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THE OFFICE OF SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

Tuesday, February 13, 2024

Virtual Meeting via Microsoft Teams
9:00 a.m.

APPEARANCE OF THE PANEL

- John Fervier, Chair
- Sara Tindall Ghazal
- Rick Jeffries
- Janice Johnston
- Ed Lindsey

MARY K MCMAHAN, CCR, CVR, RPR, FPR
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1	Transcript Legend	
2	[sic] - Exactly as said.	
3	(ph) - Exact spelling unknown.	
4	-- Break in speech continuity.	
5	. . . Indicates halting speech, unfinished	
6	sentence or omission of word(s) when reading.	
7	Quoted material is typed as spoken.	
8		
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1 attendance today -- Mr. Edward Lindsey, he's our
2 vice-chairman; Dr. Janice Johnston; Ms. Sara
3 Ghazal -- and our administrator Ms. Alexandra
4 Hardin. We greatly appreciate her setting all of
5 this up and getting our board ready for today.

6 Our first order of business today will be
7 our invocation which will be given by our vice
8 chairman Edward Lindsey.

9 **MR. LINDSEY:** Thank you, Mr. Chairman.
10 (indiscernible).

11 **MS. HARDIN:** Edward, can you unmute
12 yourself?

13 **MR. FERVIER:** (indiscernible), so they can
14 hear it through mine.

15 **MS. HARDIN:** Well, it is. (indiscernible)
16 microphone.

17 **MR. FERVIER:** It --

18 **MS. HARDIN:** Oh --

19 **MR. FERVIER:** -- should pick up online.

20 **MS. HARDIN:** -- that's -- okay.

21 **MR. LINDSEY:** But thank you, Mr. Chairman.
22 I'm supposed to speak a little louder.
23 (Invocation)

24 **MR. FERVIER:** Board member Lindsey will also
25 lead us in the Pledge of Allegiance today.

1 (Pledge of Allegiance)

2 **MR. FERVIER:** Our first order of business
3 today is approval of the board minute meetings
4 from the December 19th and 20th, 2023. The board
5 has been provided copies of those minutes for
6 review.

7 Has the board had an opportunity to review
8 those minutes?

9 **MR. LINDSEY:** So moved, Mr. Chairman.

10 **MS. GHAZAL:** Second.

11 **MR. FERVIER:** Do we have -- we have a motion
12 to accept the minutes as presented?

13 **DR. JOHNSTON:** Mr. Chairman?

14 **MR. FERVIER:** Yes.

15 **DR. JOHNSTON:** Correction.

16 **MR. FERVIER:** There's a correction.

17 **DR. JOHNSTON:** The minutes show cases
18 recommended to be dismissed, and it -- it appears
19 that SEB2022-348 is on that list, but it was
20 actually continued. So it's listed twice.

21 **MS. HARDIN:** That was just how I
22 (indiscernible) it. It was on a list of cases
23 that were recommended to be dismissed. But it --
24 or no -- yeah, so -- so it was put on there
25 twice.

1 **DR. JOHNSTON:** Okay. So it's not dismissed.

2 **MS. HARDIN:** It was continued. It should be
3 on the -- also on the list of cases that were
4 voted to be continued.

5 **DR. JOHNSTON:** Okay. And, likewise,
6 SEB2022-106 and -- and the others that were to be
7 continued.

8 **MR. FERVIER:** So we have a motion and a
9 second to approve the minutes as presented. The
10 motion being made by Edward Lindsey, seconded by
11 Sara Ghazal.

12 Any discussion? Hearing no discussion, all
13 those in favor of accepting the minutes as
14 presented signify by saying aye.

15 **THE BOARD MEMBERS:** Aye.

16 **MR. FERVIER:** All members present have noted
17 aye.

18 **MR. JEFFRIES:** I didn't because I wasn't --
19 (indiscernible).

20 **MR. FERVIER:** Any nays? Hearing no nays, so
21 moved. The minutes are accepted as presented.

22 **Attorney General Report**

23 **MR. FERVIER:** The next item on the agenda is
24 the Attorney General's report, to hear final
25 orders for cases SEB2017-081 and SEB2021-137.

1 **MS. HARDIN:** Russell Willard is on the call
2 to present the AG's report.

3 **MR. FERVIER:** Russell Willard is on the call
4 to present the AG's report.

5 Can you unmik Mr. Willard?

6 **MR. WILLARD:** Mr. Chairman, can you hear me?

7 **MR. FERVIER:** Yes, we can. Thank you.

8 **MR. WILLARD:** Good morning, board. Hope
9 y'all are doing well. We have two cases on the
10 agenda for the Attorney General's Office today.

11 The first is Hancock County, 2017-081. This
12 arises out of the November 2017, City of Sparta
13 election. You had a gentleman who attempted to
14 cast a ballot while he was still a felon under
15 sentence. It was a provisional ballot and it was
16 properly rejected by election officials and not
17 counted.

18 Since the referral to the Attorney General's
19 Office, our office and SEB investigative staff
20 have been unsuccessful in locating
21 Mr. Mathis(ph). As the board is aware, for
22 administrative cases involving the SEB, the
23 Office of State Administrative Hearings cannot
24 proceed with a case unless a defendant is able to
25 be located and properly served with notice of the

1 hearing.

2 As a result we are recommending that the
3 board resolve this case through the issuance of a
4 final order imposing a cease-and-desist and a
5 public reprimand against the respondent Mark
6 Mathis.

7 The second case on the Attorney General's
8 report is Athens-Clarke County 2021-137. The
9 respondent is Lopez Diego Borders(ph).
10 Mr. Borders obtained a voter identification card
11 in someone else's name. He was successfully
12 prosecuted by the Athens-Clarke County district
13 attorney for using false identification
14 documents. He was sentenced for 24 months'
15 probation and a 12-day period of incarceration,
16 community service, and restitution.

17 The District Attorney's Office's
18 investigation found that Mr. Borders had not
19 obtained the voter identification card for
20 purposes of voting but solely as a means to cash
21 fraudulent checks.

22 As a result we proposed incorporating a
23 final order or a cease-and-desist and a public
24 reprimand, given the prior criminal prosecution
25 of Mr. Borders.

1 And with that, I -- I will take any
2 questions from the board if they have any.

3 **DR. JOHNSTON:** Mr. Chairman, question.

4 **MR. FERVIER:** We have a question from member
5 Johnston.

6 **DR. JOHNSTON:** Mr. Willard, thank you for
7 the presentation. I have two questions. Was --
8 were the two --

9 **UNIDENTIFIED SPEAKER:** (indiscernible)

10 **DR. JOHNSTON:** I just turned my mic on.
11 Just --

12 **UNIDENTIFIED SPEAKER:** Okay.

13 **DR. JOHNSTON:** Were the two fraudulent
14 electors removed from the voter list in
15 Athens-Clarke County?

16 **MR. WILLARD:** I -- I do not believe that
17 they were because the voter names, I believe,
18 reflected actual voters. He obtained voter
19 identification cards in their name is my
20 understanding.

21 **DR. JOHNSTON:** Oh, so it was identity theft?

22 **MR. WILLARD:** Correct. That's what he was
23 prosecuted for by the DA's Office. He obtained
24 the voter identification cards in order to
25 fraudulently cash checks in their name.

1 **DR. JOHNSTON:** Thank you. No further
2 questions.

3 **MR. LINDSEY:** I have a question too. In
4 regards to the first --

5 **MR. WILLARD:** Mr. Lindsey, you're -- you're
6 fading out. I -- I didn't hear any of your
7 question.

8 Mr. Lindsey, if you can hear me, every
9 member of the board's microphone is muted at the
10 moment. And so I'm -- I'm doing -- I can't lip
11 read.

12 Still cannot hear you, Mr. Lindsey.
13 Apologize, I still can't hear you, Mr. Lindsey.

14 **MR. LINDSEY:** Just use your mic. I turned
15 mine off.

16 **MR. WILLARD:** I -- now I can hear you.

17 **MR. LINDSEY:** Okay. My question to you is a
18 legal question, which is: In your opinion, in
19 addition to the sanctions you mentioned from the
20 first case in which the person is not cooperating
21 with you, do we -- does the board have the
22 independent authority to impose a fine in
23 addition to the other sanctions?

24 **MR. WILLARD:** The board does not have that
25 ability absent a hearing held under the

1 Administrative Procedure Act.

2 **MR. LINDSEY:** Thank you.

3 In which case, Mr. Chairman, I would move
4 that we accept the proposed final orders outlined
5 by Mr. Willard.

6 **MR. FERVIER:** For both cases?

7 **MR. LINDSEY:** Both cases.

8 **MR. FERVIER:** We have a motion to accept --
9 is somebody else's microphone on? We have a --
10 we have a motion to accept the proposed final
11 orders on SEB2017-081 and SEB2021-151[sic] as
12 presented by the Attorney General's report. Do
13 we have a second?

14 **MS. GHAZAL:** Second.

15 **DR. JOHNSTON:** Second.

16 **MR. FERVIER:** We have a second by board
17 member Ghazal. Having a motion and a second, any
18 discussion?

19 **MR. LINDSEY:** I think you said 1-5-7. Is it
20 1-5-7 or 1-3-7?

21 **MR. FERVIER:** I'm sorry, 1-3-7. The motion
22 is to accept final orders, SEB2017-181 and
23 SEB2021-137, as presented by the Attorney
24 General. We have a motion and a second. Any
25 discussion? Hearing no discussion, all those in

1 favor of accepting the matters as presented
2 signify by saying aye.

3 **THE BOARD MEMBERS:** Aye.

4 **MR. FERVIER:** Any opposition? Hearing no
5 opposition, the board has voted unanimously to
6 accept the final orders as presented by the
7 Attorney General's report.

8 **MR. WILLARD:** Thank you, Mr. Chairman.

9 **MR. FERVIER:** Thank you.

10 **Old Business**

11 **MR. FERVIER:** The next item on the agenda
12 today is old business. And we have a proposal to
13 the General Assembly for public and board
14 consideration for "no excuse" absentee voting.

15 This proposal is being made by Dr. Janice
16 Johnston.

17 Dr. Johnston, would you like to speak on it
18 or make the motion or --

19 **DR. JOHNSTON:** (indiscernible)

20 **MR. FERVIER:** Yes.

21 **DR. JOHNSTON:** Yes.

22 **MR. FERVIER:** Yeah, you should be on.

23 **DR. JOHNSTON:** Mr. Chairman, I move to adopt
24 the resolution to make the recommendation to the
25 General Assembly regarding the conduct and the

1 administration of elections that absentee by mail
2 voting shall be allowed for only certain reasons
3 and exceptions.

4 **MR. FERVIER:** We have a motion made by
5 Dr. Johnston to present or -- we have a motion by
6 Dr. Johnston to -- for a proposal -- to make a
7 proposal to the General Assembly for -- change
8 the absentee ballot -- ballot voting to "no
9 excuse" absentee voting.

10 **DR. JOHNSTON:** Excuse only.

11 **MR. FERVIER:** Yes, I'm sorry. To "excuse
12 only" absentee ballot voting. Do we have a
13 second?

14 **MR. JEFFRIES:** Second.

15 **MR. FERVIER:** We have a motion and a second
16 to make a proposal to the General Assembly for
17 public -- or for "no excuse" absentee -- for
18 "excuse only" absentee ballot voting. There's a
19 motion and second. Is there any discussion?

20 **DR. JOHNSTON:** Yes, Mr. Chairman. I have a
21 few words to say. I have two premises but not
22 all of the premises of the reason for this
23 recommendation.

24 One, absentee by mail voting is a violation
25 of voting by secret ballot. Two, absentee by

1 mail voting results in a loss of control of the
2 ballot.

3 Examples, Mary had dementia and had been in
4 a nursing for almost ten years. She could not
5 walk or talk or attend to activities of daily
6 living. Mary was not capable of filling out
7 forms, yet a nursing home worker helped her to
8 register to vote and apply for an absentee
9 ballot.

10 A distressed daughter of Joan complained
11 that her now deceased mother who had dementia
12 voted by absentee ballot in two elections. The
13 daughter reported that the mother had never
14 registered to vote. The mother had no driver's
15 license, no ID card, and no signature was found
16 in the election records for -- for comparison.
17 The election office repeatedly failed to respond
18 to our investigator's request for documents.

19 An unknown person sent an absentee ballot in
20 for Mr. Ellis who passed away. The signature did
21 not match his voter registration signature.

22 Mr. H signed his wife's absentee ballot
23 after she died and sent it in.

24 Mr. W arrived to vote in person and was told
25 he had already voted by absentee by mail ballot.

1 Miss T was wrongly turned away at the polls
2 simply because she had requested an absentee
3 ballot.

4 Miss H sent in an absentee ballot but
5 thought it was lost when My Voter Page showed
6 that she had not received credit for voting. So
7 she voted in person and then was investigated for
8 double voting, a serious election law violation.

9 Mrs. J received her absentee ballot after
10 the polls closed on election day.

11 A candidate collected multiple absentee
12 ballots and returned them to the election office.

13 Mr. D moved out of the county last summer
14 and failed to register to vote at his new address
15 in a different county. He requested an absentee
16 ballot, signed a note, and falsely claimed that
17 he lived at the old address. He voted in an
18 election contest that he was not eligible to vote
19 in: state senate, state house, county
20 commissioners, sheriff, school board, district
21 attorney, and judges.

22 Fact: From August of 2022 to December of
23 2023 roughly 240 cases were presented to the
24 State Election Board for review, hearing, and
25 disposition. Within those 240 cases were, often

1 consolidated, multiple complaints of possible
2 election law violations involving absentee
3 voting. I counted 1,121 complaints involving
4 absentee by mail voting. I did not add to the
5 count the thousands of absentee ballots that may
6 have been involved in complaints concerning
7 handling, processing, verifying, scanning,
8 tabulating, documenting, chain of custody,
9 lockbox procedures, observation, record
10 retention, or electronic election filing.

11 The Constitution of the State of Georgia,
12 Article II, section 1, paragraph 1, Method of
13 Voting: Elections by the people shall be by
14 secret ballot and shall be conducted in
15 accordance with procedures provided by law.

16 Absentee by mail voting provides no
17 guarantee of voting by secret ballot.

18 By federal law, U.S. Code, Title 52,
19 subtitle I, chapter 101, Voting Rights Act says:
20 No person, whether acting under color of law or
21 otherwise, shall intimidate, threaten, coerce, or
22 attempt to intimidate, threaten, or coerce any
23 person from voting or attempting to vote.

24 Absentee by mail voting provides no protection
25 from intimidation, threats, or coercion.

1 The Help America Vote Act of 2002 requires
2 that any voting system shall provide privacy in
3 voting. Absentee by mail voting does not provide
4 privacy or protect privacy in voting.

5 The National Voter Registration Act of 1993
6 states that the purpose of the act is to protect
7 the integrity of the electoral process. Absentee
8 by mail voting cannot and does not protect the
9 electoral process. Georgia Code Section
10 21-2-322, paragraph 9 says that voting machines
11 shall permit and require voting in absolute
12 secrecy and shall be so constructed that no
13 person can see a vote for whom any other elector
14 has voted or is voting.

15 Absentee by mail voting cannot and does not
16 require or provide or guarantee a voter absolute
17 secrecy. Georgia Code 21-2-379, paragraph 5
18 states: No electronic ballot marker shall be
19 adopted or used unless it permits voting in
20 absolute secrecy.

21 Absentee by mail voting fails to guarantee
22 absolute secrecy in voting. "No excuse" absentee
23 voting in Georgia was signed into law in 2005.
24 Secretary Raffensperger was and is against "no
25 excuse" absentee voting as recently as December 3

1 years ago. Former Mayor Kasim Reed was against
2 "no excuse" absentee voting. Representative Mary
3 Margaret Oliver was against "no excuse" absentee
4 voting. Former Secretary of State Cathy Cox was
5 against "no excuse" absentee voting.

6 The Carter Center says that international
7 treaties state that everyone has the right to
8 cast their ballot in secret. The Carter Center
9 states that secret voting is not only a right on
10 the part of a voter but an obligation. The
11 Carter Center states that voters should be
12 protected from any form of coercion or compulsion
13 to disclose how they intend to vote or how they
14 voted and from any unlawful or arbitrary
15 interference with the voting process.

16 Absentee by mail voting cannot and does not
17 protect ballot secrecy, voter privacy, or freedom
18 from interference with the voting process.

19 The VVSG 2.0, Principles and Guidelines,
20 says the secret ballot is vital for democracy.
21 The secrecy of the ballot is a foundation of our
22 democracy. It reduces the threat of coercion,
23 vote buying, selling, tampering. For individual
24 voters, it provides the ability to exercise their
25 right to vote without intimidation or

1 retaliation.

2 Absentee by mail voting cannot guarantee
3 ballot secrecy or prevent the threat of
4 intimidation, retaliation, coercion, vote buying,
5 selling or tampering.

6 Author and Pulitzer Prize nominee, Tracy
7 Campbell, writes: Absentee voting allows party
8 operatives to avoid prohibitions against
9 electioneering in the polling place as well as
10 essentially bypassing secrecy. Absentee voting
11 has made the vote buyers' job considerably
12 easier.

13 Absentee by mail voting results in loss of
14 control of the ballot. Miami-Dade election
15 supervisor David Blakely said: Once a ballot is
16 sent in the mail, we lose control of it. That's
17 where the vote broker comes in. They can buy it,
18 take it, or talk a vote out of someone who
19 doesn't know what to do with it. Absentee by
20 mail voting results in loss of control of the
21 ballot.

22 Absentee voting is the method of choice for
23 voter fraud. According to a 2000 study by Dell
24 Information Services of absentee voting in
25 Oregon, one in twenty voters admitted that others

1 had marked their absentee ballots. Today the
2 Rasmussen report claims that one in five absentee
3 ballots are at least connected with election
4 fraud.

5 It is fair and good and the right thing to
6 provide absentee by mail voting for those who
7 otherwise absolutely would not be able to vote.
8 The deference given to our military is deserved.
9 The respect we give to the elderly and
10 handicapped is appropriate. In those
11 circumstances risk is worth the benefit. Yet we
12 should make every effort to ensure that the
13 expected voters are protected from abuse and
14 fraud.

15 The idea "no excuse" absentee voting seems
16 easy and convenient, but the loss of control of
17 the ballot, the loss of the right to vote by
18 secret ballot, the risk of fraud, and the
19 occurrence of subtle or outright voter
20 intimidation is real. Simply put, the risk
21 outweighs the benefit.

22 Whatever described advantages, easy vote,
23 are promoted, the reality is that absentee by
24 mail voting creates distrust in the election
25 outcome and undermines confidence in the

1 electoral process. The price to be paid for the
2 convenience of "no excuse" absentee voting is a
3 loss of the integrity of the voting process.

4 As Campbell concludes, the threat of bad
5 actors, vote brokers are too -- it's too great to
6 ignore or deny. Today the threat of the usual
7 fraud methods -- like printing counterfeit
8 ballots, ballot theft, ballot trafficking, voter
9 intimidation, vote buying, and ballot selling --
10 is still a reality and a serious challenge to
11 elections and democracy.

12 But the more recent AI cybersecurity threats
13 must also be addressed and prevented. The
14 importance of protection of voting by secret
15 ballot cannot be underestimated. The safest
16 ballot and most secure vote is one that is
17 provided and controlled in the polling place
18 under the watchful eyes of poll workers and poll
19 watchers.

20 This single action is the best we can offer
21 to ensure a fair and free election for citizens
22 who -- who desire to participate in this very
23 democratic process. Thank you.

24 **MR. FERVIER:** Thank you for those comments,
25 Dr. Johnston. Are there any other board members

1 that would like to discuss this issue?

2 **MR. LINDSEY:** I would. I would,
3 Mr. Chairman, if I may.

4 Mr. Chairman, I -- I oppose this motion and
5 I oppose this proposal. For the last nearly 20
6 years, this state has moved forward with a
7 guiding principle that -- as often expressed in
8 the General Assembly, to endeavor to make it easy
9 to vote and hard to cheat. This proposal, if it
10 were to be adopted by this board and then taken
11 up and voted by the General Assembly, would be a
12 retreat from that statement in principle.

13 And let me give a little bit of background
14 here. The Georgia General Assembly authorized
15 "no excuse" absentee balloting in 2008 in SB-387.
16 While, yes, there were a few legislators who
17 voted no, the House and the Senate both voted
18 overwhelmingly in favor of it. The House vote
19 was a hundred and forty-four to eleven and the
20 Senate vote was forty-five to two. I was -- for
21 the purpose of full disclosure, I was one of the
22 hundred and forty-four people who voted yes as to
23 that proposal.

24 As a result Georgia today and voters enjoy a
25 robust three-way method of voting at their -- at

1 their choice. They can either vote absentee by
2 mail, voting early in person, or vote early on
3 election -- or not -- or vote on election day.
4 And the states that have caught up with Georgia
5 today have the same rights in terms of absentee
6 balloting in (indiscernible) states that
7 presently have that privilege. And if you look
8 closely at them, you'll find that some of them
9 are overwhelmingly Republican and some of them
10 are overwhelmingly Democrat. So this is not a
11 partisan issue.

12 In 2020 -- and a lot of the concerns raised
13 by Dr. Johnston arose out of actions that took
14 place in 2020. It should not be forgotten that
15 this was a -- an election that took place in
16 extraordinary circumstances, during the height of
17 the pandemic that we have recently recovered
18 from. As a result emergency steps were
19 undertaken to assist Georgians and voting and
20 absentee voting by mail spiked to extraordinary
21 levels.

22 Despite the lack of evidence of systemic
23 fraud which would have altered the outcome of the
24 political races, there was evidence of confusion
25 and some isolated cases of fraud. And some -- as

1 evidenced, for instance, by a case we had just
2 last -- last meeting in which an individual voted
3 by absentee and he was resident of North
4 Carolina.

5 As a result of this -- of the concerns that
6 were raised in the 2020 election, the Georgia
7 General Assembly only three years ago took up the
8 issue of absentee ballots along with other
9 measures to try to tighten the protections to our
10 electoral system. And the question as to whether
11 or not to restrict absentee voting by mail was
12 considered by the General Assembly.

13 At the end of the day, however, the General
14 Assembly, after taking into mind the possibility
15 of either limiting who can vote by absentee, they
16 chose instead to impose additional safeguards to
17 the system that would, I believe, take care of
18 many of the problems that Dr. Johnston has
19 outlined.

20 There were -- these new restrictions
21 included requiring not only the name of the
22 individual and the residence of the individual
23 seeking an absentee ballot, but proof of their
24 identity and an oath and signature by pen and ink
25 among other restriction put into place to ensure

1 that the person seeking the absentee ballot is
2 the person who is lawfully entitled to vote.

3 We should not as a board only a few months
4 before the election in 2024 -- in which we will
5 elect not only a new president but new public
6 officials on down the line, to sheriffs here in
7 Georgia and others -- bring confusion and start
8 to limit the ability of people in our state to
9 vote, particularly people who oftentimes find it
10 most difficult to stand in a long line because of
11 certain life situations. They simply don't have
12 the luxury, for instance, that I have to be able
13 to stand in a long line, which is my preferred
14 method of voting. So the only -- best way for
15 them to vote would be to vote by absentee ballot.

16 And I believe that we as a board -- who are
17 charged with the -- with the mandate that we
18 promote fair, legal, and an orderly election --
19 continue to look for ways to make sure that our
20 elections are both free of fraud but also easily
21 accessible by the voters.

22 I might also add that many of the concerns
23 raised by Dr. Johnston would not be cured by this
24 proposal because many of the folks that -- that
25 she seeks to still allow to -- to vote by mail

1 are many of the same people that she claims here
2 today would be susceptible to fraud.

3 So in other words, Mr. Chairman, this
4 proposal not only does not make it harder to
5 cheat but also -- but also takes away making it
6 easier to vote.

7 We as a board should reject this attempt and
8 should instead look for ways to ensure that the
9 principles that this state's been guided under
10 for the last 20 years -- and return to the "easy
11 to vote, hard to cheat" should be our principle
12 and should be the recommendations that we make to
13 the General Assembly rather than to remove from
14 the voters one of the three methods that they
15 currently enjoy in terms of exercising the right
16 to vote.

17 **MR. FERVIER:** Thank you for your comments,
18 board member Lindsey.

19 Are there any other discussions by board
20 members?

21 **MS. GHAZAL:** Yes, Mr. Chairman.

22 **MR. FERVIER:** Board member -- board member
23 Ghazal.

24 **DR. JOHNSTON:** Thank you, Mr. Chairman. I
25 like to add my voice to everything that board

1 member Lindsey has -- has stated because this is
2 not a partisan issue. In fact, we see states
3 across the country that have moved to solely
4 absentee ballots or mail-in ballots which are the
5 same thing. Voting by mail, absentee, there's no
6 significant difference in that. And then we see
7 bipartisan states who have moved to 100 percent
8 mail-in ballots because the -- the -- the fears
9 of intimidation and loss of control are simply
10 not borne out by the facts and the evidence.

11 I also want to note for the record that we
12 have received more than 700 public comments with
13 relation to this. And many of them have been --
14 or a -- a significant handful have been from some
15 of our supervisors, county election supervisors.
16 And the ones that I have -- have seen and heard
17 from are universally opposed to restrictions
18 because of what it would do to their operations.
19 Several of them were also somewhat offended by
20 the language in the resolution because they
21 thought that it cast aspersions on the way that
22 they are conducting their -- their work and their
23 jobs.

24 And I want to acknowledge the fact that I
25 regret that anybody would believe that we are

1 casting aspersions on the work of the counties
2 because we have the greatest respect for them.
3 And if we should be doing anything for this,
4 it's -- it is also in our mandate to help support
5 voter education and make sure that voters
6 understand their obligations and also the
7 policies and procedures to make sure that -- that
8 elections remain secure.

9 I also want to point out that if groups like
10 the Carter Center are being cited and quoted, it
11 should also be done in a way that is very
12 transparent and actually reflects what they say,
13 including the 2020 statement from the Carter
14 Center urging counties and jurisdic -- states and
15 jurisdictions to expand access to vote by mail
16 because as opposed to the 2005 Carter Baker
17 study, there has been significant research and
18 significant advancement in -- in securing vote by
19 mail. And parties like the Carter Center
20 actually promote that. They do not discourage it
21 and they -- they do not say it is not secure. So
22 it's important to put those statements in
23 context.

24 And, finally, I'm going to get a little bit
25 more personal here. Under the resolution, under

1 the proposal, I would not be eligible for an
2 absentee ballot. I would have to go in person.
3 I am immunocompromised right now. So in order to
4 get an absentee ballot, I would either -- well,
5 I -- I -- I could not. I am not disabled but I
6 am immune compromised. So I would have to risk
7 my health and go against my -- my doctor's
8 recommendations on how I should behave right now.

9 And I am revealing personal information
10 because there are thousands of others like me
11 across the state of Georgia who shouldn't have to
12 choose between their health and their
13 constitutional right to cast a ballot safely and
14 securely. And so I oppose this resolution.

15 **MR. FERVIER:** Thank you for those comments,
16 board member Ghazal. Are there any comments,
17 further discussion from board members concerning
18 this?

19 **DR. JOHNSTON:** Yes, Mr. Chairman. Thank you
20 again.

21 In response to my colleagues, I -- I would
22 remind everyone to take -- to take heed of
23 history and the reason that absentee or --
24 correction, the reason to provide for voting in
25 the polling place by secret ballot began in the

1 late 1800s because voter intimidation and voter
2 fraud and ballot fraud was so great that the
3 elections could not be trusted.

4 And the threat to the -- to our democracy
5 was so great that voting by secret ballot was
6 brought into this country and in a short few
7 years the entire country acknowledged and
8 provided that voting shall take place in the
9 polling place by secret ballot.

10 So we're actually -- we've taken a step back
11 by the -- by the move to have absentee by voting
12 -- voting in so many states, in so many
13 circumstances. That is actually a step
14 backwards. I am -- it is my position that we
15 should be aware and acknowledge the safety and
16 security of the ballot. And the vote is best
17 taken in the polling place.

18 And please don't misunderstand my words.
19 The safest place to vote is under the watchful
20 eyes of the poll workers and poll watchers.

21 So the issue with standing in line, I -- I
22 can't acknowledge that there's a problem with
23 standing in line. There are -- there are
24 certainly accommodations for the elderly. There
25 are accommodations for those who are not as well

1 and certainly an exception could be made for a
2 temporary disability such as immune --
3 immunocompromised people.

4 And identification or secure measures of
5 absentee by mail voting, there's no such thing
6 with absentee by mail voting. The anonymity that
7 it provides and the -- the point of intrusion
8 that's possible with absentee ballots is not
9 acceptable.

10 So I still recommend that we consider this,
11 but I would like to make a motion that we
12 postpone the consideration of this motion until
13 the next meeting so that our two new board
14 members can study this further and research this
15 themselves and -- and bring this up at the next
16 meeting.

17 **MR. FERVIER:** We have a motion by
18 Dr. Johnston to table this original motion for
19 further consideration by the board until the next
20 meeting. Do we have a second to that motion?

21 **MR. JEFFRIES:** Second.

22 **MR. FERVIER:** We have a motion by
23 Dr. Johnston to table this proposal for further
24 consideration by the board till the next meeting
25 and a second by board member Jeffries. Any

1 discussion?

2 **MR. LINDSEY:** So if I understand, what we're
3 looking now to do is to punt this to the next
4 meeting which will be two or three months closer
5 to the next election and perhaps seek to change
6 the rules all the more closer to the next
7 election.

8 **MR. JEFFRIES:** The session would be out, so
9 you wouldn't get anything through.

10 **MR. LINDSEY:** That part is true, yeah. I
11 move (indiscernible) --

12 **MR. JEFFRIES:** I hope they're out.

13 **MR. LINDSEY:** -- I hope they're -- you know,
14 the -- so do I, but, you know, we are in an
15 election year and to the extent that this kind of
16 motion creates confusion for voters as to how
17 they may be able to vote -- you're quite right,
18 they'll be out of session unless they came into
19 special session. But perhaps we will create even
20 greater confusion as to how they may be able to
21 vote. And people get confused, that's just the
22 bottom line. We saw that in the 2020 election
23 when there was a pandemic going on.

24 And so, you know, I do understand where
25 you're going, okay? I don't agree with it, but I

1 do understand where you're going. And what I
2 would recommend is that if we don't -- if we
3 don't pass it today, while the General Assembly's
4 in session, we don't take it up again until next
5 year when the General Assembly comes back in
6 session. You know, we accept the fact that in
7 2024 you're going to be able to vote by mail with
8 no excuses. We need to make that very clear to
9 the voters so that no one gets confused at this
10 point.

11 So I would offer a -- an amendment to it,
12 that the matter be tabled until 2025 and let --
13 and we'll take it up then rather than creating
14 any kind of confusion for voters in terms of how
15 they may vote in the 2024 presidential election.
16 I want as many people as possible to go to the
17 polls however they -- they wish and not anybody
18 be confused as to how they can do so.

19 **DR. JOHNSTON:** Mr. Chairman?

20 **MR. FERVIER:** Board Lindsey, you have
21 suggested 2025. Would you suggest after the
22 November elections in lieu of 2025 --

23 **MR. LINDSEY:** Yeah.

24 **MR. FERVIER:** -- so it can be considered
25 before the legislature gets into session.

1 **MR. LINDSEY:** Yeah. Yeah. And keep in
2 mind, like I said, I do oppose it, but, like I
3 said, if we are to even bring it back up again,
4 I -- I don't want -- I don't want to create
5 confusion for voters in 2024.

6 **MR. FERVIER:** Board member Lindsey has
7 recommended an amendment to your motion to table
8 this so that the motion would be -- the motion or
9 the consideration for this proposal would be
10 tabled until after the 2024 elections.

11 Board member Johnston, would you consider
12 that amendment?

13 **DR. JOHNSTON:** I would oppose that
14 amendment. This is simply a recommendation to
15 the General Assembly. This is not passing a rule
16 or making law. This is simply a motion that we
17 recommend the General Assembly consider the --
18 the change to "excuse only" absentee voting.

19 So I don't think it will confuse voters.
20 Actually I would prefer everyone vote in person
21 at the polling place. There's no confusion to
22 that. There's actually less confusion than
23 voting absentee by mail. And I think I would
24 encourage everyone to participate in this civic
25 privilege and civic right that they have to vote.

1 And perhaps they would even meet some of their
2 neighbors in their precinct while they're voting
3 and share in this delightful democratic process.

4 **MR. LINDSEY:** If I can make a parliamentary
5 inquiry, Mr. Chairman. Does a motion to call the
6 question take precedent over a motion to table?
7 Because if we're not going to simply delay this
8 till after the next election, believing what I
9 previously stated, I'd just as soon have this
10 board go ahead and -- and state its position to
11 the public now.

12 **MR. FERVIER:** My understanding is that the
13 motion to table would take precedence over the
14 original motion.

15 **MR. LINDSEY:** Yeah.

16 **MR. FERVIER:** You're asking whether ...

17 **MR. LINDSEY:** Whether a motion to call the
18 question would take precedent over that. I don't
19 --

20 **DR. JOHNSTON:** No, it doesn't.

21 **MR. LINDSEY:** I'm asking --

22 **MR. FERVIER:** I think that we would --

23 **DR. JOHNSTON:** I know it doesn't.

24 **MR. FERVIER:** I think that we would have to
25 vote on the motion to table first and then move

1 into the original motion.

2 **MR. LINDSEY:** Okay.

3 **MR. FERVIER:** We have a motion to table this
4 until the next meeting and a second to table this
5 until the next meeting. Is there any more
6 discussion?

7 We have a motion made by board member
8 Johnston to table original motion until the next
9 meeting. We have a second by board member
10 Jeffries. Hearing no further discussion, all
11 those in favor of tabling the original motion
12 till the next meeting signify by saying aye.

13 **DR. JOHNSTON:** Aye.

14 **MR. JEFFRIES:** Aye.

15 **MR. FERVIER:** Board member Johnston, board
16 member Jeffries has voted aye. Any opposition?

17 **MS. GHAZAL:** Nay.

18 **MR. LINDSEY:** Nay.

19 **MR. FERVIER:** Board member Lindsey, board
20 member Ghazal has voted nay. The chair will vote
21 nay.

22 **MR. LINDSEY:** Okay. So, Mr. Chairman, I
23 move to call the question.

24 **MR. FERVIER:** A motion has been made to call
25 the question -- or been moved to call the

1 question. So we will proceed back to the
2 original motion by Dr. Johnston. A motion has
3 been made by Dr. Johnston to present a resolution
4 to the General Assembly to end "no excuse"
5 absentee balloting -- or "no excuse" absentee
6 voting. That motion was seconded by board member
7 Jeffries. Discussion has occurred.

8 All those in favor of presenting a proposal
9 for a resolution to the General Assembly to end
10 "no excuse" absentee ballot -- absentee voting
11 signify by saying aye.

12 **DR. JOHNSTON:** Aye.

13 **MR. JEFFRIES:** Aye.

14 **MR. FERVIER:** All those opposed.

15 **MS. GHAZAL:** Nay.

16 **MR. LINDSEY:** Nay.

17 **MR. FERVIER:** We have board member Johnston,
18 board member Jeffries have voted in the
19 affirmative to send a resolution to the General
20 Assembly to end "no excuse" absentee balloting.
21 We have two nay votes by board member Ghazal and
22 board member Lindsey.

23 I have spent a great deal of time thinking
24 about this in my short time as chairman of this
25 board. I recognize that there are strong

1 opinions on both sides of this issue and I've
2 heard strong opinions on both sides of this
3 issue. For me, it comes down to the will of the
4 people and the will of the people's been voted on
5 by the General Assembly. The General Assembly
6 has elected to allow "no excuse" absentee
7 ballots. I will follow the guidance of the
8 General Assembly and will oppose this motion.

9 The next item on the agenda today is
10 SEB2020-010, Lee County, voter registration
11 issue. Update on case status.

12 Investigator Brunson.

13 **MR. BRUNSON:** Yes. So originally this case
14 was heard during the October 3, 2023, hearing.
15 And in this case two individuals were referred to
16 the Attorney General. The board, after hearing
17 the case and referring those two individuals from
18 the New Georgia Project to the Attorney General,
19 there was a request made to find out if the New
20 Georgia Project does, in fact, have quality
21 control measures in place to verify that the
22 information on each voter registration form is
23 correct.

24 So we had our investigator go back out,
25 contact representatives from the New Georgia

1 Project and got a response from the legal affairs
2 director of the New Georgia Project, Tangi Bush,
3 regarding their process.

4 So the first point, the New Georgia
5 Project -- and this is from Tangi Bush --
6 requires canvassers to submit collective voter
7 registration forms to their supervisor who
8 reviews each form to identify any apparent
9 errors, including, for example, that appear to be
10 incomplete, multiple forms that were completed
11 using the same handwriting or any unusual large
12 number of forms using the same address.

13 Supervisor then submits the form to the
14 officer's quality control lead who reviews each
15 line of the forms submitted to identify potential
16 issues with the forms. The quality control team
17 calls each applicant that has provided a phone
18 number to attempt to confirm the information on
19 the form is correct.

20 To the extent this review process identifies
21 any quality control issues, a quality control
22 lead will work with the supervisor to address any
23 training needs or questions about individual
24 forms.

25 If the review process identifies

1 potentially -- potential violation of Georgia
2 election laws, the quality control specialist
3 will initiate an investigation in conjunction
4 with the appropriate staff.

5 Note that it's the New Georgia Project's
6 policy to submit all voter registration forms it
7 collects unless it confirms through the
8 verification process that the form was not filled
9 out by the applicant listed on the form. If
10 errors are identified through the quality control
11 process, New Georgia Project will notify the
12 County registrar of those errors when the forms
13 are submitted.

14 So that's the response that we received from
15 the New Georgia Project regarding that. As I
16 indicated, this case was heard and two
17 individuals that are connected with the company
18 were referred to the Attorney General's Office.

19 **MR. FERVIER:** Thank you, Investigator
20 Brunson.

21 Are there any questions from the board?
22 Thank you.

23 That concludes our old business and we have
24 no new business coming before the board today.

25 **Investigation Reports**

Cases Recommended to be Dismissed

MR. FERVIER: We'll move into the investigative reports. The first item on the investigative reports are case recommended to be dismissed and there are quite a number of those. I would like to vote on those as a whole, although I recognize that there are several that the board may have -- want to remove or -- or discuss from the voting as a whole.

Are there any that the board would like to have further discussion on?

DR. JOHNSTON: Yes, Mr. Chairman.

MR. FERVIER: Board member Johnston.

DR. JOHNSTON: I would like to have case 2022-348.

MR. LINDSEY: Can I -- can I ask one thing?

DR. JOHNSTON: Yes.

MR. LINDSEY: In addition to the number, could you -- if you -- if you could see -- could you also give me the -- where it is in the book? Like --

DR. JOHNSTON: Oh, oh --

MR. LINDSEY: It would be, like, number 9 for --

DR. JOHNSTON: -- oh, tab 9.

1 **MR. LINDSEY:** Yeah. But that helps me.

2 **DR. JOHNSTON:** Gotcha.

3 **MR. LINDSEY:** Thank you.

4 **DR. JOHNSTON:** 2022-222, tab 20; 2022-237,
5 tab 23.

6 **MR. FERVIER:** Now, we have received a
7 request for a continuance on 2022-348 and
8 2022-222. We'll discuss those separately and
9 then decide on whether a continuance is necessary
10 or not.

11 Board member Jeffries, do you have any of
12 these cases that you would like to discuss?

13 Board member Lindsey, do you have any of
14 these cases that you would like to discuss?

15 **MR. LINDSEY:** Yes, Mr. Chairman. I believe
16 number 17, which is 2022-196.

17 **MR. FERVIER:** Any further cases?

18 **MR. LINDSEY:** No.

19 **MR. FERVIER:** Board member Ghazal, do you
20 have any of these cases that you would like to
21 discuss?

22 **MS. GHAZAL:** Yes. 2022-136 which is tab
23 number 10.

24 **MR. FERVIER:** Any further cases?

25 **MS. GHAZAL:** No.

1 **MR. FERVIER:** Okay. By my tally that is
2 five cases that we would discuss individually
3 which leaves the remaining cases 2021-012,
4 2022-011, 2022-110, 2022-139, 2022-143, 2022-146,
5 2022-157, 2022-187, 2022-190, 2022-209, 2022-213,
6 2022-225, 2022-235, 2022-353.

7 A recommendation has been made on all of
8 those cases to be dismissed. Do we have a motion
9 from the board to vote on them as a whole and
10 dismiss those cases as recommended?

11 **MR. JEFFRIES:** So moved.

12 **MR. LINDSEY:** Second.

13 **MR. FERVIER:** We have a motion by board
14 member Jeffries to dismiss those cases as
15 recommended and a second by board member Lindsey.

16 Any discussions on those cases that were
17 listed? Hearing no discussion, all those in
18 favor of removing the cases that I previously
19 listed and recommended for dismissal signify by
20 saying aye.

21 **THE BOARD MEMBERS:** Aye.

22 **MR. FERVIER:** Any opposition? Hearing no
23 opposition, so moved by unanimous vote. The
24 cases that I previously listed will be disposed
25 of or they are dismissed.

1 I would like to take a short break before we
2 get into hearing the five cases that have been
3 pulled for discussion.

4 Thank you. And we'll -- we'll have about a
5 ten-minute break and we'll reconvene. Thank you.
6 (Break taken)

7 **MR. LINDSEY:** Are we on the record,
8 Mr. Chairman?

9 **MR. FERVIER:** We are back on the record,
10 yes.

11 **MR. LINDSEY:** If I may, Mr. Chairman, and I
12 don't want to speak --

13 Correct me if I'm speaking out of turn,
14 Dr. Johnston, but my understanding is that you no
15 longer felt like we need to do a separate hearing
16 on 2022-237. And so I move to have that matter
17 dismissed if that's correct.

18 **DR. JOHNSTON:** Mr. Chair, since I
19 recommended that it be presented, I'll -- I'll
20 move that it --

21 **MR. LINDSEY:** Yes.

22 **DR. JOHNSTON:** -- be dismissed.

23 **MR. LINDSEY:** I'll second that.

24 **MR. FERVIER:** So we have a motion to dismiss
25 case 2022-237, a motion made by board member

1 Johnston, a second by board member Lindsey.

2 Any discussion? Hearing no discussion, all
3 those in favor of dismissing case 2022-237
4 signify by saying aye.

5 **THE BOARD MEMBERS:** Aye.

6 **MR. FERVIER:** Any opposition? Hearing no
7 opposition, so moved.

8 Next we will go into case 2022-136, Clayton
9 County, tabulation sheets. I believe the board
10 members had some questions about that case.
11 That's tab 10.

12 **MR. BRUNSON:** You ready?

13 **MR. FERVIER:** Yes.

14 **MR. BRUNSON:** Okay. This is SEB2022-136,
15 Clayton County, tabulation sheets. Secretary of
16 State's Office opened an investigation following
17 a complaint from a Mrs. Janice Scott who stated
18 that the tabulation tapes were not posted in a
19 timely manner at several Clayton County polling
20 sites after the May 24, 2022, general primary
21 election.

22 Additionally, the complainant stated that
23 the tabulation result postings were also delayed
24 at the Clayton County election headquarters.

25 These allegations potentially violated

1 Georgia State Election Board Rule 183-1-12-.12,
2 regarding tabulating results, and Official Code
3 of Georgia Annotated 21-2-421: Posting of
4 Required Information after Closing of Polls.

5 On June 23, 2022, Investigator Dougherty
6 spoke on the phone to Complainant who was a
7 Democratic candidate for a Clayton County
8 District 4 commissioner seat during the election.
9 She indicated that she attempted to track the
10 polling data on the night of the election and
11 sent several campaign workers to different
12 polling sites to obtain the tabulation reports
13 from each site.

14 She stated that it was reported back to her
15 in the time range of eight to nine that several
16 sites had still not publicly posted the
17 tabulation tapes. She said that while tracking
18 the election online, she sent her campaign
19 treasurer to the Clayton County election
20 headquarters to obtain the tabulation.

21 She said at about 11 p.m. her campaign
22 worker told her that the numbers were not yet
23 publicly posted at the election headquarters.
24 She said that at about 11:15 to 11:30 the
25 campaign worker told her he asked the election

1 staff about the results and was provided the
2 updated tabulation numbers.

3 The investigator attempted to interview
4 eight of Mrs. Scott's alleged campaign workers.
5 Some did not respond, one denied being a campaign
6 worker, and the others could not confirm
7 Mrs. Scott's version of events. The allegation
8 that Mrs. Scott made was not verified and thus
9 this case was ultimately recommended for
10 dismissal.

11 **MS. GHAZAL:** Thank you, Mr. Brunson.

12 May I --

13 **MR. FERVIER:** Yes.

14 **MS. GHAZAL:** Mr. Chairman, may I --

15 **MR. FERVIER:** Yes, board member Ghazal.

16 **MS. GHAZAL:** -- ask a couple of questions?

17 I -- I asked for this case to be -- to be
18 discussed even though I agree with the
19 recommendation that it be dismissed, ultimately
20 because I think it's a really good opportunity to
21 remind our folks in the field, our county
22 election supervisors, how important it is to
23 ensure that the public is able to see these poll
24 tapes.

25 But more importantly there's -- there was an

1 indication in -- in the investigation that the
2 county discovered that they were low on supplies
3 when they were doing L&A testing. When the
4 counties are at the point of doing L&A testing,
5 they have to make sure everything is aligned
6 because running low on poll -- or poll tapes is
7 the proverbial horseshoe nail that could end up
8 creating enormous problems.

9 So I want counties to take this as a lesson
10 to make sure that you do your inventory well in
11 advance of when you're going to need these
12 things. It -- because supply-chain problems can
13 lead to exactly what happened here, poll tapes
14 did not -- the supplies didn't arrive until after
15 the election. And that can have devastating
16 consequences if we are looking at polls where the
17 tapes don't exist because they ran out of
18 supplies because they just didn't plan ahead.

19 Now is the time that counties have to be
20 doing this. Now is the time they have to be
21 making sure. It's already too late for the
22 presidential preference primary. So I just
23 wanted to have an opportunity to make sure that
24 the counties were listening and -- and when they
25 have their regional meetings, double down on

1 these very simple steps early on so we don't see
2 problems on election day and there are no
3 accusations or -- or suspicions that chain of
4 custody has been broken.

5 We've got to get this right from the very
6 beginning. There's -- there's no room for error.
7 That's -- and that's -- that was the point I
8 wanted to make, but at the end I still agree that
9 the case should be dismissed. There were no
10 violations here. So I move we dismiss the case
11 after I'm done with my lecture.

12 **MR. FERVIER:** Are there any other board
13 members that would like -- would like to make
14 comments?

15 **DR. JOHNSTON:** Yes, Mr. Chairman. There are
16 a couple of issues with this case that I think a
17 violation has occurred. Two of the tapes were
18 not fully visible to the public that were posted
19 which is a violation of 21-2-421 and 21-2-440.
20 Posting tapes on the door that cannot be read is
21 not -- is not adequate for posting tapes for the
22 public to view.

23 So I think there are two violations of that.
24 And also three of eighteen closing tapes were not
25 provided by Clayton County. And I would like to

1 know why if there's a representative from Clayton
2 County on the call.

3 **MS. GHAZAL:** I believe that Ms. Dozier was
4 not available because there was another -- there
5 was a letter case that we have continued. So if
6 that's the case, then we'll need to continue
7 this, this case, as well.

8 **MR. LINDSEY:** Can you handle it by letter of
9 --

10 **DR. JOHNSTON:** Beg your pardon?

11 **MR. LINDSEY:** I'm -- I'm trying to figure it
12 (indiscernible).

13 **DR. JOHNSTON:** Right.

14 **MR. LINDSEY:** Can you handle -- the point
15 that you were making, I think is a very good
16 point, by a -- by a letter to them to get it
17 resolved?

18 **DR. JOHNSTON:** Well, I -- I move that this
19 case be continued and considered as a violation
20 of 21-2-421 and 21-2-440.

21 **MR. FERVIER:** We -- we have a motion already
22 made by board member Ghazal that this case be
23 dismissed. So we'll need to resolve that motion
24 before we make another motion.

25 **MS. GHAZAL:** I withdraw that motion.

1 **MR. FERVIER:** Board member Ghazal has
2 withdrawn that motion.

3 **DR. JOHNSTON:** So my -- my motion stands.

4 **MR. FERVIER:** And what is your motion again,
5 please?

6 **DR. JOHNSTON:** My motion is to continue this
7 case and consider it a violation and -- and send
8 it back to the investigative team to find the
9 answer of why -- why three of eighteen closing
10 poll tapes were not provided.

11 **MR. FERVIER:** We have a motion by
12 Dr. Johnston to continue this case for further
13 consideration. Do we have a second?

14 **MR. JEFFRIES:** Second.

15 **MR. FERVIER:** We have a motion and a second
16 by board member Jeffries to continue this case
17 for further consideration. Any discussion?
18 Hearing no discussion, all of those in favor of
19 continuing this case for further consideration
20 signify by saying aye.

21 **THE BOARD MEMBERS:** Aye.

22 **MR. FERVIER:** Hearing no opposition, so
23 moved. This case will be continued to the next
24 board meeting.

25 The next item -- or next case to be

1 discussed is 2022-196, Fulton County voter fraud.

2 **MR. LINDSEY:** And that's 17?

3 **MR. FERVIER:** Tab 17, yes.

4 **MS. KOTH:** This case was sent to the
5 Secretary of State's Office with an elector that
6 came in that had credit for voting that he hadn't
7 voted. Turned out to be a clerical issue. It
8 was a new poll worker that was working. And when
9 they looked into it, there was another voter
10 there with a very similar license number. They
11 were off by one. And so that -- the issue was
12 corrected and proper credit was given to each --
13 the complainant and that other voter. And it was
14 labeled as a dismissal due to the person --
15 they -- correcting the issue and the person was a
16 new poll worker. It was a clerical issue.

17 **MR. FERVIER:** Are there any questions by
18 the -- from the board relating to this case?

19 **MR. LINDSEY:** Yeah. I'm the one who pulled
20 it. And the -- the only question I had is was
21 there some type of instruction that didn't take
22 place? How does the clerical error occur? Do
23 you know?

24 **MS. KOTH:** She said it was a function error
25 and she was new to the -- I mean, it was her

1 first -- it was her first voter that she had
2 dealt with and she said it was a function error.
3 She wasn't sure how she -- what she actually did
4 that caused that, but it was one number off, I
5 think, when she was comparing the license
6 numbers.

7 **MR. LINDSEY:** So -- so it wasn't so much of
8 a (indiscernible) so much as a failure to train.
9 That's simply a clerical error in which a data
10 entry point was first put in wrong. Is that
11 right?

12 **MS. KOTH:** They did incorporate that error
13 into the current training program for poll
14 workers.

15 **MR. LINDSEY:** For the next --

16 **MS. KOTH:** Uh-huh.

17 **MR. LINDSEY:** -- going forward? That --
18 that's all I have.

19 **MS. GHAZAL:** I made the assumption on this
20 case that it was -- it was just hard-keyed in,
21 the number was hard-keyed in because if it was
22 scanned it would've been correct. Is that --

23 **MS. KOTH:** Yes. She just wasn't sure what
24 she had hit.

25 **MS. GHAZAL:** Right.

1 **MS. KOTH:** And the director had said that
2 she was incorporating that -- that whole --

3 **MS. GHAZAL:** Right.

4 **MS. KOTH:** -- into the current training
5 program.

6 **MR. LINDSEY:** And the only reason I pulled
7 it, it -- but it does appear they're already
8 engaging in instruction with whether or not to
9 dismiss with a letter of instruction. But since
10 it would appear that they're already doing the
11 training, I have no problem dismissing it.

12 **MR. FERVIER:** Do we have a motion from the
13 board on case number 2022-196?

14 **MR. LINDSEY:** Move to dismiss.

15 **MR. FERVIER:** We have a move to dismiss from
16 board member Lindsey. Do we have a second?

17 **MS. GHAZAL:** Second.

18 **MR. FERVIER:** We have a second from board
19 member Ghazal. Any discussion? Hearing no
20 discussion, all those in favor of moving case
21 number 2022-196 for dismissal signify by saying
22 aye.

23 **THE BOARD MEMBERS:** Aye.

24 **MR. FERVIER:** Any opposition? Hearing no
25 opposition, so moved. Case 2022-196 has been

1 dismissed.

2 The next case for discussion is 2022-237,
3 Cobb County -- Cobb County voting card issue, tab
4 number 23.

5 **MS. GHAZAL:** (indiscernible) dismissed.

6 **MR. LINDSEY:** I thought we dismissed --

7 **MR. FERVIER:** We dismissed that one? Oh,
8 sorry. Sorry about that one.

9 So the only two remaining cases, then, are
10 2022-348 and 2022-222.

11 **MS. KOTH:** Those are the technical questions
12 they had for --

13 **MR. FERVIER:** For Mr. Barnes?

14 **MS. KOTH:** Yes.

15 **MR. FERVIER:** We will delay those cases,
16 then, until Mr. Barnes is available later on
17 today.

18 **Cases Recommended for Letters of Instruction**

19 **MR. FERVIER:** We'll now move into the cases
20 recommended for letters of instruction. We have
21 a request to move case 2022-148, to move up to
22 the start of this hearing. It is tab number 28.
23 And I believe we have somebody that wants to
24 discuss that.

25 **MR. WEISS:** Hello, yes. I'm here. Do I

1 need to get on video or am I just talking on
2 audio? This is Matt Weiss from the Democratic
3 Party of Georgia.

4 **MR. FERVIER:** Are you going to put him on
5 video?

6 **MS. HARDIN:** I don't want to (indiscernible)
7 camera.

8 **MR. FERVIER:** Okay. No, we will -- you'll
9 need to be voice only --

10 **MR. WEISS:** Okay.

11 **MR. FERVIER:** -- if that's okay.

12 **MR. WEISS:** Yeah, that's fine. Should I go
13 ahead and -- do you want me go ahead and talk or
14 ...

15 **MR. FERVIER:** Yes.

16 **MR. WEISS:** Okay, thank you.

17 **MR. FERVIER:** Well, do you want to -- yeah,
18 we'll have Investigator Brunson present the case
19 first and then you can make your comments.

20 **MR. WEISS:** All right, thank you.

21 **MR. BRUNSON:** So we're going to be
22 discussing SEB2022-148, Fulton County,
23 campaigning within a hundred and fifty feet of a
24 polling location.

25 We received a complaint June 21, 2022,

1 during the general election runoff. An
2 individual was in the parking lot near the
3 Sherwood Event Hall and observed material in
4 support of candidates posted on the windows of a
5 North Fulton Democratic Party headquarters which
6 they state was within 50 steps of a polling
7 location which is Sherwood Event Hall,
8 8610 Roswell Road, Suite 200, in Sandy Springs.

9 Our investigator later went to that location
10 and he observed in the window, as stated by the
11 complainant, photos of Warnock and Abrams. And
12 underneath it was actually art. The pictures
13 underneath, they were campaign signs for both of
14 those individuals. And on the door were the
15 words "Donuts for Dems," quote, unquote. And
16 then through the window, the investigator also
17 saw multiple campaign signs for different
18 candidates.

19 He later went and measured the distance
20 between the headquarters and the polling
21 locations and he came up with between eighty-nine
22 and a hundred and five feet.

23 So based on the investigation and the fact
24 that those depictions can be seen through the
25 window there, that would be a violation of

1 21-2-414, restrictions on campaign activities.

2 That's it.

3 **MR. FERVIER:** Thank you.

4 Mr. Weiss, you wanted to make some comments?

5 **MR. WEISS:** Yes. Thank you to members of
6 the board. My name is Matt Weiss. I'm the
7 deputy general counsel for the Democratic Party
8 of Georgia. I just wanted to provide a little
9 more explanation and context about the incident
10 that occurred in 2022 and how we responded to it.

11 We -- we did, in fact, have a campaign
12 office located at 8610 Roswell Road which is a --
13 it's a strip mall on Roswell Road in Sandy
14 Springs. And it was, you know, within less than
15 a hundred and fifty feet from the entry of the
16 Sherwood Event Hall which I guess is an event
17 space.

18 When the lease was signed, it was -- it was
19 just not known that that was a -- a polling
20 place. It is not an early polling place. It's
21 not what you would typically think of as a
22 polling place. But in any event, we -- the -- we
23 did not do the due diligence and we did not
24 realize it was a polling place until after the
25 fact.

1 The lease was not signed until -- so the --
2 looking back at the calendar in 2024[sic] of
3 elections, the primary was held on May 24th. We
4 did not sign our lease until May 25th and did not
5 begin operations until May 28th. So we were not
6 actually open on the 24th for the -- the primary
7 election. There was a June 21st primary runoff
8 and the office was open and operating and that
9 was the date I believe those pictures were taken.

10 So we did -- we -- that was a mistake on the
11 Democratic Party's part, not that, obviously, it
12 excuses it, but we -- you know, the only
13 candidates that were -- had images or advertising
14 on the front of the office were Stacey Abrams and
15 Raphael Warnock, neither of whom were on the
16 June 21st primary runoff ballot.

17 And then we were made aware of this issue
18 and we were approached by the Secretary of
19 State's Office shortly thereafter. And we fully
20 cooperated with the Secretary of State's Office
21 and responded promptly.

22 We -- again this was not an early voting
23 site. So the only dates in question are actual
24 election days. So the next election was
25 November 8, 2022. We closed the office that day

1 and we took down any signage of any candidates to
2 com -- make sure we were in compliance with the
3 election code.

4 And then we did the same on December 6,
5 2022, which was the general election runoff. And
6 we were in correspondence in July of 2022, after
7 we were approached by the Secretary of State. We
8 provided them with all requested information and
9 we were informed by the investigator that, you
10 know, as long as we kept the office closed or --
11 and had removed signage on future election days,
12 we would -- you know, we were -- would be in
13 compliance going forward.

14 And the -- that lease expired at the end of
15 2022, so it is no longer a campaign office for
16 the Democratic Party. And I'm happy to answer
17 any questions. But we -- we apologize for our
18 oversight and we will certainly be careful to
19 avoid a situation going forward.

20 **MR. FERVIER:** Are there any questions by the
21 board?

22 **DR. JOHNSTON:** Mr. Chair, a question.

23 **MS. GHAZAL:** Yes.

24 **DR. JOHNSTON:** Mr. Weiss, what was the
25 length of the lease that was signed by the

1 Democratic Party?

2 **MR. WEISS:** So what was the length of the
3 lease?

4 **DR. JOHNSTON:** Yes.

5 **MR. WEISS:** It was -- so it was signed, I
6 believe, May 25th, and it was to go through the
7 end of the calendar year. And I think we
8 actually -- I think it went through shortly after
9 the November election, and then we had -- we were
10 able to get an extension because of the runoff
11 through the end of the calendar year. But we --
12 we've been out of the office since the end of
13 December of 2022.

14 **DR. JOHNSTON:** Mr. Weiss, did you ask the
15 landlord for an exception to maybe allow you to
16 terminate the lease and move the office somewhere
17 else?

18 **MR. WEISS:** We did not. We were under the
19 impression through our communications with the
20 Secretary of State's investigator that as long as
21 we were closed on election day and did not have
22 signage, there would no -- be no legal violation.
23 So we didn't -- we didn't feel like we needed
24 to -- to do that.

25 **MR. LINDSEY:** If I may, Mr. Chairman.

1 **MR. FERVIER:** Yes, sir.

2 **MR. LINDSEY:** Tell me about Donuts for
3 Democrats.

4 **MR. WEISS:** That is a -- that's an informal
5 event I think they held weekly on Saturday. I
6 guess it was the -- was the Donuts for Democrats
7 the day of the event or was it just the signage
8 that was --

9 **MR. LINDSEY:** Yeah. I guess I wanted to
10 know that because, you know, there is a
11 particular ban on -- on giving anything of value
12 in return for someone voting. And, you know,
13 quite frankly, we've dealt with situations where
14 folks have, you know, done raffle tickets and --
15 and given things of a de minimis cost, quite
16 frankly. But still, nevertheless, we've had to
17 issue a letter of reprimand because that -- that
18 is the law. And so I just --

19 **MR. WEISS:** My under -- sorry.

20 **MR. LINDSEY:** -- wanted to know on election
21 day, were you handing out donuts to people who
22 were show -- well, I voted, can I get a donut? I
23 -- yeah.

24 **MR. WEISS:** Yeah, I understand that
25 question. And I'll ask Mr. Brunson to confirm.

1 My understanding was there was signage for a
2 Donuts for Democrats event that was up, but the
3 event itself was not held on election day. I
4 think that was something they held on Saturday
5 mornings for the organizing staff to meet members
6 of the community. Election day was Tuesday,
7 June 21st. So I do not believe we were handing
8 out donuts that day.

9 **MR. LINDSEY:** All right. Did y'all -- let
10 me ask the investigator. Did y'all find any
11 evidence that they were -- they were giving out
12 donuts on election day if people showed up and
13 said that they were --

14 **MR. BRUNSON:** No.

15 **MR. LINDSEY:** -- that they voted and can I
16 get donut? I mean, we've had -- we've had cases
17 that we had to deal with that. You know, someone
18 was given a chicken sandwich, quite frankly. And
19 so, you know, we've had to deal with this issue
20 before. And I want to make sure that we deal
21 with all such issues the same.

22 **MR. BRUNSON:** No, it was just the signage on
23 the door that the investigator noted.

24 **MR. FERVIER:** I have a question.

25 **MR. WEISS:** Yes.

1 **MR. FERVIER:** Is there a distinction made
2 between public and private property?

3 **MR. BRUNSON:** In looking at the statute, if
4 it's a private office, if they didn't have the
5 photo showing, they would've been okay, frankly.
6 But the fact that you could see the candidates on
7 the window is what made it a violation. There
8 is, like, a clause that said if it is a private
9 office that, you know, it -- it's -- that's an
10 exception basically of the hundred and
11 fifty feet. So if they didn't have those photos
12 there, they would've been fine on this.

13 **MR. FERVIER:** So individuals are not allowed
14 to do what they want to do on their private
15 property even if when -- within a hundred and
16 feet -- hundred and fifty feet of a polling
17 place.

18 **MR. LINDSEY:** Correct. My understanding of
19 the law.

20 **MR. WEISS:** Is that -- is that directed to
21 me, Mr. Chair?

22 **MR. FERVIER:** I was asking the investigator.

23 **MR. WEISS:** Okay.

24 **MR. BRUNSON:** You know, that's -- that's an
25 interesting -- we talked about that in the

1 office, that, you know, somebody has a house and
2 they say, Yeah, you can put your campaign sign
3 here, and it's within a hundred and fifty feet.
4 We weren't sure if that was, you know,
5 specifically spelled out in the law that that's a
6 violation. Because, I mean, yeah, it's your
7 private property, who's -- who's to say. So I
8 don't think we really know definitively.

9 **MS. GHAZAL:** I don't think we've had one
10 come up with private property before.

11 **MR. BRUNSON:** Yeah, but we did discuss that
12 because we --

13 **MS. KOTH:** Yes.

14 **MR. BRUNSON:** Somebody said, hey, wait a
15 minute, what if, you know? Yeah, you can put
16 your campaign sign there. It's my house; it's my
17 property. Does that supersede the law?

18 **MR. LINDSEY:** Well, we have zoning
19 restrictions and all kinds of restrictions on
20 what you can do with your property at times.
21 And, you know, the other way of interpreting it,
22 I think, would lead to a lot of people
23 manipulating the law, you know, to -- in order to
24 be able to campaign within a hundred and fifty
25 feet.

1 **MR. FERVIER:** I understand. It's silent in
2 the book.

3 **MR. LINDSEY:** Yeah.

4 **MR. FERVIER:** So I ...

5 **MR. LINDSEY:** It's a matter of our
6 interpretation and -- and how we interpret as a
7 complete prohibition, because I don't want to see
8 people playing games, for want of a better legal
9 term.

10 And, you know, Mr. Weiss, in -- you know,
11 this case kind of reminds me of a case we had
12 last time in which I had two people who had done
13 something similar in terms of signing a petition
14 or incorrectly filing -- signing a petition. One
15 was a lawyer and one was a layman, and I was a
16 lot more lenient on the layman than I was on the
17 lawyer.

18 You know, I -- I expect a higher standard of
19 appreciation by -- by both -- well, by all
20 political parties. Keep in mind it's not simply
21 a matter of Democrat versus Republican, but I
22 would certainly hope that in the future that --
23 that both political parties, who have good
24 counsel with folks like you and others, would be
25 a little more careful in the future.

1 **MR. WEISS:** Understood.

2 **MR. LINDSEY:** And I understand. I mean,
3 mistakes get made and -- but -- but I do --

4 Mr. Chairman, at the appropriate time, I'm
5 going to elevate this from a letter of
6 instruction to a letter of reprimand simply
7 because --

8 Quite frankly, because I hold -- Mr. Weiss,
9 I hold you to a higher standard. And trust me,
10 I'm going to hold any Republican to that
11 higher -- party to that same -- you know, it
12 basically means that I -- rather than a letter of
13 instruction, I would -- I would not -- I would go
14 with a letter of reprimand.

15 **MR. FERVIER:** Is that a motion?

16 **MR. LINDSEY:** Yes.

17 **MR. FERVIER:** We have a motion by board
18 member Lindsey to -- for a letter of reprimand on
19 case number 2022-148. Is there a second?

20 **DR. JOHNSTON:** Second.

21 **MR. JEFFRIES:** Second.

22 **MR. FERVIER:** We have a second from
23 Dr. Johnston, board member Johnston, to issue a
24 letter of reprimand on case 2022-148. Any
25 discussion?

1 **MR. LINDSEY:** I want to make sure Mr. Weiss
2 knows that in doing so -- I do appreciate the
3 fact that -- that you've -- you've acknowledged
4 that the mistake was made. And mistakes do
5 happen in campaigns. And -- and I do recognize
6 that fact.

7 And the fact that you have acknowledged that
8 is why I would not, for instance, send this to
9 the Attorney General for any further action but
10 to simply handle it here today.

11 And, you know -- and hopefully with a letter
12 of reprimand, it sends a message not just to the
13 Democratic Party but equally to the Republican
14 party or any other political party or activist
15 group to be careful to -- to abide by these rules
16 and the section. Please, I want you to
17 understand that.

18 **MR. WEISS:** I do. Thank you, Mr. Lindsey.

19 **MR. FERVIER:** Is there any other discussion?
20 Hearing no discussion, all of those in favor of
21 sending a letter of reprimand on case 2022-148
22 signify by saying aye.

23 **THE BOARD MEMBERS:** Aye.

24 **MR. FERVIER:** All those -- board member
25 Ghazal has recused herself. Any nays? Hearing

1 no nays, so moved. A letter of reprimand will be
2 sent on case number 2022-148.

3 Thank you, Mr. Weiss.

4 **MR. WEISS:** Thank you.

5 **MR. FERVIER:** The next case on our agenda is
6 case 2021-051, Henry County, monitoring issues.

7 **MS. KOTH:** On February 2, 2021, there were
8 six allegations that came in regarding Henry
9 County during the 2021 run-off election.

10 Out of the six complaints, the first one was
11 that a complainant resides in Maryland but voted
12 by absentee in Georgia.

13 Number two was that a complainant stated she
14 was a ballot monitor and she observed one person,
15 Miss Kelly, verifying voter signatures by
16 comparing it to the voter registration card.
17 They were not reviewing the signatures against
18 the absentee ballot application. She also said
19 that those envelopes were moved to a ballot room
20 in the unsecured -- in an unsecured
21 (indiscernible).

22 The third allegation was that there was no
23 supervision in the verification room. The
24 complainant contacted Miss Kerry(ph) and Miss
25 LouAnn(ph) who stated they were shorthanded in

1 the office.

2 Number 4, the complainant advised Mr. Tony
3 stated that there were multiple absentee ballots
4 coming in on the same voter and four to five
5 nonprofit groups were sending in multiple
6 absentee ballots.

7 Number 5, the complainant stated that around
8 3:30 p.m., that the mail had been delivered and
9 Mrs. Rebecca and Miss Jen(ph) said that the
10 complainant was not allowed to take the absentee
11 ballots and that they need to be counted. The
12 complainant stated that Miss Jen gave Miss
13 Rebecca about a hundred and fifty absentee
14 ballots to verify but six hundred or so were left
15 with no security.

16 Number 6, the complainant stated that
17 absentee ballots were being scanned without bar
18 codes.

19 So out of the allegations, one, three, four,
20 five, and six were not substantiated.

21 Number 2, the allegation that there was
22 sufficient evidence to prove that a -- that
23 Georgia Code 21-2-386, regarding the verification
24 of absentee ballots that Henry County election
25 worker Kelly Fesmire(ph) failed to follow

1 regarding the procedure on verifying absentee
2 ballots.

3 The ballots were verified properly and
4 procedures were set up for future checks. There
5 was a -- this was a violation back in 2020,
6 according to the code book, but would not be a
7 violation now due to the code being worded
8 differently.

9 The director advised that she had her staff
10 revalidate the absentee ballot signatures and
11 were in compliance at that point.

12 Any questions?

13 **MR. FERVIER:** Any questions from the board?

14 **MS. GHAZAL:** I actually reviewed the code
15 for 2020 and I found it very confusing. There
16 are some provisions in that code section that --
17 that say that the signatures should be verified
18 against the registration card and the voter
19 registration application. But there was also a
20 citation that says or a facsimile of said
21 signature or mark taken from said card or
22 application. So there were contradictions within
23 the code section itself.

24 So I -- at the -- the very most that I would
25 be comfortable with would be sending a letter of

1 instruction that -- that verification procedure
2 should be -- should follow the code, which is no
3 different at any rate. But I don't -- I'm not
4 entirely comfortable finding a violation because
5 I think the -- the code section can be read
6 either way from 2020. So I would be inclined to
7 dismiss this case entirely.

8 **DR. JOHNSTON:** Mr. Chair, I also would be
9 inclined to dismiss this case. The voter
10 registration signatures were being checked and
11 it's logical that they should check the
12 application and the voter registration at that
13 time and now the law has changed to provide a
14 different manner of verification of absentee
15 ballots.

16 **MR. FERVIER:** Any further comments from the
17 board? Do we have a motion?

18 **MS. GHAZAL:** I move we dismiss this case.

19 **MR. FERVIER:** We have a motion to dismiss
20 case zero -- 2021-051. Is there a second?

21 **DR. JOHNSTON:** Second.

22 **MR. FERVIER:** We have a second from
23 Dr. Johnston. Having a motion and a second to
24 dismiss case 2021-051, any discussion? Hearing
25 no discussion, all those in favor of dismissing

1 this case signify by saying aye.

2 **THE BOARD MEMBERS:** Aye.

3 **MR. FERVIER:** Any opposition? Hearing no
4 opposition, so moved. Case 2021-051 has been
5 dismissed.

6 **MR. LINDSEY:** Mr. Chairman, regarding the
7 issue we had a moment ago regarding the
8 Democratic Party, I want to make sure that in
9 terms of my letter of reprimand it only applies
10 to the hundred and fifty feet -- foot matter.
11 The Donut -- the Democrats for Donuts clearly
12 does not violate any law in my opinion.

13 So I just wanted to make sure. So that's
14 what the reprimand was about. If there's any
15 confusion over that, I'll make an alternative
16 motion. I just wanted to make sure of that.

17 **MR. FERVIER:** We'll do that. Perhaps we
18 should ask the legislature at some point for some
19 clarification on the hundred and fifty foot rule
20 to verify that it includes both public and
21 private property.

22 **MR. LINDSEY:** Yeah.

23 **MR. FERVIER:** So ...

24 The next item on the agenda is 2022-106,
25 DeKalb County, missing certification date, tab

1 number 26.

2 **DR. JOHNSTON:** Mr. Chairman, that case is
3 reserved for Michael Barnes to be present.

4 **MR. FERVIER:** Was it 106? Okay.

5 Mr. Barnes is going to have (inaudible). We
6 will hold that until Mr. Barnes is available.

7 **DR. JOHNSTON:** Did I complicate the system?
8 We have to have someone here to answer questions.

9 **MR. LINDSEY:** No. No, no. I'm with you.
10 I'm with you.

11 **MR. FERVIER:** The next item on the agenda is
12 case 2022-197, Gwinnett County, photographic
13 equipment used in polling place, tab number 29.

14 **MR. OLES:** Good morning. This is attorney
15 David Oles. I'm here, appearing with my client,
16 Miss Mary Rachel(ph) Clark(ph) on this matter.

17 **MR. FERVIER:** We -- let us hear the case
18 facts first, and then we will allow you to make
19 your comments.

20 **MR. OLES:** Thank you.

21 **MS. KOTH:** The Georgia Secretary of State's
22 Office received a complaint from someone who
23 alleged that the respondent, Mary Clark, aka
24 Rachel Clark, took photos inside the polling
25 facility and posted them on social media with the

1 instructions to please share.

2 According to the allegation from the
3 complainant, the resident took pictures of poll
4 workers and claimed that the poll pads were
5 inaccurate which is a potential violation of
6 O.C.G.A. 21-2-413(e). In the Facebook pictures
7 the complainant submitted as evidence with her
8 complaint, the respondent supposedly shared
9 pictures of the respondent's provisional ballot
10 which is a potential violation of O.C.G.A.
11 21-2-568.

12 Also the complainant expressed the
13 respondent prevented the poll worker in the
14 picture from performing the duties imposed on him
15 governed by O.C.G.A. 21-2-569 and violated his
16 privacy along with other voters inside the
17 polling location in taking of the photos.

18 Miss Clark admitted that she took photos of
19 her ballot inside the voting precinct because she
20 has always had trouble with voting. She shared
21 the poll -- she shared that the poll manager
22 yelled at her about it as well. Ms. Clark
23 remarked that she will always take picture of her
24 voting ballot because she does not trust the
25 process and it is her ballot.

1 Clark insisted someone deliberately changed
2 her political party choice from Republican in the
3 primary election for the May 2022 primary to a
4 Democratic ticket because she would never have
5 voted Democratic.

6 She stated that she did upload the photo she
7 took of herself onto her Facebook account, but
8 she took them down because it had her personal
9 information on the ballot for others to see in
10 that Facebook post. She advised that she was
11 upset with the election process and she voiced it
12 to the poll manager, Christine Forde(ph).

13 The findings of this case are that the
14 allegation that the respondent took a photograph
15 inside the polling location while voting was
16 taking place was substantiated. During a
17 telephone conversation with the SOS investigator,
18 the respondent stated she took the photo of her
19 ballot because she always had trouble voting.
20 The respondent also acknowledged that she always
21 does take pictures of her voting ballot because
22 she did not trust the process and it is her
23 ballot.

24 There is evidence to suggest that the
25 respondent violated O.C.G.A. 21-2-568.2,

1 subsection (a)1, 2, when she took the photograph
2 inside the voting location.

3 **MR. FERVIER:** The respondent can make their
4 comments now.

5 **MS. HARDIN:** It's muted.

6 **MR. FERVIER:** You're muted. We -- we can't
7 hear you.

8 **MR. OLES:** Let's see if this -- all right,
9 can you hear me now?

10 **MR. FERVIER:** We can hear you now, yes.

11 **MR. OLES:** I hate to use that phrase. Thank
12 you, Mr. Chairman. And again, I'm attorney David
13 Oles. I represent Miss Mary Rachel Clark in this
14 matter and we appreciate the opportunity to
15 address this before the board.

16 When I get to the end of this, I'm going to
17 be asking the board to dismiss the matter. And
18 in between I will explain why.

19 A little bit of background: Were -- were we
20 to proceed with evidence -- and here's what I
21 believe the evidence is going show: that Mary
22 Rachel Clark, who is about 60 years of age,
23 presented to the Pinckneyville polling location
24 in Gwinnett County in the run-off election in
25 June 21, 2022. A lifelong Republican, Mary had

1 voted in prior Republican primary -- had voted in
2 the prior Republican primary in March of 2022.

3 And I'll mention she's been seven years of
4 residence in Gwinnett and has voted dozens of
5 times in the state of Georgia, always voted on
6 the Republican ticket. However, when she
7 provided her credentials in June of '22 to the
8 poll workers and requested a Republican ballot,
9 she was refused.

10 The poll worker informed her at the time
11 that the poll pad showed that she had voted
12 Democrat in the March primary. Mary was shocked
13 because the claim was completely false. In fact,
14 she had voted in the Republican primary as she
15 had in her entire life.

16 Uncertain why the poll workers would tell
17 her something false, she spoke with the poll
18 manager. And when that was unsuccessful, she
19 spoke with the area manager who happened to be
20 there at the polling location that day.

21 Now, I'm sure this board is aware that it's
22 the duty of the poll officers in cases where
23 equipment malfunctions to provide the elector
24 with a provisional ballot to complete, pursuant
25 to O.C.G.A. 21-2-418. However, instead of

1 following the law, the area manager demanded that
2 Miss Clark drive 35 minutes to the Gwinnett
3 County Voter Registration and Elections Office in
4 Lawrenceville. Not only was this unlawful
5 procedure, it substantially interfered with
6 Miss Clark's ability to cast her vote and could
7 have been a criminal violation for interference
8 with voting.

9 On that occasion, going -- stepping outside,
10 Miss Clark called a member of the board of
11 registrations and elections, learning that there
12 had been a recurring issue with the poll pads
13 that morning and many Gwinnett poll pads had to
14 be rebooted.

15 Following that, she reentered the polling
16 location and requested a provisional ballot to
17 complete. The poll manager attempted to locate
18 the provisional ballot materials. It was obvious
19 that she was unprepared and unfamiliar with the
20 provisional ballot process and had some
21 difficulty assembling the materials. Eventually
22 it was obtained and Miss Clark was directed to a
23 table that was at least 20 feet away from both
24 the areas containing the ballot-marking devices
25 and the check-in table to complete her

1 provisional ballot.

2 There was no voting activity in the area
3 where she was seated. She sat facing a
4 cinderblock wall and was not in view of any
5 ballot-marking devices nor could she observe any
6 voting activity.

7 After completing the provisional ballot,
8 after filling it out, she reflected upon the
9 information that she'd been given and the attempt
10 to misdirect her from the polling location, the
11 trouble obtaining the provisional ballot, and the
12 problems with the poll pad.

13 Fearful that her vote may not be counted and
14 that the staff could allow a false Democrat
15 listing to remain on the books and aware that it
16 was only her word against -- as an individual
17 against multiple poll workers and aware that this
18 process could deny the fundamental right to vote,
19 the evidence would show that she did pull out her
20 cell phone and took a photograph of her
21 provisional ballot before she attempted to vote
22 it.

23 She then turned in her provisional ballot so
24 that it could be placed in the envelope for later
25 processing and acceptance of her vote. At that

1 point, she was further misinformed by the poll
2 manager that phones were not allowed in that
3 area, out of -- even though it was out of the
4 sight of the ballot-marking devices and voting
5 activity.

6 After tendering her provisional ballot, she
7 left the polling station and called to file a
8 complaint with the election board which she did
9 verbally. However, she heard nothing more about
10 the incident until she was contacted by an
11 investigator nearly a year later who used the
12 pretense of following up on her complaint to
13 secretly investigate a different complaint, the
14 one that underlies the proceedings here today.

15 It is not clear who Andrea Spielvogel was or
16 what interest she had in my client attempting to
17 vote. But nearly a year later, the process
18 issued for this case.

19 Now, as I understand the papers and the
20 state's investigation, there are three statutes
21 at issue here, being advanced as potential
22 violations, and that of those three, only one has
23 been mentioned in the report. So at this point,
24 I would like to ask the board, if it is
25 appropriate, whether or not it is the intention

1 of the board, to merely proceed under the one
2 statute identified in the report which is
3 O.C.G.A. 21-2-568.2 or -- and whether the board
4 intends to abandon the other statutes? Because
5 if so, I can save time and I won't have to
6 address them.

7 **MR. FERVIER:** Your recommendations and
8 violations are all under one statute; correct?

9 **MS. KOTH:** Yes, just the (indiscernible).

10 **MR. FERVIER:** Yeah. The recommendations
11 from the investigators are only on the single
12 allegation, O.C.G.A. 21-2-568.2.

13 **MR. OLES:** All right, thank you. And so
14 then I can confirm that there -- there -- there
15 will be no further proceeding on the other two.

16 **MR. FERVIER:** One moment --

17 **MR. OLES:** All right, then. In terms of
18 O.C.G.A. --

19 **MR. FERVIER:** One moment, please.

20 **MS. GHAZAL:** I do have one question for
21 Investigator Koth.

22 Was the provisional ballot table considered
23 inside the enclosed space within the Gwinnett
24 County polling place?

25 **MS. KOTH:** I think that's a -- subject to

1 interpretation of the enclosed space. But on the
2 photos, you can see someone in the photographs.
3 That's -- let me -- I don't know if that helps.

4 **MR. OLES:** I believe the evidence would show
5 that that was the poll manager seated between the
6 table and the concrete wall that I mentioned.

7 **MS. GHAZAL:** Right. But the question is
8 whether or not the poll manager or the wall
9 itself would be -- would consider that the -- the
10 provisional ballot table would be considered
11 inside the enclosed space for purposes of -- of
12 use of a camera or phone. Different provision of
13 the law.

14 **MR. OLES:** Oh. There -- I'm -- I'm also
15 advised that the evidence would show that there
16 was a rope between that table and the area where
17 the voting activity was occurring. So it
18 certainly would be our position that she was not
19 inside the enclosed area at the time.

20 **MS. GHAZAL:** The alt -- the -- on the other
21 side, casting ballots outside of the enclosed
22 space would -- would (indiscernible) suspicions
23 on whether or not those -- that was a valid area
24 to -- for voters to be casting their ballots.

25 This also highlights a need on our part to

1 revisit some of the rules that define enclosed
2 space. So this is a helpful reminder for us to
3 provide more clarity for voters and for -- for
4 the counties.

5 **MR. OLES:** Thank you.

6 (Cross-talking)

7 **MR. OLES:** May I continue?

8 **MS. GHAZAL:** (indiscernible) suggest that --
9 that we not consider a violation if there is a
10 lack of clarity.

11 **MR. FERVIER:** That the original violation
12 mentioned or the other violations?

13 **MS. GHAZAL:** This would -- this would be a
14 different violation --

15 **MR. FERVIER:** Okay. Okay.

16 **MS. GHAZAL:** -- in addition to the
17 photograph. So I -- I think we can -- we can
18 stick to the -- the violation that has been
19 recom -- that has been identified and not go
20 further at this -- at this time.

21 **MR. FERVIER:** Any other -- any other
22 comments from the board?

23 **MR. LINDSEY:** Counselor -- if I may,
24 Mr. Chairman.

25 Counselor, in the investigation it indicated

1 that your client had done this before and
2 intended to do it again. Is that her contention?

3 **MR. OLES:** No. That would be contested. My
4 client would contend that she has -- did not say
5 that to the investigator and she has not had
6 occasion before to make such a challenge.

7 **MR. LINDSEY:** You know, Counselor, your
8 client had several options when it came to the
9 difficulty. One is to file a complaint with the
10 State Election Board. We deal with this all the
11 time. And it's not like it's common, but in a
12 hundred and fifty-nine counties and I don't even
13 know how many polling places there are in the
14 state, we have occasions in which a voter's
15 ability to vote is not -- it's compromised by one
16 part-time poll worker or another. And we do take
17 those actions very seriously.

18 Your client didn't -- didn't do that.
19 Instead your client chose to -- to basically deal
20 with the issue herself and take pictures when
21 clearly the law prohibits her from doing so.

22 Your client has professed concern over
23 our -- our voting system. That is her right.
24 But the means for doing so are to petition her
25 legislator, make public comments wherever she

1 wishes to do so, but not necessarily to undertake
2 the activities that she did in that particular
3 polling place.

4 I -- I need to have affirmatively -- in
5 order for me not to send this to the Attorney
6 General for further investigation, I need to have
7 your client affirmatively tell me that she's not
8 going to undertake this sort of activity in the
9 future in a polling place.

10 **MR. OLES:** Mr. Lindsey, if I may follow up
11 on that. I think that can be easily resolved by
12 listening to the recording that your investigator
13 has. You will hear, sir, that she -- that the
14 investigator got on the phone, telling my client
15 that she was responding to the complaint that my
16 client had filed with their office and that is
17 the reason she got on the phone with my client in
18 the first place. So that's already in the
19 record, sir.

20 **MR. LINDSEY:** Okay. My -- my question,
21 Counselor, is can I get an affirmative assurance
22 from your client that -- that she's going to
23 exercise her First Amendment right to object and
24 to protest outside of a polling place rather than
25 inside the polling place. That's what -- that's

1 what I'm looking for in order for me to simply
2 recommend a letter of instruction as opposed to
3 sending it to the Attorney General. I need that
4 (indiscernible).

5 **MR. OLES:** Mr. Lindsey, I think you can
6 count on the fact that my client will comply with
7 the law. That is her intention. But if may
8 continue to the law that's at issue here, I think
9 we will find that even in the most negative
10 interpretation of the state's investigation,
11 there can be no violation here. The law at issue
12 is quite short and I'll just read it.

13 (reading): It shall be illegal for any
14 person to use photographic or other electronic
15 monitoring or recording devices, cameras, or
16 cellular telephones, comma, except as authorized
17 by law. Two -- and this is the following, it
18 gives two subsections. The first is to
19 photograph or record the face of an electronic
20 ballot marker while a ballot is being voted or
21 while an elector's votes are displayed on such
22 electronic ballot marker.

23 I think we can agree that there is no
24 allegation that she did that.

25 The second option, number two, is to

1 photograph or record a voted ballot. That is
2 past tense, has been voted. Not before you
3 voted, not after you've completed your mail-in
4 ballot, you get to snap a picture before you turn
5 it in.

6 There's a temporal element here, board
7 members, that cannot -- that you simply cannot
8 apply this law because in order to violate, she
9 would have to already had to cast her vote. She
10 had not done that and there is no way I can see,
11 as a lawyer, as a matter of law, that anyone
12 could believe that she violated this statute.

13 So for that reason I ask that the charges be
14 dismissed against my client.

15 If I still have the floor, I would at --
16 like to address at least one other issue in this.
17 This sort of case, while I think it can be
18 disposed of merely on the language of the statute
19 that I've just identified, there is a larger
20 issue here, and this case sort of invites this
21 board to weigh in to the whole issue of the
22 constitutionality of ballot selfies. As this
23 board knows, that is an issue that has been to
24 the forefront of elections in recent history.
25 There is some developed law on this.

1 This board is certainly familiar with the
2 idea that a law which is unconstitutional is void
3 and cannot be enforced. And I'll cite as old as
4 Ex parte Siebold:: 100 U.S. 371(1880). It is our
5 contention that Georgia's law, to the extent that
6 it would prohibit someone taking a picture of
7 their own ballot, would be unconstitutional.

8 And there is authority on this. The
9 Eleventh Circuit has not spoken, but other
10 circuits have. And I'll direct this board's
11 attention to the *Rideout v Gardner* case, out of
12 the First Circuit, 2016.

13 At issue in that case was a 2014 New
14 Hampshire law forbidding citizens from
15 photographing their marked ballots and
16 publicizing those photographs, referred to as
17 ballot selfies. In that case, the First Circuit
18 Court of Appeals upheld the ruling that that
19 statute was facially unconstitutional and had to
20 be over -- and was void.

21 A similar result was found out of Indiana in
22 *Indiana Civil Liberties Union Foundation v the*
23 *Indiana Secretary of State*, 229 F. Supp. 3d 817
24 (2017) in which a similar Indiana statute
25 prohibiting voters from taking photographs and

1 digital images of their election ballots violated
2 the First Amendment.

3 But even if the law here was -- was
4 constitutional, as I've pointed out, this should
5 not be sustained on the facts that are present
6 here. My client was trying to vindicate her
7 right to vote after she was obviously given
8 incorrect information in an attempt to make it
9 more difficult for to cast her vote after given
10 bad information by the voting staff about the
11 record of her prior vote in the primary.

12 Board, please understand. My client was
13 simply trying to vote.

14 (Cross-talking)

15 **MR. LINDSEY:** (indiscernible), you know, the
16 ballot that is shown and the -- to me, the
17 ballot's the ballot that she actually submitted.
18 Correct?

19 **MR. OLES:** After she had completed it and
20 the photograph was taken, she then submitted the
21 ballot. Now as --

22 **MR. LINDSEY:** And (indiscernible) --

23 (Cross-talking)

24 **MR. OLES:** -- this board knows, it doesn't
25 get counted till it gets back to the central

1 tabulation station --

2 **MR. FERVIER:** Excuse me. Let's -- let's go
3 one at a time so that we can hear both parties.

4 **MR. OLES:** I'm sorry.

5 **MR. LINDSEY:** Okay. I just -- I just wanted
6 to make that clarification. And I also hear you
7 in terms of the constitutional question that's
8 been raised in other states. I'm not aware of
9 any constitutional -- constitutional challenge in
10 Georgia jurisdiction, are you? Do you have any
11 from ...

12 **MR. OLES:** I am not aware of a case in the
13 Eleventh that has ruled on this yet.

14 **MR. LINDSEY:** Okay. And, you know, our --
15 our difficulty is that -- that we're required to
16 follow the law as written. If a court that
17 covers our jurisdiction tells us that we need to
18 change our practices, we certainly should. But
19 as such, there is no such reference.

20 (indiscernible). But I -- I hear you. Now, I
21 understand.

22 And for that matter, that may very well be
23 an issue that should be taken up by the General
24 Assembly at some other time. That's all I have,
25 Counselor. I'm not sure if anybody else

1 (indiscernible).

2 **MR. FERVIER:** Okay.

3 **MR. OLES:** Again, board members, for the
4 reason that my client did not violate the
5 expressed terms of the statute and because of the
6 strong constitutional issue that is at issue
7 here, even though it may well be beyond the
8 jurisdiction of this board to rule upon that, I
9 certainly think that that issue -- that First
10 Amendment issue, that right-to-vote issue and
11 that right-to-speech issue, which a number of
12 courts have found overcompelling here, should
13 counsel this board to exercise great caution in
14 finding justification to go outside the terms of
15 the Georgia statute to find a violation in a
16 situation where just a simple reading of the
17 statute doesn't require a lawyer. Certainly
18 shows that she didn't violate it.

19 So I would ask for it to be dismissed.

20 **MR. FERVIER:** Any other questions from the
21 board? Does the board have a motion to make on
22 this case? And this would be case number
23 2022-197, Gwinnett County, photographic equipment
24 used in polling place.

25 **MR. LINDSEY:** Well, in order to start the

1 discussion, I would like to hear my other board
2 members' opinions on it. I would move for a
3 simple letter of instruction rather than a
4 stronger response.

5 **MR. FERVIER:** We have a motion by board
6 member Lindsey to move for a letter of
7 instruction on this case. Is there a second?

8 **MR. JEFFRIES:** Second.

9 **MR. FERVIER:** We have a motion and a second
10 to issue a letter of instruction on case number
11 2022-197. Any discussion?

12 **MS. GHAZAL:** Mr. Chairman, if you may -- if
13 I may. I -- in terms of the letter of the
14 statute. A voted ballot is a ballot on which
15 a -- a voter's choices have been noted. And that
16 is for purposes of making sure that people who
17 are listening and may be reading transcripts
18 later, that is a voted ballot.

19 The vote is cast once it is submitted, but a
20 voted ballot has -- has those choices recorded
21 and that is what is not allowed to -- to be
22 photographed, whether it's in a polling place or
23 at home because of the strong interest the state
24 has in maintaining secrecy of the ballot which is
25 guaranteed under our Constitution. And for that

1 reason, I agree with member Lindsey's
2 recommendations.

3 **MR. FERVIER:** Thank you, board member
4 Ghazal.

5 Miss Johnston?

6 **DR. JOHNSTON:** If I may. Like,
7 photographing of a voted ballot is -- is not
8 proper and permits vote selling for all
9 situations of voting just as -- the point of
10 order is that absentee by mail voting provides no
11 protection from photographing and selling those
12 voted ballots.

13 **MR. FERVIER:** Thank you for those comments.
14 We have a motion and a second to issue a letter
15 of instruction on case number 2022-197. Hearing
16 no further discussion, all those in favor of
17 issuing a letter of instruction signify by saying
18 aye.

19 **THE BOARD MEMBERS:** Aye.

20 **MR. FERVIER:** Any opposition? Hearing no
21 opposition, so moved. A letter of instruction
22 will be submitted on case number 2022-197.

23 Thank you. We appreciate your -- your
24 input.

25 The next item on the agenda is case number

1 2022-327, Cobb County, early voting tabulation
2 issue, tab number 30.

3 **MR. BRUNSON:** Okay. On or about November 1,
4 2022, the Secretary of State's Office received a
5 complaint from a citizen and that citizen alleged
6 that poll manager Brenda Mills of the East Cobb
7 Government Center polling location -- that an
8 individual by the name of Roy removed four memory
9 cards from the scanners on October 28, 2022,
10 prior to the closing of the polls during advance
11 voting and returned them to the Cobb County
12 elections and voter headquarters.

13 Our investigators then conducted a phone
14 interview with Mrs. Mills. She confirmed that
15 four memory cards were removed from the scanners
16 due to them being near full capacity and two
17 memory cards per scanner, each scanner having one
18 administrative memory card and one poll worker
19 memory card. And there were two scanners at this
20 voting precinct.

21 Mrs. Mills stated that the procedure is to
22 remove the cards prior to the polls opening or
23 after the polls have closed on a given day
24 instead of having to halt the scanners from being
25 utilized while voting is in process. There's a

1 memory card removal and transport clerk and two
2 poll worker witnesses present when the cards are
3 removed.

4 In this instance, Roy Richardson was the
5 memory removal and transport clerk and the poll
6 worker witnesses were Mary Buch(ph) and Andrea
7 Jewell(ph).

8 So later, our investigator spoke with
9 Mr. Chris (indiscernible) from our center of
10 election system, and he indicated that the
11 maximum images a memory card can hold is 10,000,
12 depending on the size of the ballot. And he
13 recommends that the memory card should be
14 replaced near 9,000 ballots scanned.

15 In this instance, the memory card was
16 removed after 6,807, one of them. The other was
17 removed 8,149. So further investigation on this
18 case, speaking with Mr. Barnes, we did obtain --
19 I just actually obtained it this morning that
20 counties are directed, based on those numbers, to
21 remove the -- those cards because of the capacity
22 issue. And I have right now a reminder that was
23 actually sent out from the Secretary of State
24 regarding this.

25 So based on this new information, you know,

1 the law -- or, I'm sorry, the rule says one thing
2 but the actual guidance says another. And for
3 large counties who are going to -- for large
4 counties that are going to have this issue,
5 this -- they're going to come up against this
6 rule.

7 And so I do have the memory card transfer --
8 transport custody form that was filled out, the
9 seals that were on that, et cetera. So I have
10 all that information. So they followed the --
11 the process. They have a process that they have
12 for this particular procedure that they
13 conducted. And I think that if we really looked
14 at other large counties, it's going to be the
15 same thing because they're going to run into this
16 when they have large capacity of voters at the
17 polling sites.

18 **MS. GHAZAL:** Mr. Chairman, I believe there's
19 somebody from Cobb County online.

20 **MS. HARDIN:** Their camera and microphone are
21 enabled.

22 **MR. FERVIER:** They're enabled? Okay.

23 Do we have a response from Cobb County?

24 **MS. HARDIN:** Need to unmute. She wanted to
25 unmute.

1 **MR. FERVIER:** The Cobb County respondent
2 will need to unmute their microphone to be heard.

3 **MS. SILAS:** Good morning.

4 **MR. FERVIER:** Good morning.

5 **MS. SILAS:** Yes, greetings to the members of
6 the State Election board. My name is Tori Silas.
7 I am the chair of the Cobb County Board of
8 Elections.

9 Regretfully our director cannot be with us
10 this morning as she is appearing before our
11 county board of commissioners. However, I have
12 been briefed and reviewed all of the materials
13 and happy to answer any questions.

14 I do note that the investigator has provided
15 information with regard to guidance that was
16 shared on the 28th -- or, I'm sorry, on the 25th
17 of October, just three days before this
18 particular incident occurred with respect to the
19 removal of the memory card from the scanner.

20 **MR. FERVIER:** When did you receive the
21 guidance from the Secretary of State?

22 **MS. SILAS:** It was distributed on October
23 the 25th via Firefly which is what elections
24 administrators across the state uses. The
25 Secretary of State disseminates information via

1 that e-mail distribution list.

2 **MR. FERVIER:** And you instructed all your
3 poll managers to follow that guidance.

4 **MS. SILAS:** We -- I personally did not
5 instruct all of them to follow the guidance. We
6 do routinely -- at that time our office was under
7 the leadership of the Janine Eveler. I do know
8 that it was her practice to share information
9 with the team based upon receipt of it via
10 Firefly.

11 **MR. FERVIER:** Yes.

12 **MS. GHAZAL:** Yes.

13 **MR. FERVIER:** Board member Ghazal.

14 **MS. GHAZAL:** Thank you so much, Chairwoman
15 Silas, for joining us today. Would you be
16 willing to identify somebody on your team to help
17 us revise the rules which are clearly in error?
18 Because if the rules were followed, you would
19 have to switch out entire scanners as opposed to
20 removing the memory cards.

21 So I think this is one of those cases
22 where -- where the guidance was required to -- in
23 practice and our rules need to be updated to meet
24 the requirements of our machines. And it's even
25 more urgent in cases like Gwinnett County where

1 we may have two-part ballots which would cut the
2 number of ballots in half that their scanners are
3 capable of taking.

4 So clearly you all have established some
5 very solid procedures. And I -- I wouldn't doubt
6 that you would see this is a bit of a punishment
7 but it is not intended as such. But would you be
8 able to help us rewrite the rules to make sure
9 that they accommodate the needs of the counties?

10 **MS. SILAS:** Yes. I believe I can with
11 confidence on behalf of our director say that we
12 would be happy to provide that assistance and
13 support.

14 **MS. GHAZAL:** Thank you.

15 **MR. FERVIER:** Board member Ghazal, are you
16 willing to lead the charge on that task?

17 **MS. GHAZAL:** Indeed I will, yes.

18 **MR. FERVIER:** Will you?

19 **DR. JOHNSTON:** Mr. Chair?

20 **MR. FERVIER:** Yes.

21 **DR. JOHNSTON:** Questions.

22 Ms. Silas, there were four scanners that had
23 memory cards removed and we have counts from two
24 scanners. What were the counts on the other two
25 scanners that memory cards were removed?

1 **MS. SILAS:** My understanding is that the
2 counts were reconciled. I will say that we did
3 not receive that information that was provided
4 with respect to the counts as was just stated by
5 the investigator. I do note that in one
6 instance, he broke up just a little bit on my
7 side.

8 One of the scanners the count was 8,149.
9 The first one I did not hear him clearly.

10 **MS. GHAZAL:** I believe the -- the -- we're
11 trying to clarify -- I believe it was four memory
12 cards --

13 **MR. BRUNSON:** Yes.

14 **MS. GHAZAL:** -- but in two scanners because
15 each scanner has two cards --

16 **MS. SILAS:** Two memory cards.

17 **MS. GHAZAL:** (indiscernible) a backup.

18 **MR. BRUNSON:** Yes.

19 **MS. GHAZAL:** So there would've only been
20 two -- two counts total. That's my understanding
21 of that.

22 **DR. JOHNSTON:** Is that true, Miss Silas?

23 **MS. SILAS:** That is correct.

24 **DR. JOHNSTON:** So the memory card -- so the
25 poll worker memory card and the backup memory

1 card were removed out of two scanners.

2 **MS. SILAS:** That is correct.

3 **DR. JOHNSTON:** That's correct? Did you
4 provide the opening and closing poll tapes for
5 these two scanners?

6 **MS. SILAS:** Yes. The -- there were tapes
7 provided. And the recap sheet did not initially
8 align because the site manager was under the
9 impression that they were supposed to start --
10 that they were supposed to continue adding all
11 the numbers together and not reset the count to
12 zero. But it was subsequently reset to zero and
13 the closing tapes for both scanners -- and this
14 information was provided to an investigator, I
15 believe, on yesterday.

16 But the closing tapes for both scanners
17 can -- you can see that each of the memory cards
18 closed out at the same numbers recorded on the
19 recap sheets. So the numbers tied at the -- at
20 the end of the process.

21 **DR. JOHNSTON:** I haven't had a chance to
22 review those. Can you walk me through the step
23 of -- the steps of when the memory cards were
24 moved to the -- to the action of uploading these
25 memory cards into the election management server,

1 please?

2 **MS. SILAS:** Certainly. Based upon my
3 understanding of it, the memory cards are removed
4 as explained with regard to the chain of custody
5 that was described. But this -- and I do note
6 that this was during AIP. It wasn't on election
7 day. So it would not have been uploaded until
8 later in the process. It would not have been
9 uploaded on that -- on that evening, which was
10 October the 28th, when this advance in-person
11 location closed.

12 **DR. JOHNSTON:** Okay. Continue.

13 **MR. FERVIER:** Do you have anything further,
14 Miss Silas?

15 **MS. SILAS:** No, I'm sorry. You're -- I
16 think you all broke up. Did Miss -- did
17 Miss Johnston say something else? Was there any
18 further question?

19 **DR. JOHNSTON:** Right. So tell me where
20 these memory cards -- how are they secured?
21 Where do they go? Where are they held? And
22 who -- and whose hands do they pass through until
23 they are uploaded in the election management
24 server?

25 **MS. SILAS:** Okay. Well, they -- well,

1 they -- they are returned to the office at the
2 conclusion of the -- of that AIP voting day.

3 **DR. JOHNSTON:** Okay. So they're taken out
4 of the early voting site that day and -- and
5 transported to the election office and kept under
6 --

7 **MS. SILAS:** They are secured. I'm sorry,
8 I'm going through -- I personally do not perform
9 this function. So I just want to be transparent
10 in -- in that respect. And in as much that the
11 board was not advised by the predecessor director
12 of the office, I did not have her previous
13 response nor do I have -- as I look through the
14 materials provided to me, nor do I have a
15 step-by-step process. I would be happy to
16 provide that to you. I don't want to misspeak
17 and misstate the facts. I'm -- as a lawyer, I'm
18 very clear about misstating facts. I do not want
19 to misstate the facts here.

20 **DR. JOHNSTON:** Okay. I would appreciate
21 that. And one of these -- closing tape has
22 forty-six hundred -- 4,684 total on it. So -- so
23 was the machine -- was it zeroed out and then
24 4,000 more votes were added?

25 **MS. SILAS:** It was not zeroed out as it

1 should have been in as much that they were
2 under -- they were falsely under the impression
3 that they need to continue adding all of the
4 numbers together such that the total would show
5 the -- the total number of votes cast on that
6 particular scanner. It was a few days later that
7 they realized that they should have, indeed,
8 zeroed it out. So on November the 1st, that's
9 what it shows the numbers went back down and the
10 scanner did start over at -- pardon me, the
11 scanner started over on October the 29th.

12 But if you -- I don't know what you're
13 reviewing. I presume you're reviewing the
14 infor -- or you have the information that was
15 provided to the investigator on yesterday. But
16 the closing tapes for both scanners, the numbers
17 are -- match the numbers that are noted on the
18 recap sheets.

19 **DR. JOHNSTON:** Okay. So -- so these memory
20 cards, were they -- are they accounted for in the
21 upload in the batch summary report at -- at the
22 election central?

23 **MS. SILAS:** That is my understanding. Yes,
24 they are.

25 **DR. JOHNSTON:** And did Cobb County have

1 enough scanners to simply replace a scanner
2 instead of having to take memory cards out?
3 Which it -- which really is the conflict in the
4 State Election Board rules that says memory cards
5 are not to be removed from the scanners.

6 **MS. SILAS:** Yes. We are aware of -- of
7 that -- that ruling, 183-1-14-.02. But to answer
8 your question, no. If we were required -- I
9 believe this might be the case for other large
10 counties, but if we were required to retain the
11 memory cards in the scanners as it approached
12 that maximum number, we would likely need upward
13 of four -- minimally four scanners for some of
14 our larger polling facilities.

15 **DR. JOHNSTON:** Do you --

16 **MS. SILAS:** At present we have two.

17 **DR. JOHNSTON:** Do you have enough scanners
18 to simply replace those -- those precinct
19 scanners?

20 **MS. SILAS:** No, we do not. No, we do not.

21 **DR. JOHNSTON:** Really?

22 **MS. SILAS:** That is my understanding based
23 upon my -- or the conversation that we had
24 yesterday with our director.

25 **DR. JOHNSTON:** Okay.

1 Mr. Chair, I would move that we continue
2 this so I can study these -- these closing tapes
3 and present this at the next meeting, please.

4 **MR. FERVIER:** We have a motion by board
5 member Johnston to continue this to the next
6 meeting. Do we have a second?

7 **MR. JEFFRIES:** Second.

8 **MR. FERVIER:** We have a motion and a second
9 to continue case number 2022-327 to the next
10 meeting so we can further study it. Any
11 discussion?

12 Hearing no discussion, all those in favor of
13 continuing case number 2022-327 to the next
14 meeting signify by saying aye.

15 **THE BOARD MEMBERS:** Aye.

16 **MR. FERVIER:** Any opposition?

17 **MS. GHAZAL:** Nay.

18 **MR. FERVIER:** We have board members
19 Jeffries, Johnston, and Lindsey have voted in the
20 affirmative to delay -- move this to the next
21 meeting. We have a board member, Ghazal, voting
22 in the negative. The yeas carry and this case,
23 2022-327, shall be postponed till the next
24 meeting -- or continued to the next meeting.

25 **MS. SILAS:** If I -- I apologize for the

1 interruption. But if I might just ask beyond the
2 specific question relating to chain of custody
3 and how the memory cards are stored, is there any
4 further information that the board members would
5 require that we can provide to you in advance of
6 the meeting that this will be continued to to
7 assist in your understanding?

8 **DR. JOHNSTON:** The question -- one question
9 that I have, Ms. Silas, is when these memory
10 cards are removed, are they subsequently run on
11 the -- are they -- are the closing tape -- is the
12 poll -- is it closed out on the same scanner that
13 it was removed from or are -- are these memory
14 cards put into a different scanner and have a
15 poll closeout?

16 **MS. SILAS:** I'm fairly certain that the
17 former is correct inasmuch as they're closed out
18 in the same scanner that the card was in during
19 the process of AIP voting that day. But I will
20 confirm that information.

21 **DR. JOHNSTON:** I would appreciate that
22 because it important to -- to verify that the --
23 the counts on the scanner match the ballots cast.
24 And if it's closed out on a different scanner,
25 then that protective counter and the public

1 counter all of a sudden become invalid. And
2 it's -- it's hard to really verify that the
3 proper number of votes cast is taking place.

4 **MS. SILAS:** Understood.

5 **MR. FERVIER:** Thank you, Ms. Silas. We
6 appreciate your input today.

7 **MS. SILAS:** Thank you very much.

8 **MR. FERVIER:** The next item on the agenda is
9 case 2022-370, Fulton County, Buckhead Library
10 Interference by Poll Watcher. It's tab
11 number 31.

12 Investigator Brunson.

13 **MR. BRUNSON:** Okay. On or about October 28,
14 2022, the Georgia Secretary of State Office
15 received a complaint alleging that poll watcher
16 Michael Sibley was asked to leave the Buckhead
17 library advanced voting precinct on October 25,
18 2022, due to constant interference and
19 noncompliance.

20 According to the complaint, he entered the
21 enclosed area through an exit door without
22 presenting his credentials to the poll manager
23 prior to his entry, refused to leave the enclosed
24 area to wait on the poll manager who was
25 attending to another matter, and then took a seat

1 at the poll workers station.

2 So in looking at this, in interviewing the
3 poll workers there, it seemed that Mr. Sibley was
4 not following their direction. However,
5 obviously, our investigators did interview
6 Mr. Sibley who denied all accusations. He
7 indicated that he had -- he has been a poll
8 watcher in the metro area for numerous years, is
9 very familiar with the poll watcher rules, and
10 has never had any issue with any poll workers in
11 the past. He indicates that he entered the
12 library through the front door, met with
13 Mrs. Daniels. He presented his poll watcher
14 credentials to Mrs. Daniels.

15 He described the location there, and he said
16 he talked to Mrs. Daniels, said told her that he
17 wanted to sit in a third room and monitor the
18 absentee ballot drop box, and she asked him why.
19 He indicated who he was representing as far as
20 being a poll watcher, and then shortly
21 thereafter, he basically was directed to leave
22 and escorted out by a off-duty security worker.

23 So ultimately in looking at this case, one
24 of the reasons why we recommended a letter of
25 instruction is because our investigator did

1 attempt to follow up with some of those poll
2 workers and they did not want to fully elucidate
3 what happened and provide additional information.
4 They provided a statement initially, but didn't
5 want to go further than that.

6 So that's one of the reasons why we looked
7 at this as an LOI as opposed to a full-fledged
8 violation or recommendation for that.

9 **MR. FERVIER:** Is Mr. Sibley online?

10 **MR. SIBLEY:** I -- I am.

11 **MR. FERVIER:** Mr. Sibley, would you like to
12 make some comments?

13 **MR. SIBLEY:** Well, I really would, but I --
14 I'd like a continuance because my attorney isn't
15 with me. He had something else he had to do.
16 And I disagree wholeheartedly with -- with what
17 he said.

18 So could I have a continuance? Plus I've
19 got -- I've got the flu and I don't feel real
20 good. Is that possible? I could read my
21 statement, but ...

22 **MR. FERVIER:** Is there a motion by the board
23 for a continuance on this case?

24 **DR. JOHNSTON:** Mr. Chair, I move that we
25 continue this case.

1 **MR. FERVIER:** Dr. Johnston has made a motion
2 that we continue this case to the next board
3 meeting. Is there a second?

4 **MS. GHAZAL:** Second.

5 **MR. FERVIER:** Board member Ghazal has
6 seconded that motion. Any discussion? Hearing
7 no discussion, all those in favor --

8 **MR. LINDSEY:** One -- one thing.

9 **MR. FERVIER:** Sorry.

10 **MR. LINDSEY:** If Mr. Sibley -- it's up to
11 you. You can either read it at the next one or
12 you could send it to us beforehand, your written
13 statement. Either way. It's up to you, but just
14 to let you know that you do -- if you wish, you
15 could go ahead and send us that statement between
16 now and the next meeting. And I certainly hope
17 that you --

18 **MR. SIBLEY:** When's the next meeting?

19 **MS. HARDIN:** May 7th.

20 **MR. LINDSEY:** May 7th.

21 **MR. FERVIER:** May --

22 **MS. HARDIN:** May 7th.

23 **MR. LINDSEY:** May 7th.

24 **MR. FERVIER:** May 7th is the next meeting.

25 It might be helpful to the board if you went

1 ahead and sent your statement for us to consider
2 prior to the board meeting. But it's your
3 choice.

4 **MR. LINDSEY:** Your choice. But speedy
5 recovery.

6 **MR. FERVIER:** Do we have -- we have a motion
7 and a second to continue this to the next board
8 meeting. Hearing no discussion, all those in
9 favor say aye.

10 **THE BOARD MEMBERS:** Aye.

11 **MR. FERVIER:** Any opposition? Hearing no
12 opposition, so moved. Case number 2022-370
13 continued to the next meeting.

14 That concludes our cases recommended for
15 letters of instruction. At this time, is there a
16 motion by the board to go into executive session
17 before we finalize the cases for referral to the
18 Attorney General's Office?

19 **DR. JOHNSTON:** Mr. Chair, I move that we go
20 into executive session.

21 **MR. FERVIER:** We have a motion by board
22 member Johnston to go into executive session. Is
23 there a second?

24 **MR. LINDSEY:** Mr. Chairman, if I could amend
25 that because I think the -- the rules require

1 state the reason for going into executive
2 session. And the reason for closed session is a
3 personnel matter and also consultation with legal
4 counsel regarding outstanding litigation.

5 **MR. WILLARD:** And, Mr. Lindsey, I would ask
6 that you amend as well to discuss pending
7 investigative and prosecutorial matters under
8 50-18-72(a)(4).

9 **MR. LINDSEY:** I would add that as well,
10 Mr. Chairman.

11 **MR. FERVIER:** Do you accept the amended
12 motion?

13 **DR. JOHNSTON:** I accept it.

14 **MR. FERVIER:** We have an amended motion to
15 go into executive session for the items
16 previously listed. Is there any discussion?

17 **MS. GHAZAL:** Second.

18 **MR. FERVIER:** We have a second. I mean,
19 motion and a second. Any discussion? Hearing no
20 discussion, all those in favor signify by saying
21 aye.

22 **THE BOARD MEMBERS:** Aye.

23 **MR. FERVIER:** Any opposition? Hearing no
24 opposition, so moved. We will go into executive
25 session now for approximately one hour and rejoin

1 the main part of the meeting at about 1:00 p.m.

2 Thank you.

3 (Recessed for executive session)

4 **MR. FERVIER:** Okay, we are back on mic,
5 getting ready to return from executive session.
6 Do we have a motion from the board to exit
7 executive session?

8 **MR. LINDSEY:** So moved, Mr. Chairman.

9 **MR. FERVIER:** We have a motion by board
10 member Lindsey. Do we have a second?

11 **MR. JEFFRIES:** Second.

12 **MR. FERVIER:** We have a second from board
13 member Jeffries. All those in favor signify by
14 saying aye.

15 **THE BOARD MEMBERS:** Aye.

16 **MR. FERVIER:** Any opposition? Hearing no
17 opposition, so moved. We are now back in regular
18 session of the board.

19 **MR. LINDSEY:** Mr. Chairman, pursuant to --
20 under new business, I'd like to add the selection
21 of a new executive director for the State
22 Election Board. And at the appropriate time,
23 I'll make a motion as to who we should select.

24 **MR. FERVIER:** Is there any opposition from
25 the board for going back into new business and

1 discussing a personnel issue? There's no -- no
2 opposition to that. The floor is yours,
3 Mr. Lindsey.

4 **MR. LINDSEY:** Mr. Speaker -- I mean,
5 Mr. Chairman --

6 **MR. JEFFRIES:** I've been waiting on that.

7 **MR. LINDSEY:** Going to happen sooner or
8 later.

9 -- you know, we have conducted numerous
10 interviews of -- of a lot of excellent candidates
11 over the last few months, and -- and I am very
12 appreciative of the number of people that
13 submitted their applications to us and gave us an
14 opportunity to -- to interview them and consider
15 them for the very important position of executive
16 director.

17 However, after having completed all those --
18 those interviews and reviewing all of the
19 applications, I believe that our clear choice for
20 us today in terms of assisting the State Election
21 Board moving forward is Mr. Mike Coan. And I
22 would move to -- to select him as our new
23 executive director.

24 **MR. FERVIER:** Member Lindsey has made a
25 motion to select Mike Coan as the new executive

1 director for the State Election Board. Is there
2 a second?

3 **MS. GHAZAL:** Second.

4 **MR. FERVIER:** We have a second by member
5 Ghazal. Any discussion? Hearing no discussion,
6 all those in favor of selecting Mike Coan as the
7 new executive director for the State Election
8 Board signify by saying aye.

9 **THE BOARD MEMBERS:** Aye.

10 **MR. FERVIER:** Any opposition? Hearing no
11 opposition, so moved. Mike Coan will be offered
12 the position of executive director of the State
13 Election Board.

14 **Cases Recommended for Referral to the Attorney**

15 **General's Office**

16 **MR. FERVIER:** We will now move to our next
17 item on the agenda which is the cases recommended
18 for referral to the Attorney General's Office.
19 The first case on the agenda is 2019-038, City of
20 Arlington, Improper Handling of AB. And that is
21 number 32 -- tab number 32 in your binder.

22 Do we have a case report on that?

23 **MS. KOTH:** Yes. The Secretary of State
24 Office received multiple complaints regarding the
25 following.

1 The first one was the alleged election
2 superintendent Mary King was seen opening sealed
3 absentee ballot oath envelopes before election
4 day.

5 Number 2, it was claimed Shirley Jackson was
6 voting some electors' absentee ballots for them.

7 Three, elector Daisy Williams was allowed to
8 vote twice in the election.

9 Four, election superintendent Mary King,
10 Alice Wims, and assistant city clerk Pamela
11 Davis, and Chelsea Henderson were voting
12 electors' absentee ballots for them.

13 Five, it was reported electors Richard
14 Paramore and Dorothy Collier's votes were not
15 counted in the election.

16 Six, candidate Carolyn Oliver brought an
17 elector to the poll in her vehicle that had
18 magnetic campaign signs displayed on it within a
19 hundred and fifty feet of the poll.

20 Seven, it was claimed that election
21 superintendent Mary King told electors Major Hill
22 and Barbara Dixon whom to vote for.

23 Eight, election superintendent Mary King,
24 assistant city clerk Pam Davis, and Chelsea
25 Henderson and Shirley Jackson filled out a

1 hundred and fifty-one absentee ballot
2 applications for electors in the city of
3 Arlington.

4 Nine, it was alleged election Donnell Barnes
5 voted in the election, but he no longer resided
6 in the City of Arlington.

7 Lastly, it was claimed that Shirley Jackson,
8 election superintendent Mary King, assistant city
9 clerk Pamela Davis, and Chelsea Henderson
10 mishandled absentee ballots during the election.

11 The findings are that one, two, three, four,
12 five, seven, eight, nine, and ten were
13 unsubstantiated.

14 Regarding allegation 6, the investigation
15 revealed that candidate Carolyn Oliver drove her
16 vehicle to the polling precinct with magnetic
17 campaign signs displayed on it which was a
18 violation of O.C.G.A. 21-2-414.

19 Ms. Oliver acknowledged she did it and
20 apologized, said this was the first time it
21 happened and did not know it was against the law.
22 So that case was substantiated.

23 During the investigation, it was learned
24 that eleven absentee ballot applications were not
25 certified by the registrar or absentee ballot

1 clerk which was a violation of O.C.G.A. 21-2-381,
2 making of application for absentee ballot;
3 determination of eligibility by a ballot clerk
4 when the registrar or absentee ballot clerk did
5 not certify by signing in the proper places on
6 the applications.

7 It was also learned that 125 absentee
8 ballots were not issued or mailed within the
9 three business days of receiving the absentee
10 ballot applications which is a violation of board
11 rule 183-1-14-.11. That those three were
12 substantiated.

13 **MR. FERVIER:** Is there anyone here online
14 representing the City of Arlington?

15 **MS. HARDIN:** Yes. You can tell her to
16 unmute her microphone.

17 **MR. FERVIER:** Who is it?

18 **MS. HARDIN:** Mary King.

19 **MR. FERVIER:** Mary King, if you are online,
20 would you please unmute your microphone.

21 (Microphone feedback)

22 **MR. FERVIER:** You can unmute your
23 microphone, Miss King.

24 **MS. SAWYER:** Hello? Can you hear me?

25 (Microphone feedback)

1 **MR. FERVIER:** You can unmute your
2 microphone, Miss King.

3 **MS. SAWYER:** All right. So this is not Miss
4 King. This is Toni --

5 **MR. FERVIER:** Your microphone is still
6 muted, Miss King.

7 **MS. SAWYER:** What did he say? I -- I'm
8 sorry, sir.

9 **MS. HARDIN:** (indiscernible)

10 **MR. FERVIER:** Can you -- you can't unmute
11 her?

12 **MS. HARDIN:** I can't unmute it for her, but
13 her microphone is enabled.

14 **MR. FERVIER:** It's enabled?

15 **MS. HARDIN:** Uh-huh.

16 **MR. FERVIER:** Miss King --

17 **MS. SAWYER:** Can you hear me? Can you hear
18 me?

19 **MR. FERVIER:** Do you still show her?

20 **MS. HARDIN:** Yeah, I -- I can't get -- I
21 can't unmute her.

22 **MS. SAWYER:** Mr. Chair, can you hear me now?

23 **DR. JOHNSTON:** (indiscernible) unmuted.

24 **MS. HARDIN:** It's not -- it's not showing as
25 muted.

1 **MR. FERVIER:** Miss King?

2 **MS. SAWYER:** Mr. Chair, can you hear me now?

3 **MR. FERVIER:** Miss King, are you there?

4 Miss King?

5 **MS. SAWYER:** Yes. Yes.

6 **MS. HARDIN:** Oh, there you go.

7 **MR. FERVIER:** Yes. Okay, there you go.

8 **MS. SAWYER:** Okay. Can you hear me now?

9 **MR. FERVIER:** Yes, we can hear you.

10 **MS. SAWYER:** Okay. Good afternoon,
11 Mr. Chair, board members. This is not Miss King.
12 This is actually Toni Sawyer. I'm the city
13 attorney. I tried to raise my hand on my laptop
14 but I had to come to Miss King's laptop.

15 I just wanted to explain a few things
16 regarding the alleged substantiated violations.

17 One, the City of Arlington is -- is unusual.
18 We are located within two counties and the
19 process is when there's a municipal election, the
20 city will receive the absentee ballot
21 applications and they will immediately turn those
22 absentee ballot applications to the registrars
23 office for either Calhoun County or Early County,
24 depending on where the applicant lives. And it
25 is the -- the registrars in Calhoun County, in

1 Early County that review the absentee ballot
2 applications and certify them and send them back
3 to the city.

4 So, you know, the -- our municipal elections
5 superintendent does not sign off on any document
6 as it relates to the application, other than
7 noting the date the application was received. So
8 the failure of any registrar to sign an absentee
9 ballot application is not on the City of
10 Arlington. That was something that the registrar
11 did, either in Calhoun or Early County.

12 And I also want to note that we don't know
13 if it was a mail-in ballot or if it was a ballot
14 that was provided in an -- in-person, in-advance
15 voting. That has not been explained.

16 And then the second allegation, of not being
17 able to provide the ballot within the three days,
18 again, the City of Arlington provides the
19 application immediately to the registrar's
20 office. And the City of Arlington has to wait to
21 receive notice from the registrar's office of
22 whether the ballot application has been accepted
23 or rejected.

24 So if there was a delay, it would have come
25 from the registrar's office because as soon as

1 the City of Arlington receives notification that
2 an absentee ballot application is approved, we
3 immediately send out the absentee ballot
4 application. Any delay would have come from the
5 registrar's office.

6 And I believe that's all that I have to say,
7 right there.

8 **MS. GHAZAL:** If I may?

9 **MR. FERVIER:** Member Ghazal.

10 **MS. GHAZAL:** I would -- I would move that at
11 least where the -- where the issue of -- of the
12 absentee ballots and their -- and their issuance
13 date is concerned that we continue that portion
14 of the case until we can allow the county
15 registrars involved to respond. The -- notified
16 of the case.

17 **MR. FERVIER:** Is this the part 2 of
18 allegation number 6?

19 **MS. GHAZAL:** This would be the potential
20 violations. It was not -- which is something
21 that was uncovered in the -- in the course of the
22 investigation and not in the initial --

23 **MS. KOTH:** Uh-huh.

24 **MS. GHAZAL:** -- complaints; isn't that
25 correct?

1 **MS. KOTH:** Yes. It was not one of the
2 claims. The investigator's on if we have
3 specific questions because this case is
4 (indiscernible) --

5 **MS. GHAZAL:** Right.

6 **MS. KOTH:** -- this.

7 **MS. GHAZAL:** Right. Was there any contact
8 with any of the counties involved? In the county
9 registrar's office?

10 **MS. KOTH:** Can you unmute Kelly?

11 **MS. HARDIN:** Calli?

12 **MS. KOTH:** Kelly Monroe.

13 **MR. MONROE:** This is investigator Kelly
14 Monroe. Can you hear me?

15 **MR. FERVIER:** Yes.

16 **MR. MONROE:** Yes. Regarding the contacting
17 of the counties, it would be Early County and
18 Calhoun County. I'm going to tell you right now,
19 I did not talk to the counties about them issuing
20 the absentee ballots because I thought it was the
21 city's responsibility and that -- that error
22 falls on me.

23 **MS. GHAZAL:** And this is one of those
24 case-by-case issues, Investigator Kelly. The --
25 and you have to ask each time because some --

1 some city -- some municipalities do their own,
2 some contract with the counties.

3 And when you've got a case like this, where
4 there's a municipality that straddles two
5 counties, that just -- it really makes it much
6 more complicated. So I think actually we need to
7 get a little bit more investigation before we
8 could even bring in the counties on this, to
9 discover where the -- where that slip-up happened
10 and the counties were not timely in their
11 issuance of the ballots.

12 So I would move --

13 **MS. SAWYER:** Sara (indiscernible) --

14 **MS. GHAZAL:** -- this portion of the case be
15 severed from the portion of the case -- well,
16 allegation number 6 with Miss Oliver, the
17 candidate, and ask that the investigators contact
18 the counties involved. That's my motion.

19 **MS. SAWYER:** Mr. Chair, this is Toni talking
20 again. Can you hear me?

21 **MR. FERVIER:** Yes.

22 **MS. SAWYER:** Okay. I -- I just want to
23 clarify that the counties do not issue the
24 absentee ballots; the city does. However, the
25 issue lies with the city, again, as soon as they

1 get the absentee ballot application, will forward
2 the ballot applications to the counties for the
3 counties to either provide approval or rejection
4 of the application.

5 The issue lies with the counties not
6 responding to the city in a timely manner so the
7 city can issue the ballot within three days.

8 **MR. FERVIER:** So -- so the -- the city gets
9 the applications, they're sent to the county, the
10 county approves them, then sends it back to the
11 city to issue the ballots.

12 **MS. SAWYER:** Yes, sir. The county registrar
13 should sign off and -- and that goes to issue
14 number 1. The county registrar will certify by
15 signing the absentee ballot application. They
16 will say these ballots have been approved. They
17 will respond back with the signed ballot
18 application. And as soon as the city receives
19 that certification, approval, the city
20 immediately will send out the ballot.

21 So I will say, you know, if nothing else,
22 the city was at fault for maybe not reviewing the
23 ballot applications to make sure that the
24 registrars have signed them. However, when
25 there's a delay like this, the city immediately

1 just sign -- just sent out the absentee
2 ballots -- absentee ballots because of the delay
3 of receipt of the -- of the approval.

4 And I will say this, the city has signed up
5 for training. And we talked and the city
6 election superintendent will review the absentee
7 ballot applications that are received from the
8 registrars office in Early and Calhoun counties
9 to make sure that the registrars sign off on the
10 absentee ballot applications for the ones that
11 are approved and even for the ones that are
12 rejected.

13 And we also will notify the registrars
14 office each time that we receive a ballot
15 application that we have to submit a -- a
16 absentee ballot within three days upon the
17 approval.

18 And -- and, honestly, that's all that we can
19 really do because, you know, it -- it lies in the
20 hands of the Calhoun County registrars office or
21 the Early County Board of Regi -- Registration
22 and Elections.

23 **MR. FERVIER:** So any more questions?

24 **MS. GHAZAL:** You know, thank you for that
25 explanation. I -- I still believe that we need

1 further investigation to talk to the county
2 registrars office to -- to understand fully
3 what -- what happened here.

4 **MR. FERVIER:** So member Ghazal has made a
5 motion to continue potential violations of
6 O.C.G.A. 21-2-381(4)(b)(1) and 183-1-14-.11,
7 continue both of those potential violations to
8 the next board meeting. Is there a second?

9 **DR. JOHNSTON:** Second.

10 **MR. FERVIER:** We have a second by member
11 Johnston. Any discussion?

12 **MR. LINDSEY:** Yeah, but just -- just for
13 clarification. Who specifically do we need to
14 put on notice they need to be here?

15 **MS. GHAZAL:** The registrars -- well, it
16 depends on what the investigation turns up. If
17 it is only one county, then if the investigators
18 find that one registrars office and not the other
19 were derelict in turning around those approvals,
20 then it will be either Early County, Calhoun
21 County or perhaps both, depending on what their
22 investigation uncovers.

23 **MR. LINDSEY:** My suggestion is, because
24 we've seen this before when they start
25 (indiscernible) things at each other --

1 **MS. GHAZAL:** Yes.

2 **MR. LINDSEY:** -- because of what the
3 investigators find, put both on notice --

4 **MS. GHAZAL:** I believe that's correct.

5 **MR. LINDSEY:** -- they can choose to show up
6 or not. But -- but I don't want to get to
7 another hearing, and then they're, well,
8 somebody's now claiming that somebody else is
9 responsible, but we didn't put them on notice.

10 So that's my only recommendation.

11 **MS. GHAZAL:** Yes.

12 **MR. LINDSEY:** That doesn't need to be added
13 to the motion, but that's my recommendation for
14 Alex, for our team.

15 **MR. FERVIER:** Is there any further
16 discussion?

17 **DR. JOHNSTON:** Mr. Chairman, I would just
18 point out this is another problem with absentee
19 voting.

20 **MR. FERVIER:** We have a motion and a second
21 to continue the potential violations of O.C.G.A.
22 21-2-381(4)(b)(1) and 183-1-14-.11 to the next
23 meeting. Those in favor signify by say aye.

24 **THE BOARD MEMBERS:** Aye.

25 **MR. FERVIER:** Any opposition? Hearing no

1 opposition, so moved.

2 Now, regarding the other substantiated
3 violation of O.C.G.A. 21-2-414, do you have any
4 comments concerning that one?

5 **MS. SAWYER:** Sir, I -- the way the -- the
6 way the code is written in this -- in this
7 summary, it shows 21-2-381(4)(b)(1). Couple of
8 things: One, that that is not a statute at all.
9 The statute is 21-2-381(b)(1).

10 I would like to point out that that
11 particular subsection of 21-2-381 addresses when
12 a registrar cannot properly certify -- or find an
13 applicant. I do believe that they were referring
14 to 21-2-381(b)(2) where a registrar or absentee
15 ballot clerk has to certify by signing the -- in
16 the proper place on the application.

17 And again we'd like to note that the City of
18 Arlington does not certify. It is the registrars
19 office of either Calhoun County or the Board of
20 Elections and Registration in Early County that
21 certifies.

22 So I will go back to the fact that any
23 certification has to come from either one of
24 those registrars office. And again if nothing
25 else, the city just failed to review to see if

1 the registrar had signed the application ballots.

2 And I do believe that if nothing else, a
3 letter of instruction would be proper in this
4 case. The city is going to training and the city
5 is from this point forward going to review the
6 ballot applications -- the approved ballot
7 applications to ensure that the registrars have
8 signed it.

9 And that is, again, all that we can do. And
10 I will state again if there was a -- if the city
11 did overlook the fact that the registrars did not
12 sign the approved ballot applications, it was
13 because the ballot application approve was
14 received later than the three days and the city
15 wanted to ensure that the ballots were sent out
16 so that people could vote.

17 **MR. FERVIER:** Okay. We -- those two
18 allegations or those potential violations, that
19 one and the following one for 183-1-14 will be
20 heard at the next board meeting. And we'll make
21 note of that change to 21-2-381(4)(b)(2). We'll
22 make not of that change.

23 So now we would like to know if you have any
24 comments to make about the first substantiated
25 potential problem which is a violation of

1 O.C.G.A. 21-2-414, allegation number 6.

2 **MS. SAWYER:** So I will say this. In our
3 summary, we don't have that. We don't have a
4 21-2-381. Again, there's no four. It would be
5 (b) (4).

6 **MR. FERVIER:** No, no, no. No. This is --
7 this is -- this is allegation number 6 which
8 dealt with O.C.G.A. 21-2-414 which candidate
9 Carolyn Oliver drove her vehicle into the polling
10 precinct with magnetic campaign signs displayed.

11 **MS. SAWYER:** Oh, I do apologize, Mr. Chair.
12 I'm so sorry. We -- we -- we don't have any type
13 of response to that. If Miss Oliver admitted she
14 did it, she would've done it.

15 Our polling place is a gym and its inside.
16 So, honestly, if she drove up in her vehicle, our
17 poll manager and poll workers would not probably
18 have seen that as a result of the fact that they
19 are inside that gym -- gymnasium doing their
20 duties with regard to the -- the election.

21 **MR. FERVIER:** Do we have any questions from
22 the board? Any comments?

23 **MS. GHAZAL:** Did Ms. Oliver receive notice?

24 **MS. HARDIN:** She's named on the response.
25 Again I'll check.

1 **MS. GHAZAL:** I move that we refer this to
2 the Attorney General's Office.

3 **MR. FERVIER:** We have a motion that this
4 violation be removed to the Attorney General's
5 Office. Do we have a second?

6 **MR. JEFFRIES:** I'll second it.

7 **MR. FERVIER:** We have a motion and a second
8 to remove this violation to the Attorney
9 General's Office. Any discussion? Hearing no
10 discussion, all those in favor signify by saying
11 aye.

12 **THE BOARD MEMBERS:** Aye.

13 **MR. FERVIER:** Any opposition? Hearing no
14 opposition, so moved that case 2019-038, city in
15 Arlington -- City of Arlington, Improper Handling
16 of Ballots will be moved to the -- referred to
17 the Attorney General's Office.

18 Thank you. We appreciate your comments.

19 **MS. SAWYER:** All right. Thank you.

20 **MS. HARDIN:** She was notified via mail.

21 **MR. FERVIER:** Case number 202-292[sic] has
22 been continued to the next hearing.

23 The next case on the agenda is 2021-102,
24 multicounty double voting, tab number 34.

25 **MS. KOTH:** On April 17, 2021, the Secretary

1 of State's Office received an e-mail regarding
2 potential double voting. The e-mail contained a
3 list of eight electors who potentially voted
4 twice and had duplicate voter profiles with
5 similar or identical names, addresses, or
6 birthdates and other personal identifying
7 information.

8 The investigator conducted a search on
9 ElectionNet of the eight pairs of names provided.
10 Of the eight pair of names, the investigator
11 located four which needed further investigation.

12 The remaining four pairs of names showed
13 that one of the voter identification numbers in
14 the pair had no record on file. The remaining
15 active voter identification number in the pair
16 showed that credit was given to the voter during
17 the November 2020 and/or January 2021 elections.

18 It further showed that the two duplicate
19 records were merged with each other after the
20 elections in question. Therefore the
21 investigator was unable to view the merged record
22 to determine if credit was given to the same
23 voter using two different voter ID numbers.

24 Some of the ones in question -- there was a
25 Shayna(ph) Petersen with an s-e-n and Shayna

1 Peterson with an s-o-n at the end, with two
2 different numbers, in Fulton County. ElectionNet
3 showed that the credit was given to both ID
4 numbers during the January 5, 2021, runoff.

5 On 12/18/2023, we received the oath
6 envelopes and it does appear that Ms. Peterson
7 voted twice. The investigator spoke with
8 Ms. Peterson and she advised that she only
9 recalled voting once, but due to her crazy work
10 schedule and some medical issues, she had
11 forgotten that she had submitted an absentee
12 ballot. She tried to vote in person and she was
13 turned away due to already casting a ballot.

14 Another voter was Rose. There were two
15 different numbers in Wilkes County. ElectionNet
16 showed that credit was given to both voter ID
17 numbers in January 5, 2021, the runoff. One was
18 cast in person and the other by absentee ballot.
19 One of the voter profiles had the middle name
20 spelled out and one did not, and the last name on
21 each profile was spelled slightly different. All
22 other identifying information matched.

23 The investigator spoke with Louise Strong
24 with Wilkes County elections office, and she said
25 that in 2013 when the original handwritten

1 registration application was turned in, it was
2 hard to read, so the name was misspelled when it
3 was entered.

4 In October of 2020 when the credit -- when
5 the correct updated information came in through
6 DDS, a second voter ID was created using the
7 corrected information. The records were
8 ultimately merged in March of 2022, after the
9 elections in question.

10 The investigator spoke with Miss Rose and
11 she confirmed the correct spelling of her name.
12 She also stated that she had originally requested
13 an absentee ballot prior to the election and that
14 she returned it to the Wilkes County Courthouse.
15 She did not believe that it was filled out when
16 she returned it. She said that she later voted
17 in person at the senior center.

18 The investigator obtained the absentee
19 ballot application and completed oath envelope
20 which showed that the application was signed on
21 August 21, 2020, and the oath of elector envelope
22 showed to have been signed on December 7, 2020.

23 The investigator received from KNOWiNK a
24 certified poll pad printout which showed
25 Miss Rose on the January 5, 2021, in-person vote.

1 The investigator met with her at her residence
2 and obtained a statement.

3 The investigator showed her the oath
4 envelope that was collected and she confirmed
5 that that looked like her signature. She
6 reiterated that she recalled voting in person for
7 the runoff. She said that she went to the senior
8 center to vote, but she also said that she went
9 to the courthouse to turn in a ballot. She was
10 roughly 90 years old and had difficulty
11 remembering some things.

12 The third one was Vanessa Arnold, two
13 different photo ID numbers in Fulton County.
14 This one was unable to be determined if she voted
15 twice. She was interviewed and she said she did
16 not remember voting twice, but due to COVID-19,
17 she voted absentee ballot during the January '21
18 election.

19 Initially she could not recall if she voted
20 at all, but then said that she maybe could have.
21 We did not receive the oath envelopes -- well,
22 the second one. In January 18, 2024, Fulton
23 County gave us one oath envelope. So we don't
24 have a second one to compare it to.

25 So the fourth is Amber Abernathy and Amber

1 Gilbert from Bartow County. They end up being
2 sister-in-laws and they are completely different
3 people. So that one was unsubstantiated.

4 So for the potential violations, we had Rose
5 Gouveai and the Peterson were both -- were repeat
6 voting in the same primary or elections, O.C.G.A.
7 21-2-572.

8 And then we had Fulton Board of Elections
9 and Registration for O.C.G.A. 21-2-73,
10 preservation of primary and election records.

11 **MR. FERVIER:** Do we have anyone online to
12 respond to the -- this case?

13 Alexandra, are you aware of anybody?

14 **MS. HARDIN:** Somebody named Fulton County
15 attorney had their --

16 **MR. LOWMAN:** This is David Lowman with
17 Fulton County.

18 **MR. FERVIER:** Yes, sir.

19 **MR. LOWMAN:** And I have Ms. Nadine Williams,
20 the director of elections for Fulton County. She
21 should be on and she can speak to this issue.

22 **MS. WILLIAMS:** Yes. Good afternoon. So,
23 yes, we did find the envelopes for Miss -- sorry.
24 We did find the envelopes for Ms. Peterson.
25 Those were turned in. The ones for

1 Ms. Hutchins -- or Arnolds, Hutchins, we only
2 located one. We cannot confirm or deny that a
3 second envelope exists. We did send that first
4 envelope to investigators on January 18th.

5 Our SOPs have changed since that time to
6 make sure that we have -- are able to look at
7 envelopes in a better manner. The management --
8 the management staff and the work processes have
9 changed in that division. But again I cannot
10 confirm or deny that a second envelope exists for
11 Ms. Arnold.

12 **MR. FERVIER:** Are there any questions from
13 the board?

14 **DR. JOHNSTON:** Question, chairman.

15 Ms. Williams, where do you store the oath
16 envelopes?

17 **MS. WILLIAMS:** The oath envelopes actually
18 go in the possession of the clerk of superior
19 court. And we did go into -- we got permission
20 to go search for those envelopes from the clerk
21 and did not locate the second envelope -- a
22 second envelope for Ms. Arnold.

23 **DR. JOHNSTON:** It -- it seems that this is a
24 recurring problem with obtaining documents,
25 election documents, and I just wonder about the

1 organizational ability or the ability to -- to
2 actually find and retrieve these documents.

3 In an 800,000 square foot warehouse, there's
4 plenty of room for storage and organization and
5 you should -- I would think retrieval of election
6 documents should be, you know, a fairly precise
7 operation that you could handle.

8 What have you -- what have you done to
9 correct this?

10 **MS. WILLIAMS:** So again, these are from
11 2020. We have a different management staff. We
12 were not at the facility at that time, when this
13 took place. So we have changed our processes.
14 We have a tracking system where we now can label
15 boxes and track them through our inventory and --
16 and -- and filing system. So all of those things
17 have put -- been put into place since that time.

18 **DR. JOHNSTON:** So is -- are you -- is it in
19 your opinion that they are lost or are they
20 destroyed or they just not --

21 **MS. WILLIAMS:** No. We -- no. We have not
22 destroyed anything from 2020 due to litigation,
23 and I do not believe it is lost. Like I said, I
24 just don't -- I cannot confirm or deny it exists.
25 We did locate the first one, but if she did not

1 create a second envelope, I cannot state that
2 it's lost because I don't know if it exists
3 unfortunately.

4 **MR. FERVIER:** Are there any other questions
5 from the board?

6 **DR. JOHNSTON:** Is somebody -- or are you
7 speaking just to Fulton County or ...

8 **MR. FERVIER:** Are -- is there anybody else
9 online that would like to comment pertaining to
10 this investigation?

11 **DR. JOHNSTON:** Mr. Chair, I have one more
12 question for Fulton County.

13 **MR. FERVIER:** Yes.

14 **DR. JOHNSTON:** So, Miss Williams, I know in
15 2020 ElectionNet was the system used for the
16 voter registration system. And apparently -- is
17 it true that when there was a duplicate record
18 and it's -- and it's merged, like two voter
19 registration numbers, does that merging create a
20 loss of vote history for that registrant?

21 **MS. WILLIAMS:** I do not believe it does, but
22 I can confirm that at this point the records for
23 Ms. Peterson and Ms. Arnold have been merged.

24 **DR. JOHNSTON:** So does that -- does that
25 retain their vote for both --

1 **MS. WILLIAMS:** I don't know if the vote
2 history from ENet transferred into GRVIS. I'd
3 have to research that. But if it does -- I
4 believe GRVIS does have a history -- it has a
5 history now, but I do not know if it transferred
6 over when our staff did the research on these two
7 voters.

8 **DR. JOHNSTON:** So -- so you believe that
9 GRVIS will maintain vote history if it -- if it
10 appears that a voter has used two registration
11 numbers to vote and then they merge that
12 registrant's name?

13 **MS. WILLIAMS:** I would have to research that
14 to give you a definite answer.

15 **MR. FERVIER:** Is Rose Gouveai or Shayna
16 Peterson or a representative of either of those
17 individuals online who would like to speak on
18 their behalf? No? Okay.

19 Any further questions from the board?

20 **MS. HARDIN:** (indiscernible)

21 **MR. FERVIER:** Yeah. Is there a motion from
22 the board?

23 **MS. GHAZAL:** I move that we refer the
24 respondents to the Attorney General's Office.

25 **MR. FERVIER:** We have a motion to -- we have

1 a motion to refer case number 2021-102,
2 Multicounty Double Voting, to the Attorney
3 General's Office. Is there a second?

4 **MR. JEFFRIES:** Second.

5 **MR. FERVIER:** We have a motion made by
6 member Ghazal and a second by member Jeffries.
7 Any discussion?

8 **DR. JOHNSTON:** Again, Mr. Chairman, these
9 cases deal with absentee by mail voting.

10 **MR. FERVIER:** Yes.

11 **MR. LINDSEY:** And let me also add, since
12 we're going to be going through this a few times,
13 that this -- these were the sort of things that
14 the Assembly tried to rectify through their
15 tightening of the security rules in their
16 legislation 2021.

17 **MR. FERVIER:** Thank you.

18 We have a motion and a second. Any further
19 discussion? Hearing no further discussion, all
20 those in favor of referring --

21 **MR. WILLARD:** Mr. Chairman?

22 **MR. FERVIER:** Yes.

23 **MR. WILLARD:** This is Russ Willard. If --
24 also can we identify the particular respondents
25 that are being transferred over? You -- I think

1 the motion referenced a case and there were
2 several potential respondents who were identified
3 in the investigation. But if we could clarify
4 for purposes -- in case this has to go to a
5 administrative hearing before OSAH, we'll need to
6 be able to specifically point to where the board
7 has referred this matter over for further
8 proceedings.

9 **MR. FERVIER:** The board has referred Rose
10 Edna -- looks like Gouveai, G-o-u-v-e-a-i.
11 That's one of her names. And --
12 (Unidentified background noise)

13 **MR. FERVIER:** -- and Miss Arnold --

14 **MS. GHAZAL:** No.

15 **MR. FERVIER:** No? No, I'm sorry.

16 **MS. HARDIN:** Shayna Peterson.

17 **MR. FERVIER:** Oh, I'm sorry. Yeah, that's
18 wrong. Shayna Peterson not Vanessa Arnold.
19 Shayna Peterson. And then Fulton County
20 elections.

21 **MR. WILLARD:** Thank you, Mr. Chairman.

22 **MR. FERVIER:** We voted, correct?

23 **MS. HARDIN:** Yes.

24 **MR. FERVIER:** We did?

25 **MR. WILLARD:** No. No, Mr. Chairman. You

1 have not voted yet.

2 **MS. HARDIN:** We have a motion and a second.

3 **MR. FERVIER:** All right. We have a motion
4 and a second. No further discussion. All those
5 in favor of referring those cases to the Attorney
6 General's Office signify by say aye.

7 **THE BOARD MEMBERS:** Aye.

8 **MR. FERVIER:** Any opposition? Hearing no
9 opposition, so moved. The case 2021-102 will be
10 referred to the Attorney General's Office.

11 The next case on the agenda is 2022-047,
12 Rockdale County, Durand Qualifying Issue. That
13 case has been continued to the next -- next board
14 meeting.

15 The next one is 2022-063, Rockdale County,
16 SPLOST Signs. It's tab number 36.

17 **MR. BRUNSON:** This complaint involves a
18 SPLOST referendum question that be placed on all
19 party ballots for the May 24, 2022, election in
20 Rockdale County.

21 The complainant stated that there have been
22 signs posted throughout Rockdale County which
23 state, quote, SPLOST, vote yes, end quote. And
24 there has been no corresponding campaign
25 registration at the county election nor does the

1 sign display the organizational funding for the
2 signs which is required for -- per O.C.G.A.
3 21-5-34(a)(2)(a) regarding disclosure reports.

4 Our investigator went out into Rockdale
5 County, noted the presence of the signs as
6 indicated by the complainant, took photos of the
7 signs. He also stated that the signs were posted
8 near other signs that actually opposed the
9 referendum in question that was to be on the
10 ballot. None of the signs that he saw had the
11 principal officer listed.

12 His subsequent investigation revealed where
13 the signs were made. He met with the sign maker
14 and obtained information of the citizen who
15 purchased the signs, a Mr. Frederick A. Straub or
16 Straub. According to the sign maker, Mr. Straub
17 paid his company \$537 for fifty of the signs in
18 question. The investigator obtained a copy of
19 the check used to purchase the sign from
20 Mr. Straub. The check was from Stansell
21 Properties, LLC, which is a company owned by
22 Mr. Straub.

23 He later spoke with Rockdale elections
24 supervisor, Cynthia Willingham, and she confirmed
25 that there was never a campaign committee that

1 registered in support of a SPLOST prior to or
2 through the May 24, 2022, election. She also
3 provided a copy of the "Vote No" committee forms
4 that were filed.

5 The investigator later spoke with Mr. Straub
6 by phone and he confirmed that he paid for the
7 sign as a counter to the "Vote No" signs that
8 were being placed throughout the community. He
9 also indicated that he did not register as a
10 committee.

11 Mr. Straub claimed that he purchased the
12 signs with cash and that he paid 400 and \$500 for
13 the signs after he was told that anything over
14 \$500 would be in violation of the statute. He
15 told the investigator -- our investigator that he
16 would provide documentation as to how much he
17 paid for the signs, however, we never received
18 that documentation.

19 So based on the investigation, there is
20 sufficient evidence to suggest that Mr. Straub
21 became a campaign committee when he purchased
22 \$537 worth of signage in support of a Rockdale
23 County ballot question during the May 24, 2022,
24 election. Having exceeded the monetary threshold
25 of \$500, he was -- he was required to register as

1 a committee with the Rockdale election office and
2 subsequently required to submit a campaign
3 contribution disclosure report. Neither was
4 filed with the Rockdale election office.
5 Additionally, any advertisement regarding a
6 referendum must identify the principal officer.
7 This information was not displayed on the signs.

8 **MR. FERVIER:** Is there anyone here willing
9 to respond to case number 2022-063, the Rockdale
10 County SPLOST Signs?

11 **MR. WILLARD:** Mr. Chairman?

12 **MR. FERVIER:** Yes.

13 **MR. WILLARD:** This is Russ Willard again.
14 If I may be heard on this issue. The State
15 Election Board, based on my review and the
16 presentation by the investigators, does not have
17 jurisdiction or authority to consider this case.

18 The violation asserted is a violation of
19 chapter 5 of Title 21 which is what is commonly
20 referred to as the Ethics in Government Act. I
21 think it's been renamed as the Georgia Government
22 Transparency and Campaign Finance Commission Act.

23 As this board is aware, under 21-2-33.1, the
24 bounds of the State Election Board's power is to
25 direct compliance with, quote, this chapter which

1 is chapter 2 of Title 21. The State Election
2 Board is without authority to enforce any
3 provisions of chapter 5 of Title 21.

4 If the board wishes to refer that to -- for
5 consideration by the State Ethics Commission, it
6 may do so. But the board cannot in and of itself
7 enforce the provisions of chapter 5 of Title 21.

8 **MS. HARDIN:** The respondent has already
9 reached out to me.

10 **MR. FERVIER:** Has already (indiscernible).

11 **MS. HARDIN:** Yeah. The respondent has
12 reached out to me and I believe I forwarded this
13 to the board, but --

14 **MR. FERVIER:** (indiscernible) that.

15 **MS. HARDIN:** -- he's already reached out and
16 said that this has been handled and he was
17 already adjudicated and fined by the State Ethics
18 (indiscernible).

19 **MR. FERVIER:** That's true.

20 **MS. HARDIN:** Yeah.

21 **MS. GHAZAL:** I don't ...

22 **MS. HARDIN:** So they've already handled it.

23 **MS. GHAZAL:** I move we --

24 **MR. FERVIER:** -- dismiss?

25 **MR. JEFFRIES:** Second.

1 **MR. LINDSEY:** Second.

2 **MR. FERVIER:** We have a -- we have a motion
3 by board member Ghazal to dismiss this case. We
4 have a second by board member Jeffries. Any
5 discussion? Hearing no discussion, all those in
6 favor of dismissing this complaint signify by
7 saying aye.

8 **THE BOARD MEMBERS:** Aye.

9 **MR. FERVIER:** Any opposition? Hearing no
10 opposition, so moved. This complaint's been --

11 **MR. WILLARD:** Thank you, Mr. Chairman.

12 **MR. FERVIER:** -- dismissed.

13 **UNIDENTIFIED SPEAKER:** Thank you.

14 **MR. FERVIER:** The next item on the agenda is
15 case number 2022-109. This is Fulton County
16 primary recertification, May 20, '22. And it's
17 tab number 37.

18 **MR. BRUNSON:** Are we ready?

19 **MR. FERVIER:** Yes.

20 **MR. BRUNSON:** Okay. On or about June 6,
21 2022, the Secretary of State's Office received a
22 letter in which the complainant expressed
23 concerns about the tabulation, certification, and
24 the recertification of Fulton County election
25 results after the May 24, 2022, general election

1 primary.

2 It was reported that Fulton County elections
3 failed to completely upload and tabulate all of
4 the results after the May 24, 2022, election
5 which resulted in returns had to be corrected and
6 recertified by the Fulton County Board of
7 Elections, a potential violation of
8 O.C.G.A. 21-2-420, regarding procedures for
9 counting and tabulating ballots, and SEB rule
10 183-1-12-.12(b), tabulating results.

11 The complainant further alleged that the
12 Fulton County Board of Elections failed to make
13 proper notification of their meeting at which
14 they recertified the corrected May 2022 election
15 results, a potential violation of
16 O.C.G.A. 50-14-1: Meeting is to be open to
17 public, notice of time and place.

18 So according to the director, Fulton County
19 elections, Nadine Williams, during a Fulton
20 County Board of Elections meeting, they were
21 notified on June 4, 2022, by the Secretary of
22 State's Office of an error in the election
23 results that were reported and certified by the
24 board on May 30, 2022. The error -- the error
25 was caught as one of the reporting precincts had

1 zero votes cast which raised a red flag.

2 After receiving this information, Fulton
3 County information security manager Dominic Olomo
4 conducted -- conducted further investigation and
5 found six compact flashcards that had not been
6 uploaded or that had not uploaded all the
7 required data.

8 Olomo explained that it appeared that there
9 were some problems during the election night
10 extraction of data from the compact flashcards
11 which caused some inaccuracies in the original
12 results that were previously certified by the
13 Fulton County Board of Elections on May 30, 2022.

14 And just as an explanation, compact
15 flashcards or memory cards which are collected
16 from the Dominion ImageCast precinct scanners and
17 use of digitally collect and store ballot images,
18 scanner activity logs, precinct level activity,
19 and race results tally data from each individual
20 scanner.

21 The board inquired whether this was caused
22 by a program, slash, technical problem to which
23 Mr. Olomo replied: I can't say it was a
24 programming issue.

25 **MR. FERVIER:** Is there someone online to

1 respond for Fulton County pertaining to this --
2 this case?

3 **MR. LOWMAN:** Yes. This is David Lowman with
4 the Fulton County Attorneys Office. And Nadine
5 Williams can provide information.

6 **MS. WILLIAMS:** Good afternoon. So, yes --
7 so on -- we were advised by the Secretary of
8 State after they did their checks and balances
9 that a precinct card did not upload.

10 Our information manager did a further
11 investigation and realized there were additional
12 cards that did not upload. He proceeded to go
13 ahead and upload them. We recertified. We
14 publicized the meeting on our website. There
15 were two news cameras there. It was
16 live-streamed. So all these things took place.

17 So for future elections, we -- we cannot --
18 upon review of this, we do not know if it was a
19 technical issue or a human error. So -- but we
20 have put processes in place. There's at least
21 two different layers of reconciliation to make
22 sure we identify this problem to ensure it does
23 not reoccur.

24 But again we were -- we were notified by the
25 Secretary of State, complying with their request

1 found additional errors and corrected them and
2 have revised our SOPs.

3 **MS. GHAZAL:** (inaudible)

4 **MR. FERVIER:** Yes.

5 **MS. GHAZAL:** Ms. Williams, thank you so much
6 for the explanation. This is -- this is very
7 similar to an issue that happened in November of
8 2022 in Cobb County where the -- the precinct
9 card was -- was loaded but the data did not --
10 somehow it did not upload properly and it took
11 several days for -- for the issue to be
12 discovered.

13 And obviously that really undermines voter
14 and public confidence in the process. Can you
15 please describe with a little bit more detail
16 what procedures and processes you have put in
17 place to ensure that when -- when you've gone
18 through the physical act of uploading, that the
19 data actually has properly been received at the
20 Secretary of State's Office and within EMS.

21 **MS. WILLIAMS:** Right. So since we now know
22 that this is a possibility, what we do -- we are
23 triple-checking the log-in boxes log in to make
24 sure that memory card is captured and uploaded.
25 We also are pulling reports from Scytl to

1 triple-check that all of the precincts have
2 uploaded. So all those layers are in place to
3 reconfirm before we certify.

4 **MS. GHAZAL:** And -- and you're doing that on
5 election night? Is it parallel to the -- are you
6 doing this parallel to the -- the midnight
7 deadline for -- for reporting election day votes
8 cast and on voting early -- early in-person votes
9 cast and absentee ballots received at that point?

10 **MS. WILLIAMS:** Yes. We are -- we are
11 checking when we're uploading election night and
12 then we check again before an election gets
13 certified.

14 **MS. GHAZAL:** Okay. Thank you.

15 **MR. FERVIER:** Ms. Williams, pertaining to
16 the notice for the meeting, how -- how many hours
17 exactly were given, notice of the meeting?

18 **MS. WILLIAMS:** I believe our bylaws require
19 24-hour notice to -- to have a meeting, and we
20 complied with that. We had a -- and I have -- I
21 don't have the information in front of me, just
22 exactly when it was posted, but it was on our
23 website. The media was advised. There were two
24 media channels there filming. Our communications
25 department live-streamed the actual meeting as

1 well on YouTube and posted -- again posted, it
2 was on our website and on -- and our -- at our
3 facility.

4 **MR. FERVIER:** So your contention is that you
5 met all the requirements for proper posting of
6 notice of the meeting?

7 **MS. WILLIAMS:** Yes, we did.

8 **MR. FERVIER:** Yes.

9 **DR. JOHNSTON:** Ms. Williams.

10 **MR. BRUNSON:** No, I'll defer.

11 **DR. JOHNSTON:** Go ahead.

12 **MR. BRUNSON:** Yeah, I was going to just
13 provide an update on that part of it. There's
14 information as it relates to the public meeting
15 part of it.

16 **MR. FERVIER:** Okay.

17 **MR. BRUNSON:** So -- or did you want --

18 **DR. JOHNSTON:** Go ahead.

19 **MR. BRUNSON:** Okay. As it relates to the
20 public meeting portion of this complaint,
21 Investigator Dougherty located on a Fulton County
22 government website a public notification of the
23 recertification meeting, announcing it --
24 announcing it for Sunday, June 5, 2022, at 2 p.m.
25 There was nothing to indicate the notification

1 was posted on the website, however, Investigator
2 Dougherty located an online news article in the
3 *Gateway Pundit* which posted an article about an
4 emergency meeting to recertify. He indicated
5 that the article was posted June 5, 2022, at
6 10:30 a.m.

7 Ms. Williams had previously provided an
8 e-mail statement to the prior investigator that
9 was investigating this case which stated that
10 prior to the meeting their county communications
11 department sent out a media advisory and placed a
12 notice on the county website.

13 She further stated that if they had not met
14 on June 5th, they would not have been able to
15 form a quorum until the following Thursday,
16 June 9, 2022. She further stated that the
17 meeting was live-streamed on YouTube TV, YouTube,
18 and was also open to the public at the elections
19 preparation center at 1365 English Street in
20 Atlanta.

21 She stated there were two media channels
22 present during the meeting. So that was the --
23 the report from Fulton County as it relates to
24 the public meeting portion of the complaint.

25 **MR. FERVIER:** Ms. Williams, another

1 question. Is it your contention that the failure
2 to upload those results correctly was caused by
3 human error?

4 **MS. WILLIAMS:** We would -- we honestly
5 cannot say if it's technical or human error
6 because the person that was uploading claims that
7 she clicked -- clicked the log-in box. But now
8 that we know that's a possibility that could
9 not -- that could possibly not take, we're going
10 to triple -- we have all these layers in place to
11 reconfirm.

12 So it could've been both or it could've been
13 one or the other. Unfortunately, I cannot a
14 hundred percent say it was not human error. But
15 I said it before, it has had -- has had -- has
16 happened in other counties.

17 **MR. FERVIER:** Did you have any other issues
18 with that machine?

19 **MS. WILLIAMS:** No. This was with the
20 server. So, no.

21 **MR. FERVIER:** Dr. Johnston?

22 **DR. JOHNSTON:** Ms. Williams, when -- when
23 file extraction is done from compact flashcards,
24 there are -- there are three options: To -- to
25 upload the votes, upload the logs, and upload the

1 images. Now, do you upload all three when you're
2 extracting from the memory cards?

3 **MS. WILLIAMS:** I would have to have
4 Mr. Olomo on the call to provide more details,
5 but there was an issue where the image was
6 present in some and then the uploader was not
7 available. So therefore there's some type of
8 technical glitch that took place.

9 **DR. JOHNSTON:** What do you mean "technical
10 glitch"?

11 **MS. WILLIAMS:** Again, we don't know if it
12 was a human error or a technical glitch, but
13 there was -- I would have to get him on the call
14 to explain in better detail than I can in regards
15 to why the images were there and then the upload
16 was not there.

17 **DR. JOHNSTON:** It's my understanding that --
18 that one has to uncheck one of those three
19 options for that to occur; is that correct?

20 **MS. WILLIAMS:** So what we have done, like I
21 said, in our SOPs, to make sure it does not
22 occur -- and I can provide a copy of that to make
23 sure I do not misspeak -- that -- all those
24 things are in place. So whatever has to be
25 checked prior or after is noted in the SOPs.

1 **MR. FERVIER:** Are those three things
2 uploaded simultaneously or in order?

3 **MS. WILLIAMS:** Again, I'd have -- I'd have
4 to -- I don't -- I do not physically do that
5 work, so I'd have to get those SOPs in front of
6 me to be able to confirm.

7 **DR. JOHNSTON:** Is Mr. Olomo available?

8 **MS. WILLIAMS:** He is not.

9 **DR. JOHNSTON:** Could you provide the SOP for
10 this to the --

11 **MR. FERVIER:** (indiscernible)?

12 **DR. JOHNSTON:** -- State Election Board --

13 **MR. BRUNSON:** I can probably
14 (indiscernible).

15 **DR. JOHNSTON:** -- please?

16 **MS. WILLIAMS:** Yes. Yes, we can.

17 **MR. FERVIER:** Available?

18 **MR. BRUNSON:** (indiscernible).

19 **DR. JOHNSTON:** All right. Do you have a
20 checklist on election night that -- that you
21 follow that affirms that each of those three
22 items are uploaded into results tally reporting?

23 **MS. WILLIAMS:** Right. So our SOPs will
24 detail that information, including what we pull
25 from Scyt1 as well as a backup for

1 reconciliation.

2 DR. JOHNSTON: Well, this would be on the
3 EMS, right?

4 MS. WILLIAMS: Correct. And, like I said,
5 we also pull a report from Scyt1 to reconfirm.

6 DR. JOHNSTON: All right. And is there a --
7 is there a -- are there -- is there one person
8 that does this or are there -- is there a person
9 that does this and a -- a witness that's --
10 that's double-checking with -- with the uploader?

11 MS. WILLIAMS: Yes. So our -- uploading
12 usually is a team of four that is working at the
13 server to get the memory cards uploaded.

14 DR. JOHNSTON: All right. But is it true
15 that this process wasn't -- was not in place
16 during this -- this occurrence? It's hard --

17 MS. WILLIAMS: That is true.

18 DR. JOHNSTON: It's hard to figure out --

19 MS. WILLIAMS: Yes. So --

20 DR. JOHNSTON: -- how six cards could be
21 missed.

22 MS. WILLIAMS: Yes. So it was not in place
23 when this occurred. Therefore when we reviewed
24 this occurrence, we drafted the SOPs to ensure it
25 does not reoccur.

1 **DR. JOHNSTON:** How -- how many polling
2 places are there, Ms. Williams?

3 **MS. WILLIAMS:** On election day, for -- for
4 2024 there will be a hundred and seventy-eight.
5 I'm not sure what the count was during 2022. It
6 was higher than that. We've done some precinct
7 mergers. So I'd have to look and see exactly
8 what the total was in 2022. But for 2024 there's
9 a hundred and seventy-eight.

10 **DR. JOHNSTON:** How -- how many compact flash
11 cards are -- are to be accounted for on election
12 night?

13 **MS. WILLIAMS:** I'd have to pull those
14 totals, but it's more than 178.

15 **DR. JOHNSTON:** Yeah, it would be, wouldn't
16 it?

17 **MR. LINDSEY:** Yeah, one for each machine.

18 **MR. BRUNSON:** So I do have the answer at
19 least for this --

20 **DR. JOHNSTON:** Yes?

21 **MR. BRUNSON:** -- during this period of time.
22 Well, it's an approximate. It says that -- 650
23 precinct scanner CF cards that were deployed. So
24 seven out of the 650 were affected by that.

25 **DR. JOHNSTON:** Right. So if there's 650

1 compact flash cards, to make sure it upload --
2 they're uploaded with vote -- vote counts and
3 logs and images, certainly a checklist would be
4 in order with a -- either one or two team members
5 or four -- four team members to make sure that
6 every flash card is accounted for and all of the
7 data that needs to be extracted is confirmed.
8 Would you agree?

9 **MS. WILLIAMS:** I agree. So that's why I
10 stated that after this occurrence, we have
11 realized to -- to redraft our SOPs and ensure we
12 have a team of four to do a check and balance of
13 these -- of the upload.

14 **MR. FERVIER:** Any other questions for the
15 board?

16 **MR. LINDSEY:** No, I mean, other than, you
17 know, beyond this case, it certainly sounds as if
18 we might want to work out a rule, making this --
19 this sort of standard operating procedure
20 something that's done statewide because I can't
21 believe Fulton County would be the only ones that
22 face this given the number of precincts that are
23 out there statewide, the number of cards that
24 will have to be -- be cured and linked
25 (indiscernible) properly (indiscernible).

1 **DR. JOHNSTON:** But a complex system --

2 **MR. LINDSEY:** Yeah.

3 **DR. JOHNSTON:** -- needs complex -- complex
4 procedures and policies.

5 **MR. LINDSEY:** Can you -- would it be
6 possible to send us your standing -- standard
7 operating procedures that you have in place now?

8 **MS. WILLIAMS:** Yes, I can. What e-mail
9 address would you like us to send it to?

10 **MR. FERVIER:** If you'll send it to Alexandra
11 Hardin.

12 **MS. HARDIN:** She has my e-mail.

13 **MS. WILLIAMS:** Okay.

14 **MR. FERVIER:** I -- I have a question for the
15 board. I know this has been proposed to be
16 referred to the Attorney General's Office. It
17 seems to me that there is potential for human
18 error that occurred here.

19 Why would this be an Attorney General
20 referral as opposed to a letter of instruction?

21 **MR. LINDSEY:** Actually, in so -- insofar as
22 they have taken corrective action, it has been
23 our pattern of late when a county has made a
24 mistake, except in those rare situations where
25 someone's vote has actually been denied, we have

1 generally done letters of instruction, letters of
2 reprimand rather than sending to the Attorney
3 General to get it finalized and to, quite
4 frankly, put the word out to -- to the rest of
5 the state on how we -- we expect things to be
6 handled.

7 So I would be agreeable to that in this
8 situation. Just basically get that -- something
9 out on the record as to how you should be
10 operating.

11 Quite frankly, we might even charge
12 Dr. Johnston with coming up with a rule and one
13 in which I'll be delighted in voting for.

14 **DR. JOHNSTON:** I -- Mr. Chair --

15 **MR. LINDSEY:** And I'll help you with it.

16 And I --

17 **DR. JOHNSTON:** Yeah, thank you.

18 **MR. LINDSEY:** -- was -- and I was -- I was
19 joking.

20 **DR. JOHNSTON:** Thank you, Mr. Lindsey.

21 **MR. LINDSEY:** That part's a -- that part's a
22 joke, but I do believe that -- is that your
23 questioning did show that this is probably not
24 something that's isolated and probably something
25 that would be good for all of the counties to

1 have. Some type of standard operating procedures
2 when it comes to handling to make sure that it
3 doesn't happen.

4 **DR. JOHNSTON:** Right. Every county should
5 have an SOP because -- I would advise that
6 there -- there is a violation. And election
7 night reporting is a very important night for
8 attention to detail, accuracy of reporting, and
9 not missing such things as memory cards that hold
10 thousands of votes because it creates an election
11 result that is not accurate.

12 So -- so every effort should be made to be
13 accurate on election night with double-checks,
14 checklists, witnesses, follow up. So to have --
15 to have to go to recertification at the last
16 minute because of the discovery is -- is not good
17 practice. And I would -- I would advise that we
18 refer it to the Attorney General.

19 **MR. FERVIER:** Are there any questions for
20 the board?

21 **MR. LINDSEY:** Like I said, my -- my motion
22 would be a letter of reprimand to lay out what
23 needs to be done because I -- I want to have a
24 record out there for the counties, not just
25 Fulton but the others, to see -- to see what

1 needs to be done now.

2 As you well know, a referral to the Attorney
3 General's, while they're wonderful folks, usually
4 takes us two or three meetings before we get
5 those things back. And we've got an election
6 coming up. And I want to make sure that it gets
7 out for that reason. I'm going to -- I'm going
8 to recommend a letter of recommendation.

9 I -- I hear you and I agree with you.

10 **DR. JOHNSTON:** Right.

11 **MR. LINDSEY:** I just want to get the word
12 out.

13 **DR. JOHNSTON:** I would differ because the
14 information is out and referred -- referral to
15 the Attorney General does -- does nothing more
16 than they look at the evidence that we have.
17 They -- they do no more investigation, but they
18 come back with some agreement with the county for
19 a consent or a final order.

20 So -- so it's not that we could not proceed
21 with rulemaking and share this information with
22 all of the counties. There -- there's no further
23 investigation that will go on with this case. I
24 move that we refer to the Attorney General.

25 **MR. FERVIER:** We -- we have an -- an initial

1 motion --

2 DR. JOHNSTON: We have -- oh.

3 MR. JEFFRIES: -- to a --

4 MR. LINDSEY: -- a letter of reprimand.

5 MR. FERVIER: -- a letter of recommendations
6 for --

7 MR. LINDSEY: Letter of recommendation.

8 MR. FERVIER: -- letter of reprimand on this
9 case. We have a motion to issue a letter of
10 reprimand in lieu of referral to the Attorney
11 General. Is there a second?

12 MS. GHAZAL: Second.

13 MR. FERVIER: We have a motion to issue a
14 letter of reprimand and a second to do so. Any
15 discussion? Hearing no discussion, how do you
16 vote on issuing a letter of reprimand as opposed
17 to a referral to the Attorney General?

18 MR. LINDSEY: Aye as to a letter of
19 reprimand.

20 MS. GHAZAL: Aye.

21 DR. JOHNSTON: Nay.

22 MR. FERVIER: Aye. So we have three ayes
23 and one nay. The vote carries. A letter of
24 reprimand will be issued in lieu of referral to
25 the Attorney General.

1 **MR. LINDSEY:** And I might also add,
2 Dr. Johnston, I'd be happy to work with you on
3 the rule --

4 **DR. JOHNSTON:** Okay.

5 **MR. LINDSEY:** -- if you'd like because I
6 think we would be on the seriousness of the
7 issue.

8 **MR. FERVIER:** Thank you very much, Fulton
9 County.

10 The last case under the cases recommended
11 for referral to the Attorney General's Office is
12 2022-137, Fulton County, Campaigning within 150
13 Feet. A request came in late last night to
14 continue that to a further board meeting. And
15 that has been approved. So that case will be
16 continued to our next board meeting.

17 That is the last case on the referral to
18 Attorney General's Office.

19 Is -- Mr. Barnes will be ready at 3:00?

20 **MS. KOTH:** Yes. Would you like me to do the
21 -- like, to present and then save the questions
22 for time, or do you want to just wait until ...

23 **MS. HARDIN:** Charlene said he's still at a
24 speaking engagement, so he's not -- he's still on
25 for three.

1 **MS. KOTH:** He'll be here -- or be able to
2 log on at three? Is that what you're saying?

3 **MS. HARDIN:** Yes. I asked if his
4 availability has changed so he could come earlier
5 and she said no.

6 **MS. KOTH:** Yeah, so still -- I know, so
7 still at three. That's -- my question was do you
8 want me to do -- present the cases and then wait
9 until three for your questions for him or no?

10 **MR. FERVIER:** Would the board like to recess
11 now and wait until three or would the board like
12 to hear the cases and then recess and wait?

13 **DR. JOHNSTON:** He might want to hear the
14 cases.

15 **MR. LINDSEY:** He might want to. It
16 (indiscernible). It might help him as well in
17 answering some of the questions.

18 **MR. FERVIER:** We have one, two, three cases
19 by my count that Mr. Barnes needs to respond to.
20 2022-348, 2022-222, and 2022-106. And Mr. Barnes
21 is not available until 3:00. So the board will
22 go into recess until 3:00 at which point we will
23 hear the cases again and hear the response from
24 Mr. Barnes. This board is now in recess until
25 3:00.

1 (Recess)

2 **MR. FERVIER:** This board is now back in
3 session to hear the three remaining cases. The
4 first case to be heard is case 202-348[sic],
5 statewide precinct scanner issues. It's tab
6 number 9 in your binders.

7 **MS. KOTH:** The Secretary of State's Office
8 opened the investigation after receiving a
9 complaint regarding a possible statewide precinct
10 scanner failure involving Dominion ImageCast
11 Precinct, the ICP, scanners. The complaint came
12 after a discovery was made during the
13 October 2021 election in Williamson County,
14 Tennessee where there was an undercount in the
15 votes due to a scanner error.

16 In the Tennessee case when the error, slash,
17 warning codes, QR code signature mismatch, and
18 ballot format or ID as unrecognizable occurred,
19 the subsequent ballots were not appropriately
20 tallied. The anomaly in the tabulation process
21 potentially violates O.C.G.A. 21-2-365,
22 requirements for use of optical scanning voting
23 systems.

24 The findings -- the allegation asserting
25 that Georgia Dominion's ImageCast Precincts

1 inaccurately recorded the results of ballots cast
2 during Georgia elections is unsubstantiated.

3 There's no evidence to suggest that the
4 error codes or the QR code signature mismatch and
5 ballot format or ID as unrecognizable, which
6 occurred in Williamson County, Tennessee,
7 produced anomaly -- anomalies in Georgia as they
8 did in Tennessee.

9 It was found that the error code which
10 occurred in Tennessee did not eliminate the cast
11 ballots. It simply recorded the results in a
12 provisional ballot file, requiring additional
13 steps before it would be counted with the other
14 ballots.

15 The error was identified during the
16 reconciliation process. All votes were
17 ultimately counted correctly. Georgia uses
18 Democracy Suite, version 5.5A, whereas Tennessee
19 uses version 5.5B. And the applications and
20 versions of the system are functionally
21 different. Therefore the same error code could
22 have been triggered on both machines.

23 Yet, depending on how that machine's
24 specific application was programmed, it could
25 have signified different things and resulted in

1 different courses of actions taken by the
2 (indiscernible). The investigation did not
3 identify any instances when the same or similar
4 circumstances which occurred in Tennessee also
5 occurred in Georgia.

6 Furthermore, the investigation included a
7 collection of samplings of reconciliation reports
8 from four of the counties which coincided with
9 examples provided by the complainant. The
10 records did not show any inconsistencies or
11 irregularities between the check-in numbers and
12 the cast ballot numbers on the ICP scanners,
13 which demonstrated that all ballots which were
14 issued were also accepted and properly counted by
15 the ICP scanner. There were no violations found.

16 **MR. FERVIER:** This case was originally
17 recommended to be dismissed and we also received
18 a letter asking for a continuance. The board has
19 decided to go ahead and hear this case. Are
20 there any questions from the board pertaining to
21 this case?

22 **DR. JOHNSTON:** Yes, Mr. Chairman. Does
23 Mr. Barnes want to --

24 **MR. FERVIER:** Mr. Barnes? Mr. Barnes, are
25 you available? You're -- you're muted. If you

1 could undo your mute, please.

2 **MR. BARNES:** Yeah, they -- they did it.
3 Thank you. Yes, I'm here.

4 **MR. FERVIER:** Okay. Would you like to
5 respond to the case before the board asks
6 questions?

7 **MR. BARNES:** I would say that what was
8 submitted by the investigation appears to be
9 accurate to me.

10 **MR. FERVIER:** Okay.

11 **DR. JOHNSTON:** All right, thank you.
12 Mr. Barnes, this is Dr. Johnston. How are
13 you?

14 **MR. BARNES:** I'm doing well, Dr. Johnston.
15 How are you today?

16 **DR. JOHNSTON:** Good, good. Can you answer
17 how many counties were reported to have this
18 anomaly in Georgia?

19 **MR. BARNES:** The anomaly of a provisional
20 ballot not being counted properly by an ICP?

21 **DR. JOHNSTON:** No, the QR code signature
22 mismatch.

23 **MR. BARNES:** Well, Dr. Johnston, if a BMD
24 ballot is submitted into a scanner and it has any
25 interaction with a ballot and it is uncertain of

1 what the ballot may show, it will produce that
2 error in the audit log. The ballot is then
3 rejected by the scanner and the voter can be
4 given a second opportunity to scan the ballot.
5 And in most circumstances when you go back and
6 look in the logs, the second inserting of the
7 ballot creates the ballot being read properly and
8 then scanned.

9 **DR. JOHNSTON:** Okay. And so you mean
10 rejected by the scanner, it pushes it back out?

11 **MR. BARNES:** Yes, ma'am.

12 **DR. JOHNSTON:** Okay. What are all of the --
13 can you tell me all of the things that will
14 create a QR code signature mismatch in the logs
15 besides --

16 **MR. BARNES:** Well, I apologize. Do you want
17 to finish the question? I'm sorry.

18 **DR. JOHNSTON:** I'm sorry, I couldn't hear.

19 **MR. FERVIER:** He said please --

20 **MR. LINDSEY:** (indiscernible) --

21 **MR. FERVIER:** -- repeat your question.

22 **DR. JOHNSTON:** Can -- can you tell me
23 other -- other reasons for a QR code signature
24 mismatch?

25 **MR. BARNES:** Yes, ma'am. One thing that

1 could transpire -- and we do see this sometimes
2 in advance voting when a jurisdiction like Fulton
3 County or Cobb County, especially during a
4 primary, when they have to set up multiple
5 scanning devices, multiple ICPs.

6 And they set up the multiple ICPs because
7 they have so many precincts and so many ballots
8 within that general primary that the scanner
9 cannot hold all of the various ballot
10 combinations within that jurisdiction. It runs
11 out of memory.

12 So the county will split up the number of
13 precincts that are connected to the individual
14 ICPs. For example, in Fulton County, I believe,
15 they will set up an ICP that has all of the
16 precincts in the City of Atlanta assigned to it,
17 and then they will set up an ICP that has those
18 precincts outside of the City of Atlanta
19 associated to it.

20 When the voter goes in to vote during
21 advance voting, they go to any BMD, insert their
22 voter access card, and it brings up their
23 specific ballot assigned to their record. In
24 Fulton County, for example, that -- that precinct
25 ballot could be a City of Atlanta or it could be

1 a Alpharetta, could be a precinct in Alpharetta.
2 When the ballot is generated, the ballot is
3 associated to the precinct to which the voter is
4 assigned for voting purposes.

5 When they go to insert that ballot into the
6 scanner, they need to insert it into the proper
7 scanner. If it is a City of Atlanta ballot
8 precinct, it needs to go into the ICP that has
9 the Atlanta precincts assigned to it.

10 If it is not inserted into that ICP and
11 instead it is inserted into an ICP that has
12 Fulton County precincts assigned to it, when that
13 BMD-generated ballot is inserted into the
14 scanner, the scanner will reject it because it
15 does not have -- that ballot is not a ballot
16 style that is connected to the scanner to which
17 it was inserted.

18 So in that instance the audit log would come
19 back and say ballot mismatch because ballot is
20 not present within the ICP. If you tried to
21 reinsert that ballot again to that same ICP, it
22 would reject it because that ICP does not contain
23 that ballot style. If you then take that ballot
24 and go to the other ICP, the ICP that does
25 contain the Atlanta precincts, the ballot will be

1 recognized, information scanned, and then
2 retained by the ballot -- by the scanner.

3 **DR. JOHNSTON:** All right, thanks. So -- so
4 one would -- are you saying that we would -- we
5 should see a QR Code signature mismatch on every
6 single audit log because of these two
7 possibilities?

8 **MR. BARNES:** No, ma'am. You would not see
9 it on every single audit log because it only pops
10 up if the ballot style that is represented on
11 the -- on the BMD ballot is not present within
12 the scanner that it's being inserted to.

13 **DR. JOHNSTON:** Okay. How -- how often
14 should -- is a normal -- how often should we
15 expect to see it? Or does it just depend on
16 who's putting what in what ICP?

17 **MR. BARNES:** Well, again the ICPs for
18 election day, they have specific precincts
19 assigned to them and then those devices are sent
20 to specific polling locations where those
21 precincts show up to vote on election day. For
22 advance voting, those ICPs in most jurisdictions
23 will have all of the precincts within that
24 individual jurisdiction. But there are some
25 circumstances due to size of election, especially

1 in the larger jurisdictions where you will have
2 multiple scanners with a portion of that
3 jurisdiction's precincts assigned there too.

4 So -- but again, I will point out, anytime
5 you insert a BMD ballot in it -- if a voter holds
6 on to the BMD ballot a little bit too long and a
7 scanner tries to take it but it sort of jams and
8 doesn't pull properly, it's going to kick the
9 ballot back out and it's going to give an error
10 message like that QR code mismatch because the
11 scanner's like: I can't interpret this. I'm
12 going to give an error. I'm going to kick it
13 back out for the voter to try again.

14 **DR. JOHNSTON:** Okay. So if you -- if you
15 get the message -- ballot format or ID is
16 unrecognizable -- is there a recommended
17 procedure for troubleshooting that message?

18 **MR. BARNES:** Well, the message that you
19 see -- the message that you see is the message
20 within the audit log and that is not something
21 that the poll worker is seeing at the time that
22 they are interacting with the ballot. The ballot
23 is being attempted to be scanned by the scanner.
24 If it can accept the ballot, it processes the
25 ballot, it accepts the ballot. If it cannot, it

1 rejects the ballot back to the voter for an
2 additional attempt.

3 If it -- if on that second attempt or even
4 third attempt that that ballot is not accepted by
5 the scanner, then the voter is to notify the poll
6 worker that should be there, stationed at the ICP
7 to say there's an issue. Why is my ballot not
8 scanning? And that is then to be escalated to
9 figure out a -- why it may not be scanning or if
10 there is a problem with the ballot itself. That
11 ballot could be spoiled and the voter be given
12 another opportunity to vote.

13 **DR. JOHNSTON:** Okay. How many engineering
14 change orders have there been on Dominion since
15 they've been purchased in Georgia?

16 **MR. BARNES:** Engineering change orders, the
17 vendors are constantly sending in en -- en --
18 engineering change orders to the federal
19 government, to the EAC, for any time that they
20 introduce new accessories, like new printer
21 styles, into the voting system.

22 So engineering change orders are a normal
23 practice. But I could not tell you specifically
24 how many ECOs Dominion has submitted to the EAC
25 since Georgia procured it in late 2019.

1 **DR. JOHNSTON:** Well, have they been -- have
2 they been installed on the -- the Georgia
3 Dominion Voter -- Voter System?

4 **MR. BARNES:** We have had some engineering
5 change orders for Georgia but those have been
6 specifically tied to the printers that we are
7 using that are connected to the BMDs.

8 **DR. JOHNSTON:** Thank you. How -- did you
9 prove -- could -- did you prove that the QR code
10 signature mismatch error is not causing ballot
11 miscounts in Georgia like was described in this
12 complaint? This Williamson anomaly complaint?

13 **MR. BARNES:** Dr. Johnston, I have not been
14 made aware of any circumstances where we have had
15 issues where the number counts have been off that
16 has forced us to then go into the log files to
17 see if there is an issue in that nature.

18 **DR. JOHNSTON:** Mr. Barnes, what about the
19 vote count anomalies in DeKalb County, Gwinnett
20 County, and Floyd County?

21 **MR. BARNES:** Which anomalies?

22 **DR. JOHNSTON:** There was a DeKalb County
23 race where the -- the vote count differed by
24 about 2800 and in Gwinnett County, 1600, and
25 Floyd County, 2800.

1 **MR. BARNES:** I would -- those are three
2 individual cases. I'd have to know exactly which
3 those cases were. I believe the -- the Floyd
4 County instance was a situation where Floyd
5 County had failed to upload memory cards that
6 they should have uploaded from the ICP which
7 created a ballot count being off.

8 The DeKalb County issue, I believe, is in
9 reference to county commission district 2 from
10 the general primary in 2022, I believe.

11 And then the Gwinnett one, I am not -- that
12 one does not ring a bell in my head at this
13 moment. But if I need more details about it, I'm
14 sure I could explain it.

15 **DR. JOHNSTON:** Okay. And, Mr. Barnes, is
16 there a provisional category or a provisional
17 file in the 5.5A Dominion?

18 **MR. BARNES:** Setting a -- there is
19 provisional settings in 5.5A, but we do not
20 enable any of the provisional settings in 5.5A
21 when we are building the election project box.

22 Provisional balloting is all done in a
23 separate method within advance voting locations
24 and in election day polling locations. If a --
25 if a voter is in need of a provisional ballot,

1 then that ballot is filled out in the polling
2 location, that ballot is collected in the polling
3 location, it's placed into an envelope. That
4 envelope is retained, placed into a -- a ballot
5 bag, I believe, and then there's -- provisional
6 ballots are returned to the elections office for
7 the elections office to then further investigate
8 whether that voter's ballot needs to be counted
9 or not.

10 **DR. JOHNSTON:** Right. So there's -- there's
11 not a provisional file like they described that's
12 on the -- the ICP scanners?

13 **MR. BARNES:** There is not.

14 **DR. JOHNSTON:** There is not, okay. And what
15 about the disable feature, is that similar to
16 this provisional anomaly?

17 **MR. BARNES:** No, ma'am. The disable feature
18 is a feature that is used primarily for
19 circumstances regarding withdrawal candidates, is
20 if you have a candidate that qualifies for the
21 election and then withdraws, the county may use
22 the disable feature to keep that candidate from
23 being displayed on postelection results.

24 **DR. JOHNSTON:** Has -- Mr. Barnes, has the
25 EAC been asked to review the claims of Mr. Cross

1 and Mr. Moncla about this signature mismatch?

2 **MR. BARNES:** I do not know.

3 **DR. JOHNSTON:** You don't know. And do you
4 know if a root cause of whatever they described
5 has been found?

6 **MR. BARNES:** I do not know.

7 **DR. JOHNSTON:** And do you get -- or do you
8 have the Dominion Voting System latest annual
9 risk report that they produce for Georgia?

10 **MR. BARNES:** I have not seen a version of
11 that report come across yet this year, but I'm
12 sure once one is submitted, we will see it.

13 **DR. JOHNSTON:** Is that shared with the
14 public or -- or with the State Election Board?

15 **MR. BARNES:** I do not know the answer to
16 that question.

17 **MR. LINDSEY:** Can I -- that's a good
18 question. Can I just real briefly --

19 **DR. JOHNSTON:** Sure.

20 **MR. LINDSEY:** -- or perhaps to -- to you.
21 Is that a report that would be considered part of
22 the Open Records Act or an exception to the Open
23 Records Act. Do you know, Charlene?

24 **MS. MCGOWAN:** I just -- I was listening.
25 This is Charlene McGowan from the Secretary of

1 State's Office.

2 **MR. LINDSEY:** Thanks, Charlene.

3 **MS. MCGOWAN:** I would need to look and see
4 the details of the report to -- to know whether
5 or not it's something that we need to redact it
6 and a public version made available. So --

7 **MR. LINDSEY:** Yeah.

8 **MS. MCGOWAN:** -- it sort of depends on the
9 level of detail that's in there, if it's anything
10 that would compromise security of our election
11 system --

12 **MR. LINDSEY:** No. I --

13 **MS. MCGOWAN:** -- (indiscernible).

14 **MR. LINDSEY:** I understand. I understand.
15 I just -- I just didn't know whether or not
16 that'd be part of the exceptions or not.

17 **DR. JOHNSTON:** So, Mr. Barnes, you're not
18 worried about the log files that show a number of
19 QR code signature mismatch messages or errors?

20 **MR. BARNES:** I am not.

21 **DR. JOHNSTON:** You're not, okay. And I've
22 tried to elicit the cooperation of the Secretary
23 of State and Dominion to provide Dominion manuals
24 just so I can better understand the system. But
25 I just -- I have been unable to obtain those.

1 Is there proprietary information or
2 privileged information in those manuals?

3 **MS. MCGOWAN:** Yeah. I -- I can weigh in on
4 this. Yes, that is correct. And I'm going to
5 (indiscernible) we're not allowed to reveal
6 anything or make anything public that would
7 compromise the security of our Dominion System.
8 And the operations manuals would certainly do
9 that.

10 So that was why that is not something that
11 we can make available.

12 **DR. JOHNSTON:** And, Mr. Barnes, does the
13 disable feature cause the voting system to not
14 count a vote for a candidate?

15 **MR. BARNES:** Can you ask me that question
16 again, Dr. Johnston?

17 **DR. JOHNSTON:** If the disable feature is --
18 is used, does it result in votes for a candidate
19 not being counted?

20 **MR. BARNES:** If the disable feature is used,
21 it does not prevent the vote from being recorded.
22 It prevents the total from being reported when
23 you generate election reports.

24 **DR. JOHNSTON:** So -- so because we require
25 each and every vote to be counted and the system

1 to be accurate, does that comply with -- with
2 Georgia code?

3 **MR. BARNES:** That's a legal question,
4 Dr. Johnston, and I'm not an attorney. So I
5 don't know if I can give you a -- an answer to
6 that question.

7 **DR. JOHNSTON:** And, Mr. Barnes, has the
8 source code been evaluated to check for this
9 alleged anomaly, Williamson anomaly?

10 **MR. BARNES:** Again that is not a question
11 that I can answer.

12 **DR. JOHNSTON:** Thank you, Mr. Barnes.

13 **MR. FERVIER:** Are there any other questions
14 for the board? Do we have a motion on this --

15 **MR. LINDSEY:** Yeah, I've got a couple
16 questions --

17 **MR. FERVIER:** Yes.

18 **MR. LINDSEY:** -- Mr. Chairman.

19 You said you're not worried. Tell -- tell
20 us why. I think -- I think the -- for the
21 listening audience, I think probably, about the
22 anomalies.

23 **MR. BARNES:** Well, again, what I will speak
24 to is that if a ballot is not recognized by the
25 ICP, it is immediately rejected by the ICP. It

1 is entered into the ballot tabulation process.
2 It has been recognized by the ICP, but then it
3 has been rejected by the ICP.

4 So if you encounter that error, that means
5 the scanner is unable to interpret what's coming
6 from that ballot. So it kicks it back to the
7 voter for resolution before a ballot can be
8 inserted then and counted. So with that
9 particular error, that's indicating that a ballot
10 was inserted, the scanner was unable to recognize
11 it, it kicked the ballot back out.

12 So I do not believe that that error
13 indicates that there is any underlying problem in
14 the systems tabulation.

15 **MR. LINDSEY:** Yeah. So to make it clear
16 then, the voter is immediately -- if I understand
17 what you're telling me is that the voter is
18 immediately made aware that their ballot did not
19 go through and is being counted; correct?

20 **MR. BARNES:** That is correct, sir, because
21 the ballot is physically returned to the voter.

22 **MR. LINDSEY:** Okay.

23 **MR. FERVIER:** Any other questions for the
24 board?

25 **DR. JOHNSTON:** Couple more questions.

1 **MR. FERVIER:** Yes, Dr. Johnston.

2 **DR. JOHNSTON:** Mr. Barnes, as I read the
3 description of this Williamson anomaly, it
4 appears that the ballots were -- were actually
5 accepted through the scanner, but they did not
6 count, and the -- the digital counter, the
7 protective counter did not implement. And the
8 only way they discovered it was somebody astutely
9 watched the voters coming in and -- and not until
10 they counted actual ballots in the ballot box did
11 they realize the significant discrepancy.

12 So -- so to an outsider, the counts would
13 all look right on the -- on the public counter,
14 everything would look normal, but actually the
15 ballots counted were significantly different than
16 what was found in the ballot box; is that
17 correct?

18 **MR. BARNES:** I believe, Dr. Johnston, in the
19 Williamson example in Tennessee, when the
20 provisional ballot was interacted into, that the
21 scanner processed that ballot provisionally and
22 then there was an issue with the scanner and the
23 provisional setting that the ballots that
24 followed that were then also treated
25 provisionally as opposed to being treated as

1 regular ballots as they should've been counted.

2 A provisional ballot, if you're using
3 provisional settings, which we do not use, the
4 information is collected from the ballot; it is
5 just not tabulated. But the information is
6 there. It's within the system. It is in the
7 record and then it is held in a -- sort of like a
8 holding pattern for the jurisdiction to then work
9 with and process and move forward.

10 With our voting system, we don't enable any
11 type of provisional actions from the BMD to the
12 ICP within the polling place on election day. So
13 our reconciliations that are done where you note
14 how many ballots have been received, how many
15 ballots collected by the scanner, and also how
16 many votes and ballots recorded by the scanner
17 are there. Those things all have to reconcile at
18 the end of the day.

19 And we had not encountered a situation where
20 that reconciliation is not in line.

21 **MR. FERVIER:** Well, Mr. Barnes, is it
22 impossible then for the Williamson issue to occur
23 in Georgia since we don't have the provisional
24 turned on?

25 **MR. BARNES:** I -- I do not believe we would

1 have a circumstance like Williamson based upon
2 how our configurations are set.

3 **MR. FERVIER:** Okay.

4 **DR. JOHNSTON:** Is it a matter --

5 **UNIDENTIFIED SPEAKER:** It's not correct.

6 **DR. JOHNSTON:** -- of turning it on or off?
7 Is -- is that what you're saying?

8 **MR. BARNES:** Dr. Johnston, we don't do
9 anything in regards to enabling provisional
10 voting operations within the ICP or the BMDs
11 within our building of the hundred and fifty-nine
12 election projects for each given election
13 process. We have never gone into any area where
14 those settings would be turned on or off. And it
15 would not be just a single on or off switch. It
16 would be multiples.

17 **DR. JOHNSTON:** I'm sorry, what'd you say?

18 **MR. FERVIER:** It'd be multiple switches, he
19 said.

20 **DR. JOHNSTON:** Multiple?

21 **MR. FERVIER:** Wouldn't be a single switch.
22 It'd be multiple.

23 **DR. JOHNSTON:** Where -- would that occur at
24 the county level? At the admin level?

25 **MR. BARNES:** No, Dr. Johnston. That would

1 be -- that would be at the building level. That
2 would be at the election project building level
3 which is at -- which is done by my office here at
4 the Secretary of State's Office.

5 **MR. LINDSEY:** So bottom line, the concerns
6 that were raised in Tennessee don't match with
7 how our system operates; correct?

8 **MR. BARNES:** Yes, sir.

9 **UNIDENTIFIED SPEAKER:** That's incorrect.

10 **DR. JOHNSTON:** Would it be prudent to count
11 the physical ballots in the ballot box to make --
12 to ensure that that matches the counter on the
13 tabulator?

14 **MR. BARNES:** Could you state that question
15 again, Dr. Johnston?

16 **DR. JOHNSTON:** Would it be prudent to count
17 the actual ballots in the ballot box and make
18 sure that number agrees with the number on the
19 scanner to be sure that this effect hasn't
20 occurred?

21 **MR. BARNES:** County elections officers do an
22 outstanding job of conducting their
23 reconciliation operations. They may not count
24 the physical ballots coming out of the poll --
25 out of the ballot box on election night by the

1 poll workers, but they do do a reconciliation of
2 the ballots received against the totals tabulated
3 and also compare against the number of voters
4 marked in the poll pad.

5 **DR. JOHNSTON:** Right. So there just --

6 **MS. GHAZAL:** If I might?

7 **DR. JOHNSTON:** Yes, go ahead.

8 **MS. GHAZAL:** There was one occasion in 2022
9 where the reconciliation at the end of the day
10 did not match up -- and this was in Spalding
11 County -- when they -- when the number of ballots
12 scanned exceeded the number of voters who had --
13 who had checked in and the number of ballots on
14 the BMDs.

15 And, in fact, in that instance the poll
16 manager received permission from the supervisor
17 and the Secretary of State to open up and count
18 those ballots and that's how the counterfeit
19 ballot was -- was identified.

20 So we already have procedures in place if
21 the reconciliation doesn't balance out to do that
22 physical hand count. And it has -- and it's
23 demonstrated that has -- it's successful.

24 **MR. LINDSEY:** So if I understand correctly,
25 the reconciliation that takes place on the night

1 of the election or the night of an early voting
2 is that they compare the number of people that
3 vote -- voted that day at the precinct with the
4 number of folks that -- that have been tabulated
5 to have -- have voted.

6 And then in the case with Spalding County,
7 where that number did not match up, they then
8 went the extra -- they can -- they can then go
9 the extra step of actually physically counting
10 the ballots.

11 **MS. GHAZAL:** That's right.

12 **DR. JOHNSTON:** So -- so you're saying that
13 we -- we have to have a complete reliance on
14 digital counters and electronic counters and
15 electronic poll pads rather than counting the
16 paper ballots; is that correct?

17 **MR. LINDSEY:** No, that not what I'm saying.
18 I'm saying that they -- that if the two match up
19 electronically, yes, you don't have to go to the
20 physical count. But you can go to the physical
21 count.

22 **MR. FERVIER:** Well, there's a physical count
23 of the people when they show up.

24 **MR. LINDSEY:** Yes.

25 **MR. FERVIER:** So there's a physical count to

1 start. There's an electronic count with the
2 machine itself. Those two are matched up. And
3 if they are inconsistent, then there's a physical
4 count of the ballots.

5 **MR. LINDSEY:** Yes.

6 **MR. FERVIER:** So there's a -- right.

7 **DR. JOHNSTON:** So you were matching the --
8 the numbered voter list to the ballots produced
9 and cast to the vote totals.

10 **MR. FERVIER:** Ballots cast to numbered voter
11 list initially. And then if there's
12 inconsistency, then they would physically count
13 the ballots themselves.

14 **DR. JOHNSTON:** Right. So the number of
15 people that come in to vote and the number of
16 ballots that are produced to the number of
17 ballots that are scanned, okay, to totals on the
18 closing tapes, correct?

19 **MS. GHAZAL:** Eventually, yes.

20 **MR. FERVIER:** I believe so.

21 **DR. JOHNSTON:** So all those must match.

22 **MS. GHAZAL:** Or there has to be an
23 explanation of why they don't because there very
24 frequently will be an occasion where a voter will
25 leave without casting their ballot. But

1 that's --

2 **MR. FERVIER:** Could happen.

3 **MS. GHAZAL:** -- one or two. Yeah.

4 **MR. FERVIER:** Are there any further
5 questions from the board? Do we have a motion on
6 2022-348? This one was listed for recommended
7 for dismissal.

8 **MS. GHAZAL:** I move that we dismiss the
9 case.

10 **MR. FERVIER:** We have a motion for this case
11 to be dismissed. Do we have a second?

12 **MR. LINDSEY:** Second.

13 **MR. FERVIER:** We have a motion and a second
14 to dismiss case 2022-348. Any discussion?

15 **UNIDENTIFIED SPEAKER:** Michael Barnes is
16 wrong.

17 **MR. FERVIER:** Pardon me?

18 **UNIDENTIFIED SPEAKER:** Michael Barnes is
19 wrong. He didn't answer the question when
20 they -- when Dr. Johnston said how many counties
21 have this anomaly. It's 66 out of 68. And he
22 has done no investi --

23 **MS. HARDIN:** He's going to get --

24 **MR. FERVIER:** There's been a motion made to
25 dismiss case 2022-348 and a second. Hearing no

1 further discussion, all those in favor of a
2 dismissal of that case signify by saying aye.

3 **THE BOARD MEMBERS:** Aye.

4 **MR. FERVIER:** All opposed?

5 **DR. JOHNSTON:** No.

6 **MR. FERVIER:** The -- three members of the
7 board have voted to dismiss the case. One has
8 voted to not dismiss it. The motion carries.
9 Case 2022-348 is dismissed.

10 Does Mr. Barnes have more time?

11 **MR. BARNES:** I have about five more minutes.

12 **MR. FERVIER:** Okay. Let's move on to
13 2022-222, EAC certification, on tab number 20.

14 If you would read it quickly, please.

15 **MS. KOTH:** The Secretary of State's Office
16 opened the investigation in response to a letter
17 dated September 12, 2022, in which the
18 complainant questioned the certification of
19 Georgia's electronic voting system.

20 The investigation determined the complaint
21 alleging Pro V&V did not maintain their
22 accreditation status with the EAC or NIC -- NIST
23 between February of 2017 and 2022 and was
24 therefore not qualified to conduct an evaluation
25 of the Dominion Voting Machines which were used

1 in Georgia's election as unsubstantiated. Both
2 accreditation and certifying federal agencies
3 attested that Pro V&V had been in good standing
4 and had undergone continuing assessments for the
5 duration of its accreditation.

6 The accredited -- accrediting agencies also
7 reported the effective-until date listed on the
8 accreditation certificate that the complainants
9 relied on does not functionally serve as an
10 expiration date of the accreditation. It is a
11 benchmark used in the compliance program
12 indicating when test labs resubmit documentation
13 showing that they are operating within the
14 established standards of the program.

15 Lastly lab accreditation could only be
16 approved by a vote of the EAC commissioners and
17 can only be revoked by a vote of the EAC
18 commissioners. And the EAC has not held any
19 voting to revoke the accreditation of Pro V&V.

20 **MR. FERVIER:** This case was originally
21 submitted for dismissal.

22 Mr. Barnes, do you have any comments
23 relating to this case?

24 **MR. BARNES:** I do not.

25 **MR. FERVIER:** Are there any questions from

1 the board relating to this case? Do we have a
2 motion on this case?

3 **MR. LINDSEY:** Just -- just for the record,
4 Mr. Barnes. They were properly certified;
5 correct?

6 **MR. BARNES:** Yes.

7 **MR. LINDSEY:** They were certified at the
8 time that we utilized the testing; correct?

9 **MR. BARNES:** Yes.

10 **MR. FERVIER:** Do we have a motion on this
11 case?

12 **MR. LINDSEY:** Move to be dismissed.

13 **MR. FERVIER:** We have a motion to dismiss
14 case 2022-222. Do we have a second?

15 **MR. JEFFRIES:** Second.

16 **MR. FERVIER:** We have a motion and a second
17 to dismiss case 2022-222. Any discussion?
18 Hearing no discussion, all of those in favor of
19 dismissing this case signify by saying aye.

20 **THE BOARD MEMBERS:** Aye.

21 **MR. FERVIER:** All opposed?

22 Dr. Johnston, how did you vote? No? We
23 have three for and one vote in the negative. The
24 case will be dismissed.

25 Mr. Barnes only has less than a minute left,

1 do you want to continue case 106 to the next --

2 **DR. JOHNSTON:** Please continues. It's a --

3 **MR. FERVIER:** Do we have motion to --

4 **UNIDENTIFIED SPEAKER:** Which one is that?

5 **MR. FERVIER:** It's DeKalb County, missing
6 certification date.

7 **UNIDENTIFIED SPEAKER:** Oh, that's fine.

8 **MR. FERVIER:** Do we have a motion to
9 continue that case to the next board meeting?

10 **DR. JOHNSTON:** I move that we continue this
11 case for the next meeting and ask Mr. Barnes if
12 he would be so kind as to make himself available
13 to answer questions.

14 **MR. FERVIER:** Mr. Barnes.

15 **UNIDENTIFIED SPEAKER:** See you in May.

16 **MR. FERVIER:** Would you be available for
17 questioning on this case in the future?

18 **MR. BARNES:** I will do my best to be
19 available. Yes, sir.

20 **MR. FERVIER:** Thank you. I believe the next
21 case -- the next meeting is on May 7th, so ...

22 We have a motion to continue case 2022-106,
23 DeKalb County, Missing Certification Date. Do we
24 have a second?

25 **MR. JEFFRIES:** Second.

1 **UNIDENTIFIED SPEAKER:** I will add that that
2 will be right before our -- our general primary.
3 So his team will be very busy. We're also happy
4 to take written questions in advance and have
5 them -- an answer, and we can even read the
6 answers into the record at the meeting. That
7 would make it easier because I think we've
8 continued this one a number of times now.

9 **MR. FERVIER:** We may put it first on the
10 list next time.

11 **MR. LINDSEY:** Yeah, get him in and out.

12 **MR. FERVIER:** There is a motion and a second
13 to continue case number 2022-106. Any
14 discussion? Hearing no discussion, all those in
15 favor of continuing that case signify by saying
16 aye.

17 **THE BOARD MEMBERS:** Aye.

18 **MR. FERVIER:** Any opposition? Hearing no
19 opposition, so moved. Case 2022-106 will be
20 continued from the next -- to the next board
21 meeting. I believe that that is the end of our
22 agenda for today.

23 I appreciate all of you that have joined us
24 virtually and everybody that has made comments
25 today. Appreciate the investigators for coming

1 and -- and relaying the cases to us, and for
2 Alexandra's hard work today to keep us all
3 straight.

4 Do we have a motion for adjournment?

5 **MR. JEFFRIES:** So moved.

6 **MR. FERVIER:** We have a motion to adjourn.

7 Do we have a second?

8 **MS. GHAZAL:** Second.

9 **DR. JOHNSTON:** Second.

10 **MR. LINDSEY:** Second.

11 **MR. FERVIER:** All in favor signify by saying
12 aye.

13 **THE BOARD MEMBERS:** Aye.

14 **MR. FERVIER:** This meeting is adjourned.

15 Thank you.

16 (Adjourned at 1:37 p.m.)
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CERTIFICATE

STATE OF GEORGIA

I hereby certify that the foregoing meeting was taken down and was reduced to typewriting under my direction; that the foregoing transcript, pages 3 through 203, is a true and correct record given to the best of my ability.

The above certification is expressly withdrawn upon the disassembly or photocopying of the foregoing transcript unless said disassembly or photocopying is done under the auspices of the undersigned and electronic signature is attached thereon.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties; nor am I financially interested in the action.

This, the 13th day of March, 2024.

Mary K McMahan

Mary K McMahan, CCR, CVR, RPR, FPR
Certified Court Reporter
Certificate Number 2757