
14 give that piece of paper to the person on the
15 poll pad. They would then remove the absentee
16 voter status and issue a voter card. I hate
17 that it happened. If I could change it, I
18 would.

19 MR. MASHBURN: Yes. Thank you for your
20 comments. Questions from the Board?

21 (No response.)

22 MR. MASHBURN: Questions from the Board?

23 DR. JOHNSTON: Question. What is your
24 process with spoiling ballots that are
25 returned, absentee ballots that are returned

1 to the polling place?

2 MS. SCOGGINS: We use the spoiled
3 absentee ballot form that the state has. That
4 what's we set up the separate station to do.
5 So if it's a spoiled or a cancelled ballot,
6 now instead of just notifying the poll
7 manager, which would have been the procedure,
8 you would actually go to a separate station so
9 the poll manager has -- this person that's
10 what they do, that's' what they handle.

11 DR. JOSHSTON: Do you actually mark on
12 the ballot itself spoiled or cancelled or a
13 big X?

14 MS. SCOGGINS: Yes. You write spoiled or
15 canceled, like with -- if it is an absentee
16 ballot, it would be cancelled. So we write
17 cancelled across the envelope. And her ballot
18 was marked cancelled on the one she
19 surrendered. It just didn't have the ballot
20 in it.

21 DR. JOHNSTON: So the envelope was marked
22 cancelled?

23 MS. SCOGGINS: Yes, the envelope -- it
24 was marked cancelled.

25 DR. JOHNSTON: But the ballot was not in

1 there?

2 MS. SCOGGINS: No. The poll workers
3 thought the ballot was in there because it
4 felt like the ballot was in there. And it was
5 sealed. Even when we looked at it at our
6 office, it was hard to believe that the ballot
7 had ever been opened, but once we opened it --
8 because like I told Ashley, how could she
9 surrender her ballot and you counted her
10 ballot. That's when we opened it and
11 discovered the folded papers.

12 DR. JOHNSTON: Thank you.

13 MR. MASHBURN: Other comments from the
14 Board. Other questions from the Board?

15 MR. LINDSEY: Yeah. I'm trying to figure
16 out what happened to the ballot.

17 MS. SCOGGINS: Pardon?

18 MR. LINDSEY: Do you know what happened -
19 - did the absentee ballot get counted? Do you
20 know?

21 MS. SCOGGINS: Yes, it did get counted.

22 MR. LINDSEY: So it was mailed in
23 separately.

24 MS. SCOGGINS: Well, because what happens
25 when you get the ballot, you know --

1 MR. LINDSEY: Yeah.

2 MS. SCOGGINS: -- it's mailed back in in
3 a yellow envelope.

4 MR. MASHBURN: Hold the mic a little bit
5 closer, please.

6 MS. SCOGGINS: When you mail in your
7 ballot, you mail in that yellow envelope with
8 your ballot in it.

9 MR. LINDSEY: So she --

10 MS. SCOGGINS: She had sealed the white
11 envelope that she received in the mail. It
12 appeared that the one she received in the mail
13 with the yellow envelope and the ballot and
14 everything, it appeared that it was still
15 inside.

16 MR. LINDSEY: Okay. So if I understand
17 correctly, she mailed separately the absentee
18 ballot, but she showed up at the polls with
19 what purported to be the absentee ballot?
20 That was marked cancelled. That's why she was
21 allowed to vote.

22 MS. SCOGGINS: Correct.

23 MR. LINDSEY: All right.

24 MR. MASHBURN: Questions, comments from
25 the --

1 MR. LEE: Mr. Chairman, we still don't
2 have the -- we're doing our best, but we can't
3 find out if she's voted.

4 MR. MASHBURN: I appreciate that. I
5 appreciate your effort, thank you very much.

6 MR. LEE: Okay.

7 MR. MASHBURN: Member Ghazal.

8 MS. GHAZAL: I would move that we refer
9 Ms. Watson to the attorney general's office.

10 MR. LINDSEY: Second.

11 MR. MASHBURN: There's been a motion and
12 a second that Ms. Watson be referred to the
13 Attorney General's Office. Is there
14 discussion?

15 (No response.)

16 MR. MASHBURN: Then we're ready to vote,
17 all those in favor say aye?

18 THE BOARD: Aye.

19 MR. MASHBURN: All those opposed would
20 say no?

21 (No response.)

22 MR. MASHBURN: Motion carries.

23 MR. LINDSEY: I would also move that in
24 regards to the Ethellyne Watson matter, that
25 the allegations against Coweta County be

1 dismissed.

2 MR. MASHBURN: There's been a motion to
3 dismiss the charge against Coweta County. Is
4 there a second?

5 DR. JOHNSTON: Second.

6 MR. MASHBURN: Is there discussion? I'll
7 take this opportunity to discuss. I've always
8 been troubled when we have these situations
9 that the county self-reports an issue and says
10 this person tricked us and did something they
11 shouldn't do. And in the past, not this
12 Board, but in the past the reward has been
13 okay, we're going to charge you. And that
14 always struck me as being very unfair. And,
15 so -- there are times when the county is
16 culpable and they self-report and I don't
17 think that we should excuse that. But where
18 the county got tricked and they tried their
19 best and somebody acting improperly and just
20 tricked them, I don't think the county should
21 be held accountable for that. So I join in
22 the motion and just took extra time to comment
23 on that to let my views on that be heard. So
24 there's been a motion and a second. Any
25 further discussion?

1 (No response.)

2 MR. MASHBURN: We're ready to vote. All
3 in favor of the motion to dismiss Coweta
4 County say aye?

5 THE BOARD: Aye.

6 MR. MASHBURN: All those opposed would
7 say no.

8 (No response.)

9 MR. MASHBURN: Motion carries.

10 Moving on to the next case is tab number
11 18.

12 MR. LINDSEY: Are we still waiting on
13 complaint number 1?

14 MR. MASHBURN: Sorry, point of order.

15 MR. LINDSEY: We're still waiting on
16 figuring out what to do with complaint number
17 1.

18 MR. MASHBURN: Okay. So complaint number
19 1 is still pending. So let's take a look at
20 that.

21 MS. GHAZAL: That is the provisional
22 ballot issue.

23 MR. MASHBURN: Okay.

24 MR. LINDSEY: So let me ask my friends in
25 Coweta County. Is there any question as to

1 what Sara Brooks said in regards to her
2 understanding that if you didn't have an ID
3 you couldn't be given a provisional. Is there
4 any question as to the accuracy of that?

5 MR. LEE: I'm sorry, Mr. Lindsey, I'm
6 having a hard time hearing you.

7 MR. LINDSEY: Is there any question as to
8 -- in terms of the investigation, as to Sara
9 Brooks' comments that if the voter did not
10 present ID to vote, then they would not be
11 issued a ballot?

12 MR. LEE: She says I would not have said
13 that because I was not trained to say that.
14 But again, she said I have no recollection of
15 any of this happening or talking to her. It's
16 a he said, she said, I guess.

17 MR. LINDSEY: Well, no. It's my
18 investigator said --

19 MR. LEE: I thought the question was for
20 me, I apologize.

21 MR. LINDSEY: No, no, no, no, no, no, no,
22 no. No, I understand what you were going
23 through. Let me ask you this to my
24 investigator. Who interviewed Ms. Brooks?

25 INVESTIGATOR BRUNSON: That was

1 Investigator Monroe, Kelly Monroe.

2 MR. LINDSEY: Yeah. And she filled out
3 her report saying that Sara Brooks told the
4 investigator the voter did not present an ID
5 to vote so they would not be issued a ballot,
6 correct?

7 INVESTIGATOR BRUNSON: Yes.

8 MR. LINDSEY: All right. All right. I'm
9 going to make a motion to split the baby here,
10 because it appears that Coweta County has been
11 giving the proper instruction, but there's a
12 question as to whether or not Ms. Brooks
13 followed those instructions. And I'm going to
14 leave it to the Attorney General to figure
15 that one out. And so I would move to dismiss
16 regarding count 1, Coweta County. But move to
17 -- same motion -- move to refer the matter
18 regarding Sara Brooks to the Attorney
19 General's office and let's see if they can
20 figure this out.

21 MR. MASHBURN: Motion to dismiss Coweta
22 County and to transfer Sara Brooks' case over
23 to the attorney general for processing. Is
24 there a second?

25 MS. GHAZAL: Second.

1 MR. MASHBURN: There's a second. There's
2 a motion and a second. Is there discussion?

3 MS. GHAZAL: Only this. That anytime it
4 appears that a voter has been denied the
5 opportunity to cast a valid ballot, it is a
6 very serious issue.

7 MR. LINDSEY: Yeah.

8 MS. GHAZAL: And -- that's not to say
9 that individual poll managers should
10 necessarily be punished as much as we need to
11 be held accountable, and perhaps no longer
12 serving as a poll manager would be a solution
13 that would be acceptable through the attorney
14 general's office.

15 MR. MASHBURN: Thank you for your
16 comments. There's been a motion and a second.
17 Any further discussion?

18 (No response.)

19 MR. MASHBURN: All those favor in say
20 aye?

21 THE BOARD: Aye.

22 MR. MASHBURN: All those opposed would
23 say no.

24 (No response.)

25 MR. MASHBURN: Motion carries.

1 I'm going to do something a little bit
2 unusual hearing and ask the Board's unanimous
3 consent for it. And that is if there are
4 cases with attorneys representing respondent,
5 could you stand and let us see how many cases
6 we have with attorneys?

7 (Attorney's stand)

8 MR. MASHBURN: Three. We've got three.
9 I'd ask -- and the reason why -- the other
10 respondents are like well, why do I have to
11 wait. These cases with attorneys, they're
12 paying the attorneys by the hour. And so it
13 is an additional punishment. I'd like to
14 alleviate if we can, so I'd like the Board's
15 unanimous consent if we could take the
16 attorney cases a little bit out of order --

17 UNIDENTIFIED SPEAKER: Why do we even
18 have an agenda?

19 MR. MASHBURN: I'm sorry?

20 UNIDENTIFIED SPEAKER: Why do we even
21 have an agenda. This -- I mean, if we going
22 to skip around and give people special
23 treatment, why do we even put this on the
24 agenda?

25 MR. MASHBURN: Yeah, I appreciate your

1 comments. The reason is that the Board
2 controls the Agenda.

3 UNIDENTIFIED SPEAKER: So that's your
4 answer?

5 MR. LINDSEY: And if the Board ---

6 UNIDENTIFIED SPEAKER: So now we get
7 pushed to the back of the line.

8 MR. MASHBURN: Thank you for your
9 comment. All right. Judge Levenson, if you
10 would give me your case number, please?

11 JUDGE LEVENSON: I think it's 158,
12 Carroll County.

13 MR. MASHBURN: Give it to me again?

14 JUDGE LEVENSON: It ends in 158.

15 MR. MASHBURN: 158. I see it. It's
16 number 25 on the agenda. And the next case?

17 MR. BRYAN: All right. Bennett Bryan on
18 behalf of DeKalb County. We're here on SEB
19 cases 2020-029 and 2020-043.

20 MR. MASHBURN: Give me the numbers again.

21 MR. BRYAN: That is SEB case 2020-029.

22 MR. MASHBURN: Okay.

23 MR. BRYAN: And 2020-043.

24 MS. MASHBURN: 043, thank you. Okay.

25 MS. BRUMBAUGH: Hi. Ann Brumbaugh again

1 on behalf of the Cherokee County, SEB2022-135.
2 (Inaudible).

3 MR. MASHBURN: 135. Okay. Great. Okay.
4 I'm going to ask unanimous consent of the
5 Board that we take -- give me your case number
6 again, Judge Levenson. I'm sorry? 85, 185?

7 JUDGE LEVENSON: 158.

8 MR. MASHBURN: 158. Got it. I'm going
9 to ask for unanimous consent of the Board that
10 we proceed now with case number 2021-158.
11 Without objection, so ordered. Secretary of
12 State's Office, can you juggle a little bit
13 and accommodate?

14 MR. LINDSEY: What's that tab?

15 MR. MASHBURN: Number 158 is tab number
16 25. Tab number 25. I appreciate you
17 indulging us. Thank you. I appreciate it.
18 Tab number 25.

19 INVESTIGATOR KOTH: Yeah, I got it. This
20 complaint -- sorry -- The complaint email
21 contains a chain -- or the former SOS Chief
22 advised Dr. Brian Harris that his company was
23 in violation of 21-2-570 for posting about a
24 chance to win world series tickets for
25 presenting an I voted sticker. In the chain

1 Mr. Harris advised that he had removed the
2 posting from Facebook.

3 The US Med Clinic posted on Facebook.com
4 which offered a free pair of World Series
5 tickets for Saturday at 8:00 p.m. 10/30/2021.
6 The flyer gave the following instructions,
7 like and comment on this post with a picture
8 of you and a I voted sticker, or a picture of
9 your candidate's yard sign, share this post on
10 your page and take a deserving couple.

11 His legal defense team advised that his
12 intention was not to commit any crimes, and he
13 was allowed to do so by the Georgia Government
14 Transparency and Campaign Finance Commission.

15 A subsequent interview with the attorney
16 who spoke with Mr. Harris advised that he was
17 advising Dr. Harris that his actions would not
18 be connected to his campaign and not in
19 violation of any of their rules. He advised
20 that he was not advising him regarding any
21 other Georgia laws as they were not in his
22 purview. It was noted that Dr. Harris was
23 advised by the former Chief that he would
24 receive a letter of instruction over the
25 matter.

1 MR. MASHBURN: Any questions for the
2 Investigator from the Board?

3 MS. GHAZAL: So do I understand correctly
4 that Dr. Harris was actually on the ballot for
5 the election, that this was referring to as a
6 candidate?

7 INVESTIGATOR KOTH: I believe so. I
8 believe he was; it doesn't say it in this
9 report. I'd have to pull up the case file.
10 That's what was eluded to by the other
11 attorney who said it was connect to his
12 personal campaign that's what he was advising
13 -- not about the O.C.G.A. --

14 MS. GHAZAL: Thank you. Well, perhaps
15 counsel can address the question.

16 MR. MASHBURN: Yeah. Other questions
17 from the Board?

18 (No response.)

19 MR. MASHBURN: Mr. Kirk, if I can get you
20 to shut that door, please, if you don't mind.
21 If you'd do us a favor, I'd appreciate it.
22 Thank you.

23 Other questions from the Board for the
24 investigator?

25 (No response.)

1 MR. MASHBURN: And, Judge Levenson, the
2 floor's yours.

3 JUDGE LEVENSON: Good afternoon. First,
4 thank you. I'm Louis Levenson, I represent
5 Dr. Brent Harris. The complaint identifies
6 him as Brian Harris, that's just a -- got to
7 be a typographical mistake. We don't assert
8 that as any defect. I just wanted to clear
9 that up for the record. Dr. Brent Harris is a
10 physician licensed to practice medicine in
11 Carrollton, has been for some time. He, in
12 advance of the social media post that Med
13 Clinic put up, which I'll talk about
14 separately, we assert and I think it's
15 referenced in the investigators report, that
16 he contacted Mr. (unintelligible) who is
17 counsel for the Georgia Government
18 Transparency and Campaign Finance Commission
19 for advanced approval being intuitive in the
20 ways of this this being his first campaign was
21 told that what he was proposing to do was
22 acceptable. I'll jump ahead and say as soon
23 as he was advised there was a problem, and a
24 complaint, within hours the media post was
25 taken down. And I don't think that's a matter

1 of dispute with the report of the
2 investigator. What I think is interesting and
3 perhaps hyper-technical is that what the
4 social media post offered was free World
5 Series tickets in exchange for posting a photo
6 of -- having a sticker on that says I voted or
7 a photo that shows any yard sign of any kind.
8 Specifically with respect to the statue that
9 proscribes giving or receiving -- offering to
10 give or receive or participating in giving or
11 receiving of money or gifts for registering as
12 a voter, voting, or voting for a particular
13 candidate.

14 I don't believe that his post, however
15 misguided it may have been upon the advice of
16 someone, solicited that specifically. All it
17 did was get you free -- or you are eligible, I
18 should say, to win World Series tickets. If
19 you post a photograph of yourself with an I
20 voted sticker on, which doesn't necessarily
21 mean you voted, or a photo of anyone's yard
22 sign. Cutting to the chase, to the extent
23 that he acknowledged that this was arguably
24 incorrect when notified and took it down
25 within hours, we'll accept if the Board will

1 agree a similar letter of admonition similar
2 to the cases that you've heard earlier today.
3 I believe the facts here are less related to
4 giving or receiving consideration under theses
5 -- this report then in the previous cases.
6 Thank you.

7 MR. MASHBURN: Questions from the Board
8 for counsel?

9 MR. LINDSEY: A slightly different
10 situation than the previous but let me ask you
11 this -- in terms of precedent, and I do
12 appreciate the fact that he took it down when
13 he was advised to, but what did we do in the
14 previous case, the last two -- the
15 (inaudible).

16 DR. JOHNSTON: Letter of instruction.
17 Dismissed with a letter of instruction.

18 MR. LINDSEY: Okay.

19 MR. MASHBURN: All right.

20 MS. GHAZAL: The raffle, we referred to
21 the Attorney General's office with the former
22 attorney general representing (inaudible)
23 client.

24 MR. MASHBURN: No, the raffling -- the
25 raffle tickets for the rifle got sent to the

1 attorney general's office.

2 MS. GHAZAL: Uh-huh. (Affirmative
3 response)

4 MR. MASHBURN: Do you remember the rifle
5 case?

6 MS. GHAZAL: Yep.

7 JUDGE LEVENSON: May I answer your
8 question?

9 MR. MASHBURN: Sure, counsel.

10 JUDGE LEVENSON: Yeah. Mr. Lindsey's
11 question, I was referring to the case
12 involving the respondent Jessie Blankenship,
13 which was the case number ending in 133 where
14 they --

15 MR. MASHBURN: The gas money.

16 MR. LINDSEY: The gas money.

17 JUDGE LEVENSON: That presentation,
18 there's an allegation that quote gas money was
19 offered to the voters who needed assistance in
20 getting to the polls. That is the reference I
21 was making.

22 MR. LINDSEY: Yeah. I mean, that was a
23 little bit more of a narrow case because all
24 she wanted to do was to make it easy for
25 someone to get to the polls, as opposed to

1 rewarding someone for voting. So I'm trying
2 to make sure that we stay within our precedent
3 that we've had in previous cases. That's why
4 I'm asking the question.

5 JUDGE LEVENSON: If I may -- I don't mean
6 to argue.

7 MR. LINDSEY: No, no, you're not arguing.

8 JUDGE LEVENSON: But I don't, I don't
9 think that it was specific.

10 MR. LINDSEY: Yeah.

11 JUDGE LEVENSON: And even the report of
12 the investigator does not reflect that it was
13 solicitation to vote or solicitation to assist
14 anyone for voting for a particular candidate.

15 MR. LINDSEY: No, no, I wasn't
16 questioning that. I wasn't questioning if
17 someone was trying to buy a vote, okay?

18 MR. MASHBURN: Well, just to complete the
19 reference to the rifle case, in that case the
20 respondent was asked, did you do something
21 wrong? Was that ill-advised and he said: No,
22 and I didn't do anything wrong. I might do it
23 --

24 MR. LINDSEY: I may do it again.

25 MR. MASHBURN: (Inaudible).

1 MR. LINDSEY: Let me ask you this, will
2 do you it again? I want to hear from your
3 client.

4 MR. LEVENSON: What's that?

5 MR. LINDSEY: Will you do it again?

6 MR. HARRIS: No, sir.

7 MR. LINDSEY: All right. That's a good
8 answer.

9 MS. GHAZAL: My caution is this,
10 candidates have to be held to a higher
11 standard than just members of the general
12 public. Candidates have a vested interest in
13 increasing turnout. So that's my caution in
14 this case. We've got somebody who had a
15 reason -- and I've been a candidate myself. I
16 understand. But I have the benefit of also a
17 legal degree and specialty in election law.
18 So it's -- it's not quite the same.

19 MR. LINDSEY: No, it's not quite the
20 same, but the fact that he was given certain
21 advice --

22 MS. GHAZAL: Yes.

23 MR. LINDSEY: -- that was incorrect, and
24 when he was given correct advice, he
25 immediately took it down. That weighs on me.

1 MS. GHAZAL: Yes.

2 MR. MASHBURN: In the Blankenship case we
3 found -- we dismissed it with a letter of
4 instruction. One of the things that the Board
5 has done traditionally is to find a technical
6 violation and issue a letter of instructions
7 as a remedy the Board frequently uses as well.

8 MS. GHAZAL: And I would move that that
9 would be a solution. We do not refer this to
10 the attorney general's office. I don't think
11 it rises to that level given the
12 responsiveness of the candidate. But I think
13 there was a technical violation and so I would
14 move that we find the technical violation and
15 issue a letter of instruction and that would
16 be the end of it.

17 MR. MASHBURN: There's been a motion to
18 find a technical violation and issue a letter
19 of instruction. Is there a second?

20 MR. LINDSEY: Second.

21 MR. MASHBURN: There's been a motion and
22 a second. Any discussion?

23 (No response.)

24 MR. MASHBURN: No discussion. We're
25 ready to vote. All those in favor say aye?

1 THE BOARD: Aye.

2 MR. MASHBURN: All opposed would say no?

3 (No response.)

4 MR. MASHBURN: Motion carries. Thank
5 you, counsel. You did a good job for your
6 client today. We certainly appreciate your
7 presentation.

8 JUDGE LEVENSON: Thank you for taking us
9 out of turn.

10 MR. MASHBURN: Thank you. Next on the
11 calendar is DeKalb County two cases, 20 and 21
12 so let's take those in order. Tab number 20
13 first, case number 2020-029, Dekalb County.
14 The Secretary of State has the floor.

15 INVESTIGATOR KOTH: Yes, this is a
16 continued case. The report was heard in the
17 December of 2022 and the SEB Board requested
18 additional follow up due to complaints two,
19 three, five and six. And those were: Five
20 polling precincts had poll workers who
21 appeared to be untrained and disorganized.
22 Allegation three: Two precincts experienced
23 equipment failures. Five: One precinct
24 received its voting equipment after the
25 precinct opened. And six: Seven precincts

1 did not open on time.

2 Out of those there were three violations
3 that were found. On allegations two it was
4 alleged that five polling precincts had poll
5 workers who appeared to be untrained and
6 disorganized. The director at the time Ms.
7 Hamilton advised that she and her staff had
8 quite the challenge due to the COVID protocols
9 that were in place. The 2020 election was
10 different than all the other previous
11 elections she'd been involved in.

12 Ms. Hamilton advised training was
13 provided to all poll workers. However, most
14 of the poll worker training had to be
15 conducted virtually. Due to the pandemic,
16 there was very little in-person training.
17 Training began in January of 2020 and
18 continued in sessions until the week prior to
19 the primary election. Two precincts
20 experienced equipment failure, printers, and
21 scanners. The Investigator attempted to
22 contact Cassandra Mossin (ph) the poll manager
23 at the Redan Elementary School with negative
24 contact. There was no listing for poll
25 manager contact on the rooster for New Birth

1 Mission Baptist Church. According to a follow
2 up call with Erica Hamilton she could only
3 recall that some poll workers did not realize
4 that the printer had to be powered on after
5 the BMD's were powered on. And once the poll
6 workers had all the equipment powered on the
7 issue was resolved.

8 Ms. Hamilton could not confirm if that
9 was the issue at the elementary school and the
10 investigator had been unable to locate anyone
11 with knowledge of records from the in-house
12 command center during this election time.

13 Latosha Howard no longer works for the DeKalb
14 County Elections Office. The Investigator
15 attempted to inquire about the records with
16 the current director Keisha Smith and the
17 Registration manager Twila Heart (ph) to
18 ascertain if they had any records available
19 but have not received a response since the
20 date of the report.

21 Based on information reported by the
22 vendor, there is evidence to suggest that
23 DeKalb County Board of Elections and
24 Registration violated O.C.G.A. 21-2-328(a)
25 when they developed voter check-in equipment,

1 poll pads, to the wrong precincts. And
2 O.C.G.A. 21-2-328(a) which stipulates: The
3 superintendent shall deliver the proper voting
4 machine or voting machines, and properly
5 furnished with ballot labels, to the polling
6 places of the respective precincts at least
7 one hour before the time set up.

8 Allegation five: Ms. Ethell Byrd, the
9 poll manager at Canby Lane Elementary
10 precinct, alleged that she could not locate
11 the key to unlock the ballot marking device,
12 the cabinet. Ms. Byrd explained that when
13 supplies were retrieved for election day there
14 should have been two keys to the BMD cabinet
15 and an envelope with the supplies. She stated
16 that she could not locate the envelope with
17 the key, so she sent a poll worker to a nearby
18 precinct to borrow one of their keys. Ms.
19 Byrd stated once election day was completed,
20 she returned her supplies to headquarters and
21 the envelope was located at headquarters and
22 had never been placed in her supply box.
23 Based on the information provided by the poll
24 manager at Canby Lane Elementary School there
25 is evidence to suggest that the DeKalb County

1 Board of Elections and Registration violated
2 O.C.G.A. 21-2-401(a) when they failed to
3 deliver equipment and/or supplies necessary
4 for use in a primary election.

5 Allegation number six: It was reported
6 that seven voting precincts did not open on
7 time. These allegations were due to incorrect
8 pin numbers to start the BMD's. Emails and
9 correspondence were requested through the
10 DeKalb County IT department to verify these
11 allegations. There were no emails that were
12 forwarded by DeKalb County IT regarding actual
13 election day pin issues. According to Mr.
14 Greenwald phone calls would have been the most
15 likely option on election day in which he did
16 have a record of two calls for password, pin
17 numbers on file, unknown which precinct was
18 called though.

19 According to the Cross Keys High School
20 poll manager Johnathan Barnes he attempted to
21 contact the election office and couldn't make
22 contact. He then attempted to contact his
23 area manager, which he couldn't make contact
24 with because his area manager was assigned as
25 a poll manager at another precinct due to

1 staff shortage. Mr. Barnes contacted his
2 previous area manager which was able to get
3 him in touch with a technician. Mr. Barnes
4 stated that his precinct was out of service
5 for approximately one hour due to running out
6 of provisional ballots and the time it took
7 for a poll worker to go to the elections
8 office to acquire more provisional ballots.
9 Mr. Barnes did state that a technician arrived
10 and had the system operable before the poll
11 worker returned with the extra provisional
12 ballots.

13 Ms. Harris Robinson reported she
14 attempted to get technical assistance. Ms.
15 Harris Robinson stated that the issue was the
16 first time the equipment had been used and
17 when the batteries were activated to start the
18 BMD's machines turned back off. The issue was
19 eventually resolved once workers determined
20 that the power buttons to the batteries had to
21 be held down until the sound of the internal
22 fan was heard. Instead of just viewing the
23 power light illuminate. Ms. Harris Robinson
24 estimated that her precinct opened
25 approximately ten minutes late.

1 A DeKalb County Judge signed two court
2 orders extending polling place closing times
3 on June 9, 2020. The first court order was
4 signed extending polling place hours closing
5 at the following precincts: There was Narvie
6 Harris Elementary School, Clarkson Community
7 Center, Medlock Elementary School, Stevenson
8 High School, Stevenson Middle School,
9 Kittredge Magnet School, Ray of Hope Christian
10 Church was the last one.

11 The second court order was signed latter
12 on June 9th, 2020, extending the closing hours
13 at all the DeKalb County polling places until
14 9:30, siting technical and logistical issues,
15 emergency changes to polling locations and
16 insufficient training, and social distance
17 requirements for voting machines.

18 Based on the admission of the Poll
19 Manager at Big Miller Grove Baptist Church,
20 there is sufficient evidence to suggest that a
21 DeKalb County Board of Elections and
22 Registration polling location violated
23 O.C.G.A. 21-2-403(a), when it failed to open
24 on time.

25 MR. MASHBURN: Questions by the Board?

1 MR. LINDSEY: We'd like to hear from the
2 county.

3 MR. MASHBURN: Okay. No questions from
4 the Board we'll hear from DeKalb County. If
5 you'll press your button, I'll turn you on.

6 MR. BRYAN: It appears my button is on.
7 Can everybody hear me?

8 MR. MASHBURN: You're on and good to go.

9 MR. BRYAN: Mr. Chair and Members of the
10 Board, thank you for taking time to hear this
11 today and providing me with an opportunity to
12 speak to the allegations. My name is Bennett
13 Bryan. I represent the DeKalb County
14 Elections Department and our former Elections
15 Director, Erica Hamilton. I'm also joined by
16 Keisha Smith who is our current Elections
17 Director. She's been in that position for
18 about a year now. I'd like to first start by
19 saying that I think it is important that we
20 keep the lines of communication open between
21 the Secretary of State's Office and our
22 department, and from my experience that is, in
23 fact, the case. I haven't appeared in front
24 of this Board since Governor Kemp was, you
25 know, it's Chair, so it's been a little while

1 since then I've practiced election law. But I
2 know from past elections, we've been on the
3 horn with the Secretary of State's Office,
4 with Attorney Ryan Germany (ph) when he was
5 representing the Secretary of State's Office.
6 And I know and I think it's important that in
7 order to administer a successful election, it
8 does require teamwork, both between the state
9 and between the counties. And we take that
10 very seriously. I will say that in regards to
11 the specific allegations of the polls not
12 opening on time, of course, that's
13 unacceptable. Polls need to open on time. We
14 know that. I do think it's important to note
15 the context for this particular election.
16 This was the primary election in June of 2020.
17 We were at the very beginning of the Covid 19
18 pandemic. There were a lot of new rules that
19 were in place, a lot of measures for social
20 distancing, a lot of new equipment to make
21 sure that people were kept separate from each
22 other. Plastic - you know, clear plastic and
23 all of these things. This was a unique
24 election. However, that being said, to the
25 extent that any of these polling locations did

1 open late, including Big Miller Groove Baptist
2 Church, as the investigator mentioned we did -
3 - which is our practice, it's belt and
4 suspenders, we made sure that we go to the
5 superior court judge and we get that order to
6 make sure that every voter has an opportunity
7 to cast their ballot. We have taken some
8 measures since this election to ensure that
9 these types of violations don't happen again.
10 And now we have our poll managers check in at
11 5:30 a.m. with a list of their equipment
12 making sure that we know that they're there.
13 We know that they have access to the building,
14 and we know that they have the equipment that
15 they need an hour and a half before the polls
16 open. And I think this is very helpful in
17 making sure that these -- that these
18 particular issues about making sure that we
19 have the right equipment and making sure that
20 we open on time, we're going to take care of
21 those. So I would request that the Board
22 either dismiss or issue a letter of
23 instruction for these particular charges. And
24 I'm happy to answer any questions to the
25 extent that I can.

1 MR. MASHBURN: Thank you, counsel.

2 Questions from the Board.

3 MR. LINDSEY: Yeah. I guess what I'm
4 looking for here is -- and it could come from
5 you in writing, or it could come from, you
6 know -- is to what specific remedial steps the
7 county has done to make sure that this doesn't
8 happen again, particularly in the '24
9 election. Do you have something that you can
10 give us in writing?

11 MR. BRYAN: Yes. We do have a policy in
12 writing that we can that we can provide you.

13 MR. LINDSEY: Okay. To address each and
14 every one of these allegations. I don't know
15 if someone else has any (inaudible).

16 DR. JOHNSTON: Question.

17 MR. MASHBURN: Okay.

18 DR JOHNSTON: How many polls opened late
19 for the elections 2022?

20 MR. BRYAN: For 2022? So we had zero
21 late openings for the runoff. And we had two
22 for the mid-term election in November 2022.

23 DR. JOHNSTON: So a measurable
24 improvement.

25 MR. BRYAN: Measurable improvement, yes,

1 ma'am. And we will continue to improve.

2 MR. MASHBURN: Any questions from the
3 Board?

4 (No response.)

5 MR. MASHBURN: Member Ghazal? No. Okay.
6 At this time are we ready for a motion?

7 MR. LINDSEY: I would -- I do believe
8 that we have evidence of a technical
9 violation. I do appreciate the fact that we
10 see remedial steps being taken. I don't see
11 any reason to send it to the attorney
12 general's office. I do see a need for us to
13 find a technical violation regarding the 2020
14 election. And acknowledge that remedial steps
15 need to be taken and are being taken to
16 rectify the issues.

17 MR. MASHBURN: So there is a motion for a
18 technical violation with a letter of
19 instruction?

20 MR. LINDSEY: Yes.

21 MR. MASHBURN: Okay. Is there a second?

22 MS. GHAZAL: Second.

23 MR. MASHBURN: Okay. There's been a
24 motion and a second. Is there any discussion,
25 Dr. Johnston?

1 DR. JOHNSTON: This is regarding the
2 violation of the polls opening late?

3 MR. LINDSEY: Yeah. Yes.

4 DR. JOHNSTON: Are we addressing the
5 potential violation for Ms. Hamilton?

6 MR. LINDSEY: Which one? Yeah, we need
7 to this separately. Which one were you
8 referring to?

9 DR. JOHNSTON: It's the last -- the last
10 one.

11 MR. LINDSEY: Yes. We need to take that
12 up separately.

13 DR. JOHNSTON: So we're doing these
14 separately?

15 MR. MASHBURN: Did you get an answer to
16 your question? You good?

17 MR. LINDSEY: I want to make sure. Hold
18 on. Yeah. Let's talk about -- yeah, I think
19 -- thank you doctor. You're talking about
20 allegation number 10?

21 DR. JOHNSTON: Yes.

22 MR. LINDSEY: Yeah. Talk to us about
23 allegation number 10. Thank you.

24 MR. BRYAN: Yes, sir. You're talking
25 about the technical issues?

1 MR. LINDSEY: Thirteen precincts
2 experienced technical issues with the ballot
3 marking devices.

4 MR. BRYAN: Um --

5 MR. MASHBURN: He might not have -- Oh,
6 yeah, there is -- on the first page of the
7 summary that you should have gotten, it's
8 number 10 down at the bottom of the first page
9 of the summary.

10 MR. BRYAN: I guess -- was that addressed
11 in the investigator's presentation. I do
12 apologize for not addressing that off-hand.
13 But, again, it's my -- the remedial measures
14 that I discussed before would also, I think
15 address this one as well because not only do
16 our poll managers need to check in very early,
17 but they also need to check in and let us know
18 that all of the equipment is working properly.
19 And so that did -- in case there is any
20 technical issue with the ballot marking device
21 in the future, that is something that would be
22 flagged early, and we would be able to focus
23 our resources on making sure that we have all
24 the equipment, and properly functioning
25 equipment, including ballot marking devices,

1 in the time for the polls open.

2 MR. LINDSEY: I would add that to the
3 technical violation as well.

4 DR. JOHNSTON: Thank you. There's one
5 violation mentioned at the very end of this
6 case. And it's regarding Erica Hamilton and
7 neglect or refusal to deliver documents.

8 MR. BRYAN: Yes, ma'am. Would you like
9 me to address that now? Okay. It is my --
10 Ms. Hamilton unfortunately could not be here
11 today. She is attending to her parents in
12 South Georgia today, but it is my
13 understanding from discussing -- I believe
14 that she was here to speak about that at the
15 last elections board hearing -- at the last
16 meeting of this Board. So she has, you know,
17 I believe she did have an opportunity to
18 present her side of that, but to recap that
19 she -- according to her, she had her former
20 elections coordinator, Latasha Howard -- she
21 instructed Ms. Howard to provide the
22 information that these investigators were
23 looking for. And it was her understanding
24 that that information had been, in fact,
25 delivered.

1 MR. LINDSEY: Okay. Good. Was this
2 information ever delivered to our
3 investigators?

4 INVESTIGATOR KOTH: I can't hear you.

5 MR. LINDSEY: I'm sorry. The information
6 that's been referred to, was that information
7 ever actually delivered?

8 INVESTIGATOR KOTH: No. During the --
9 the investigator had been able to locate
10 anyone with knowledge of records from the in-
11 house command center and at the time of the
12 election Latasha Howard no longer works -- and
13 now she no longer works for the DeKalb County
14 Elections Office. She didn't get the records
15 -- the investigator didn't.

16 MR. MASHBURN: So is there -- do you want
17 to amend your motion and take that up or --

18 MR. LINDSEY: Yeah.

19 MR. MASHBURN: -- handle them separately
20 or --

21 MR. LINDSEY: Handle them separately.

22 MR. MASHBURN: Okay. So there's been a
23 motion to find a technical violation for
24 respondent DeKalb County and issue a letter of
25 instruction that has been seconded. Any

1 further discussion?

2 (No response.)

3 MR. MASHBURN: All in favor say aye?

4 THE BOARD: Aye.

5 MR. MASHBURN: All opposed would say no.

6 (No response.)

7 MR. MASHBURN: The motion carries. So
8 now we need to take up the specific count
9 against Nadine Williams.

10 MS. GHAZAL: I think it was Erica
11 Hamilton.

12 MR. MASHBURN: Okay. I'm sorry. I
13 apologize Nadine Williams. Erica Hamilton.
14 Erica Hamilton. Potential violation of Erica
15 Hamilton 21-2-562(b). Is there a motion?

16 MR. LINDSEY: Move to refer that to the
17 attorney general.

18 MR. LINDSEY: Motion referring to the
19 attorney general. Is there a second?

20 MS. GHAZAL: Second.

21 DR. JOHNSTON: Second.

22 MR. MASHBURN: There's been multiple
23 seconds. All those in favor -- any
24 discussion?

25 (No response.)

1 MR. MASHBURN: All those in favor say
2 aye?

3 THE BOARD: Aye.

4 MR. MASHBURN: All those opposed would
5 say no.

6 (No response.)

7 MR. MASHBURN: Motion carries. Now, I
8 have to apologize. We're ready to move on.
9 But I have to apologize to counsel there. The
10 Board's attorneys are here to provide the
11 Board advice in executive session. We haven't
12 broken for lunch yet so we're going to break
13 for lunch and have an executive session so
14 that we're doing two things at the same time.
15 And -- I'm sorry you're splitting lunch. I
16 apologize. I wish I could have squeezed you
17 in. But we're paying these lawyers by the
18 hour so to protect the taxpayers of Georgia we
19 will not get pay for their waiting time. So
20 at this time I'm move the Board to go into
21 Executive Session to meet with and confer with
22 legal counsel regarding pending and potential
23 litigation as well as administrative
24 proceedings. Is there a second?

25 MR. LINDSEY: Second.

1 MR. MASHBURN: There's been a motion and
2 a second. Discussion?

3 (No response.)

4 MR. MASHBURN: No discussion. We're
5 ready to vote. All those in favor would say
6 aye.

7 THE BOARD: Aye.

8 MR. MASHBURN: All those opposed would
9 say no.

10 (No response.)

11 MR. MASHBURN: So what we're going to do
12 is we're going to go into executive session
13 and break for lunch at the same time. I've
14 got it that it's now 12:41. So we will not
15 convene any sooner than 1:40. So everyone is
16 free to be gone until 1:40 without fear that
17 something is going to happen in your absence.
18 But it might be a long executive session so I
19 cannot promise that we will be back at 1:40.
20 But you don't have to be back before 1:40,
21 okay. We stand adjourned. We stand in
22 Executive Session.

23 (Board into Executive Session)

24 (Lunch recess 12:42 p.m. to 2:01 p.m.)

25 MR. MASHBURN: Okay. We're going to get

1 started. We're going to get started again.
2 Welcome back everyone. We are going to get
3 started again. Welcome back. I hope
4 everybody had a nice lunch.

5 The Board was in Executive session to
6 meet and confer with legal counsel regarding
7 pending and potential litigation, as well as
8 administrative proceedings. And now I make a
9 motion that the Board exit Executive Session
10 and enter regular order. Is there a second?

11 MR. LINDSEY: Second.

12 MR. MASHBURN: There's a motion and a
13 second. Any discussion? All those in favor
14 to exit Executive Session would say aye.

15 THE BOARD: Aye.

16 MR. DUFFEY: All those opposed.

17 (No response.)

18 MR. MASHBURN: Motion carries. We are
19 out of Executive Session and back to regular
20 order. First issue on regular order is back
21 to our friends in DeKalb County. Sorry that
22 you had to go on both sides of lunch, but
23 welcome back and we're ready to hear, let's
24 see, case number 2020-043. Everybody in
25 agreement that that's where we're at? Tab

1 number 21. Everybody good? Okay. Without
2 objection, so ordered. The Secretary of State
3 has the floor.

4 INVESTIGATOR BRUNSON: On June 22nd,
5 2020, the Georgia Office of the Secretary of
6 State Investigation Division received a
7 complaint regarding the tabulation of absentee
8 ballots during the DeKalb County 2020 primary
9 election. The allegations are as follows --
10 and just as a reference, this is a
11 continuation case -- many of the allegations
12 were addressed in the previous SEB meeting,
13 but I'll just kind of review and go over some
14 of the allegations, again. And then the
15 responses and then the allegations that we
16 found that there was enough evidence to
17 substantiate.

18 So number one, the Cannon optical
19 scanners, DRG2140 used by DeKalb County are
20 not authorized for ballot scanning by the
21 Georgia Office of the Secretary of State or
22 the federal government. A) The Georgia Office
23 of the Secretary of State did not certify the
24 Cannon optical scanners. B) The settings on
25 the Cannon optical scanners cause thousands of

1 absentee ballots to be rejected.

2 Number two, as of 6/22/2020, the DeKalb
3 County Board of Voter Registration and
4 Elections had yet to post the results of the
5 2020 presidential preference primary and
6 special elections on to the county website.

7 Three, thousands of absentee ballots were
8 left unattended inside the DeKalb County Board
9 of Voter Registration and Elections Office.

10 Four, a DeKalb County Voter Registration
11 and Elections Board member publicly endorsed
12 and may have a business relationship with a
13 candidate on the DeKalb 2020 primary election
14 ballot. This Board member was also involved
15 in the ballot tabulation process.

16 Number five, the DeKalb County Board of
17 Voter Registration and Elections printed an
18 excess number of blank absentee ballots.

19 Number six, the DeKalb County Board of
20 Voter Registration and Elections poll worker
21 appeared to be creating absentee ballots as
22 opposed to duplicating absentee ballots that
23 were rejected by the optical scanner.

24 And, finally, number seven, the poll
25 manager at a precinct on Memorial Drive lost a

1 ballot scanner data card.

2 Allegations one and three through seven
3 were briefed and covered during the August 1st
4 hearing.

5 Allegation number two was sustained and a
6 new charge related to DeKalb County not
7 providing information to the Secretary of
8 State's Office was sustained. The other
9 question that was posed by a Board member was
10 the number of absentee ballots that were
11 printed.

12 So going through, just as a review,
13 allegation one, this was refuted by Michael
14 Barnes of the Secretary of State's Office who
15 indicated that the Secretary of State does not
16 certify equipment solely the software used on
17 the equipment. He also indicated that the
18 settings were different than the assertions
19 made by the complainant and was sourced and
20 that the settings caused a different margin of
21 error than those alleged.

22 Number two, there was evidence to sustain
23 this allegation, according to (unintelligible)
24 of 3/24/2020 presidential preference primary
25 and special election results were not posted

1 on the DeKalb County Board of Voter
2 Registration and Elections' website in a
3 timely manner. During an interview, she
4 stated that COVID 19 caused the administrative
5 delays. The PPP election date was delayed and
6 incorporated into the 6/09/2020 primary
7 election due to the pandemic. Although some
8 voters had already cast their ballots on
9 3/2020, the remaining voters were allowed to
10 vote on 6/9/2020. A review of the DeKalb
11 County Board of Voter Registration and
12 Elections' website revealed the PPP election
13 results were generated and posted on
14 6/25/2020.

15 On February 4th, 2021, the investigator
16 conducted an interview with DeKalb County
17 election supervisor, Erica Hamilton. Her
18 response to this allegation was several
19 election staff were sick with COVID which
20 directly impacted day-to-day operations. As a
21 result, the election results were not posted
22 on the county website until June 25th, 2020.

23 Number three, this assertion was denied
24 by the election workers. The photos that were
25 provided do not provide evidence of this

1 occurring.

2 Number four, the Board member referenced
3 in this allegation, Samuel Tillman, denied the
4 complainant's allegation. The complainant
5 could not provide the investigator with
6 evidence of her allegation and told him that
7 she would get back to him. However, she never
8 did.

9 Number five, this allegation was denied
10 by DeKalb County election personnel. They
11 indicated that they printed ballots as needed.

12 Number six, this allegation was denied by
13 DeKalb County election personnel. The
14 investigator attempted to interview members of
15 the adjudication duplication team; however, he
16 never received the contact information despite
17 requesting it multiple times via email and in
18 person.

19 Number seven, a poll manager, Jerry
20 Carter, forgot the ballot scanner card in his
21 precinct bag and failed to check it in at the
22 end of the night. After a search, it was
23 found and the data was uploaded. A request
24 was made to Ms. Hamilton to provide Mr.
25 Carter's contact information. However, it was

1 not provided.

2 So based on the investigation, there is
3 evidence to suggest Erica Hamilton and the
4 DeKalb County Board of Voter Registration and
5 Elections are in violation of O.C.G.A. 21-2-
6 421(a) regarding the posting of required
7 information after closing of polls when
8 election staff failed to post the results of
9 the 2020 presidential preference primary and
10 special elections in a timely manner.

11 Also, there is evidence to suggest Erica
12 Hamilton and the DeKalb County Board of Voter
13 Registration and Elections are in violation of
14 O.C.G.A. 21-2-562(b), neglect or refusal to
15 deliver documents when the election office
16 failed to respond to The Georgia Office of the
17 Secretary of State's Investigation Division
18 requests for records regarding the interviews
19 and the individuals that were on the
20 duplication panel.

21 MR. MASHBURN: Questions from the Board
22 for the investigators?

23 (No response.)

24 MR. MASHBURN: Okay. DeKalb County? It
25 should be on.

1 MR. BRYAN: Mr. Chairman, Members of the
2 Board, again, my name is Bennett Bryan on
3 behalf of Erica Hamilton and the DeKalb County
4 elections department.

5 I don't want to sound like a broken
6 record, but what I'm going to say now is going
7 to sound a lot like what I just said before
8 lunch. And that is the -- you know, we
9 generally do not disagree with the facts as
10 stated by the investigator.

11 We do note that there are extenuating
12 circumstances. We did, more or less, had a
13 COVID 19 outbreak among the -- among the
14 election department staff and the protocols
15 and procedures that were in place at that time
16 required us to shut down the department and
17 sanitize it. And ensure that, you know, folks
18 that either tested positive or came in contact
19 with those folks who tested positive couldn't
20 come back into the office until a certain
21 amount of time had past consistent with CDC
22 guidelines. And so because of that, you know,
23 there was -- there was some delays in posting
24 the results from the June 2020 primary.

25 I would say that this is a -- this is a

1 one-off event. I don't -- I've never even
2 heard of this happening before or since. And
3 so I -- I would request either that this be
4 dismissed or, you know, we could receive a
5 letter of instruction.

6 Otherwise, with the allegations that Ms.
7 Hamilton did not provide the requested
8 information including, I guess, the contact
9 information for one of the poll managers.
10 Again, not to sound like a broken record, but
11 it is my understanding from my client that she
12 did direct someone that no longer works there
13 to respond to the Secretary of State's Office
14 and thought that that had happened.
15 Apparently, it had not happened, but it
16 certainly wasn't any sort of intentional, you
17 know, act to avoid communicating with the
18 Secretary of State's Office. It was made in
19 good faith.

20 MR. MASHBURN: Questions for the counsel
21 for DeKalb County?

22 MS. GHAZAL: I'm sorry. I actually don't
23 have questions for you, and I really
24 appreciate you being here. I apologize
25 because I missed this in my notes. I wanted

1 to clarify the information that should have
2 been posted by the county under 21-2-421, was
3 there any information that the county was
4 supposed to post that was not already posted
5 at the state level? Was there -- because we -
6 - because that information is, generally,
7 posted when -- if these are statewide offices
8 or state offices, it would be posted in both
9 places. Is there anything here that was --
10 that the county would have had standing alone?
11 Do you understand my question?

12 INVESTIGATOR BRUNSON: No.

13 MS. GHAZAL: Okay. So these are just the
14 results for the -- for the primary --
15 including the presidential preference primary
16 and the -- the general primary at once. Is
17 there any information on the general primary
18 that -- from the general primary that would
19 have only been posted by the county? Like a
20 county level office that would not have --
21 would not have been posted at the state level
22 at the same time? And you may not have the
23 answer to that. And that's fine. I just
24 didn't -- if --

25 INVESTIGATOR BRUNSON: No. I don't --

1 no.

2 MS. GHAZAL: Is that something that you
3 could answer at the county level? Do you
4 know?

5 MR. BRYAN: I do not know offhand. And I
6 do not want to give you incorrect information.
7 My gut feeling is the answer is no but I want
8 to make sure to check on that so I can give
9 you an accurate answer.

10 MS. GHAZAL: I will also note that some
11 of these practices were changed subsequently
12 to make sure that counties are -- are posting
13 information. And it's been changed twice, in
14 fact, because it was a little too aggressive,
15 but now there's a more reasonable deadline of
16 -- of midnight to post information of ballots
17 cast and the -- the actual vote totals are now
18 required on a different level. So you're --
19 we're operating off an entirely new set of
20 rules now.

21 MR. BRYAN: Yes, that's correct.

22 MR. MASHBURN: Okay. Further questions
23 from the Board?

24 (No response.)

25 MR. MASHBURN: We've got several

1 allegations. I'm inclined to take all of
2 DeKalb County together and then we'll do the
3 claim against Erica Hamilton, individually,
4 separately? Is that --

5 MS. GHAZAL: Well, how many of these
6 allegations were already taken care of in the
7 previous -- because this was -- this was
8 continued, correct?

9 MR. BRYAN: Yes, it was continued.

10 MS. GHAZAL: Did we dispose of any of
11 these allegations already? Or just we
12 continued the entire case?

13 INVESTIGATOR BRUNSON: No. I think it
14 was continued -- the whole case was continued.

15 MS. GHAZAL: Okay. Okay. Thank you.

16 MR. MASHBURN: The allegations that the
17 Secretary of State is -- is recommending that
18 there's sufficient evidence or allegations two
19 -- that's the only one.

20 INVESTIGATOR BRUNSON: Basically, six,
21 because there's a spin off of six because they
22 refused -- they didn't provide information
23 that we requested for allegation number six.

24 MR. MASHBURN: Okay. So we got
25 allegation two and then an allegation --

1 MR. LINDSEY: Well, the reason we don't
2 have sufficient evidence in six, is we weren't
3 given the information.

4 MR. MASHBURN: Yeah.

5 MR. LINDSEY: For you to do your
6 investigation.

7 MR. MASHBURN: So what's --

8 INVESTIGATOR BRUNSON: And then four --

9 DR. JOHNSTON: Well, actually --

10 INVESGIATOR BRUNSON: And then four, too.
11 Also, allegation four, too.

12 DR. JOHNSTON: And five -- four and five.

13 MR. LINDSEY: Yeah.

14 DR. JOHNSTON: Insufficient.

15 MR. LINDSEY: Yeah.

16 DR. JOHNSTON: And six.

17 MR. LINDSEY: Four, five and six.

18 MR. MASHBURN: Four, five and six, you're
19 right.

20 DR. JOHNSTON: And seven.

21 MR. MASHBURN: Thank you.

22 MR. LINDSEY: Seven?

23 INVESTIGATOR BRUNSON: Seven is the --
24 that was the ballot scanner card.

25 DR. JOHNSTON: Right.

1 MR. MASHBURN: Insufficient --

2 DR. JOHNSTON: The conclusion is
3 insufficient evidence to prove violation.

4 MR. MASHBURN: I'm trying to find it here
5 -- I've got allegation two, that's it, right?
6 That's my reading, is there a recommendation
7 with regard to allegation two, and then
8 there's a spinoff against Erica Hamilton. Is
9 that the way the Board reads it?

10 MR. LINDSEY: Yeah

11 DR. JOHNSTON: Uh-huh.

12 MR. MASHBURN: Okay. Dr. Johnston?

13 DR. JOHNSTON: Yeah, that's correct.

14 MR. MASHBURN: Okay. So, the Chair will
15 hear a motion with regard to allegation two,
16 if there is one.

17 MR. LINDSEY: I make a motion for a
18 technical violation with a letter of
19 instruction to DeKalb County. I do understand
20 what you guys were going through. Similar to
21 what I think we've done before. I don't see a
22 reason to send this to the AG. It looks like
23 you guys are doing what you -- are fixing the
24 problem. I think it is a technical violation.
25 So we'll send -- I make a motion for a finding

1 of a technical violation with a letter of
2 instruction to DeKalb County.

3 MR. BRYAN: Thank you, sir.

4 MR. MASHBURN: The motion for a technical
5 violation with a letter of instruction, is
6 there a second?

7 MS. GHAZAL: Second.

8 MR. MASHBURN: Motion's been seconded.
9 Any discussion?

10 (No response.)

11 MR. MASHBURN: Hearing none. We're ready
12 to vote. All those in favor would say aye.

13 THE BOARD: Aye.

14 MR. MASHBURN: All those opposed would
15 say no.

16 (No response.)

17 MR. MASHBURN: Motion carries. Now, the
18 chair will hear a motion with regard to Erica
19 Hamilton's potential violation, if there's a
20 motion to be made.

21 MR. LINDSEY: You know, this gets back to
22 -- and you -- you can't just not give --
23 cooperate with investigators. And, you know,
24 I do understand that she believes that, you
25 know, she turned it over to someone else and

1 that may -- but I don't have any evidence of
2 that. And so for that reason, I would -- as I
3 -- as we have in the previous case, I would
4 refer that to the Attorney General for further
5 investigation.

6 MR. MASHBURN: Okay. There's been a
7 motion to remove -- to send the violation of
8 Erica Hamilton to Attorney General's Office
9 for processing, is there a second?

10 DR. JOHNSTON: Second.

11 MR. MASHBURN: Second. A motion and a
12 second. Any discussion?

13 DR. JOHNSTON: The issue is that we -- we
14 cannot tell if there's a violation of one,
15 three, four, five, six and seven because of
16 lack of evidence provided by Ms. Hamilton.

17 MR. MASHBURN: Thank you. Hearing no
18 further discussion, ready to vote. All those
19 in favor would say aye.

20 THE BOARD: Aye.

21 MR. MASHBURN: All those opposed would
22 say no.

23 (No response.)

24 MR. MASHBURN: Motion carries.

25 MR. BRYAN: Thank you, sir. May we be

1 excused as we have no further business before
2 the Board?

3 MR. MASHBURN: Let me check this agenda
4 and make sure. Let's see, hang on. You are
5 not the respondent in the next case. You were
6 just the venue.

7 MR. BRYAN: That's correct.

8 MR. MASHBURN: So that -- you are clear
9 to go. Thank you for asking.

10 MR. BRYAN: Thank you, sir.

11 MR. MASHBURN: Now, we're going to pick
12 up SB2022-135, Cherokee County. Tab number 27
13 in your notebooks, Board. Secretary of
14 State's Office has the floor.

15 INVESTIGATOR KOTH: Yes. SEB2022-135, on
16 June 22nd, 2022, the Secretary of State's
17 Investigation Division received a complaint
18 from the Cherokee County Director of
19 Elections, Anne Dover. The director reported
20 that she received a complaint from the
21 Cherokee County resident, Ms. Smith.

22 On June 20th, 2022 the resident attended
23 a scheduled basketball game at Holy Springs
24 Elementary School and located in Cherokee
25 County. When he arrived, he observed all the

1 election equipment set up and turned on. The
2 equipment was accessible to all that attended
3 the game. Smith then notified Cherokee County
4 Elections and the Secretary of State's Office.

5 The resident provided pictures he had
6 taken on the day he was at the elementary
7 school. The pictures clearly show the public
8 playing basketball and the unsecured machines
9 that were moved by unknown people. Anne Dover
10 had previously self-reported the incident
11 confirming the machines were not secured.
12 Dover and elections employee, Bradley Meyers,
13 responded to the school to secure the
14 machines. The machines were unplugged and
15 moved off the court by unknown people.

16 Ms. Dover and the Cherokee County school
17 district had set a schedule to allow for the
18 school gym to be used. Cherokee County Parks
19 and Recreation canceled activities for
20 election day, but failed to cancel the
21 activity for early voting. Ms. Dover advised
22 she added the steps at her office and the
23 Cherokee County school system were taken to
24 keep this incident from repeating itself.

25 There is sufficient evidence to support

1 that Anne Dover is in violation of Georgia
2 Election Rule 183-1-12.04.6.

3 MR. MASHBURN: Questions for the
4 Secretary of State?

5 MS. GHAZAL: Yes. My question is: Were
6 these machines still deployed for use after
7 they had been moved by unknown persons?

8 INVESTIGATOR KOTH: Were they what?

9 MS. GHAZAL: Were they used? Were they
10 used for voting without any additional steps
11 after they had been moved? Or were they taken
12 out of service? Do -- do you have that
13 information? And, if not, I'd --

14 INVESTIGATOR KOTH: I don't think I have
15 that information.

16 MS. GHAZAL: If not, we'll ask the county
17 when they're -- when they're prepared.

18 INVESTIGATOR KOTH: I don't have that
19 information in here.

20 MS. GHAZAL: Thank you.

21 MR. MASHBURN: Okay. Further questions
22 for the Secretary of State's Office? Dr.
23 Johnston, questions?

24 DR. JOHNSTON: Questions?

25 (No response.)

1 MR. MASHBURN: Okay. Cherokee County,
2 you're up. It should be on.

3 MS. BRUMBAUGH: Can you hear me?

4 MR. MASHBURN: Yeah.

5 MS. BRUMBAUGH: All right. So to answer
6 your question, when Anne and Bradley got out
7 to the school, they found most of the
8 machines, the seals had not been broken. One
9 or two of the machines, those seals had been
10 broken. The machines who's seals were broken
11 were removed from service.

12 MS. GHAZAL: Okay. Very good.

13 MS. BRUMBAUGH: So on behalf of Ms. Dover
14 and the Cherokee County Board of Elections, I
15 would ask you to dismiss this case. Not
16 because there wasn't a violation of the rule.
17 Not because the rule shouldn't be interpreted
18 as a strict liability rule but because this
19 office is the improper respondent.

20 As most elections' offices do, they use -
21 - they utilize public buildings such as
22 schools for their precinct in-person voting.
23 This particular school had been used, I think,
24 for the previous 16 years. And it was
25 certainly not the only school in Cherokee

1 County that was used for voting.

2 There has been an established procedure
3 that has never once led to a situation like
4 this in which the elections officials bring
5 the machines out. They've set them up. They
6 are in the presence of employees from that
7 building. The employees lock those doors in
8 compliance with the rule. Which says that it
9 has to be a secured facility. So once the --
10 the elections officials have seen that the --
11 the room is locked and the rule has been
12 complied with, they, you know, go to the next
13 precinct, quite frankly, to do the same thing.

14 In this case, there was kind of a comedy
15 of errors where you had multiple county
16 groups. You had the school system, who, you
17 know, has the facility but then the Parks
18 Department which is allowing youth soccer
19 games and -- I guess, this was basketball --
20 basketball games. So as Ms. Dover stated in
21 her statement, it was determined that a staff
22 member from the school district facility's
23 department had cancelled basketball games for
24 election day but had forgotten to cancel the
25 games for Monday night.

1 And so what happened when the games
2 people came over to the school, they have
3 their own keys. And so they were able to
4 unlock this previously secured location. And
5 then we got the -- the -- the machine moved,
6 and one seal broken.

7 Like I said, absolutely strict liability
8 on this kind of situation. We cannot have
9 machines being tampered with, but the proper
10 respondents are either the school district or
11 the facility's department or both. If the
12 Board disagrees with this, the -- you know,
13 what you were -- the signal you were sending
14 to these Boards is that they are responsible
15 for these machines and simply, you know,
16 visualizing that it's been locked and secured
17 is not enough. And now you're putting a lot
18 of the responsibility on them to have cameras
19 or -- or security out there watching these --
20 these precincts and -- and these Boards simply
21 don't have that kind of budget.

22 So we would ask you to dismiss this case
23 as to the Board of Elections and then perhaps
24 review it for an infraction from either the
25 school district or the -- the youth's

1 basketball employees.

2 MR. MASHBURN: Questions from the Board?

3 DR. JOHNSTON: Question. How many people
4 have keys to that room, that gymnasium?

5 MS. DOVER: I'm guessing probably the
6 principal and school administration.

7 MR. MASHBURN: Pull your mic up, please.

8 MS. DOVER: Sorry.

9 MR. MASHBURN: Thank you.

10 MS. DOVER: They met us out there. I
11 live about ten minutes from the school. I
12 called Bradley immediately we got directly
13 over there. The parents were still in there
14 playing basketball. The children were still
15 in there. And we secured the equipment as
16 quickly as we could. But there's likely the
17 school system, Parks and Rec and that's just a
18 guess that would have the keys to the
19 facility.

20 DR. JOHNSTON: Is there any evidence that
21 the machines that had missing security ties
22 had been tampered with?

23 MS. DOVER: I believe there was one seal
24 that was broken. And I have a feeling that
25 was just broken during the moving of the

1 equipment when they -- when they moved it off
2 the court. That's just my guess but we did
3 remove that equipment.

4 MS. BRUMBAUGH: I would also add that
5 they -- I think they had increased
6 communication with these departments and there
7 was not a repeat of this in the November
8 elections. So I think it has been remediated,
9 as well.

10 MR. MASHBURN: This is just as a comment,
11 just being the Board's institutional memory on
12 -- on this one. We had found in some cases
13 that the letter of instruction can be used not
14 only to instruct a particular respondent, but
15 other people that the county might be able to
16 use this letter of instruction to say, hey,
17 school, you know, you need to be really in
18 tune with this. Just I recommend that to --
19 to the Board's consideration, as the Board
20 considers it. So what's the -- what's the
21 thinking of the Board? Is there a motion that
22 -- that a Board member has?

23 MS. GHAZAL: I would move that we find a
24 technical violation and issue a letter of
25 instruction.

1 MR. MASHBURN: There's been a motion to
2 find a technical violation and issue a letter
3 of instruction, is there a second?

4 DR. JOHNSTON: Second.

5 MR. MASHBURN: It's been moved -- there's
6 been a motion and a second. Any discussion?

7 (No response.)

8 MR. MASHBURN: Hearing no discussion.
9 All those in favor would say aye, all opposed
10 say no. All those in favor?

11 THE BOARD: Aye.

12 MR. MASHBURN: I'm sorry. I didn't hear
13 you, Dr. Johnston.

14 DR. JOHNSTON: Aye

15 MR. MASHBURN: Aye.

16 MR. LINDSEY: No.

17 MR. MASHBURN: Okay. Two -- two ayes and
18 one no. Okay. Motion carries.

19 MS. BRUMBAUGH: Like my predecessor, this
20 concludes our business. I think there are two
21 other cases, jurisdiction being here but
22 (inaudible).

23 MR. MASHBURN: There is one case Cherokee
24 County trouble at the polling station, 2022-
25 310, that's y'all's witness might be valuable

1 to the Board. Give us a minute.

2 MS. BRUMBAUGH: Sure.

3 MR. MASHBURN: Give us a minute. Let THE
4 BOARD think about that for a minute.

5 (Brief pause.)

6 MR. LINDSEY: You're talking about 310 or
7 we're on 310?

8 MR. MASHBURN: 310, yeah. Tab number 30.

9 MR. LINDSEY: Can we go ahead and just
10 take that one now?

11 MR. MASHBURN: Yeah, let's just do that.
12 Okay. Thank you. If there's a valid -- if
13 there's an objection. Is there any objection
14 to taking that case now?

15 DR. JOHNSTON: No objection.

16 MS. GHAZAL: No.

17 MR. MASHBURN: No objection, so ordered.
18 So we'll pick up case number 2022-310, tab
19 number 30. Thank you. Thank you, Mr.
20 Lindsey. It's a good suggestion. Secretary
21 of State, tab number 30, you have the floor.

22 INVESTIGATOR KOTH: The Secretary of
23 State's Office opened its investigation
24 following a complaint from the Cherokee County
25 Election regarding voter Michael Soha. The

1 incident occurred at the Sutallee Baptist
2 Church. The investigator received a phone
3 call alerting him that the Cherokee County
4 Sheriff's Office were also on their way. The
5 investigator learned that Soha had taken a
6 photo of his ballot and was attempting to
7 leave the polling location with his ballot.
8 If substantiated, this would be a violation of
9 conduct of voters O.C.G.A. 21-2-413(e).

10 After reviewing the video, interviewing
11 all parties involved and obtaining statements
12 made at the scene and recorded on bodycam
13 video. This investigation determined that
14 there was sufficient evidence to support the
15 violation of Georgia Code 21-2-413(e). Soha
16 admitted to taking a photo and admitted that
17 he was attempting to take his ballot from the
18 polling location. He was issued a citation at
19 the scene. Soha was instructed on how to
20 follow-up with Cherokee County to find out his
21 court date. He was released on a copy of his
22 citation. There's sufficient evidence to
23 support a violation of Georgia Code
24 21-2-413(e).

25 MR. MASHBURN: Questions from the Board?

1 Any questions from the Board for the
2 investigator?

3 (No response.)

4 MR. MASHBURN: Mr. Soha, Mr. Soha, am I
5 pronouncing that correctly? Mr. Soha, Michael
6 Andrew Soha? You in attendance? Michael
7 Andrew Soha?

8 (No response.)

9 MR. MASHBURN: Okay. Do I hear a motion
10 -- a motion from the Board?

11 MS. GHAZAL: I move we refer Mr. Soha to
12 the Attorney General's Office.

13 MR. MASHBURN: There's been a motion to
14 refer this to the Attorney General's Office,
15 is there a second?

16 MR. LINDSEY: Second.

17 MR. MASHBURN: Motioned and seconded. Is
18 there any discussion?

19 (No response.)

20 MR. MASHBURN: Hearing none. We're ready
21 to vote. All those in favor say aye.

22 THE BOARD: Aye.

23 MR. MASHBURN: All those opposed would
24 say no.

25 DR. JOHNSTON: No.

1 MR. MASHBURN: Motion carries, two to
2 one. Okay. Cherokee County, thank you.
3 You're now in the clear.

4 MS. BRUMBAUGH: Thank you.

5 MR. MASHBURN: Thank you for your
6 participation. We appreciate having you.
7 Okay. We'll now move to the top of the
8 violation cases. SB -- SEB28 -- 2018-110,
9 Coweta County Cast Ballot number 17 in your
10 binders. Number 17 in your binders, Board.

11 INVESTIGATOR BRUNSON: Yep. We did that
12 one.

13 MR. MASHBURN: Oh.

14 UNKNOWN SPEAKER: The next is 18.

15 MR. MASHBURN: Standby.

16 UNKNOWN SPEAKER: (Inaudible).

17 MR. MASHBURN: So 2018-110 has been
18 handled. And I just failed to cross it off.
19 So very good, thank you for correcting me.
20 Now, we'll move to SEB2020-001 unless I made
21 another mistake.

22 DR. JOHNSTON: Back on track.

23 MR. MASHBURN: Am I back on track? Thank
24 you, Dr. Johnston. Dr. Johnston will keep me
25 on track. SEB2020-001. That'll be tab number

1 18 in your book, Board.

2 INVESTIGATOR BRUNSON: This complaint is
3 a continuation case. The original complaint
4 was 87 pages in length and looked at absentee
5 ballot irregularities across the state. After
6 that case was continued, there were some
7 issues regarding a couple of individuals from
8 that case. And an individual, Mr. Joe
9 Wallace, we were directed to look into that as
10 it related to an elector, Joan Blackman, who
11 may have committed a violation of Georgia
12 Election Code when she allowed Mr. Wallace to
13 sign her name to the oath on her oath
14 envelope.

15 This investigation -- also, as far as the
16 furtherance of that, wanted to look into Ms.
17 Denise Cobb from the original report of the
18 investigation. So the findings -- the
19 investigation revealed that during the
20 November 6th, 2018 general election that Ms.
21 Blackman requested to receive an absentee
22 ballot in the mail. The absentee ballot was
23 mailed to Ms. Blackman's residence.

24 When Ms. Blackman's absentee ballot was
25 returned to the Henry County Elections office,

1 the absentee ballot was rejected due to a
2 signature mismatch. When Ms. Blackman was
3 interviewed by Investigator Josh Blanchard,
4 she reported, she asked Joe Wallace to sign
5 her name to the oath envelope because his
6 handwriting was neater. When Investigator
7 Archie interviewed Ms. Blackman, she advised
8 Joe Wallace signed her name because she could
9 not write that -- that well.

10 Investigator Archie asked Ms. Blackman if
11 she had a medical problem or a disability that
12 would prevent her from signing her name. Ms.
13 Blackman stated she could sign her name, but
14 it was not that good. She advised that she
15 did not read that well. Investigator Archie
16 interviewed Mr. Wallace and he advised he did
17 not think he signed Ms. Blackman's name on her
18 oath envelope. However, Ms. Blackman spoke up
19 and said: You did. You signed it.

20 Ultimately, Mr. Wallace said that he didn't
21 know why he did it and that Ms. Blackman did
22 not read and write that well.

23 So based on the investigation, we find
24 that Joan Blackman violated O.C.G.A. 21-2-
25 385(a), procedure for voting by absentee

1 ballot.

2 Also, in reference to the previous
3 investigation, an absentee ballot was
4 submitted in the name of Janelle Jones. There
5 is evidence to suggest that Denise Cobb
6 violated O.C.G.A. 21-2-385(a), procedure for
7 voting by absentee ballot. And that during
8 the November 6th, 2018 general election the
9 Burke County elections office received an
10 absentee ballot in the name of Janelle Jones.
11 The absentee ballot was rejected because of a
12 signature mismatch.

13 Denise Cobb stated during an interview
14 she might have voted her son's ballot and
15 signed his oath because he was away at
16 college. And that was a recorded interview by
17 one of our investigators.

18 MR. MASHBURN: Questions from the Board
19 for the investigator?

20 MS. GHAZAL: Yes. Was there any
21 indication that for -- in -- in the first
22 case, Ms. Blackman, that she did not make her
23 own ballot selections? Or did it appear that
24 she made her own ballot selections and it was
25 merely the signature on the envelope that was

1 not hers?

2 INVESTIGATOR BRUNSON: I don't know if we
3 asked that specific question. I'd have to dig
4 into it. It was just that his handwriting was
5 neater, as she indicated. She was honest
6 about it. Even when, you know, he was
7 questioning was kind of, you know, waffling.
8 She said, no, he signed it because I can't
9 write that well. So never indicated that it
10 was his choice. It was just that she wanted
11 him to sign because his handwriting was neater
12 and she couldn't read that well.

13 MS. GHAZAL: Thank you. That's helpful.

14 MR. MASHBURN: Further questions from the
15 Board?

16 (No response.)

17 MR. MASHBURN: Okay. Are Joe Wallace or
18 Joan Blackman here? Joe Wallace? Joan
19 Blackman?

20 (No response.)

21 UNKNOWN SPEAKER: Probably had to go to
22 work.

23 MR. MASHBURN: Okay. So is there a
24 motion from the Board?

25 MR. LINDSEY: I'm going to move that we

1 find a technical violation and send her -- and
2 send them a letter citing the technical
3 violation.

4 MR. MASHBURN: Okay. There's been a
5 motion to -- of a technical violation and send
6 a letter of instruction with regard to the
7 technical violation to both Joe Wallace and
8 Joan Blackman?

9 MR. LINDSEY: Yeah.

10 MR. MASHBURN: Okay. Is there a second
11 for that motion?

12 MS. GHAZAL: Second.

13 MR. MASHBURN: Okay. The motion's been
14 made and seconded. Is there any discussion?

15 DR. JOHNSTON: I would think I would
16 recommend something differently for somebody
17 signing an elector's ballot.

18 MR. LINDSEY: Well, this particular case
19 --

20 DR. JOHNSTON: It's a clear violation.

21 MR. LINDSEY: I understand. But then
22 that's why I do find a technical violation,
23 but in this particular case, they were both in
24 the room. She watched him sign. It was a
25 technical violation, but I don't see any

1 particular evidence of fraud. Now, when we
2 get to Denise Cobb, that's a different
3 situation.

4 MR. MASHBURN: Okay. There's been a
5 motion and a second. We've had discussion.
6 Is there any further discussion?

7 (No response.)

8 MR. MASHBURN: We're ready to vote. All
9 those in favor of finding a technical
10 violation and sending a letter of instruction
11 would vote aye.

12 THE BOARD: Aye.

13 MR. MASHBURN: All those opposed would
14 vote no.

15 DR. JOHNSTON: No.

16 MR. MASHBURN: Motion carries, two to
17 one.

18 MR. MASHBURN: Now, we move to Denise
19 Cobb. Is there a Denise Cobb? Is Denise Cobb
20 here? Okay. Ms. Cobb, are you near a place
21 that has a microphone?

22 MS. COBB: Yes.

23 MR. MASHBURN: There you go. There's a
24 button that you can press that says, maybe
25 talk or speak or. There you go. I see you.

1 Okay. You should be on.

2 MS. COBB: Hi. I attended court the last
3 time. And I told them that -- they
4 interviewed my son, but I never was
5 interviewed. I actually was driving, and my
6 son did call me about the case. And I think
7 somebody was at the house and they asked me
8 had I signed my signature. But I thought that
9 they was talking about on the -- the thing for
10 him to receive the absentee ballot. And I
11 think I was, like, at a -- sorry, I'm a little
12 nervous --

13 MR. MASHBURN: It's okay. Take your
14 time.

15 MS. COBB: I think I was at, like, a
16 grocery store and I signed the signature to
17 receive it, to receive the ballot in the mail.
18 And it was just hard for me, like, to
19 remember, like, everything that happened then.
20 I think it was, like, 2016, 2018 and I was
21 taking care of my mom and I think it was my
22 son's first year of college.

23 So I had two kids in college, I was
24 taking care of my mom and I had two other kids
25 at home. But I remember signing the thing to

1 get his absentee ballot. I remember seeing it
2 and I thought that I threw it in the trash.
3 When I got it because I was -- my intent was
4 to go see my son and daughter in college. But
5 with so much going on at home, I didn't have a
6 chance to take it to them and I know he said
7 that everything was turned in.

8 I don't even know how it got turned in.
9 I was like -- now I wish I would have just
10 ripped it up and throw it in the trash, but I
11 know I did sign for it. It did come to the
12 house. I remember seeing it and I remember
13 saying I was going to take it to him. But I
14 really didn't -- like I said, I didn't have
15 enough time so I just said I would just throw
16 it in the trash, and I really thought that I
17 threw it in the trash until I received the
18 letter saying that I had to come to court.

19 MR. LINDSEY: Who filled out the ballot?

20 MS. COBB: I don't know. I received -- I
21 filled out the thing for him to vote. When I
22 was at the store, they told me that by me
23 being his guardian, his parent and him being
24 in college that I could sign -- I don't even
25 know if I signed my name or his name during

1 the time. But they told me that I could sign
2 and get an absentee ballot and I did that.

3 MR. MASHBURN: I think I remember this
4 case from the previous event. And I think the
5 issue with the Board was struggling with was
6 that -- that you thought you had thrown the
7 ballot in the trash, but the ballot actually
8 got voted.

9 MS. COBB: Yes.

10 MR. MASHBURN: Am I remembering
11 correctly?

12 INVESTIGATOR BRUNSON: Yes. Or it was
13 rejected.

14 MR. MASHBURN: Any questions for Ms. --

15 MR. LINDSEY: Did you interview the son
16 in terms of whether or not he ever filled out
17 the ballot?

18 INVESTIGATOR BRUNSON: Yes. The
19 investigator did.

20 MR. LINDSEY: Did he testify whether or
21 not he ever actually filled out the ballot?

22 MS. COBB: I know he didn't because he
23 was in college. That's why I don't know,
24 like, I know there's people in and out of my
25 house. Because my mom had caregivers while I

1 was working. But I don't know how it got
2 turned in. But I know he couldn't have
3 because he was in college.

4 MR. LINDSEY: Okay. Because here's --
5 here -- here's the -- as opposed to -- to the
6 previous case, in which, you know, the parent,
7 Ms. Blackman, filled out the ballot which she
8 was familiar with the ballot being filled out
9 and -- and everything but here we've got a
10 ballot that was turned in that in which the --
11 the person who was supposed to have cast the
12 ballot says that he didn't fill it out.

13 MS. COBB: Yeah.

14 MR. LINDSEY: So somebody filled out his
15 name.

16 MS. COBB: Yes.

17 MR. LINDSEY: And someone signed it?

18 MS. COBB: Yes.

19 INVESTIGATOR BRUNSON: I have that
20 answer.

21 MR. LINDSEY: What?

22 INVESTIGATOR BRUNSON: I have the answer.

23 MR. LINDSEY: Huh? The ID canceled it.

24 But --

25 INVESTIGATOR BRUNSON: I have the answer

1 to your question.

2 MR. LINDSEY: Yes, please.

3 INVESTIGATOR BRUNSON: Okay. So on
4 February 18th, 2020 the investigator
5 interviewed the elector and he reported he was
6 not a registered voter and he did not vote in
7 the election.

8 MR. LINDSEY: So somebody filled out a
9 ballot for him. That we know. And we know he
10 didn't do it. Or at least he says he didn't
11 do it.

12 INVESTIGATOR BRUNSON: Yeah.

13 MR. LINDESY: And -- but we know that
14 something got filed.

15 INVESTIGATOR BRUNSON: And he said the
16 signature was not his.

17 MR. LINDSEY: And the signature was not
18 his. Which means that we need some further
19 investigation. Because somebody's committing
20 fraud. I mean, this isn't a technical
21 violation in which two people are sitting
22 there and someone says well your signature's
23 better than mine, sign. I think he shouldn't
24 have done it, but at the same time I don't see
25 -- I didn't see fraud in the other case.

1 In this case, I do see fraud. I don't
2 know who did it. But I see some fraud. And
3 so for that reason, I would make a motion to
4 refer to the Attorney General to let's --
5 let's dig deeper and have them find out what
6 the truth is.

7 MR. MASHBURN: Okay. There's been a
8 motion to refer this to the Attorney General's
9 Office, is there a second?

10 DR. JOHNSTON: Second.

11 MR. MASHBURN: There's been a motion and
12 a second. Is there discussion?

13 (No response.)

14 MR. MASHBURN: Hearing no discussion.
15 We're ready to vote. All those in favor would
16 say aye.

17 THE BOARD: Aye.

18 MR. MASHBURN: All those opposed would
19 say no.

20 (No response.)

21 MR. MASHBURN: Motion carries, three,
22 zero. The next case is SEB2020-010, Lee
23 County. It's number 19 in your binder, Board.
24 Secretary of State has the floor.

25 INVESTIGATOR BRUNSON: Okay. This case

1 involves voter registration issues. There's
2 three sets of allegations that we have here.
3 The first allegation, Lee County election
4 supervisor, Veronica Johnson received two
5 voter registration applications from Dougherty
6 County. The voter registrations were
7 originally part of a large stack that was
8 received on February 24, 2020 from the Albany
9 office of the New Georgia Project. The voter
10 registrations were processed but raised
11 concerns due to incorrect zip codes, non-
12 existent street addresses, names, similar
13 handwriting on both applications and incorrect
14 spelling of Leesburg on both applications.

15 Allegation number two, Ms. Johnson
16 received three suspicious voter registration
17 applications submitted by the New Georgia
18 Project. Ms. Johnson believed all three
19 application were submitted by the same New
20 Georgia Project employee or canvasser. Ms.
21 Johnson discovered the canvasser called or
22 text past friends from high school and told
23 them that she needed to use their names on a
24 form at work to make her quota.

25 The canvasser never told the friends that

1 she was registering them to vote. The
2 canvasser filled out the application, often
3 misspelling names, or using maiden names not
4 realizing the friends were married. The
5 canvasser then signed and submitted the
6 applications. All three voter registration
7 applications were dated between August 5th,
8 2021 and August 11th, 2021.

9 And, finally, allegation number three,
10 Lee County election supervisor, Ms. Johnson
11 received a suspicious voter registration
12 application submitted by the New Georgia
13 Project. Ms. Johnson spoke with the
14 applicant, Anika Gardner, who stated she had
15 not filled out a new voter registration
16 application. Ms. Gardner did inform Ms.
17 Johnson about a friend asking her to register,
18 but she declined. Ms. Gardner verified the
19 social security on the new application was
20 incorrect. She also noted how the signature
21 on the application was different from the
22 example on file. The voter registration
23 application was dated September 25th, 2021.
24 So, ultimately, we obtained a subpoena and
25 were able to identify some of the canvassers

1 regarding this case.

2 For allegation one, the canvasser
3 associated with Chastity Skye, voter
4 registration was identified as Joselyn
5 Jackson. Ultimately, the investigator was
6 able to track down Ms. Jackson and interview
7 her who confirmed she worked for the New
8 Georgia Project as a canvasser. She said her
9 duties consisted of completing surveys and
10 voter registration. She claimed that citizens
11 were required to complete the voter
12 registration but were not required to show any
13 type of identification. Later during the
14 interview, Ms. Jackson explained how a
15 canvasser could assist a citizen with
16 completing their voter registration if they
17 were physically disabled. The investigator
18 showed Ms. Jackson the Chastity Skye voter
19 registration and pointed out the issues that
20 came to the attention of Lee County election
21 personnel. He asked her if she completed the
22 voter registration or did the voter complete
23 it? Ms. Jackson indicated that the voter
24 completed the application. He asked her about
25 the signature, and she denied signing the

1 voter registration. The investigator was
2 unable to determine if this individual,
3 Chastity Skye was a real person or even
4 existed. Investigator Blanchard directly
5 asked Ms. Jackson if she ever completed any
6 voter registration which made up names for
7 individuals and she, basically, denied that.
8 He also asked about quotas, and she indicated
9 that they were paid by the number of
10 registrations that were completed per day.

11 The canvasser associated with a Tasha
12 McDowell voter registration was identified as
13 Courtney Bailey. Mr. Bailey was hired in
14 September 2020. And he had previously worked
15 dating back to June 2018. The investigator
16 was able to interview Mr. Bailey who also
17 confirmed he worked for the New Georgia
18 Project as a canvasser. He explained his
19 duties. And once confronted with the
20 application for Tasha McDowell, he indicated
21 that he did not fill out the information. And
22 the information was filled out by the citizen.
23 Investigator Blanchard asked him point blank
24 if he completed the voter registration for
25 anyone who doesn't exist or fraudulently

1 completed any voter registration. He replied
2 that he did not.

3 Allegation two, the canvasser associated
4 with Ashley Elder, Tracy Lassiter (ph) and
5 Rasheema (ph) Sperling voter registration was
6 identified as Monteresa (ph) Davis. Ms. Davis
7 was hired by the New Georgia Project July 7th,
8 2021. But is no longer employed with the
9 organization. The investigator did his due
10 diligence trying to track down Ms. Davis. He
11 arranged for an interview, but she did not
12 show up for that interview. He attempted to
13 follow-up, but all attempts were unsuccessful.

14 In the original report, all three voters
15 indicated that the voter registrations were
16 completed without their knowledge or consent.
17 Investigator Blanchard attempted to contact
18 all three voters but was only able to
19 interview Rasheema Sperling. The two other
20 voters, Ashley Wiley, a/k/a Ashley Elder and
21 Tracie Lassiter, a/k/a Tracy Lassiter. Tracie
22 with an I-E in the first place. Tracy with a
23 Y for the a/k/a. Both spoke with Lee County
24 election supervisor, Veronica Johnson. Both
25 Ms. Wiley and Ms. Lassiter's conversation with

1 Ms. Jones are summarized in the original
2 complaint documentation. Basically,
3 indicating that they did not give consent for
4 these applications.

5 And, finally, allegation three, the
6 canvasser associated with Anika Gardner voter
7 registration was identified as Jeremiah Irby
8 (ph). Mr. Irby was hired by the New Georgia
9 Project on August 4th, 2021. Terminated
10 October 19th, 2021. In the original report,
11 Jeremiah Irby had already been identified as a
12 potential respondent by Anika Gardner. In the
13 interview, she remembered declining Mr. Irby's
14 request to complete a voter registration.

15 So, ultimately, based on the
16 investigation there is a couple of violations
17 against Monteresa Davis, O.C.G.A. 21-2-
18 562(a)(1), fraudulent entries, unlawful
19 alteration or destruction of entries; unlawful
20 removal of documents, neglect or refusal to
21 deliver documents when she completed three
22 fraudulent Georgia voter registration
23 applications while employed with the New
24 Georgia Project. All three applications were
25 completed without the knowledge or consent of

1 the voters and also there's evidence to
2 suggest that Jeremiah Irby violated O.C.G.A.
3 21-2-562(a)(1) for the very same thing.

4 MR. MASHBURN: Questions for the
5 investigator?

6 MR. LINDSEY: Let's go back to allegation
7 number one, real briefly. The canvasser was
8 Jocelyn Jackson; is that right?

9 INVESTIGATOR BRUNSON: Yes. Yes, sir.

10 MR. LINDSEY: And the concern -- I'm not
11 sure if I understood you correctly. Was that
12 one of the things -- one of the application
13 that was turned in was for a Chastity Skye by
14 Ms. Jackson, but there is no Chastity Skye?

15 INVESTIGATOR BRUNSON: That's correct.

16 MR. LINDSEY: Okay.

17 INVESTIGATOR BRUNSON: She cannot be
18 found.

19 MR. LINDSEY: Then why are we are not
20 dealing with a potential violation for Jocelyn
21 Jackson?

22 INVESTIGATOR BRUNSON: Because she --
23 because she claimed that Ms. Jackson filled
24 out the application. So her assertion is that
25 the citizen filled out the erroneous

1 application that she didn't.

2 MR. LINDSEY: Do you have any evidence of
3 that?

4 INVESTIGATOR BRUNSON: I couldn't hear
5 you.

6 MR. LINDSEY: Do you have any evidence of
7 that? I guess what I'm -- I'm asking you at
8 this point, you know, with, you know, with
9 kind of a -- of a referral service for -- for
10 a possible violation and clearly somebody did
11 something there. And that someone turned in a
12 fraudulent application. Whether or not it was
13 Ms. Jackson or somebody else. And -- and my
14 question is: Why should we not send that to
15 the Attorney General, assuming that this Board
16 does so for further investigation on that
17 issue, as well? I'm asking why -- why -- why
18 you didn't want to refer that one.

19 INVESTIGATOR BRUNSON: For the two? So
20 in both of those instances --

21 MR. LINDSEY: No, for Ms. Jackson. For
22 Ms. Jackson.

23 INVESTIGATOR BRUNSON: Okay. We'll deal
24 with her first. There was no -- so,
25 obviously, the person doesn't exist is what we

1 believe.

2 MR. LINDSEY: Yeah.

3 INVESTIGATOR BRUNSON: So it appears that
4 this application was fraudulent but what she's
5 saying when she was interviewed is that this
6 individual's the one that filled it out.

7 MR. LINDSEY: Which individual?

8 INVESTIGATOR BRUNSON: The citizen. The
9 citizen this Chastity. She's saying that a
10 Chastity Skye filled out the application when
11 it was a fraudulent application.

12 MR. LINDSEY: So she's claiming that
13 somebody sat in front of her --

14 INVESTIGATOR BRUNSON: Purporting to be
15 Chastity Skye filled out an application with
16 erroneous information on it.

17 MR. LINDSEY: I understand.

18 INVESTIGATOR BRUNSON: And that she
19 didn't, she didn't do it. Is, basically, she
20 denied filling it out. And we couldn't prove
21 that she did fill it out. That's the --
22 that's the issue.

23 MR. LINDSEY: But we know that she turned
24 it in.

25 INVESTIGATOR BRUNSON: Yes.

1 MR. LINDSEY: Correct?

2 INVESTIGATOR BRUNSON: Yes. She did turn
3 it in.

4 MR. LINDSEY: And we knew that she had a
5 financial motive for turning in, basically,
6 she was rewarded for the number of -- of
7 applications she turned in.

8 INVESTIGATOR BRUNSON: Exactly. So it's
9 something that we -- we couldn't prove. We --
10 we believe that, you know, it's likely that
11 this was a fictitious application for an
12 individual that, you know, doesn't exist. But
13 she indicated that she didn't fill it out.
14 She didn't sign it. And because of that.

15 MR. LINDSEY: Oh, she didn't sign the
16 application, as well.

17 INVESTIGATOR BRUNSON: Exactly.

18 MS. GHAZAL: Am -- am I reading this
19 correctly that she was employed for five
20 weeks?

21 INVESTIGATOR BRUNSON: That --

22 MS. GHAZAL: It -- according to the
23 findings, it looks like Ms. Jackson was
24 employed for about five weeks; is that
25 correct? Is that accurate?

1 INVESTIGATOR BRUNSON: Yes. January 8th,
2 2020 to February 18th, 2020.

3 MS. GHAZAL: Roughly. I didn't do the
4 math. Thank you.

5 MR. MASHBURN: If you're inclined, Ms.
6 Jackson doesn't have notice that this hearing
7 is about her.

8 MS. GHAZAL: Uh-huh.

9 MR. MASHBURN: So we would need to
10 continue that part of the case and notice her
11 --

12 MS. GHAZAL: That's right.

13 MR. MASHBURN: -- and we can't -- we
14 can't send out an order --

15 MR. LINDSEY: I understand. I
16 understand. I'm -- I -- I know where I'm
17 going.

18 MR. MASHBURN: I'm sorry.

19 DR. JOHNSTON: Question --

20 MR. MASHBURN: I should be more patient.
21 I'm sorry.

22 MR. LINDSEY: Yeah.

23 DR. JOHNSTON: -- for the investigator,
24 is there a record kept of who these employees
25 registered to vote. Is that kept by the

1 organization or presented to the Secretary of
2 State's Office?

3 INVESTIGATOR BRUNSON: Could you repeat?

4 DR. JOHNSTON: Is there -- is there
5 recording keeping of these voter registration
6 groups as to who they -- who they are
7 providing voter registrations for?

8 INVESTIGATOR BRUNSON: Well, we obtained
9 that information after subpoenaing the group.
10 So initially we had some issues with getting
11 that information --

12 DR. JOHNSTON: Right.

13 INVESTIGATOR BRUNSON: -- as to who were
14 the canvassers for particular voters -- or for
15 for particular registers. So we had to end up
16 doing a subpoena in order to obtain that
17 information.

18 DR. JOHNSTON: Right. So I'm looking for
19 some accountability for fictitious
20 registrations. If a voter registration group
21 is submitting voter registrations and submits
22 fictitious registrants, applicants, there
23 needs to be some accountability for that. And
24 certainly this Board needs to look into some
25 more -- some better oversight of these --

1 these private organizations.

2 MS. GHAZAL: Organizations would need to
3 be noticed. Then -- if -- if we're talking --
4 if -- if we're going to be talking about the
5 organization, then I would move that we
6 continue the entire case and -- and provide
7 notice.

8 DR. JOHNSTON: Provide notice to the New
9 Georgia Project?

10 MS. GHAZAL: The -- to -- to the
11 organization if that's -- if that's what we're
12 talking about here. Because right now the
13 only respondents here are the individual --
14 the individuals who've been named.

15 DR. JOHNSTON: Correct. As I recall, we
16 had a very -- a very large complaint several
17 months ago that included many organizations
18 that sent voter registrations or absentee
19 ballot applications and New Georgia Project
20 was a frequent named organization that sent
21 those applications to underaged people, to
22 dead people, to people that do not live in the
23 state of Geogia. So maybe we should continue
24 this.

25 MS. GHAZAL: Yes.

1 DR. JOHNSTON: And -- and ask for a
2 response from the New Georgia Project.

3 MR. MASHBURN: What -- if I might --
4 let's -- let's handle Davis and Irby now and
5 then we can send it back for -- with another -
6 - maybe there's additional charges that need
7 to be made; if that's the pleasure of the
8 Board?

9 MR. LINDSEY: Yeah. I would move to
10 refer --

11 MR. MASHBURN: Wait. Is Ms. Davis or Mr.
12 Irby here? Is Ms. Davis or Mr. Irby here?
13 Ms. Davis? Mr. Irby?

14 (No response.)

15 MR. MASHBURN: Okay. Okay.

16 MR. LINDSEY: I'm sorry. Thank you.
17 Move to refer Monteresa Davis and Jeremiah
18 Irby to the -- to the Attorney General.

19 MR. MASHBURN: There's been a motion to
20 refer Monteresa Davis and Jeremiah Irby to the
21 Attorney General's Office for processing. Is
22 there a second?

23 DR. JOHNSTON: Second.

24 MR. MASHBURN: There's been a motion and
25 a second. Any discussion?

1 (No response.)

2 MR. MASHBURN: Okay. All those in favor
3 would say aye.

4 THE BOARD: Aye.

5 MR. MASHBURN: All those opposed would
6 say no.

7 (No response.)

8 MR. MASHBURN: Okay. Motion carries.
9 And let's have a separate motion to send this
10 back for further investigation as to whether
11 additional individuals or organizations should
12 be charged. I guess I've just made a motion.
13 Is there a --

14 DR. JOHNSTON: Second.

15 MR. MASHBURN: Is there a second?

16 DR. JOHNSTON: Second.

17 MR. MASHBURN: There's been a motion and
18 a second. Any discussion?

19 (No response.)

20 MR. MASHBURN: All those in favor would
21 say aye.

22 THE BOARD: Aye.

23 MR. MASHBURN: All those opposed would
24 say no.

25 (No response.)

1 MR. MASHBURN: That motion carries.
2 Okay. We'll move on to the next case which I
3 show as SEB2020-078, DeKalb County, illegal
4 campaigning, number 22 in your packet, Board
5 members. We've got the right case. Secretary
6 of State's Office, the floor is yours.

7 INVESTIGATOR BRUNSON: Okay. This is
8 another continued case from the previous
9 hearing in August. And I believe that this
10 was sent back because there was an individual
11 that was listed that needed an opportunity to
12 respond, Mr. Benny Franklin. I can re-brief
13 the case, just to provide the facts.

14 On August 11th, 2020, two photographs
15 were provided to the Secretary of State's
16 Office that showed a male in a gray pickup
17 handling some small materials, possibly
18 flyers, and there's photos on these flyers.
19 The flyers say, vote for Andrew Bell. And
20 quote, bringing integrity back.

21 The investigator spoke with Mr. Bell and
22 he indicated that a Mr. Benny Franklin was
23 collecting signatures for him to get him, Mr.
24 Bell, on the ballot. Viewing photos in the
25 file, the subject was within a 150 feet from

1 the school and, ultimately, there was evidence
2 to suggest that Mr. Bell and Mr. Franklin
3 violated O.C.G.A. 21-2-414(a)(1) as Bell
4 directed Franklin to collect signatures for a
5 nomination petition within 150 feet of the
6 outside edge of an established polling place.

7 So there was further investigation done
8 on this because originally Mr. Franklin was
9 not positively identified. Ultimately, the
10 investigator was able to track down Mr.
11 Franklin. And he, basically, corroborated the
12 story that we had initially. He was
13 cooperative during the interview. He
14 confirmed he was wearing a reflective vest
15 standing by the truck that belonged to Mr.
16 Bell.

17 He confirmed he was collecting signatures
18 for Mr. Bell. And Mr. Franklin stated he was
19 unaware of the 150 foot election rule. That
20 prohibited campaign activities within a
21 certain distance. And this interview was
22 recorded, just to -- just to let you know that
23 part of it. And so that's it. That's,
24 basically, the case is that he was collecting
25 signatures for Mr. Bell within 150 feet.

1 MR. MASHBURN: Was the issue the last
2 time we had the investigators had not spoken
3 to Mr. Franklin. Is that?

4 INVESTIGATOR BRUNSON: No, they spoke --
5 they spoke with him. But it was notice. I
6 guess he didn't receive notice in sufficient
7 time. So now this is kind of the second go
8 around to give him sufficient opportunity to
9 respond.

10 MR. LINDSEY: That's right.

11 MR. MASHBURN: Questions for the
12 investigator?

13 (No response.)

14 MR. MASHBURN: Mr. Bell, I see you're
15 here. Is Benny Franklin here? Benny
16 Franklin? Benny Franklin?

17 (No response.)

18 MR. MASHBURN: Okay. Mr. Bell, the floor
19 is yours.

20 MR. BELL: Okay. We'll start with the
21 first thing first. I'm a little more prepared
22 this time. But the truth is still the truth.
23 But let's go with the law. This is a
24 misdemeanor. So according to the Georgia Code
25 17-3-1(e) prosecution for a misdemeanor shall

1 be commenced within two years after the
2 commission of the crime. Well, you -- even if
3 there was a crime, you guys didn't notify
4 Benny Franklin until September. Three years
5 after the incident. So really just -- just
6 this body, nor any other body has jurisdiction
7 over this alleged crime.

8 As far as me, you guys did notify me that
9 -- on the letter states it's postmarked
10 November the 19th, 2021. And I believe it's
11 dated November 17th 2021 and it was supposed
12 to be a Zoom meeting. I was told that I
13 didn't have to attend that the case may be
14 heard in the future. Well, the future ended
15 up being June of 2023. And the Georgia Code
16 states 17-3-3, if an indictment is found
17 within the time period for Code -- in Code
18 section 17-3-1 or 17-3-2 or other applicable
19 statute and is quashed, which that's what you
20 guys did, or is no later prosecute -- whatever
21 you guys are the lawyers -- answer the
22 limitations shall be extended six months from
23 the time the first indictment is quashed or
24 nolle prossed -- entered.

25 So if it was November 17th or -- 19th the

1 letter is dated 2021 it was postmarked the
2 19th. Six months would be May 2022. You guys
3 didn't notify me until June 2023. So well
4 over the six months. Now, going on the other
5 law that supposedly we violated. Okay. I
6 wasn't even there. I have the -- my -- my
7 cell phone statement here on that date I was
8 contacted to come to Peach Crest Elementary at
9 1:42 by DeKalb County in the afternoon. I
10 have my cell phone statement to prove that.

11 So I couldn't have been there. He says,
12 one black male and a pickup truck. So I don't
13 know what we -- and I don't know -- in a gray
14 -- gray Toyota Tacoma. Like I told you the
15 last time, I don't own a gray Toyota Tacoma.
16 Okay.

17 And so the law -- let's go with the law.
18 It says, no person shall solicit votes in any
19 manner or by any means or method. Nor should
20 any person distribute or display any campaign
21 material. Nor shall any person solicit
22 signature for any petition, nor shall any
23 person other than the election officials
24 discharging their duties establish, or set up
25 tables or booth on any day in which ballots

1 are being cast.

2 Last time I checked, Toyota -- well
3 whatever -- like I said, I don't even think
4 that was my truck. But even if it was my
5 truck, the truck can't violate the law. It
6 has to be a person. So it doesn't matter if
7 my truck was parked in the front door. The
8 truck can't violate the law. You have to
9 prove -- not with the county -- because that -
10 - they aren't -- they are not campaign
11 materials because I wasn't on the ballot. So
12 you have to prove that Benny Franklin
13 petitioned somebody within a 150 feet of the
14 building and there is no evidence to show that
15 he was petitioning anywhere within 150 feet of
16 the building. As a matter of fact, the
17 complainant, and you guys letter from November
18 2021, you said, Kylie (ph) Jenner, the
19 original complainant for this case declined to
20 provide a written statement regarding the
21 original complainant. So you guys have just
22 been making this stuff as you go. And you
23 said you interviewed Benny Franklin over the
24 phone. Do you even know that was him?

25 UNIDENTIFIED SPEAKER: Right.

1 UNIDENTIFIED SPEAKER: Right.

2 MR. BELL: How do you know that was Benny
3 Franklin?

4 MR. MASHBURN: Please address the Board,
5 thank you.

6 MR. BELL: How does he know it was Benny
7 Franklin? How can a truck violate the law?
8 Where's the proof that he even collected one
9 signature that day or petition anybody? Do
10 you have anybody saying Benny Franklin
11 petitioned them?

12 MR. MASHBURN: Let me -- let me ask you
13 this: Do you know why Benny Franklin was
14 there?

15 MR. BELL: I don't even know if he was
16 there because the picture you guys showed me
17 the last time, that doesn't look like the guy
18 that I know as Benny Franklin. Can you show
19 me -- show everybody the picture again.

20 MR. MASHBURN: Now, the thing that I
21 remember about this case from last time is
22 that there was a question about the Toyota,
23 the gray pickup, right?

24 MR. BELL: Okay.

25 MR. MASHBURN: And whether it was your

1 gray pickup or not, right?

2 MR. BELL: Okay.

3 MR. MASHBURN: Did I remember correctly?

4 MR. BELL: The guy keeps saying that --
5 your letter says that I own a gray Toyota
6 Tacoma. We went over and over -- the member
7 at the end she -- she's knew that I was saying
8 a pirate, but it's pyrite, she knew that. I
9 heard when I reviewed it, the tape, and that
10 the other gentleman, Mr. Lindsey, without any
11 evidence I heard him on the mic say: It's my
12 truck. So I don't know how fair you guys
13 could be. But he said it was my truck with no
14 evidence.

15 MR. MASHBURN: Well, didn't -- didn't
16 they have a picture of your truck in your
17 driveway?

18 MR. BELL: At my house. I'm saying --
19 this is a -- an election violation so, yeah, I
20 have a truck that I own. A Pyrite a 2008
21 Toyota Tundra that's parked in front of my
22 house. You guys should show that it was at
23 the polling station which you've never done
24 yet.

25 MR. MASHBURN: Okay. So your -- your

1 argument is that there's no connection between
2 you and the polling place, right?

3 MR. BELL: There's no evidence of me at
4 the polling place, like I told you. DeKalb
5 County called me at 1:42 to come to Peach
6 Crest Elementary. That's when I arrived.

7 MR. MASHBURN: Okay. And you weren't a
8 candidate on -- on the ballot during that
9 election?

10 MR. BELL: No. Because in this state, we
11 have a Jim Crow law that it was -- it's been
12 around since 1943, that if you're an
13 independent, you have to collect five percent
14 of the registered electives in your district.
15 Which is a nearly impossible task.

16 MR. MASHBURN: So was Ben Franklin --

17 MR. BELL: And I tried to do it.

18 MR. MASHBURN: -- so was Benny Franklin
19 collecting signatures for a petition to get
20 you on a ballot?

21 MR. BELL: I don't know what he was doing
22 on that particular day. All I know is when I
23 got the call from DeKalb County at 1:42 p.m.,
24 I went to the school to see what -- what the
25 issue was.

1 MR. MASHBURN: Did they -- did you ask
2 them why they called you?
3 MR. BELL: Yeah. They told me --
4 MR. MASHBURN: Why'd they call?
5 MR. BELL: -- that Kylie Jenner --
6 MR. MASHBURN: If it wasn't your truck?
7 And he wasn't doing anything for you. How did
8 you even --
9 MR. BELL: I didn't say that, you said
10 that he wasn't doing anything for me. I've
11 already stated that Benny Franklin was
12 collecting petitions for me for my nomination
13 petition. I said that you guys have not shown
14 that he -- you don't even have a clipboard -
15 - you don't even have the nomination petition
16 in his hand, anything to show that he was
17 collecting nomination petitions. Only thing
18 you said is two photographs were provided. A
19 black male handing out small materials. So if
20 he's handing out something -- that's what your
21 guy said, the investigator, if he's handing
22 out something, he's not collecting anything.
23 UNIDENTIFIED SPEAKER: Right.
24 MR. MASHBURN: Okay. So he's canvassing?
25 MR. BELL: Well, if -- we're going to go

1 to with the law. I don't know where -- what -
2 - what you described; your complainant didn't
3 write a statement. Like I said, you guys are
4 making it up as you go along.

5 MR. MASHBURN: Wasn't he collecting
6 signatures for you to get on the ballot?

7 MR. BELL: I'm saying --

8 MR. MASHBURN: Yes or no.

9 MR. BELL: -- I'm saying -- they're
10 saying --

11 MR. MASHBURN: No. I want to know what
12 you said.

13 MR. BELL: I wasn't there.

14 MR. MASHBURN: All right. So we're back
15 to my original question. You don't have
16 anything to do with this guy?

17 MR. BELL: No. I didn't say that.

18 MR. MASHBURN: Your truck's not there.
19 He's not collecting anything for you. He's
20 not getting petitions for you. Of all the
21 people in the world, how did DeKalb County
22 police pick you out?

23 MR. BELL: DeKalb County police?

24 MR. MASHBURN: Or whoever.

25 MR. BELL: I never been -- DeKalb County

1 police never encountered me.

2 MR. MASHBURN: Who called you?

3 MR. BELL: DeKalb County --

4 MR. MASHBURN: Okay. How did DeKalb
5 County --

6 MR. BELL: -- Election Board.

7 MR. MASHBURN: How did DeKalb County know
8 to call you among all the people in the world?

9 MR. BELL: Okay. Let me first say this,
10 everything you just said, I didn't say any of
11 that.

12 MR. MASHBURN: Okay.

13 MR. BELL: So let me just -- let me just
14 make that a point.

15 MR. MASHBURN: Now, we're back it up and
16 get it straight.

17 MR. BELL: Okay. Let's get it straight.

18 MR. MASHBURN: (Inaudible).

19 MR. BELL: Let's -- you know, like what
20 that campaign material say? Bringing
21 integrity back. Let's bring some back. Okay.
22 So first of all, I never said I didn't know
23 Benny Franklin.

24 MR. MASHBURN: Okay.

25 MR. BELL: I never said that he wasn't

1 supposed to be collecting petitions.

2 MR. MASHBURN: All right. So let's
3 handle this one at a time. Do you know Benny
4 Franklin?

5 MR. BELL: I know a Benny Franklin. I
6 don't know if that's Benny Franklin that he
7 talked to over the phone.

8 MR. MASHBURN: Okay. Let's move to the
9 next one. Was Benny Franklin collecting
10 petitions for you or signatures on a petition?

11 MR. BELL: The Benny Franklin that I know
12 was supposed to be collecting petitions.

13 MR. MASHBURN: Okay. And -- all right.
14 So let's keep going. You're doing good. Keep
15 going.

16 MR. BELL: No, you go.

17 MR. MASHBURN: Okay.

18 MR. BELL: Now you're asking me a
19 question --

20 MR. MASHBURN: Okay.

21 MR. BELL: -- instead of --

22 MR. MASHBURN: -- so we're --

23 MR. BELL: You're saying things I didn't
24 say.

25 MR. MASHBURN: Well, I just want to get

1 it straight.

2 MR. BELL: Okay.

3 MR. MASHBURN: So -- so Benny Franklin's
4 driving a truck that you say it's your truck
5 or not your truck?

6 MR. BELL: Benny Franklin, as far as I
7 know, wasn't driving a truck.

8 MR. MASHBURN: Okay.

9 MR. BELL: He said that -- you -- your
10 investigator said that Benny Franklin said I
11 was driving the truck. Now, how can I be
12 driving the truck if I'm not even there?

13 MR. MASHBURN: Okay. I'm going to try it
14 one more time now. This is my third try, so -
15 -

16 MR. BELL: Okay. (Inaudible).

17 MR. MASHBURN: Of all the people in the
18 world, billions of people in the world, why
19 would DeKalb County call you?

20 MR. BELL: I don't know. You'd have to
21 ask DeKalb County.

22 MR. MASHBURN: Okay. Questions from the
23 Board?

24 MR. LINDSEY: What evidence do we have
25 that the -- that the -- the gentleman's truck

1 was at the polling place?

2 INVESTIGATOR BRUNSON: We have pictures.

3 MR. LINDSEY: You have pictures at the
4 polling place and pictures at his house,
5 correct?

6 INVESTIGATOR BRUNSON: Pictures at the
7 polling place.

8 MR. LINDSEY: Yeah.

9 INVESTIGATOR BRUNSON: Yes.

10 MR. LINDSEY: We also have a picture at
11 his house with the pickup truck, right?

12 INVESTIGATOR BRUNSON: Yeah. And then we
13 have a statement that Mr. Bell provided to our
14 investigator and the statement that Benny
15 Franklin provided to our investigator.

16 MR. BELL: So -- which statement is that?

17 MR. MASHBURN: Let's see the pictures --
18 bring out the two pictures of the truck --

19 MR. BELL: Yeah. Because I --

20 MR. MASHBURN: -- and the polling place.

21 MR. BELL: -- never was provided --

22 MR. MASHBURN: Hang on.

23 MR. BELL: -- with -- I know you guys
24 have 11 exhibits.

25 MR. MASHBURN: Hang on.

1 MR. BELL: I've never been provided with
2 any of that information.

3 MR. MASHBURN: Hang on.

4 MR. BELL: Like DeKalb County -- you said
5 the attorney Brian Bennett, you said oh, we
6 supplied you with that in your package. I
7 never have received any of the exhibits, any
8 of the information. I'm just hearing, like,
9 you know, this -- I seen Exhibit one, two,
10 three, four, 11. Why was I not provided with
11 these exhibits?

12 MR. MASHBURN: This is an administrative
13 hearing and the nature of a probable cause
14 hearing to find out whether or not it's more
15 likely than not that a violation of the
16 election codes. So there's no indictment,
17 there's no criminal statutes, there's --
18 there's -- none of that involved.

19 MR. BELL: Well, I just said, you know,
20 the statute is up.

21 MR. MASHBURN: Yeah. I appreciate your
22 research.

23 MR. BELL: Can I see the pictures?

24 MR. LINDSEY: Yeah.

25 MR. MASHBURN: Hang on.

1 MR. LINDSEY: There's also a picture --
2 wasn't there also a picture of -- a picture of
3 a pickup truck in the gentleman's yard?
4 Wasn't it?

5 INVESTIGATOR BRUNSON: Yes.

6 MR. BELL: So you guys got the vehicle
7 expert? I mean, I mean, you guys got an
8 expert on vehicles comparing a pickup truck in
9 two different locations? Where -- where did
10 you get that training?

11 MR. LINDSEY: Hold on. Hold on. I
12 appreciate the commentary. Hold on.

13 MR. BELL: I would like to see the
14 pictures.

15 MR. LINDSEY: Yeah. I'm going to. I'm
16 going to. Just a minute.

17 MR. BELL: This is the American justice
18 system as we know it now.

19 UNKNOWN SPEAKER: (Inaudible).

20 MR. BELL: This is it. I know people who
21 died for the flag. This is what we got now.

22 UNKNOWN SPEAKER: (Inaudible).

23 MR. BELL: This is it. This is what we
24 got now. We just making it up as we go. So
25 might as well keep going.

1 (Brief pause.)

2 MR. BELL: Like I said, the law clearly
3 states no person -- so even if it was my
4 vehicle --

5 MR. LINDSEY: Come here.

6 MR. BELL: -- it wouldn't make any
7 difference.

8 MR. MASHBURN: Come on up, Mr. Bell.

9 MR. LINDSEY: First, I'm just trying to
10 establish the vehicle, okay?

11 MR. BELL: The vehicle is not a person.

12 MR. LINDSEY: I heard you. I'm going to
13 go around.

14 MR. BELL: Is a vehicle a person now?

15 MR. LINDSEY: You're going to answer my
16 question. Okay.

17 MR. BELL: I'm trying to.

18 MR. LINDSEY: No, you're going to answer
19 my question here.

20 MR. BELL: You said it was my truck the
21 last time.

22 MR. LINDSEY: I did. All right. This
23 was the truck at the polling place. Can the
24 Secretary of State's investigator come over
25 here? Make sure we have this right.

1 INVESTIGATOR BRUNSON: (Approaches the
2 Board.)

3 MR. LINDSEY: All right. Let's start
4 with the -- the -- this part. If you don't
5 mind, okay? Is this your truck?

6 MR. BELL: I'm only going to say, this is
7 probably my truck, the one in front of my
8 house.

9 MR. LINDSEY: Okay.

10 MR. BELL: This could be off a Toyota
11 dealership lot. This could be his truck.
12 This guy that's standing there.

13 MR. LINDSEY: All right. All right. All
14 right. All right.

15 MR. BELL: Yeah. I'm not -- the one at
16 my house.

17 MR. LINDSEY: That's the truck at your
18 house, right? Is that the truck at your
19 house?

20 MR. BELL: I don't know.

21 MR. LINDSEY: Is that your license plate?

22 MR. BELL: That's my license plate, yep.

23 MR. LINDSEY: All right. So that's the
24 truck at your house? Now, is it your
25 contention, I want to make sure, is it your

1 contention that this pickup truck, now, this
2 is the pickup truck (indicating) that was at
3 the -- at the polling place.

4 MR. BELL: You guys say --

5 MR. LINDSEY: Hold on. Hold on. Hold
6 on.

7 MR. BELL: -- is at the polling place.

8 MR. LINDSEY: Hold on.

9 MR. BELL: I don't know what time of day
10 that is.

11 MR. LINDSEY: I'm not asking you. I'm
12 asking the -- the --

13 INVESTIGATOR BRUNSON: Yes.

14 MR. LINDSEY: -- investigator here.

15 INVESTIGATOR BRUNSON: Yes.

16 MR. LINDSEY: Okay. This is the poll --
17 all right. Is that Mr. Bell?

18 MR. MASHBURN: No.

19 MR. BELL: That -- that's not me.

20 MR. LINDSEY: Oh.

21 MS. GHAZAL: Mr. Franklin.

22 MR. BELL: -- that's not me.

23 MR. MASHBURN: Mr. Franklin.

24 MR. LINDSEY: Is that Mr. Franklin?

25 MR. BELL: I don't know. I can't tell.

1 The guy's got a mask on. And a -- and a -- I
2 don't know who that is -- and a hat. I don't
3 know who that is.

4 MR. LINDSEY: All right. So you don't
5 know who that is. But -- but -- but it's your
6 contention -- just want to make sure, your
7 contention that this pickup truck in these two
8 pictures is not your pickup truck. Is that
9 what you're trying to tell me? Tell us?

10 MR. BELL: How can I know?

11 MR. LINDSEY: I'm asking.

12 MR. BELL: I don't know. I don't know.
13 I can't -- it's no distinguishing marks or
14 anything. You got a guy with a mask on and a
15 hat.

16 MR. LINDSEY: I'm talking about the
17 pickup truck.

18 MR. BELL: And the pickup truck. I don't
19 know if that's the same pickup truck.

20 MR. LINDSEY: That's what I'm saying.
21 Are you contending it's your pickup truck --

22 MR. BELL: I'm saying --

23 MR. LINDSEY: -- whoa, whoa, whoa, whoa,
24 whoa. Whoa. I'm asking a question.

25 MR. BELL: I'm trying to answer the

1 question.

2 MR. MASHBURN: Let him finish.

3 MR. LINDSEY: No. You're going to let me
4 finish.

5 MR. MASHBURN: Let him finish.

6 MR. LINDSEY: Are you contending that
7 this pickup truck -- that -- that you're
8 pickup truck was never at this polling place?

9 MR. BELL: What I'm telling you is: I
10 can't say that that's the same pickup truck.

11 MR. LINDSEY: I hear you. What I'm
12 asking you is -- is that your pickup truck --

13 MR. BELL: Well --

14 MR. LINDSEY: Hold up. Hold up. Let me
15 finish. I'm asking you if you're contending
16 that your pickup truck was not at the polling
17 place on the day in question. That's all I --

18 MR. BELL: Well --

19 MR. LINDSEY: Yes or no.

20 MR. BELL: I just told you guys that I
21 was called there --

22 MR. LINDSEY: Yes or no.

23 MR. BELL: I can't answer yes or no. I
24 just told you guys at 1:42 they called me to
25 come up there. They could've took the picture

1 then. I don't know.

2 MR. MASHBURN: Why would they call you?

3 MR. BELL: I don't know why they called
4 me. But they called me to say that there was
5 a complaint from Kylie Jenner and that, you
6 know, like you said, the guy was passing out
7 the material or whatever.

8 MR. LINDSEY: All right. All right. All
9 right. I gotcha.

10 MR. MASHBURN: Thank you, Mr. Bell.

11 MR. LINDSEY: I understand you. I
12 understand what you're claiming.

13 MR. MASHBURN: Thank you, Mr. Bell.

14 MR. BELL: All right.

15 MR. LINDSEY: I appreciate it.

16 MR. BELL: But once again I want to
17 reiterate that the law says no person -- it
18 doesn't say anything about a vehicle.

19 MR. MASHBURN: All right. Thank you, Mr.
20 Bell. I appreciate you and your
21 participation. Okay. Now, it moves to the
22 Board. If the Board is inclined to make a
23 motion, I'm prepared to hear it.

24 MR. LINDSEY: Move to refer the matter to
25 the Attorney General. I don't know what to do

1 here. But I do know that there's enough
2 evidence to at least refer it to the Attorney
3 General.

4 MR. MASHBURN: There's -- there's a
5 motion to refer it to the Attorney General's
6 Office. Is there a second?

7 DR. JOHNSTON: Second.

8 MR. MASHBURN: There's been a second. A
9 motion and a second. Is there any discussion?

10 (No response.)

11 MR. MASHBURN: Hearing no discussion the
12 matter's ready to be voted on. All those in
13 favor of referring it to the Attorney General
14 Office would say aye.

15 THE BOARD: Aye.

16 MR. MASHBURN: All those opposed --

17 DR. JOHNSTON: Aye.

18 MR. MASHBURN: All those opposed would
19 say no.

20 (No response.)

21 MR. MASHBURN: Motion's unanimous. Thank
22 you, Mr. Bell.

23 MR. BELL: Thank you.

24 MR. MASHBURN: We'll now move to SEB2021-
25 060, Paulding County. Item number 23 in your

1 folder, Board.

2 INVESTIGATOR BRUNSON: On February 9th,
3 2021, the Georgia Office of the Secretary of
4 State's Investigation Division received a
5 complaint from Deidra Holden the Paulding
6 County Supervisor of Elections and
7 Registration regarding three electors that
8 were at the time convicted felons and
9 forbidden to register to vote or vote. The
10 allegations are as follows:

11 Complaint number one, Deidre Holden
12 reported that on 11/19/2020, James Franklin
13 Murray completed a handwritten registration
14 card in violation of O.C.G.A. 21-2-21 -- or
15 I'm sorry, -216(b) at the Paulding County
16 election office. Holden reported Murray was
17 canceled in the election net system as a
18 felon. Holden verified with Paulding County
19 probation that Murray is serving an active
20 sentence, and it will not expire until 6/16/22
21 which, obviously, expired, but at the time of
22 this report, it was in the future.

23 Complaint number two, Deidra Holden
24 reported that Jerel L. Beal applied for an
25 absentee application and voted on 11/3/2020.

1 This is in violation of O.C.G.A. 21-2-216(b)
2 and O.C.G.A. 21-2-571, Beal is currently
3 serving a felony sentence that will not end
4 until 2/5/2031. Holden confirmed Beal's
5 sentence with the probation office.

6 And, finally, complaint number three, Ms.
7 Holden reported that Matthew McBerry came into
8 the Paulding County elections office after
9 receiving a letter generated by her office
10 informing McBerry that he was not eligible to
11 register to vote while serving a felony
12 sentence. McBerry registered to vote in
13 violation of O.C.G.A. 21-2-216(b) through the
14 Department of Driver Services on 12/2/2020.
15 Holden stated that McBerry stated he was aware
16 that he registered to vote while getting his
17 license. McBerry wanted to confirm he was
18 registered so he could vote in the January
19 2021 runoff election. McBerry was wanted by
20 probation and parole at the time and was later
21 arrested at the office.

22 So the findings, Investigator DeWeese
23 confirmed that James Murray was serving an
24 active felony sentence on probation at the
25 time November 2020 his voter registration was

1 completed. This is in violation of O.C.G.A.
2 21-2-216(b). The investigator obtained
3 Murray's Department of Driver's Services
4 information that included his signature,
5 comparing them to the registration application
6 signature they appeared to match. Murray did
7 not cast a vote. Murray was actively working
8 on completing the conditions of probation to
9 be removed early. He confirmed that Murray
10 was released early from probation on March
11 2nd, 2021. At that time, he became eligible
12 to register to vote. He was not eligible to
13 register in November of 2020. So there is
14 sufficient evidence to prove a Georgia
15 Election Codes violation occurred.

16 Finding number two, Investigator DeWeese
17 confirmed that Beal was serving a felony
18 sentence at the time his wife, Susan Kent,
19 registered to vote online with the Secretary
20 of State's Office in violation of O.C.G.A. 21-
21 2-216(b). Beal did vote in violation of
22 O.C.G.A. 21-2-571 by absentee ballot and it
23 was recorded on election net.

24 In the recorded phone conversation, Beal
25 confirmed that he had been at the listed

1 address since his release from jail. He
2 reported that he is illiterate and that his
3 wife, Susan Kent, handles all his paperwork.
4 Beal stated that he and his wife discussed
5 registering to vote, and Beal told her he
6 could not. He reported that he received
7 information from an unknown employee at the
8 Driver Services Department regarding him
9 getting off parole and being eligible to vote.
10 Beal's felony probation does not expire until
11 2031. Kent told Beal it was okay to vote
12 based on the information they received.

13 Paulding County did send two
14 communications to Beal's address informing him
15 that he was restricted from voting. One was
16 sent in October of 2017 and a second in
17 December of 2020. Beal, ultimately, took
18 responsibility. Ms. Kent completed a
19 statement form also taking responsibility.
20 Kent did not sign the absentee ballot as
21 required by O.C.G.A. 21-2-220(f). Beal
22 complied with his probation conditions -- you
23 know what, that's irrelevant.

24 So, ultimately, Beal's ballot was counted
25 during the application being transferred to

1 its correct destination. Apparently, he moved
2 and so those notices may not have been
3 received. So based on this there's sufficient
4 evidence to prove a Georgia Election Code
5 violation occurred.

6 And finding three, Investigator DeWeese
7 confirmed that Kent in conjunction with Beal
8 completed the online absentee ballot
9 registration. This is based on a written
10 statement made by Jerel's wife. Kent acts as
11 Beal's fiduciary, complete the application and
12 sign it for her husband. She did not record
13 her information on the application as required
14 by O.C.G.A. 21-2-220(f).

15 Kent and Beal were very cooperative
16 during the investigation and for this there is
17 sufficient evidence to provide -- to prove a
18 Georgia Election Code violation occurred.

19 Finding number four, Investigator DeWeese
20 confirmed that Matthew McBerry was serving a
21 felony sentence at the time he registered to
22 vote in violation of O.C.G.A. 21-2-216(b).
23 And he is currently serving the remainder of
24 his sentence -- actually he was scheduled to
25 be released July 7th, 2022. So . . .

1 MR. MASHBURN: Questions from the Board
2 for the investigator?

3 (No response.)

4 MR. MASHBURN: Okay. Is Mr. McBerry
5 here? Mr. McBerry? Matthew McBerry? Jerel
6 Beal? Jerel Beal? Okay. James Murray? You
7 can stay where you are. James Murray? And
8 Susan Kent? Okay. All right. If you'll --
9 there's a little button on the thing in front
10 of you. Do you see it?

11 MR. BEAL: Yes.

12 MR. MASHBURN: There you are. I've got
13 you. Wait. Okay. Okay. I gotcha.

14 MR. BEAL: I appreciate y'all giving me a
15 chance to speak up for myself.

16 MR. MASHBURN: Take your time. Take your
17 time.

18 MR. BEAL: I got out of prison. I went
19 and got a driver's license. I don't read and
20 write. My baby sister took me, allowed me to
21 drive her car. I didn't ask to vote. I
22 didn't want to vote. I mean, I don't have
23 nothing against voting. I understand what
24 y'all are doing here. I got married. We've
25 been married a long time. My license ran out.

1 So we went to some county to get them renewed.
2 We didn't fill out nothing for voting. We got
3 to the window. The lady said, you don't want
4 to vote. I said, no, ma'am I'm a felon. I'm
5 not allowed to vote. She said, no, sir. The
6 laws have changed. Are you still on parole?
7 I said, no, ma'am. I'm only on probation.
8 She said, no, you're allowed to vote. We
9 didn't fill out anything. Then she sent us
10 something in the mail. So she said they
11 wouldn't have sent us nothing if you weren't
12 allowed to vote. So I immediately contacted
13 my probation officer. I said, we received
14 that I can vote. She said, I'm not sure about
15 that. I don't know. I said, so what do we
16 do? She said, well, go ahead. If it's not
17 right, they'll throw it out. She didn't know.
18 She didn't -- the lady at the window didn't
19 mean to hurt me. The probation officer been
20 nothing but nice to me. I am so -- I've been
21 doing so good in my life since I got out. I
22 work in the (unintelligible) industry. I
23 build concrete trucks. I didn't mean to hurt
24 nobody. All I want to do is do right. And be
25 decent and be free like all y'all. You know I

1 don't want to prove your case wrong or do none
2 of that. I just want to say that I'm sorry.
3 I didn't mean to do nothing wrong. I just --
4 negligence. I guess I just didn't know. But
5 I feel like that lady should never told me I
6 could do something I couldn't do. And then
7 fill out the paperwork herself and send it to
8 us. And all Susan's ever did was try to help
9 me. You know, I hate to cry.

10 MR. MASHBURN: There you go. Come on.
11 Take your time. Come on up. Take your time.
12 Take your time.

13 MR. BEAL: I mean I just lost my brother,
14 45 years old. I don't even drink Coke-Cola,
15 you know. I try to eat good. I try to do
16 right. I try to be kind to people. I didn't
17 mean to do nothing to hurt nobody. All I can
18 say is I'm sorry. (Unintelligible) -
19 malintention -- I just -- I got caught up in
20 stuff and someone tried to help. I don't have
21 no ill will towards that woman because she was
22 the sweetest woman. She was an older woman.
23 She was super nice. She said if you're off
24 parole, son, you're allowed to vote. It's
25 your right to vote. I don't know -- here I

1 am. I don't know what else to say. I'm
2 sorry.

3 MR. MASHBURN: Take your time.

4 MR. LINDSEY: Thank you. Let me -- let
5 me ask a question to the investigator. Did
6 you get a chance to talk to the probation
7 officer? He said the probation officer was
8 uncertain.

9 MR. BEAL: Excuse me, I did tell the --
10 the investigator, he called me. He asked me
11 specifically --

12 MR. LINDSEY: Yeah, no. I -- I
13 understand this now.

14 MR. BEAL: And she spoke up for me.

15 MR. LINDSEY: And I appreciate that. I'm
16 just sort of curious.

17 INVESTIGATOR BRUNSON: Yes. He did
18 contact the probation officer.

19 MR. LINDSEY: And what did the probation
20 officer say?

21 INVESTIGATOR BRUNSON: Said it was his
22 first violation since being released in --
23 since 2012.

24 MR. LINDSEY: Yeah.

25 INVESTIGATOR BRUNSON: That's the only

1 violation.

2 MR. LINDSEY: All right. Did you ask if
3 -- about the, you know, the probation officer
4 was uncertain whether or not he could vote.
5 Did you ask -- he says that probation officer
6 told him that he was uncertain whether or not
7 he could vote. Was that asked to the
8 probation officer?

9 INVESTIGATOR BRUNSON: No.

10 MR. LINDSEY: Okay.

11 INVESTIGATOR BRUNSON: That question
12 wasn't asked according to the (inaudible).

13 MR. LINDSEY: But the probation officer
14 told you that -- that -- that it -- that he
15 was uncertain if you could vote, right?

16 MR. BEAL: Well, she told me she -- she
17 didn't know.

18 MR. LINDSEY: Yeah.

19 MR. BEAL: She was young. She didn't
20 know.

21 MR. LINDSEY: I understand. No, I'm --
22 I'm --

23 MR. BEAL: She's very nice. I don't
24 think she did anything ill will.

25 MR. LINDSEY: No, no. I'm not --

1 MR. BEAL: I'm not saying nobody did
2 anything --

3 MR. LINDSEY: And I appreciate that.

4 MR. BEAL: -- ill willed.

5 MR. LINDSEY: I appreciate that.

6 MR. BEAL: Like I said, I don't think she
7 did. I mean, we was right there in her living
8 room. I told her in person. I was, like,
9 hey, you know, they send us this paper. I can
10 vote. That's great, you know. I feel good
11 about it. I mean.

12 MR. LINDSEY: Understood. Understood.

13 MR. BEAL: We didn't generate the
14 paperwork. We didn't ask for it. I didn't
15 fill out for it.

16 MR. LINDSEY: I understand. Understand,
17 sir. Thank you.

18 MR. BEAL: I mean, all I could is throw
19 my mercy on y'all. And continue my life and
20 try to do the best that I can do for me and
21 her because she's all I got.

22 MR. LINDSEY: I understand. Thank you.

23 MR. BEAL: Thank you. Thank y'all for
24 listening.

25 MR. MASHBURN: Other comments from the

1 Board?

2 (No response.)

3 MR. MASHBURN: Ms. Kent, would you like
4 to address the Board?

5 MS. KENT: Yes. Is it okay if I don't
6 stand?

7 MR. MASHBURN: You can stay seated or
8 stand, whichever's your pleasure.

9 MS. KENT: I'm a little nervous. I'd
10 rather sit.

11 MR. MASHBURN: Ma'am, no need to be
12 nervous. Take your time.

13 MS. KENT: Okay. When we went to renew
14 his driver's license, I went with him because
15 I help him do all the paperwork. And she
16 said, no, absolutely you can vote. And that's
17 when not too long after the driver's license,
18 we got the little card where you get -- you go
19 to your precinct and it had his name. I said,
20 My gosh, this is amazing. This is awesome.
21 So he would never go into voting poll because
22 he can't. He cannot walk in there and vote.
23 So I -- I never got anything saying that he
24 shouldn't vote. There's no voting. So when
25 absentee ballot became available, I said, this

1 is perfect. I can help you. Thinking that we
2 were within his rights to vote. I had no idea
3 that he was not allowed to vote. I would
4 never have helped him vote if he's not
5 entitled to vote. I take that very seriously.

6 MR. LINDSEY: Sure.

7 MS. KENT: I served a lot of time with
8 the military and there were many flights where
9 a lot of the guys didn't come home. There was
10 boots in the seats. So I know what this means
11 and it's very important to me to be good and
12 do the right thing. I feel terrible that the
13 -- it's like -- it's -- it's a little crazy,
14 but like I told him coming here. If I smash
15 the neighbor's mailbox, I would say, I smashed
16 your mailbox. I'll clean the mess up. I'll
17 go to the Home Depot. I'll fix this. But I
18 told him I can't fix this because I don't know
19 how I broke it. When the lady at the DMV
20 signed him up, I had no idea that it was
21 wrong. Should I -- was I naive, yes, I should
22 have done more investigation.

23 MR. MASHBURN: Okay. Let me -- let me
24 just kind of clarify it in my mind. This kind
25 of goes to the both of you. So what it sounds

1 to me that one of the things we -- we consider
2 up here is did -- did the people know what
3 they were being -- what they were doing was
4 wrong? And so if the government -- okay. So
5 if the government tells you you can do it.

6 MS. KENT: Yeah.

7 MR. MASHBURN: Okay. You ought to be
8 able to rely on the government. So -- so I'm
9 sympathetic. I'm sympathetic to that.

10 The other thing and I think Board Member
11 Ghazal will remember this case. Is that we
12 had a case a voter made a mistake similar to
13 this and I think it was in New York and had --
14 not compare your position with this, but this
15 -- this particular voter had a mental issue
16 and the Board just said, listen, it's just not
17 worth it -- to ruin somebody's life. And so
18 the Board said whatever technical violation
19 there might be, the Board exercised mercy.
20 And I think, in my opinion, this is a case --
21 this is a case that the Board should exercise
22 mercy and just dismiss it.

23 Just be careful. I think you got -- I
24 think you got the message that somebody tells
25 you can vote, you just can't do it. But until

1 your parole officer says you can. But that's
2 my thinking and I -- so I'll make a motion to
3 dismiss it and ask for a second?

4 MS. GHAZAL: Second.

5 MR. MASHBURN: Okay. Any discussion? I
6 don't -- I don't mean to take the corner of
7 the market on compassion. I think THE BOARD
8 should be -- feel free to --

9 MR. LINDSEY: No.

10 MR. MASHBURN: -- give their opinion, as
11 well.

12 MR. LINDSEY: I agree.

13 MR. MASHBURN: Okay. All those in favor
14 --

15 THE BOARD: Aye.

16 MR. MASHBURN: -- say aye.

17 THE BOARD: Aye.

18 MR. MASHBURN: All those opposed, no?

19 (No response.)

20 MR. MASHBURN: No. Okay. So the matter
21 of Ms. Kent and -- give me your name again,
22 I'm sorry.

23 MR. BEAL: Jerel Beal, sir. Jerel Beal,
24 sir.

25 MR. LINDSEY: Mr. Beal.

1 MR. MASHBURN: Jerel Beal. Got it.

2 MR. BEAL: Yes, sir.

3 MR. MASHBURN: All right. Thank you for
4 trying. Thank you for trying so hard and
5 working so hard. Keep it up. Hang in there.
6 We're pulling for you.

7 MR. BEAL: Thank you, sir.

8 MR. MASHBURN: Okay.

9 (Applause.)

10 MR. MASHBURN: Okay. Now we still have
11 McBerry and Murray. The county did the right
12 thing. The county did the right thing. And
13 they were following the rules. So the county
14 didn't do anything wrong here. They -- they
15 did the right thing. So -- and the
16 investigator did a good job investigating. So
17 I think that worked out.

18 All right. So we got Mr. -- Mr. McBerry
19 and Mr. Murray left to go on this complaint.
20 Any motions from the Board?

21 MS. GHAZAL: Just to confirm, they did
22 receive notice of the hearing? Well, on one
23 of them is not at liberty right now, correct?
24 One of them has -- is that right? Or --

25 INVESTIGATOR BRUNSON: Yeah. There was

1 an email sent I think.

2 MR. MASHBURN: We're on tab number 23.

3 MS. GHAZAL: Yeah.

4 MR. LINDSEY: Well, first off, regarding
5 Mr. Murray --

6 MR. MASHBURN: Is there a Matthew Berry -
7 - Matthew McBerry?

8 MS. GHAZAL: Yeah. And Mr. Murray.

9 INVESTIGATOR BRUNSON: 060. Yeah. That
10 was an email sent. The guy said he would know
11 by the 27th -- September 27th .

12 MR. MASHBURN: Mr. Kirk, can I draft you,
13 again, I think Mr. Beal's very happy.

14 MR. KIRK: Yes, he is.

15 MR. MASHBURN: Thank you, Mr. Kirk.

16 (Brief pause.)

17 MR. LINDSEY: Can I have my
18 representative from the AG? Is it illegal to
19 register or is it illegal to vote? Or is it
20 illegal to do both?

21 (Brief pause.)

22 MR. LINDSEY: Yeah. In the case of Mr.
23 Murray, Mr. Chairman, I note that he did not
24 attempt to vote. And -- or there was a
25 registration on his part. He did seem to know

1 better than to try to vote. I would find in
2 his case that a technical violation has taken
3 place. I would issue a technical violation to
4 him, but not refer it to the Attorney General
5 in his case. That would be my motion.

6 MR. MASHBURN: Okay. There's been a
7 motion to find a technical violation and issue
8 a letter of instruction?

9 MR. LINDSEY: Yeah.

10 MR. MASHBURN: Okay. Is there a second?

11 DR. JOHNSTON: Second.

12 MR. MASHBURN: It's been moved and
13 seconded. Any discussion?

14 (No response.)

15 MR. MASHBURN: Hearing no discussion.
16 All those in favor would say aye.

17 THE BOARD: Aye.

18 MR. MASHBURN: All those opposed would
19 say no.

20 (No response.)

21 MR. MASHBURN: Motion carries. That was
22 Mr. Murray?

23 MR. LINDSEY: Yeah.

24 MR. MASHBURN: Okay. So we got Mr.
25 McBerry.

1 MR. LINDSEY: And he was re-registered.
2 And he is currently serving the remainder . .
3 .

4 MS. GHAZAL: So Mr. McBerry was not
5 interviewed, correct? Because at the time he
6 was -- the -- the third respondent was never
7 interviewed; is that correct? Mr. McBerry.
8 Mr. McBerry. He was not interviewed; is that
9 correct?

10 INVESTIGATOR BRUNSON: Yes. That's
11 correct.

12 MR. LINDSEY: I don't know if it's
13 relevant to the case, but it's damned
14 interesting. How did they know to pick him up
15 when he went to register to vote?

16 MR. MASHBURN: Is that rhetorical?

17 MR. LINDSEY: Or if somehow you know.
18 I'm just simply saying, that it was -- it was
19 a lot of bad luck on his part.

20 MS. GHAZAL: I would move to refer this
21 one to the Attorney General's Office because
22 he was arrested when he went to confirm that
23 he could vote. So there was an intention to
24 vote after he had registered. So because
25 there was no opportunity to interview him, I

1 would move --

2 MR. LINDSEY: Yeah. Absent that.

3 MR. MASHBURN: Okay. So there's been a
4 motion to refer Mr. McBerry to the Attorney
5 General's Office for processing.

6 MR. LINDSEY: Yeah.

7 MS. GHAZAL: Yes.

8 MR. MASHBURN: Is there a second?

9 MR. LINDSEY: Second.

10 MR. MASHBURN: Okay. It's been moved and
11 seconded. Any discussion?

12 DR. JOHNSTON: I think this raises one of
13 the issues with the automatic voter
14 registration at DDS. I think there are some
15 persons that are maybe embarrassed to reveal
16 that they're on probation, or not eligible to
17 vote. And this -- this may highlight one of
18 the issues that happens at DDS that we just
19 need to be careful and vigilant about
20 questions that are asked for people that are
21 registering when they register for a driver's
22 license.

23 MR. MASHBURN: Thank you for your
24 comments, Dr. Johnston. Okay. Any further
25 discussion?

1 (No response.)

2 MR. MASHBURN: Okay. Hearing none, we're
3 ready to vote. All those in favor of the
4 motion to refer Mr. McBerry to the Attorney
5 General would say aye.

6 THE BOARD: Aye.

7 MR. MASHBURN: All those opposed would
8 say no.

9 (No response.)

10 MR. MASHBURN: Passes unanimously.

11 MR. MASHBURN: Next case I've got is --

12 MR. LINDSEY: Counselor, if I may?

13 MR. MASHBURN: Sure.

14 MR. LINDSEY: Just for the audience sake,
15 I'd say an additional factor in the case and I
16 think Dr. Johnston raises a good point. In
17 the case of the first two matters, that was a
18 situation involving the DDS. In the case of
19 the third matter, this individual actually was
20 going to Fulton County -- rather the Paulding
21 County Elections Office of this -- Herein lies
22 another difference that prompted the reason to
23 send it to the AG.

24 MR. MASHBURN: Okay. Thank you for your
25 comment. Okay. We're ready to move on to the

1 next case, SEB2021-117, residency issues.
2 Secretary of State's Office, the floor is
3 yours.

4 INVESTIGATOR BRUNSON: Okay. On January
5 the 4th, 2021, the Georgia Secretary of
6 State's Office State Election Division
7 received an email complaint. The complainant
8 advised they had knowledge that two former
9 neighbors had sold their Georgia residence.
10 Moved to the commonwealth state of Kentucky
11 and voted in Georgia. The complainant advised
12 the two respondents had failed to change their
13 driver's license from Georgia to their new
14 state. Complainant advised this was
15 intentional to allow them to vote in the
16 Georgia general election held November 3rd,
17 2020. And the special federal Senate runoff
18 election held January 5th, 2021. This
19 occurred during the voting periods for the
20 Georgia general election and special federal
21 runoff election in Bartow County, Georgia. If
22 sustained, the complaint would be knowingly
23 voting while being a resident of another
24 state. Or, basically, voting as an
25 unqualified Georgia voter which is contrary to

1 the Official Code of Georgia Annotated 21-2-
2 216(a)(4).

3 Ultimately, the findings were the
4 investigation found both respondents Eric
5 Anthony Ferguson and Laura Lee Ferguson sold
6 their Georgia residence located in Bartow
7 County on September 21st, 2020. The
8 investigation found that Mr. Ferguson did sign
9 a Bartow County, Georgia oath, advanced, in-
10 person voter application on December 8th,
11 2020.

12 The investigation found Mr. Eric Anthony
13 Ferguson did vote in-person at the White
14 United Methodist Church voting precinct in
15 Bartow County, Georgia for the November 3rd,
16 2020 general election.

17 The investigation found Mr. Ferguson did
18 vote in-person at the Cartersville Civic
19 Center precinct in Bartow County, Georgia for
20 the January 5th, 2021 federal Senate runoff
21 election. The investigation found that Ms.
22 Laura Lee Ferguson did sign a Bartow County,
23 Georgia oath advanced, in-person voter
24 application on December 8th, 2020.

25 The investigation found Ms. Laura Lee

1 Ferguson did vote in-person at the White
2 United Methodist Church voting precinct in
3 Bartow County, Georgia for the November 3rd,
4 2020 general election. The investigation
5 found that Ms. Laura Lee Ferguson did vote in-
6 person at the Cartersville Civic Center
7 precinct in Bartow County, Georgia for the
8 January 5th, 2021 federal Senate runoff
9 election.

10 The investigation found that Mr. Ferguson
11 did register to vote in Madison County,
12 Kentucky on February 19th, 2021. Mr. Ferguson
13 did not vote in Kentucky. The investigation
14 found Ms. Ferguson did register to vote in
15 Bath County, Kentucky on August 18th, 2021.
16 The registration was canceled on September 13,
17 2021 due to the non-verifiable address being
18 used.

19 Ms. Ferguson did not vote in Kentucky.
20 The evidence suggests that both Eric Ferguson
21 and Laura Lee Ferguson being residents of the
22 state of Kentucky were therefore unqualified
23 electors who did vote in Georgia in the
24 federal Senate runoff election held January
25 5th, 2021. Laura Lee Ferguson told the

1 investigator during a telephonic interview
2 that they moved to Kentucky and signed an
3 apartment lease at the end of September 2020.

4 MR. MASHBURN: 2020?

5 INVESTIGATOR BRUNSON: Yes.

6 MR. MASHBURN: 2020?

7 INVESTIGATOR BRUNSON: 2020.

8 MR. MASHBURN: Okay. Thank you.

9 INVESTIGATOR BRUNSON: Ms. Ferguson said
10 her husband, Eric Ferguson, started his job
11 October 8th, 2020 in Kentucky. There is
12 evidence to suggest respondent Eric Anthony
13 Ferguson violated O.C.G.A. 21-2-216(a)(4) in
14 that he knowingly as an unqualified voter
15 being a resident of the commonwealth state of
16 Kentucky did vote in the special federal
17 Senate runoff election held January 5th, 2021.
18 This occurred in Bartow County, Georgia. And
19 also, Laura Lee Ferguson same O.C.G.A. Code,
20 same election and same location.

21 MR. MASHBURN: Questions for the
22 investigator?

23 (No response.)

24 MR. MASHBURN: Is Mr. -- Mr. Ferguson
25 here? Mr. Ferguson? Eric Anthony Ferguson?

1 Ms. Ferguson? Laura Lee Ferguson? Either
2 Ferguson here?

3 (No response.)

4 MR. MASHBURN: Okay. Any motion from the
5 Board?

6 MS. GHAZAL: I move we refer both
7 respondents to the Attorney General's Office.

8 MR. MASHBURN: Is there a second?

9 MR. LINDSEY: Second.

10 MR. MASHBURN: Okay. There's been a
11 motion that the matter be -- both respondents
12 be referred to the Attorney General's Office
13 for processing and it's been seconded. Any
14 discussion?

15 (No response.)

16 MR. MASHBURN: Hearing none. We're ready
17 to vote. All those in favor would say aye.

18 THE BOARD: Aye.

19 MR. MASHBURN: All those opposed would
20 say no.

21 (No response.)

22 MR. MASHBURN: Okay. Motion passes
23 unanimously. We'll move to the next case,
24 2022-254, Muscogee County, security of
25 elections equipment. Secretary of State's

1 Office, the floor is yours. For THE BOARD,
2 this is number 28, 28.

3 INVESTIGATOR KOTH: The complainant,
4 Susan, reported on Wednesday, October 19th,
5 2022 at approximately 7:30 p.m. that she went
6 to Columbus Tech to see if the poll was still
7 open for early voting. Complainant advised
8 the door to the poll was unlocked but there
9 was no one inside the poll and the lights were
10 turned off. She was concerned because the
11 building should have been locked. There was
12 also a police car parked outside without an
13 officer inside the vehicle.

14 The Columbus Tech Police Chief, Charles
15 Pickett, states an email to Ms. Boren that he
16 watched the surveillance video from October
17 19th, 2022. Chief Pickett advised there was
18 no one observed at any time between 7:00 p.m.
19 and 7:00 a.m. which was Wednesday night to
20 Thursday morning in the voting area, machine
21 or terminal area or the tallying machine area
22 other than the custodial staff.

23 He stated that at no time were any of the
24 custodial staff observed doing anything other
25 than cleaning. Chief Pickett advised that all

1 access to the voting area of the student
2 center will be secured going forward when the
3 election staff leave the poll. He reports
4 they preserved and will maintain the video of
5 the area, if needed. Chief Pickett stated
6 that at 9:37 p.m. on October 19th, the campus
7 police Sergeant Denny turned the lights off,
8 locked and left the building through the
9 student center doors.

10 The investigation revealed that during
11 the November 8th, 2022 general election
12 Muscogee County had a poll at the Columbus
13 Technical College student center during the
14 early voting. The poll was open from 7:00
15 a.m. to 7:00 p.m. When the poll closed on
16 October 17th through the 19th, the doors to
17 the student center were left unlocked so the
18 students would have access to the vending
19 machines.

20 The vending machines were in the same
21 room where the poll was located. The
22 investigator learned from Ms. Boren that at no
23 time were ballots exposed or on a table as
24 they used ballot activation codes to create
25 provisional ballots. She also advised ballots

1 are printed by the voter from the BMD after
2 receiving a voter access code. She stated
3 scanner counts and BMD seal numbers were
4 verified as a routine before each day of early
5 voting. Ms. Boren provided copies of the
6 scanner and the ballot box recap form and
7 copies of the touchscreen recap forms. The
8 Cheif reviewed the video from the surveillance
9 camera that was located inside the student
10 center from Wednesday, October 19th, 2022. He
11 stated there was no one observed at any time
12 between 7:00 p.m. to 7:00 a.m. except
13 custodial staff.

14 Potential violations. There's evidence
15 to suggest that the Muscogee County Board of
16 Elections and Registration and Nancy Boren
17 violated SEB Rule 183-1-12-04(6), storage
18 maintenance and transparent of statewide
19 voting system components.

20 MR. MASHBURN: Questions for the
21 investigator?

22 MS. GHAZAL: Ms. Koth, I would like to
23 ask the same question that I asked in the
24 Cherokee instance which is whether the
25 machines were -- whether they were -- they

1 discovered that the -- the seals were intact
2 or if any machines were taken out of service
3 while the investigation went on? And I
4 believe Ms. Boren is here who may be able to
5 respond to that directly.

6 MS. BOREN: The machines were not taken
7 out of service. As you know, the ballot
8 marking devices sit simply a way for the voter
9 to print their ballot. However, the scanners,
10 the black box scanners that count the ballots,
11 those were sealed. Those seal numbers were
12 verified. The closing seals were verified.
13 The count was verified, and the opening seal
14 was verified. And I do have a little bit of a
15 statement that I'd like to continue with at
16 some point, if it's appropriate. Thank you.

17 MR. MASHBURN: Okay. I'll give you a
18 chance in just a minute.

19 MS. BOREN: Sure.

20 MR. MASHBURN: Thank you. Okay further -
21 - further questions for the investigator?

22 (No response.)

23 MR. MASHBURN: Your moment has come a lot
24 faster than I thought.

25 MS. BOREN: Okay. So I just would like

1 to say that it's evidenced that Muscogee
2 County takes security very seriously in our
3 county. We have three early voting locations
4 in the county and in all three of those early
5 voting locations, we have video surveillance.
6 We also contract with our Muscogee County
7 Sheriff's Office to provide off-duty security
8 at all of our early voting locations and at
9 this location, we had the Columbus -- Columbus
10 Technical College campus police. Their office
11 is directly across from the location where we
12 have our early voting site.

13 But realizing that we did not have a way
14 to say full circle that the building was
15 secure when we went there, and the building
16 was secured when we left, we came up with a
17 form and I know everyone loves a form. But it
18 is the early voting security confirmation
19 form, and that will be completed by our deputy
20 sheriff upon opening. Before our staff goes
21 in, he will confirm that the location is
22 secure and locked. The staff will then enter
23 and open it up to get ready for voting and
24 then at the end of the day, he will also
25 secure that building. He will initial and it

1 will become part of the permanent file so that
2 going forward we have something that we can
3 present to the State Elections Board attesting
4 -- or anyone else who may ask attesting that
5 facility has been secure during the times of
6 early voting. I have copies available for you
7 if you would like it.

8 MR. MASHBURN: Thank you. Any questions
9 for Ms. Boren?

10 DR. JOHNSTON: I'm sorry. I didn't hear
11 the answer. Were any seals broken on the --

12 MS. BOREN: Oh, I'm sorry. There were no
13 seals broken on any of the -- the tabulation
14 boxes, as you know, the ballot marking devices
15 are not sealed at the end of every day but the
16 ballot marking -- or the black tabulator box
17 is sealed. And that count is verified at the
18 end of day by the staff.

19 DR. JOHNSTON: Were there any seals
20 broken on the ballot marking devices?

21 MS. BOREN: I'm sorry?

22 DR. JOHNSTON: Were any seals broken --

23 MS. BOREN: No, they were not --

24 DR. JOHNSTON: -- on the ballot marking
25 devices?

1 MS. BOREN: No, they were not.

2 MR. MASHBURN: Any further questions?

3 (No response.)

4 MR. MASHBURN: Ready for the Board
5 members to consider how they would like to
6 process this matter? Any motions?

7 MS. GHAZAL: I'm going to confess a
8 terrible short-term memory problem. Do I
9 recall correctly that a few minutes ago, in
10 the case of Cherokee we issued a -- a
11 technical violation and a letter of
12 instruction? Is that how we --

13 MR. MASHBURN: Alex is the official
14 secretary of the meeting we called on you to -
15 -

16 MS. GHAZAL: Yes.

17 MR. MASHBURN: -- save us.

18 MS. HARDIN: Was that Cherokee?

19 MS. GHAZAL: Yes. In a --

20 MS. HARDIN: 2022-131?

21 MS. GHAZAL: -- substantially similar
22 situation. I apologize that --

23 MS. HARDIN: 135? That was -- Yes. We -
24 - the Board moved to find a technical
25 violation and issue a LOI.

1 MS. GHAZAL: I move that similarly here
2 we would find a technical violation, issue a
3 letter of instruction and be done with it.

4 MR. MASHBURN: There's been a motion for
5 a technical violation and a letter of
6 instruction. Is there a second?

7 MR. LINDSEY: Second.

8 MR. MASHBURN: There's been a motion and
9 a second. Any discussion?

10 (No response.)

11 MR. MASHBURN: Hearing no discussion.
12 Ready to vote. All those in favor would say
13 aye.

14 THE BOARD: Aye.

15 MR. MASHBURN: All those opposed would
16 say no.

17 (No response.)

18 MR. MASHBURN: Motion carries
19 unanimously. Ready to move on to the next
20 matter SEB2022-301, Muscogee County and Sara -
21 - Board Member, Sara Ghazal, has indicated
22 that she will recuse on this matter. So her
23 recusal is acknowledged.

24 INVESTIGATOR KOTH: You said we're at 22-
25 301?

1 MR. MASHBURN: 301.

2 INVESTIGATOR KOTH: Okay. The Secretary
3 of State's Office initiated this investigation
4 following a complaint received from Ms.
5 Maxwell claiming that two unidentified
6 individuals picked up Jane Alexander ballot
7 which needed to be cured. At the time of this
8 complaint Ms. Alexander's ballot had not been
9 received by the Muscogee County Board of
10 Election and Registration's Office.

11 The ballot was received via the mail
12 three days after the complaint was made.
13 Potential violations are O.C.G.A. 21-2-574,
14 unlawful possession of ballots.

15 The investigator contacted Muscogee
16 County Elections Supervisor, Nancy Boren, who
17 stated on November 3rd, 2022, she received an
18 email from Richard Parker who was working with
19 the democratic party inquiring about the
20 status of Jane Alexander's ballot. Ms. Boren
21 told him that she checked the box indicating
22 that she did not have identification; however,
23 she was sent a provisional ballot along with
24 an absentee ballot cure affidavit form. Ms.
25 Boren informed him that they had not received

1 the required copy of one of the forms of
2 identification to cure the application.

3 The investigator contacted Mr. Parker who
4 stated he was leading voter protection
5 activities with the Muscogee County democratic
6 committee and did not assist Ms. Alexander
7 directly. He was contacted by Ms. Maxwell who
8 was assisting Ms. Alexander. Mr. Parker was
9 told that Ms. Maxwell and that Ms. Alexander
10 had told her that two unknown individuals
11 wearing worn out clothes took her ballot.
12 They did not have any information on the
13 identity of the two unknown individuals. The
14 investigator called Ms. Alexander several
15 times but never got an answer. He also went
16 to her house and sent certified mail and never
17 received a response.

18 So there's evidence to suggest that two
19 unknown people committed O.C.G.A. 21-2-574,
20 unlawful possession of ballots when they --
21 this code was violated when an unknown person
22 or persons collected Ms. Alexander's ballot
23 and placed it in the mail.

24 MR. MASHBURN: There's really -- I mean,
25 we can -- we can send -- we can send somebody

1 to the Attorney General's Office in absentia.
2 So I don't think it'd be of any -- I think
3 this is a cautionary tale to voters to not
4 trust their ballots to unknown people. And
5 just a good lesson for everybody that -- that
6 -- that people are trying to get ahold of
7 ballots and the voters need to be careful and
8 cautious and we're kind of in a new world out
9 there. And so just a cautionary tale to -- to
10 voters to protect their ballot. So I don't
11 think there's really any action the Board can
12 take other than just -- notice this for -- for
13 what it is. So as unanimous consent do we
14 just move forward to the next case?

15 (No response.)

16 MR. MASHBURN: Without objection, so
17 ordered. Okay. We move to SEB2022-312, Troup
18 County.

19 INVESTIGATOR KOTH: This was reported to
20 the State Election Board that Troup County
21 Elections placed candidates for District 2
22 council on District 1 ballots during the
23 November 8th, 2022 general and special
24 election. He also reported that there were
25 errors on the ballot during the December 6th,

1 2022 runoff. The investigator spoke with
2 Troup County Election Supervisor, Andrew
3 Harper, who stated that he received the
4 ballots for advanced voting for the November
5 8th, 2022 general and special election.

6 The ballots listed District 2 race for
7 the city council on District 1 ballots. An
8 error that Mr. Harper didn't catch until the
9 Friday before early voting was set to begin.
10 Troup County received the ballots
11 approximately two weeks before this error was
12 noticed. Mr. Harper contacted the Georgia
13 Secretary of State Office and spoke with
14 Michael Barnes who told him that considering
15 early voting was set to begin that Monday they
16 would not have time to reproduce another
17 ballot. Mr. Harper was told that he would
18 have to duplicate ballots from District 1 and
19 omit any votes cast for District 2 council
20 before running them through the scanner. Mr.
21 Harper placed a notice in every voting booth
22 and around the building during early voting
23 and in every precinct on election day
24 informing voters of the error.

25 On November 17th, 2022, Mr. Harper

1 conducted an audit and found no errors. The
2 audit was advertised in the local paper, on
3 the city website and posted notices around the
4 elections office. Mr. Harper advised that
5 they have put more procedures in place to
6 ensure this mistake does not happen again.
7 Mr. Harper was asked if they have had any
8 issues regarding the December 6th, 2022
9 general and special runoff and he indicated
10 that the election went smoothly with no
11 problems. Mr. Harper had several voters
12 contact him and expressed displeasure with the
13 ballots because they wanted all candidates on
14 the ballot. Mr. Harper explained to them that
15 only two candidates could be on the ballot for
16 the runoff.

17 The investigator explained to Mr. Harper
18 that several voters recall missing candidate
19 from their ballot during the runoff and he
20 advised that ballots distributed for the
21 runoff were correct.

22 The findings, the allegations that Mr.
23 Harper and the Troup County Board of Elections
24 and Registration provided incorrect ballots to
25 voters during the November 8th, 2022 general

1 election was substantiated. Mr. Harper
2 admitted that the District 2 city council was
3 listed on District 1 ballots. And Mr. Harper
4 advised that he did not see the mistake in
5 time to have the ballots reproduced.

6 There's evidence to suggest Troup County
7 Board of Elections and Registration and Andrew
8 Harper violated SEB Rule 183-1-12-07(2),
9 preparations for elections.

10 MR. MASHBURN: Okay. Any questions for
11 the investigator?

12 (No response.)

13 MR. MASHBURN: Okay. Anybody here on
14 behalf of Troup County? Okay. We're prepared
15 to hear from you now. If you'll press --
16 you're -- you're free to stand up or sit down
17 whichever's your pleasure, if you'll press
18 your little button, I'll turn you on.

19 MR. HARPER: (Inaudible).

20 MR. MASHBURN: Sure come on up. Please -
21 - please identify yourself for the record.

22 MR. HARPER: My name's Andrew Harper,
23 Election Supervisor. This is Bill Stout,
24 Chairman of the Board.

25 MR. MASHBURN: Welcome.

1 MR. HARPER: I've been in this position
2 since 2014. I helped with the election since
3 2010 with the previous judge of probate. This
4 was a error sent by -- human error. We
5 submitted it to the state and the
6 documentation if you look in the very back of
7 your folders, that's off Firefly where we
8 submitted it by District. And it was an error
9 missed by the state, as well as the county
10 because we were having a countywide SPLOST so
11 it got added to the county -- city race as a
12 mistake but it was supposed to have been by
13 District only. The state did not notify --
14 did not catch it as we didn't either because
15 it was a state -- the countywide election. We
16 notified voters. We notified every candidate.
17 When it happened, we notified the city of
18 LaGrange. We put notices in the paper. We
19 put notices in everything we could think of.
20 We put it on social media. We put it in every
21 booth -- voting booth we had. So we made sure
22 that everyone knew the error was there. We
23 did contact the state on that Friday before.
24 We were prepared to go and get the ballots
25 reprinted. We were prepared to go to the

1 state take the USB drive up but with Michael
2 Barnes' advice and Blake Evans' advice on
3 Friday, they said it was too late to get
4 another flash drive and do it over the weekend
5 before Monday morning started because we were
6 prepared to stay all weekend long and get it
7 done because we didn't like mistakes. And we
8 have now corrected that with the Board. The
9 Board has voted now in their -- that Board
10 meeting directly after that that from now on,
11 after staff reviews, the Board is going to
12 have three members of the Board, at least, to
13 come and sign off on the ballots, as well.
14 The city of LaGrange has also -- every
15 election they have they've signed off. We've
16 had three elections. This is the third
17 election we've had. The December runoff --
18 which they signed off on. They had -- we've
19 had a March and a June this year. So we've
20 had four -- four instances and we haven't had
21 any mistakes. But we do have that procedure
22 in place. The Board voted to make sure that
23 did not happen again. So we ask your
24 forgiveness. Because we will make sure that
25 doesn't happen again. We do not like mistakes

1 and I do not like to be called to the carpet.

2 MR. MASHBURN: Yeah. I don't -- I don't
3 know if you were listening to Board Member
4 Lindsey's proposal in how to do things. But I
5 think you -- you just presented exactly in his
6 formula.

7 MR. LINDSEY: This is how you do it.

8 MR. HARPER: We -- we have put everything
9 -- procedures in place to prevent this from
10 happening again because we've actually had
11 four elections this will be the fourth
12 election, so I think it's, you know, in place
13 to make sure we don't have this again.

14 MR. MASHBURN: And I was thinking about
15 this issue the other day. And I was thinking
16 that one of the -- that the Board might want
17 to consider, and I introduced this to the
18 Board members to think about for future
19 meetings is -- that we might develop what's
20 called -- what I would call a no further
21 action letter. And just -- we're satisfied.
22 It happened. We're satisfied with your
23 corrective measures, no further action's
24 necessary. So just something to kick around,
25 think about for future events. But let's

1 handle this case today. What you think, Mr.
2 Lindsey?

3 MR. LINDSEY: Well, I think -- I move
4 that we find a technical violation and we send
5 a letter of instruction and we -- otherwise
6 this goes in the case (inaudible). Thank you
7 for taking the corrective actions that you
8 have.

9 MR. HARPER: Thank you, sir.

10 MR. LINDSEY: This is exactly what you
11 should be doing.

12 MR. HARPER: Thank you, sir.

13 MR. LINDSEY: And to the extent we can
14 come up with another way to handle this within
15 our wheelhouse. I'll start considering that,
16 as well. I appreciate you taking the
17 corrective actions that you did.

18 MR. HARPER: Okay. Thank you, sir.

19 MR. MASHBURN: So there's been a motion
20 for a technical violation with a no further --
21 with a -- I'm getting ahead of myself -- with
22 a letter of instruction. Is there a second?

23 DR. JOHNSTON: Second.

24 MR. MASHBURN: Okay. There's been a
25 motion and a second. Any discussion?

1 MS. GHAZAL: I will say that this is the
2 second opportunity at the same meeting to talk
3 about ballot proofing and I am extraordinarily
4 grateful that you all have come up with other
5 methodologies to triple and quadruple check
6 the ballot proofing. It's a complicated
7 process. And that's for folks who are -- who
8 are listening. If you're not an election
9 official, you may not understand how
10 complicated this really is and how important
11 it is. So, thank you.

12 MR. MASHBURN: Thank you for your
13 comments.

14 MR. LINDSEY: Thank you. I think it
15 would be wise in this situation and perhaps in
16 the others, as well, Mr. Chairman, when you
17 send the letter, acknowledge that corrective
18 actions have been taken.

19 MR. MASHBURN: Okay.

20 MR. LINDSEY: And that --

21 MR. MASHBURN: I can fold my no further
22 action into the letter of instruction.

23 MR. LINDSEY: Yeah.

24 MR. MASHBURN: Okay. I like it. Good,
25 good suggestion. I like that.

1 MR. LINDSEY: Thank you very much. I
2 appreciate the -- appreciate the --
3 MR. HARPER: Thank you.
4 MR. LINDSEY: -- correct.
5 MR. MASHBURN: Did we vote? Did we vote
6 on that?

7 MR. LINDSEY: I don't believe we have.

8 MR. MASHBURN: Yeah. I've got a motion
9 and a second is the way I got in my mind,
10 right?

11 DR. JOHNSTON: Uh-huh.

12 MR. MASHBURN: So all those in favor
13 would say aye.

14 THE BOARD: Aye.

15 MR. MASHBURN: All those opposed would
16 say no.

17 (No response.)

18 MR. MASHBURN: Motion's unanimous. Thank
19 you for your presentation. Thank you for your
20 time. Okay. We're on tab number 32, Muscogee
21 County. Secretary of State's Office, the
22 floor is yours.

23 INVESTIGATOR KOTH: It was alleged that
24 Angela McGill was ineligible to vote in
25 Georgia during the November 3rd, 2022 general

1 election due to her registering to vote in
2 South Carolina in May of 2022. The
3 investigator contacted the Richmond County
4 Voter Registration Election Office in South
5 Carolina to request a copy of Angela's voter
6 information.

7 The investigator was assisted by voter
8 representative, Don Green, who later emailed
9 the requested documentation which included Ms.
10 McGill's registration date and voter history.
11 The documentation showed where Ms. McGill
12 registered to vote in South Carolina on May
13 10th, 2022 but had yet to participate in an
14 election. The investigator spoke with Ms.
15 McGill who confirmed she was registered to
16 vote in South Carolina in 2022. She also
17 confirmed that she was a permanent resident of
18 South Carolina. Ms. McGill was mailed an
19 absentee ballot from Muscogee County and
20 originally advised she never completed the
21 absentee ballot application.

22 Ms. McGill then said, I didn't remember
23 applying for one and when pressed further she
24 said, I didn't think so. I'm not sure. I'm
25 not positive. The investigator made sure that

1 Ms. McGill understood she needed to vote in
2 the state where she registered and resided as
3 a permanent resident. The investigator
4 contacted Muscogee County Election Supervisor,
5 Nancy Boren, and requested a copy of Ms.
6 McGill's absentee ballot application for the
7 November 8th, 2022 general election.

8 Later that day the investigator received
9 that copy of Ms. McGill's application via
10 email. The signature on Ms. McGill's absentee
11 ballot showed similarities with the signature
12 on Ms. McGill's voter registrations in ENet.
13 There is evidence to suggest that -- that Ms.
14 McGill was not eligible to vote in Georgia
15 during the November 8th, 2022 general
16 election. It was verified through the
17 Richmond County Voter Registration and
18 Election Office that Ms. McGill registered to
19 vote in May 2022 in South Carolina. In
20 addition, through her own admission, Ms.
21 McGill was a permanent resident in South
22 Carolina and has registered to vote there.
23 There is evidence to suggest that Angela
24 McGill violated O.C.G.A. 21-2-216(a)(4),
25 qualifications of electors.

1 MR. MASHBURN: Questions for the
2 investigator? Okay.

3 DR. JOHNSTON: I have a question.

4 MR. MASHBURN: Okay. Thank you. Dr.
5 Johnston?

6 DR. JOHNSTON: For the investigator, did
7 the -- did Ms. McGill sign the oath for
8 absentee ballot application and for the
9 ballot?

10 INVESTIGATOR KOTH: It looks like it said
11 that the absentee ballot application showed
12 the similarities with the voter registration.

13 MR. MASHBURN: Is Ms. McGill here? Ms.
14 McGill? Angela McGill? Okay. Any further
15 questions for the investigator?

16 (No response.)

17 MR. MASHBURN: No.

18 MR. LINDSEY: Move to refer the matter to
19 the Attorney General.

20 MR. MASHBURN: There's been a motion to
21 be referred to the Attorney General. Is there
22 a second?

23 MS. GHAZAL: Second.

24 MR. MASHBURN: Okay. There's been a
25 motion and a second. Discussion?

1 (No response.)

2 MR. MASHBURN: Ready to vote. All those
3 in favor would say aye.

4 THE BOARD: Aye.

5 MR. MASHBURN: All those opposed would
6 say no.

7 (No response.)

8 MR. MASHBURN: Motion's unanimous. Next
9 case is SEB2023-001. First case of 2023, here
10 we go. All right. Board -- number -- packet
11 number 34 for the Board members.

12 INVESTIGATOR KOTH: This is case number
13 2023-001, Walker County Chickamauga Civic
14 Center, voter privacy issue. The Secretary of
15 State's Office opened its investigation after
16 receiving a complaint from Walker County
17 voter. The voter reported that while voting
18 at the Chickamauga Civic Center on November
19 3rd, 2022, he observed that the ballot marking
20 devices were arranged in a manner that allowed
21 him and anyone else to view any voter screen
22 to the point that the privacy of the voter's
23 ballot would be compromised. If sustained,
24 this would be a violation of Georgia Election
25 Rule 183-112-.11.4 and O.C.G.A. 21-2-267. The

1 investigator spoke with poll manager Richard
2 Barcliff by phone. Barcliff confirmed that
3 the arrangement of the ballot marking devices
4 and the scans were in the same position for
5 the November 3rd, November 4th, 2022 election
6 dates.

7 Barcliff was assigned the poll manager
8 for both days. On November 3rd, 2022, the BMD
9 violation was observed by the complainant. On
10 November 4th, state inspectors, Dimitri and
11 Janae, conducted a poll inspection and
12 observed the violation, as well. Barcliff did
13 confirm having the blue dividers that the
14 state provided the counties. He said that
15 they were not used other than in the middle of
16 the machines. He stated that the stands they
17 use have side panels connected. There was a
18 photo that showed the side panels, but they
19 were not large enough to secure the privacy of
20 the voter.

21 The investigator and Barcliff discussed
22 the responsibility of setting up the machines
23 to ensure the voter's privacy. On January
24 17th, 2022, investigators contacted Walker
25 County Elections Director, Danielle

1 Montgomery and discussed the issue. Ms.
2 Montgomery was aware and they went over some
3 possibilities to correct the issue. After the
4 conversation Montgomery did reach out to
5 other counties where the same scans were used
6 to correct the problem.

7 Based on the complainant's observations
8 of the ballot marking devices being visible to
9 the public, the findings of the poll
10 inspection were indicating that the ballot
11 marking devices were visible to the public,
12 the photo taken by the inspector affirming the
13 complaint. The inspector's findings and the
14 statements of the poll manager. There was
15 substantial evidence to affirm the respondent
16 did violate Georgia Code 21-2-21-267 and
17 Georgia Election Rule 183-112.11.4.

18 MR. MASHBURN: Any questions for the
19 investigator?

20 (No response.)

21 MR. MASHBURN: Is Mr. Barcliff or Walker
22 County here? Okay. Welcome. I gotcha.
23 Okay. Let's see if it works.

24 MS. MONTEGOMERY: Hi. I'm Danielle
25 Montgomery, Director of Elections in Walker

1 County. Thank you for giving me this
2 opportunity to present to you the remedy we
3 have come up with for this issue. Like the
4 investigator said, we do have stands that were
5 purchased through a vendor that has been
6 okayed through the Secretary of State's
7 Office. And the side panels were small in
8 comparison to the BMDs that are so very large.
9 So this -- this is the side panel (indicating)
10 that came with the stands that were purchased
11 and we have -- to remedy the situation we have
12 purchased this side panel to -- to go on each
13 side of the stand to hopefully increase the
14 privacy for our voters.

15 MR. MASHBURN: Okay. Any questions from
16 the Board?

17 MS. GHAZAL: If you don't mind me asking,
18 how much does that cost per -- per BMD?

19 MS. MONTGOMERY: I think we paid just
20 over \$600. We have 180 BMDs.

21 MR. MASHBURN: Six hundred total? Or 600
22 a piece?

23 MS. MONTGOMERY: For the -- the stands
24 or the -- the --

25 MS. GHAZAL: The side panels.

1 MS. MONTGOMERY: Oh, the side panels. I
2 think we paid about \$600 for all side panels
3 for all the 180 BMDs.

4 MS. GHAZAL: Thank you.

5 MR. MASHBURN: I was thinking we had
6 Pentagon issue here.

7 MS. MONTGOMERY: No.

8 (Laughter)

9 MR. MASHBURN: Thank you very much. Any
10 further questions from the Board?

11 MR. LINDSEY: Was the only concern that
12 folks could look standing next to each other
13 could -- could -- could look over?

14 MS. MONTGOMERY: See the way our -- the
15 stands that we have are they are back-to-back
16 and they were arranged in a line. So each
17 table maybe would be a set -- they're further
18 apart than the tables. Maybe every other
19 stand -- and then the stands are back-to-back.
20 So a BMD here (indicating) and a BMD here
21 (indicating). And the blue board that she
22 mentions in between --

23 MR. LINDSEY: Yeah.

24 MS. MONTGOMERY: -- and then the side
25 panel on -- each side. And -- and the -- the

1 -- it's against a wall here (indicating). So
2 nobody would be walking on the side, just --
3 just this side (indicating).

4 MR. LINDSEY: Yeah. I understand. I
5 appreciate it. And I appreciate the steps
6 you've taken --

7 MS. MONTGOMERY: Thank you.

8 MR. LINDSEY: -- to fix the issue.

9 MR. MASHBURN: Okay. Any further
10 questions? Are we ready to hear a motion?

11 MR. LINDSEY: Same as before. Move to
12 find a technical violation and a letter from
13 us. I would also -- I would also -- thank
14 you. It's getting late, folks, sorry. I
15 would also ask that Board Chair in the letter
16 acknowledge that Walker County has taken
17 remedial steps and -- and acknowledge what
18 those steps would be -- thank you very much.

19 MR. MASHBURN: Okay. There's been a
20 motion on -- is there a second?

21 MS. GHAZAL: Second.

22 MR. MASHBURN: Motion and a second. Any
23 discussion?

24 (No response.)

25 MR. MASHBURN: All those in favor would

1 say aye.

2 THE BOARD: Aye.

3 MR. MASHBURN: All those opposed would
4 say no.

5 (No response.)

6 MR. MASHBURN: Motion carries
7 unanimously. That completes the violation
8 cases, recommended for letters of instruction
9 or referral to the Attorney General's Office.
10 So we'll move to the Attorney General Report.

11 MS. VAUGHAN: Okay. Good afternoon. We
12 have several different proposed consent
13 orders, consolidated consent orders, final
14 orders on the list for the AG's report for
15 today. I did want to note that the Attorney
16 General's Office has requested that the
17 proposed consent order regarding SEB case
18 2020-062 for Chatham County be withdrawn from
19 the agenda and deferred to a later meeting.

20 MR. MASHBURN: Any objection?

21 MR. LINDSEY: No objection.

22 MR. MASHBURN: Without objection, so
23 ordered.

24 MS. VAUGHAN: So with that preliminary
25 matter out of the way, I would like to begin

1 going through each of these proposed orders,
2 if that's the will of the Board. I would like
3 to begin with SEB2019-048, a proposed consent
4 order regarding the Burke County Board of
5 Elections. The State Election Board referred
6 this case to the Attorney General's Office at
7 its April 28th, 2021 meeting.

8 The allegations in this case are that
9 during the November 5th, 2019 municipal
10 general election two candidates complained
11 number one, that there were uncounted absentee
12 ballots. Number two, the absentee ballots
13 were intentionally mailed late. And three,
14 that the number of voters on election day was
15 not reflective of the amount reported.

16 The Secretary of State's Investigation
17 Division did not find evidence to substantiate
18 those claims. However, they did find
19 instances of 22 absentee ballots that were not
20 issued within a three day deadline from which
21 applications were received. The case was
22 referred to the Attorney General's Office with
23 the Burke County Board of Elections and
24 Registration as a respondent, as well as its
25 Election Supervisor, Lavern Cello. Under the

1 terms of the proposed consent order the County
2 Board takes responsibility for Elections
3 Supervisor, Ms. Cello, and she would be
4 dismissed from this case. The proposed order
5 includes a cease and desist, a reprimand, a
6 \$1,000 civil penalty. And the requirement
7 that the Board provide additional training as
8 to the timely issuance of absentee ballots
9 following receipt of the absentee ballot
10 application and in compliance with the current
11 law.

12 Does the Board have any questions
13 regarding this proposed consent order as it
14 relates to Burke County SEB case number 2019-
15 048?

16 MR. MASHBURN: Questions from the Board?
17 Everybody has what they need on this one?
18 Okay. Everybody's got what they need? Okay.
19 I'll hear a motion.

20 MR. LINDSEY: Move to accept.

21 MR. MASHBURN: There's been a motion to
22 accept. Is there a second?

23 DR. JOHNSTON: Second.

24 MR. MASHBURN: There's been a motion to
25 accept and a second. Any discussion?

1 (No response.)

2 MR. MASHBURN: Okay. We're ready to
3 vote. All those in favor of accepting it
4 would say aye.

5 THE BOARD: Aye.

6 MR. MASHBURN: All those opposed would
7 say no.

8 (No response.)

9 MR. MASHBURN: Unanimous. It passes.
10 Next is SEB2016-080 and 2020-223, Chatham
11 County.

12 MS. VAUGHAN: Yes.

13 MR. MASHBURN: The floor is yours,
14 Attorney General.

15 MS. VAUGHAN: Thank you. So there --
16 included within this packet regarding Chatham
17 County for SEB case number 2016-080. There is
18 a final order proposed regarding the Chatham
19 County Board of Elections. The Chatham County
20 Board of Elections was referred to the
21 Attorney General's Office with the Board of
22 Registrars in this case, 2016-080. However,
23 the underlying violation is under Code section
24 21-2-226 which deals with certain requirements
25 regarding the County Board of Registrars. And

1 because these are separate entities in Chatham
2 we are proposing by final order that the
3 Chatham County Board of Elections be dismissed
4 for 2016-080. Along with 2016-080 there is a
5 consolidated consent order with the Chatham
6 County Board of Registrars that would be a
7 proposed resolution for both 2016-080 which I
8 just mentioned involved allegations against
9 the Board of Elections that would be
10 dismissed, as well as 2020-223.

11 To provide some factual background about
12 these two cases. During the May 24th, 2016,
13 general primary and non-partisan election
14 voters living on Whistling Duck Court in
15 Savannah were placed in the wrong District.
16 They were assigned to District 1 when they
17 should have been assigned to District 3.
18 Forty-three electors were misplaced, three of
19 which voted in the election. These votes did
20 not change the outcome of the election.

21 And then regarding case 2020-223, the
22 Chatham County Board of Registrars was
23 referred to the Attorney General's Office for
24 a violation of Code section 21-2-218(c), when
25 it failed to change the permanent address of

1 elector Gabrielle Sprawl (ph) after she
2 submitted a change of address in May 11, 2020.
3 The respondent made the change in July 23,
4 2021 after receiving notice from the Secretary
5 of State that Ms. Sprawl no longer lived at
6 the previous address.

7 Regarding this 2020 case, the State
8 Election Board also bound over Sabrina German
9 -- or Sabrina German, pardon me, the Chief
10 Registrar and Director of Chatham County Board
11 of Registrars. And under the terms of the
12 consent order the Chatham County Board of
13 Election -- the Chatham County Board will take
14 responsibility for her. It's reflected on
15 footnote one. And so the proposed consent
16 order for these two consolidated matters as it
17 relates to Chatham County Board of Registrars
18 is a cease and desist, public recommend -- a
19 public reprimand, pardon me, and a \$750 civil
20 penalty.

21 MR. MASHBURN: Questions from the Board?

22 DR. JOHNSTON: I have a question.

23 MR. MASHBURN: Okay. Dr. Johnston?

24 DR. JOHNSTON: Part -- part of -- is this
25 062? I'm sorry.

1 MS. VAUGHAN: Sorry. So this is for a
2 consolidated consent order that regards SEB
3 case number 2016-080 and 2020-223 regarding
4 the Chatham County Board of Registrars.

5 DR. JOHNSTON: Looking at the wrong page,
6 sorry.

7 MR. MASHBURN: Okay. Questions?
8 Questions for the AG?

9 MS. VAUGHAN: And it would also include
10 the proposed final order related to the
11 dismissal of the Chatham County Board of
12 Elections, which is in the packet, as well.
13 So it's the final order as it relates to the
14 Board of Elections and then a consolidated
15 proposed consent order as it relates to the
16 Board of Registrars for those two cases.

17 MR. MASHBURN: Okay. Questions by the
18 Board?

19 (No response.)

20 MR. MASHBURN: The Board have everything
21 they need to make a decision on this one?
22 Okay. Ready to hear -- I'm ready to entertain
23 a motion.

24 MS. GHAZAL: I move to accept.

25 MR. MASHBURN: Okay. There's been a

1 motion to accept. Is there a second?

2 DR. JOHNSTON: Second.

3 MR. MASHBURN: There's been a motion and
4 a second. Any discussion?

5 (No response.)

6 MR. MASHBURN: Ready to vote. All those
7 in favor would say aye.

8 THE BOARD: Aye.

9 MR. MASHBURN: All those opposed would
10 say no.

11 (No response.)

12 MR. MASHBURN: It's unanimous.

13 MS. VAUGHAN: And then the final matter
14 from the Attorney General's report is a
15 proposed final order as it relates to the
16 Talbot County Board of Elections and
17 Registration, SEB case number 2020-035, as
18 well as a poll manager and the election
19 supervisor who were referred to the Attorney
20 General's Office.

21 The Board voted to refer SEB case number
22 2020-035 to the AG's Office at the December
23 14th, 2021 meeting. This investigation was
24 opened after the respondents self-reported
25 that they had violated Code section 21-2-388

1 when the Board of Registrars was not contacted
2 to confirm whether the four voters' absentee
3 ballots were received, and those votes were --
4 and those voters were permitted to vote on the
5 BMD unit on election day on June 9th, 2020.
6 This resulted in these four voters voting
7 twice because they already submitted their
8 absentee ballots.

9 The poll worker attempted to reach the
10 elections office after the voters presented at
11 the polling site, but she was unable to get
12 through due to issues with the phone line.
13 Each voter signed an affidavit saying that
14 they did not receive their absentee ballot and
15 the voters were issued access cards. After
16 these facts occurred the Talbot County Board
17 of Elections Registration provided additional
18 numbers for poll managers to contact the
19 elections office.

20 At the December 14th, 2021 meeting the
21 State Election Board requested that the case
22 be bound over to the AG's Office. And there
23 was kind of a specific statement made as part
24 of that motion by then State Election Board
25 Member Anh Lee stating that I think we should

1 have also just asked that in the consent order
2 the Attorney General's Office may enter some
3 training to its election workers. And we also
4 expressed appreciation from the county
5 acknowledging the error and making
6 corrections. And as such the Attorney
7 General's Office has taken that statement to
8 mean that the consent order would need to
9 include that training and be focused on that
10 as the remedy and so -- as I have mentioned
11 previously, the Board has the authority under
12 Code section 21-2-33.1, the Board is vested
13 with the authority to issue orders after the
14 completion of appropriate proceedings that can
15 include a cease and desist, a reprimand and
16 training. It's under this statute it's only
17 the civil penalty that is expressly exempt and
18 would require a hearing before an
19 administrative law judge or an EPA hearing
20 under Title 50. And there's also another
21 restriction regarding the ordering of training
22 under Code section 21-2-101 as it relates to a
23 superintendent's certification. And so we are
24 recommending the approval of this proposed
25 final order which would involve a cease and

1 desist, and a public reprimand as it relates
2 to the respondent the Talbot County Board.
3 The Board is also ordered -- the Talbot County
4 Board has also ordered to ensure that its
5 election workers receive all required
6 training. And then the poll manager and the
7 election supervisor who were also referred
8 over would also be dismissed from the case by
9 the final order.

10 MR. MASHBURN: Questions by the Board?

11 (No response.)

12 MR. MASHBURN: Okay. Board Members have
13 everything they need to make a decision on
14 this one?

15 (No response.)

16 MR. MASHBURN: Okay. I'll entertain a
17 motion.

18 MR. LINDSEY: Move to accept.

19 MR. MASHBURN: There's been a motion to
20 accept the final order. Is there a second?

21 DR. JOHNSTON: Second.

22 MR. MASHBURN: There's been a motion and
23 a second. Is there any discussion?

24 (No response.)

25 MR. MASHBURN: Hearing none. Ready to

1 vote. All those in favor would say aye.

2 THE BOARD: Aye.

3 MR. MASHBURN: All those opposed would
4 say no.

5 (No response.)

6 MR. MASHBURN: It's unanimous.

7 MS. VAUGHAN: Okay. And I believe that
8 is all that I had. Thank you for letting me
9 present to you and this will be my last
10 meeting presenting before the board so --

11 MR. MASHBURN: Well, I was going to ask
12 if I had permission to share that.

13 MS. VAUGHAN: Oh, yes. Absolutely.

14 MR. MASHBURN: Ladies and gentlemen, this
15 Beth's last meeting with us. She's moving on
16 to bigger and better things. And she's been
17 just a faithful servant to the state of
18 Georgia and given countless hours on weekends
19 and nights and holidays. And all manner of
20 service to the state of Georgia. And so I
21 want to take this opportunity that --

22 (Audience applause.)

23 MS. VAUGHAN: Thank you. I was just
24 wanting to have an opportunity to thank you
25 all giving me the opportunity to serve. It

1 really has been a pleasure.

2 MR. MASHBURN: We're going to miss you
3 and the state of Georgia will definitely miss
4 your service.

5 MS. VAUGHAN: Thank you, sir.

6 MR. MASHBURN: Okay. We'll now move to
7 the procedural matter the hearing of the
8 petitions. The petitioner has made a -- made
9 a proposal to the Board as to how the time
10 would be divided which the Board accepted.
11 And so what I'm going to propose is what we'll
12 do is you present your petitions. The Board
13 will then ask questions while you're
14 presenting on that issue. And then we'll do
15 all three and then the Board after we're
16 completed that, then the Board will
17 deliberate, and we'll make its decisions. So
18 if that's acceptable --

19 MR. LINDSEY: Mr. Chairman, I'm going to
20 make -- it might be appropriate to take a
21 short break.

22 MR. MASHBURN: Okay. Yeah, yeah, yeah.
23 That's absolutely fine. I drink a lot of tea
24 during lunch so it's time for a short break.
25 We'll adjourn for 15 minutes and be back here

1 in 15 minutes.

2 (The session recessed at 4:44 p.m.)

3 (The session resumed at 5:00 p.m.)

4 MR. MASHBURN: Okay. We're going to go
5 ahead and get started. We're going to get
6 started. We're going to go ahead and get
7 started. We're going to go ahead and get
8 started now. Hopefully, everybody's refreshed
9 and -- and comfortable. Okay. So the last
10 two matters on our agenda is we're going to
11 have procedural matter of hearing petitions
12 and then we have public comment that will
13 follow that. So we're going to proceed. And
14 the petitioners have requested specific time
15 requests. And so what we're -- the way we're
16 going to do if there's no objection, is we're
17 going to proceed with each petition
18 individually. And the first petition will be
19 allotted 15 minutes. And then the Board will
20 ask its questions of the petitioner. Then
21 we'll move to the second petition which is
22 scheduled for five minutes. And then the
23 Board will ask questions with regard to that
24 petition. Then the final petition will be
25 heard for ten minutes. And the Board will ask

1 questions. And the Board's questions will not
2 count towards your time. And then after the
3 third petition is presented, then -- and the
4 Board has asked its questions, then the Board
5 will enter into deliberation. So if that's
6 acceptable for everyone? Unless there's an
7 objection, we'll proceed in that fashion. So
8 without objection, so ordered.

9 Ms. Marks, the floor is yours.

10 MS. MARKS: Thank you so much. I'm
11 Marilyn Marks. I'm Executive Director of the
12 Coalition for Good Governance and it is the
13 organization that is proposing the rules
14 today.

15 UNKNOWN SPEAKER: (Inaudible).

16 MS. MARKS: Let's see. How about this?
17 Is this a little better?

18 MR. MASHBURN: We got it.

19 MS. MARKS: Okay. Great. Well, thank
20 you so much Board Members for allowing us to
21 present these three petitions for new election
22 code rules or rule amendments.

23 The first that we're going to present is
24 the ballot secrecy. And it has to do with
25 protecting ballot secrecy rights of all

1 voters. The second petition we're going to
2 present is to require compliance with login
3 and accuracy testing statutes. The third is
4 to permit counties to address the voting
5 system security vulnerabilities not being
6 addressed on a statewide basis by the
7 Secretary of State, specifically, for the
8 upcoming 2024 elections.

9 For all three rules, it's important to
10 remember that House Bill 316 in 2019 specified
11 a number of mandatory criteria that the
12 Dominion system fails to meet. These rules
13 that we are proposing today are only a -- are
14 only necessary as a stopgap measure because
15 the Dominion BMD system that was chosen is out
16 of compliance with the mandates of the General
17 Assembly.

18 If the Secretary of State had selected
19 and certified a system that met Georgia law,
20 these stopgap measures that we are proposing
21 today would not be necessary. We often hear
22 this Board and the Secretary of State say, the
23 General Assembly commanded that we must use
24 electronic touchscreens BMDs. But let's
25 remember that the lawmakers specified mandated

1 certain criteria of the BMD system that the
2 current BMD system simply does not meet.

3 The General Assembly did not order any
4 ole random BMD system on an unconditional
5 basis. They commanded very strict conditions
6 and requirements. But we've seen no effort by
7 the Secretary of State to get the BMD system
8 into legal compliance. As a result, we're
9 proposing these rules to address some of the
10 shortcomings of the BMD system.

11 The continuing use of BMDs has to be
12 looked at in the context of what the federal
13 and state laws are that are governing the
14 voting system. The use of BMDs cannot be
15 looked at as an unconditional requirement,
16 superior to all other laws. When some of the
17 most basic features of the current BMD system,
18 the Dominion system violate Georgia and
19 federal law. If the Secretary of State had a
20 manner in which to get the current BMD system
21 into compliance with Georgia law, then our
22 proposed rules today would be unnecessary.

23 So, first, let me take ballot secrecy.
24 When we use the term ballot secrecy, we,
25 obviously, mean the voter's constitutional

1 right to cast a secret ballot for which only,
2 only the voter knows the selections he or she
3 made. Georgia law is clear that ballots must
4 be cast in absolute secrecy. Meaning that no
5 one, no one may know the selections the voter
6 made. That means the poll workers, poll
7 watchers, the county election board, other
8 voters must not be able to have information on
9 how that voter voted.

10 Georgia guaranteed its citizens the right
11 to a secret ballot way back in the 1880's.
12 And Georgia has some of the strongest secret
13 ballot protection laws in the nation. But
14 Georgia has with the current Dominion BMD
15 system clawed back those rights in defiance of
16 Georgia law and federal law and is publicly
17 displaying the votes of its voters on those
18 touchscreens.

19 In 2019 when HB316 authorized the use of
20 electronic ballot marking devices a key
21 portion of the requirements commanded by the
22 General Assembly was that the ballot marking
23 device touchscreen provide absolute secrecy so
24 that no one may know the votes of another
25 person. However, when Secretary Raffensperger

1 selected the Dominion IX -- ICX, the
2 touchscreen. That legal mandate was ignored.
3 And what has ensued over the last four years
4 has been a continuing, chronic and widespread
5 violation of voters' constitutional rights.

6 So there's not really much to argue about
7 here. The law is clear in our federal
8 constitutional rights, federal statutory
9 rights, in HAVA, Georgia's constitutional
10 rights, in numerous Georgia statutory
11 provisions and even in this Board's rules
12 about secret ballots. This comes as a shock
13 to some, but this Board's rule shows the
14 seriousness of Georgia's secret ballot laws.
15 Your rule requires that ballots which are not
16 secret not be counted. That's a strong pro
17 democracy statement that this Board has made
18 in a strong pro democracy principle built on
19 the understanding that permitting disclosures
20 of voters' selections allows the election to
21 be tainted by intimidation, coercion, vote
22 buying or selling.

23 Yet the current touchscreen system does
24 not uniformly provide for voting in absolute
25 secrecy. That's all -- that is also

1 irrefutable in almost anyone in this room who
2 votes in person can attest to having seen how
3 other people are voting when they are in the
4 polling place. It's not that people are
5 looking to see how people vote, but the
6 screens are so large, so bright, so upright
7 that even walking to your particular polling -
8 - or voting station, it's hard not to see how
9 other people are voting.

10 We all know that this simply should not
11 be. But the problem's been ignored for four
12 years now. We're facing in 2024 one of the
13 most contentious hyper-partisan elections in
14 our history. It is imperative that this Board
15 address the chronic ballot secrecy issue so
16 that no Georgia voter feels coerced or
17 intimidated in the act of voting. And is
18 permitted the absolute privacy of their vote
19 without having to take any special steps to
20 vote in private in the polling place.

21 Our proposed ballot secrecy rules address
22 this Board's responsibility and power vested
23 in it by the General Assembly to provide for
24 uniformity of the voting process in Georgia.
25 All Georgia voters must be granted the same

1 equal right of privacy without exception. And
2 there's no exception based on the size or the
3 configuration of the polling place. Our
4 proposed rules are simple and they're uniform.

5 Touchscreens should be positioned so that
6 no person can walk within 30 feet behind a
7 voter who is in the process of voting on a
8 touchscreen. And touchscreen machines which
9 are adjacent should be at least eight feet
10 apart. So we envision that in smaller polling
11 places this will result in about four BMD
12 touchscreens in use. One in each corner with
13 the touchscreen facing the corner and the
14 voter with his back to the corner.

15 The hand-marked paper ballot stations
16 would fill in the center of the room. You
17 could actually get far more voting stations
18 into the room that way providing privacy
19 through the use of the current blue panel
20 privacy screens sitting on tables. Obviously,
21 this is going to have the effect of reducing
22 the number of BMD units in many of the polling
23 places across the state. But it should never
24 ever have the effect of reducing the number of
25 voting stations. In fact, it can increase the

1 number of voting stations because of the
2 smaller footprint for hand-marked paper
3 ballots.

4 So while BMDs cannot be used in adequate
5 number because of the visibility of the votes,
6 hand-marked paper ballots should be used with
7 emergency ballots -- as emergency ballots,
8 excuse me. In fact, because of the much
9 smaller footprint, hand-marked paper ballots
10 stations -- more of those stations could be
11 put in the same space, increasing voter
12 throughput, reducing lines. And, of course,
13 those hand-marked paper ballots, emergency
14 ballots, would be put through the scanners --
15 the precinct scanners just as BMD ballots are
16 today. And would be for those units that
17 would be used in the corner or however they
18 might be placed so that there's no visibility
19 problem. The problem's undeniable, the law is
20 clear. The solution is simple and
21 inexpensive. And it will save a tremendous
22 amount of money at the county level and the
23 constitutional rights of voters will be
24 honored.

25 When the General Assembly ordered that

1 BMD touchscreen use be the standard method of
2 voting in Georgia, legislatures had no way of
3 knowing which vendor system would be selected
4 by the Secretary and what visibility issues
5 there may be. So they certainly left it to
6 the State Election Board to have the role of
7 making any necessary rules to enforce ballot
8 secrecy. Certainly, the General Assembly did
9 not anticipate a system being chosen that did
10 not inherently offer absolute secrecy in
11 voting.

12 Given that it is a system in place, the
13 secrecy requirement must still be met. It is,
14 obviously, impossible and impracticable to
15 provide absolute ballot secrecy in most
16 polling places today with the current BMD
17 units and the law provides for hand-marked
18 paper ballots in such cases.

19 We ask that you make the criteria clear
20 to the counties, the specifics that we have
21 recommended. Give the counties guidance they
22 need in order to make the determination of
23 when they must recognize the impossibility of
24 using BMDs in -- for all in-person voting and
25 go to the backup system of hand-marked paper

1 ballots for the remainder of the voting
2 stations.

3 As we've explained in our written
4 materials to the Board, the Georgia statutes
5 authorize hand-marked paper ballots as a
6 backup method of voting. And that means not
7 just when it is physically impossible, but
8 when it is legally impossible to use those
9 BMDs. That is the case with respect to ballot
10 secrecy.

11 Sometimes we hear this Board, or the
12 Secretary of State say, oh, it would be
13 infeasible to go to hand-marked paper ballots.
14 Let's remember that 70 percent of Americans
15 are voting with hand-marked paper ballots and
16 doing so with their rights of ballot secrecy
17 honored. This is not really rocket science.
18 The March presidential primaries will present
19 an excellent opportunity to demonstrate the
20 feasibility, the ballot styles are super
21 simple. And the opportunities for harmful
22 errors are few.

23 If it turns out that our distances of 30
24 feet and eight feet are still not adequate to
25 prevent sight lines to the touchscreen if it

1 proves to be the case in upcoming elections,
2 the Board can certainly adjust the different -
3 - or differences and make longer distances in
4 future rule amendments.

5 With that, I'm happy to take any
6 questions about our ballot secrecy proposal.

7 (Applause.)

8 MR. MASHBURN: Thank you very much. You
9 kept within your time limit as -- as promised.
10 So well done.

11 MS. MARKS: Thank you.

12 MR. MASHBURN: Okay. Questions from the
13 Board?

14 MR. LINDSEY: I will --

15 MR. MASHBURN: Questions from the Board?

16 MR. LINDSEY: Yeah. Well, questions and,
17 you know, just to first point out, I
18 appreciate you folks showing their concern
19 about secrecy because we -- we -- we have in
20 place --

21 MS. MARKS: I'm not -- I'm not quite
22 hearing you. I apologize.

23 MR. LINDSEY: I'm sorry. Go ahead.
24 Basically, you -- you're seeking to amend an
25 already existing rule within -- of our

1 election system, 183-1-12.11.4, correct?

2 MS. MARKS: I don't have that memorized,
3 but yes, I'll say -- I'll take your word for
4 it.

5 MR. LINDSEY: That's fine. And, you
6 know, and -- and matter of fact, we used that
7 rule today to find a violation by Walker
8 County. You know, and their solution was to
9 create greater barriers. You saw that today?

10 MS. MARKS: I did see that today.

11 MR. LINDSEY: Yeah. And other counties,
12 as a matter of fact, Dr. Johnston and I were
13 in Jefferson, Georgia the other day and
14 vendors were presenting other alternatives to
15 Jefferson -- to that county regarding ways in
16 which to increase privacy and to secure
17 privacy. And, I guess, my point being is that
18 in addition to distance, there are other
19 methods by which counties may, within the
20 contours of -- of their polling places be able
21 to secure privacy.

22 MS. MARKS: We have not seen any that
23 effectively work yet. We would certainly like
24 to -- to see them. You know, I -- I applaud
25 the county that was showing the -- the bigger

1 dividers.

2 MR. LINDSEY: Uh-huh.

3 MS. MARKS: I can't quite imagine in most
4 polling places that that is going to provide
5 the secrecy that is needed -- the privacy
6 that's needed as people perhaps walk toward
7 that voting station.

8 MR. LINDSEY: Sure.

9 MS. MARKS: You know, you would have to
10 have them very isolated, very spread out. It
11 would work maybe in a gymnasium if you had,
12 you know, not a large number of -- of
13 stations. But we have not seen any of --
14 truly effective measures. We've seen
15 improvements, but -- but not truly effective
16 measures but maybe there are some.

17 MR. LINDSEY: Well, sure. And there are
18 also various screen methods by which a -- the
19 ability of someone to see a screen at a
20 distance is affected by virtue of a screen
21 protector. You're familiar with that, as
22 well?

23 MS. MARKS: As -- as we understand it,
24 that does -- a couple of things with those
25 screens.

1 MR. LINDSEY: Uh-huh.

2 MS. MARKS: We're not aware of them being
3 EAC certified yet.

4 MR. LINDSEY: Yeah.

5 MS. MARKS: And that does -- privacy
6 filters can affect touch sensitivity. So I
7 think they do need to be EAC certified.

8 MR. LINDSEY: And then they need to --

9 MS. MARKS: Also -- also it is our
10 understanding that where those are in use,
11 people in line behind the voter can still see
12 that -- that those filters are good at
13 blocking peripheral sight lines but not
14 straight on sight lines. But I have not seen
15 them in use. I would -- before -- before we
16 would say that we think that that's a great
17 idea, we need to make sure that people behind
18 the voter cannot see and that the EAC has
19 approved this from a touch sensitivity
20 standpoint.

21 MR. LINDSEY: I understand and -- and
22 that's why some additional study needs to be -
23 - how -- how many counties in Georgia have you
24 consulted with on this?

25 MS. MARKS: I'm sorry. Have I done what?

1 MR. LINDSEY: How many counties in
2 Georgia have you consulted with on this rule?

3 MS. MARKS: Consulted with I -- I can't
4 say that I've consulted with any recently
5 other than one. But I visited probably 25
6 counties and talked to managers and polling
7 place managers and election directors and
8 seen, gosh, in terms of installations, I would
9 say I probably seen 50 installations or more.

10 MR. LINDSEY: I appreciate that. And I
11 hope you do understand that -- that one of our
12 goals is to make sure that when we do propose
13 rules that we do so in consultation with
14 counties. To reach the -- the -- the goal
15 that you are talking about, I mean, you know,
16 our rule already mandates that the voter's
17 privacy is protected. I want to make sure
18 that the folks out here understand that, as
19 well as state law. And we do -- and -- and
20 the question is how do we get there.

21 MS. MARKS: Right.

22 MR. LINDSEY: But I do appreciate you
23 coming forward with this issue today.

24 MS. MARKS: Well, and thank you. And
25 that was really our point. We know what the

1 law mandates.

2 MR. LINDSEY: Yeah.

3 MS. MARKS: And some of the election
4 directors we have talked to have said, yeah,
5 we know we're violating the law. We know
6 we're violating people's constitutional
7 rights. But we've been told that BMDs reign
8 supreme and we've got to use them no matter
9 what. And that they -- they are more -- it's
10 more important to use the BMD then to worry
11 about people's constitutional rights is,
12 basically, what we're hearing.

13 MR. LINDSEY: Well, I will -- I will
14 simply say that -- that I've never heard of
15 anything like that --

16 MS. MARKS: Right. I think they would be
17 a little more hesitant to -- to say that --
18 yes.

19 MR. LINDSEY: And -- and certainly --
20 well, not only hesitate, but I do think that
21 the folks are trying very hard and -- and,
22 obviously, we do need to come up with things
23 to make sure that the privacy is protected.
24 But I do appreciate you bringing this
25 important issue. Thank you.

1 MS. MARKS: Sure. And -- and we know
2 that they're trying hard. We're just saying,
3 we kind of get point -- past the point --

4 MR. LINDSEY: I understand.

5 MS. MARKS: -- trying hard getting it in
6 -- getting it done --

7 MR. LINDSEY: I understand.

8 MS. MARKS: -- before 2024.

9 MR. MASHBURN: Any questions from other
10 Board Members? Board Member, Dr. Johnston.

11 DR. JOHNSTON: Hey, Ms. Marks, thanks for
12 -- for presenting this.

13 MS. MARKS: Sure.

14 DR. JOHNSTON: Okay. How many BMDs in an
15 average polling place would fit with your
16 criteria?

17 MS. MARKS: Of course, it's really hard
18 to know what an average polling place is. But
19 you've got Chambliss in Sumter County that's
20 about the size of a large outhouse and then
21 you've got State Farm Arena on the other --
22 other side. But, you know, I think many of
23 the kind of library, church conference room
24 places that we look at generally I think you
25 could count on having four to six BMDs. Four

1 because you can clearly get one in each
2 corner, voter with their back to the -- to the
3 corner and the screen facing them. It's --
4 it's hard to arrange many more without having
5 other people walk behind another voter.

6 So, again, we never want to say that four
7 is enough, that four voting stations is
8 enough, no. Fill up the rest of the room with
9 hand-marked paper ballot stations.

10 DR. JOHNSTON: Would you object to a
11 curtain for privacy?

12 MS. MARKS: Yes. Absolutely. And, in
13 fact, the election code does not permit the
14 blocking off of the visibility of the machine.
15 The election code and, in fact, the statutes
16 say that the public must be able to see the
17 operation of the machine, as well as poll
18 watchers and poll workers. And as we know
19 with the vulnerabilities of the ICXs, the
20 touchscreens with their USB ports that sort of
21 thing. You would not want people to be able
22 to go in, pull the curtain and tamper with the
23 equipment. So the curtains -- don't work in
24 Georgia.

25 DR. JOHNSTON: Would positioning of the

1 touchscreen at flatter angle be sufficient?

2 MS. MARKS: It would -- I don't -- we
3 have not seen anyone attempt that. It would
4 certainly seem to help, but we've never seen
5 any type of cradle or anything be created to
6 look and see. Some of these things it's hard
7 to -- you think we have a vision of, oh, yeah,
8 that should work until you actually see it in
9 practice. And a lot of things have surprised
10 us that we thought would work, but didn't.
11 But I've not seen anybody try that. If you're
12 aware of an installation like that, I'd love
13 to see it.

14 DR. JOHNSTON: I haven't seen it.

15 MS. MARKS: Okay.

16 DR. JOHNSTON: So is it really the -- the
17 goal of a secret ballot or is it a goal to not
18 use the touchscreens?

19 MS. MARKS: Well, not using the
20 touchscreens is certainly a by-product. But I
21 will tell you that Coalition for Good
22 Governance has been working on ballot secrecy
23 since 2009. I am quite sure that we have
24 filed more lawsuits on the right to a secret
25 ballot than any organization in the United

1 States. We -- this has been a core principle
2 that we have worked on long before we ever
3 heard of BMDs.

4 But -- but the fact that the insecure
5 touchscreen system would be reduced is
6 certainly a positive by-product.

7 DR. JOHNSTON: Would you also say that
8 absentee voting at home violates secret
9 ballot?

10 MS. MARKS: Unfortunately, ballot secrecy
11 in a home environment can be really tricky.
12 I've seen some really ugly situations. And,
13 of course, we can't control what happens in
14 someone's home. But one of the things that we
15 can do -- and I say we, I mean, public
16 oversight in the state, is to be sure that
17 once that ballot arrives in the polling place
18 -- excuse me -- in the processing room is that
19 it is treated absolutely in it's secrecy
20 sleeve. It stays in that secrecy sleeve until
21 the ballot is disassociated from the envelope
22 and that true ballot secrecy can, indeed,
23 occur in the ballot processing room.

24 As you know, I did a lot of work in
25 Colorado before Georgia and unfortunately

1 Colorado is an all mail ballot state. They
2 learned how to do it and truly protect voter
3 privacy.

4 MR. LINDSEY: One last thing --

5 DR. JOHNSTON: Would you not agree that
6 it's possible for -- for every person with a -
7 - with a absentee ballot to photograph their
8 ballot with no oversight?

9 MS. MARKS: Oh, certainly, certainly it
10 is. But it -- it's not legal for them to then
11 go share it with others and post it and that
12 sort of thing. Yes, I mean, of course, I
13 don't like that idea at all, but luckily, we
14 have laws against people sharing that
15 information.

16 DR. JOHNSTON: That's why I -- that's why
17 I love the polling place. I love it.

18 MS. MARKS: Me too.

19 DR. JOHNSTON: I love the safety, the
20 security, the mandate to keep the election
21 legal. And to do as much as they can to -- to
22 provide that secret ballot. Thank you.

23 MS. MARKS: Uh-huh.

24 MR. MASHBURN: Question?

25 MR. LINDSEY: One last inquiry. Ms.

1 Marks and I appreciate you -- you said that
2 you -- your organization has filed numerous
3 lawsuits regarding ballot secrecy.

4 MS. MARKS: Yes.

5 MR. LINDSEY: And as we explore this
6 issue and continue to work on this issue, I
7 would ask that you -- if you would -- let us
8 know those lawsuits --

9 MS. MARKS: I'm sorry --

10 MR. LINDSEY: -- so we can take a look at
11 a few orders and try --

12 MS. MARKS: -- let you know what?

13 MR. LINDSEY: Let us know those lawsuits.

14 MS. MARKS: Oh, you're going to test my
15 memory.

16 MR. LINDSEY: Well, no, no, no. I'm not
17 asking right now. I'm not asking -- this
18 isn't a memory test.

19 MS. MARKS: Okay.

20 MR. LINDSEY: This is a request for
21 information test. If you would as we -- as we
22 -- as we work our way through this issue. If
23 you could get us those lawsuits and any orders
24 that dealt with -- and you can just give us
25 the cites. Just sort of take a look at it as

1 we try to figure out how to -- how to protect
2 the secrecy of the ballot for -- for the
3 people of Georgia, I appreciate that.

4 MS. MARKS: Okay. Great. And just so
5 you're aware, those had -- those did not have
6 to do with -- well, of course, the one in
7 Sumter County did but prior to that, they did
8 not have to do with touchscreens. But I'm
9 still happy to give them to you.

10 MR. LINDSEY: Whatever you got. Whatever
11 you got.

12 MS. MARKS: I'm happy to get them to you.

13 MR. LINDSEY: I am concerned, and the
14 Board is concerned by shown by the existing
15 rule already and by some of our other rulings
16 that we've already committed to very concerned
17 with voter secrecy. So thank you very much.

18 MS. MARKS: I would like to make a
19 comment on -- it's probably not going to be
20 clear when you look at the Sumter County case
21 that we filed a couple years ago. And we
22 ended up -- that case was dismissed. But the
23 good news is in Sumter County they were very
24 fortunate in a way. They had a lot of big old
25 abandoned or not very much used buildings.

1 They were actually able to take the small
2 number of BMDs that they had to deploy and put
3 them in big rooms. And they were able to
4 solve their problem. But they were in a very
5 kind of fortunate --

6 MR. LINDSEY: Thank you very much.

7 MS. MARKS: -- environment.

8 MR. MASHBURN: Other Board questions by
9 Board Member Ghazal, anything?

10 MS. GHAZAL: (No verbal response.)

11 MR. MASHBURN: Dr. Johnston?

12 DR. JOHNSTON: One more question.

13 MS. MARKS: Sure.

14 DR. JOHNSTON: So -- so I see the picture
15 of a few BMDs being used that provide secret -
16 - enough secrecy in a polling place and at the
17 same time paper ballots being used. So -- so
18 you envision two methods of voting going on
19 simultaneously in every polling place?

20 MS. MARKS: Yes. And if you think about
21 it even in states that where hand-marked paper
22 ballot -- primary or the -- the primary system
23 of voting. They still required to have BMD or
24 touchscreen units for purposes of assisting
25 voters who have disabilities. So that's not

1 unusual at all and, in fact, it is virtually
2 uniform that there will be BMDs and
3 hand-marked paper ballots that are -- that are
4 being voted at the same time.

5 MR. MASHBURN: Board Member Ghazal,
6 question? I have a few questions if you don't
7 mind.

8 MS. MARKS: Sure.

9 MR. MASHBURN: I've been trying to work
10 my way through how this would work, and this
11 would be a good chance for you to tell me how
12 I got this completely wrong. But, you know,
13 help me in my mind and so I'm particularly
14 concentrating on -- Mr. Lindsey was
15 concentrating on Section 4. I'm concentrating
16 on 2C and D. And you don't have to have those
17 memorized. But I'm looking at your changes in
18 -- in C and D and just the way I understand.
19 You don't have to quote the statute, just --

20 MS. MARKS: I see what you're talking
21 about --

22 MR. MASHBURN: We'll speak in lay terms.

23 MS. MARKS: Okay.

24 MR. MASHBURN: But the way I understand
25 it is the poll manager is going to be imbued

1 with the authority to decide whether or not
2 ballot secrecy can be guaranteed or not.

3 MS. MARKS: Actually, that is not really
4 our intent.

5 MR. MASHBURN: Okay.

6 MS. MARKS: Our intent was to have that
7 decision made at the superintendent or county
8 board or probate judge level because I think
9 what happened when someone was writing
10 originally -- not ours I'm talking about the
11 existing emergency ballot rules. They
12 conflated, supervisor and superintendent.

13 MR. MASHBURN: Okay.

14 MS. MARKS: And when you try to read
15 through it, it gives you --

16 MR. MASHBURN: Yeah.

17 MS. MARKS: -- an inconsistent result.
18 And what we were trying to do is reach
19 consistency and have the decision made at the
20 county board level. Of course, except in a
21 true emergency when something's happening
22 right on -- right on the scene, right this
23 moment. Let your poll manager decide then let
24 your superintendent --

25 MR. MASHBURN: Right.

1 MS. MARKS: -- override them.

2 MR. MASHBURN: But it -- it does say that
3 if the poll manager can't reach the
4 superintendent, then the poll manager makes
5 the decision.

6 MS. MARKS: For the -- yeah.

7 MR. MASHBURN: Okay.

8 MS. MARKS: -- that -- that would be for
9 an emergency situation, right.

10 MR. MASHBURN: Yeah. And -- and I didn't
11 see any limit -- any time limitations so this
12 could actually be happening on election day,
13 right?

14 MS. MARKS: Well, one would hope that --
15 that the Board in -- when they approved the
16 layout of the system, and that sort of thing
17 would have been done well before election day.

18 MR. MASHBURN: Yeah.

19 MS. MARKS: And this wouldn't be
20 happening. But, you know, because this
21 effectively -- our proposal was trying to make
22 uniform the -- what is now called emergency
23 balloting. And because emergency doesn't
24 really appear in the statutes, we thought it
25 was better to kind of get rid of that

1 emergency word --

2 MR. MASHBURN: Yeah. I saw -- I saw
3 that, uh-huh.

4 MS. MARKS: Uh-huh. So because it's not
5 really needed and it could be -- it -- it
6 could convey something that's not really
7 required. What -- what is an emergency? So
8 we were trying to talk more about the backup
9 system, get rid of that unneeded word
10 emergency. But, yes, we -- we anticipated it
11 is something like a policy in this case. It
12 would be decided by the superintendent, the
13 Board and that other types of emergencies.
14 Oh, the power went out. Oh, you know, the
15 machines are going kerflooey -- that would be
16 the kind of thing that would be decided on the
17 spot by the poll manager to be -- then they'd
18 get the assistance of the Board.

19 MR. MASHBURN: Okay. And the other thing
20 is that Georgia is horrible on legislative
21 histories. If anybody's ever tried to do any
22 research in Georgia on legislative history,
23 you just know it's so hard. But so what I
24 wanted to do is -- this has been in place
25 since 2019, and so there's four legislative

1 sessions that we've had -- has a -- has a bill
2 been introduced to address this?

3 MS. MARKS: No. We've tried. We have
4 proposed one in every session. And it -- it
5 has never gotten --

6 MR. MASHBURN: Okay. So I feel better
7 that I didn't miss it.

8 MS. MARKS: You didn't miss it. No. In
9 fact, it's never even made it so far as to be
10 introduced although we have tried.

11 MR. MASHBURN: Okay.

12 MS. MARKS: But we don't -- just as you,
13 we don't get to decide what -- what gets to
14 the committees. But while absolute secrecy
15 for BMDs was required in HB316. Absolute
16 secrecy was already the concept for prior
17 methods of voting. So there's really nothing
18 new about this. And as I say it goes back to
19 the 1880's.

20 MR. MASHBURN: Yeah.

21 MR. LINDSEY: Thank you.

22 MS. MARKS: Even before my time.

23 MR. LINDSEY: I want to make sure I
24 understood you. You said you tried to pass --
25 get legislation in -- in -- and certainly

1 having been there, I do know that sometimes
2 it's difficult to get a hearing. But it's not
3 so much difficult to get a bill dropped. Have
4 -- have any bills been dropped on this issue
5 in the last four sessions?

6 MS. MARKS: Dropped meaning filed?

7 MR. LINDSEY: Meaning -- meaning filed in
8 either the House or the Senate.

9 MS. MARKS: No, not -- not that I'm aware
10 of. But we have tried hard.

11 MR. LINDSEY: Okay.

12 MS. MARKS: It's not for lack of
13 proposing it to legislators in both parties.

14 MR. LINDSEY: Okay.

15 MS. MARKS: And because I think ballot
16 secrecy since the BMDs were adopted has become
17 a really scary issue for people people have
18 been -- lawmakers have been unwilling to bring
19 it --

20 MR. LINDSEY: Sure.

21 MS. MARKS: -- forward. But I'm not
22 exactly sure what -- what lawmakers would do
23 right now other than reinforce, hey, we really
24 mean it with ballot secrecy. And if you --
25 and if you don't do it, we're going to fine

1 you big and we're, you know, I don't know what
2 you would do other than maybe making it more
3 obvious like we've tried to do.

4 MR. LINDSEY: I understand.

5 MS. MARKS: If you can't provide ballot
6 secrecy with the BMDs when you run out of
7 private space, then use hand-marked paper
8 ballots. That's what we had suggested to
9 lawmakers before.

10 MR. LINDSEY: Thank you very much.

11 MR. MASHBURN: I have another question
12 and -- and it's kind of hot button issue
13 lately. I noticed in D there was -- the
14 decision was to be made by the superintendent
15 or the superintendent's designee. And there
16 wasn't any limitation on who the designee
17 could be and so one person came to me and
18 said, so the ACLU could make this decision.
19 Because they're the designee of Fulton County.
20 And so I'd like to give you a second to
21 address how -- how your proposal would --

22 MS. MARKS: Right. So --

23 MR. MASHBURN: -- give the county.
24 They've got to have a legitimate, well, not
25 that the ASU's not legitimate, but they've got

1 to have very closely aligned designee and
2 that's not just designee.

3 MS. MARKS: Okay. So the particular
4 sentence that you were referring to does
5 relate to those emergency circumstances that,
6 oh, my gosh, we just came in and the floor's
7 filled with water, or the machines are wet, or
8 something like that. And so the reason that I
9 suggested designee in here is because the
10 election superintendent, let's say the Board
11 would not be immediately available. And the
12 idea would be the poll manager, an area
13 manager.

14 MR. MASHBURN: In my version, it's the
15 emergency situation's been deleted.

16 MS. MARKS: Let's see --

17 MR. MASHBURN: It says -- if -- if the
18 use --

19 MS. MARKS: I'm looking about -- in
20 paragraph D, right?

21 MR. MASHBURN: Yeah.

22 MS. MARKS: D as in dog?

23 MR. MASHBURN: Yeah. The way I'm reading
24 it is if the use of electronic ballot markers
25 is determined to be impossible or

1 impracticable, the poll manager shall alert
2 the superintendent and then it goes on.

3 MS. MARKS: Oh.

4 MR. MASHBURN: Am I reading it right?

5 MS. MARKS: Yes. And the designee comes
6 in, at least in my version --

7 MR. MASHBURN: A little bit later, uh-
8 huh.

9 MS. MARKS: -- about --

10 MR. MASHBURN: Yeah, you're right.

11 MS. MARKS: -- a third a way down from
12 the bottom.

13 MR. MASHBURN: Yeah. So it's kind of
14 like the -- kind of like a -- what we call a
15 waterfall. It just kind of -- if you -- if
16 you can't get this person, go to this person.
17 Go to this person. Go to this person. Go to
18 this person. I get it. I get it.

19 MS. MARKS: So that we don't slow down
20 voting, right?

21 MR. MASHBURN: Right. Right. But is
22 there -- is there -- in your mind is there any
23 limitation on designee?

24 MS. MARKS: I had assumed that since the
25 -- that the election superintendent of being

1 the Board that they would chose an election
2 official as the designee.

3 MR. MASHBURN: Right. Yeah.

4 MS. MARKS: Whether it is a poll manager.
5 Assistant poll manager. That they would
6 define their official designee.

7 MR. MASHBURN: Right. I got it. Makes
8 sense. Okay. Thank you.

9 MS. MARKS: Uh-huh.

10 MR. MASHBURN: Other questions of the
11 Board?

12 MR. LINDSEY: No.

13 MR. MASHBURN: Okay. Well, we're ready
14 to move to your second petition if you're
15 ready.

16 MS. MARKS: Of course, okay. Logic and
17 accuracy testing. The purpose of our logic
18 and accuracy testing proposed rule, and we'll
19 call it a LAT for short, is twofold. One to
20 ensure that the logic and accuracy testing
21 becomes compliant with state law. And
22 secondly, to improve the transparency and
23 public oversight of L&A testing -- or LAT
24 testing. And that was always intended to be a
25 public process. But it has not been a public

1 process in recent years in Georgia.

2 It's been well documented in both our
3 Curling v. Raffensperger case, as well as in
4 our package to you, that the Secretary of
5 State's procedures for LAT are wholly
6 inadequate. They take dangerous shortcuts.
7 And they undercut the most fundamental basic
8 machine testing rendering that LAT, almost
9 ineffective in Georgia. In October 2020, the
10 Court in the Curling case requested that this
11 Board clarify the rules for logic and accuracy
12 testing prior to the January 2021 US Senate
13 runoffs to ensure and enforce compliance.

14 However, here we are three years later.
15 This has still not been addressed by the
16 Secretary or this Board. Again, with a highly
17 contentious elections we have upcoming next
18 year. The nation's eyes are going to be on
19 the Georgia elections. We're asking this
20 Board to make the simple requirement of
21 meeting the statutes on LAT in compliance with
22 law and in compliance with generally accepted
23 practices across the country. And be certain
24 that the public has the ability to exercise
25 their rights of oversight. Standing as far as

1 I am from you and being told this is as far as
2 you can get to the screen to determine whether
3 the testing is -- is coming up with the right
4 results. That's not adequate oversight or
5 what was intended by the statute. So our
6 proposals address both doing it by the statute
7 and being sure that the public and the press
8 can have meaningful oversight. And that's all
9 that I have with -- on that.

10 MR. MASHBURN: You're well within your
11 five minutes on that one.

12 MS. MARKS: That's a surprise. I know.
13 I'll probably blow it on the next one so . . .

14 MR. MASHBURN: You did good. You did
15 good. Questions from the Board? Questions
16 from the Board?

17 I do have one question. Just ask you to
18 clarify on number two, what the change is that
19 the law states now be available for the first
20 hour of the first day of testing to explain
21 the preparation and testing process.

22 MS. MARKS: Uh-huh.

23 MR. MASHBURN: And that has been the
24 first hour of the first day has been
25 eliminated and it just says, be available to

1 respond. And so I'm going to let you address
2 the counties are going to scream about
3 staffing. So I want you to --

4 MS. MARKS: Yes.

5 MR. MASHBURN: -- make the counties feel
6 better.

7 MS. MARKS: Okay. So the rules as they
8 go -- or the procedures are that somebody has
9 to be there the first hour to answer
10 questions. But then we observers are not
11 allowed to ask any questions after that. And
12 so if I see testing that's going kerflooy or
13 appears to be going kerflooy and the count's
14 not right. For me to have to be gagged and
15 not ask anybody anything I'm pretty
16 ineffective in my oversight. So it would seem
17 to me that, of course, the counties would want
18 to have someone there, not shut us observers
19 up and build the frustration. But instead
20 have somebody we can ask questions to and calm
21 me down. If I'm jumping around and
22 everything's totally legit.

23 MR. MASHBURN: Great. Appreciate it.
24 Thank you.

25 MS. MARKS: Uh-huh.

1 MR. MASHBURN: Any other questions from
2 the Board? Dr. Johnston.

3 DR. JOHNSTON: I have one question. In -
4 - in the second section also you added have
5 meaningful visual access to the documents
6 produced in testing. And I might add visual
7 and auditory access.

8 MS. MARKS: Uh-huh.

9 DR. JOHNSTON: And -- but in the next
10 paragraph E, it states that only election
11 personnel and individuals can enter the
12 testing area. I don't know if there's a
13 conflict between being able to have meaningful
14 visual access versus not being able to be in
15 the testing area. So that -- those two might
16 be looked at carefully.

17 MS. MARKS: Dr. Johnston, I -- you're
18 absolutely right about that. And I think I
19 punted when I got to that one because I didn't
20 quite know what the counties are considering
21 the testing area. And if it means standing
22 right up at the machine, then, you know, yeah,
23 we don't need to get in the way of the
24 workers. But I think this could benefit for
25 maybe some more uniform definition of how

1 close we observers can get. One of the ways
2 we solved this in Colorado, actually had to do
3 with signature verification, but similar
4 concept. And that was to define meaningful
5 access as saying that, you know, a person with
6 corrective vision should be able to read
7 what's on the screens. An observer should be
8 able to read what's on the screens. You can
9 get -- get close enough to do that. But don't
10 elbow the worker out of the way. And they
11 were able to -- totally over the years manage
12 -- it wasn't like throngs of people were
13 coming in trying to see what was on the
14 touchscreen. And there're easy ways to take
15 turns. You know, it's not like a big popular
16 thing to do. So you don't need to worry about
17 that, I don't think. But, yeah, other places
18 has solved this. So, yes, our definition
19 maybe needs a little more definition. And as
20 certainly for all of these rules what we tried
21 to say is we are not saying take it or leave
22 it just the way it is. If it needs help, help
23 it.

24 DR. JOHNSTON: Yes. And, of course, I
25 would -- I would say there needs to be

1 protection for passwords and security access
2 codes that would not be visible to the public.

3 MS. MARKS: Correct.

4 MR. MASHBURN: Okay. Any further
5 questions?

6 MR. LINDSEY: No.

7 MR. MASHBURN: Everybody satisfied on
8 that one? Okay. We'll move to your third
9 petition now, scheduled for 10 minutes.
10 You've done so well with your time. So...

11 MS. MARKS: Okay. I might blow it on
12 this one.

13 MR. MASHBURN: Oh, no.

14 MS. MARKS: Because this is going to be
15 the most controversial of the three, I think.

16 MR. MASHBURN: All right.

17 MS. MARKS: And this is meant to be a
18 temporary rule. Okay. That would apply just
19 to 2024 elections. As this Board and the
20 General Assembly will then have more time to
21 address the cybersecurity weaknesses of the
22 Dominion voting system next year when the
23 General Assembly is in session.

24 However, failsafe mitigation of the
25 security issues is clearly needed for next

1 year. And the Secretary of State is not
2 taking action to mitigate the statewide
3 compromise of the already vulnerable system.
4 This Board has determined, I believe in June,
5 that -- that it does not have the authority to
6 address needed mitigations on a statewide
7 basis or make the declaration that the system
8 is impossible or impracticable to use given
9 that the statutes leave that determination of
10 impossible and impracticable to the county
11 superintendents, not to state officials.

12 So our proposed cybersecurity evaluation
13 rule permits the counties to have a template
14 for taking action to mitigate the security
15 problems in the Dominion BMD system for the
16 2024 election. The template includes a review
17 of the report by the federal agency, the
18 Cybersecurity and Infrastructure Security
19 Agency, CISA, concerning the Dominion Georgia
20 system. The report was released in June 2022
21 and recommends urgent mitigations, none of
22 which have been done. However, the Secretary
23 of State has made no meaningful attempts to
24 address these required mitigations prior to
25 the next year's election.

1 The counties therefore need to be given
2 both the encouragement and guidelines --
3 uniform guidelines in order to act to address
4 the needed mitigations in a uniform manner.
5 Our proposal rule -- our proposed rule gives
6 uniform guidelines to each county making their
7 determination based on an objective set of
8 facts. Taking into account their local
9 assessment of the feasibility of using hand-
10 marked paper ballots as the statutory
11 authorized backup when the ballot marking
12 devices are impossible or impracticable to
13 use.

14 Our proposed rules give the county
15 flexibility to balance the use of hand-marked
16 paper ballots and ballot marking devices
17 depending on their local assessment of the
18 feasibility occurring in their polling places.
19 I can imagine that this Board might have the
20 view that such a rule could result in a lack
21 of uniformity in using BMDs across the state.
22 However, uniformity is not mandated on an
23 unconditional basis.

24 The statute is clear that when
25 circumstances arrive that -- arise that

1 require hand-marked paper ballots, the
2 counties have the authority and responsibility
3 to make that impossible or impractical
4 determination at the local level. That's what
5 the statutes say. It would be a reckless
6 position to declare that counties have no such
7 authority. And that this Board has no such
8 authority. And that we just must live with a
9 highly compromised vulnerable system.

10 The state would be much better off to
11 permit as many counties as can to completely
12 or in part mitigate the risk of the Dominion
13 BMD system. As we look at the sure to be
14 contentious 2024 elections coming just a few
15 months. There can be little harm in
16 permitting the counties to assess the risk
17 based on the CISA established timelines and
18 criteria and then permitting those counties to
19 mitigate to the extent possible and feasible.

20 Our rule is simply meant to create
21 uniform guidelines for such an event --
22 evaluation. Telling the counties not to act
23 to protect the 2024 election in the name of
24 uniformity when the system cannot be secured
25 is just not sound public policy. Security and

1 verifiability of the upcoming election needs
2 to be a primary consideration.

3 And with that I'll ask if there are any
4 questions about our proposed cybersecurity
5 evaluation rule?

6 MR. MASHBURN: Hey, you beat your time
7 again.

8 MS. MARKS: For now.

9 (Audience applauds.)

10 MR. MASHBURN: Okay. Questions from the
11 Board? Questions from the Board? Okay.
12 Well, thank you very much for your
13 presentation. We appreciate you. You put a
14 lot of work into it and it's clear to
15 everybody to see that. So at this time, we'll
16 -- the Board will enter into deliberations.

17 MS. MARKS: Well, thank you so much,
18 again. And (inaudible) and we thank you for
19 your questions, for sure.

20 MR. MASHBURN: Thank you very much. Give
21 the Board a few minutes to get their
22 collective thoughts.

23 (Brief pause.)

24 MR. MASHBURN: Okay. Is everybody ready?

25 MR. LINDSEY: Yeah.

1 MR. MASHBURN: Everybody's done? Ready
2 to begin? Who would like to begin?

3 MR. LINDSEY: I guess, I can.

4 MR. MASHBURN: Okay.

5 MR. LINDSEY: Do you want to do them one
6 at a time? Or do you want to do them
7 collectively, Mr. Chairman?

8 MR. MASHBURN: Any way is your pleasure.

9 MR. LINDSEY: Well, let me sort of take
10 them collectively, then. And then we can
11 discuss it. There are three different
12 petitions here. And -- and they -- they raise
13 issues that not only Ms. Marks and her
14 organization, but a lot of folks in Georgia
15 have expressed concerns about both in our
16 hearings and in the General Assembly and in
17 the public, in general.

18 Regarding the -- the -- the ballot
19 secrecy issue. You know, as we already
20 mentioned, we -- we have a rule in place now.
21 The question is whether or not there needs to
22 be specific guidelines. I think Ms. Marks
23 interestingly and stated that, you know, the
24 problem with getting legislative fixes on this
25 secrecy issue where they've already mandated a

1 general requirement of secrecy makes it
2 difficult and with the same rule -- same
3 situation exists when it comes to making rules
4 particularly when we have 159 counties. And I
5 don't even remember the number of precincts in
6 this state.

7 MR. MASHBURN: Approximately 2,200.

8 MR. LINDSEY: Approximately 2,200. And
9 as Ms. Marks said, you know, they've made a
10 lot of studies and a lot of observations and -
11 - and I do appreciate the meetings that I've
12 had with her in the past and I hope to have
13 some additional ones in the future. But we
14 desperately need to have input from our
15 counties on -- on what, if any, additional
16 rules over and above the general requirement
17 that we already have need to be in place in
18 order to secure the secrecy -- the rights to
19 secrecy for our -- for our -- our voters here
20 in Georgia. Therefore, and let me sort of
21 also back up.

22 On some of these, I would really prefer
23 to table and continue to study. But in
24 consultation with our counsel, we're told the
25 only things that we can do is either -- either

1 vote them up or vote them down. And I want to
2 assure you that if we vote something down
3 today doesn't mean that we don't think it's a
4 serious issue or don't intend to look at it
5 further.

6 My fellow Board Member and I are looking
7 at rules that we intend to bring forward and
8 we are consulting with a wide range of
9 individuals, including Ms. Marks'
10 organization, including local counties'
11 boards, including anybody else in the audience
12 who wishes to send us something to take a look
13 at. I do worry that -- that this is a one-
14 size fits all when there are other possible
15 ways to secure voter secrecy requirements.
16 And so for that reason, given the fact that
17 I'm not allowed to simply table, I will have
18 to at the appropriate time move to vote down
19 this issue.

20 But in doing so, I want to assure you
21 that this is an issue that we do intend to
22 take a hard look at and see if we can secure a
23 -- a rules and proposed rules for the -- for
24 the December meeting. And I know Sara and I
25 are already looking at this, as well as a

1 bunch of other issues. And consulting a bunch
2 of other folks. So anyway, that's -- that's
3 on that issue.

4 The LAT testing, once again, I think we -
5 - we -- once again, I think that -- that in
6 terms of the adequacy of the testing, I think
7 it's going to be incumbent upon us to -- to
8 talk to the counties in terms of how -- what's
9 the best way for them to consult. We've
10 already begun those consultations and I want
11 to, basically, get their input. We're trying
12 very hard not to simply create rules from
13 30,000 feet but to hear from our counties as
14 to not only what it'll take to get to the
15 results that we all want. But what's the best
16 practical use. Best -- best practical method
17 in order to do so. So for that reason I'm
18 going to have to move to vote down that one,
19 as well.

20 Regarding the -- the cybersecurity issue
21 which is a very serious issue that we have
22 going on here. We've already had one hearing
23 on this issue in June and we heard from the
24 Secretary of State's Office at that time. I'd
25 point out that -- that there's a lot of

1 discussion going on at this time around the
2 state -- official discussions, as a matter of
3 fact, the state Senate at this time is -- is
4 ordering hearings. So the Lieutenant
5 Governor's ordered hearings on this issue to
6 both call in the Secretary of State's Office
7 to have them try to demonstrate why they think
8 the present testing method are -- are
9 adequate. And also, for the Senators to
10 consider what additional requirements may be -
11 - may be needed for the 2024 election.

12 I know the House informally is -- is
13 doing the same thing. So at this time I think
14 it's very premature for us to try to impose
15 some rule here in which we will try to dictate
16 to the state and dictate to the local
17 governments, as well as to the General
18 Assembly. And to -- rather than allow them to
19 continue their hearings over the next few
20 months so that we can take another look at
21 this in our December hearing. And so for that
22 reason, Mr. Chairman, I would also vote down
23 that one. So in other words I want to hear --
24 I want the state Senate to be able to conduct
25 its public hearings that it has called on.

1 When it comes to the third issue, I want
2 us to -- to view that as a fact finding to see
3 whether or not Secretary of State has taken
4 the adequate steps and see whether or not
5 they're taking inadequate steps. And to see
6 whether or not other remedies are going to be
7 brought forth by the General Assembly or do
8 they necessarily need to be brought forth by
9 us. And so for that reason, I'll -- I'll --
10 I'll make that appropriate motion.

11 That doesn't mean that we're not going to
12 continue to be looking at these issues and
13 considering them, both in December and
14 January. But it simply means that based on
15 what our lawyer's told me, I only have a
16 choice of either saying yes or no. I don't
17 have a choice to -- to simply table and to
18 consider further. But I do appreciate these
19 issues coming forth today. Thank you. And
20 thank the folks who did so. And look forward
21 to discussing with them further as I've
22 already asked for some additional information
23 about what -- with the hearing from them in
24 the future.

25 MR. MASHBURN: We'll continue in reverse

1 order and seniority and let Dr. Johnston.

2 DR. JOHNSTON: Oh.

3 MR. MASHBURN: If -- if you're ready,
4 you'd like to share.

5 DR. JOHNSTON: Sara, want to go ahead.

6 MR. MASHBURN: Or Sara, would you like --

7 MS. GHAZAL: You.

8 MR. MASHBURN: Dr. Johnston, you're up.

9 DR. JOHNSTON: With the first
10 presentation regarding ballot security, I
11 think your -- your position is a very
12 important position and ballot secrecy is -- is
13 paramount in elections. And I think we need
14 to continue to see if there's any way possible
15 that we can make adjustments to satisfy that
16 secrecy in the polling place with the
17 positioning of the machines or the larger
18 screens or whatever methods that we -- we can
19 do to facilitate that.

20 I have reservation about having two
21 voting methods being performed constantly
22 throughout an election with the poll workers'
23 obligations to track both of those to track
24 the counts, to track the paper, to the
25 logistics of -- say Fulton County has 350

1 ballot styles to deal with in early voting
2 whether the feasibility of having ballot on
3 demand printers or packs of -- packs and packs
4 of paper ballots to -- to have available and
5 to maintain and keep secure and to make sure
6 that those ballots are not stolen during the
7 long period of early voting is a real concern.
8 And it -- it doesn't seem to add to the -- the
9 potential for orderliness in elections that
10 we're striving for is -- so I don't think I
11 could support that at this time.

12 For logic and accuracy testing, I like
13 the proposal. And I would vote for that. I
14 would still make some adjustments and changes
15 to that. I think it needs to be looked at
16 carefully. But I think that we could improve
17 our logic and accuracy testing. So I thank
18 you for presenting that petition.

19 As far as the BMD security and the
20 petition to -- to revert to hand-marked paper
21 ballots at the time of an election, just
22 instills a total insecurity or potential for
23 chaos in the election with -- if -- as the --
24 as the order -- as the rule is amended, the
25 emergency word has been removed and replaced

1 with incident. Well, an incident is just an
2 occurrence. It's not an emergency. So would
3 an incident be that -- that a voter access
4 card didn't work. And therefore, you
5 immediately revert to paper ballots? Or would
6 it be that one machine didn't work, and the
7 entire polling place had to revert to paper
8 ballots? Or would it be that one machine
9 didn't work and the entire polling place had
10 to revert to paper ballots? Would one revert
11 to paper ballots and then back to the use of
12 the BMD machines once the incident was
13 corrected? Or would it go back and forth from
14 day-to-day or hour-to-hour? There's just --
15 there -- there -- it raises so many questions
16 and about -- and to put the burden on a poll
17 manager, a supervisor or superintendent I
18 think is too much to ask. And it -- it has
19 the potential to create more problems than it
20 might solve. I would prefer that if there's a
21 change to hand-marked paper ballots that it be
22 determined before an election and not in the
23 process of an election. I think how -- how we
24 cast our votes needs to be planned and set and
25 not changed in the election. And how we count

1 our votes has to be determined and planned and
2 -- and counted as such and not changed.

3 MS. MARKS: May -- may I respond to that
4 because I think there's a -- the
5 misunderstanding.

6 MR. MASHBURN: Okay. Gotcha.

7 MS. MARKS: Okay. Thank you. Dr.
8 Johnston, thank you for the question. It was
9 -- this particular rule that we were proposing
10 really has nothing to do with incidents. And
11 that was the rule we were talking about back
12 in June. But this particular rule would be
13 for the counties to start now to plan 2024.
14 And it would not be something that happened on
15 the spur of the moment. It would be, you
16 know, put up the rule. And let them start
17 planning now to determine whether in March it
18 is feasible for them to use hand-marked paper
19 ballots based on the recommendations of CISA
20 and do they think that they have an impossible
21 or impracticable situation. It is in no way
22 meant to be the result of an incident we hope,
23 I mean, that was not the intent.

24 DR. JOHNSTON: Right.

25 MS. MARKS: Okay.

1 DR. JOHNSTON: The last thing I want is
2 for the election process to be halted and --
3 and a requirement to be changed and reports to
4 be written and provided in 24 hours before
5 anything can occur.

6 MS. MARKS: But that's nothing like that
7 is in our -- is in our proposal.

8 DR. JOHNSTON: All right. It seems --
9 I'm looking Exhibit 1 -- 1.

10 MS. MARKS: Let's see if I can catch up
11 with you. Okay. And what page?

12 DR. JOHNSTON: Page three of ten, section
13 D. It's the area that Chairman Mashburn
14 mentioned where emergency situation --
15 emergency situation is removed and is just
16 determined to be impossible or impracticable
17 and the question about the super -- the
18 determination shall be in the discretion of an
19 election superintendent.

20 MS. MARKS: Right. Okay. I understand
21 what you're asking me.

22 DR. JOHNSTON: Right.

23 MS. MARKS: What we were attempting to do
24 here was just make the language consistent
25 with the other rules that we were proposing.

1 It -- it was meant to try to clarify the
2 emergency rules that you have now, you know,
3 again, getting rid of that emergency word
4 because it's confusing. It's not in the
5 statute. It was not anticipated in any way
6 that the cybersecurity review that this rule
7 is really about. That the cybersecurity
8 review would be taking place on a instant
9 basis. It would be expected -- it would be
10 done over a period of months in advance of the
11 election. We were just trying to -- to make
12 the language consistent with the other rule
13 that we had proposed in doing this. Because
14 as -- as we pointed out, there's a mismatch in
15 the current rule between what's a supervisor
16 to do? A superintendent to do? And we were
17 trying to correct it consistently across the
18 rules we were proposing. But thank you for
19 letting me answer.

20 MR. MASHBURN: Sure.

21 DR. JOHNSTON: Sure.

22 MR. MASHBURN: You had time left.

23 DR. JOHNSTON: Right.

24 (Laughter.)

25 MS. MARKS: I would -- I would love to

1 respond to Mr. Lindsey for just a moment if
2 you would allow it?

3 MR. MASHBURN: Well, let's keep going.

4 MS. MARKS: Okay.

5 MR. MASHBURN: Let's keep going. Thank
6 you, though. Okay. Dr. Johnston, you still -
7 - you still -- you still up?

8 DR. JOHNSTON: So I -- I guess final --
9 the one -- the one question I still have is in
10 your opinion the Dominion voting system is not
11 in legal compliance with applicable laws and
12 rules at this moment; is that true?

13 MS. MARKS: Yes. That is true. And I
14 had provided this Board with a table of a
15 number of areas in which the Dominion BMD
16 system does not comply with federal and state
17 law, particularly HB316 which brought in the
18 ballot marking devices. And so what the
19 General Assembly ordered very specifically,
20 the Secretary of State did not deliver. They
21 delivered something else. And that has
22 created the situation that we're coming to you
23 saying, we've got to find a way to make this
24 work legally. To -- to -- to honor people's
25 rights. To -- to do what the legislative

1 intent was. So, yes, there are a number of
2 places that the system should have never been
3 certified as complying with Georgia law.

4 (Audience applauds.)

5 MR. MASHBURN: Okay. Dr. Johnston.
6 Board Member Ghazal?

7 MS. GHAZAL: Just briefly to thank my
8 fellow Board Members for their very careful
9 reading of this. And I really wanted to tell
10 Ms. Marks how much I appreciate the level of -
11 - of effort that has gone into this and the
12 amount of work. And just reiterate my
13 commitment to continue working on these issues
14 to make sure that we do come up with solutions
15 and rules that work for the counties and to
16 respect the rights of the voters. And I
17 appreciate you bringing these up and we will
18 continue to work this.

19 MR. MASHBURN: Thank you, Board Member
20 Ghazal. Just to conclude. I think we had a
21 good discussion about -- my -- my questions
22 about ballot security, I think I raised some
23 questions that -- that might need further
24 work. And I think I felt like you felt
25 constrained to stay within the existing

1 regulation and amend it as little as you could
2 to try and -- yeah, yeah. And I -- I had a
3 law that I was working on that passed in the
4 last session. And I -- I wrote this beautiful
5 law and it was 20 pages long. And they're
6 like, no. We want it as short as possible.
7 So I understand. So -- but I'm going to kind
8 of invite you to go the other way and just, if
9 you -- if you need to have a completely
10 different rule. Create your own rule and
11 start, you know, build it from scratch. I
12 think you might have been felt constrained to
13 -- to stay within -- trying to fit too much of
14 a square peg in a round hole. But it's not
15 bad. I mean, it was good try -- it was -- it
16 was a good idea. I don't think it -- I think
17 there's still more that needs to be refined.
18 And I'll let you -- I'll let you respond.

19 MS. MARKS: Well, well, thank you and we
20 would agree. There is a lot to be done.

21 MR. MASHBURN: Yeah.

22 MS. MARKS: But, you know, you're already
23 complaining at me about giving you so much
24 that -- I'm just teasing. But -- but, you
25 know, we were trying to take this one --

1 MR. MASHBURN: Yeah.

2 MS. MARKS: -- necessary step at a time.

3 MR. MASHBURN: Yeah. I understand.

4 MS. MARKS: And I -- I guess, I would say
5 that my understanding was that this Board
6 certainly could have the opportunity to edit,
7 tweak, add, subtract. And then put these
8 rules up is the part -- is the process for
9 feedback from the public, feedback from the
10 General Assembly. I thought that was the
11 whole idea of having a proposed rule and then
12 a comment period.

13 MR. MASHBURN: Yeah. I agree. And I
14 understand -- I understand the point. But,
15 unfortunately, the rules say we've got to
16 accept it or reject it and but even though if
17 we were to reject it, that doesn't mean we
18 can't take good ideas and keep -- and keep
19 processing and introduce rulemaking in the
20 future. So --

21 MR. LINDSEY: Yeah. Both -- the
22 rejection doesn't mean that -- that the issue
23 is -- is gone. That rejection simply means
24 within the -- the limitations of -- of -- of
25 our existing rules in order for us to continue

1 to study it. That's all we're talking about.

2 MR. MASHBURN: So at this time, I'm going
3 to let the Board make a motion. We can treat
4 them all together. We can treat them
5 separately. What's the Board's pleasure? My
6 inclination is to take them separately. And
7 so I'll hear a motion on ballot security [sic]
8 amendment to 183-1-12-.11. Does anybody has a
9 motion?

10 MR. LINDSEY: I -- I move to defeat it
11 with this -- with the -- and -- and would make
12 a commentary after I make my motion.

13 MR. MASHBURN: Okay. There's been a
14 motion to reject the petition on ballot
15 security. Is there a second?

16 MS. GHAZAL: Second.

17 MR. MASHBURN: There's been a second.
18 Now's the time for discussion.

19 MR. LINDSEY: Just the only thing I'm
20 going to add is, once again, I think it's
21 worth saying repeatedly. That this doesn't
22 mean this issue is gone. It just means that
23 underneath our existing rules we have to
24 reject while we continue to study it further.
25 And with the intention to -- to see if any

1 additional definitions need to be put in place
2 over and above our -- our prohibition that we
3 already have in the rules. I just want to
4 make it clear.

5 MR. MASHBURN: Any further discussion?

6 (No response.)

7 MR. MASHBURN: Okay. No further
8 discussion. We're ready to have a vote. All
9 those in favor of rejecting petition one, say
10 aye.

11 THE BOARD: Aye.

12 MR. MASHBURN: All those opposed would
13 say no.

14 (No response.)

15 MR. MASHBURN: It's unanimous. Okay.
16 Now, we'll move to petition number two. This
17 was a regulation and a rulemaking with regard
18 to logic and accuracy testing, 183-1-12-.08.
19 Does a Board Member have a motion?

20 DR. JOHNSTON: I move that we accept.

21 MR. MASHBURN: Okay. There's been a
22 motion -- go ahead.

23 DR. JOHNSTON: -- accept the rule.

24 MR. MASHBURN: Okay. There's been a
25 motion to accept the rule. Is there a second?

1 (No response.)

2 MR. MASHBURN: Okay. The motion to
3 accept the rule has not been seconded and so
4 therefore the motion to accept fails. Is
5 there an additional motion?

6 MR. LINDSEY: Move to reject.

7 MR. MASHBURN: There's been a motion made
8 to reject. Is there a second?

9 MS. GHAZAL: Second.

10 MR. MASHBURN: There's been a motion and
11 a second. Discussion?

12 MR. LINDSEY: Well, you know, for the
13 same reason that I stated earlier that I think
14 this needs further -- further work. And I
15 think Dr. Johnston even while she -- she
16 expressed some general support from it -- for
17 it also made a point of believing that
18 additional definitions were needed and some
19 tightening of it was necessary. And since at
20 this time we have to either accept the rule or
21 reject it. We need to reject it at this time
22 with the idea that we will look at it further
23 to see if anything -- any additional rules
24 need to be put in place and -- and what
25 exactly needs to be done. And we can do so in

1 a more deliberative fashion after today.

2 MR. MASHBURN: Okay. Any further
3 discussion? Dr. Johnston?

4 DR. JOHNSTON: No.

5 MR. MASHBURN: Okay. Board Member
6 Ghazal?

7 MS. GHAZAL: Just that I am wholly
8 supportive of -- of meaningful observation of
9 this -- of -- of this and encourage the public
10 to do that. And we will continue to work this
11 to make sure that that becomes a standard.

12 MR. LINDSEY: And to work with our local
13 counties --

14 MS. GHAZAL: Yeah.

15 MR. LINDSEY: -- to make sure that it --
16 that we have a rule that's workable in each of
17 the 159 counties.

18 MS. GHAZAL: Uh-huh.

19 MR. MASHBURN: So there's been a motion
20 and it's been seconded. Any further
21 discussion?

22 (No response.)

23 MR. MASHBURN: Okay. We're ready to
24 vote. All those in favor of rejecting
25 petition number two, logic and accuracy

1 testing would say aye.

2 THE BOARD MEMBERS: Aye.

3 MR. MASHBURN: All those opposed would
4 say no.

5 DR. JOHNSTON: No.

6 MR. MASHBURN: Motion carries two to one.
7 Now, we'll move to the third motion [sic] --
8 cybersecurity. Correct me if I'm wrong, I
9 think I got this right. This is also an
10 amendment to rulemaking for 18-1-12-.11, as
11 well, right? So it's -- it's a different
12 rulemaking on the same rule, right?

13 MS. MARKS: Yes.

14 MR. MASHBURN: Okay.

15 MS. MARKS: Yes.

16 MR. MASHBURN: That's what I thought.

17 MS. MARKS: Like different topics.

18 MR. MASHBURN: A different topic. This
19 is cybersecurity. This is the third petition.

20 DR. JOHNSTON: First one was secrecy?

21 MR. MASHBURN: Yeah. Yeah. Yeah. The
22 first one's ballot security -- ballot secrecy.
23 I might have -- I might have mispronounced it
24 and said security.

25 DR. JOHNSTON: I think you did.

1 MR. MASHBURN: Okay. Was there
2 confusion?

3 DR. JOHNSTON: There was.

4 MR. MASHBURN: Let's -- let's go back
5 then. Okay. I miss -- I miss announced the
6 first one as ballot security rather than
7 ballot secrecy. And so just -- Dr. Johnston
8 has asked that we reconsider that vote with me
9 pronouncing it correctly.

10 So let's go back and do that so the first
11 petition is ballot secrecy, 183-1-12-.11. Is
12 there a renewed motion to reject?

13 MR. LINDSEY: So moved, Mr. Chairman.

14 MR. MASHBURN: There's been a motion to
15 reject the petition regarding ballot secrecy.
16 Is there a second?

17 MS. GHAZAL: Second.

18 MR. MASHBURN: Okay. Discussion?

19 DR. JOHNSTON: No discussion.

20 MR. MASHBURN: Okay. Thank you for
21 correcting the record, Dr. Johnston. I
22 appreciate it. All right. So those in favor
23 of rejecting the petition regarding ballot
24 secrecy would say aye.

25 THE BOARD: Aye.

1 MR. MASHBURN: All those opposed would
2 say no.

3 (No response.)

4 MR. MASHBURN: Okay. That motion is
5 reconsidered and carried. Okay. Now, the
6 third one and it is also a rulemaking
7 regarding 18-1-12-.11, but under the name
8 cybersecurity. Right?

9 MS. MARKS: (Nods head.)

10 MR. MASHBURN: Okay. I'll take a motion
11 on that petition, petition number three. The
12 one we heard third.

13 MR. LINDSEY: Looks like I get to do all
14 three. Motion to reject.

15 MR. MASHBURN: There's been a motion to
16 reject. Is there a second?

17 MS. GHAZAL: Second.

18 MR. MASHBURN: There's been a motion to
19 reject and a second. Any discussion?

20 MR. LINDSEY: Once again, for the reasons
21 that I stated, we have to a very fluid
22 situation in which we have the -- the General
23 Assembly conducting hearings on the adequacy
24 of the -- of -- of the -- of the present
25 system and what additional safeguards need to

1 be put in place of whether or not the
2 Secretary of State has adequate safeguards in
3 place. I think those hearings need to
4 continue with us observing them. And we also
5 need to be talking with our local counties in
6 terms of what they think needs to be done in
7 terms of making sure that their local counties
8 systems are secure. Hopefully, we come up
9 with a rule at this time.

10 MR. MASHBURN: Okay. There's been a
11 motion and a second. Further discussion?

12 DR. JOHNSTON: No further.

13 MR. MASHBURN: Okay. We're ready to
14 vote. All those in favor of rejecting
15 petition three would say aye.

16 THE BOARD: Aye.

17 MR. MASHBURN: All those opposed would
18 say no.

19 (No response.)

20 MR. MASHBURN: Motion is unanimous.
21 Petition three is rejected. We thank you for
22 your excellent presentation and well thought
23 out proposals. We studied, we all have
24 notebooks with tabs all over them so we
25 studied it very carefully. And look forward

1 to your continued work to -- to protect
2 ballots.

3 At this time we'll move to public
4 comment.

5 AUDIENCE MEMBER: Whoa.

6 MR. LINDSEY: Take her first. Wherever.
7 Wherever.

8 DR. JOHNSTON: You're up.

9 MR. LINDSEY: I move that she go first.

10 MR. MASHBURN: Any objection?

11 (No response.)

12 MR. MASHBURN: Without objection, so
13 ordered. You're up. Here we go.

14 MS. HURMENCE: All right. I --

15 MR. MASHBURN: Okay. For public comment,
16 we are going to have people with different
17 opinions. And public comment we are going to
18 have people with different opinions. And so
19 I'm going to ask for the courtesy of -- of the
20 group here, everybody's put in a hard long
21 day. But let's be respectful of other people.
22 And so no booing or cheering or -- we're going
23 to go with the jazz hands (indicating), okay.
24 Is that -- is that cool with everybody? All
25 right. So let's be respectful of each other

1 and let's -- let's -- let's have your
2 comments. So give me your name so I can take
3 you off the list.

4 MS. HURMENCE: It's Ginger Hurmence.

5 MR. MASHBURN: Ginger Hurmence.

6 MS. HURMENCE: And I'm representing the
7 Georgians for Truth.org. I'd like to --

8 MR. MASHBURN: Just give me just a
9 second. Give me just a second. Give me just
10 a second. Okay. If you'd please limit your
11 comments to two minutes.

12 MS. HURMENCE: Yes, sir.

13 MR. MASHBURN: We are now ready.

14 MS. HURMENCE: I'd like to provide a
15 resolution supporting a ruling of emergency
16 hand-marked paper ballots. Whereas, Official
17 Code of Georgia Annotated --O.C.G.A. 21-2-
18 300(a)(2) mandates voting on electronic ballot
19 markers. That, two, produce paper ballots
20 which are marked with the elector's choice in
21 a format readable by the elector pursuant to
22 an opinion and order by the U.S. District
23 Judge Amy Totenberg in Curling v.
24 Raffensperger dated October 11th, 2020. The
25 current electronic voting system in Georgia

1 utilizing the Dominion mark -- ballot marking
2 devices, known as the BMDs, scanning equipment
3 and software violates Georgia statute by
4 utilizing an unencrypted humanly unverifiable
5 QR code that can be subject to external
6 manipulation. And does not allow proper voter
7 verification. And ballot -- excuse me --
8 ballot vote auditing. This humanly unreadable
9 QR code negates the voter's right to know
10 exactly how their vote is tabulated and
11 undermines transparency and trust in the
12 process and renders their use impracticable.
13 And as where -- as whereas the electronic
14 voting machines in Georgia continue to run on
15 the original software suite approved by
16 Election Assistant Commission, the EAC, in
17 2019.

18 Since that time, four software updates --
19 upgrades have been approved by the EAC that
20 addresses security vulnerabilities and provide
21 the option to remove illegal QR code used for
22 the tabulation of votes. And whereas the
23 Cybersecurity and Infrastructure Security
24 Agency, known as CISA, advisory has
25 recommended upgrading the Dominion software on

1 6/3/2022. The Halderman report released in
2 June 2023, a report held secret for almost two
3 years provided the damning evidence of the
4 vulnerability of the Dominion image cast
5 ballot marking devices. The Secretary of
6 State defended his inaction based on the Miter
7 report. This was also followed by a letter
8 from 29 cybersecurity experts demanding a
9 retraction of Miter -- of the Miter report as
10 dangerous and misleading risk assessment. And
11 whereas, Dominion software updates are
12 released in 2019, 2020, 2022 and 2023, yet
13 there -- there's been no effort to install.
14 Secretary of State Raffensperger has known of
15 the Halderman report since October of 2020.

16 In addition, the Secretary of State has
17 had CISA advisories since June 3rd, 2022. The
18 failure to implement the EAC approved software
19 updates and correct the vulnerabilities is
20 ongoing. In fact, based on these third-party
21 reports --

22 MR. MASHBURN: Thank you. Thank you.

23 MS. HURMENCE: Okay.

24 MR. MASHBURN: Thank you. Okay. Next
25 will be Gary Coates. Gary Coates?

1 MR. CARNLINE: If you don't mind, sir, my
2 name's Sam Carnline, if I could break in line
3 to finish up what we started here with this
4 report?

5 MR. MASHBURN: I don't know. If Gary
6 Coates is cool with that. Gary Coates?

7 MR. COATES: He's fine. I don't care.

8 MR. MASHBURN: You're cool? All right.

9 MR. COATES: He can go on.

10 MR. MASHBURN: All right. I don't want
11 to -- I don't want him to take your spot --

12 MR. COATES: (Inaudible).

13 MR. MASHBURN: -- without your
14 permission.

15 MR. COATES: (Inaudible).

16 MR. MASHBURN: Okay. All right, Sam.

17 MR. CARNLINE: Thank you.

18 MR. MASHBURN: Sam --

19 MR. CARNLINE: Carnline.

20 MR. MASHBURN: I gotcha.

21 MR. CARNLINE: I'm from Grady County.

22 MR. MASHBURN: I gotcha.

23 MR. CARNLINE: All right. So, in fact,
24 based on third-party reports and advisories on
25 the security of software the Secretary of

1 State might be guilty of violating O.C.G.A.
2 21-2-324 and 21-2-379.24. Further,
3 municipalities are to provide voting machines
4 in good working order per O.C.G.A. 21-2-323.
5 The Election Superintendent, Board of
6 Registrars, Board of Commissioners may be
7 complicit of wrongdoing by certifying future
8 elections that lack appropriate cybersecurity
9 updates. And whereas ballot marking devices
10 when intended as an accessible --
11 accessibility device not -- not mandated for
12 100 percent of the voters and did not meet the
13 requirements of House Bill 316 to provide for
14 absolute secrecy. This violates Georgia law
15 and federal laws guaranteeing the right to
16 vote by secret ballot. And whereas since the
17 QR code does not meet the intent of 316 and
18 Georgia statutes O.C.G.A. 21-2-300 and 21-2-
19 27.1 the electors are mandated to vote in a
20 format that is not readable by the elector
21 therefore the elector is injured. And whereas
22 because of the unreadable QR code the true
23 intent of the voter cannot be determined as
24 the QR code represents a foreign mark spoils
25 the ballot.

1 Now, therefore, be it resolved that the
2 ballot marking devices as currently
3 implemented creates an impracticable situation
4 for local Boards of Elections and Election
5 Superintendents. And be it further resolved
6 that O.C.G.A. 21-2-334 provides a method of
7 nomination or election of any candidate or
8 office or a voting any question is prescribed
9 by law in which the use of voting machines is
10 not possible or practicable or in case in any
11 primary election the number of candidates
12 seeking nomination or nominated from any
13 office renders the use of voting machines of
14 such office of such primary election
15 impracticable or for any other reason in any
16 primary or election use of voting machines,
17 wholly or in part, is not practicable, the
18 superintendent may arrange to have voting for
19 such candidates or offices or such questions
20 conducted by paper ballots. And be it further
21 resolved that citizens for paper ballots
22 desire the Georgia State Election Board
23 provide clarity to election boards and
24 superintendents for their authority under the
25 law to utilize emergency hand-marked paper

1 ballot rules, procedures --

2 MR. MASHBURN: One minute.

3 MR. CARNLINE: -- 118. Be it further
4 resolved that a copy of this resolution be
5 delivered to the Georgia State Election Board,
6 Secretary of State Raffensperger, Governor
7 Brian Kemp, Attorney General Chris Carr,
8 Speaker of the House Jon Burns, pro temp,
9 Kennedy, as well as election boards and
10 election superintendents and we've got 35
11 signatures on here and we're going to give you
12 a copy of it. Thank you for your time.

13 MR. MASHBURN: Thank you.

14 MR. CARNLINE: We hope that you guys will
15 understand that voters are being injured by
16 the way we're voting, and we want to change
17 it. And you are the Board --

18 MR. MASHBURN: Thank you.

19 MR. CARNLINE: -- and y'all can --

20 MR. MASHBURN: Thank you.

21 MR. CARNLINE: -- hand deliver that to
22 the (inaudible) maybe we can get back
23 (inaudible).

24 MR. MASHBURN: Let's -- let's be fair to
25 the other speakers.

1 MR. CARNLINE: You've got it.

2 MR. MASHBURN: Thank you.

3 MR. LINDSEY: And you guys can also send
4 this electronically.

5 MR. CARNLINE: Yes, sir.

6 MR. MASHBURN: Okay. Gary Coates.

7 MR. COATES: Hey, how are ya?

8 MR. MASHBURN: Doing good.

9 MR. COATES: (Inaudible) here.

10 MR. MASHBURN: It says, good morning?

11 MR. COATES: That didn't work so I wrote
12 down good afternoon. That's not working so
13 I'm going to start with good evening. How are
14 ya?

15 MR. MASHBURN: All right. I'll start
16 your time now.

17 MR. COATES: We discussed a lot of
18 individual issues today and, you know, we
19 appreciate that. It's important but, you
20 know, the trust in Georgia's elections is
21 really at a crisis level right now. I don't
22 know if you're aware of recent Rasmussen Polls
23 that was put out.

24 The -- the results are really kind of
25 scary. Sixty-two percent of Georgia voters

1 are concerned the election results in our
2 state do not accurately reflect the number of
3 voters. Fifty-five percent of Georgia voters
4 believe it is likely that cheating will effect
5 the outcome of the 2024 presidential election.
6 That's a lot of people. And we all know there
7 is currently lots of fraud in Fulton County
8 and surrounding areas. That's no secret. So
9 how many voters are going to stay home if they
10 don't believe in our election system, and they
11 don't trust our election system.

12 I'm going to take a couple of talking
13 points from the Democrats. These are a couple
14 of their favorite talking points when it comes
15 to elections. This is an attack on our
16 democracy. This is the suppression of votes.
17 We've heard that from them, over and over and
18 over again. Now, we have issues here where
19 general public does not trust our election
20 system. That's a problem. That's a huge
21 problem. Georgia is at a crossroads and
22 national and the world spotlight are on
23 Georgia.

24 It is very likely that we will determine
25 the next president of the United States. One

1 more line.

2 MR. MASHBURN: Okay.

3 MR. COATES: There can be no perception
4 of fraud, misdoings, there just can't be
5 because that's not going to end well.

6 MR. MASHBURN: Thank you, Mr. Coates.

7 MR. COATES: You bet.

8 MR. MASHBURN: Cindy Battles. Cindy
9 Battles. Cindy Battles.

10 MS. BATTLES: (Inaudible).

11 MR. MASHBURN: What happened? Cindy
12 Battles.

13 MS. BATTLES: Cindy Battles. Hello,
14 thank you, good evening. Y'all have been here
15 forever and I'm trying to start my timer so
16 you don't have to tell me. As we all know, my
17 name is Cindy Battles. I am the Policy
18 Director for Georgia Coalition For The Peoples
19 Agenda. I appreciate all the work that y'all
20 do on a regular basis. I think a lot of the
21 cases that we have heard today really
22 emphasize some of the things I'm going to say.
23 I would love to tell y'all from the bottom of
24 my heart, thank you so much for dismissing
25 that case with the gentleman that had the

1 prior conviction.

2 I think that is one of the things that we
3 should all be working on is defining mild
4 turpitude, making sure that people returning
5 citizens have the right to vote once they have
6 completed their sentence.

7 One of the things that I really want to
8 talk about today though is the same thing I
9 kind of talk about all the time. This whole
10 issue with funding our elections because if we
11 don't start funding our counties and their
12 elections, we're going to see more and more of
13 what we're seeing now. Conspiracy theories
14 being presented to county election boards and
15 them not having the resources to fight it.
16 Conspiracy theories, loss of staff, I've been
17 working with county election officials getting
18 the cost of elections starting -- not with
19 SB202, but before that. With HB316, because
20 that was also unfunded mandate and talking to
21 them about the increased cost of elections.
22 Having to buy new poll pads. And trying to
23 keep staff, especially, in this environment.
24 One person told me if we want good people, we
25 have to pay them. Also, I would like to talk

1 a little bit about the idea of defacing
2 artificial intelligence and how that's going
3 to be used to spread misinformation and
4 disinformation. And hopefully you and the
5 Secretary of State of Georgia Assembly would
6 address that before 2024. I have 22 seconds
7 left. I did really good. Y'all have a good
8 evening.

9 MR. MASHBURN: You're doing good. Thank
10 you, Ms. Battles. Thank you for your
11 comments. William T. Quinn? William T.
12 Quinn?

13 AUDIENCE MEMBER: He's gone.

14 MR. MASHBURN: William T. Quinn.

15 AUDIENCE MEMBER: He gave up.

16 MR. MASHBURN: Going once. Going twice.
17 William T. Quinn.

18 (No response.)

19 MR. MASHBURN: Julie Adams? Julie Adams?
20 Julie Adams? Going once.

21 (No response.)

22 MR. MASHBURN: Richard Porter? Richard
23 Porter? Come on up, Mr. Porter.

24 MR. MASHBURN: Good evening. Good
25 afternoon -- evening.

1 MR. PORTER: Good evening. Richard
2 Porter, Gwinnett County. I've been thinking
3 about something I want to share with you.
4 More than 60 years ago in August 1963, Martin
5 Luther King spoke at the Lincoln Memorial. It
6 was my 11th year. I was ready to attend a
7 separate and unequally funded black school. I
8 had worked with my parents and others to
9 register people who were denied the right to
10 vote. They were black. Many today heard
11 Martin's speech I Have a Dream. Often the
12 loudest praise comes from those who and their
13 progeny who stood against Martin and the
14 voting rights and civil rights movement. Many
15 of us have not even listened to or read his
16 speech in its full context. We speak of his
17 dream only in our limited perception without
18 context. Most would never think about what
19 happens to a dream deferred. Most often what
20 we miss in Martin's speech is the litany of
21 the 100 years. But one -- four score years
22 ago Martin said President Lincoln signed the
23 emancipation proclamation. But 100 years
24 later the Negro is still not free. He is
25 sadly crippled with the manacles of

1 segregation and chains of discrimination. He
2 lives on a lonely island of poverty in the
3 midst of vast ocean of material prosperity.
4 One hundred years later the Negro still
5 languishes in the corners of American society.
6 But Martin was not the first to speak of a
7 dream. In his 1951 poem, Harlem Langston
8 Hughes asked what happens to a dream deferred?
9 Does it dry up like a raisin in the sun? Or
10 fester like a sore and then run? Does it
11 stink like rotten meat or crust and sugar over
12 like a serpent sweet? Maybe it just sags just
13 like a heavy load or maybe it explodes.

14 Some ask, Martin said, why are you --
15 when will you be satisfied? And he said,
16 never as long as the Negro is a victim of
17 unspeakable horrors and police brutality. And
18 never if our children are stripped of their
19 selfhood and robbed of their dignity. Just
20 because you say something and repeat a lie
21 does not make it so. Everybody has the right
22 to vote. That is what we should be ensuring.
23 And I thank you for doing that.

24 MR. MASHBURN: Thank you, Mr. Porter.

25 MR. PORTER: And the people who do.

1 MR. MASHBURN: Thank you for your
2 comments. I neglected to --

3 (Audience applauds.)

4 MR. MASHBURN: I skipped over Julia --
5 Julia -- anybody named Julia or something
6 similar? Writes in cursive. Prints in
7 cursive.

8 (No response.)

9 MR. MASHBURN: No. Okay. Patty Nathan?

10 MR. BELL: Here she is right here.

11 MS. SOPHIONOPOULOS: Judy?

12 UNKNOWN SPEAKER: Yes.

13 MR. MASHBURN: Are you J -- J-U-D-I?

14 MS. SOPHIONOPOULOS: -- handwrite --

15 MR. MASHBURN: Yeah. If you'll press the
16 button, that'll give you a microphone.

17 MS. SOPHIONOPOULOS: Well, all I wanted
18 to say is what (inaudible).

19 MR. MASHBURN: There you go, you're on.

20 UNKNOWN SPEAKER: (Inaudible).

21 MR. MASHBURN: You're on.

22 MS. SOPHIONOPOULOS: All I want to say is
23 I have been a voter for seven decades. I
24 don't have too many decades left. But what
25 I've got left is I plan to help everybody --

1 everybody to vote and make voting easier.
2 Voting is the basis of all of our other rights
3 and so we need to make it as easy as we can.
4 We need to help people who need help,
5 including both voters and poll workers and
6 poll watchers. Thank you very much.

7 MR. MASHBURN: Thank you for your
8 comments.

9 (Audience applauds.)

10 MR. MASHBURN: Let's use our jazz hands
11 (indicating). All right. Patty Nathan.
12 Patty Nathan. You're up. Patty Nathan. The
13 floor is yours.

14 MR. NATHAN: I just wanted to start by
15 saying SEB must continue to mandate the use of
16 vote ballot tabulators which are used by 90
17 percent of U.S. election jurisdictions. And
18 are proven to be significantly more accurate
19 than expensive and repetitive hand recounts.
20 Counting pieces of paper by hand will be a
21 waste of resources, is prone to errors and can
22 delay election outcomes. In 2020, three
23 reviews of the statewide election were
24 conducted and found the election results to be
25 accurate. Additionally, violence against

1 public servants, threatens our democracy.

2 Unfortunately, our election workers are not
3 immune to such intimidation. According to the
4 Brandon Center for Justice 30 percent of
5 surveyed respondents said that they had been
6 harassed or threatened more than 20 percent
7 were likely to leave their positions. I would
8 like to see the Election Board take a
9 proactive role in combatting this mess.

10 Public statements from such an authoritative
11 body denouncing the violence would be a good
12 start. In addition, perhaps you could provide
13 funding so that our election officials are
14 better protected. Furthermore, you're in a
15 unique position to petition state lawmakers to
16 enact harsh penalties for those who threaten
17 or commit violence against election workers.

18 The high turnover adds significant costs
19 in hiring and training replacement staff. The
20 loss of experienced workers helps fuel the
21 rhetoric that is spewed by election deniers.
22 Given that some, if not most, Georgia counties
23 will be subject to such turnover, I urge the
24 State Board to provide the necessary funding
25 for training election workers, protecting

1 election workers against intimidation and
2 violence should be highest priority.

3 MR. MASHBURN: Thank you for your
4 comment. Just a second. Judy Sophionopoulos?
5 Sophionopoulos? Sophionopoulos? Judy.

6 AUDIENCE MEMEBER: That was Judy.

7 MR. MASHBURN: Oh, that was Judy, okay.
8 Kristin Nabers? Kristin Nabers?

9 MS. NABERS: Hello, Board. My name is
10 Kristin Nabers. I'm the State Director for
11 All Voting is Local. We're a non-partisan
12 organization that advocates for policies that
13 aid counties running safe and secure
14 elections. I was here over the summer to talk
15 about the need for guidance on voter
16 challenges. I completely understand why that
17 has not been released yet. I do hope you all
18 will continue to move that forward and release
19 it as quickly as you are able. Challenges
20 have continued this year. Again, we're seeing
21 mostly in counties with high proportion of
22 voters of color. We expect the pace to rise
23 dramatically in 2024. Since the beginning of
24 2022 more than 80,000 Georgians have had their
25 ability to vote challenged by just a few dozen

1 of their fellow citizens. And even when these
2 mass challenges are dismissed, they tie up the
3 time and the resources of election offices.
4 They give credence to lies about the security
5 of our election and security of our vote
6 lists. And they waste taxpayer dollars in the
7 process. I urge you to release guidance that
8 will help all counties get on the same page
9 with regard to challenges.

10 Secondly, I wanted to address the push to
11 hand count ballots as opposed to using machine
12 tabulators. Across our state both here at the
13 SEB and in county election board meetings
14 activists have been pushing to expand hand
15 counting beyond the risk limiting audits that
16 we already do after every federal election. I
17 think their efforts are misguided on two
18 fronts.

19 First, I believe that the activists
20 overlooked the many drawbacks of hand
21 counting. So even apart from the additional
22 cost of taxpayers from a hand count, election
23 experts overwhelmingly agree that tabulators
24 are the way to get the most accurate count.
25 Hand counting is tedious and monotonous.

1 Humans are not great at tedious and monotonous
2 tasks. My deputy and I were monitors in two
3 counties for the RLA last year. We saw honest
4 human errors made even when counting ballots
5 in small batches. Nothing fraudulent, just
6 people get distracted. So there's a reason
7 that calculators are more reliable than humans
8 at adding up numbers with a pen and paper and
9 machine counts are the same. The 2022 RLA
10 proved that our machines counted the result
11 accurately and that our election officials
12 conducted a secure election.

13 The second reason I believe that the push
14 for hand counts is misguided is that I see
15 these arguments coming from the same people
16 who have historically spread conspiracy
17 theories about the security of our elections.
18 We're living in a time of rampant
19 disinformation, and this cannot be the basis
20 for introducing practices that don't work.
21 Discrepancies between a machine count and a
22 hand count are to be expected due to human
23 error. But any such discrepancy, no matter
24 how small could be used to cast doubt over the
25 final count or fuel conspiracy theories

1 possibly even about the hardworking election
2 workers doing the count. So I urge the Board
3 to resist any pressure to support in any way
4 the hand counting of ballots.

5 MR. MASHBURN: Thank you for your
6 comments.

7 MS. NABERS: Thank you so much.

8 MR. MASHBURN: Thank you for your
9 comments. Okay. Next is Lori Tottle? Lori
10 Tottle? Not Lori Tottle?

11 AUDIENCE MEMBER: She's not here.

12 MR. MASHBURN: Andrew Bell. Mr. Bell.
13 The floor is yours for two minutes, Mr. Bell.

14 MR. BELL: You sure?

15 MR. MASHBURN: I'm positive.

16 MR. BELL: Because you still ain't got
17 the time clock up here yet.

18 (Laughter.)

19 MR. BELL: You know, and I don't think I
20 really trust you guys that well.

21 (Laughter.)

22 MR. BELL: First of all, let me get this
23 on this on the record. I was the only
24 independent candidate whose cumulative total
25 wasn't on this validation statement. I told

1 it to -- I sent you guys a letter and also
2 told your investigator that. So can we
3 investigate why I was the only one whose
4 cumulative total wasn't on my validation --
5 verification statement? Let's do that. And
6 then let's talk about I'm glad I got the voice
7 -- my First Amendment right and come up here.
8 It's sad though that a lot of people didn't.
9 See that flag behind y'all, I take that
10 serious because I served my country. And a
11 lot of people wanted to speak, and they had a
12 chance to speak and in my mind, my opinion
13 their First Amendment right was violated. And
14 it's not -- and I'm not laughing because it's
15 not funny. You know, these people came, they
16 sit here all day, and they didn't get the
17 chance to speak. And you want to know why
18 people -- people -- you having a hard time
19 finding people to work in the -- in the polls.
20 You guys made my point today. People going to
21 watch that and they're going to see that this
22 is a farse. That this is a joke. And you
23 guys are in charge. So if it's rotten at the
24 top, what's it going to look like at the
25 bottom? I got 20 seconds.

1 MR. MASHBURN: You do. You're right.

2 MR. BELL: You want to hit me out?

3 MR. MASHBURN: I'll be gentle.

4 MR. BELL: You need -- you guys need to
5 do better, seriously.

6 MR. MASHBURN: Thank you, Mr. Bell. Next
7 will be Kelli Persons. Kelli Persons? There
8 you are. Kelli Persons, the floor is yours.

9 MS. PERSONS: Yes, sir. Thank you. I
10 knew I was on deck somewhere.

11 MR. MASHBURN: Ha, ha.

12 MS. PERSONS: So I came over a little
13 bit. So I'm Kelli Persons with the League of
14 Women Voters of Georgia. I just wanted to
15 report back to you all. We made public
16 comments in June about your concern with the
17 new Jarvis system. The main concerns were
18 voters that were removed, reappearing. And
19 issues with counties not being able to get
20 their precinct cards out. We have heard from
21 those counties that it's improving. So we
22 want to say thank you for whatever you all
23 have done to help improve that. We still have
24 some leftover concerns about how well the
25 redistricting module is working and

1 communications surrounding that to counties.
2 We know that there are a couple of counties
3 that are looking to add precincts. But
4 they're not really sure of the availability of
5 that tool. So we just wanted to extend that
6 to you all and to see if we can help them add
7 precincts. And make their job a little
8 easier. Thank you.

9 MR. MASHBURN: Thank you very much for
10 your comments. Denise Cobb. Denise Cobb.
11 Denise Cobb.

12 (No response.)

13 MR. MASHBURN: Joy Wasson. Joy Wasson.

14 MS. WASSON: I got to sit here.

15 MR. MASHBURN: You want to stay there?
16 Okay. I gotcha.

17 MS. WASSON: Okay.

18 MR. MASHBURN: Test it out and see -- see
19 if it's working.

20 MS. WASSON: I supported the proposed
21 rules presented today by the Coalition for
22 Good Governance. And I'm disappointed in your
23 votes. I urge you to reconsider adopting
24 common sense rules to protect voter secrecy
25 and to ensure the security and accuracy of our

1 election system. Consulting with counties is
2 important. And I want to support election
3 offices in doing their work. But the proposed
4 rule on LNA testing would have brought logic
5 and accuracy testing guidance from SOS into
6 compliance with Georgia law. This issue needs
7 addressing.

8 A ballot secrecy rule was proposed by CGG
9 more than three years ago. You've tabled it
10 for further study. Please use your authority
11 to protect voters. Thank you for the
12 difficult work you undertake.

13 MR. MASHBURN: Thank you for your
14 comment, Ms. Wasson. Next to you, Liz Throop.
15 You okay? Gabriel Sanchez? Gabriel Sanchez?
16 Welcome.

17 MR. SANCHEZ: Hello, y'all. My name's
18 Gabriel Sanchez. I'm policy associate for Pro
19 Georgia we're a non-partisan coalition for
20 voting rights. I just wanted to talk today
21 about the voter challenges. I know this Board
22 has talked about changing the rules on these
23 and are still considering that and we'd love
24 to work with you on that. Have more
25 conversations around that because we really do

1 believe that these voter challenges are
2 getting out of control and out of hand.
3 They're a very big waste of resources for
4 taxpayers and people's time. And also, we
5 have seen tens of thousands of
6 (unintelligible) unnecessary voter challenges
7 that election officials are forced to contend
8 with no matter how unsubstantiated they are.
9 Challenging a voter vulnerability is a very
10 serious charge and I feel like if we're going
11 to make a serious charge like that, there
12 should be very serious guard rails and
13 requirements in order to make a challenge that
14 way, and currently that is not -- with the
15 current rules what is happening. It's very
16 easy to make a challenge and it shouldn't be
17 that easy to make such a serious challenge of
18 someone's voter because it's a fundamental
19 right. So I would -- I really am looking
20 forward to seeing those new rules and, again,
21 I would offer -- if you guys would like to
22 have a conversation about that, I'd love to
23 collaborate with you. Thank you so much.

24 MR. MASHBURN: Thank you for your
25 comments. Field Searcy? Field Searcy?

1 MR. SEARCY: Good evening. I am Field
2 Searcy. I've got a IT degree, a masters
3 degree and been in the software development
4 field for over 20 years. I'd like to talk to
5 you about our ballot marking devices. Hope
6 you like lollipops. Everybody that has an
7 Android cell phone knows that updates are
8 periodically installed to protect from
9 cybersecurity vulnerabilities. Shouldn't our
10 voting system be just as secure? We submit to
11 you that the current Dominion democracy suite
12 5.5(a) approved by the EAC on 9/14/2018,
13 contains lollipop. The Android 5.1 operating
14 system. Android 5.1 has had it's final
15 release July 5th, 2016 and is at least eight
16 generations and 11 point versions behind the
17 current version 13. In fact, there are nine
18 known vulnerabilities effecting Dominion
19 voting systems, image cast X, ballot marking
20 device, the BMDs, running Android 5.1 per an
21 ICS advisory from the Cybersecurity and
22 Infrastructure Security Agency or otherwise
23 known as CISA as reported June 3rd, 2020. The
24 alert code ICISA-22-154-01. Secretary of State
25 Raffensperger claims that Georgia's electronic

1 voting system is secure. In fact, he's going
2 all over the state now to every county on a PR
3 roadshow. And we tried to corner him in Lee
4 County to get our questions answered about
5 this and we didn't get an answer. Yet he's
6 failed to act. And there have been four EAC
7 approved upgrades for the Dominion system
8 since the current system was implemented. Due
9 to this failure, the State Election Board must
10 rule to utilize emergency hand-marked paper
11 ballots per existing Georgia Code 21-2-281 and
12 21-2-334 as previously discussed earlier
13 today. And I have a handout here that has the
14 software components in the democracy suite and
15 the lollipop 5.1 Android and the Android
16 version history.

17 MR. MASHBURN: Thank you for your
18 comment. Jennifer --

19 MR. LINDSEY: Without -- without
20 responding to the comment, when -- when you --
21 when anyone brings a handwritten -- or their
22 paper -- it's oftentimes good to also send it
23 to us electronically to our emails which are
24 on the website. Because I store all --
25 everything that y'all send me on my computer

1 so I can look at it later. So ...

2 MS. HILLEGAS: Hey, I'm Jennifer
3 Hillegas.

4 MR. MASHBURN: Go ahead.

5 MS. HILLEGAS: I am born and raised in
6 Georgia. I'm a realtor.

7 MR. MASHBURN: Welcome.

8 MS. HILLEGAS: And I just want to say,
9 thank you for your service. I understand you
10 guys are all appointed and that there was an
11 oath that you took when you were sworn in.
12 And that oath is for the service of the
13 citizens, not the person that appointed you to
14 this Board. Georgians are injured in the
15 voting process as it is conducted presently.
16 This is impracticable and unlawful. Let's get
17 past the 300 part of the law and remember that
18 the complete law which is that the ballot must
19 be humanly readable. Georgia is the only
20 state in Union that doesn't allow for the
21 voter to have a true ballot, that is injury.
22 The BMD machines were intended for handicap
23 accessible votes. The machines are hackable.
24 The machines are causing injury to all
25 citizens. Even those that don't vote. So in

1 Georgia, we don't even have a true marked
2 ballot. We have a touchscreen with a barcode
3 that we cannot see to confirm if it tabulates
4 our true vote. That is not transparency. So
5 we are a country of law so let's adhere to the
6 law in its entirety because it is
7 incomprehensible that the Secretary of State
8 threatens county boards with litigation plus
9 excessive fines if they use the lawful remedy.
10 The law is meant to protect the people not
11 shield the government. The SOS does not have
12 the authority to bypass the laws as they are
13 written in their entirety. Thus causing
14 injury to every voter. It is the request and
15 prayers of thousands of Georgians that we use
16 the lawful remedy, which is the emergency
17 paper ballots, hand-marked in ink, scanned by
18 the tabulator, per the Georgia law 21-2-381
19 and 334. Plus, the rules and regulations 183-
20 1-12.1(2)(c)(d) for our 2024 elections.
21 Consider this quote from Mark Twain: If
22 voting really mattered they wouldn't let us do
23 it. Are we there yet?

24 (Laughter.)

25 MS. HILLEGAS: I want to believe that you

1 all can make that lasting impact. Set a
2 precedent that Georgia elections are 100
3 percent secure with paper ballots. Save our
4 state a lot of money and grief. Listen,
5 you're all highly intelligent, perfectly
6 capable beings, have great joy in knowing that
7 you've made it this far. And let's give the
8 argument on election fraud a break. Go back
9 to the brass tacks and the foundation of our
10 being and our country's existence routed in
11 God's law and God's love. Allow the wheel of
12 we the people to take root. Make the SOS
13 adhere to the complete law as it is written.
14 Paper ballots, please is the remedy.
15 Especially, if you have a cyber pandemic. Do
16 it from the love of your fellow Georgians be
17 in hero to every American. Set the tone,
18 don't settle for less than the very best. We
19 the people, are more than capable. Paper
20 ballots, please. May God bless you
21 abundantly.

22 MR. LINDSEY: Thank you.

23 MR. MASHBURN: Thank you for your
24 comment.

25 MR. LINDSEY: You're free to send that,

1 by the way.

2 MR. MASHBURN: Marisa Hopper? Marissa
3 Hopper?

4 MS. HOPPER: Yes, Marissa Hopper from
5 Floyd County. Good evening.

6 MR. MASHBURN: Welcome.

7 MS. HOPPER: I just wanted to follow-up
8 on what some of the others are saying. Just
9 to provide the remedy for these unlawful
10 machines they really are breaking the code
11 that -- Georgia Code that is the truth. And -
12 - let's see here. In the rules and
13 regulations 183-1-12-.11(2)(c) and (d) --
14 well, according to this rule, it's -- it's
15 written in the backup procedures to use
16 emergency paper ballots. This is in the
17 Georgia Poll Worker training manual and -- and
18 it states, if an emergency situation makes
19 utilizing the electronic ballot markers
20 impossible and impracticable or if emergency
21 ballots are otherwise needed as determined by
22 the elections superintendent, the poll officer
23 shall issue the voter an emergency paper
24 ballot that is to be filled out with pen after
25 verifying the identity of the voter and that -

1 - person is a registered voter of the
2 precinct. While this determination of an
3 emergency situation is the discretion of the
4 election superintendent, the types of events
5 that may be considered an emergencies are
6 power outages, malfunctions causing a
7 sufficient number of electronic ballot markers
8 to be unavailable for use or waiting times
9 longer than 30 minutes. We are -- we are in
10 an emergency already. And I -- I -- I agree
11 with Dr. Johnston who said earlier that we
12 don't want to have confusion with this
13 emergency that we want to plan beforehand, and
14 the counties have the authority. In Pearson
15 versus Kemp, the Secretary of State admitted
16 in court that he has no legal authority over
17 the county elections. It's up to the county
18 election boards to choose which method of
19 voting they will use. And it's time to go
20 back to paper ballots. It's tried and true.
21 We did it for years. There's counties now
22 that have been doing trial runs, again, just -
23 - just to -- to see to address the concerns
24 that maybe it won't -- it'll take too much
25 time or all of those things. And -- and it's

1 - they've come back. It's been a 100 percent
2 accurate. It's been done in a timely manner.
3 And I just encourage all the counties to use
4 their authority and -- and take this
5 responsibility to use secure, hand-marked,
6 hand counted paperer ballots. Thank you.

7 MR. MASHBURN: Thank you for your
8 comment. Richard Schroeder? Richard
9 Schroeder? Richard Schroeder?

10 (No response.)

11 MR. MASHBURN: David Cross? David Cross?
12 Did you not sign up? No, not today? Okay.
13 Earl Ferguson? Earl Ferguson? Earl Ferguson?

14 (No response.)

15 MR. MASHBURN: With that, that completes
16 my list of people who have signed up. And
17 that would end the public comment section of
18 the meeting. There are no further items on
19 the agenda unless the Board has any matters
20 that they'd like to bring up?

21 MS. GHAZAL: I move that we adjourn.

22 MR. MASHBURN: There's been a motion to
23 adjourn. Is there a second?

24 DR. JOHNSTON: And a second.

25 MR. MASHBURN: And a second. Any

1 discussion at your own risk?

2 (No response.)

3 MR. MASHBURN: We're ready to vote. All
4 those in favor --

5 THE BOARD MEMBERS: Aye.

6 MR. MASHBURN: All those opposed at your
7 own risk?

8 (No response.)

9 MR. MASHBURN: No. We're adjourned.
10 Thank you for everyone's attendance.

11 (The session concluded at 7:01 p.m.)
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CERTIFICATE

STATE OF GEORGIA
COUNTY OF GWINNETT

I, Rebecca Barr, Certified Court Reporter, hereby certify that the foregoing pages numbered 1 through 428 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 relation nor counsel to any of the parties hereto.

In witness whereof, I hereby affix my hand on this, the 13th day of November 2023.

Rebecca Barr
My commission expires April 1, 2024

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