THE OFFICE OF SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD MEETING

Zoom Audio-conference

MARCH 16, 2022
10:00 A.M.

MARY K MCMAHAN, CCR, 2757
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APPEARANCE OF THE PANEL

Matt Mashburn, Acting Chair

Sara Tindall Ghazal

Janice Johnston

Ed Lindsey

ALSO PRESENT:

Ryan Germany, General Counsel

Maggie Haisty, Legislative Affairs Director

Charlene McGowan, Assistant Attorney General

James Callaway, Deputy Chief Investigator

Vincent Zagorin, Investigator

Paul Braun, Investigator

Transcript Legend

(sic) - Exactly as said.

(ph) - Exact spelling unknown.

-- Break in speech continuity.

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

Quoted material is typed as spoken.

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P R O C E E D I N G S

MR. MASHBURN: Welcome. This is the meeting of the Georgia State Election Board.

My name is Matt Mashburn. As the senior member of the board, I will call the meeting to order. And the first thing I'll do is call the roll in order to establish a quorum. I am here. Matt Mashburn.

The next senior member is appointed by the Democratic party. Sarah Tindall Ghazal.

MRS. GHAZAL: Here.

MR. MASHBURN: The next junior member is Ed Lindsey, appointed by the House.

MR. LINDSEY: Here.

MR. MASHBURN: The next and our newest member, Dr. Jan Johnston is appointed by the Republican party.

DR. JOHNSTON: Present.

MR. MASHBURN: So the entire board is here and a quorum is present.

So the next thing on our agenda is to do our invocation. And I'll invite our newest member to do the invocation if she'd like.

DR. JOHNSTON: Yes. Thank you.

(Invocation)

MR. MASHBURN: And at this time I'll ask those in attendance to stand and ask Dr. Johnston if she'd like to lead the Pledge of Allegiance. (Pledge of Allegiance)

MR. MASHBURN: Thank you. Please be seated.

The next thing on our agenda is the election of the acting chair.

For those that don't follow this every minute of every day, the vice chair was appointed to the commissioner of the department of administrative services and therefore ended her tenure of the board. And that left the board without a vice chair and an acting chair.

So the first thing on our agenda now is to elect an acting chair. I will put my name in nomination as acting chair simply because when I was in seventh grade we asked our teacher if we could vote for ourselves and the teacher said: If you don't think you should do it, you shouldn't be in nomination.

So are there any other nominations for acting chair? Hearing none, I will call for a vote. All those in favor of Matt Mashburn being the active chair say aye.

THE BOARD MEMBERS: Aye.

MR. GERMANY: Needs to be a second.

MR. MASHBURN: Oh, I'm sorry. Is there a --

DR. JOHNSTON: Second.

MR. MASHBURN: Thank you, Dr. Jan Johnston.

Thank you, Ryan, for bringing that to my attention.

All those in favor say aye.

THE BOARD MEMBERS: Aye.

MR. MASHBURN: All those opposed say nay. Motion -- or the election carries, four zero.

The next item on the agenda is the introduction of the new members.

And I'd like to introduce the Honorable Ed Lindsey, the appointee of the House.

Anything you'd like to say? We welcome you, but is there anything you'd like to say?

MR. LINDSEY: Well, thank you very much. And I think we have a very full calendar here and I know there's a lot of folks online who want to hear some of the evidence, so I'll keep it short. I'm very humbled that the Speaker and the House have named me as a member of this committee.

And for those who are listening, I think I speak for everyone that I've talked to on this board. Our sole concern is that we make sure

that our elections in this state are open and fair and transparent and that people in Georgia have confidence in the outcome because that's a cornerstone of democracy as was stated so eloquently by Dr. Johnston in prayer.

I thank you for having me and I look forward to working with everyone on the committee and on the staff.

MR. MASHBURN: Welcome.

Next I'll introduce our newest member, Dr. Jan Johnston. And anything you'd like to say? We welcome you to the board.

DR. JOHNSTON: Thank you. Well, let me share a story with you. I started as a citizen who had some free time and wanted to volunteer. My interest and curiosity was working as a poll watcher/monitor/observer in absentee ballot processing. This experience was followed by participation in as many aspects of the election process as I could do from the grass-roots level.

These interests then broadened to understanding the larger picture of elections processing, operations, and conduct. Naturally this led to a study of elections law, election systems, and oversight of our elections.

Prior to this so-called free time, I had been a physician in the Atlanta community, serving and learning from colleagues and patients for over thirty-five years. Medicine is demanding, requiring dedication, advocacy, objectivity, critical-thinking, thoroughness, continual learning, and constant review and improvement.

The practice of medicine may seem different than the administration of elections, however both share a commitment to fair, ethical, legal, and orderly conduct. Additionally, both provide for uniform and nondiscriminatory standards, whether for a patient or for an elector.

My special interests are (indiscernible) maintenance for security and outside contracts, absentee voting safeguards security, and working toward the same requirements as in-person voting; vulnerable elector advocacy and protection; protection of election department from outside influences, money, or manpower, partisan or private, direct or indirect; ballot security and voting systems.

Thank you for your time. I look forward to working with each of you and to guard the

election process every step of the way so the outcome is a trusted successive entry.

MR. MASHBURN: Welcome. We welcome you to the board.

The next item on our agenda is the approval of the board minutes. The board has had a package delivered to them and made available.

Has everyone studied it in sufficient detail that they are ready to consider a motion to approve the board minutes?

MRS. GHAZAL: I so move.

MR. MASHBURN: Sara Ghazal has made the motion. Is there a second?

MR. LINDSEY: Second.

MR. MASHBURN: Ed Lindsey has seconded. All those in favor say aye.

THE BOARD MEMBERS: Aye.

MR. MASHBURN: All those opposed?

So the minutes are approved unanimously.

The next item is we move to public comment. The time for public comment is two minutes. We should have a timer set up. And so the excellent staff here -- the board has no staff and no budget, so we rely heavily on the secretary of state's staff. And the secretary of state has

made excellent staff available to us and we thank them for all their hard work and their participation.

So we'll let y'all run the -- one of the things they do is they set up how people sign up, and so we let them control that -- and let you announce the first speaker.

MS. HAISTY: All right. Our first person signed up for public comment is Lindsey Favero.

MR. MASHBURN: Are you there? Lindsey?

MS. FAVERO: Hi. Lindsey's here. Good --

MR. MASHBURN: We can hear you. Please go ahead.

MS. FAVERO: Good morning. My name is Lindsey Favero and I'm a resident of Cobb County. I encourage the state election board to support counties, including Fulton, with running free and fair elections and help them prepare for the upcoming primary and general election.

The performance review could threaten local control of Fulton County which is the county with the most voters of color. And last fall a state monitor found no evidence of dishonesty or fraud. And claims of fraud are driven by misinformation campaigns. Local control of election

administration should not be taken away from Fulton County or any other county. And instead of entertaining partisan misinformation, the state election board should focus its time and energy on ensuring every county has resources and support to enable every registered voter to exercise their freedom to vote in all twenty-two election -- all 2022 elections.

And that's all. Thank you all for your time.

MR. MASHBURN: Thank you for your comment.

The next speaker?

MS. HAISTY: The next speaker is Dr. Ngina Sydney Jemmott.

DR. JEMMOTT: Good morning.

MR. MASHBURN: Please go ahead. We can hear you.

DR. JEMMOTT: Okay. Okay. My name is Dr. Ngina Sydney Jemmott, and I've been a resident of Fulton County for ten years.

The state election board should focus its time and energy on ensuring every one of Georgia's 159 counties has the resources and support needed to enable every eligible registered voter to exercise their freedom to

vote in all of the 2022 elections. Rather than helping counties prepare for the upcoming primary general election, the state election board is entertaining a performance review board. From the start, advocates warned a performance review board could threaten local control of Fulton County which is the county in Georgia with the most voters of color.

The state election board should not serve as a partisan-fueled obstacle. Irrespective of what the Fulton County Review Board recommends, I encourage the state election board to support counties like Fulton in their endeavor to run free and fair elections.

Thank you for your time.

MR. MASHBURN: Thank you.

Our next speaker?

MS. HAISTY: Our next speaker is Kent Buis. You're allowed to speak now.

MR. MASHBURN: Please go ahead.

MR. BUIS: Good morning. My name is Kent Buis --

MR. MASHBURN: We can hear you.

MR. BUIS: All right. My name is Kent Buis and I'm a resident of Cobb County.

Instead of helping counties to prepare for the upcoming primary and general election, the state election board is entertaining a performance review board that could threaten the local control of Fulton County over its own elections. Whatever the Fulton Review Board recommends, I encourage the state election board to support counties like Fulton in their endeavor to run free and fair elections.

The current trends in Georgia, making it harder to vote and easier to carry a gun, must be reversed. The state election board should focus its time and energy on ensuring every one of our hundred and fifty-nine counties has the resources and support needed to enable every eligible registered voter to exercise their freedom to vote in all of the 2022 elections.

Thank you.

MR. MASHBURN: Thank you.

Next speaker?

MS. HAISTY: The next speaker is Naomi Bock.

MR. MASHBURN: Naomi Bock, please proceed.

DR. BOCK: Thank you. Can you hear me?

MR. MASHBURN: We can hear you. Please proceed.

DR. BOCK: Thank you. My name is Dr. Naomi Bock. I am a resident of DeKalb County where I went to elementary school a few years back.

I urge the board to focus its time and energy on ensuring every one of our 159 counties has the resources and support needed to enable every one of our eligible registered voters to exercise their freedom to vote in all of the twenty-two -- 2022 elections.

Thank you.

MR. MASHBURN: Thank you.

Next speaker?

MS. HAISTY: Our next speaker is Patty Pflum. Give me one second to ... you should be able to unmute now.

MR. MASHBURN: Patty Pflum?

MS. PFLUM: Can you hear me?

MR. MASHBURN: Yes, we can hear you. Please proceed.

MS. PFLUM: I'm a resident of Fulton County. I tried to follow the counting of votes in the 2020 election and all of the things that happened after the election. And I have seen no evidence that there are any significant problems with the Fulton County system.

I was glad to hear Dr. Jan Johnston say in her introduction that she is a doctor. And the idea of a Fulton review board and potential takeover by the state reminds me of a doctor prescribing a -- prescribing something to cure a disease that the patient doesn't have.

I hope that the state board of elections will wait until there is solid factual evidence of election fraud before they decide to review any county's systems and take it over.

Thank you.

MR. MASHBURN: Thank you for your comment.

The next speaker?

MS. HAISTY: Our next speaker is Opal Baker.

MR. MASHBURN: Opal Baker?

MS. BAKER: Yes. Good morning. My name is Opal Baker and --

MR. MASHBURN: We can hear you.

MS. BAKER: -- I'm a resident -- okay. I'm a resident of Fulton County. As a Georgia voter, I am really fed up and really extremely anxious about the direction that voter rights has taken in Georgia and I feel under attack by the legislature in this state. And I'm very confused about why this board is wasting valuable time and

resources on the farce of a performance review board for elections officials.

And why is Fulton County such a priority for this nonsense? It is not lost on me that Fulton County has the highest population of eligible registered voters of color. Your attention should be focused on the upcoming primary and the general elections and making sure that all of our counties have the support and resources that they need to help voters exercise their right to vote in free and fair elections.

Fulton County needs your help, not your harassment. Since petty Republican politics has made it harder for -- to vote by mail for Georgians -- voters have to have -- put their lives and livelihood at risk to come out to vote. In case you've forgotten, we're still in a pandemic and we -- and you should be helping all our counties prepare to get voters safely through the polls and to cast their -- our ballots in a safe manner and in a safe environment.

Many of us are terrified about standing in line for long periods around people we don't know because our polling stations are understaffed, underequipped, underresourced, and overworked.

Please stop the nonsense. Just stop -- just stop and get rid of the ridiculous petty things that make it harder for our elections workers and support all of our counties, all of our counties including Fulton, with the resources needed to ensure free and fair elections for all eligible and registered voters.

Thank you.

MR. MASHBURN: Thank you for your comment.

Next speaker?

MS. HAISTY: Our next speaker is Pamela Reardon.

MR. MASHBURN: Pamela Reardon, you should be unmuted. Pamela Reardon?

MS. HAISTY: Pamela Reardon, you've been given the ability to speak now. We'll ask you to unmute your microphone if you'd like to be heard.

MS. REARDON: I should've known that. I haven't done Zoom for a while. Sorry. All right.

MR. MASHBURN: We can hear you. Please proceed.

MS. REARDON: Okay. Thank you. Thank you. I'm on Fulton County -- or sorry, I live in Cobb County and heavily involved with elections.

I'm -- I'm -- it's comical. It's comical -- let's just call it comical -- that the Democrats have their talking points of this morning and they're all saying the same thing.

Well, mine's not going to be a talking point. This is reality. In Fulton County, the elections have been poorly run and they needed a review. In fact, in the municipal, my son-in-law went to vote at a place for the mayor's election and they didn't even ask for his photo ID.

So you can't tell me -- and another poll manager didn't know that a hundred and fifty ballots cannot be dropped off by a ballot harvester. So there is plenty of room for improvement.

I really called because I do not think that the secretary of state had the authority without the backup of the board. I did not see a meeting where the board authorized the expense of five million dollars for a system called Salesforce, who has also just recently been -- had a huge breach of data and they were hacked. So I really want this reviewed by the board and that decision revoked.

Thank you very much.

MR. MASHBURN: Thank you for your comments.

The next speaker?

MS. HAISTY: Our next speaker is Michael Garza.

MR. MASHBURN: Michael Garza, you should be unmuted. Please proceed.

MR. GARZA: Hi. Can everyone hear me?

MR. MASHBURN: We can hear you.

MR. GARZA: Hi. My name is Michael Garza and I'm a resident of Cobb County. I promise I don't have any talking points here. I'm here to advocate for the board and legislators to do more to protect the voting rights of Georgians, in particular for seniors and those with disabilities throughout the state that have been impacted by changes to the absentee voting rules.

Last year I went door to door for a local special election to alert people that an election was taking place in their district. In that time I met many seniors living in retirement and assisted-living communities in the area.

One in particular was Beverly who has multiple medical issues including having just had a life-saving organ transplant just a month earlier. She did not receive her absentee ballot

automatically and was shocked to learn that it was past the time that she could resolve her issue and her only method to vote would be in person. That was problematic as she doesn't drive and could barely walk, even with the assistance of a walker.

She's not alone. This is the story of countless other Georgians in similar situations. And as it stands now, there are even fewer options for these people than in previous elections. The online portal is no longer available. A message says: Our online portal is undergoing maintenance to better serve you for future elections. All other options require a printer that many may not have, a fax machine that most do not have, or a drive to a registrar's office that many will not be able to make.

This is not a right or left tissue. These are people from our greatest generation and span all political ideologies. They fought in wars for our country. They've lived through Jim Crow and immigration. They fought for the right to vote besides others who died for that right. They deserve better and I am asking that this

board and this state provide them better access to the ballot box in 2022 and future elections.

Thank you for your time.

MR. MASHBURN: Thank you for your comment.

Next speaker?

MS. HAISTY: Our next speaker is Larry LeSueur.

MR. MASHBURN: Larry LeSueur, you should be unmuted.

MR. LESUEUR: Yes. Hello. My name is Larry LeSueur. I live in Cherokee County. And I just presented a list of questions regarding statistics for the voting fraud cases that is currently being handled by the secretary of state and turned over by the state election board.

I actually was not expecting to speak. I just presented these data points I'm looking for. And I'm wondering if we can't get information as to the total number of cases that have been turned over to the attorney general and what we can expect to hear back from the disposition of those cases.

There's lots of talk about and legislation being passed that supposedly address these issues, but no one has any statistics that they

can provide, such as where these voter fraud cases occurred, were they stopped. We have voter fraud cases that made it to the ballot box. Did they -- were there actual votes cast that were fraudulent? Were they stopped before they could vote? Were these people stopped after they registered or before they registered? Without this information, we can't make informed decisions as to how we address the problems and how we make the system better.

There's one case that was on the secretary of state's website. Bill Price, who was in Florida, caught on camera, conspiring to travel and convince others to travel to Georgia just to vote in the special election in 2021. I still haven't heard anything about the disposition of that case either.

But in -- the last thing I want to note is without this information, it's just impossible to make an informed decision as to how well the system is working or it's not working. There's an old adage for carpenters: Measure twice, cut once. And what we're seeing now is that we haven't even measured and people are trying to make decisions on how to change the system and

it's obviously going to be problematic down the road.

Thank you.

MR. MASHBURN: Thank you for your comment. Our next speaker?

MS. HAISTY: Our next speaker is Sally Larrick.

MR. MASHBURN: Sally Larrick, you should be unmuted.

MS. LARRICK: Hello. Good morning. My name is Sally Larrick. I'm a resident of DeKalb County. Thank you for giving me the opportunity to speak this morning.

I'm a citizen concerned about the access to voting for all voters in Georgia, in all hundred and fifty-nine counties. I believe the state election board should spend its valuable time making sure that every county has the resources it needs to administer elections instead of threatening to take away local control of elections in Fulton County.

Please focus on supporting all county boards of elections to enable all of their voters to cast ballots. Please focus on ensuring voter access to elections in Georgia.

Thank you.

MR. MASHBURN: Thank you for your comment.

The next speaker?

MS. HAISTY: Our next speaker is Latonia Jenkins.

You should be able to unmute yourself now.

MR. MASHBURN: Proceed.

MS. JENKINS: Oh, good morning. My name is Latonia Jenkins. I'm a resident of Gwinnett County.

The state election board should be focused on ensuring the resources and support needed to enable every eligible registered voter to exercise their freedom to vote. And as mentioned by earlier members, they said open, fair, and transparent and guarding the election process.

But here, instead of helping the counties, it -- to prepare for the primary general election, it appears we're entertaining a performance review board in Fulton County, which is the county with the most voters of color, registered voters of color.

So whatever you recommend, we encourage that.

MS. HAISTY: It supports counties like

Fulton in their endeavor to run free and fair elections. And we hope that you will focus your time and energy ensuring every one of the hundred and fifty-nine counties have the resources they need to enable every voter to exercise their freedom to vote in the 2022 elections.

Thank you.

MR. MASHBURN: Thank you for your comment.

The next speaker?

MS. HAISTY: Our next speaker is Jane Mezoff.

MR. MASHBURN: Please proceed. You should ...

MS. MEZOFF: Can you --

MS. HAISTY: You should be able to unmute --

MS. MEZOFF: -- hear me?

MS. HAISTY: -- yourself now. Yes.

MR. MASHBURN: We can hear you.

MS. MEZOFF: Great. Good morning. My name is Jane Mezoff and I've been a resident and a voter in DeKalb County for twenty-seven years. I've also never made public comment before 2022, but I think it's really important that all of us get involved.

I would like to begin by thanking you and

saying welcome to the two new board members. I want to thank you all for everything you've done and everything that you're going to be doing to help keep our democracy safe and secure.

I would like to take issue with one thing that an earlier commenters said. It's not a right or left issue. It's not Democrat or Republican. It's American, it's democracy, and it's important.

So I'd just like to say I'm commenting today because, as others have mentioned, I'm concerned about this issue of a performance review board. I think, as others have mentioned, we -- we are all concerned about the fact that it's targeting Fulton County, which, as everyone has pointed out, is one of the most diverse counties in terms of registered voters in the state. Whatever the Fulton review board ends up doing, I encourage the state election board to support counties in Georgia that are striving to run free and fair elections. And I strongly urge you not to fall prey to attempts to make you a partisan obstacle that is fueled by the big lie about the election of 2020 being unfair.

I urge the state election board to do

everything it can and use all of its energy and resources to ensure that every single registered voter has the opportunity to exercise this most precious right. It matters not -- it matters now more than ever.

Thank you. I appreciate it.

MR. MASHBURN: Thank you for your comment.

Next speaker?

MS. HAISTY: Our next speaker is Daniela Sullivan-Marzahl.

You should be allowed to unmute now.

MS. SULLIVAN-MARZAHL: Hi. I'm a chaplain. Can you hear me?

MR. MASHBURN: We can hear you. We can hear you.

MS. SULLIVAN-MARZAHL: I'm a chaplain and I hear many things. And I'm definitely praying for this election and all that you're doing.

My family came out of the Holocaust. And one of the things that I have to say is that they always warned me about politicians and keeping people accountable. So what I want to encourage you as a board to do -- and I think you're trying to do it -- is to hold people accountable. Because one of the things that really bothers me

is what is happening to the all of the evidence.

I heard Patrick Witt has a computer with 1600 documents on it that nobody has seen because of death threats. My husband worked with Homeland Security and just retired; I know death threats are real. And nobody's talking about that.

I also know with the propaganda that Hitler did that the media twisted a lot of things. And people later said, well, if we would've just known. People were blinded.

So what I want to encourage you as a board to do is to restore the integrity to the elections. Because people shouldn't be afraid if you look at stuff if it's not there. You know, if there's no sin, you don't have to be concerned. But if there is sin, you need to ask God's forgiveness because we are one nation under God, indivisible, with liberty and justice for all.

This isn't a partisan-fueled issue. It's an issue of concern. And it happens around the world. And now it's happening in America because we have changed. And are we still doing in God we trust? I am. I think a lot of people are.

So I'm trusting that God will use you to uncover what's out there. And if people are being threatened with their lives and politicians are afraid that they're going to get killed, you need to take a look at that because Hitler bumped people off when they disagreed with him.

So things haven't changed in history. We're going through things right now in the world and we all know that bullies are bullies. So what we need to do is get back to the heart of the matter.

So I applaud you for having the guts to have both sides come together and look at this issue. But I really pray that you do because the feedback I'm getting from everybody is they don't even want to vote because they don't think their vote matters. And that doesn't matter whether you're a person of color --

MR. MASHBURN: Thank you.

MS. SULLIVAN-MARZAHL: -- or a person who's voting, you know?

(Timer sounds)

MS. SULLIVAN-MARZAHL: That it's the --

MR. MASHBURN: Thank you for your comment. Thank you for your comment.

MS. SULLIVAN-MARZAHL: So thank you.

MR. MASHBURN: Thank you for your comment. Thank you.

MS. SULLIVAN-MARZAHL: God bless you.

MR. MASHBURN: Who's our next speaker?

MS. HAISTY: Our next speaker is Sonia Frix. You should be allowed to unmute now.

MR. MASHBURN: Sonia Frix, please proceed.

MS. FRIX: Thank you. I've -- I'm nervous. My concerns are --

MR. MASHBURN: Don't need to be nervous.

MS. FRIX: Well, my concerns are primarily about people with disabilities, the elderly, and caregivers and shift workers because that's my family. And I'm concerned that disabled voters are not going to have time to get -- if there's a problem with their mail-in ballot, they're not going to have time to get that mail-in ballot corrected before -- before the cutoff date.

And I'm also concerned that -- I'm also concerned that -- well, let me put it this way. I heard gov -- that Governor Kemp -- under these new rules, Governor Kemp would not have been able to vote in the last election because he got sick. And if our own governor can't vote in an

election, that's telling us something isn't working right. I mean our governor needs to be able to vote. And if we've got laws such that the governor can't vote, what's that saying about the rest of us? That's just not right.

And I live in DeKalb County. And I hear that Fulton County's going under some kind of election review. And I'm concerned if Fulton County goes under review, DeKalb County's going to be next. All my years of living in DeKalb, I have never been concerned about my vote. I have always had confidence in my vote in DeKalb County.

And I'm wondering who is going to pay for all of this. As a taxpayer, I do not want to have to pay for this. And I would rather the state spend its resources getting voter regis -- (Timer sounds)

MS. FRIX: -- getting voter education out and -- about these --

MR. MASHBURN: Thank you.

MS. FRIX: -- new voting rules.

MR. MASHBURN: Thank you. Thank you for your comment. Thank you.

Next speaker?

MS. HAISTY: Our next speaker is Kyle Carter.

You should be allowed to unmute now.

MR. MASHBURN: Kyle Carter, please proceed.

MR. CARTER: Hello? Can you hear me?

MR. MASHBURN: Yes, we can hear you. Please proceed.

MR. CARTER: Yeah. Hello. Thank you. Good morning, everybody. I'm a resident of Cobb County. And my concerns are that, like, if there is a -- a voter issue in Fulton County, I think it's unfair to say that it's isolated in just that one county.

If there is going to be a performance review, it should be throughout all 159 counties. And then it is a disservice to the rest of the counties to not give them the ability to improve their voting process.

Now, I do understand that this would be a -- a very thorough process. And for that reason, I think with the upcoming elections, it is more pressing to ensure that we have resources and accessibility for all voters -- all voters across the state of Georgia.

Thank you. Thank you.

MR. MASHBURN: I thank you for your comment. Next speaker?

MS. HAISTY: Our next speaker is John James.

MR. MASHBURN: John James, you should be unmuted. Please proceed. John James? Be sure you've unmuted yourself, please. John James?

MR. CROSS: Sorry. Sorry. I apologize.

MR. MASHBURN: We can hear you.

MR. CROSS: I don't --

MR. MASHBURN: We can hear you. Please proceed.

MR. CROSS: I don't know why I said John James. My name is David Cross. I'm a resident of Gwinnett County and I'm part of a team, working in support of Voter GA, investigating the 2020 election -- general election in Fulton County.

Contrary to public opinion about the big lie and the unwitting blind trust of the public, our findings so far have revealed so many errors in Fulton County that the vote count cannot be replicated with any of Fulton County's data.

For instance, Fulton County deleted 374,000 ballot images, which is a violation of election procedure and publishable by state law with a

fine of $100,000 per ballot image.

Fulton County is also missing security files for over 511,000 ballot images that authenticate nearly every vote cast.

Last, Fulton County recently provided our group with tabulator tapes that were not signed for over 311,000 advance votes, another violation of election procedure.

I truly appreciate the board members volunteering their time. I know it's a thankless effort sometimes. And I hope you'll take the citizens' complaints and requests for investigation seriously and follow through with reviewing the facts that show the processes and procedures were willfully ignored.

Our goal is the same as yours. Not to hinder voters but to secure election integrity and protect our Democratic Republic.

Thank you.

MR. MASHBURN: Thank you for your comment.

MS. HAISTY: That's our last speaker.

MR. MASHBURN: That completes the public comment portion of our agenda.

And at this time, we will move to an update on rulemaking by Ryan Germany.

Mr. Germany, please go ahead.

MR. GERMANY: Thank you, Mr. Chairman. This is Ryan Germany from the secretary of state's office. We wanted to give a quick update to the board on rulemaking procedures as we get into this election year. We did some rule updates last year as y'all remember regarding SB202.

I believe there's still some updates and clarifications that could be made to help ensure that the voting process this year goes well. The process that we have in place is we have a rules working group that consists of some board members, some county election officials, some members of the secretary of state's staff. And we have tried to work out language in that group and then bring it to the board for posting and for public comment and then for adoption after that.

So the types of rules that we're looking at are rules regarding -- there's a requirement in SB202 to use security paper for ballots, which was something that I think we were looking at doing anyway. And we've been working with the system vendor on security paper. But I think it'd be helpful for counties as well as the

public to -- you know, if we can kind of define what -- what exactly that paper is going to be like -- of course, you know, not in a way that, I think, the security -- parts of that paper were no longer copyable, but that -- so the people can know what -- what exactly we're dealing with.

And that -- that's -- I think that's something we should take up with the working group, plus verifying reconciliation and canvassing procedures that really occur after elections. We want to make sure that counties are doing those procedures that are -- that are not new, that have been in law, frankly, for a long time, but to make sure that that's being handled in a way that's transparent and consistent throughout the state.

I think another thing we're going to see this year that we'll probably see to or that we've seen in the past is poll watchers. You know, I think this year everyone kind of knows that Georgia is going to have a close and high-profile election. So both parties should be interested in making sure that they are taking advantage of their poll watcher program that the law allows. But as that happens, then we've got

to make sure that it works for, one, the poll watchers can have appropriate access and, two, that the election officials are able to do their duties safely, without interference.

So we want -- kind of think the rules to help -- to help clarify that would be helpful.

Then I think we'll also probably see some rules regarding the absentee ballot process as -- as we implement the requirements of SB202.

And I would say to the people who are here, if there's other things or particular rules that we should be looking at, please let us know -- let the secretary of state's office know -- and then we can add those to the agenda for things we should be looking at.

And so finally, on rulemaking, I think we do want to have rules in place prior to the May primary, which is May 24th. So that really means from a timing perspective we need to bring some rules next month to the board. And that's what we're working on doing. I do think we'll probably have to continue to work on rules and change rules, even though these are posted or adopted, throughout the year, as we kind of see how they're working with what we need to adjust

to. But I think as to the rules, at least we'll get them posted. So then we can have an idea of the things that we're looking at for this year.

Happy to take any questions, Mr. Chair.

MR. MASHBURN: Any comments or questions from the board for Mr. Germany?

MR. LINDSEY: Yeah, I guess I do just in terms of the timetable that we have. If you could sort of help us for those of us that are new to the board. You've got to post it for so much time frame before we can actually vote on it. What's the time frame? When can we expect this to be posted so it can make the -- May 24th is only two months away. And, you know, all these counties have got to be set up and ready based on those rules. So just if you could help me out with that.

MR. GERMANY: So the process for the rules we promulgate follow the process set out in the Administrative Procedure Act. And the first part is posting rules for public comment. So we would bring rules and present rules to the board to post for public comment.

At that point, they have to be posted for thirty days. We had another meeting thirty days

later to vote to adopt the rules. And what we've done in the past when we've been in these situations is we hear public comment and a lot of times we get some good public comments, like, oh, we should change some language to fix it.

And what we've done in the past that I think has worked is we'll adopt the rule that we posted so it's in place. And the public comment is usually, you know, kind of a minor change to that rule. And then we -- and then you vote at the same time to post that amended rule. And then you have to come back thirty days later and adopt that amended rule.

So it is -- I do envision this being a throughout-the-year process. And then after -- after we go to adopt it, it's effective twenty days later. So I think, you know, a lot of these of rules would not be, you know, quote, unquote, effective for the primary.

But the idea was to get the counties and the parties and everyone involved. Here are the rules that are going to be in place and, you know, they essentially have been passed. They'll go ahead and follow them to the best of their ability. And then we can learn from them to see

if we need to -- to adjust anything. We'll have a May primary, a June runoff thirty days after the May primary -- or twenty-eight days after the May primary. And then, of course, a November election and then a -- potentially a December runoff as well.

MR. MASHBURN: Ryan, that jogged something in my mind in that we do constantly adjust and constantly look at things or how things are working. And one thing that we had started with, but we didn't have enough time to get it done before a previous election was the introduction of pictograms on some of the ballots that were to tell the voter don't -- you know, fill in the circle, don't put "x" marks and things like that.

So if I could just get that on the top, back on the agenda, I'd like to -- for us to look at that again and get that back on the top, top of the stack if we could. Because I thought we had some really good proposals that we were looking at and we were up against some time frames. So --

MR. GERMANY: For what -- for, like, what the -- instructions on absentee ballots?

MR. MASHBURN: Yeah, correct. Yeah,

correct.

So thank you for that report. Y'all do a great service to the people of Georgia and we appreciate all of the hard work that goes on behind-the-scenes every day, all day long. So thank you for that.

You don't get any respite, though, because the next item on the agenda is the update of the Fulton County Performance Review Board -- or panel.

And Ryan Germany is also is on that panel. So I ask for an update on that.

MR. GERMANY: Certainly, Mr. Chairman. There's not much of an update to give on the performance review. The goal, when we started, was to have it completed by the end of the last calendar. I think we all knew that was an aggressive goal.

But the reason it was a goal is because we knew -- or I knew once the calendar year started and the legislature came back and we had other kind of litigation items the agenda, it'd be very hard to continue to complete that process.

So that is potentially what happened is we -- I say "we," it's really me who's been sort of

caught up with other duties. And so we have observed the municipal elections last year, conducted interviews of Fulton staff. We had additional interviews to conduct of Fulton staff and other people as well who have things they want to share with us about Fulton County elections.

And so we hope to finalize that quickly. And I would say before the May primary would be a new goal so that we can bring that to you guys -- to the board for -- for then the board to consider.

MR. MASHBURN: Well, again, I thank you for your hard work in that regard.

Any questions or comments from the board?

Well, we thank you. We thank you for all of the hard work that you and your panel put in on that.

At this time, the agenda moves to investigations and reports. And so I'll just ask the board, does anyone need a ten-minute break or ready to press on. It's kind of a nice breaking point if anybody needs a break, but I think we'll press on. Okay.

So we begin with the investigation reports.

And the first one on the calendar that I -- oh, we've got the consent cases. And just to familiarize the new members of the board to this, we normally take the consent cases as a block. But if the board members want to pull a particular one out to discuss it in particular, they're free to do so. And otherwise they're usually handled as a block.

But I'm informed -- nope, we don't have any continuances. So at this point, I'll entertain a motion regarding the consent cases.

MRS. GHAZAL: I move to consider them as a block, but I also think it would be helpful to explain what a consent case means. Not just for the folks here at the table but for other people who are listening. Because when they see the agenda and see the complaints here, it can be very confusing to folks who don't understand the language.

MR. MASHBURN: I think that's an excellent suggestion and we have Charlene McGowan of the attorney general's office who negotiates consent orders among her many duties. If she'd like to give an overview of --

MRS. GHAZAL: Not the cases --

MR. MASHBURN: Not a particular case, but how --

MRS. GHAZAL: -- per se, but what does it mean. What does a consent case mean?

MS. MCGOWAN: So if we're talking about the consent cases that the secretary of state's investigative division is presenting, these are cases where the secretary of state's office investigative division have investigated the complaint that was received by the office and made a determination that no violation of the elections code has occurred.

When we were talking about consent cases presented by the attorney general's office, those are cases where the board previously voted to refer the case over to the attorney general's office because they determined that there was probable cause a violation has occurred.

And those cases where I'm presenting a consent order, then the attorney general's office has negotiated a resolution by agreement with the respondent that was referred to our office for any election code violation.

DR. JOHNSTON: I have a question about a case.

MR. MASHBURN: Dr. Johnston, well, let's -- hang on just a second and I'll -- and I'll recognize you in just a second.

I think Charlene very gently was able to correct me that she doesn't do the consent cases, that her -- but I appreciate her kindness directed toward the chair.

But thank you for that explanation.

She did a good job with it.

MRS. GHAZAL: Absolutely. And that is exactly my point so that people who are listening and seeing the agenda understand that while some of the words on the agenda look alarming, the point that the invest -- these have all been investigated and no violations have actually been found in these cases.

So I move that we consider them as a block.

MR. MASHBURN: Let's -- I put Dr. Johnston on hold. So let me let her ask her question first.

DR. JOHNSTON: So, yes. So are these the consent orders from --

MR. MASHBURN: No, that was my mistake. I confused everybody, confusing consent cases and consent orders. So these are the consent cases

from the secretary of state's investigative office.

DR. JOHNSTON: No question.

MR. MASHBURN: Okay. Thank you.

So now we're --

MRS. GHAZAL: Yes. And I --

MR. MASHBURN: I appreciate everybody's patience with the chair as I mumbled my way through this. But thank you.

So now we're ready for Mrs. Ghazal's motion.

MRS. GHAZAL: Yes.

MR. MASHBURN: And your motion is to --

MRS. GHAZAL: I move that we accept the investigations as a block.

MR. MASHBURN: There's been a motion to approve the consent cases from the secretary of state's investigators as a block. Is there a second?

MR. LINDSEY: There is a second from me. And I think it's worth letting the folks who are online know that these were matters that were sent to the board members prior to give us a chance to review them to take a vote on it. I just -- I think I just wanted the folks who are listening in to know that and that we have

reviewed those prior to the hearing.

MR. MASHBURN: There's a motion and a second. Discussion? No discussion.

Is the board ready to vote? Okay. All those in favor say aye.

THE BOARD MEMBERS: Aye.

MR. MASHBURN: All those opposed say nay. Motion passes unanimously to adopt the consent cases as a block.

The next thing on the agenda is new cases. With regard to new cases, SEB case number 2021-129, DeKalb County, has been continued based on a notice issue. So that's been continued.

So we move to SEB case number 2021-181.

MR. CALLAWAY: Yes, sir. Thank you, Mr. Chairman, members of the board.

SEB 2021-181, Fulton County, data review. The complaint was that there was a report of errors in risk-limiting audit numbers uploaded from Fulton County elections to the Georgia Secretary of State.

We conducted an investigation using two of our investigators with our office. We reviewed the findings of the complaints and there was thirty-six issues and there was numerous examples

of human error while inputting data into the Arlo open source software system. But there was no evidence discovered to suggest criminal behavior. I believe the errors were due to batch sheet being entered twice under different headings.

And at this time, we're going to do something a little different. Instead of me sitting here, reading finding, finding, finding, we're going to have the actual investigators that worked the case tell you here today what their findings were and go through the case that they worked.

So Investigator Braun and Investigator Zagorin.

MR. MASHBURN: Any objections? Without objection, that's how we'll do it.

Please proceed.

MR. ZAGORIN: I'm Investigator Vincent Zagorin, Georgia Secretary of State's Office. So we -- when this complaint came in, we had to look at all the batch sheets that were listed online in the system. There was four or five different dropdowns we had to go into. None of these were in order. Nothing was in order by scanner or by batch sheet. There might be a scanner 1, let's

say, that had, like, five or six in row 20 through 26, but then it would jump to 200 or then it would jump to a completely different scanner. We had to go through and kind of figure all this out.

So when I went through from the complaint that was submitted -- so, for instance -- there's a way you can follow. I don't know if you guys have a copy of this. They're in this white book. There is a copy of these sheets.

The first one on there was absentee scanner 3 and scanner 1 both had batch 111s. What happened was it showed that scanner 3, batch 111 was entered twice. We can go to that page. It's in the section that's marked 3-B and 3-C on the little tab. In the next, like, three pages over, you'll find out where I'm at.

MR. MASHBURN: Okay. Everybody -- everybody caught up?

Okay. Please proceed.

MR. ZAGORIN: If you look at this, it says absentee scanner 3, batch 111 is in there twice. So when I looked at this and we found this, I was able to determine that the first one, the scanner 3, batch 111, was actually scanner 1. So once I

started going through this and figured it out, I looked at it as if you had each scanner lined up in a row and every batch, from one to whatever the bottom number is, they all had different amounts, 320 or (indiscernible).

So in scanner 3, you would've had two batch 111s but you wouldn't've had a 111 in scanner 1. So you would've been able to conclude that one of those should be moved over to scanner 1 as you go down the list. So there were some that were like that.

There was another one in here -- put it in the right order -- if you go next to the last two pages in this section, it's be scanner 1 dash 97, second to the last page. That was one that I located pretty quickly. When you look at that, there's two scanner 1s, number 97. However we pulled the batch sheet, one of them was actually number 47. And the four was written kind of oddly, so the person thought it was 97.

So once again, just going down the list, there'd be two in the 97 spot. You have to take one of those out and move it to the 47 spot. So now it's starting to -- to fall into place. So there was that issue with some of these where

they were just put in the wrong section.

If you go back to the beginning and flip the page, it'll have scanner 1, batch 18 is entered twice. And it was entered twice because if you look at the top part in the section, it says --

UNIDENTIFIED SPEAKER: Let's back up.

MR. ZAGORIN: Back to the beginning?

UNIDENTIFIED SPEAKER: Yes. Eighty-three --

UNIDENTIFIED SPEAKER: No, three of four, okay.

MR. ZAGORIN: So the first was entered as absentee scanner 1, batch 18. That's all written out. The next one was entered scanner 1, batch 18. So the system did not catch that. So they were entered. It was a -- an enter error, but if you look at it, where someone had typed it all the way out, and the next person probably thought, "I'm not going to type all that," so they abbreviated it. The system didn't catch it.

Arlo is aware of that and there's ways to fix that, but at the time it wasn't found. So that's how that one -- those were handled.

We had a few -- the next one, page 4, she has the same issue: One printed out, one is abbreviated. So there was a few of those that

are like that in there. Just like the other ones, they were just put in the wrong spot.

Then the other issue that came up was -- if you go to page -- I guess it would be page 5 is -- so it shows a hundred for Candidate A and zero for Candidate B, which the way the specifics work, regardless of what part of the state you're in, you're not going to have completely a hundred or two hundred for one candidate.

So the county said what could've happened is they took the batch and they divided it by candidate and then they just scanned it by candidate. So somewhere in here we would have the other candidate with numbers that would be a hundred to zero the other way, which we do in one of these sections.

But those do not match -- those batch sheets do not match what this complainant went in and looked at and actually said that they looked at. They don't match. So there really isn't a determination on was someone just rushed for time or did they just put a hundred and moved on. And that looks like what could've happened here. But, like I said, that did happen both ways. You know, maybe if you go over to page 7 -- or no --

yeah. So page 7's the same, where it did that.

Now, there was one that wasn't in here that I found myself where Candidate B had in the neighborhood of 230 to nothing, going the other way. And the complainant told us: We found that but we didn't add it in here. So to me, if I'm looking at this objectively and I have to look at everything, it has to go both ways. You can't just play this where it helps one side and you see something else on the other side and leave it out. So that was -- kind of got our attention.

Then if you continue through this, there is page 8. The same one is entered twice, but I had found where the first one was actually scanner 1, batch 210. So that was going to the scanner 1, it wouldn't have been part of scanner 2. So this scanner 2, 237 was actually correct.

Some of the other ones, the number were off just a little bit. With 238, those numbers were off. You know, on here it has candidate -- and one of the candidates, 2259 and zero. It was actually four and forty-nine is what the numbers would've been. But even on -- for the batch she showed, but even on there -- well, the complainant found those numbers were a little bit

off.

The next one, page 10, the top one's going to be a different batch or scanner. At the bottom one, we were able to find the match of two two forty.

So I don't know if there's anything in here that's different from those three different scenarios where they just had the different -- oh, this was interesting too.

So number 12, so number 12 is a -- there's two of these in here that showed several different batches and then one total here.

MR. MASHBURN: Are you on -- I'm sorry to interrupt you. Are you on page 12 or inconsistency 12?

MR. ZAGORIN: So twelve of forty.

MR. MASHBURN: Okay. Page 12. Okay. Thank you. I'm sorry to interrupt.

MR. ZAGORIN: No worry. So the totals at the bottom are correct. But the problem is when they show their work on how they got there. So if you look -- like, it says number 243. At the top, it shows seven ninety and one. At the bottom, it shows twenty-one seventy-three and two. Like I said, the bottom numbers all match.

They all get to the right total at the bottom. It's just the numbers in between for some reason don't match. So I don't know how they got the correct number at the bottom but the numbers were wrong in individual batches.

And there's a couple different ones -- those are in here -- that did the same thing, where the totals always matched, just the numbers in between didn't match. Like, some of them where they would do -- like, it shows two -- 244 to 249 and it has the numbers which match the numbers at the bottom. They just didn't add the 243 in there. Once you added 243, it would've corrected it and it's lined up properly.

So, like I said, the total number was correct, just when they showed their work it was off. We couldn't figure out how they put the number wrong at the top and got it right at the bottom.

So that was all the different -- like I said, each one of these basically has one of those three different scenarios of what went wrong. Either it was entered wrong because they didn't fill it out and do it the same way -- they didn't put absentee scanner instead of AB scanner

or they went to a different batch than what they showed -- and you could -- you can show that and find those.

Like I said, on the totals, the ones that had the big totals, they were all -- they matched even though the other numbers didn't.

And then there was -- I believe there was one where they inverted the numbers. They inverted Candidate C. In Candidate B, they -- they just inverted those numbers. You can see where the numbers were inverted. So if you switched them over, it wasn't really a major thing.

But most of it was the data entry and when they -- they put it in. So you can see where the issues were on all of these.

Any questions on anything?

MR. MASHBURN: Questions from the board?

MRS. GHAZAL: I don't have any questions, but I have grateful thanks that you were able to spend the amount of time it must've taken to sort through this and understand it. And I appreciate you spelling it out so clearly. I understand exactly what you're saying and what happened here. I don't think I could have come to these

conclusions. So I appreciate everything that you've put into this.

MR. ZAGORIN: (indiscernible)

DR. JOHNSTON: So I have a question. How much off were these numbers when you looked at all of this again?

MR. ZAGORIN: I just looked at these that were sent in in the complaint. Like I said, a few time I would find others that I would stumble across it. But I didn't pull those into this.

But I didn't go back through to take out the ones that were in there twice and try to figure out exactly what the number was. But I could tell what the issue was. I could that, like I said, 97 wasn't in there twice; it was actually 97 and 47. Then the ones that were in there twice, I didn't sit there and write out the -- the specific number. I didn't go that far with this.

MR. LINDSEY: Well, my comment actually is going to echo some of the public comments that we've heard. Some of the public comments in which they expressed concern on the resources, being how people voted rather than helping out at the next election. And it would be helpful if

our local county folks had a consistent entry system so that we would not -- so when citizens have a reasonable complaint when they see these inconsistencies that we do not have to devote as many man-hours -- and I don't even want to think about how many man-hours you had to devote to these.

And so it sort of goes to the importance of getting our local counties -- employees trained properly so that there is a consistency out there so that, you know, when citizens understandably go in and do a review, that we don't come up with these kind of issues that then come to the board for a complaint and they'll be used for an investigation.

And so we need to figure out a way to rectify that. This is the sort of thing -- you know, I'm sitting there, writing down various things as you go along: Inconsistent entry and garbage in, garbage out. I'm not a computer expert but I do remember that from my computer classes. And we need to figure out a way to get our local county folks to be able to enter things consistently so that others can have confidence in the outcome and we don't have to devote

resources that you're having to devote to kind of untangle when you have a simply entry problem.

MR. ZAGORIN: There was one other issue that came up with the system. I think Ryan Germany was going to address that.

MR. GERMANY: Well, yes. Thanks, Ed. Additionally as part of the investigation, we looked at not just what -- what Zagorin just -- Investigator Zagorin just went through but trying to look at the context of where these occurred.

As part of that, we, of course, talked to -- to Fulton County, and they're here. And also, a Mr. Rossi, the complainant, is here and I know would like to address the board after the investigator's presentation.

But we also reached out to Voting Works, who they assisted Georgia in implementing our audit procedures. And software that was used is a software called Arlo that Voting Works utilizes.

You guys remember that a full hand count was not, I think, completely contemplated in our audit. It was a risk-limiting audit. It's supposed to be a review of -- of basically particular ballots and you compare them to see what the machine count is. And then there's a

formula that comes up with how many you have to review to reach a statistical confidence level.

And I'm already getting outside of my area. But the problem is if the result is so close, the -- the number of ballots you have to pull individually becomes so large, that it's -- frankly, you just have to look at every ballot. It's actually more manageable.

And so we had to -- with the result being so close and the secretary determining that he wanted to audit the presidential election, which, of course, would be the closest results, then we had to move to a full hand count. And we also put in a time in. So you've got to be done counting by this time. We actually had to extend that time by twenty-four hours so that Fulton County could finish -- finish their audit because as has been pointed out by multiple people today, they have the -- the largest number of ballots in the state.

And so I think what we -- we found a few things kind of is what I'm getting at. One, that time crunch, of course, contributed to that Fulton County did not have -- and Voting Works was working with every county. In other counties

they had time to go back and do a -- you know, essentially proofread their data entry and catch mistakes.

Data entry mistakes happen. Whenever we've got humans entering data, we're going to have data entry mistakes. In a hand count, there's going to be human error, not just in the count but also in the data entry.

So Voting Works put out a couple things that I think are relevant for you guys. One, that these are the type of data entry issues that they see in an audit. At Fulton County, the level was higher because of that time crunch. They didn't have time to do that kind of quality assurance check that a lot of counties do.

But then, three, that the -- nothing that they are seeing here changes the overall conclusion in their minds of the audit, which is to confirm the result. The audit is not meant to get the exact same count. In fact, that would not be expected. It's going to be -- the whole point is to confirm, though, the -- the winner won and that they've -- and Voting Works saw nothing here that would change that conclusion, the -- of the audit in their minds.

They also did mention that there were some, I think -- they're making some improvements to Arlo to kind of make these kind of data entry errors lessen in the future. And so I believe, I think, we will have that benefit in the future, these improvements to Arlo. It had to do with basically naming conventions and kind of not allowing people to -- to double-enter these.

And what happened in Fulton is they initially -- you want to have one person entering all the data. That's ideal. In Fulton, we have -- they can't do that. They don't -- they're not going to have the time. So they had to bring another person in to enter data, at least one more person. And when you have that, that's when you start having maybe some confusion about, hey, has this already been entered or has this not been.

So I just wanted to provide that context from Voting Works. And I do know that both Mr. Rossi and Fulton County are here as well.

MR. MASHBURN: Questions from the board?

MRS. GHAZAL: Well, just while I definitely appreciate that a hand count audit was not anticipated, I think we need to look down the

road and make sure that we do have proper procedures in place for naming protocols so that it's standardized.

And if -- if the Arlo platform can have drop-down menus as opposed to having to hard key things in, that could help prevent some of these errors and just clean it up on the -- on the front end.

And training beforehand, before literally on the fly. I was there and saw how it was being done and I admire how hard everybody worked to make it work, but if we can prepare and anticipate that we may come down to this again -- I hope to God we never do, but, you know, an ounce of prevention and all of that.

So I think this board needs to be working on that, looking down the road.

MR. GERMANY: And that's a good point. And I should have something about that in the rulemaking --

MRS. GHAZAL: Yeah.

MR. GERMANY: -- update. I think that's something we need to look at in rules because the main thing from Voting Works is in order to do that, to have a drop-down menu, which they --

they've actually -- they mentioned they've put in extra tools in Arlo to have -- to prevent entry of duplicate batches and flag missing batches. I think --

MRS. GHAZAL: Yeah.

MR. GERMANY: -- both of which occurred here. But in order to do that, you've got to have a really good what they call ballot manifest, which is where you're -- where you're tracking that -- that stuff on the front end. And so I think we can do things as a board, y'all can do things as a board, to, you know -- the law only requires the audit after the November general election.

But I think the board can probably require audits more often than that to help counties be prepared for that audit, and especially the ballot manifest. I think that should be done every time. You know, the more -- the more time someone does something, the better at it they'll get. So I think that's another thing we should look at from a rulemaking perspective.

MR. MASHBURN: I think you mentioned that you were splitting your presentation between two investigators. Is the other investigator

expected to be --

MR. BRAUN: No.

MR. CALLAWAY: Mr. Braun, do you have anything else to add?

MR. BRAUN: No.

MR. CALLAWAY: But if he doesn't have anything else to add, we can ...

MR. MASHBURN: Okay. All right.

MR. CALLAWAY: So our recommendation from investigations is to bind the case over to the attorney general's office for SEB rule violation 183-1-15-.04(2)2, preparing for audits, when Fulton County election employees and staff misidentified and duplicated audit batch sheet data when it was being entered into Arlo.

And that's going to be our recommendation to the board.

MR. MASHBURN: And I believe you mentioned Mr. Rossi is the complainant who would like to speak on this topic.

MS. HAISTY: Yes. We have multiple people who have signed up to speak to this case.

MR. MASHBURN: All right.

MS. HAISTY: First person who signed up to speak is Lindsey Favero who should be able to

unmute herself now.

MR. MASHBURN: Lindsey Favero?

MS. FAVERO: I am -- I --

MR. MASHBURN: Unmute and you can speak.

MS. FAVERO: I was signing --

MR. MASHBURN: Can you hear me?

THE BOARD MEMBERS: I was signing up for public comment before, and I was -- I'm really new to this so I didn't realize I accidentally signed up for this part. So I don't have anything to say. Thank you.

MR. MASHBURN: Okay. Thank you. Thank you.

MS. HAISTY: All right. Next we have Joseph Rossi and Jack James signed up. You'll have to forgive me; there are multiple John James on the list of attendees. So I'm unsure which one is the correct one.

So please identify yourself.

MR. ROSSI: Okay.

MR. MASHBURN: This is Mr. Rossi?

MR. ROSSI: Yes. This is Joseph Rossi. Can you hear me?

MR. MASHBURN: Yes, sir, we can hear you. Go ahead.

MR. ROSSI: And I have attorney Jack James

here with me. And he goes by John also, so ...

Well, wow, if you listen to the investigators -- is it my time to speak now?

MR. MASHBURN: Hang on, Mr. Rossi. Mr. Rossi, let me interrupt you for just a second.

Is John James here as your attorney or is in his private as a citizen?

(Audio interference)

MR. MASHBURN: Or -- we're trying to unmute you.

UNIDENTIFIED SPEAKER: Mr. Chair?

MR. MASHBURN: Just a second. We're having a little technical difficulty. Hello?

UNIDENTIFIED SPEAKER: I think it would be better to handle Mr. Rossi first and get Mr. James to figure out --

MR. MASHBURN: Okay. Yeah.

UNIDENTIFIED SPEAKER: -- next.

MR. MASHBURN: Yeah. Is the problem on Mr. James's end? If so, we'll let Mr. Rossi proceed and then we'll let Mr. James speak after Mr. Rossi.

UNIDENTIFIED SPEAKER: He appears to have left the stream.

MR. MASHBURN: They -- are they going to re-sign in probably?

MS. HAISTY: They're re-signing in.

We have Cheryl Ringer from Fulton County who would like to speak.

MR. ROSSI: I'm on, if Mr. Rossi can speak.

MR. MASHBURN: Okay. Mr. Rossi, please go ahead.

MR. ROSSI: Okay. Well, hopefully we get ample time to share with you a lot of the documents we have. And just to answer your question up front, attorney Jack James is a personal friend. He's not acting as my attorney on this case.

But is it now time for us --

MR. MASHBURN: Okay. Thank you for that clarification.

MR. ROSSI: Is it now time to present our data?

MR. MASHBURN: The floor is yours.

MR. ROSSI: Thank you.

Wow. Listening to the inspectors, if your head's not spinning from an accounting standpoint, I don't know what would make it spin.

But before I introduce ourselves and go

through our data, I just wanted to clarify one thing. As we did and as they did a very thorough job, but one of the comments he made was that we did not go back and take care of both sides. And I believe he referred to a number of 230s, the zero was on the other side.

When we get to the report that I presented to you, I will show you in Error 31, out of a spirit of being factual, we did account for both sides and I did go back. The actual number was zero to one thirty, not zero to two thirty. But anyways, I wanted to clarify that up front. But we were not -- we were looking at this strictly from a factual standpoint, not a partisan standpoint.

But anyways, I will proceed. And I believe there was -- one other question which was asked was what was the totality of the errors, and I will speak to that and tell you what we found with the totality of the errors. I don't think the inspectors were able to provide that number.

But anyways, let me introduce myself again. My name is Joseph Rossi. I'm a retired executive from PepsiCo, 34 years. I'm a chemical engineer by degree. And I now teach at a local technical

college here.

Mr. Jack James is a mechanical engineer and an attorney and a good friend of mine. And again he's not acting on my behalf as my attorney. We do not work for each other. That's how we know each other out.

When we went into this, we used ground rules that I used in my executive career which is, number one, stick to the facts, no smoke-blowing. Be respectful but be persistent. And those that I've communicated with from the governor's office to the secretary of state's office hopefully will attest that we've been respectful but we've certainly been persistent.

And then the last thing is to take action and get results. And we could talk about this, but the goal is to take action and get results.

Those were our ground rules.

So what I'd like to do to start with is refer you to that white three-ring binder. I presume the state election board has a copy of that by now; is that correct?

MR. MASHBURN: Yes, we have a copy of a three-ring binder.

MR. ROSSI: Okay. So a picture is worth a

thousand words and I'm going to go through a lot of data. And if you get bored or overwhelmed with the data, the message I want to send is you've got the governor on the top of that cover and --

MR. MASHBURN: Well, I'm actually going to stop you right there, Mr. Rossi.

MR. ROSSI: Yep.

MR. MASHBURN: I did have a reaction to that. And in my opinion as the chair, it is highly irregular for a complainant to make statements regarding parties that are not respondents to the motion or to the matter at hand. So I'm going to ask you to keep your comments to the respondent at hand rather than third parties that are not respondents to this action, please.

MR. ROSSI: Okay. But didn't the governor issue the letter requesting that the board do the investigation?

MR. MASHBURN: That -- that's fine.

MR. ROSSI: Okay. I was just referring --

MR. MASHBURN: That's part of the record.

MR. ROSSI: I think part of the data and part of the record is that the governor said that

the hand audit was sloppy and inconsistent. And my point was that the secretary of state's office said the hand audit was accurate. And we have to reconcile that for the citizens of Georgia, being the odds between the two highest officials was my point.

MR. MASHBURN: That's not before the board on this issue.

MR. ROSSI: Okay.

MR. MASHBURN: So the respondent in this action is Fulton County.

MR. ROSSI: Okay. Well, let me -- can I proceed with our data then?

MR. MASHBURN: Sure.

MR. ROSSI: Okay. So our objective, if you go to the table of contents, was to align on resolution plan for the publicly posted RLA report for Fulton, which we have determined has errors which the governor has determined is inconsistent and sloppy and does not build public confidence, to quote his letter, and which now the investigators per their investigation have verified that.

The background I'll share is if this were an annual report for a company, it would not be left

standing as a credible accounting document. And I would say an annual report is as important or a -- the presidential election is as important as a company's annual report.

And then on that letter there, you do see the governor's -- quotes from the governor's office and you see the posting on the secretary of state's office which says that it's accurately portrayed. And that's where I say that. The two public officials, the highest authority in this manner, are in opposite positions from that standpoint.

So now what I'll do is I'll refer you to the batch tally sheets, how this all started. And I'm not a -- I'm not an expert in this, but I got interested in the numbers. So I started to try to understand what was going on.

And the first thing I found that there was what I'll call signs of incompetence in the secretary of state's office. And I'll refer you to sections one eighty one --

MR. MASHBURN: All right. Mr. Rossi, I'm going to have to -- I'm going to have to caution you again. Fulton County is the respondent. This is not a hearing about the secretary of

state.

MR. ROSSI: Okay. The errors reside on the secretary of state's website. So we believe they have some responsibility for the errors being on their website, even though they may have been generated in Fulton County.

MR. MASHBURN: But that question is not before the board.

MR. ROSSI: Who determines the questions before the board?

MR. MASHBURN: We -- what is your -- I do, as the chair.

MR. ROSSI: Okay. So we're not allowed to ask questions about errors that are posted on the secretary of state's website?

MR. MASHBURN: It doesn't help your case.

MR. ROSSI: But does that mean I can't present my case and let people decide whether it helps my case? You're going to just cancel it?

MR. MASHBURN: Your case -- your case is to be presented against Fulton County as the respondent. It's not fair to bring in third parties that don't have notice that this hearing is about them, that they may prepare a response. So it's just not -- it's not fair to present

evidence against people that haven't had a chance to review your evidence and have notice that they're parties to the hearing. And so I'm just not going to admit evidence about other people's actions or nonactions. This is about Fulton County.

MR. ROSSI: Well, we -- we beg to disagree with that. I don't know all the rules and regulations, but since the very beginning of this, we have been adamant about that we don't know where the errors were generated but we do know the errors exist on the secretary of state's public website. So that should be part of the case. And we --

MR. MASHBURN: My ruling and your objection are on the record. So please proceed.

MR. ROSSI: Okay.

MR. MASHBURN: Keep your comments limited to the respondent to this action and not third parties who don't have notice of this hearing.

MR. ROSSI: Okay. Should I go to the -- section 2, then, the thirty-six errors? Election code --

MR. MASHBURN: The floor is yours.

MR. ROSSI: Okay. So if you refer to --

well, I mean, section 2 has to do with e-mails that were sent, correspondence between the secretary of state's office and myself. And you're saying we do not want to review those; is that correct?

MR. MASHBURN: My statement is that Fulton County is the respondent to this action and not the secretary of state. If it is germane to the action against Fulton County, such that Fulton County has notice that they should respond to this, that's fair -- that's fair. But it's not -- it's not a fair forum right now for you to say that the secretary of state or the attorney general did something correctly or incorrectly. That's outside the scope of this hearing.

MR. ROSSI: Okay. Well, I will jump down to number 3 on our section there. And basically the thirty-six errors, sections 3-A, it starts with -- is the -- basically it's the Excel spreadsheet that was on the secretary of state's website and that document highlights the thirty-six errors very similarly to what the governor's report did as well as the prior investigators that were reporting out on those errors.

And I don't know if I need to go through any

of those errors, but they're similar in manner to what the investigators thought were somewhat misidentified, some were duplicated. So the only thing I would add, other than if you want to go through every one of those errors, I'd be glad to do that. When I added up those thirty-six errors -- I think there was a question earlier to the investigators which they didn't have a response to: What was the net impact of those errors? And I found the net impact of those thirty-six errors was 4,081 net incremental for Candidate Biden. And that would be shown on the last page of that audit report.

MR. MASHBURN: You're in 3-A?

MR. ROSSI: I would be in three -- no, I would be -- let's see. Yeah. 3-A. Okay.

MR. MASHBURN: Last page was 3-A?

MR. ROSSI: No. Hold on a second. I'm sorry. Yeah, that would be 3-A, the very last page. I think you should have a circled number at the bottom right --

MR. MASHBURN: Yes.

MR. ROSSI: -- is that correct?

MR. MASHBURN: Bottom right corner. It's circled in blue ink. Yes, sir.

MR. ROSSI: 4,081 false delta total.

So at least when I added up the thirty-six errors, I found the answer to the question from earlier. I found that gave one candidate a 4,081 vote error. If you add up the --

MR. MASHBURN: Okay.

MR. ROSSI: And I just wanted to highlight that so someone may be able to go back and review and determine if that's correct. But that's what I was able to determine.

MR. MASHBURN: Got it. Thank you.

MR. ROSSI: Okay.

MR. MASHBURN: I think that was in answer to Dr. Johnston's question.

DR. JOHNSTON: Yeah.

MR. ROSSI: Right.

MR. MASHBURN: Do you any further questions, Dr. Johnston, about this topic? Or is that what you were looking for?

DR. JOHNSTON: I'll wait till --

MR. MASHBURN: Okay.

DR. JOHNSTON: -- Mr. Rossi finishes.

MR. MASHBURN: Okay. Please go ahead.

MR. ROSSI: Okay. 3-B was the governor's letter, which I'm sure you've seen. And the only

thing I wanted to highlight on that, that he did make the comment that our findings were factual in nature. And I just wanted to reiterate that.

3-D is the report that the investigator was referring to earlier. 3-E is a statement on the secretary of state's website that says the hand audit accurately portrayed the results of the election. And I would challenge that, based on the 4081 number that we found.

3-F, I think Voter Works was referred to. So I have a section in there that shows what Voter Works was responsible for doing, if you go to that. It says 3-F, the Carter Center. And I really don't know what the chain of command was or who hired who. Maybe you guys could shed light on that. But somehow the Carter Center was involved and Voter Works was involved.

And then, if you go to the third page of that 3-F section, there is a comment in their report about data entry and results. And then there's a footnote down at the bottom that talks about their responsibility for checking missing and duplicated batches, which I would ask the question -- it was pretty easy to find these errors on that -- on that Excel spreadsheet if

someone would've just gone in afterwards and checked themselves. I wonder what their responsibility was and who hired them and who paid for them. But I'm not sure what they did, but obviously they didn't catch the accounting errors that we referred to and the investigators referred to earlier, which is something I think that needs to be looked at as well.

And then the 3-G I just put in there because -- I know this is being set as a Fulton County issue only -- I do want you to know that we looked at DeKalb County and there's very similar errors with the DeKalb County hand audit. And I've got, in 3-G, if you want to go through that, you can see that those errors add up to over a thousand incremental false votes there as well.

So it tells me it's much broader than just Fulton County, that this is a systemic issue which I continue to ask the question. We can't have a hundred and fifty-nine county free-for-all in Georgia. At some point, some entity has to be responsible for the accuracy of the original count or the hand audit count.

I mean, at this point, you're saying I can't

bring up the secretary of state's office but it seems to me logically that they would be that responsible entity. But I won't bring -- bring up anything on that further.

3-H is just a follow-up letter from my local representatives Mr. Shaw Blackmon and Larry Walker. I appreciate their support.

So before I get into my recommendations, are there any questions? Or should I finish with the recommendations and then go for questions?

MR. MASHBURN: I think you should go ahead and continue because that might raise the questions. So go ahead.

MR. ROSSI: Okay. Well, you know, you could bring up a lot of errors, but I think that's just whining and complaining unless you come up with potential recommendations and leave it to you guys to be the group that decides what's the right actions to take. But hopefully there'll be some good solid actions coming out of the hard work that we did and, obviously, the governor's office did and the secretary of state's investigators.

So the first thing that we feel pretty strongly about is, I think, at the end of this

we'll all agree that -- that that publicly announced, publicly displayed hand audit as the governor's letter says is sloppy, inconsistent, and does not build public confidence. And, in fact I think I heard someone say it's inconsistent, someone says it has errors. But I believe we owe it to the public for someone to footnote or put a disclaimer on that report, that it is under investigation for those errors. I think the public deserves that. So that is our first recommendation.

We had asked that the secretary of state -- until we get to the bottom of this, one way or another, that that statement that says that the hand audit for Fulton County accurately reflected the results of the election -- based on the numbers we've come up with, we think that statement should be retracted.

And then the last invest -- the last recommendation is -- based on the accounting, this document that's extremely difficult to follow and has a lot of errors, inconsistencies, and is sloppy, I don't think we're ever going to understand what really happened until somebody releases and counts the absentee ballots from

Fulton County. I think that's the only way to really answer the question as to how many ballots there really were and were all of those ballots legal ballots.

At the end of the day, if it comes out perfectly fine, then great, we've established credibility. And if the end of the day, it doesn't come out perfectly fine, then we know that we've got a lot of work to do.

So those are my recommendations.

MR. MASHBURN: Thank you for your presentation. And I know you put in a ton of work in doing this, and so we always appreciate citizens devoting their time and effort to work on election-related matters. So thank you very much for your efforts as a citizen.

Questions for the board? Questions from the board?

MRS. GHAZAL: Yes. This is Sara Ghazal.

Mr. Rossi, I do appreciate your interest and concerns with elections. But you said you looked at Fulton and DeKalb. Is there any reason in particular you chose those two counties? Are you a resident of either of those counties?

MR. ROSSI: No. I'm a resident of Houston,

but I looked at Houston as well, ma'am. And their numbers were almost perfect.

MRS. GHAZAL: Are you -- I also want to reiterate what Mr. Germany said, that -- and I think the word "audit" is extremely confusing for folks, especially people who've been in the corporate world and understand what corporate audits look like.

As Mr. Germany said, an election audit is a different animal, and it's really -- the outcome of an election audit is simply to identify the proper -- that the count was accurate and identified the right candidate. And I think that's important for people to understand. And the terminology makes it very confusing.

It's not supposed to be a one-to-one recount. A recount was also conducted and that's a different thing altogether. The recount looked at the number of votes and, in fact, the count was valid.

The audit is to identify whether or not the right candidate won. So I just want to leave it at that.

DR. JOHNSTON: Well, I'd like to add --

MR. ROSSI: Am I allowed to respond to that

or -- or I'm not allowed to respond?

MR. MASHBURN: No. Dr. Johnston has the floor.

DR. JOHNSTON: This is a char -- was characterized as risk limiting audit which is really just a statistical tool. And it's just a shortcut to avoid a full audit recount, although risk limiting audit can proceed on to a full recount, which according to Ms. Jones, that happened.

But with a difference of over 4,000 count, I would wonder about whether we can actually rely on the veracity of the Fulton County risk limiting audit. I'm concerned about this organization. I'm concerned about this confusing record-keeping, whether it's scanner destination or input errors or system errors or maybe ballots were grouped or whether it was not enough time or multiple employee data entry designation.

There are so many issues to consider with this case.

MR. MASHBURN: Thank you, Dr. Johnston.

Mr. Rossi, if you'd like to comment briefly and then we'll turn the floor over to Mr. James -- attorney James.

MR. ROSSI: Okay. I was just responding to the board member that was saying that it determined the right outcome of the election. And I would put that in question based on the number of errors that we found for one county in one subset of the total 525,000 votes.

MR. MASHBURN: All right.

Mr. James? Is that right? Your last name is James? Or is your first name James?

MR. JAMES: Last name is James.

MR. MASHBURN: Am I insulting you unintentionally?

MR. JAMES: No, that's fine.

MR. MASHBURN: Jack James. It's attorney James, okay. Attorney James, do you -- you have anything you'd like to add, sir?

MR. JAMES: (indiscernible)

MR. MASHBURN: Hey, Mr. James, we're having trouble hearing you. It sounds like you're on a speaker phone.

MR. JAMES: Can you hear me better now?

MR. MASHBURN: There you go. There you go. Yes, sir. Perfect.

MR. JAMES: Thank you. My presentation was going to be directed at the responsibility --

overall responsibility for elections in Georgia. And you've already stated that that's really not the issue to be presented to the board today.

But it has come up in our previous conversations with members of the secretary of state as to who is alternately responsible for the elections in Georgia. And we just believe that while Fulton County counts the votes, the ultimate responsibility for assuring that the votes are correct falls with the secretary of state. And that is per the Georgia Constitution and per different Georgia code sections which assign the responsibility to the secretary of state, in particular -- let me just get here a second. In particular, code section 21-2-50(b) clearly states that the secretary of state is the chief elections officer.

And then we also believe that per the code where the errors were noted, the results should have been returned to Fulton County to correct the errors. And this was never done. These errors were reported to the secretary of state in February of 2021, these errors on the risk limiting audit, which you've also talked about.

So we believe that Fulton County should've

been required to correct these errors that we've been talking about all day. And this did not happen and we're concerned that the code section, which is O.C.G.A. 21-2-499, was not followed specifically and the errors were not corrected.

MR. MASHBURN: Okay. Thank you.

I think we have Fulton County signed up as the respondent. Are there any more signed up on behalf of the complainant?

MS. HAISTY: Yes. There is Cheryl Ringer from Fulton County.

MR. MASHBURN: Okay. Cheryl Ringer, respondent from Fulton County, you have the floor.

MS. RINGER: Thank you, Chair.

MR. MASHBURN: You can unmute yourself.

MS. RINGER: Can you hear me, sir?

MR. MASHBURN: Yes, we can hear you clearly. Thank you.

MS. RINGER: Okay. Thank you. So I would note that if Fulton County had been aware of the recommendation of the investigators, we would have moved to have this matter continued because we weren't provided with the investigative report or the recommendation.

When I talked to members of the secretary of state's staff, I was told that because of the findings of Voter Works and that what happened in Fulton County was similar to what they saw in other counties, that the recommendation would not be to bind this over.

And so I would express to the board that that's exactly what we've heard. That Fulton County is a larger county, we required more licenses and that should've been provided to us up front. It wasn't and so we had to play catch-up to meet the deadline that was put upon us by the secretary of state.

In doing so, we had other people who tasked -- who were tasked with inputting the information. They were -- there was no training provided. And so we come to find out later that there were different name conventions. There was not a way to go back and do Q&A. There was not a drop-down menu to go back. And so we had issues that we did not have the ability to go back and fix because of time problems.

This is not an issue that was just one of Fulton County. In fact, Voter Works told us that they saw these issues in other counties, but

Fulton County did not have the time to go back and fix the errors because of the number of votes that we had to get into the system in the timeline that was given to us. Because the same thing happened at other counties, Fulton County should not be penalized. Because this happened in DeKalb County, Fulton County should not be penalized.

Instead what should happen -- and I don't remember if it was member Ghazal or member Dr. Johnston that gave you exactly the recommendations that Fulton County had provided in response to the governor's letter.

There should be training provided to the counties for whenever we're going to have a risk limiting audit. If ever we have a risk limiting audit in the future, we need to have training so everyone is on the same page. That didn't happen with this. There needs to be naming conventions that everyone across the state uses and that didn't happen in this instance. And there should be drop-down menus so that there will be an easy way to go and access what has already been entered so that the counties can do Q&A and do some searches on their own. That was not part of

the system.

And so because we know that there were issues with the system, Fulton County should not be penalized.

I will note as well not only were we not provided with the investigative report that the investigator read, we also were not provided with the three-ring binder that Mr. Rossi spoke to. That was just provided to us by your secretary of state's office, Mr. Germany.

So Fulton County, in fact, although we were made aware that this matter would be on the agenda today, we were not provided with sufficient information really to prepare ourselves and to defend ourselves as the chair noted when referring (indiscernible) third-party.

So we were hampered, one, with the audit, and, two, we've been hampered with the way in which this hearing was conducted. Again, we ask that the matter not be bound over to the AG, instead that there will be some work done to implement the recommendations to assist the counties and to support and upgrade the Arlo system.

Are there any questions for Fulton County?

MR. MASHBURN: Any questions for Fulton County from the board? Okay.

Seeing no questions, thank you for your presentation. We appreciate it.

At this time --

MR. ZAGORIN: Mr. Chairman, if I could?

MR. MASHBURN: Yeah.

MR. ZAGORIN: When you're doing these numbers, as the other board member had mentioned earlier -- and I don't know if Mr. Rossi did this when he came up with the total of 4,000, but the ones that we noted that they listed as a double, where they actually went in in two different spots, that he actually took those out so they were no longer doubles. So there wasn't as many doubles as these sheets do because we know that, like, 97 wasn't doubled. One was 47. One was 97. So we can't count that as a double.

I don't know if -- and there was one in here that was completely off. It was 950 to zero because on the sheet someone wrote 95 batches when it should've been just 95 votes. So you can take a hundred and five from there because that's not what it was.

So it's -- when you go back and take all

those numbers out, I don't know if you still have that 4,000 number because some of them are not doubles.

So just to address that ...

MR. MASHBURN: Okay. At this time -- Ryan?

MR. GERMANY: May I make one --

MR. MASHBURN: Sure.

MR. GERMANY: -- one point. The only thing I was going to say, our elections director Blake Evans is here. It might be helpful if you would allow him to talk a little bit about the training that was provided to counties for risk limiting audits. And then of course, there was a pivot to doing a full hand count. But I think that's more, you know, (indiscernible) to ...

MR. MASHBURN: Any objection by the board? Without objection, please proceed.

MR. EVANS: So in preparation for a postelection recertification audit in 2020, one of the -- couple of the things we did is with several counties our office was able to do smaller pilots of what an audit could be like. This was going to be our first statewide audit with paper. And so we did -- we tried out a couple different styles of audits, a more

traditional audit where you simply randomly select a container of ballots from a scanner and then you count those and you compare it to the scanner tape.

But essentially what is considered widely to be the best type of audit in the elections business is the risk limiting audit. And so we audited -- or we piloted that in a couple of counties. We piloted it in Fulton County after the presidential preference primary. Piloted it in Glynn County among others. And then we also had webinars and a series of trainings leading up to the risk limiting audit following November 2020.

There was a state election board rule that was put out that kind of created a more specific framework of what the audit was going to be like, how the contest would be collected and things like that.

Following the election, due to the -- as has already been discussed, due to the margin -- there could've been another contest that was selected with a wider margin and it would've been a sampling of ballots that would've been selected, which is what Arlo was built for is a

sampling of ballots. But, you know, I think in my opinion it was in the public's best interest to choose the presidential contest with that narrow margin, to audit it, and to confirm the outcome of the election.

And so counties were trained on how to create ballot manifests on how to use Arlo. And then, when the decision was made to choose a presidential contest, we did develop a training that was given about 24 to 48 hours after the decision was made about the adjustments that were being made to the process since it was going from a random sampling to a full hand count.

And that training was delivered, and then the audit commenced essentially. Immediately following that, the counties had about six days to complete the audit.

MR. MASHBURN: Thank you.

Questions by the board?

DR. JOHNSTON: I have a question. If Fulton County is responsible for their counts and they're responsible for their audit, I would -- I guess I would say they're accountable for results. If they weren't aware of a problem and they were rushed and they're large and they say

they weren't trained and there were issues with the system, did anybody in Fulton County follow up and recheck their numbers after all was said and done? Or did they take it upon themselves to recheck --

MR. EVANS: So the order of events that happened was, first, the machine count, and then the hand audit. And then following the hand audit, there was a recount by the machine of all -- of all the ballots.

And so I don't know if they went back and checked their hand count, but there was a subsequent machine count following the hand audit.

DR. JOHNSTON: Right. So it seems that Fulton County had so many issues and they were so rushed and pressed for time and it was definitely a highly contested election. Did they after the fact go back and check themselves like an accountant would do?

MR. EVANS: I feel like that would be better asked of Fulton.

MR. MASHBURN: Refresh my recollection of Fulton's representative's name, please.

MS. HAISTY: Cheryl Ringer.

MR. MASHBURN: Attorney Ringer, would you like for -- I assume you're an attorney; correct? Attorney Ringer, are you with us?

MS. RINGER: Yes, I am with you, but I am not able to answer that question. I do know that the members of our staff are attending a meeting. Okay. I'm sorry getting a message from one of the members. Hold on.

MR. MASHBURN: Take your time. Take your time.

MS. RINGER: Okay. So I am -- so our elections director is saying that we rechecked Arlo as much as possible. You know, I assume that is while they were putting it in. I don't know about the ability to go back and recheck after. We do not have the ability to put anything else in Arlo.

Is it a possibility to unmute Nadine Williams?

MR. MASHBURN: We're checking. We'll let you know.

MR. GERMANY: One thing I'll add, while Maggie is looking at that, is keep in mind that -- this is for the board -- the certified results of the election are, you know, the

initial machine count and then the recount from the machine already certified. So the audit numbers are not part of any certified results.

MS. HAISTY: Nadine Williams should be allowed to speak now.

MR. MASHBURN: Ms. Williams, we should be able to hear you if you're unmuted --

MS. WILLIAMS: Can you hear me now?

MR. MASHBURN: -- on your side. Yes, we hear you clearly.

MS. WILLIAMS: Okay. I'm sorry. We did have a team that went into the system to attempt to doublecheck Arlo before the deadline. The problem with the system for Arlo is that if you did not -- let me go back, I'm sorry.

Since it -- since it doesn't have a drop-down box with our batch titles in it, although the secretary of state asked for our batch names prior to the -- the audit, the batch names were not in the system.

So each person had to type in the batch name. But if you did not enter the batch name exactly as a person typed it, with exactly the capital letter, the space, any symbols, you could not find that batch name exactly. So as we tried

to go back and check for balances, if you were not able to find that exact way it was typed, it could cause a duplicate.

So we attempted to go back in and do a checks and balances, but if you were not -- and you took out any duplicates that were -- if there were any possibility of a duplicate or any type of double entry, you took those out. But, again, if the system would've had a drop-down box, it would've eliminate -- it would've helped to recheck some ballots.

But we did do -- we did try to do -- we did do a -- like I said, we did do some checks and balances before we submitted the final before the deadline. And that's why there were so little inconsistencies. We had over one -- over 1,900 batch sheets that we entered and there was, like, (indiscernible) inconsistencies found by Mr. Rossi, but that's where -- but we didn't check a lot of this because -- before the deadline. But a drop-down box would have eliminated -- would've eliminated that situation.

DR. JOHNSTON: Ms. Williams, I understand that. But after the deadline, when you had the leisure of time and the opportunity to relook at

the data entry and the total, did anybody in the office circle back and check the numbers?

MS. WILLIAMS: The results -- like I said, the -- as the person stated, the results were not -- the results did not change. The winner was the same. So there was nothing to go back and check.

So that's why -- we knew that the -- we know that there was nothing -- that nothing had changed. So there was nothing to go back and -- we wanted to make sure everything was as consistent as possible, but, no, we -- we didn't -- everything balanced out over all of the numbers and we did not go back and check anything else. No, ma'am.

If it would've changed any of the results, it would've been a concern. But there was no concern as far as anything (indiscernible), anything more than (indiscernible). The results did not change.

MRS. GHAZAL: This is Sara Ghazal. Have you had a chance to sit down with your board and come up with any -- and this is a suggestion not just for Fulton but any other county that may be listening, but to, perhaps, come up with a series

of recommendations on, moving forward, what would improve the process and what you need -- and I'm sure you've been working with the secretary of state's office on this, but I think from my perspective, as we move forward and look at rulemaking, it would be really helpful to understand from the county perspective the tools that you feel like you need, moving forward, so that we can have confidence in the process and so that we minimize errors moving forward.

MS. WILLIAMS: I believe our attorney noted that in the letter that was sent back in response. But our concern would be mainly for us to have -- as was said, to have more than one license so we could've started off with more than one person entering batch sheets. Because it was such a large county, we would've had to have more than one person being allowed to enter batch sheets from the onset. And, of course, for us having a bigger -- we could have the same deadline. We wouldn't miss that deadline, but we would just have to have more licenses and start from the very beginning.

And, of course, this is a better system that would just be able to not -- to be able to

catch -- the system itself, it just doesn't allow for human error in data entry. If the batch titles would've been there, it wouldn't have allowed you to make your own title for the batch sheets and it would've been our biggest concern. But we did express those things in the letter, I believe, in the response letter.

MRS. GHAZAL: Thank you.

MR. GERMANY: I would add too -- this is Ryan Germany -- that the recommendation for the tools that Fulton County made specifically, having kind of a drop-down to eliminate double-entry and also to eliminate, I think, missed batches, are some of the tools that Voting Works said that they have added to Arlo.

Now, Voting Works said that, you know, the efficacy of those tools depends on the quality of the ballot manifest.

MRS. GHAZAL: Yep.

MR. GERMANY: That's where they're drawn from. So there's no system that's going to eliminate human error in data entry. It's going to hopefully make it harder -- make it easier to catch, but, you know, that's, I think, something really for whatever type of audit we end up doing

is that, I think, as the board considers rules, the ballot manifest is really crucial. And that's a data entry thing as well.

MRS. GHAZAL: And that's backing up a couple of steps and looking at the reconciliation and canvass process.

MR. GERMANY: Even before that --

MRS. GHAZAL: Right. Right.

MR. GERMANY: -- because the ballot manifests are made kind of as --

MRS. GHAZAL: Right.

MR. GERMANY: -- kind of as things are scanned. But, yes, that's correct.

MRS. GHAZAL: Thank you.

MR. MASHBURN: Do we have a recommendation from the investigators to bind the case over to the --

MR. CALLAWAY: This is Jim --

MR. MASHBURN: No, I'm sorry.

MR. CALLAWAY: One other thing worth noting -- and if I understand correctly and I'll ask some folks to correct me if I've got my data wrong -- you know, basically, what we're doing here is the sufficiency of the hand count when it comes to these batches. And I do think it's

worth noting that in the -- that in the original reporting, in terms of it's done electronically, the difference between the original and then the hand recount were only 634 votes in Fulton County out of 525,000 votes cast, possibly 525,000 votes cast.

But that said, you know, I do appreciate that Mr. Rossi has brought this forward because I do see some inconsistencies in how the process was done and that does -- that will always raise concerns for citizens who want to make sure that the -- the elections are accurate.

But -- and -- I also want to express to Fulton County the fact that we have decided to turn it over to the attorney general's office, that's not a final determination, merely a request that they conduct a more thorough investigation. And I think that that's something that needs to be pointed out to them. This isn't a final determination matter.

MR. MASHBURN: I thank you for your comments. That's an excellent segue into me asking the view of the board. I'm ready to entertain a motion if any member of the board is ready to make one.

There's been a recommendation to bind the case over to the attorney general.

DR. JOHNSTON: Seconded.

MR. MASHBURN: Well, you would be making the motion.

DR. JOHNSTON: Oh, I'll make it.

MR. MASHBURN: Okay. Dr. Johnston makes the motion. Is there a second?

MR. LINDSEY: I'll second.

MR. MASHBURN: That's been seconded by Mr. Lindsey. Any discussion?

MRS. GHAZAL: I'm going to express some concern about sending to the attorney general a case that's been, as far as I can tell, incredibly thoroughly investigated. And the errors that have been found are human data entry errors.

And I'm concerned about tying up resources with the attorney general's office looking at -- when, in fact, the biggest problems were with the platform and the resource allocation and not any malfeasance or nonfeasance.

I think this is just a natural result of the processes that were put in place because of the time constraints. So I am not going to support

the motion.

MR. MASHBURN: Further discussion? All those --

MR. LINDSEY: My assumption is that that will be something that would be taken into account by the attorney general, given the level of inconsistencies that we're seeing here. And that could be part of any kind of determination by the attorney general as to what go forward to, working with the secretary of state's office, trying to formulate a solution here because we don't -- you know, while I appreciate the time restraints that Fulton County was under, I do want to make sure that our elections are not just accurate but -- but have the necessary data that will make those like Mr. Rossi, who do -- do do citizen reviews and have done a very good one, you know, can have reasonable confidence in the outcome, not just that the recount is accurate but also that citizens have confidence in it.

And for that reason, while I'm not convinced that there's any kind of malfeasance going on here other than some errors, I do think that the errors were serious enough for further investigation.

And that's the reason for the motion. Thank you.

MR. MASHBURN: Further discussion? Ready to vote? All those in favor of the motion to bind the case over to the attorney general say aye.

THE BOARD MEMBERS: Aye.

MR. MASHBURN: All those opposed?

MRS. GHAZAL: Nay.

MR. MASHBURN: Motion is carried.

And that completes the agenda prior to executive session. And so at this point, I'll entertain a motion that the board enter into executive session.

MRS. GHAZAL: I so move.

MR. MASHBURN: Moved by Ms. Ghazal.

MR. LINDSEY: Second.

DR. JOHNSTON: Second.

MR. MASHBURN: Seconded by Dr. Johnston and Mr. Lindsey. So all those in favor?

THE BOARD MEMBERS: Aye.

MR. MASHBURN: So at this point, we will mute the microphones and move into executive session. Thank you.

(pause)

MR. MASHBURN: We're back on the record for

just a moment. Everyone has been so kind to point out the chair's errors in a diplomatic and kind way. It was pointed out to me that I did not give a time that we were likely to adjourn -- I mean reconvene.

And so the time is now 12:15. We are going to reconvene at 1:00. 1:00 we'll be back on the record. Thank you.

(Executive session from 12:15 until 1:03.)

MR. MASHBURN: We'd like to welcome everybody back to the state election board, March 16th meeting. We are reconvening after executive session. I see -- there's no need to take roll. I can just put on the record that all of the board members are here. So a quorum is in order.

We went into executive session for purposes of discussing pending and potential litigation and for the board to authorize subpoenas in case number 2020-10, Dougherty County, and 2022-003, ballot harvesting.

And so with that, the next item on the agenda is the attorney general's report. And we have Charlene McGowan from the attorney general's office here. So I'll turn the floor over to

Charlene.

MS. MCGOWAN: Thank you, Mr. Chairman.

For the attorney general report today, I am presenting a number of consent orders and final orders that are listed in the meeting agenda.

Two of these are consolidated consent orders with Hancock County and Cobb County that resolve a number of outstanding cases in one order.

I also have a number of final orders that are issuing cease-and-desist orders or reprimands in the six cases that are listed on the agenda. And I'm happy to answer any questions that the board may have about individual cases, but otherwise we recommend that the board vote to approve the consent orders and final orders.

MR. MASHBURN: Thank you. Are there any board members that wish to take any particular case out of the block? Seeing none, are there any questions that the board members have for Charlene about those listed under consent orders?

DR. JOHNSTON: I have a question.

MR. MASHBURN: Okay.

DR. JOHNSTON: Ms. McGowan, on consent order 2021-062.

MS. MCGOWAN: Yes. The Walker County case,

yes.

DR. JOHNSTON: So there was a violation of 21-2-571. And I just had a question as to the recommended fine -- the finding. That is the case that is a felony.

MS. MCGOWAN: Yes, a violation of 21-2-571 is a felony offense. The respondent in that case was also -- was referred to our office for civil administrative legal proceedings and that respondent was also referred to the local district attorney for possible criminal prosecution.

Our office does not handle the criminal prosecution side of things. So this is just resolving -- like I said, it will just resolve the civil side of the matter and the case is -- is still possibly going to be criminally prosecuted.

DR. JOHNSTON: Thank you.

MR. MASHBURN: Thank you. Any further questions by the board members about any of the cases? I'm prepared to entertain a motion to approve the consent orders as recommended by block. Anybody wish to make that motion?

MRS. GHAZAL: So moved.

MR. MASHBURN: Ms. Ghazal has made a motion. Is there a second?

MR. LINDSEY: Second.

MR. MASHBURN: Mr. Lindsey has seconded. And all those -- any discussion?

MR. LINDSEY: I'll have discussion just for those who were listening in. These were provided to us prior and we have reviewed them.

MR. MASHBURN: Good point. All those in favor say aye.

THE BOARD MEMBERS: Aye.

MR. MASHBURN: All those opposed say nay. Passes unanimously.

Is there any -- or would you like to move to consolidated consent orders, Charlene?

MS. MCGOWAN: We're just voting on the consent orders?

MR. MASHBURN: Yes.

MS. MCGOWAN: Yes. We can move to the consolidated consent orders. And again, these are for Hancock County and Cobb County, resolving a number of cases that are -- the numbers are listed on the agenda. Again I'm happy to entertain any questions that the board may have about the specific orders, but otherwise our

office's recommendation is that the board vote to approve the consolidated consent orders.

DR. JOHNSTON: I have a question.

MR. MASHBURN: Dr. Johnston.

DR. JOHNSTON: The consolidated consent order 2017-033, there were stolen election materials. And I couldn't quite understand from the wording. In the summary, says: Never recovered because -- they were never recovered because they were dumped into a dumpster or -- and I wasn't sure whether they ultimately were recovered or just never recovered. There were poll pads, scanners, DRE memory cards, cell phones.

MS. MCGOWAN: My understanding is that there were -- some of the election components that had been stolen were not ultimately recovered is what we were able to glean from the investigation.

DR. JOHNSTON: Okay. So never recovered because they went to the dumpsite. I didn't know if an investigator had information on that.

MRS. GHAZAL: If I could also clarify that we're talking about barcode scanners not ballot scanners. These are just the hand-held barcode scanners.

MS. MCGOWAN: Yeah. And this is back in 2017. So this is a prior. It was the DRE --

DR. JOHNSTON: Okay.

MS. MCGOWAN: -- equipment.

This is a case where -- for the people listening, this is a case where there was some election mater -- election equipment that was in a vehicle that was stolen by an intervening criminal actor. And some of the election machinery or components were not recovered because of the theft.

DR. JOHNSTON: Okay. And we do not use that election material now?

MS. MCGOWAN: That's correct.

DR. JOHNSTON: Okay. Thank you.

MR. MASHBURN: Good question. Okay. Any board member like to pull out any consolidated consent order case for a particular consideration or mention? Okay. Hearing none, now I'll entertain a motion to approve the consolidated consent orders as proposed en bloc.

DR. JOHNSTON: Moved.

MR. MASHBURN: Dr. Johnston has made a motion. Is there a second?

MRS. GHAZAL: Second.

MR. MASHBURN: Ms. Ghazal has seconded. Any discussion? All those in favor say aye.

THE BOARD MEMBERS: Aye.

MR. MASHBURN: All those opposed would say nay. Passes unanimously.

Now move to final orders. Attorney McGowan.

MS. MCGOWAN: For the final orders section, we're presenting for the board's consideration five final orders. One of them goes along with 2011-059 out of Hancock County. While we resolved that case with the board of elections and registration in a consolidated consent order, there's some individual respondents they're issuing final orders against. And these are all orders where we are issuing a cease-and-desist order or a public reprimand.

I'm happy to answer any questions that the board may have, otherwise we recommend that the board vote to approve the final orders.

MR. MASHBURN: Questions or comments by the board? Any board member like to take any case out for particular discussion? Seeing none, now would be the time I would entertain a motion to approve final orders listed in the agenda en bloc -- in a block.

DR. JOHNSTON: I move that we approve final orders.

MR. MASHBURN: Dr. Johnston has made the motion. Is there a second?

MR. LINDSEY: Second.

MR. MASHBURN: Mr. Lindsey has made the second. Any discussion? Seeing none, all those in favor say aye.

THE BOARD MEMBERS: Aye.

MR. MASHBURN: All those opposed would say nay. Passes unanimously. That completes the items on the agenda.

We would like to once again welcome our newest members to the unpaid and unstaffed role that you've now undertaken for the good of the citizens of Georgia. And we thank you for your willingness to serve the public in this capacity and we welcome you and look forward to working with you in the future. And thank you for your willingness to serve.

And at this point if we're ready to adjourn, I'll hear a motion to adjourn.

MRS. GHAZAL: So moved.

MR. MASHBURN: Ms. Ghazal has made the motion.

DR. JOHNSTON: Second.

MR. MASHBURN: Dr. Johnston has seconded. All -- we have no discussion. All those in favor, aye.

THE BOARD MEMBERS: Aye.

MR. MASHBURN: Aye. We are -- all those opposed? We are adjourned.

Thank you, everyone.

(Concluded at 1:13 p.m.)

CERTIFICATE

STATE OF GEORGIA

I hereby certify that the foregoing meeting was taken down via Zoom Webinar and was reduced to typewriting under my direction; that the foregoing transcript 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 31st day of March, 2022.

Mary K McMahan

Mary K McMahan, CCR, CVR, RPR, FPR
Certified Court Reporter
Certificate Number 2757

In The Matter Of:

SECRETARY OF STATE
STATE ELECTION BOARD HEARING

May 17, 2022

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STATE ELECTION BOARD MEETING

Room 341

State Capitol Building

Atlanta, Georgia 30334

August 22, 2022

8:33 A. M.

SHANA LEDING, CCR, 2757
STEVEN RAY GREEN COURT REPORTING LLC
ATLANTA, GEORGIA 30324
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APPEARANCE OF THE PANEL

Mr. William S. Duffey, Jr., Chair

Mr. Matthew Mashburn, Member

Mrs. Sara Tindall Ghazal, Member

Mr. Edward Lindsey, Member

Dr. Janice W. Johnston, Member

ALSO PRESENT:

Ryan Germany, General Counsel

Charlene McGowan, Assistant Attorney General

Sara Koth, Investigator

Mr. Evans

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P R O C E E D I N G S

CHAIRMAN DUFFEY: Good morning, everybody. I'm going to call the meeting of the State Election Board on this day August 22, 2002 to order. We will begin with Dr. Johnston leading us in our invocation and the Pledge of Allegiance.

DR. JOHNSTON: (Invocation.)

(Pledge of Allegiance.)

CHAIRMAN DUFFEY: Please be seated.

As I left my house this morning my wife Betsy said, it wasn't too long ago that you told me that you had retired. Said that you're not -- you're going out with two briefcases, it doesn't look very much to me like you have and then she said, but it doesn't surprise me.

When I was in undergraduate school, my undergraduate mentor taught a class and one of the lectures that he gave, he talked about the alignment of one's values with their conduct. And one of two examples he gave of his personal alignment was the act of voting. He said there's something incredibly important to engage in the fundamental act of participating in a democracy. And said that he believed deeply in the right of citizens to vote in the places where they have

that right whether it's the United States or some other country, but for him it was the United States. And it's the act of voting that said that such an important value to me that I got great satisfaction and fulfillment when I actually engaged in that process. I had just voted in my very first presidential election and I found myself that that was an important value for me. It was fulfilling, it was patriotic in the greatest sense of participation in the American democracy. I have voted in every election, including those when I served overseas, since 1970.

The importance of voting is the reason that I decided to leave, actually, the comfort of being in retirement to accept the request made of me to chair the State Election Board with my fellow board colleagues. This is harder work than you will ever imagine. It has taken more time than I ever expected. But there is something about doing something that's important in engaging in the conduct that aligns with your value that makes -- that makes work not as onerous and burdensome as it would be if you didn't like or didn't believe in what you were doing.

Before I accepted this, I want to tell you I asked two questions. The first was would I and the Board be independent and would the Board have adequate resources to perform its public duties? The answer to both of those questions was yes. The members of the Board are an impressive group of public servants. They've been doing this a long time, much longer than me. Mr. Mashburn, Ms. Ghazal, Mr. Lindsey and Dr. Johnston are deeply committed to our state. We've had long conversations about why we do this, why we want to do this, why it's important to us. And their dedication is to ensure that there is integrity and fairness in our voting processes. They each bring a different perspective to the Board and I've been the beneficiary of their time and experience and wisdom as I have begun my duties. They are exceptional people with exceptional commitment to you and to our state.

The promise of our independence is being met. There are organizational changes that are required to be put into place, but there is the willingness on the part of the Board and the Secretary of State's Office to work collaboratively in what are changes that need to be made as we operate as we

are constituted now under Georgia law.

The promise of resources is moving forward. Not as quickly as I would like for it to move forward. One of the problems is that we're in-between legislative sessions. There's an existing budget, we have to work within a budget and make changes to it. But I find a significant commitment to giving the Board and finding for the Board the resources that I have told them and the Board has told them that we need to operate as we want to operate in service to you and the State.

We've been invited to amend the budget that I've already submitted to the General Assembly and to the Governor's office with a commitment that they will discuss with us our needs and based upon the amount of money that I think we need, they have -- they have not rejected it out of hand. And, in fact, I think they wonder whether or not we've asked for enough. Maybe I should correct that.

Like everybody else on the Board, I bring a different experience than they do to this process. First, my experience is largely, and it was until I took this assignment, very much like yours, what I knew about the voting process I learned as a

voter. Like you, I engaged the process expecting it to be operated with integrity and efficiency. I understand organizations, organizational change and its impact and the requirement to build a team focused on accomplishing objectives. I'm a lawyer and my work over my career has been varied, it's focused on developing an understanding facts in a variety and very complex situations and then interpreting those facts consistent with the law. My approach is guided always by the facts and the law and the exercise of discretion is undertaken only when it's allowed where the facts and the law permit it. My belief in public service is that public service means serving the public, that the leader of an organization does the work of the organization, and that integrity requires courage to do what is right even if unpopular.

One of our core duties is to hear and respond to complaints. That's how we learn of specific and systemic issues. I had never reviewed a complaint. I now can say that I've reviewed lots of complaints. And there is -- they're interesting not only in the specific instances that come up, but it's been really interesting to me that they tend to illustrate for me and

disclose to me some of the fundamental issues that arise in large counties and in small counties and that's given me a better sense of the value of complaints not with respect to just specific conduct, but what they tell me and I think what they tell the other members of the Board about the process within the state.

I'll also say this, that I have been impressed with those occasions when counties in particular have reported to us that they have made a mistake and then told us what they have done to correct it. I spent a lot of time sentencing people when I was a federal judge. It was always important to me to find out what a defendant's response was to a claim that they had engaged in wrongful conduct. I think anybody in a system like this that has the wisdom to tell us that they have done something wrong, explain the consequences of that and that they have done things to correct the action that they have self-identified and identified to us, that those counties ought to get credit for that and they will. And some other complaints, I've -- I've read those and I've read the response of counties and individuals as well as members of precincts

that have worked elections. Their response is not to admit mistakes and then their response is not to cooperate. That is going to end.

Let me finish by saying that it is our privilege for each of us to serve in this opportunity the citizens of our state and our state in general. As I told you, the work is hard and that is true of all work, though, that's important. I would simply ask that you be patient with us as we navigate our duties and the Board's change of status. I want to thank everybody for being here whether you're here in person or whether you're watching this through our technology and I pledge to you as the newest member of the Board and on behalf of my other board colleagues that we will do our very best to serve you well honestly and with integrity.

First item on the agenda is the approval of the Board minutes. They have been distributed to each of the Board members.

Is there a motion to approve the minutes or are there any suggestions for amendment?

MR. MASHBURN: So moved, Mr. Chairman.

CHAIRMAN DUFFEY: Second?

MS. GHAZAL: Second.

CHAIRMAN DUFFEY: It's been moved and seconded that the agenda of the meeting of May 17, 2002, be approved. Is there any discussion on the motion?

MR. MASHBURN: Mr. Chair, I think you said "agenda," but I think we approved "the minutes."

CHAIRMAN DUFFEY: I'm sorry, it's the minutes. Thank you. See, he was the acting chair so he's better at this than I am and his job is to make sure that I don't make mistakes.

SPEAKER: Mr. Chairman, please use your microphone. I'm very hard of hearing.

Thank you.

CHAIRMAN DUFFEY: Thank you. I'm sorry, it was on, but I guess it wasn't close enough.

All those in favor of approving the minutes of May 17, 2022, say aye.

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: All those opposed, no.

(No Response.)

CHAIRMAN DUFFEY: The minutes are approved.

Next item on the agenda is an update on the Fulton County Performance Review and that will be given by Mr. Germany, the General Counsel of the Secretary of State's Office.

MR. GERMANY: Good morning. Judge Duffey, board members, thank you for your time this morning and for your service on the Board.

I'd like to give the Board a brief update on the status of the performance review of Fulton County. Because we have some new members of the Board from when this process was started, I'm going to give a little more in-depth update than I have in past meetings.

First, I'll speak to the question that is probably foremost on everyone's mind which is timing. When we started this process, my -- which was almost exactly a year ago, the goal was to complete the review in the calendar year 2021. That was a known aggressive timeline. The reason we had it was because we knew once we got into 2022, it would be difficult to continue to move forward with all the election responsibilities of both the members of the performance review team and to Fulton County. Though unfortunately, the performance review is not going to be completed prior to the 2022 election or the certification of that election, and I'll explain the reasons for that after giving a little background on the process for the members who were not here when the

process begun.

The performance review team is myself, Ricky Kittle, chairperson of the Catoosa County Board of Elections and Stephen Day, a board member of the Gwinnett County Board of Elections and the former chair of that board. Both Ricky and Stephen have turned out to be excellent selections by the State Election Board. They have been invaluable throughout this process and I'm very thankful for their service.

The performance review was put in place by SB 202 and the duty of the performance review team as spelled out in O.C.G.A. §21-2-106 is to make a thorough and complete investigation of the local election officials with respect to all actions of the local election official regarding the technical competency and maintenance and operation of election equipment, proper administration and oversight of registration and elections, and compliance with state law and regulations. That's obviously a big job. After that thorough and complete investigation is complete, we are to issue a report of our findings to the Secretary of State, the State Election Board and the local governing authority which shall include such

evaluations, judgments and recommendations as the performance review team deems appropriate.

The performance review team was appointed by the State Election Board in August 2021, almost exactly a year ago. I told this board in our first update that the goal was to complete it in 2021. That was an aggressive timeline, we have not met it, unfortunately. We have made substantial progress, I believe, and we have -- and we'll -- and have -- and we'll continue to do so. I'll explain a bit more about what we have done so far, but first I want to say that Fulton County has been very cooperative with the review process. They have retained very competent counsel who have been helpful. They have opened up their staff and their facilities to the review team and they have produced requested documents.

So far, the review team has observed the absentee ballot process in Fulton County during the 2021 elections as well as early voting and election day voting. We've also observed election day operations and postelection operations at Fulton County headquarters. We've interviewed staff members of Fulton County elections and we have a couple more interviews to conduct on that

front. We also plan to interview the current Fulton board members and potentially former board members as well.

We do want to be cognizant of the fact that Fulton County election staff and board members have a significant amount of work to accomplish right now in preparing for that November election. That's obviously their most crucial task right now. But I'm confident we can work with their counsel to complete our remaining tasks in a manner that does not interfere with their ongoing work to prepare for the upcoming election.

In addition to those tasks and in an attempt to expand our reach beyond the three of us, we have also utilized the work of the Secretary of State's Office investigations and elections teams. Secretary of State investigators have investigated numerous allegations regarding Fulton County so we are utilizing that work to assist in our review. And the same for Secretary of State elections team, they work closely with Fulton County and every county so we are able to incorporate what elections has learned into our review as well, particularly in regards to redistricting and reconciliation.

In terms of when I expect the team to finish its review, I think that a goal of prior to the end of this year is reasonable and doable, but I don't believe it would be possible to complete the report until after the certification deadline for the November elections.

And I'm happy to take any questions.

CHAIRMAN DUFFEY: Mr. Germany, it seems that since you're doing the review of their processes that one way in which you could most critically evaluate that is to have a number of people observing the Fulton County operations during the November 2022 election. Can you describe for us what that would look like and how many people might be involved and what specifically you might be focusing on?

MR. GERMANY: Well, that's been something we -- the performance review team has been discussing. It is something that we would like to do. There's obviously three members of a performance review team, so that's not that many people. And the other challenge is the members of the performance review team, Mr. Kittle, Mr. Day and myself, they all have sort of competing election responsibilities in their own counties at

those times. I think we will be able to do some observation of each of the same things we did in 2021 and I think it's vital because 2021 is obviously a much smaller election so we want to be able to see, okay, how do these processes work in a general election environment and so we're discussing amongst ourselves how best to do that. There's three of us and so, you know, what I envision is something similar to what we did in 2021 and Fulton was cooperative in setting up, letting us visit certain polling places, walking us through different processes and essentially letting the team see whatever they wanted to see. So I envision doing the same thing. I think the scheduling part of it could be the most problematic part.

CHAIRMAN DUFFEY: I guess the other question I have is -- maybe two -- is that with the work that you've done so far you must have at least some sense of where you would want to look more closely. So is it possible to say based upon what you know that there are certain places where you would -- if you did observe that you would want to -- you would want to observe more intently. And then secondly, I know you've only got three folks,

but is there any way that you could enlist other people having those three people say that when you look at this particular part of the operation, I want you to look specifically at these things and report back to me so that they don't have to do it themselves?

MR. GERMANY: Well, to your first question, yes, I think we have kind of -- we do you have areas where we say, okay, these are things that we are seeing that we would like to observe in more detail and these are things where, okay, everything seems to be in order and you don't really require further observation.

In terms of expanding the number of people, I think that we'll be able to do hopefully some of what we've already done by using Secretary of State investigators and elections people that are obviously going to have the same challenge as the Board members. You know we did bring up the possibility with Fulton as bringing in some outside consultants and that was -- you were talking about resources earlier, so that wasn't something that the State had the resources to bring in. Fulton, I think did not feel that they had to do that underneath the current law and so

we have not moved forward with that at this point. That would be a possibility, but as it is a bit unclear, I don't know that the law allows it to be forced upon the county without their kind of cooperation. Especially because we were envisioning -- we were essentially asking them to pay for those outside consultants.

MR. LINDSEY: Mr. Germany, tell us exactly --

SPEAKER: I'm sorry, I can't hear you.

MR. LINDSEY: I'm sorry. Thank you. Tell us -- tell us what else needs to be done.

MR. GERMANY: I'm sorry?

MR. LINDSEY: What are the next steps that you need to be -- you and your group need to be involved in order to get to the completion?

MR. GERMANY: The next steps are basically scheduling remaining interviews. We have some people that we know we want to interview. I think what we'll find is there will be additional people as we complete those interviews and then observation of the 2022 election and then writing a report.

MR. LINDSEY: My recommendation to you at this point is to convey to the chair those needed additional resources to get you to the completion

line and also to assist you in observing whatever needs to be observed regarding the 2022 election. The chair has been pretty good about going to whoever we can to try to find the resources necessary, but I do think it's very incumbent in terms of having folks to have faith in the outcome of this 2022 election that we -- that we apply whatever resources are necessary to get you to the finish line. And I think you'll find the Board very receptive if you can provide us with a list so it's not just the three of you, but any additional resources including possibly somebody from the outside because it's time for us to get to the complete -- to the finish line here.

DR. JOHNSTON: Mr. Chair?

CHAIRMAN DUFFEY: Dr. Johnston.

DR. JOHNSTON: Thank you. Fulton County has a budget of $37 million and moving upward to conduct this election this year. It seems to me that they would be able to utilize some of these funds to enlist observers from the outside.

MR. GERMANY: I would agree. Thank you.

CHAIRMAN DUFFEY: There's a couple of management things that we might be able to do to help you. One is if you could sit down with

whoever you're interacting with at Fulton County with you three members and talk to Fulton County and say this is what we need, these are the people that we need to interview, these are the documents that we need to review and these are the operations that we need to review and let them know, and let them agree in that writing that those are the activities that you're going to undertake between now and whenever you're ready to write your report this year and tell them that the Board has asked for that so that we can monitor progress to the end. This has taken, you know, a long time to get there, but it is important for it to be completed and then when we get that we can say we think it's important for you to allocate the resources necessary to complete those things that you have agreed to do on behalf of your group. And let them know that we are actively involved. I mean, it's our performance review. We're actively involved in making sure that it gets done and that we're going to look at the progress because we want it to be completed.

And I'm encouraged by the fact that you think that it might -- that it's possible to get it done by the end of the year. We need to know that. We

have to make decisions based upon what you find and sometimes putting something in writing and knowing that the people who commissioned it are actually looking at the progress has an impact, especially when we weigh in and say it's necessary for you to find the resources to do what you want to do and need to do.

Ms. Ghazal.

MS. GHAZAL: I'd like to follow up that it's not just Fulton County that needs a sense of finality, but there are 158 other counties that are watching this and I think are deeply concerned about the process itself and the lack of clarity so having closure and moving forward is really critical overall I think for a lot more than just Fulton and a lot more than just the voters.

CHAIRMAN DUFFEY: Anybody else have any questions?

Mr. Germany, one of the things that I think that the Board wants to do, and this is in adjunct to what Ms. Ghazal said, which is accountability and knowing that there are people watching the processes and make sure that they are trustworthy and that there's integrity within them. It makes people look at their duties differently. And I

think what you all will produce to us and to show them that this process is rigorous and that we're involved will show other counties that that's what we want, that's what the citizens want and that's what any good organization that tries to do something well does, which is why every corporation has audit committees, have internal investigation committees and a lot of committees and that's all we're trying to build into this are some principles that tell people that in different counties that there's a process by which their conduct will be reviewed.

And to go back to my opening comments that those counties that say, you know, we do have problems, here's what the problems are, here's what we are doing to correct those. That's the attitude that we want is to create more of a collegiality, a collegiate relationship between us and them and to motivate them to say these are the issues that we have, but we recognize them. Here's what we need in order to address those issues and here's what we've done to begin that process. I just think that's important to the overall integrity of the elections. But I know that you have that same commitment as we do.

Thank you.

Anything else?

All right. Thank you, Mr. Germany, but don't leave because we're going to have another report from you.

I want to give the audience some background on this. This is a report on what is called Proposed Methods for Acceptance and Equitable Distribution of Grant Funds for Election Administration. Long title which isn't -- doesn't itself tell you what the issue is, so let me explain that to you.

There are some counties in the State that have been provided with funding while in connection to help fund their election activities. Not all counties receive money, not all counties had asked for money, but some counties have gotten money and in some cases it's been significant. So the General Assembly in SB 202 thought that there ought be some process for making sure that that money is deployed in a way where there's -- where it's most needed and where it can be used most efficiently so what they asked us to do is to look at that process and see whether or not there is a recommended way of taking money to -- that is

given for the purpose of election administration and finding a fair way of distributing that. There's probably also a fundamental question about how do we make sure that that money isn't given for the purpose of trying to influence conduct on the part of elections or election officials, or that matter, us. And that's -- and that's something that I think we ought to have a little bit of a discussion with today. But what we've asked Mr. Germany to do is to help us fulfill the request -- well, help us fulfill the requirement that we have to make these recommendations and so that's the report that -- that he is going to give to us now and that's the background I wanted you to have before the report was given.

MR. GERMANY: Thank you, Mr. Chair. That's correct. So in Senate Bill 202, the General Assembly asked the State Election Board to study and report back a proposed method for accepting donations intended to facilitate the administration of elections. And I think, you know, the idea is to have those -- the idea that I think was really wanted to study was can these donations go through essentially a State Election Board and have that type of oversight, you know,

prior to just going straight to a county for all the reasons, Judge Duffey, that you just said.

The model that we sorta looked at, first, we looked at different -- to see if it was something that was done in other states. We weren't able to find kind of an exact model from any other states. I think the closest model is how states disperse and distribute federal funds from HAVA, the Help America Vote Act. That's something currently that Secretary of State's Office does for Georgia and generally other secretaries of state or if it's not secretaries of state, the State Election Board would do that in other states. The, I think, takeaway of the report is, yes, something like that is possible, but it does -- it is going to require to go back to some of your opening remarks, significant resources from the kind of the grant review, grant distribution and then, you know, of course, the kind of reporting requirements that -- that are required. And so that's essentially the conclusion of the report that, you know, a legislative scheme could be put into effect that kind of models that for private grants. It would take significant resources from the -- that the Board -- you know for the Board to

essentially administer that.

CHAIRMAN DUFFEY: Everybody here on the Board has received the report. Are there any questions or comments on the report or suggestions beyond the report?

MS. GHAZAL: Yes. Thank you, Judge and Chair. Mr. Germany, from my perspective, I come from a background from nonprofit so I have dealt with grant application, grant administration, grant reporting. And I know how critical it is that when you're involved in that, that you have real on-the-ground knowledge of how those funds need to be used.

I also want to acknowledge that every county is constrained by state law and board regulations, and so funds, no matter where the sources are, have to be expended according to Georgia statute. I would suggest that the State Election Board as a volunteer, part-time body is not best suited to oversee and administer these grants as much as the Secretary of State's Office is because you are the folks who are talking every day with county officials. You have your liaisons with the counties and you simply see the needs much more clearly than anybody on this board could possibly

do. So that would be my preference, that if the General Assembly decides to move forward with this model that the staffing is actually housed and overseen by the Secretary of State's Office with some oversight function from this board, certainly that the day-to-day administration really needs to happen with the folks who are working day to day with the counties. That's -- that's my suggestions.

MR. GERMANY: I think that's right that essentially it will be -- there will be involvement similarly from counties, of course, from the nonprofits you mentioned, from the State Election Board and Secretary of State's Office. I think the bottom line of the report -- of the -- or this report is -- something which is more like kind of a -- I think a starting point for the General Assembly is you -- if we decide to put in place something like this, it is going to take significant resources to make sure money is being spent fairly, being distributed fairly and then being spent in the way -- and so I think that'll really be up to the General Assembly to see where do they want to allocate those -- you know, to whom do they allocate those resources, but the

gist of this is those resources are going to be needed somewhere.

MS. GHAZAL: One other point, I think there's still a lacuna in the law which is how counties manage in-kind donations which don't pose any sort of concern. And what I mean by that is if a facility owner wants to donate the use of their -- of their hall for an election, you just literally just as a precinct so that the counties don't have to expend tax funds in order to hold the election, there's still a little bit of silence there if -- and I'd be interested in hearing from county election boards whether the current process of going through the county commissions is feasible for that and I don't know if anybody has -- has undertaken any inquiries. I think we'll be -- we'll see this November a lot more clearly how that process is working for them and how in-kind donations are being managed and whether or not there's a problem with that and so I would like -- after November, I think that deserves some follow-up as well.

MR. GERMANY: We have, I think, received, especially after SB 202 was passed, some questions along that same -- along those same lines from

counties. And I think you're right to point out that that's not the type of thing that I think the General Assembly was really thinking when they put some of the restrictions in place. They were moving at the different types and amount of money that we saw in 2020 which we really hadn't seen before.

And another thing -- did -- it doesn't seem to be indication that we'll be seeing that type of funding into elections, at least this year either and so I think that's good. But in terms of the things that might have been like polling places and things like that, I hope that that's kind of continuing as it has and I think the law kind of allows for that, but some additional clarity would not -- would not hurt.

CHAIRMAN DUFFEY: This discussion suggests two things to me. First, I've only considered this -- that these are cash contributions that are being made so not that in-kind contributions aren't important, but let me just say that for a second.

In the report there are two options. One would be a pro rata distribution to counties based upon either the number of registered voters or the

number of people who vote. I'm not really in favor of that because, one, we know some counties don't want the money or don't need the money and I'm a firm believer that money ought to follow need and we ought to evaluate what the need is and find some process for which we determine where the money is best allocated. So that's my first comment on the report.

The second is I do think that there is a decision on who is it that will do the investigation to determine where the need is. I don't think that that ought to be wholly within the Board, us, nor do I think it should be wholly within the Secretary of State's Office for the resource issue to begin with. You know, maybe down the line if there was resource was made available we could spin this off. But my thought was this: Could we suggest to the General Assembly that we create a grant distribution commission made up of maybe two representatives of the Secretary of State's Office, two county representatives, somebody who has expertise in grant evaluation and distribution, maybe ultimately seven or nine people and charge them and ask them to do what we do which is to

volunteer their time just on this issue so that it's not all you, it's not all of us. And we involve some other people who have an interest in making sure the process has integrity and ask them to do the evaluation for us and make the recommendation that we would both receive, the Secretary of State's Office and the Board would ultimately receive, to ask them either to tweak their work or ultimately to approve it. And I think the more people we get involved in this, assuming we get people to volunteer do it, but we tell them that this work is really important because we don't want undue influence in elections. And would they agree to serve on this commission or whatever we call it. Maybe that's a solution for addressing the manpower needs without taxing either the Secretary of State's Office or us and put some people in place and say that's all we want you to do is focus on this issue. That's just a thought.

MR. GERMANY: To your first point, I would just add that what our office has seen in the HAVA grant distributions is they really are, I think, kind of a vital lifeline to smaller counties. Because a lot of these grants are smaller, it

might be $10,000 or say, for some security upgrades or a reimbursement, sort of things like that. And Dr. Johnston made the point that Fulton County has a $37 million elections' budget, so they can make those -- and they do apply for HAVA grants, but it goes a lot further, I think, in a smaller county that might not otherwise have that. So that is kind of the model that I think tends to be followed and HAVA -- because a lot of it as requires some matching and or, you know, and we pay three dollars for every one dollar the county pays. I say "we," it's really federal funds administered through Secretary of State's Office, but -- so, again, I think your first point is exactly right.

CHAIRMAN DUFFEY: Is this money that counties, whether large or small, go and approach organizations that have money or are these organizations saying we have money, we'd like to give it to you, but you've got apply for it or is it both?

MR. GERMANY: It's a hard question because we hadn't seen it until 2020, it was an anomaly. What happened before that was the federal funds, that was kind of the -- that was where kind of the

grant money was and it was used for -- as spelled out by HAVA, it's used for kind of disability upgrades to make polling places more accessible. It's also can be used for security upgrades because a lot of that I think would go to physical security in buildings and in offices and in things like that. And so the idea was there, the federal government has some money and they see some needs and so they're trying to fund that. And the model in 2020, it was just such an anomaly. I don't know that I could really speak to it very well.

CHAIRMAN DUFFEY: So what I hear you saying is that there was a lot of money in 2020, we just don't even know whether or not -- what the magnitude of the money is going to be in future elections.

MR. GERMANY: I would say the magnitude I think is going to -- I think 2020 was very much an anomaly because of COVID, because of a lot of reasons and so hopefully -- hopefully it is an anomaly for that reason. But what we haven't seen at least this year, those same types of things anywhere around the country really in terms of -- in terms of that much money coming into elections.

CHAIRMAN DUFFEY: Which means it might not be

as big a project as we expect.

MR. GERMANY: Correct.

DR. JOHNSTON: Mr. Chairman, I'd like to share some of my views. Elections --

CHAIRMAN DUFFEY: I think it helps if I turn the mic on. This is technical requirement that I didn't think I had as the chair. Bear with me. I ask for your patience --

DR. JOHNSTON: I think it's on now.

CHAIRMAN DUFFEY: -- patience with this.

DR. JOHNSTON: It's on now.

Elections are not charities. The decisions that one makes with regard to grants is only as good as the bias of those in control. There are a number of issues to consider.

First, grants are gifts with strings attached. Gifts, especially money, that's not earned, influences behavior and it interferes with the accountability of the recipient to the elector or the taxpayer. And worst of all, they're addicting. The first grant is welcomed, the second is expected and the third is demanded. Grants encourage unnecessary spending and too quickly evolve from a want to a need to a demand. Grants come with requirements by the grantor and

carry significant risk that the integrity of the election process might be compromised. I'm very much against grants and I think counties should live within their means. If we do eventually have to deal with grants, I think it should be under the control of the State Election Board and must be approved by the General Assembly. And further, I would recommend that if there are grants there be -- there can be no strings attached by outside parties or guidelines developed that would not enhance election integrity in every aspect.

CHAIRMAN DUFFEY: Thank you, Dr. Johnston. That's -- you know, this is a great example of different perspectives. I came from a profession where nobody ever gave lawyers money unless we did a lot of work for it. So nobody was coming to lawyers and saying we want to give you grants.

In the medical profession, that's different. I agree totally with Dr. Johnston that a process -- if this happens, if there's money that wants to be granted, where there's a gatekeeper and that that gatekeeper's responsibility would not only be for making sure that it goes to places where it's needed, but the gatekeeper's responsibility might be that we refuse your money

because of either the appearance of it or the subtext of it that you're trying to influence. I'll give you an example. We did some work with Kennesaw State with addiction center and one of the -- one of the organizations that wanted to give us a lot of money was a liquor distributor. And we said no because -- and they were surprised because it was a lot of money, but we said we are not going to have that relationship because of the public perception that it creates. And it ultimately with -- what we thought might be that the center would be used to promote their product, so. But I think a gatekeeping function that says, I know you've offered to make that available, but we -- we decline it would be a way of protecting against somebody trying to use grant money, if we decide to do this, in a way that would impede or tarnish the reputation of the State or its election processes.

Anybody else? Yeah.

MR. MASHBURN: Thank you, Mr. Chairman.

I, first want to kind of add on to the previous presentation, is Ryan, you -- the fact that you're presenting on these two important issues demonstrates the Board has a lot of

confidence in you and you do a great job and I think the citizens of Georgia benefit from your experience and your hard work and we put a lot on you and that's because we -- I think you're one of the finest election lawyers that Georgia has. Thank you for your service and we appreciate it very much.

The thing that troubles me on this private grant is the original purpose of it, as you well stated, was given to us as responding to COVID and so who can object that you're buying hand sanitizer. But as we look throughout the nation there are stories that some counties used the money, I think Green Bay, Wisconsin is one that I have heard of where the money was used to hire private people to come in and take over the government. And so I think that one of the things or my input on this is the key to me on accepting this money is the people who allocate it have to stand before the people and let the people judge whether they made a good choice or not. And as you're talking about donated funds, you're responsible to the donors and those donors might not even be in Georgia. So if somebody in Oregon wants to give money in Georgia, what's -- you

know, what's going on there and is there an accountability if we're being responsible to donors in Oregon, did they get a -- did the people from Georgia like what they did? So I think one of the keys as the discussion keeps going for me is the one of accountability --

(Audio disruption)

CHAIRMAN DUFFEY: I told you that you should not let the Chair have responsibilities with technology.

MR. MASHBURN: But the key to me is whether these funds are allocated -- is the people ultimately doing the allocation, are they responsible to the people? And do the people get to come in every two years and say you made a good expense, you made a bad expense, we're going to throw you out, we don't like the way you spend money. So that's the input that I would give in this forum where we're able to give our opinions of things, that's what I'm going to be primarily focused on and looking for is where is the accountability and who gets the ultimate final approval on whether that was a good expense or a bad expense?

And then one final, I said that was final,

but I have another one is, you know, a particular problem if you allocate it on a *per capita* basis, you have a particular problem in counties where there are very identifiable demographic issues where you have a 100 percent Republican precincts and 100 percent Democrat precincts in the same county. I don't think *per capita* there is sufficient and I think you got to dig even deeper and say is this county allocating it just to one party or another, so it even needs to dig deeper than that.

But to circle back, thank you for all your hard work and your contribution to this and I look forward to the discussions as we continue to wrestle with this, but I think the general assembly was very wise and very smart to get a handle on it even if it was just a once-in-a-lifetime pandemic response as it seems to have been in Georgia mostly. Still, we can't have the Wild West out there and money flying around, so thank you. Thank you, Mr. Chairman.

CHAIRMAN DUFFEY: You're welcome.

Ultimately, we have a responsibility under SB 202 to report and to make recommendations to the General Assembly. My question is what's our

process from here if we have to do that, do we -- do we want to approve this report, do we want to have some input on giving Mr. Germany comments about what we would like the report to look like and work collectively to do that before we finalize it and then ultimately at some point have to -- I guess have to vote on the report and we will and the recommendation we'll make to the General Assembly; does that make sense to everybody?

MR. MASHBURN: Yes.

MR. GERMANY: And then, Mr. Chair --

CHAIRMAN DUFFEY: Yes.

MR. GERMANY: I would just add that I think when any report is sent to the General Assembly, in my experience, you know, that would kind of be the beginning of it, so I think they would probably appreciate -- if they decide to take up the issue -- kind of additional input from the State Election Board. So I do think that there will be opportunity to kind of provide deeper input on kind of more specific questions as they come up with the General Assembly.

CHAIRMAN DUFFEY: So what would the Board think about us providing some editorial comment to

the report for Mr. Germany to consider that reflects some of the comments that we made here today and then try to work collectively on finalizing what we're comfortable with and what you're comfortable with before we submit it to the General Assembly?

MR. LINDSEY: If I may, Mr. Chairman, I view Mr. Germany's report as the -- as the first draft that is given to us and it's then incumbent upon us to take a look, to make any revisions and, certainly, I think it should fall on some board member to take that up and to take a look and then come back at the next meeting with a recommendation on what goes to the General Assembly.

What Mr. Germany said regarding the General Assembly is absolutely right, they're going to take this report and then decide for themselves what they like to hear, but it's incumbent upon us to do so. And since I have said "some board member," I guess that's going to be probably a good idea if I volunteer, so I'm more than happy to take the report and accept any input from the other board members and then come back to the Board with a recommendation at the next board

meeting.

CHAIRMAN DUFFEY: Does anybody have an objection to Mr. Lindsey volunteering and having responsibility?

MR. LINDSEY: And I would like to -- I would like to accept anybody else's nomination. I just feel like let's keep this thing moving.

CHAIRMAN DUFFEY: I think that makes a lot of sense. And, Mr. Lindsey, thank you for doing that.

MR. LINDSEY: Thank you.

CHAIRMAN DUFFEY: Anything else on the report?

MR. MASHBURN: Mr. Chair, I think one of the decision points that we need to make is on Dr. Johnson's point is the Board -- probably not now. We need some time to think about this. Is one of the -- there were previously two options how you allocate this or that, but I think Dr. Johnson's comment is one of the options is no grants at all.

CHAIRMAN DUFFEY: Right.

MR. MASHBURN: So I don't think I'm ready to cast a vote on that today, but at a future meeting --

MR. LINDSEY: That's the whole point of coming back is for you to be able to decide and now I plan on sitting down with each of you individually to get your input to see whether or not we can work out something.

I do worry about anytime a grant -- let me go back to -- to the Hope scholarship and to the lottery. Governor Miller in his wisdom decided that he was not going to simply devote lottery money to education in general because he had seen what had happened in other states in which the money went to education in general and went to the General Assembly -- then they reduced so much money came out of the general fund. So he instead went and looked at projects that the State does not already do. That's my view when it comes to how we handle grants. I don't want -- I don't want the grant money to ever be part of the core purpose of an election system because I have seen how legislatures do things. I have a little experience with that. And so, you know, we -- I plan on inputting my own thoughts as well as each of yours and Dr. Johnson's to sort of try to come up with something that the Board can work with that I plan on coming back with. And then you all

can decide if you like the recommendation or not. And I plan on -- I fully expect to -- be more changes once I make a proposal.

DR. JOHNSTON: Mr. Chair?

CHAIRMAN DUFFEY: Yes.

DR. JOHNSTON: One more comment. Mic.

I would also be interested in inquiring the use of grants that are funneled through counties for the express purpose of use in elections that have no control by the State Election Board so that, although out -- we've prohibited election offices from receiving grants, it seems to me that it may be a go-around for counties to receive grants and then utilize those monies as if it were directly to an election office.

MR. LINDSEY: Something else for us to take a look at.

Mr. Chairman, may I also add, I -- I also want us to take a good look at the statute because I do -- I am concerned about unintended consequences. I, personally, as I'm sitting here and it was raised a little while ago, I think I voted in a place that was donated by a private institution my entire life either a church or a synagogue, I've -- and a VFW place, and -- all of

which was donated and I certainly don't want to -- if the present statute would somehow limit those entities or other entities from being able to donate space to a county, I want to certainly make sure that we recommend to the General Assembly that they that we fix that. So that's something else I want to take a look at.

CHAIRMAN DUFFEY: I think, Mr. Lindsey, the Board is giving you this charge --

MR. LINDSEY: Yes.

CHAIRMAN DUFFEY: -- that we begin with, don't make any grants at all or if we make grants, do they extend to grants that might be going directly to counties and everything in between and it's not just cash but it's any kind of contributions and we appreciate your willingness to talk to us individually about this and to draft something for us to review. Anything else on this issue?

SPEAKER: You may have to mic up.

CHAIRMAN DUFFEY: Mine is on.

The next order of business is our investigation reports beginning with the consent cases. I'm going to give you a little bit of background before we get into that.

The Board receives a large number of complaints for investigation review and the number of complaints is greater than it was in the past. The process for complaints is that because we are only five board members that we do not personally investigate complaints, but we use the services of the Investigation Division of the Secretary of State's Office. But I want to explain further what that relationship is. I will acknowledge that there has been -- as we move from a board being constituted the way it was before SB 202 to what it is today, that there are some technical things that need to be done and representational things that need to be done to communicate with everybody, including complainants, that the investigation is an investigation by the State Election Board. So, for example, as we tried to give notification to people about the complaints that were going to be on this agenda, it was -- I did not catch that the letters that went out to respondents went out on stationary that said that it came from Secretary of State's Office. We are moving towards everything being represented in what we communicate to the public and to others within state government that those communications

are on behalf of the State Election Board. For example, the agenda used to be the Secretary of State's agenda. Today it is the State Election Board agenda. And it's those sort of things which are important, I think, in giving you confidence that these investigations are investigations for us, we're just using the resources of the Investigation Division. But I have met personally with the investigators. I did that over a long session a couple of weeks ago. And I think the working relationship is good. They understand that these investigations are being done for us, even though they're employed by Secretary of State. And I want to give you confidence that we are intimately involved in the investigations. And if you look at these notebooks that we have, that these are recommendations to us, they are not final decisions. So it is our responsibility to take an investigation, which I have reviewed, that are competently done by investigators, but either reviewed by us to tell them that we are not comfortable with the sufficiency -- and this is in a minority and very small minority of cases -- the sufficiency of what's been done. We've asked for them to go out and do additional work. I think

that that's the best example of the fact that these are our investigations and that the investigators want to help us do our investigations. They want to get for us anything that is unanswered in what they have done so far.

And so in this case, I think there were five or six investigations that we said we think that more work needs to be done and asked the investigators to do that and the response was, of course. And because I have the most investigative experience of members of the Board talking about different perspectives and experiences, that I have been doing that personally because I've done a lot of investigations in my life and I like working with investigators. Now, I am trying to come up with a way in which we can get the information that's necessary to make a decision.

As I've told you, and everybody on the Board believes this, that we need to know the facts of an investigation before we can apply the law to the facts and so I'm very fact intensive. Every member of this board is fact intensive and the discussions that we are -- likely you're going to hear today are questions about facts before we get to how the law applies to them.

So I just want to emphasize that the cooperation and the collegial environment between the investigators and the Board is strong and that these investigations are perceived by all of us, perceived by Secretary of State's Office and perceived by the investigators, as work that's being done for us. It just happens to be resources that are in the Secretary of State's Office, but the Secretary of State has never said, well, we don't have time to do that, we don't have resources to do that, and by the way, we work for Secretary of State. That never comes up. What comes up is, what do you need? We agree that we can do some additional work. We understand why you want it. And we are -- we appreciate the fact that you're looking at things so carefully before we can make a decision on them.

So, we are now to the first order which are consent cases. The consent cases, if I were to generally explain how those are viewed or why they're on this consent, it's generally we have found that there is no violation that we could find.

There's two ways of not finding a violation. One is that the complaint is -- does not have very

much specific factual information in it and so to the -- and we don't quit there. We don't say, well, this is just not enough. What we say is, what can we do on our own to look at this conduct that occurred in a particular place because we need the facts to know what happened in that place to see if there's a violation. The second is that we have facts and when you have the facts and you believe that the facts are excitant with respect to that violation. Then we go look at the law and say, well, these facts are -- we think these facts are, in fact, the facts here, but there -- there is not a violation that these facts would show that there is a violation under the law. And there's actually a third way. One is that as in all cases, and I had plenty of those when I was on the bench and in the US Attorney's office is that you'd say here are the facts, but there's got to be a standard of moving forward. We can't just say these are the facts, that they're all true or if we interpret it in a specific way, we think there probably is a violation. "Probably is a violation" is not the standard. The standard is are there facts sufficient to prove a violation. And that's what we look at to make sure that if

we're going to go and have a hearing on something that we have facts that we can prove that a violation of Georgia law, in fact, happened and then we would allow the person to respond.

So these are cases where one of those standards had not been met and we're suggesting that -- or the recommendation we have is that there's no violation. That's a recommendation. What we are doing today and all of us have read all these complaints, have read all the investigative reports, is to provide each of the Board members the ability to ask about specific cases or to ask for additional work to be done because they are not yet, and maybe the Board as a whole, is not yet prepared to make a decision on these cases that they are -- that they should be dismissed. So that's what the purpose of this hearing is.

And what I'm going to do is I'm going to first ask any member of the Board -- because if everybody agrees that the standard hasn't met, we can deal with it as a whole. And I trust that everybody has read these and so if nobody wants to single one out, I believe that everybody has made a decision that based upon what we have in the

investigative report shows that it's proper to dismiss it. But where we're going to start is I'm going allow each board member to say are there any of these cases -- because they've read it, they've got questions about it or they might want something else to be done, that they would like to discuss individually. When that happens, we'll ask the investigator to tell us, kind of, summarize the investigation and maybe we will have a discussion and questions can be asked by the person who wants to pull it or anybody else on the Board before we make a decision on that complaint.

So that's a long explanation of the process, but you need to know the process and I want you to know the process and I want you to test our process that we -- that we are going to do what I told you we're going to do.

If it's a really short question I'll take it, but...

SPEAKER: Do the persons here in these cases that we talk about do they have any input as to how the investigation was handled since -- my -- I told everyone on my case and I didn't hear the --

CHAIRMAN DUFFEY: So are you a complainant or a respondent?

SPEAKER: I'm a complainant.

CHAIRMAN DUFFEY: A complainant, so you're the one that filed the complaint?

SPEAKER: I filed it, yeah --

CHAIRMAN DUFFEY: Well, after the Board has their questions if you want to say something, I'll give you a couple of minutes to do that.

SPEAKER: Okay. Thank you.

CHAIRMAN DUFFEY: But we've got a lot to do today.

SPEAKER: Just so that --

CHAIRMAN DUFFEY: So we'll let you -- as the complainant, let's get the answers from the Board members first. So who -- let's begin with the most senior board member, Mr. Mashburn.

MR. MASHBURN: I don't have any pull out, Mr. Chairman.

CHAIRMAN DUFFEY: Ms. Ghazal.

MS. GHAZAL: I have a few, but hopefully we will be able to take care of it very briefly.

One -- the first one is case 2020-225, Henry County and that's tab eight.

CHAIRMAN DUFFEY: Thank you.

MS. GHAZAL: Case --

CHAIRMAN DUFFEY: Let's take them as -- let's

take them one at a time.

MS. GHAZAL: Okay.

CHAIRMAN DUFFEY: Great. Sara. Let me give this a brief -- or maybe do you want to ask your question, have her direct her response to your question?

MS. GHAZAL: Yes. There were -- within the investigation, there was an indication from a voter that they had received multiple copies of absentee ballots, while they only voted one. There was a suggestion that four ballots were actually mailed to the voter.

CHAIRMAN DUFFEY: So was your question --

MS. GHAZAL: Was that confirmed? And I also may have put my note on the wrong case. I put that in the wrong case, so I'm so sorry. It must be the wrong tab here. But there was -- there was a case in which there were four.

DR. JOHNSTON: That's the right one.

MR. LINDSEY: You have the right one.

MS. GHAZAL: Is that the right one? Okay. That's right, yeah. They were all postmarked December 20th, all information on the envelopes are the same. Do you -- does the investigation file indicate that the investigator actually saw

all four envelopes?

MS. KOTH: I'm sorry, what was the question?

MS. GHAZAL: The facts suggest that the -- that a voter had received four separate ballots due to some administrative error, but I would request that the investigators go back and inquire a little bit more as to how that happened. Basically, that shouldn't happen. The processes within the office, the registrar's office processing the absentee ballot application should not allow for four ballots to be issued to the same voter and I just -- I want some confirmation that that actually happened. That it's not entirely clear from my reading of the file that four absentee ballots were issued to the same voter so I think it would be very helpful to me to determine whether or not that actually happened and if so, how, and what the county office has done to make sure this can't happen again.

MS. KOTH: This was a case that was taken over from another investigator that left and I was -- when you were saying that with the four, there was a case in Henry County where the investigator did go pick them up. I can't say for sure if this was this one because I'm not seeing it in the

narrative either, so --

MS. GHAZAL: Right.

MS. KOTH: -- I believe they did, but I can't say for certain because I don't see it written on there.

MS. GHAZAL: It would be really helpful if you could confirm that and then just come back to the next meeting. And then if we can figure out what happened and where the fail safes failed because it shouldn't -- it shouldn't be possible for this to happen, so we just need to understand if there are -- there's additional training that the county needs or something like that.

MS. KOTH: Yes.

MS. GHAZAL: Thank you. I have three others.

MR. LINDSEY: So, Mr. Chairman, would the proper thing for us to simply move to continue this rather than dismiss to the next hearing?

CHAIRMAN DUFFEY: Yes.

MR. LINDSEY: Yes.

CHAIRMAN DUFFEY: Is that your request?

MS. GHAZAL: Yes, that's what I --

MR. LINDSEY: I would make that motion, Mr. Chairman.

CHAIRMAN DUFFEY: Second?

DR. JOHNSTON: Second.

CHAIRMAN DUFFEY: Any discussion? All those in favor say "aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Opposed?

(No response.)

CHAIRMAN DUFFEY: Then it's continued.

Next, Ms. Ghazal.

MS. GHAZAL: Yes. The next one was related to tab 20 which is Brooks County, a voter registration issue. And this case, I'll let you find it first.

In this case the voter had registered late in the process and therefore their names were not found on the electronic poll books and they were asked to submit a provisional ballot. I don't see any indication in the investigation whether or not the supplemental list of electors was present at the precinct on election day because that -- under Georgia Regulation 183-1-12.19 Subparagraph 10, every precinct should have a supplemental list of voters for -- that is a paper copy of voters who registered at the last minute. The electronic poll books don't necessarily contain these last-minute updates, but these lists do and when

voters appear on these lists they should be allowed to vote on a BMD, a regular ballot as opposed to a provisional ballot. But the investigational report doesn't reflect whether or not that was there at the precinct. Because that -- if it was there, then the poll worker erred and if it wasn't there then the county erred.

MS. KOTH: Okay.

MS. GHAZAL: So again, I would -- I would move that we continue this case to add that inquiry and then review it after that fact has been found one way or the other.

CHAIRMAN DUFFEY: I assume that you don't have any information to be able to confirm what happened as far as the listing?

MS. KOTH: No, I don't have that information.

CHAIRMAN DUFFEY: Is there a motion to continue this case?

MS. GHAZAL: I move to continue the case.

CHAIRMAN DUFFEY: Second?

(No Response.)

CHAIRMAN DUFFEY: All right. The motion fails for want of second. So let's go on to the next one.

MS. GHAZAL: I'm done.

CHAIRMAN DUFFEY: Ms. Ghazal is done. Next.

MR. LINDSEY: Yeah, two if I could. If I can, Mr. Chairman, I'd like to sort of talk about two of them.

One is simply just a comment. That is the Dougherty County matter, 2018-106.

CHAIRMAN DUFFEY: What tab is that?

MR. LINDSEY: And that's tab 2, that's the first one. It's unclear, I don't -- I'm not seeking to continue this matter, but this is something that I think that is for us to take a look at because part of our duty is to make recommendations to the General Assembly regarding any tweaks in the election law. And, you know, I'm assuming that these students are telling the truth, that they thought they had made an application to -- that some of them was doing the voter drive, but apparently those were not turned in and I think that the General Assembly needs to take a look at this sort of situation to determine whether or not -- because in effect, that's fraud that someone thought that they were making -- doing what they should have been doing in order to be registered to vote and that someone didn't do -- didn't take their application and turn it in as

they promised to do. So, and that's simply a comment on my part, Mr. Chairman. I'm not -- given the facts in the case, I don't have a problem with dismissing it, but I do think that we need to be looking at possible recommendations to the General Assembly on how to tweak the law to make sure that folks who are purporting to be part of a voter application drive actually do what they promise to the potential voter. That's my concern, Mr. Chairman.

DR. JOHNSTON: Mr. Chairman?

CHAIRMAN DUFFEY: Yes.

DR. JOHNSTON: I also had marked this case and I echo the comments by Mr. Lindsey.

Actually, it seems -- it may be that voter registration drives may be misleading or failing to properly inform young voters of the requirements and thus disenfranchising a new registrant and to promise that they're registered and actually not send the registration in.

Further, I would hope that no young, inexperienced voter would accidentally register in two locations and be prompted or not know, but vote in two different locations. So, I think it would be good for the General Assembly to review

these guidelines.

CHAIRMAN DUFFEY: I think there's a lot of wisdom in that. It's -- and I think sometimes we treat all voters the same, new voters and infrequent voters, voters that haven't voted before and voters that have voted forever. I suspect most people in this world know how the voting system works or have had enough experience to be more intuitive about the process. But I do think that there is -- and a lot of it is public information being made available to people that are voting maybe for the first time and let's just take college kids to begin with. And I think that there might be a requirement that somebody who is in college, let's just take that population to begin with, that if we are -- if somebody seeks to provide voter registration information to them, have to give them a specific paper telling them what their rights are and how that process works might be in order. But I agree with Mr. Lindsey which is I do think that the General Assembly ought to look at this and see whether or not we ought to treat different voting demographics differently to make sure that they have accurate information about what they can and cannot expect

and what they need to do themselves or not need to do themselves.

So it will take -- do we make a motion?

MR. LINDSEY: It's not a motion so much as it's simply an observation and at the appropriate time before the General Assembly convenes in January, I believe that it's incumbent upon us as part of our duties to make certain recommendations for the General Assembly to take a look at certain things and this is certainly one that I think that they should do so.

And for the audience's benefit because I'm sort of cutting, short, basically what had happened was several students at Albany State believed that they had registered to vote through a voter registration drive on campus and those applications were never apparently forwarded to Dougherty County and so the students thought that they were registered to vote, but it turned out that they were not. Most of them, it appears, were able to vote somewhere else, but what my concern was, was someone may very well have, you know, had this voter registration drive and then didn't do what they were supposed to do which is turn them in to Dougherty County and I want to

make sure that sort of thing doesn't happen in the future or at least we can do our best.

Anyway, no, Mr. Chairman, that's just simply an observation on my part. I'm not asking for a motion.

CHAIRMAN DUFFEY: Okay. Is the -- what is our process generally when we decide that we want to do something to make a recommendation to the General Assembly? How do we internally do that so that -- so that we don't leave here today without somebody having the assignment to address that and decide whether or not we're going to recommend anything to the General Assembly?

MR. LINDSEY: Well, I'm going to turn it over to Mr. Mashburn because he's been around longer than I have. Not recommendations made in the past. I do know that's part of the duties that are listed for us I think by statute and so, you know, we can assign one particular member or two members of this body to make proposals for the next meeting that would then go to the General Assembly.

MR. MASHBURN: Mr. Lindsey is correct. The Board does have the stated duty to make recommendations to the General Assembly and so it

would just be a communication that the Board would draft up and vote on and transmit that we think this would be good -- good law and here's why. So, Mr. Lindsey is exactly correct.

CHAIRMAN DUFFEY: Well, Mr. Lindsey had two comments. One was how do we do it and the second was his suggestion that you be gracious enough --

MR. LINDSEY: I took the last one, you take this one.

MR. MASHBURN: I'll be glad to work with Mr. Lindsey to draft that up.

CHAIRMAN DUFFEY: All right. And we will make -- since you've got -- Mr. Lindsey has an assignment, will --

MR. MASHBURN: I'll take the lead.

CHAIRMAN DUFFEY: Thank you.

MR. LINDSEY: If I'm able to continue, Mr. Chairman, my second point is, it's tab 13, it's DeKalb County. It dealt with allegations of issues when it came to dropping off absentee ballots at an absentee ballot box. My concern, once again not necessarily looking to continue because there's a want of evidence because they can't find the tape that would help the investigator be able to see whether or not the

allegations are correct or not. And my concern is there doesn't seem to be any kind of standard in terms of the preservation of the case. And I believe that's something for us to consider in terms of -- I think this is something we could actually do on a regulatory basis, something for us to take a look at in terms of requiring some conformity by the counties when they, you know -- they have a -- they're supposed to have a surveillance, thank you very much, of the various boxes and in this particular case they can't discover -- they can't find the tape for the particular day in question. And that raises a very serious concern to me on why -- why they can't find the tape. And equally so that there is apparently no -- no uniformity when it comes to the counties in terms of how to make sure that they preserve that. I just want to -- I want to sort of raise this as a concern for us to look at and perhaps pull in our friends at the Attorney General's Office and other places to perhaps look at whether or not we can do a regulatory fix when it comes to this, so that we could put forth a uniform process for the counties to maintain and preserve the tapes so that should a question arise

such as this that it's accessible to do so.

CHAIRMAN DUFFEY: That's interesting. I had -- I was going to talk about this and then there's actually, there's another -- and it is when I first read this, it's always suspicious to me that they have tapes except the tape we want, which is not to say that there is any mischief going on, but the whole purpose of the tapes is to answer this question and because we don't have the tape, we can't. And because we can't answer the question, we don't have the evidence, we can't move forward on a complaint which may or may not be valid. If we had the tape, we would know for sure. So I think that's a -- that's a good recommendation.

And the other -- the other interesting one was that we had -- we had an allegation involving a drop box. I'm not going to pull this. But just an illustration of how important these tapes are.

And there was a business that everybody believed had tapes, had recordings because they had cameras looking at where the drop box was. We didn't have information from the drop box camera, but the fellows -- the fellow, whose name we have, said that he did and said that he would pull the

tapes, but the tapes -- I don't think he became uncooperative. I just think he had other things to do. But it goes to the importance of these tapes when you're trying to get visual evidence of what happened or what didn't happen. Which I think underscores the importance of if we have official tapes, with official equipment that there ought to be some requirement and we ought to look into that.

MR. LINDSEY: And if I may, Mr. Chairman, just for the audience, by contrast, there are two other cases that we will be dismissing today in which there was adequate video to be able to actually track down the individuals who put the ballots in the box. Turns out in both cases they were simply putting ballots for members of their family who lived in their house so, you know, that dismissal, I feel were -- taking place with good certainty that nothing nefarious happened.

In this situation, we're having to dismiss because we have no evidence to be able to go any further. That's the concern.

CHAIRMAN DUFFEY: Yeah. Any other comments?

MR. LINDSEY: Those are my two, Mr. Chairman.

CHAIRMAN DUFFEY: And just one final thing.

It shows to me as the new person on the Board, the value of people making complaints. We get a lot of them, but it doesn't mean that that doesn't help us to make evaluations about issues like this. We don't just determine responses to complaints, but we have to look overall of how the system works. And in this case, there -- maybe there is a requirement that if it had been in place that we might actually have evidence rather than dismissing a complaint to determine whether or not there was or was not a problem with the manner in which something was -- the conduct that occurred on a specific date which is not available because that date's not available. So, thank you, Mr. Lindsey, great example of our additional duties.

Dr. Johnston.

DR. JOHNSTON: Yes. So I have a question about Case No. 230.

CHAIRMAN DUFFEY: Which tab?

DR. JOHNSTON: Tab ten. It's about voter registration drives which probably just emphasizes the need to look at voter registrations.

This case included 184 complaints from 42 organizations or entities and included in these

complaints were 77 deceased people and a number of minors that received various communications. So, it just raises the issue of how we might revisit this and may need -- and make recommendations to the General Assembly as far as the due diligence or responsibilities or accountability of voter registration drives. It's not that I'm against voter registration drives, but I think there should be some consideration when so many deceased people, dead people, are sent communications.

CHAIRMAN DUFFEY: Any further comment on that before I make a comment?

MS. GHAZAL: I do have one concern that we -- about overreach on our part, particularly in this case.

People pass and the data is simply not corrected for many months sometimes. I would hazard to guess that the counties on a monthly basis are required in official voter registration lists to update according to death records. But between the time of a death and the records being updated, their voter registration lists will contain, through no fault of anyone, the information of people who are no longer eligible to vote because they're no longer alive. So to

blame organizations for using current voter registration lists within the scope of a few weeks, I feel it is real overreach on the part of the State Election Board if we are trying to lay blame that it takes time to update records. And we're talking about a state with 7 million registered voters and we're talking 77 people. I would hazard a guess that every few weeks at least that many registered voters pass and so I want to make sure that we are looking at the facts1 and not the rhetoric. These folks didn't try to vote. There is nothing wrong with the system if they're getting mail. I get mail for -- and I get text messages for different houses that I don't own because data is messy. And the public data sources that organizations use are messy and sometimes incorrect. So I want to make sure that we are not trying to hamper organizations undertaking First Amendment protected activities because it somehow can be misunderstood as -- as being inappropriate.

DR. JOHNSTON: With all due respect, I could account for someone being sent communications if they had been deceased one or two or three or maybe five years, but in this report there were

alleged solicitations from someone deceased 28 years, seven years, 47 years. What in the world is going on?

And the report does not include the information of whether any of these alleged complaints, if these deceased people were checked to see if they were on the rolls, if there was a voter history of these persons and I just question this targeted group. It makes me worry about the vulnerable voter. The vulnerable voter -- and a deceased person is the most vulnerable of all. So, I think it is something that we should think about and consider addressing with the General Assembly.

CHAIRMAN DUFFEY: This is a perplexing question and I wonder if it has two components to it. Yeah.

I do think that a lawyer is going to have to look at this to see whether or not we can impose a requirement that is constitutional -- to dictate to people what list they can use. You know, my experience is that -- I get a call that I'm a member of a class action because my data has been breached at some company. And I say, well, that's interesting my data has been breached at seven

companies. So there's all this personal data about people out there and I think people use those lists for a variety of purposes. The question for me is whether or not somebody decides that they are going to broadly distribute information about voting or encouraging people to vote based upon a list that's not a voting list, whether we have the authority or whether constitutionally we can prohibit somebody for using that information to communicate with somebody else. So that's one question.

The other question I think is, I know of one county that updates their voter lists every month. I know some counties don't do it that often. But if we had some requirement as to the frequency with which voter lists have to be updated and got communication out to people to say that anybody who is involved in a voter drive ought to use those lists. And those lists are available and I don't know if we charge people for them. But maybe one thing we could look at is do we have the authority to say that, you know, you can't wait six months because there's no election coming up before you update the list. One is it's more expensive to do that and more time intensive as --

if you get closer to an election, you shouldn't wait that long. And maybe we look at big counties have to do it more often than small counties because they won't have as much. But I think the idea of at least somebody looking at this and asking the Attorney General's Office to help us determine whether or not it's prudent or legal for us to impose those sorts of limitations is at least worth looking at and also looking at whether or not we can impose an obligation to more frequently update voter lists because it's important to the public and to those organizations that are trying to encourage voter registration.

But I'm happy to hear comments from other board members.

MR. LINDSEY: Well, in the attempt to cut the middle ground because I share the concerns about trying to impose too many obligations on an organization that is simply trying to reach out to potential voters to encourage them to register. But at the same token, I would like to see those organizations when they do so, also provide a link or information on who is eligible.

I mean, you know, we've been talking about the folks who are reached out who had passed, but

there were also a number of folks who have been reached out to who were actually living out of state or under age or whatever else. And I think it would be incumbent in terms of -- and I want to think about this, I haven't thought it through, I'm just listening right now -- as to whether or not we would want to see those folks doing these voter registration drives to at least provide a link to the potential voter to say, hey, you know, this is the criteria for you to be entitled to vote. I don't think that would put too great a burden on them, perhaps another line on the text message that I get, but other than that just something to think about because I do share the concern on trying to put too great a burden on an organization who is trying to rely on some list. But on the same token, I don't want to see an organization inadvertently, and I emphasize "inadvertently," send something to a person who would otherwise be not qualified to vote to believe -- to encourage that person to register to vote illegally. And I think simply just requiring that they provide some link or that sort of thing to sort of say here is the criteria. I don't how practical that is, but that would be sort of my

middle ground.

MS. GHAZAL: I think that suggests that this is right for rule-making --

MR. LINDSEY: Yes.

MS. GHAZAL: -- and public participation process in that.

MR. LINDSEY: Yeah, and, you know, to hear whether or not that's something that's practical or overly burdensome and -- or beneficial. I don't want to propose a regulation that's not beneficial.

CHAIRMAN DUFFEY: And I'll just add, you know, one more comment based upon this review which I think we all have is, that there's really interesting common misunderstandings about registration and voting. There are a number of these complaints where a number, a handful, where somebody used to live in Georgia, moved to a different place, what -- what is required of residency is not as crystal-clear as you would expect it to be. And so somebody who goes to a different state intending to live in that state, but because they haven't registered in that state, believe that they can vote in their former state. And I don't think that they believe that because

they're trying to vote illegally. I think they just believe that. But -- but you're registered where you're registered until you change it. So there is some misconceptions about things like that and we ought to do a good job or the best job that we can at making people aware that when they change their residency, that doesn't mean that they can go back to their past residency just because they have not yet registered to vote in the place where they are. I actually think that there's some people that say, well, I live here, but I really think my vote has more impact in Georgia and we want to discourage that as well because that's not permitted.

I think -- so in all of this discussion, I think that there is -- we're going to work with the Attorney General's Office about what we can and can't do and as a practical matter, what we can require or not require. Even if we -- even if we can't require it, we ought to at least encourage it or make the public -- somebody who's going to register to vote or somebody who wants to do an absentee ballot they ought to be able go someplace and see whether or not they can.

So let's see, so Mr. Lindsey has an

assignment, Mr. Mashburn has an assignment, would anybody like to take this as a project?

MS. GHAZAL: Yes.

CHAIRMAN DUFFEY: Thank you, Ms. Ghazal.

Ms. Ghazal will look into that on behalf of the Board.

Dr. Johnston, anything else from you?

DR. JOHNSTON: Yes, sir.

CHAIRMAN DUFFEY: Okay.

DR. JOHNSTON: Mr. Chairman, I'd like to look at a case on 33. It's tab 29, challenged voters. I really just want to make a comment, I don't think it needs a continuance.

But in this case of challenging voters, I would just like to state that the process of maintenance of voter rolls is only as good as the registrar that performs those maintenance duties. With the burden or the additional work that DDS provides to registrars to keep election rolls updated and current and with the verification and communication, updating and editing their rolls that they have quite a large amount of work to do all the time. And I would just like to say that they need to be vigilant about the issue -- the possibility that when people get new licenses,

they may inadvertently be put on as another voter, a duplication so to say, of voters with driver's license's renewals and the verification of the qualification is sort of like when you register for -- to get a driver's license. It's kind of like a twofer, you get your driver's license and you also register to vote. And there verification of the eligibility of that person in the election office in register's office is very important and needs to be thorough and accurate and consistent. So I would just like to make that comment.

CHAIRMAN DUFFEY: Anything that you suggest needs to be done or?

DR. JOHNSTON: I think at some point it would be advisable to look at the uniformity of voter roll maintenance throughout the State in all of the counties, to maybe look at their processes and their policies of how they -- each county maintains and updates its rolls. It's -- it's their -- their responsibility.

CHAIRMAN DUFFEY: Mr. Germany, do you know if that data is available?

MR. GERMANY: I'm sorry.

CHAIRMAN DUFFEY: Do you know if there's data available for the 159 counties and their practices

with respect to frequency of updating voter rolls?

MR. GERMANY: Yes, at the risk of sort of putting them the spot -- there is not a microphone over here. So I will -- at the risk of putting them on the spot -- can speak to that but out-of-state voter system that's something we can look at every day to make sure counties are keeping up with their -- with their list maintenance.

MR. EVANS: So, in regards to list maintenance, we have regular list maintenance that counties conduct on a -- on a monthly basis. Those consist of processing felons, processing deceased records. We get deceased records from the Department of Public Health in the State of Georgia. We also get deceased records from -- through our partnership with ERIC which compares our voter list to the Social Security death master list and so the good thing about that is it does capture people who move away to say, Alabama, Tennessee, Florida, anywhere in the country and then pass away. So we get that information that's processed on a monthly basis. I already mentioned felons.

Now, counties are updating and maintaining

the voter lists on a daily basis. We can pull audit reports and see what voters have been touched and by what user they were changed by, the record was processed by, and that happens every day, even late into the night and over the weekends, we'll, you know, we will notice that there's some activity -- I logged in yesterday to do a little bit of work and I noticed there were some people in the voter registration system. So county election officials, especially the closer that we get to the election, are working long hours and doing a lot. And I will tell you that one of the best tools that we have that we utilize fully is ERIC and we're a member of that. We just did --

CHAIRMAN DUFFEY: Can you explain for the audience what that is?

MR. EVANS: Yes. So ERIC is an organization made up of about 33 states where we -- the organization, we send them hash data so they aren't actually getting voter's private information, but they're able to do a comparison and a cross check to see if people have moved across state lines and we're able to get that data. And then what we just did towards the end

of June is we mailed notices to people who had moved out of state asking them to cancel their voter registration. We got several thousands of people saying, yes, I have moved out of state -- because most of the time when people do move out of state, the average person doesn't think, okay, I need to contact my county registrar in my previous location so that I can cancel my registration. So we got thousands of cancellations through that and without that resource, there's not -- there's not another good way out there to be able to get that data. And we had about a -- I would say a 15-day window to be able to execute that following the June 2021 runoff election and we were able to do that. And we also did a NCOA mailing. So, NCOA is the USPS National Change of Address Register. So ERIC takes our data, compares that to the NCOA list for anybody who filed a change of address with USPS and then we send those voters a mailer also and that includes people who filed a change of address out of state or if they moved within the state of Georgia. And then by state law we are able to, if they move within the state, we still mail it -- or within their county, we still mail them a notice,

but if they don't respond to it we can automatically move them. So we're able to do that as well. So that's just kind of a general -- we did the NCOA and the cross state mailers last year also and then we did them again this year.

I will say we also processed a list of duplicate registrations so not people who voted multiple times, but people who, as Dr. Johnston referenced a little earlier, occasionally, we will see instances where the same person has multiple registrations. Sometimes it's just because of a name change and the person processing the registration did not notice that there was already a record for that person and so ERIC and their data analyst sent us a list of duplicate registrations. We sent that list off to counties and then they were able to process the duplicates. And they did that towards the end of July, beginning of August. They were processing that and then we're about to get a new list of the duplicates as well that we'll send off to the counties and that should be coming in the next week or so or probably the next couple of weeks and we'll send that off.

CHAIRMAN DUFFEY: Here's what I would

suggest. This is a lot to digest. Could you meet with somebody in the elections' division and find out how often their counties are updating their lists if for no other reason to see if there's a way that we could -- if we're thinking about people that are doing voter registration drives having -- being able to kind of get on the internet somewhere to see whether or not they're currently or not currently registered or to have somebody who's soliciting to go to that list and say this person is currently or not currently registered. It could be that we could couple that. And so if you would -- it's going to take a longer conversation I think to totally understand the system, but I think that's worthwhile especially as Mr. Lindsey looks at his issue.

DR. JOHNSTON: I'd be happy too.

CHAIRMAN DUFFEY: Okay. All right. Thank you Mr. Evans I appreciate it.

And thank you, Mr. Germany, for putting Mr. Evans on the spot. You did very well.

MR. LINDSEY: He knows how to call a friend.

CHAIRMAN DUFFEY: And in the course of our discussion, we've discussed the ones that I wanted to talk about individually so I have none that I

want to pull.

There is -- can you tell me your name, please?

DAWN HINAES: Dawn Hinaes.

CHAIRMAN DUFFEY: Can you stand up? I can't hear you.

DAWN HINAES: It's Dawn Hinaes. It's spelled incorrectly on the letter that you sent me it was spelled -- but it's not. It's Hinaes.

CHAIRMAN DUFFEY: How do you spell that?

DAWN HINAES: H-i-n-a-e-s.

CHAIRMAN DUFFEY: What is the number of your complaint?

DAWN HINAES: 228.

CHAIRMAN DUFFEY: So it's SEB --

DAWN HINAES: Yeah, SEB 2020-228.

CHAIRMAN DUFFEY: 2020-228.

MR. LINDSEY: Tab nine, Mr. Chairman.

CHAIRMAN DUFFEY: Thank you, Mr. Lindsey.

This is about the updating of voter -- voting records in Fulton County.

DAWN HINAES: No -- mine -- I'm in relation to my son's absentee ballot being placed in the ballot box on November 3rd at 10:00 p.m. but --

CHAIRMAN DUFFEY: I'm just trying to find the

right paperwork. Is that in the complaint 20 --

MR. LINDSEY: Mr. Chairman, she's complaint number one on page 2 of 7.

CHAIRMAN DUFFEY: Right.

MR. LINDSEY: On report of investigation.

DAWN HINAES: (Inaudible.)

CHAIRMAN DUFFEY: So you are listed as a complainant along with some other people, but you want to talk about your son's.

DAWN HINAES: Yes, what I'm trying to understand how it can be settled that my son's ballot was placed in the box on November 3 at around 6:30 p.m., but his vote was cast on October 31st -- four days prior to actually physically prior to him having the ballot in the physical box. So -- I have all the pictures of putting in the box. He just asked if there was a camera that would show him putting it in the box -- placed it in the box November 3rd that evening. The postman rang my doorbell. He knew I was waiting for this -- letter for my son who was away at college to come in the mail, he brought it at 6:30, took a picture of it, because this was my son's first time to be able to vote for the president -- placed it in the box, took a picture

of it, texted it to him that. He was concerned that it wasn't going to get here on time. And then a couple of days later, he was just checking to make sure because his twin brother had sent his vote -- to make sure that they were both valid, that they had signed -- were signed and that their votes were counted and then when I saw the date that his vote was cast on October 31st, it didn't match when it was placed in the box. His brother's matched. His brother's was received by me on the 24th of October and placed in the box and matched on the voter website was accurate, but for the poll, his was -- stated or written that the vote was cast on October 31st, but I did not validate the box -- so I'm just wondering how that has been settled as -- like, I don't know how that -- how it goes -- they made a distinction on how they settled on that how did the website state that October 31st was the date it was cast when -- (inaudible.)

CHAIRMAN DUFFEY: So if I could synthesize that. It's -- the finding of the investigation was that he can't -- 34 of these people cast their vote and it was recorded. What I understand you asking is how -- that the timing is off for you

that it was counted --

DAWN HINAES: His vote was cast on October 31st, but his ballot was not placed in a ballot box until four days later, so whoever cast the vote on October 31st was not my son. He was away in North Carolina at college and his ballot was in the mail on the way to our house --

CHAIRMAN DUFFEY: So, was all that information provided in your complaint?

DAWN HINAES: Yes, I have pictures. I have pictures of putting it in the box. I have the text messages between my son and I as he was asking me, did you get it yet?

CHAIRMAN DUFFEY: But that was all provided to the Board?

DAWN HINAES: Yes, all the pictures and then -- I have the --

CHAIRMAN DUFFEY: So here's -- I -- with respect to that particular -- I think for that particular complaint, we're going to continue that to the next meeting.

MR. MASHBURN: Yeah, I'd like to hear further investigation on that issue.

DAWN HINAES: I can get -- I was in New York when it was updated, so I didn't have access to

the --

CHAIRMAN DUFFEY: I understand your issue. I understand that you don't know why the recommendation was as it is. We are supposed to make the decision on whether or not to vote on this one of 34. I don't know -- Ms. Koth, is there anything that you can add to this or otherwise, I think we are inclined to continue it.

MS. KOTH: The only thing that I can add is that the investigator that took this case over when he looked it up in it e-Net it was correct so it's possible that he was looking at -- it showed the vote counting on the correct day so it's possible that e-Net, you know, if there was a mistake, it had corrected itself.

MR. MASHBURN: Yes, Mr. chairman, I'd like -- I'd like to make sure that this gets handled. And if you would get together -- apparently we have her name wrong as well and I apologize for that, but I would move to continue on this issue.

CHAIRMAN DUFFEY: Is there a second?

DR. JOHNSTON: Second.

MR. LINDSEY: On just the one?

CHAIRMAN DUFFEY: On just the one, yeah.

Is there a second?

DR. JOHNSTON: Second.

CHAIRMAN DUFFEY: It has been moved and seconded that we continue the complaint of complainant number one as listed at page 2 of 7 of Complaint SEB 2020-228.

Is there any discussion on the motion to continue?

They're being done all those in favor and continuing on that one complaint say, "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Opposed, no.

(No response.)

CHAIRMAN DUFFEY: It passes as will be continued and we'll put it on the calendar for the next meeting. It would be good at some point to touch base on Sara Koth our investigator and just have our discussion with her and see if she can figure out what happened.

DAWN HINAES: Okay. Thank you.

CHAIRMAN DUFFEY: Is there anybody else that would like to speak about their complaints?

(No Response.)

CHAIRMAN DUFFEY: Apparently not.

DR. JOHNSTON: Mr. Chairman, just one more comment about these cases. There's -- a Mr. Cross

contacted me and said that his cases, that are in the consent list, he was not notified, so I don't know if that's part of the process that we are trying to organize and improve is to notify complainants when their cases are brought.

CHAIRMAN DUFFEY: That is a -- that is the process they all get a certified letter. Regular letters are not very prompt. Has he asked for continuance or is he satisfied with the result?

DR. JOHNSTON: I do not know.

CHAIRMAN DUFFEY: So when he communicated with you, is he -- he's just saying that he hadn't gotten his letter but --

DR. JOHNSTON: Right.

CHAIRMAN DUFFEY: -- and what did he want as a result of that?

DR. JOHNSTON: I don't know. He contacted me last night. I sent an email to the members of the Board.

CHAIRMAN DUFFEY: Right.

DR. JOHNSTON: -- and I don't know if there was a request to continue.

CHAIRMAN DUFFEY: You could make a motion to continue if you think that --

DR. JOHNSTON: I'll make a motion to continue

Case 033 and -- I'm sorry not 033 -- 074 and 113.

CHAIRMAN DUFFEY: What are the numbers again and what tab are they?

DR. JOHNSTON: Tab 35 and 38.

CHAIRMAN DUFFEY: And those are -- both of those are just -- he's that -- an individual complainant in those or are there others?

MR. LINDSEY: No, he's the individual.

DR. JOHNSTON: Individual.

CHAIRMAN DUFFEY: Okay.

MR. LINDSEY: Two points, Mr. Chairman. Number one, Mr. Cross obviously knows about this hearing. Mr. Cross is also very familiar with the operations of this organization. He's usually here. Is he not here today?

SPEAKER: He's in Missouri. He's in Missouri.

MR. LINDSEY: He's in Missouri. All right.

CHAIRMAN DUFFEY: Just so we have a record, could we just have name because we might rely upon that?

SPEAKER: (Inaudible.)

CHAIRMAN DUFFEY: I'm new to this, remember, so I don't know everybody who is here.

SPEAKER: (Inaudible.)

CHAIRMAN DUFFEY: Thank you.

MR. LINDSEY: Did he contest at all as to the findings of the investigator in your discussions with him?

Basically, this was an allegation of -- about harvesting. The investigator was able to ascertain that the person who put the ballots in the box talked to the family -- talked to the individual and it turns out that those two individuals had simply deposited their family members, who lived in their household, ballots into the box.

DR. JOHNSTON: Exactly. Based on the information I would agree with a dismissal, I mean, to proceed with dismissing this. It's just the process that Mr. Cross was not notified is the only issue.

MR. LINDSEY: I am concerned about that.

CHAIRMAN DUFFEY: How did he know? How did he find out that they were on the agenda?

DR. JOHNSTON: I'm not sure. Maybe he looked at the agenda.

SPEAKER: Mr. Chairman, may I ask a question? How did he know to show up at that hearing?

CHAIRMAN DUFFEY: How did he know that there

was a hearing? How did he know that there was a hearing and we don't know the answer to that.

SPEAKER: This hearing?

CHAIRMAN DUFFEY: We're talking about Mr. Cross. My question was: How did he know there was a hearing to prompt him to send an email to -- and the answer to that is we don't know.

SPEAKER: The reason for my question was in previous hearings, for those challenges of those complaints were heard, in that hearing he previously said that he was not notified.

CHAIRMAN DUFFEY: Thank you very much, but we don't know that.

SPEAKER: I understand.

CHAIRMAN DUFFEY: All I'm doing is trying to determine for the purpose of this record, if he -- if we know how he learned and we don't. And how he heard in past hearings is irrelevant to the matter here which is --

So there's been a motion to continue, is there a second?

(No Response.)

CHAIRMAN DUFFEY: With there not being a second then the motion will not be voted on.

Does anybody else have any other specific

complaint that they would like to discuss individually?

All right. So we have a number on the agenda, there was a number of consent cases. We have continued --

MR. MASHBURN: My motion, Mr. Chairman, is to accept the recommendations of the staff on all of those that have not been continued in the section entitled "Consent Cases," under Section five.

CHAIRMAN DUFFEY: Have we agreed to continue -- just so that we're clear on what we're not voting on.

MR. MASHBURN: I've got number 8 being continued and that's the only one that I show.

CHAIRMAN DUFFEY: And then we have -- number 8 is the one person.

MR. MASHBURN: No, and then there was another one. You're right. Ms. Hinks, what case number was yours again?

SPEAKER: Mine was on the letter case --

DR. JOHNSTON: Number 9.

MR. MASHBURN: Number 9. So, I've got -- thank you -- -- so I've got number -- tab number eight and Case No. 1 of tab nine having been continued.

CHAIRMAN DUFFEY: All right.

MR. MASHBURN: So, my motion is to approve the recommendations of the staff on all those listed under Section 5 consent cases except for tab number eight and number -- complainant number one of tab number 9.

DR. JOHNSTON: Mr. Chairman?

CHAIRMAN DUFFEY: First, is there a second?

MR. LINDSEY: Second.

CHAIRMAN DUFFEY: It's been moved and seconded.

Is any discussion on the motion?

DR. JOHNSTON: I believe Board Member Ghazal requested a continuance of Case No. 20.

CHAIRMAN DUFFEY: That was not seconded.

SPEAKER: It was not seconded.

DR. JOHNSTON: It was not, sorry.

CHAIRMAN DUFFEY: Any further discussion on the motion to accept the recommendations with respect to the consent cases listed on the agenda other than case 2022-25 which has been continued and complainant No. 1 of case 2020-228? All in favor say "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: All those opposed?

(No Response.)

CHAIRMAN DUFFEY: Then that is our decision to accept the recommendations with respect to those cases.

Now, let's get to the next group of cases which are called letter cases.

Letter cases are different than consent cases because letter cases are cases where there's support for a violation, but the recommendation is to resolve the complaint by sending a letter to the respondent without any proposal for a sanction or referral to Attorney General or another law enforcement entity.

I'll ask my board colleagues, is that a fair description of letter cases?

DR. JOHNSTON: Yes.

CHAIRMAN DUFFEY: We'll go through the same process. Is there any board member that would like to discuss a letter case individually and we'll begin with Mr. Mashburn?

MR. MASHBURN: Yes, I'd like to pull out for discussion Case No. 2020-123 Hancock County, tab number 44 and Case No. 2021 --

CHAIRMAN DUFFEY: Let's start with --

MS. KOCH: We received a complaint from a

local democratic party that were inside the polling location preparing breakfast for poll workers. This was at 9:10 a.m. on the morning polls were open and people were voting. The complainant also reported that she spoke with the election supervisor and that he denied having any knowledge of this and he told her that he not approve of it. The complainant reports that she also spoke with other poll workers that were there and they didn't see anything wrong it. She said that someone must have approved it since it was happening. And that the individuals reportedly involved and are pictured in a photo that was used on Facebook.

The specific allegation in the complaint was not confirmed.

Ms. Hudson was on the ballot for the Hancock County Chairman of Commissioners and there was no evidence to indicate the actions --

CHAIRMAN DUFFEY: Ms. Koth, can you slow down just a little bit.

MS. KOTH: Sorry.

CHAIRMAN DUFFEY: And speak up a little bit.

MS. KOTH: Yeah, sorry.

There was no evidence to indicate the actions

of Mrs. Hudson or anyone else violating the Georgia Code of Elections or the State Election Board rules regarding campaigning. Regarding this investigation the investigator did not find that Mr. McGowan nor the Hancock County Board of Elections were in violation of the Georgia Code of Election or State Election Board rules in any way. Because of the admitted conduct of the voter of using her cell phone to take a photograph at the polling place during voting, Ms. Hudson was potentially in violation of O.C.G.A. §21-2-413(e) and there were no additional allegations complaints made or established regarding this investigation.

CHAIRMAN DUFFEY: All right, Mr. Mashburn.

MR. MASHBURN: The reason I asked this to be pulled out is I don't want the wrong lesson to be learned from this case. And the lesson that the letter of instruction gives is that you shouldn't of taken the picture and you shouldn't have posted it on the internet. But to me, it's very troubling when a party and a county give the impression that one of the parties has taken over the function of the government. And so in this position we're required to make difficult choices

of allocation so I don't think it would be a good allocation of our resources to send it back just to have another hearing to send a second letter of the same thing. But I think the lesson of this one is counties should be careful not to give the impression that one of the two parties or three parties or four parties or however many parties there are have taken over the official function of the polling place. And here, I think the county -- I'm troubled when the response is "I don't see anything wrong with it." I disagree with that. I see something terribly wrong with this. And so I always ask people "How would you feel if the other party was allowed to do this?" So, if there was Magma breakfast in Hancock County, how would that have been received by the people who saw nothing wrong here. So, I support sending a letter of instruction on this one count, but had -- had I viewed it to be an advantageous, I would have it to go back and a letter of recommendation be sent on, you can't let the parties take control of your polling places. So, I'm fine to let it move forward as indicated, but I wanted to pull this for separate comments so I could make that comment. Thank you.

MR. LINDSEY: If I may, Mr. Chairman, an additional request. And once again, I want to phone a friend here.

It's my understanding that one of the individuals was on the ballot?

CHAIRMAN DUFFEY: Right.

MR. LINDSEY: And she's in the polling place --

CHAIRMAN DUFFEY: That's right.

MR. LINDSEY: -- doing breakfast.

Now, I've been on the ballot a few times. I was always under the understanding, except when I was voting, I was not supposed to be in the precinct again. Is that not correct?

SPEAKER: That's the law.

SPEAKER: That's the law.

SPEAKER: If you're a candidate on the ballot you are not allowed to be in the polling place unless you're voting.

MR. LINDSEY: Yeah, that's not included in this finding and that concerns me.

SPEAKER: One thing I would like to point out is there is an exception for -- for instance in this case, it was on not during early voting, I don't know the specific facts here, but if you

have a job in a county office building, there is a law about if you are officially there because of your job, but in a separate office, but in the same building then you are allowed --

MR. LINDSEY: This would appear that the candidate was actually in the room with -- feeding -- like I said, I don't know. I guess part of this, I would like to know whether or not the candidate was actually in the room where people were voting because that is a matter of serious concern to me.

CHAIRMAN DUFFEY: I have this on my list to pull too. I found this troubling. I actually hadn't thought of the nuances of where they actually had this food, but I do think we ought to know that.

MR. LINDSEY: Yes.

CHAIRMAN DUFFEY: Does anybody want to move to continue it?

MR. LINDSEY: I move to continue it.

CHAIRMAN DUFFEY: For further investigate seconded?

MR. LINDSEY: Yes.

CHAIRMAN DUFFEY: Second?

DR. JOHNSTON: Second.

CHAIRMAN DUFFEY: Any discussion on the motion?

All those in favor of the motion say "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Opposed, "No."

(No response.)

CHAIRMAN DUFFEY: It passes.

So, Sara could you -- do you have enough information, Sara, from the discussion to know to go back and find out where she was and the like?

MS. KOTH: Uh-huh.

CHAIRMAN DUFFEY: Okay. Thank you.

Just one other procedural thing. When we send the letter, who drafts the letter and who signs it?

(No response.)

CHAIRMAN DUFFEY: Well, obviously, nobody on the Board does.

SPEAKER: The letter is signed by the State Elections Director -- (inaudible.)

CHAIRMAN DUFFEY: All right. Thank you.

Yes, I will accept that as my assignment. Which means the next assignment that comes up I'm not eligible for that one.

Mr. Mashburn do you have a second one?

MR. MASHBURN: My second one is 2021-031, it's tab number 45, Thomas County food for voting.

Ms. Koth, can use summarize that for us?

MS. KOTH: Sure. The complainant reported on Thursday, December 31, 2020, that a business in Thomasville, Georgia was giving away free lunches, 400 bunches of colored greens, corn bread mix and black-eyed peas. She advised it was sponsored by the NAACP and Black Voters Matter and they called it the "Collard Greens Caucus." The complainant states "Whether or not voter fraud is obvious, the aim of the giveaway was to re-enforce voting blue."

The investigation revealed no evidence to sustain the allegation of 21-2-570 giving or receiving, offering to give or receive or participating in the giving or receiving of money or gifts for registering in the voter -- voting -- or voting for particular candidate. The investigator interviewed National Legal Director Acting Chief of Staff April England Albright with Black Voters Matter Fund about the even in Eastman and other locations in Georgia. Ms. Albright stated they did toy giveaways and food giveaways around Christmas time in different places. She

advised "They tried to be a part of giving toys out and helping with food issues." Ms. Albright advised, "The toy giveaways and the food giveaways were not to register people to vote -- voting for particular candidate." Ms. Albright advised they did not give people information generally on where their voting locations were -- I'm sorry, that they did give people information generally on where their voting locations were. She stated, "If someone needed to get more information about voting, they would offer them the Secretary of State's website and that was the extent of it." Ms. Albright advised they did not have any actual registrations going on and that was not the intent of these events. She advised they were a 501(c)(3) organization and they did not support candidates in what you call electioneering in the State. Ms. Albright advised they gave people general information about voting and the people could get the food if they wanted to and they were not required to vote. Ms. Albright stated she was sure many people did go and vote but they had the information and if they chose to go vote, they could go ahead and do that. She advised it was just a food giveaway.

Ms. Albright stated they created the Green Colored Caucus to help yet again offer people food during the time period when some people were struggling and it is not anything new. She advised they provided collard greens, black-eyed peas and cornbread to people in the communities. Ms. Albright stated that they just gave the food out and a flier where their voting location was and the date of voting. She advised it was a benevolent opportunity and major push to try to make people sure people during COVID that children had toys and to make sure people had food. And there were no violations.

MR. MASHBURN: My comment on that was the recommendation was there was no violation, so it would be in a consent agenda. But I disagree with the finding in that I think the grab a toy and then head to the polls, what we try to do here is we try to treat similar cases similarly and this case reminded me of the vote and get a rifle raffle that we sent off. We either sent off or issued a letter of instruction on that. So, this one, I would think is in deserving of a letter of instruction in that they need to de-link the toy drive from the voting. And they need to de-link

grab a toy and then head to the polls. Those need to be completely separate things and not linked with the conjunction "and."

So, I would amend the recommendation here of potential violations nine and actually move that a letter of instruction be sent.

CHAIRMAN DUFFEY: Is there a second?

DR. JOHNSTON: Second.

CHAIRMAN DUFFEY: Any discussion?

MRS. GHAZAL: I'm recalling that there was another case specifically with the toy drive, but that it was dismissed with no violation, am I recalling that incorrectly in a prior meeting --

DR. JOHNSTON: I don't know.

MRS. GHAZAL: -- with the same parties?

Mr. Germany, do you happen to remember whether or not there was already a case dealing with these same respondents in a prior meeting?

MR. GERMANY: I don't recall if we are dealing with the same respondents. The fact patterns that he said rings a bell --

MRS. GHAZAL: Yes.

MR. GERMANY: -- and I think what we discussed is -- and I think part of the letter would be some notification that since this time

period, the law in Georgia has changed, so in terms of at least the location of handing out anything needed to be outside the polling place buffer zone. And that kind of takes away the question -- well, whether it's the -- case or not -- that question of course still exists outside of the polling place or not -- I think that was -- that that case regarded a potential voter instruction.

MR. MASHBURN: Just for the record, I'm fully in favor of giving children toys at Christmas time that otherwise would not get them so, I do not have a problem with toy drives. I think they're wonderful. God bless the Marines that have been doing that for years and years, Toys For Tots, so God bless them all for that. But my problem is the linkage of -- if you took this and said "Grab a toy or head to the polls" and made it a choice, that would clearly be voter suppression, if you said you can have a toy, but you can't vote. So, I think you say -- switch it around and say, "Grab a toy and then go vote," that gives a clear impression that it's an inducement to go do something. And I don't recall the linkage being present in the previous case there. So, I'm in

favor of toy drives and giving out food, especially around Christmas time. God bless us one and all, but I -- the problem that I have is the linkage.

CHAIRMAN DUFFEY: I had pulled this to talk about it also and was in favor when I first when through this about sending a letter.

It's -- sometime circumstantial evidence is as powerful in fact, in a legal instruction, it is as powerful as direct evidence. And I do think that there is an implied connection that the giving out of toys and the giving out of food was related to encouraging people to vote. And I think that we need to make it clear that that linkage and the time of the place of offering food and toys in connection with elections and voting, that it is inappropriate and that people ought to be very careful. And in this case there was linkage and we want to put them on notice that they ought to give out toys and foods in environments and couched around language that is unassociated with elections.

So we have a motion?

MR. MASHBURN: And a motion to send a letter of instruction.

CHAIRMAN DUFFEY: Is there a second? Did you second that, Dr. Johnson?

DR. JOHNSTON: Second.

CHAIRMAN DUFFEY: Any further discussion on the motion?

(Phone rings)

That is somebody calling in with some discussion I guess. Please at least mute whoever has the phone. Thank you.

All those in favor of the motion say "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Opposed?

(No response.)

CHAIRMAN DUFFEY: The motion passes.

MR. MASHBURN: That is all I have, Mr. Chairman.

CHAIRMAN DUFFEY: Ms. Ghazal.

MRS. GHAZAL: Yes, I would like to pull out tab number -- case number 2022-105, tab 53, please.

CHAIRMAN DUFFEY: I'm sorry, tab what?

MRS. GHAZAL: 53.

CHAIRMAN DUFFEY: 53 thank you.

MS. KOTH: We received the complaint regarding multiple counties in noncompliance

pursuant to O.C.G.A. §21-2-421.

MRS. GHAZAL: Yes, and I would like to highlight the number of counties that were simply unable, despite their best efforts, to meet the -- and what this provision is, it is the 10:00 p.m. deadline for counties to submit the number of votes cast on the -- on an election day including provisional ballots and absentee ballots.

More than a third of Georgia's counties were unable to meet this deadline, so that tells me that the problem is not the counties. The problem is the deadline is unrealistic. And I think this is really of critical importance that the General Assembly understands that what they are doing is they are setting up counties for failure. And my job -- I view my job here as trying to make sure that counties and voters are well served. And I believe that this particular provision of the law does not serve voters and does not serve counties and that's why I wanted to pull it out.

When counties are having to use the resources to send numbers in at an artificial deadline that means they are not able to count those ballots and that's where those resources should be spent. I'm editorializing at this point. I believe that the

resources should be focused on counting the ballots and giving the actual outcome and the results of the votes instead of the number of votes cast. And I think that -- that the General Assembly must revisit this and revise this in the next session. I'm done.

MR. LINDSEY: Well, there's two questions here if I may, Mr. Chairman.

CHAIRMAN DUFFEY: Yes.

MR. LINDSEY: One is whether or not the requirement at all is proper. And the second one is whether or not the deadline is realistic.

The purpose that I understand in terms of the requirement is to be sure that the number of ballots cast fits with the number of people who ultimately are counted. We've -- we've seen history throughout time of people playing games with that, so I can understand the concern over the time and perhaps that is something that I could agree should be revisited.

I do however think that it's a good idea for them to let us know the number of ballots that were cast. You know, whether or not 10:00 p.m. is a realistic number or not, I think perhaps that's something that -- that maybe that we ought to ask

the General Assembly to take a look at, but I do in general -- like -- like the requirement because it hopefully will withdraw some of the -- some of the many concerns that we hear about, about the integrity of the system.

MS. KOTH: We did revise this list because -- we actually went back because we were taking that into consideration and the updated list unfortunately wasn't in here but we did one for the people that didn't report at all and then -- I'll have to ask the attorney what the other criteria that was ordered, the ones that didn't do it on the runoff election as well. So it was -- I wanted to say it was like 13 instead of the eight. Do you have the list?

CHAIRMAN DUFFEY: I thought we change this and reduced the list significantly. And that we made the distinction -- this was that a pre-meeting where I was reviewing this to determine what I wanted to present to the Board. That we only -- it's only those people who did not respond, which would significantly reduce this list. And I don't know why that wasn't changed for the Board members.

Yes.

MR. GERMANY: (Inaudible.)

CHAIRMAN DUFFEY: I know it's a -- but you have to walk over here but if I think everybody is going to hear you better if you are at a microphone.

MR. GERMANY: Thank you, Mr. Chair. So just to provide a little bit more background especially as to what Ms. Ghazal was saying. The impetus I think really for the 10:00 p.m. reporting rule was certain counties following the November 2020 election weren't able to say how many remaining -- how many total absentee ballots have you received, how many do you have left. And I understand why that was difficult in 2020 given the volume, but I agree that that needs to be an answer that is readily available very soon after the 7:00 p.m. received deadline.

What we have found in working with counties is that's not really a problem. The problem that is that we are seeing working with counties is reporting the actual number of election-day votes. Which in thinking about this law element, I didn't really think about because that data is available at each polling place. When the polling places close, there's a tape that's printed out that has

not just the number of -- total number of votes, but actually how those votes were allocated among the candidates.

It has been more difficult than I imagined to actually get that data than -- than reported. And I think the reason is counties understandably want to do some quality control checks on that data prior to reporting it. It was a suggestion we brought up with the General Assembly last year, "Hey, maybe let's just focus on the absentee and the early voting because that's very doable by 10:00 p.m." And that was really what caused the question. Whereas, by getting -- by focusing on the -- I call it the denominator rule, those on the denominator for election-day voting, we really are taking away from actually just uploading the votes, which would -- which, if you upload the votes, you have not only the denominator, but also how the votes were actually cast, which is ultimately what people want. So, I think if the Board, you know, does see fit, Mr. Mashburn, to make recommendations to the General Assembly, something along those lines may be appropriate.

On this specific case originally -- and I will just for the Board's knowledge, there were

members of the General Assembly asking about compliance with this rule following the May primary and the June runoff. So, the list of people who didn't -- who weren't able to get anything in by 10:00 p.m. for the May primary was quite large, almost a third if not more of the counties. So, I'm working with Judge Duffey, we determined -- what I thought we had determined was to put on this list of counties to receive a letter -- only counties that either didn't report at all. So, not just late, but didn't report at all or counties that were late both in May and June.

The June runoff, of course, is a -- is a smaller election so that -- the list of counties that is currently on here, I think it's around ten reflects -- reflects that update.

CHAIRMAN DUFFEY: Okay. That was what I thought we had decided.

MR. LINDSEY: Question, Mr. Chairman, how many didn't report at all?

MR. GERMANY: I don't have that in front of me. It was -- it was not very many. And I know one of them actually had a power outage, so I think that sort of explained why that it didn't

come in at all.

CHAIRMAN DUFFEY: Well, I think what I hear you suggesting is -- first of all, it shouldn't be the same letter for everybody.

MR. LINDSEY: No. I mean quite frankly, Mr. Chairman, I'm a little concerned -- excepting the powder outage, I'm more concerned with counties that didn't report at all than I am with counties that reported late. And like I said, I think the late issue is something getting back to -- what was raised a little while ago, maybe we need to ask the legislature to take another look at the timing requirements. But the counties that simply didn't report at all, I'm more concerned with them, to be candid.

CHAIRMAN DUFFEY: So, I do think it's two issues maybe it requires two motions.

One would be if somebody wanted to move that we make a recommendation to the General Assembly with respect to what has to be reported by 10:00 and consider whether or not 10:00 deadline is a realistic deadline. I will have to do some research on that. If we limit it to that, that might be a realistic deadline, so that would be the first motion.

The second would be a motion in which we say that anybody who failed to report at all ought to get a letter that, you know, you've got to report at some point, even if you are late, which is what we let other people do. And maybe a totally different letter by saying that you need to use your experience based upon filing the reports and so if you are repeatedly late, can you -- you need to explain what the problem is so that we can determine whether or not there is a reasonable explanation for that, including power outages for those people who didn't report at all. And then write back to them and appreciate -- thank them for the information and that we are satisfied that you're doing what you're supposed to do, but there were extenuating circumstances.

So I would say that it's letters only to people, one letter to the people who didn't report at all and a separate letter, different from the first, to those people -- those counties that were late for two consecutive elections. And then -- and then the motion to investigate recommendations we might make to the General Assembly about what is reported by 10:00 and whether 10:00 is a reasonable deadline.

MR. GERMANY: I think you nailed it.

CHAIRMAN DUFFEY: What's that?

MR. LINDSEY: You nailed it. So moved.

CHAIRMAN DUFFEY: Let's begin first with the recommendation to the General Assembly. Is there a recommendation for that?

MR. LINDSEY: So moved.

CHAIRMAN DUFFEY: Is there a second?

DR. JOHNSTON: Second.

CHAIRMAN DUFFEY: Any discussion with that motion?

(No response.)

CHAIRMAN DUFFEY: All those in favor say, "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Opposed, "No."

(No response.)

CHAIRMAN DUFFEY: That passes.

And the second would be two separate letters to -- nine -- those people who did not report at all and those people that were reported late for two consecutive elections.

Is there a motion for those letters to be accepted?

MRS. GHAZAL: So moved.

CHAIRMAN DUFFEY: Second?

DR. JOHNSTON: Second.

CHAIRMAN DUFFEY: Any discussion with that motion?

(No response.)

CHAIRMAN DUFFEY: Being none, all those in favor say, "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Opposed, "No."

(No response.)

CHAIRMAN DUFFEY: That passes.

Ms. Ghazal is done.

Mr. Lindsey, are there any that you wanted to discuss individually?

MR. LINDSEY: No, Mr. Chairman.

CHAIRMAN DUFFEY: Dr. Johnson?

DR. JOHNSTON: No, Mr. Chair.

CHAIRMAN DUFFEY: Is there a motion to approve?

MR. MARK REED: I'd like to speak on that, please.

CHAIRMAN DUFFEY: And your name -- I'm sorry, I should have asked you that. Your name and what case is yours?

MR. MARK REED: My name is Mark Reed and my

case is 2022-020 Habersham County, tab 49.

CHAIRMAN DUFFEY: Tell me again -- tab 49, thank you. All right. We are ready for your comments.

MR. MARK REED: Mr. Chairman, members of the Board, I respectfully request this be moved to consent list based on the investigation, which I complied with freely, fully and honestly. The recommendations of the investigator which states that there is no evidence that suggests that I made any verbal attempts to solicit votes and that this be moved to the consent and this case be dismissed. I know that this was just a letter that you all were talking about sending, but my mom always told me that you want to keep stuff off your permanent record.

CHAIRMAN DUFFEY: And she's right.

MR. MARK REED: I have been elected official for many years. I've been the mayor of for Baldwin 13 years and most recently I ran for the City Ward in Cornelia and I've participated in a lot of elections and I know what the rules are so I did not violate the rules. Thank you.

CHAIRMAN DUFFEY: Thank you very much.

MR. LINDSEY: If I can, can I ask a question?

MR. MARK REED: Yes, sir.

MR. LINDSEY: They did say that you talked to two people within the 150 foot --

MR. MARK REED: It was -- when the investigator came we looked and it was -- we couldn't really determine if it was possible -- it was possible, but they -- I was there when he got brought the reel and -- there was no photographic evidence, in fact, the only way they knew about me speaking to Mr. Miller was that I told them myself.

MR. LINDSEY: Sure. Thank you. That's all. I was just curious.

CHAIRMAN DUFFEY: Thank you.

MR. MASHBURN: If I can ask a question to Mr. Reed. Can I ask a question, Mr. chairman?

CHAIRMAN DUFFEY: Yes, you may.

MR. MASHBURN: Let me ask you a question, Mr. Reed. There was one part that I remember reading where somebody was making a joke about "Should they vote for you or not.

And you were like, "Well, maybe I can help you out with that." Do you remember that? Does that ring a bell?

MR. MARK REED: No, sir.

MR. MASHBURN: Okay. I might have it confused with another case, but that wasn't your case?

MR. MARK REED: No, sir.

MR. MASHBURN: Okay. And so your point that you're making to the Board is all of this is a question over 147 feet versus 150 feet and not stuff that was going on 25 feet?

MR. MARK REED: Yes, sir, that's absolutely correct. I went into -- I was like number four voter in a municipal election, special election, there's not a lot of turnout. I went in and voted, I came out, I went back to my car. I observed people leaving -- I marked my list. I drove around town looking for votes. I saw somebody at the -- house, I pulled in and parked, see who they were, marked them off my list. That was pretty much what happened that day.

MR. LINDSEY: All right. Your testimony before the Board is you were always pretty careful that you were 150 feet?

MR. MARK REED: Yes.

MR. MASHBURN: I'm not quibbling over three feet.

MR. MARK REED: Yes, sir. Yes, sir,

absolutely.

MR. LINDSEY: All right. The thing I'm worried about is I've got candidates inside the buffer, well inside the buffer, and you're saying that is not true?

MR. MARK REED: No, sir. No, sir.

MR. MASHBURN: And you've been a candidate for a long time and you know the rules?

MR. MARK REED: Yes, sir.

MR. MASHBURN: And you know the best response when somebody wants to talk to you within the 150 feet is say, "We've got to move within -- outside the feet of 150 feet," right?

MR. MARK REED: Yes, sir.

MR. LINDSEY: You know, Mr. Chairman, we oftentimes place on the consent calendar questions where there may be a technical violation, but the individual have come forward and have worked to make sure that they understand the rules and that such a thing won't happen again and those usually end up on the consent calendar.

And so I would move to put this on the consent calendar but the -- and dismiss it. I guess consent calendar would be -- I would move to go ahead just dismiss this one.

CHAIRMAN DUFFEY: Is there a second?

MR. MASHBURN: Second.

CHAIRMAN DUFFEY: Any discussion?

MR. MASHBURN: And I'm -- my second is contingent exactly on whether this is a 147-foot problem or whether we are quibbling over three feet. You promise me you're not inside that circle?

MR. MARK REED: I promise you.

MR. MASHBURN: Okay. Good. Motion on the second. Discussion?

CHAIRMAN DUFFEY: Well, I'm thinking.

MR. LINDSEY: And I may, Mr. Chairman, as part of the discussion, let me say, because I raised concerns about the breakfast that was done. You know, I'll be the one to make the motion to dismiss when it comes back and it turns out that the person was well outside the polling place, but I wanted more investigation to be done because I don't know whether or not they were serving breakfast in the polling place or it was somebody down the street. Now by contrast here we know we've got hard evidence as to what exactly took place, so that's why I'm prepared to dismiss. And you know when this other issue comes back up and

we have more evidence, I may be very well be the one to dismiss that one, but I'm not there yet.

MR. MASHBURN: Mr. Reed, you said you were real careful about this and you're going to be even more careful in the future?

MR. MARK REED: Yes, sir.

CHAIRMAN DUFFEY: Here's what my mother used to tell me. I didn't come -- I didn't come over on the turnip truck yesterday. So, I read through all of this. I actually think that maybe I can help you with that -- it's in this, I just couldn't find it. We live -- we have a house and we spend a lot of time in Habersham County, so I know the county well. And I've been a public official for a long, long time. I never get -- would never get close to the 150-foot mark because I always want to say in my conduct as a public official as somebody running for election that I have gone beyond what the law requires. You know, I know Habersham is small and I know parking places are tight. I know where this election took place. But there's a lot of driving around and activity where you are actively involved in trying to look for votes. And the perception of the public is, I think that he's pushing just as hard

as he can to try to technically comply. So, while I'm going to support this motion, my suggestion to you, which is what this letter was going to say, I wasn't going to say you -- there was a violation. I would have said, "If you want to be in this business and want to represent people, we expect more of you." And I suggest that the next time you run is you say, "I'm not even going to have anybody suggest that I was close or that I was engaged in too active campaigning and making it look like I really, really wanted to win." Which I think colors people's view about that if you want to win that much and are that active looking for votes, would you skirt a rule? And you always want to say, "I never skirted a rule."

MR. MARK REED: Mr. Chairman, this whole time this has been going on, I knew that I hadn't done anything wrong and I don't think who reported this did anything wrong either.

CHAIRMAN DUFFEY: Right.

MR. MARK REED: I think because it's important that if you see something that you don't understand that we report it and we get to the bottom of it.

CHAIRMAN DUFFEY: Right.

MR. MARK REED: So I have no animosities, no axes to grind, nothing like that. I trust the process and I trust in you and I appreciate what you are doing. Thank you.

CHAIRMAN DUFFEY: Well, I'm glad you spoke up and I hope to see you in Habersham.

Any more discussion?

MR. LINDSEY: I learned to practice law in Toccoa it's been a long -- spent a lot of my time in Habersham Courthouse.

CHAIRMAN DUFFEY: Sir, you're getting North Georgia goodwill here.

MR. MARK REED: Thank you. Thank you.

DR. JOHNSTON: Chairman, I fully support your words of advice, Mr. Chairman.

CHAIRMAN DUFFEY: Thank you. All right.

SPEAKER: I would like to inquire about the -- SEB 2021-

CHAIRMAN DUFFEY: Wait a second. We haven't voted on the motion that's pending.

SPEAKER: I apologize.

CHAIRMAN DUFFEY: There's no further discussion of the motion, all those in favor of dismissing this matter which is 2022-020, say "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Oppose no.

(No response.)

CHAIRMAN DUFFEY: It is passed and it is dismissed.

Now, your name and your matter.

SPEAKER: James Burns 2021-080.

CHAIRMAN DUFFEY: Hold on one second while we find it. This is Carroll County?

SPEAKER: Yes.

CHAIRMAN DUFFEY: Is everybody ready. Go ahead Mr. Burns.

MR. BURNS: Well, I recognize the complaint that I made -- procedurally -- for record this would be -- this was something that you were going to send a letter to someone -- I just wanted to know is it being dismissed?

CHAIRMAN DUFFEY: No.

MR. BURNS: I apologize it's not knowing more --

CHAIRMAN DUFFEY: The purpose of the letter is to say that the violation isn't serious enough for us to go to a hearing and offer a sanction, but it's -- it is to address the problem, how the law applies, and to put them on notice that what

they -- that it was -- it's just not serious enough for us to take a more serious action. It's not serious enough -- it doesn't reach the level of us taking more severe action.

MR. BURNS: Okay. I'm not sure I'm satisfied with that -- to some degree and the only reason is I've heard a great deal of discussion from the Board about updating voter rules and how big of an issue this is. If I use my residence and continue to vote in a precinct under an address that was -- over and over. I'm not sure how I can even blame the county board -- those responsible for updating voter rules, the election rules for my misconduct. That's incumbent upon me. That's -- I would think I'm the only one who knows that I'm violating the statutes of the state rules. We spent a lot of time talking about that.

CHAIRMAN DUFFEY: This is an odd case if I remember this correctly.

MR. BURNS: I'm worried that this is common.

CHAIRMAN DUFFEY: Well, this is --

MR. MASHBURN: Isn't this the one where the people were building the house?

CHAIRMAN DUFFEY: Yes. Somebody lives in a county. They are building a house in another

county, but they're not living in the other county. But they've sold their previous house, but that's the last place that they were registered to vote. And they are in temporary quarters until their new house -- so it's like they're in a registration-never-never-land. You know, they don't live in their old house and they don't live in their new house because it's not done. They are living in a place where they don't intend to reside except for a temporary period of time before they move to their new house.

MR. BURNS: Sir, I agree with that if they --

CHAIRMAN DUFFEY: You agree or don't agree with that?

MR. BURNS: I would agree but -- if you owner of record, bill of sale, October 6, 2019, still voting in the old residence, December 15, 2020, I'm not sure that's temporary. You call that a permanent change of station or an organization --

CHAIRMAN DUFFEY: Right. Well -- I am not sure that we would call that a permanent change of station. That would be like somebody who's on TDY.

MR. BURNS: For a hundred and -- that's over 365 days.

MRS. GHAZAL: I think there's another couple of distinctions here that are related specifically to voter registration. And one of them is the fact that if a voter moves within the same county, they do have an obligation to update the registration; however, the votes cast, if they have not updated their registration, are still, very specifically under Georgia statute, those are -- those are eligible votes. Those are lawful votes and they will count in the former precinct, even if the voter has not updated.

So, in this case, in this fact pattern, even though the voter was in temporary accommodations, that was still within the same county so every vote that they cast was still considered a lawful vote, even though they did not fulfill their duty to update their in-county move. I see this very similar to a UOCAVA vote in which the -- UOCAVA is the federal law that covers military and overseas voters. When I lived overseas and I had sold my house in Georgia, but I was still eligible to vote at the address that I no longer owned because that's the way the federal law views a temporary move overseas. Now, this is obviously not an overseas move, but Georgia law does address

specifically in-county moves. So there is a technical violation but that the voter technically did not update that address, but the statute very clearly states that those votes are still valid votes. So I agree that it is absolutely critical that voters understand it is incumbent on them to update their registration when they move. Its most important because we want people voting for their representatives, the people who represent them.

People in temporary housing -- and I think we're seeing this more and more -- it's a very complicated issue because residence for purposes of voter registration is a subjective test to a certain extent. Do you expect, do you anticipate remaining in that location? Does this -- is this your -- do you have a present intent to leave or to remain? And when you're building a house, especially in the middle of a pandemic, timelines always slip. I should've moved myself two weeks ago, but I couldn't because we're not ready yet. So, I haven't updated my address because I'm not staying there. I'm not sleeping in my new place. So, I understand a certain amount of frustration, but I believe that under the law, this is exactly

where we need to be.

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

You mentioned you don't want to see this sort of thing happen over and over and that's what the letters for to make sure it doesn't happen over and over, to make sure that they understand what the law is and that they don't do it again. That's sort of what I would call sort of the first step, going, okay, you know, based on the evidence, it appears that it was inadvertent on your part, you don't understand the law fully, but now you're on notice. That's what we're doing here is putting them on notice so that the next time they don't have the -- they don't have that excuse the second time.

Well, it has been more than a year. I will tell you this, when I was building a house, it took me more than a year to get the damn thing build too.

CHAIRMAN DUFFEY: And, Mr. Burns, I want to say this: I have said this before, you filing this is helpful to us in this respect two ways. One, is for somebody who has not poured over these laws to hear Ms. Ghazal explain to me the technical distinction, I'll always remember that.

So that helps for us to have a discussion about why we are doing what we're doing.

The other important thing is that while we're not bound by precedent, we do want to be consistent and where there is -- in the tone in -- the reason why I want to be able to have more say in the letters is I think the tone of the letter is important. And here, the tone would be we want you to know that what you did is a violation. We hope that you don't do it again but now that you know and hopefully other people will know that we try to consistently apply the law and draw distinctions between something which is provable and something that is not provable. And I think we, based upon the discussion that Ms. Ghazal has given, shows that this is provable. It's just -- it's not really significant, but it doesn't mean that we shouldn't at least take some action in a softly-worded letter saying that "We understand that there might've been some confusion and you should be on notice next time not to do this." But we deeply appreciate you taking the time to file this.

MR. BURNS: Thank you.

CHAIRMAN DUFFEY: You're welcome. And I

appreciate you being here.

Anybody else want to speak to their complaint?

SPEAKER: If you have a case that's going to be called, we don't speak until you call the case; is that correct?

CHAIRMAN DUFFEY: Well, if we --

SPEAKER: We are staying -- I didn't know if we were allowed to stand and ask about our case or if we have to wait to call our case.

CHAIRMAN DUFFEY: No. If your -- what we do is if we hear first -- we take them as a group except any board member that wants to take something individually, we do that, we have done that. And then some -- if we haven't mentioned anything about your case and you're in the group of cases that we call "the letter cases," now is your chance, if you want to say something about your case, you should do that if you are in the letter case group.

SPEAKER: We -- have a case number, but it's 2020-0034, Dade County.

CHAIRMAN DUFFEY: Do you know what category that's in.

SPEAKER: No, sir, I don't. That' why I was

asking.

CHAIRMAN DUFFEY: Okay. That's a violation case. We're not to that category yet.

SPEAKER: That's fine --

CHAIRMAN DUFFEY: That's fine. That's a fair question. We're just not to you yet. We are going to talk about the -- and when we get to the violation cases, we're going to discuss each of them individually so we will get to yours.

SPEAKER: Thank you.

CHAIRMAN DUFFEY: You're welcome.

All right. So, now is there a motion with respect to the letter cases to deal -- to move that the letters be sent?

MR. MASHBURN: Yes, Mr. Chairman, I would move that the letter cases be approved on the recommendation of the inspectors, other than case 45, which has been amended from no violation to a letter case. So, it's properly now in the letter case category. And I think that was the only one in --

MR. LINDSEY: There was also a dismissal.

MR. MASHBURN: And there was a dismissal.

MR. LINDSEY: And there was one continuance.

MR. MASHBURN: Help me out with those.

MR. LINDSEY: Mr. Chairman, we move to continue Thomas County matter which was in tab 45.

MR. MASHBURN: And we move to dismiss tab 49, right?

MR. LINDSEY: Yes.

CHAIRMAN DUFFEY: Yes.

So excluding the continued case 2021-31 and the dismissed case 2022-20, you moved to approve the recommendation for the remaining letter cases?

MR. MASHBURN: You nailed it.

MR. LINDSEY: Second.

CHAIRMAN DUFFEY: Any discussion on the motion? There not being any, all those in favor of the motion say "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Opposed, "No."

The motion carries in the letter cases, recommendations are approved.

MR. MASHBURN: Mr. Chair, I don't want to impose on Your Honor's, Your Chair's prerogative but I would be appreciative of the ten minute break before we start the violation cases if that would be -- if that would be possible.

CHAIRMAN DUFFEY: Do you have a good reason for the break?

MR. MASHBURN: Yes. The Diet Coke I drank on my way in so it's time to take a break.

CHAIRMAN DUFFEY: We'll take a break until a quarter till noon.

(Off the record from 11:33 to 11:52 a.m.)

CHAIRMAN DUFFEY: We are now to the part of the agenda in which we discuss violation cases.

Violation cases are cases in which the investigator found facts to support a violation, which the Board must now decide what action to take on the violations found. Each of these will be reported on and considered individually.

There is one person who wants to respond to their case who has to get back to Troup County for a medical appointment. I am moving that case up to the first case that we will consider so that she has enough time to get to her appointment, and then we will take them up in the order in which they are listed, except for those that have been continued and that should be indicated on your updated agenda.

So we are going to begin on Case 2020-073 Troup County.

Yes, so why don't you stay there. I'm going to have the investigator report on the case, so

that you can just sit there and listen to the case as it's reported on by the investigator and then we will let you respond.

Ms. Koth, please.

MS. KOTH: Paulette Hall reported that Troup County Board of Election failed to properly follow Georgia Election Code when they allowed a voter to vote after she had already failed to place her original ballot in the scanner before exiting the polling precinct. That was --

CHAIRMAN DUFFEY: Slow down a little bit and speak up.

MS. KOTH: Allegation 2, Paulette Hall reported that Troup County Board of Election and Registration member Lonnie Hollis took pictures in the courthouse during advanced voting. Those are the two allegations.

For Allegation 1, the investigator spoke with Troup County Election Supervisor Andy Harper who confirmed that voter, Mary Rimmer was able to bypass the scanner and exit the room encompassing the voting area. Mr. Harper said both he and the poll manager informed the voter of the ballot was spoiled. Ms. Harper[sic] spoiled the ballot in accordance with SEB Rule 183-1-12-.11(9).

However, the voter complained to the Board and they voted to allow the voter to vote again.

Investigator Blanchard interviewed all former Troup County Board of Election and Registration Members. All of the members confirmed that the complaint involving voter Mary Rimmer was brought before the Board. The Board consulted with an attorney before rendering their decision. The attorney's opinion was the more equitably defensible option would be to allow the voter to vote as opposed to strictly adhering to the regulation in this specific case; however, the final decision was ultimately up to the Board.

In the minutes from a Board meeting held on May 28, 2020, former board members Lonnie Hollis, Albert Prado and Detrick Higgins and Johnny all voted yes to allow voter Mary Rimmer to vote again. Former board member Paulette Hall abstained from voting and the former chairman William Tatum did not vote because there was not a tie. Mary Rimmer's e-Net inquiry showed where she was given credit during the June 9, 2020, General Primary Election.

Allegation 2, the investigator Blanchard spoke with several Troup County Election staff

members. The first being election supervisor Andrew Harper. Although, Mr. Harper was not physically present when Lonnie Hollis took the pictures, he was on the phone with poll manager Denise Cotton and overheard Ms. Hollis say, "I can do what I want to because I'm a board member." Investigator Blanchard spoke with Troup County Poll Manager Denise Cotton said that the incident involving Lonnie Hollis was brought to her attention Davida Dean. Mrs. Cotton called her supervisor Andrew Harper and had him on the line when she approached and spoke with Ms. Hollis. Mrs. Cotton asked Ms. Hollis if she was taking pictures and she responded by saying "Yes, ma'am, I am a board member." Troup County poll worker Davida Dean confirmed she witnessed Lonnie Hollis take pictures in the polling location, brought it to the attention of the poll manager Denise Cotton. Investigator Blanchard spoke with Troup County election's assistant Vanessa Griggs who met with Ms. Hollis and advised her she was not supposed to be taking pictures in the voting area and told her twice they needed to be deleted. Ms. Hollis told Ms. Griggs she would delete the pictures. Ms. Griggs said later during a Zoom

conference Ms. Hollis denied taking the photos. Ms. Griggs felt it odd since Ms. Hollis had told her earlier that she was going to delete the photos, but never denied taking them.

The investigator spoke with former Troup County Board of Election member Lonnie Hollis who denied taking the pictures. Ms. Hollis said she never discussed or spoke with anyone while inside the polling location and claims since her phone was in her hand, they assumed she was taking pictures. Ms. Hollis claimed two poll workers falsely said they talked with her, but neither she nor the Board were ever provided with a copy of the poll worker's written complaints. Ms. Hollis confirmed she spoke with Vanessa Griggs and told her "If I do have any, I will delete them, but I said I don't have any."

Ms. Hollis claimed according to the Georgia code she could take pictures as a poll official. Ms. Hollis was referring to Georgia Code §21-2-413(e) where the last sentence states, "The subsection shall not prohibit the use of photographic or other electronic monitoring or recording devices, cameras or cellular telephones by poll officials for official purposes."

Ms. Hollis considered herself to be a poll official at the time of the allegation.

And then for the potential violations.

CHAIRMAN DUFFEY: Yes.

MS. KOTH: There is evidence to suggest that Lonnie Hollis, Albert Prado, Detrick Higgins and Johnny Freeman violated SEB Rule 183-1-12.11(9) when they voted to allow voter Mary Rimmer to vote again after she bypassed the scanner and exited the room encompassing the voting area with her paper ballot in hand.

There's evidence to suggest that Andrew Harper and Denise Cotton violated SEB Rule 183-1-12.11(7) when the voter Mary Rimmer was allowed to bypass the scanner and exiting the room that encompassing the voting area with her paper ballot in hand, that was a one count.

There is evidence to suggest that Lonnie Hollis violated O.C.G.A. §21-2-413(e) conduct of voters, campaigners and others at polling places generally when she took pictures on her cell phone while inside the polling location during the advanced voting period of June 9, 2020, General Primary Election. The incident was witnessed by a poll officer who was present inside the polling

location.

CHAIRMAN DUFFEY: All right. Would you like to respond to the allegation? And remind me of your name, please. Come forward.

Would you take this microphone that's next to that tripod. See if that's live. Okay.

MS. HOLLIS: Yes, at the particular time, this allegation was --

CHAIRMAN DUFFEY: And your name, let's have your name first, please.

MS. HOLLIS: Name my name is Lonnie Hollis and I'm from Troup County. I'm a former board member of the Troup County Board of Elections.

I -- on the allegation of the person bypassing the scanner, I have stressed several times about proper training of personnel. And we even had a meeting where we mentioned about poll workers being trained. We were told by the election supervisor that if the people wanted training, they could come in when they were already trained. But I had always expressed the fact that you need hands-on training. Do training like would be at a regular poll.

But the person that bypassed the scanner, what happened was, you say if that's the

entrance -- entrance there and this is the exit, she was allowed --

CHAIRMAN DUFFEY: So, you're pointing to an area that's where the window is against the wall?

MS. HOLLIS: No, like coming in from here. Okay. Say, you come in this door.

CHAIRMAN DUFFEY: Yes.

MS. HOLLIS: And you go out this door.

CHAIRMAN DUFFEY: Yes.

MS. HOLLIS: So what happens, she wrote me a letter. She walked out this door and when she got to that door, she is still in the precinct. She -- they took her ballot and voided it. And she asked if she could vote again since she had walked out with it. But she should not have ever been able to walk out of that door with the ballot in her hand. And if they saw it in her hand when she got to this door, why didn't they see it when she walked out the exit door?

So, she got in touch with me, I contacted the other board members and we met. When we met, we -- one of the Board members suggested that we consult with the attorney. We sent the information to the attorney and he wrote back that in his opinion, she should be allowed to vote

again, but he's going to leave it up to the discretion of the Board.

So, four board members voted to allow her to vote again. And I'm thinking I don't know if Paulette Hall knew -- we didn't who she -- I didn't know who she was. But she probably thought she was a Democrat. But she wasn't. She was a Republican. In my opinion, every person has a right to vote on whoever's going to represent them. That's why we allowed her to vote.

I did go by the precinct to check out reasons why that she may have been able to walk out. And the only reason I could figure out, you know, I looked at the signage. There were signs posted that tells her that she needs to put her ballot in the scanner or someone should have been right there at that door. And the lady was at the door. I did talk to her. I didn't talk to anyone else in the precinct. I did not talk to Denise Cotton or whoever the other person name was that I know of. I don't need to tell them who I am. I've been on the Board since '13 so, I didn't need to tell them who I was that I was on the Board. I could do this. I knew what the code violations were. As a board member, I went in there to

investigate, but me being a black person on the Board, we have also been told by the chair of the election board who was picked by the commissioners, that we cannot go into a poll to -- if we saw a violation, we had to contact him before we made a decision on what to do about it.

In fact, that was the first election that the new machines was used. And some of the people was thinking that the ballot that they pulled out of the machine was their receipt of who they voted for. They didn't know. So they should have been told that at the precinct or when they checked in, you have a ballot that's going to be printed out. It should be placed in the machine before you leave. That was not told to them.

The other thing -- I lost my train of thought. But, you know, it's just the practice that we should be able to, as a board members and the violation that they said that -- violation 21-2-413, the commissioners read the first part of that code which applies to an elector. That means the person that's in there to vote. But there is a subsection to that code that says that a poll official, and I consider myself as a poll official, can go in. I did not take any pictures.

I did have the phone in the hand when I was walking around. And I looked at the signage in there. But no one saw me take any pictures.

And as far as the complaint that was signed by two people in that poll, I never talked to either one of those. And I never got a copy of the signed complaint. I asked for it. Three times I asked the supervisor for a copy and he said I sent it to everybody. But nobody else on the Board said that they got it. So, I still don't have a complaint. And if I did I would have it, because I have loads of material that I have compiled at home, keep as my records and I have the minutes to the meetings that we had.

So, I think this is something that is -- they may be racial or something that against me as being a board member because I worked on the Election Board even before I went to LaGrange, for years I worked on the Fulton County Election Board. I was even a poll evaluator. I would go around and check the polls and make sure all the signs and everything was correct and that's the way I am. I'm just like to the point and know that everything is going to be in the right place.

CHAIRMAN DUFFEY: Okay. I'll just ask a

couple of follow-up questions. Were you talking about the two doors into the polling areas, the two doors that which you can enter the polling area?

MS. HOLLIS: Yes, the entrance door and exit door.

CHAIRMAN DUFFEY: And so this woman that took her -- that did not put her ballot in the scanner.

MS. HOLLIS: No. Someone was supposed to have been on the door when she walked out. If she had it in her hand -- if they saw it in her hand when she got to the entrance door, why didn't someone see it in her hand when she walked out the exit door?

CHAIRMAN DUFFEY: So she actually walked out of the polling area with her ballot?

MS. HOLLIS: In her hand.

CHAIRMAN DUFFEY: Okay. Was there anybody at the scanner telling people to scan their ballots?

MS. HOLLIS: No. No. And that happened at another precinct I also visited. On voting days, I'll go to different precincts and see how things are working. There was a man that was -- I was standing at the door with the manager of the precinct and this man was walking out and we saw

him folding up his ballot, putting it in his pocket. And so when he got to us, he said -- she said, "Sir, I need that ballot out of your pocket. You have got to put it in the scanner." So, he took it out and she carried him back to the scanner so he could put his ballot in.

CHAIRMAN DUFFEY: Well, the Board members ultimately after talking to their lawyer agreed that even though she had left the polling place, that she ought to be permitted to cast her vote?

MS. HOLLIS: Yes.

CHAIRMAN DUFFEY: What was the rationale behind that?

MS. HOLLIS: What was his rationale?

CHAIRMAN DUFFEY: No, what was your reasoning about why she should be allowed having left the polling area --

MS. HOLLIS: My reason was that there was a lack of training and a lack of observation of the people coming into vote.

CHAIRMAN DUFFEY: Right.

MS. HOLLIS: You know, if I'm standing at the door and she is coming out and she has it in her hand, I should question her, I ask her, I said, "You know, you are supposed to go back and put

your ballot into the scanner." But see a lot of people didn't realize that they were supposed to put that ballot in the scanner. Because they thought that maybe that was their copy since this was the first election that the scanner was being used.

CHAIRMAN DUFFEY: So were there a lot of people that left the polling place without scanning their ballots?

MS. HOLLIS: Not really because that was on the early voting, that was during early voting.

CHAIRMAN DUFFEY: During the early voting, were there a lot of people that left the polling area without scanning their ballots?

MS. HOLLIS: I don't think so. I think because I think on that polling was slow so I don't know if -- and some of the polls that -- on regular voting the people were catching the people doing that, they were observing.

CHAIRMAN DUFFEY: Now on the -- you said you had your phone with you in the polling place and it was in your hand and then you were looking at, I guess that notices --

MS. HOLLIS: I had gotten a call and I just had my phone walking through there looking at the

signage and if there was a sign saying that these people telling them that they need to put their printouts into the scanner.

CHAIRMAN DUFFEY: Did you take a picture of that so that you had a --

MS. HOLLIS: I did not.

CHAIRMAN DUFFEY: Did you take any pictures at all?

MS. HOLLIS: I didn't take any pictures.

CHAIRMAN DUFFEY: Okay. Any of the Board members have questions?

MRS. GHAZAL: I have one quick question and that's a follow-up. In the runoff -- the primary runoff in August and in the -- in the November election, did it continue to be a problem with voters not understanding or was there a training correction for your poll workers?

MS. HOLLIS: I think they did go back and do some training.

MRS. GHAZAL: Okay. Thank you.

MR. MASHBURN: Let me -- matt Mashburn, let me see if I can sum this up for my own purposes.

So you're saying that Denise Cotton, the poll manager, messed up in letting this person leave with her ballot without scanning it; right?

MS. HOLLIS: Yeah, I don't know -- there's a person that's always on the door that was on the door, she was the poll manager. But she messed up because she -- I -- you know, I told her, you know, I would want to see her name on that sign-off sheet and I would see her in court because I never talked to her. And I wouldn't tell her that I'm a -- you know, I wouldn't tell her -- I'm going to brag on what I do. I would not tell her that I'm a board member, I can do this. I didn't need to tell her I was a board member. She knew already. I don't need to repeat that.

CHAIRMAN DUFFEY: Any other questions by anybody?

I guess not. Thank you, Ms. Hollis.

MS. HOLLIS: You're welcome.

CHAIRMAN DUFFEY: So I have a recommendation from the -- from our investigator. Is there a motion with respect to this violation case?

It seems like we have to have a motion of some kind.

MR. MASHBURN: Yes, it does. The only evidence that we have in front of us is the testimony of Lonnie Hollis that Denise Cotton

allowed a voter to leave with a ballot. I think that's a clearly established violation.

CHAIRMAN DUFFEY: I think Ms. Hollis has acknowledged that.

MR. MASHBURN: The question is under our -- were not bound by precedent. We make decisions each time. The question is to what extent does the Board get the responsibility for that or is it limited just to the poll manager?

MRS. GHAZAL: The way I read the recommendation here is that the Board's violation was in ignoring SEB Rule in allowing the voter to cast a ballot. They did so under advice of their attorneys, so I think that is a factor that needs to be considered. But I also think it is important that boards understand, poll workers understand that that is a rule. You leave the polling place with your ballot, that ballot is spoiled, it will not count and you don't get a second bite at that at apple as a voter.

MR. MASHBURN: Other than Ms. Hollis is there anybody here from the Board or attorney for the Board?

MS. HOLLIS: May I say something else on the SEB Rule? That SEB Rule --

CHAIRMAN DUFFEY: You have to use the microphone because we can't hear you.

MS. HOLLIS: Now, we were unaware on the SEB Rule but the attorney, you know, should have stated that in his letter, but he did not. And I'm thinking that because this is a new voting procedure, that had not ever happened before and that was another reason why we thought that she should be able to vote because she walked out of the precinct with her ballot, which is something that -- the voting machines was used before, you didn't get the printout. And a lot of people were thinking that the printout that they got would be their record of who they voted for. A lot of people didn't understand that. So, by her walking out with that in her hands, just like I said -- and there was another person at another precinct that put the -- that folded the ballot up and put it in his pocket because he thought that was his receipt.

MR. MASHBURN: Ms. Hollis, another thing is when we lawyers that represent the County they will come to us and one of the questions we will pose to them is, do you think a letter of instruction would be an appropriate resolution of

this matter and they'll tell us whether they think yes or no. So, you don't have an attorney, but I'm going to pose you with the same question. The Board did something that they shouldn't have done, are you willing to accept a letter of instruction and say, well, we shouldn't have done it, but now we know better?

MS. HOLLIS: No, I still don't know better because I don't understand why this would -- I mean, what could happen with a ballot by the time she walk out one door and -- she was still right there at the precinct. So, if the person standing at that door saw her, why couldn't he have just taken that ballot and instructed her to go back and put her ballot in? I mean, why couldn't he have done that? Because she was not outside of the building. If she had been outside of the building, I would -- would -- quite understand, but she was not. She was right in the same room.

CHAIRMAN DUFFEY: Okay. Thank you.

MR. MASHBURN: I'm satisfied that there's a proof of a violation in that they allowed a voter to vote a second time who shouldn't have. And so I would move that that be referred over to the AG's office. And there is evidence to suggest

that Andrew Harper and Denise Cotton allowed the voter to bypass the scanner and so I move that that be referred over.

But I haven't heard any evidence that she took any pictures at the polling site so I move that be dismissed. So that's my motion.

MRS. GHAZAL: I second that motion.

CHAIRMAN DUFFEY: Any discussion?

So the motion is that we refer to the Attorney General's Office allegation number one. And the violation by -- of the board member of SEB Rule 183-1-12-21.9 and the violation of avoiding the scanner against Mr. Harper and Ms. Cotton which is a violation of SEB Rule 183-1-12-11.7 and that we dismiss allegation number three about the picture taking.

MR. MASHBURN: Correct.

CHAIRMAN DUFFEY: Here's the -- I would like to amend this by saying that it be referred to the Attorney General's Office -- that it be referred to the Attorney General's Office with the instruction that a prompt hearing be scheduled.

MR. MASHBURN: I consider that a friendly amendment and if my secondary agrees, we are duly amended.

MRS. GHAZAL: Agreed.

CHAIRMAN DUFFEY: Any discussion about referring this for a hearing?

All those in favor of the motion of referring these two allegations to the Attorney General's Office for a prompt hearing say "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Opposed "No."

Motion passes.

MR. LINDSEY: And just for -- we dismissed the third allegation regarding the picture taking?

CHAIRMAN DUFFEY: Yes.

But when you go back and talk to your board members you might tell them that normally in the past sometimes we have referred something to the Attorney General's Office for further consideration and a recommendation to us, we have decided that this should go immediately to a hearing so that everybody can present their evidence and we can decide what action to take, if any.

But you need to get to your appointment, don't you?

MS. HOLLIS: Yes. Thank you.

CHAIRMAN DUFFEY: You're welcome.

We're going to take up one more violation and then we're going to break for lunch. And that will be Case No. 2020-30 Gwinnett County, which is at tab 56.

Is there anybody here from Gwinnett County?

SPEAKER: (Inaudible.)

CHAIRMAN DUFFEY: All right. Thank you.

Ms. Koth.

MS. KOTH: The Secretary of State's Office opened this investigation after Gwinnett County Board of Registration and Election self-reported that during the June 9, 2020, General Primary Election it failed to deliver voting machines to a polling precinct at least one hour before the time set for opening of the polls potential violations of Georgia law and Board Rules. Georgia Secretary of State also received an additional 28 complaints from various Gwinnett County voters related to the June 9, 2020, General Primary Election. These additional complaints from Gwinnett County voters allege: Polling sites did not open on time; polling locations had an inadequate supply of voting machines; voting machines were not up and running at the time the polls opened; voters were denied the opportunity to cast paper ballots when

the polls encountered technical issues with the BMD units; unannounced polling place changes; provisional and absentee ballot issues; voting by unqualified elector; and polling locations failed to comply with COVID 19 Social Distancing Guidelines. So those were potential violations.

The investigation confirmed through self admission by the then election supervisor that the Gwinnett County Board of registration and Elections failed to deliver voting machines to 27 polling precincts in a timely fashion which violated General Election Code Laws as well as Georgia State Election Board Rules. The contradictory statements were made election office employees as to whose fault it was that led to the delay in delivery of voting equipment; however, the ultimate responsibility rest upon the superintendent/election supervisor. The investigation confirmed that two polling locations did not open on time and as a result was ordered by the Superior Court of Gwinnett County to remain open beyond 7:00 p.m. on election day.

The investigation also identified two incidents where the Gwinnett County Board of Registration and Elections delivered the incorrect

voting equipment to the wrong precincts on election day causing an undue delay in voting process for two voting precincts as equipment had to be swapped and transported to its appropriate location.

The investigation also identified four occurrences where Gwinnett County voters each casted a vote for the June 2020 General Primary Election via emergency paper ballot; however, the Gwinnett County Board of Elections and Registration failed to properly process emergency paper ballots resulting in an undue delay with these voters receiving the proper credit for voting. The investigation was unable to substantiate the allegation that polling locations in Gwinnett County failed to use emergency paper ballots when the use of voting equipment became impracticable due to delay in delivery of voting equipment.

All other allegation lacked merit. They were unsubstantiated or did not result in a violation of the Georgia State Election Board Rules or Georgia Election Code.

The potential violations where there is evidence to suggest that Gwinnett County Board of

Election and Registration and Christie Royston violated 27 counts of Georgia Election Code §21-2-328 and State Election Board Rules 183-1-12.09(2) when it failed to deliver the proper voting machines to the polling places of the respective precincts at least one hour before the time set for opening of the polls.

There is evidence to suggest that Gwinnett County Board of Elections and Registration and Christie Royston violated two counts of Georgia Election Code §21-2-403 when two polling precincts failed to open at 7:00 a.m. Eastern Standard Time on election day.

There's evidence to suggest that Gwinnett County Board of Elections and Registration and Christie Royston violated State Election Board Rules 183-1-12.09(2) and 183-1-12.09(c) when two voting precincts did not receive the correct voting equipment delivered on election day. The scanner intended for the Hebron Baptist Church was incorrectly delivered to Ebenezer Baptist Church and a scanner for Mason Elementary School was incorrectly delivered to St. Stephen the Martyr Catholic Church. The equipment had to be swapped back creating an undue delay in the voting

process.

There's evidence to suggest that Gwinnett County Board of Elections and Registration and Christie Royston violated two counts of Georgia Election Code §21-2-586 and §21-2-437 when it failed to properly process and account for the ballots of four electors who voted via emergency paper ballot.

CHAIRMAN DUFFEY: All right. Ms. Wilson.

MS. WILSON: Thank you, Mr. Chairman.

I have a big voice but -- microphone.

Microphone is here.

CHAIRMAN DUFFEY: But you do have a big voice.

MS. WILSON: Good afternoon, Mr. Chairman, members of the Board, thank you for the opportunity to address this board regarding the issues, the allegations made against Gwinnett County. I'm going to take them in sequence.

And I'm first going to addressed the allegation pertaining to late delivery of equipment. We understand that the law requires us to deliver equipment at least an hour before the polls. We self-reported when we failed to meet both the law and our own standard. One of the

things that Gwinnett County takes great pride in is what call the "Gwinnett standard of excellence," and we know that the deployment of the equipment and hour late, at least an hour late, was a failure in that regard. But I have an explanation that I'm offering to the Board and in so doing, I'm going to be urging this Board on the count and the other counts to issue a letter of instruction.

With regard to the late delivery of equipment, the point I want to make -- I want to make a couple of points on that. First of all, this was the very first time that we were using -- I'll call it the BMD voting system, as compared to the old DRE. We always have a plan for delivery, timely. Without identifying the employee, the employee assigned to the responsibility of making sure that the schedule would work and making sure that the equipment was ready to be delivered when the trucks came to pick them up to deliver them to 156 precincts -- so that's kind of a highlight fact. We deliver machines for voting to 156 precincts around the county. The employee that was tasked with that responsibility and should have been ensuring that the equipment was ready in

sequence for delivery, not using the numerical machines and figuring out our work on equipment for number one precinct and then number two precinct, they were doing it out of sequence. So ultimately, on Sunday night when that was determined, the individual was promptly fired on Monday morning. So, the point I want to make is that our equipment was being prepared but not in keeping with the delivery sequence. Employees then took approximately 30 hours with their best effort to get the equipment ready to be picked up by the vehicles.

The second issue that we encountered was that the number of component parts and the size of component parts that used to be delivered with the DRE are larger in size and in quantity, in how much space they take up on the truck. So, if a truck used to be able to accept equipment for five precincts -- and that's just a random number I don't think that's actually the real number -- trucks could now only take equipment for fewer precincts.

So, between the work that was needed to be done to get the vehicle -- to get the equipment ready for delivery and then the logistical

challenge of the equipment being loaded on trucks and taking up more space, those two things together combined to result in late deliveries. But we did self-report.

The point I also think is important to have this Board understand is that emergency paper ballots were available and in use so that no voter had their vote delayed or were unable to vote as a consequence of late delivery.

I want to spend a few more minutes talking about the equipment deployment and I'll move on to address the other issues.

Because Gwinnett aspires to a standard of excellence former Chairman Nash at the time ordered an inspection or an audit to be conducted by National Association of Elected Officials, also known as the Election Center. Those professionals came in, they traveled -- I think they're based in California -- they traveled to our precinct, to our county and made a number of -- spent a number of days, including during the election, the August runoff to observe our processes and made a number of recommendation regarding the warehouse operation. As a consequence of that inspection, that audit, that consulting effort, as a result of

that, a number of changes were made both to staffing, to the warehouse space that's now dedicated. And so, I would offer to you that there's been significant improvements in the management and operation of the warehouse. I'll move on because I think I may be losing one of the Board members and I'm sorry about that.

Next. The next issue I want to discuss relates to the late opening of two precincts, Kanoheda Elementary School and the Beaver Ruin Baptist Church. I was personally responsible for filing those petitions with Superior Court to ensure that the polls -- hours were extended appropriately. I'm sure the members are aware that there is a statutory provision that says that there should be a Superior Court judge available to address any issues and we promptly filed petitions with the court to get extensions. The delay in time -- I think one precinct their opening was delayed by 14 minutes and the other precinct their opening was delayed by 20 minutes. I can tell specifically why that was.

There's a poll pad that's used at the precinct and literally there's a password associated with it and one of the poll

officials -- one of -- the password was one digit off. And she struggled for a while to figure it out. Ultimately, I think perhaps she called the main office on the helpline, got the four digit or whatever was needed and was able to access the poll pads but there was a delay.

The second delay arose because -- and I have it in my notes. A ballot scanner wasn't working. There was a delay in opening. In hindsight, the poll worker should've opened the polling place, allowed emergency ballots to be used until they got the ballot scanner operational. That didn't happen. There was a delay in opening, but we did promptly secure an extension order from Superior Court. So I offer that as an explanation for the delay in the polls opening.

With respect to the missed delivery of component parts to two precincts, that happened board members. That was tied to the late delivery. That was tied to the challenge -- the logistical challenges associated with our deployment of voting equipment.

And finally with respect to the allegation relating to emergency paper ballots. I think the thing that I would emphasize to the Board is that

what you didn't hear from Chief Investigator, Ms. Koth, was that -- there was -- this is not a situation where a voter was disenfranchised. Unfortunately, there has been some turnover in our leadership, so Christie Royston, who was the election supervisor has been replaced and I was unable to get any detailed information that I can come to you say, "This happened and not that." I don't have any facts that I can offer to counter the allegation. But I will say that you didn't hear from the chief investigator that this was a situation where voters were disenfranchised so I invite you to consider that.

In sum, I think it's important that you heard that we self-reported on the late deployment. I think it's important that you heard that we promptly secured orders from the court to allow voters to vote additional time at those two precincts, Kanoheda and Beaver Ruin. I think it's important that you heard from me as to why that happened. There were technical issues, one was the poll pad, the other with the ballot scanner. I think it's important that you heard from me that the Board was supported by the County Commission to take proactive steps to address any warehouse

issues and to improve the servicing of the warehouse. In fact, there's a much larger space that's now available to the state in the equipment, for testing the equipment, that is likely to make those delays an isolated situation.

Mr. Chairman, at the beginning of the meeting you were discussing specific and systemic problems. I'll offer to you that this is not -- that the late deployment of equipment is certainly not a systemic problem. There was an isolated situation that we were literally adjusting to these additional component parts, the multiple component parts that now comes to the voting systems with the BMDs.

Mr. Chairman, members of the Boards, for those reasons, I would ask that you not refer this matter to the Attorney General, but that you offer the Board of Registration and Elections a letter of instruction.

One minor reference I want to make. I think in your report it references the election supervisor is Kelvin Williams. I don't know if that's been corrected in the documents that you are looking at, but certainly the documents that we received, Kelvin Williams was identified as the

Respondent and because he is not the election supervisor, I would ask if this Board does refer the matter on, that he not be named as a Respondent and perhaps be named the Board. He was not the election supervisor at the time.

Mr. Chairman, do you have any questions for me, members of the Board?

CHAIRMAN DUFFEY: Do any of the Board members have questions for Ms. Wilson? It is Wilson; correct?

MS. WILSON: Yes.

CHAIRMAN DUFFEY: Okay.

MRS. GHAZAL: Ms. Wilson, can you confirm that these equipment delays were not repeated in the runoff or in the general election?

MS. WILSON: Absolutely. I stand in my place as counsel for the Board to tell you that we have not -- subsequent to the June 9, 2020, election, had issues with deployment of election equipment.

MRS. GHAZAL: Thank you.

CHAIRMAN DUFFEY: What I'm curious about is that there are other large counties that have lots of precincts that didn't have problems. And the problem is really one where if somebody had gone out and looked at the machines and said these are

new machines, better go out and look at them, see what size they are, get trucks that we have enough capacity, it looks like that just kind of fell through the cracks totally.

MS. WILSON: Am I invited to respond to that, Mr. Chairman?

CHAIRMAN DUFFEY: You are.

MS. WILSON: I'm not offering that as the sole explanation. That was the second point that I made. The first point that I made is that the equipment was prepared -- the equipment for deployment was prepared out of sequence such that the precincts that should've received equipment, let's say, earlier in the day or earlier on -- this would have been Monday? Yeah, equipment was going out on Monday and early Tuesday morning -- the equipment that should've gone out in sequence was not ready to go because the employee had not prepared it to go in sequence. He had prepared it in a completely different sequence. Consequently, he was terminated. So this is an employee whose making decisions about deployment that he should not have made.

CHAIRMAN DUFFEY: And had this employee done this before, the task and not necessarily making

mistakes --

MS. WILSON: I cannot answer that question. I can tell you he was terminated.

MR. LINDSEY: But he's not making it anymore?

MS. WILSON: I beg your pardon?

MR. LINDSEY: He's not making it anymore, he was terminated?

MS. WILSON: Correct.

CHAIRMAN DUFFEY: Question, Ms. Johnson.

DR. JOHNSTON: I have question. So you hired a consultant to come in and look at the whole system. Do you actually have a report or numbers of subsequent failure to open on time for the November '20 election, November '21 election or the May '22 election, how many precincts did not open on time?

MS. WILSON: So, Dr. Johnson, I'll answer the questions in sequence.

The Election Center did during their audit or their -- the work that they did was not solely restricted to the warehouse operation. It was looking at everything, at all of the operational aspects of the election administration for Gwinnett County so -- and a report did come out of that to answer your question, first.

Your second question asked about subsequent late openings and I'll work my way back because I can go from memory and tell you that there were late openings in May. The May '22 election, we had four. Again, we secured orders. Please forgive me, I don't remember the details of why there were delays in May of 2024{sic}. I can tell you that I believe from memory -- I may have an email -- I believe there were delays in 2020, November 2020, but I think that was limited to two precincts. I don't remember the details. Please forgive me.

DR. JOHNSTON: In November of '21?

MS. WILSON: In November of 2020 and January '21 for the runoff, there were none. So, we've had -- go ahead.

DR. JOHNSTON: And last November 2021?

MS. WILSON: Gwinnett County does not conduct Municipal elections on behalf of any of the sixteen cities so unlike, for example, DeKalb or Fulton, we were not engaged -- the Gwinnett County Board of Registration and Election does not engage in any election administration for the municipal elections because we don't conduct elections for other -- for our cities.

DR. JOHNSTON: And the handling of emergency ballots, that should be a process that is handled no matter what new equipment a precinct has.

MS. WILSON: I beg your pardon.

DR. JOHNSTON: The handling of the emergency ballots and the accounting for those and the counting of those, that process should easily take place no matter what type of equipment, whether it's new or.

MS. WILSON: Oh -- Dr. Johnson, absolutely correct. Whether we are using BMD or DREs or paper ballots or whatever, absolutely, there are clear regulations and laws governing the emergency ballot process. As I've mentioned before, I don't have the benefit of knowing the details regarding these allegations, either because when the investigation initially happened, we don't have records of what was discussed, what was agreed. But I want to emphasize the point that this is not a situation, as I understand it, where voters were disenfranchised.

CHAIRMAN DUFFEY: Ms. Koth, didn't we find that voters were disenfranchised, that they were not permitted to vote? I think that was one your findings.

MS. KOTH: Under provisional ballots, it says that Ms. Marlow, she filed a complaint saying that she attempted to vote on a voting machine during June 2020 General Primary and then she was given a provisional ballot which she claimed -- they were saying she got one, but she said she never got one. According to -- after completing the provisional ballot, she deposited her ballot into the slot on the ballot box. And then in review of the Georgia Voter Registration System confirmed that her absentee ballot was canceled on June 9th, so.

CHAIRMAN DUFFEY: But there's.

MS. KOTH: She wasn't on the provisional ballot numbered list of voters or the chart presented to the Board.

MS. WILSON: Mr. Chairman, may I made an inquiry here? I don't even know the names of the voters that are -- allegedly had some issues with their emergency ballots. If I could propose perhaps, if the Board with respect to this issue is inclined to refer the matter to the Attorney General, I would ask that you continue the matter to allow me, on behalf of the Board, to make inquiries with the specific facts because I don't

even have the facts regarding the allegations related to the emergency paper ballots, so I don't feel like I've been able to fully present the Board's case with respect to that issue.

CHAIRMAN DUFFEY: Any other questions?

Okay. Thank you.

MS. WILSON: Thank you.

CHAIRMAN DUFFEY: Any discussion about or a motion to be made?

MR. MASHBURN: I'll go.

The test of the lawyer is not when their client is innocent because that's -- that's easy. The question is what do you do when they are guilty. And so I think that was a tremendous presentation. I think you did a great job in presenting the case. The County was well served.

Here, I think it would benefit from a Cease and Desist Order that can be negotiated with the Attorney General. And so I think there is sufficient evidence of a violation here that I think needs to be dealt with on a cease and desist basis. You did everything that's -- if you have a problem, you did everything that's right to do once you know there is a problem. You all responded perfectly, you self-reported, you came

here with, this -- here is why we don't think it's going to happen again, here's what we've done, perfect, perfect presentation, perfect case. So, I don't think there was anything wrong. There wasn't anything I think you could've done differently that you didn't do. There wasn't any information that you could have given us that you didn't give us. But I think you can work all that out with the Attorney General's Office.

And, so there are some cases, at the time I've been on the Board, where the past chair or other people would be like, we're sending this over because we are really mad about this. And so this one is, I think you all did everything right and so there's not any -- I mean, there were problems and that you have got to get fixed and we need as a cease and desist, but there's not a sense that you weren't -- that you weren't aware of it and you weren't doing your best. So, I send this over with no malice or anger. You did a great job in presenting your case. But I do think it would benefit from a Cease and Desist Order and if there is other things. So, I move that the case be sent over to the Attorney General's Office.

CHAIRMAN DUFFEY: Here's my thinking on this. I said at the beginning, I still feel this way that when somebody -- when a county recognizes the problems, takes prompt corrective action, so that we are confident that it won't happen again, because of the remedial action that's been taken, that the county ought to be given credit for that. I guess what I was unaware of is that there were late openings after this event. And if that had not happened, I might agree that there ought to be a lot more leniency, but the value of a Cease and Desist Order is that those voters who get up early that go to vote because they want to get to work, trust the process that the precinct will be open and that happened afterwards that they weren't opened. And this is a process that you and we are responsible for facilitating the voting process. Now, I'm not sure that I'd say it's a matter of whether we are mad or not. It's a matter of what's the appropriate response. And I think there is something about having a meeting like this and having the resolution to be prompt. So, I would be in favor of referring it to the Attorney General's Office provided there's a representation that, one, you'd have to give up a

hearing because you're entitled to a hearing if we find a violation, but you want it resolved in a way that there is certainty and we want it resolved promptly. And if you would agree to a cease and desist without any other sanction or other consequence and did that in a relatively short period of time, I would be in favor of using that as the remedy for this violation, even though we could do more. But the cease and desist, I think you have to understand that if this happens again, late openings, where we don't see repeat violations in counties that have had prior late openings, then that puts us on record and you accepting that it won't happen again, absent some extraordinary circumstance -- extenuating circumstances. So, I don't know what your thought is about that, but that's the way I think it's reasonable to proceed.

MS. WILSON: Mr. Chairman, I know you are deliberating --

CHAIRMAN DUFFEY: I am, yeah. Well, we are kind of deliberating but we are discussing within ourselves.

MS. WILSON: So, I am reluctant to agree to a cease and desist because I don't have instructions

from my client.

CHAIRMAN DUFFEY: I understand.

MS. WILSON: We have been through the consent order process with the Attorney General before and so I would -- if the Board is referring it to the Attorney General as I believe Mr. Mashburn has indicated that certainly that would be the motion that he proposes to make, and to the extent that that motion passes, I would be inclined to keep moving in that process. It's familiar. In the absence of any authority to agree to anything without my client present or have access to.

DR. JOHNSTON: Mr. Chairman.

So, if there's an uncertainty that the poll's open on time, and the vote -- in -- like the voters are given the option to vote with an emergency ballot, but there's an uncertainty that that emergency ballot is counted, now there's a compounded uncertainty in the process of these elections. They don't open on time, you give voters emergency ballots that they may not have trust or the faith that they will be counted, that is my concern.

MS. WILSON: So, Dr. Johnson, I hear you concerned about a compounding problem that this

case presents whereby there were two polling places out of 156, in a county that has over 500,000 registered voters, as somehow indicative of the Board of -- and then the two emergency ballots is somehow indicative of -- is potentially creating a lack of confidence that's what I'm hearing you suggest that those two things compound to leave the voter with the impression that their vote in Gwinnett County doesn't count. I think the evidence -- I would point to the record that I believe Gwinnett County has for conducting efficient elections, fair elections, I would point to that record as opposed to simply relying on the situation with the emergency ballots. And as I said, full disclosure, I'm in the unfortunate position that I can't address the Board on the specifics, because I know that we have a process for handling provisional ballots, we have a process for handling challenged ballots, and so -- and emergency ballots are not provisional ballots. Emergency ballots just get counted. They don't come to the Board like a provisional ballot or a challenged voter does, so. If I can respectfully disagree. I hear your concern and I don't think that that's where we are in Gwinnett County. And

that's my honest and best response.

DR. JOHNSTON: So, it's always attention to detail --

MS. WILSON: Absolutely and this is not --

DR. JOHNSTON: And looking in the emergency ballot bin of every single ballot box.

MS. WILSON: And again, Dr. Johnson, I don't know what the facts are here because it wasn't provided to us in the document that I have. I think that I hear your concern and when you asked me about subsequent late openings, I understand your concern. I would say this, that the ability to extend hours, it's a statutory mechanism. I think it's 21-2-414, don't hold me to that or 21-2-413. But the General Assembly provided that as a failsafe mechanism because they recognize that things happen at polling places. So, respectfully I don't -- late opening where there's been a technical problem that could arise from an individual poll worker or poll manager making one judgment call as opposed to another. The better judgment call in both of those situations at Kanoheda and Beaver Ruin would've been to open at 7:00 and let people come in, that would've been the better judgment call. Instead, we are here

because they kept the doors closed. That's the best I have to offer in response to your question.

CHAIRMAN DUFFEY: Any other comments?

So your motion is what, Mr. Mashburn?

MR. MASHBURN: To refer it to the Attorney General's Office because I think it would benefit from a cease and desist that I'm -- the way we've done in the past is we kind of say I'm sending it over with instructions. And so our instructions is, I'm more interested in the Cease and Desist Order part of it than I am in any fine. So my motion is to refer to the Attorney General with the instructions.

CHAIRMAN DUFFEY: And the instruction being?

MR. MASHBURN: We're more interested in the Cease and Desist Order --

CHAIRMAN DUFFEY: As opposed to a fine?

MR. MASHBURN: Correct.

CHAIRMAN DUFFEY: Any other questions? That the motion. Is there a second?

DR. JOHNSTON: Second.

CHAIRMAN DUFFEY: Any discussion on the motion?

There being none, all those in favor of the motion say "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: All those opposed?

The motion has passed.

And is Charlene here? Wait a second.

Can you get to this promptly and see if we can't get it resolved in discussions with the county.

SPEAKER: Yes, our office will -- as soon as possible.

CHAIRMAN DUFFEY: So you all talk to each other and let's try to get this wrapped up.

Thank you.

MR. MASHBURN: Thank you. Good job.

CHAIRMAN DUFFEY: We're going to do two things. One is we're going to break for lunch and we are going to go into executive session to discuss some pending litigation involving Board and we will be brief with our Board in executive session.

MR. MASHBURN: Mr. Chair, I think we need a motion to go into executive session so I hereby make a motion to go into executive session.

MR. LINDSEY: Second.

CHAIRMAN DUFFEY: I was actually going to do that.

MR. MASHBURN: I'm sorry. I'm sorry.

CHAIRMAN DUFFEY: But I'm glad you reminded me because I might not have.

Any discussion?

There's been a motion for us to go into executive session. All those in favor say, "Aye."

THE BOARD MEMBERS: Aye.

CHAIRMAN DUFFEY: Opposed, "No."

We are going to take about an hour to do this so will reconvene here at 2:00.

(Off the record from 12:55 p.m. to 2:13 p.m.)

CHAIRMAN DUFFEY: Please take your seats so we can continue. We are still in the violations cases. We are now in Case No. 2020-033, Stephens County.

And, Ms. Koth, if you would please brief us on that.

MS. KOTH: The Secretary of State's Office initiated this investigation based on a complaint received from Rebecca Bennett, chairwoman of Stephens County Republican Party. Bennett reported that she has filed numerous complaints against Stephens County Chief Registrar Erica Gover to report that Gover had continuously failed to adhere to the rules regarding the fundamentals

of the election process for the past few election cycles, which has caused confusion and raised questions about the integrity of Stephens County elections process.

Specifically, it was allegedly that chief registrar for Stephens County Board of Elections failed to:

One, properly communicate with board members of the Stephens County Board of Elections and Registration.

Two, failed to properly communicate with the media.

Three, failed to ensure a posted and/or communicated with official party representation, candidates, campaigns or other party officials that wished to observe.

Four, failed to complete a reconciliation and/or tracking of ballots with adjudication issues of potential violation of Georgia Code O.C.G.A. §21-2-493.

And, five, properly ensure absentee ballots went through the proper verification process.

Based on the evidence provided, there was not enough evidence presented to conclude with certainty that the Respondent did not properly

communicate with board members of the Stephens County Board of Elections and Registration; failed to properly communicate with the media; and failed to ensure posted and/or communicated with official party representation, candidates/campaigns or other party officials that wished to observe.

Therefore, these allegations were unsubstantiated.

The allegation that Stephens County Board of Elections and Registration improperly handled and processed absentee ballots were substantiated. However, these violations were identified in case investigation SEB 2020-156.

The investigation identified sufficient evidence to suggest the Respondent failed to comply with the closing of the polls requirements when it failed to maintain a zero tape reflecting voting the devices -- reflecting voting devices were set to zero, verifying no votes were present on the voting equipment.

They did not prepare or maintain the proper election records to show a discrepancy was properly investigated and/or reconciled regarding the total number of ballots as a number of rescanned ballots reportedly did not match ballots

printed at closing.

The assistant registrar reported poll officials were not adequately trained and did not know how to perform certain functions related to the elections process.

Therefore, there's evidence to suggest that the Stephens County Board of Elections and Registration failed to comply with O.C.G.A. 21-2-99(a) that required the elections superintendent to ensure poll officers and workers received adequate training in all aspects of state and federal law applicable to conducting elections.

For potential violations, Ms. Gover, the chief registrar of Stephens County Board of Elections and Registration Board Members, Stephens County Board of Elections and Registration, the investigation identified there is no record of opening the polls, election records on file with the Stephens County Board of Elections and Registration or with the Georgia Secretary of State's Office, suggesting the Stephens County Board of Elections and Registration violated official election record document processes when it: one, failed to document all voting equipment,

had the appropriate seals, and that the electronic poll books, electronic ballot markers and ballot scanners, all indicated zero counts prior to the opening of the polls.

Georgia Election Code §21-2-450(c)(3), opening of polls procedure when ballot labels misplaced, certification by managers, machines to be locked until polls open, officers to be near machines, inspection of machines, broken machines, it stipulates: The manager shall sign a certificate showing the identifying number or other designation of the voting machine, the delivery of the keys in a sealed envelope, the number on the seal upon the machine, the number registered on the protective counter or device, and that all counters were at -- set to zero.

Six, that the ballot labels are probably placed into the machine. This certain -- certificate shall be returned by the chief manager to the superintendent with the other certificates as provided in this part.

Two, the investigation identified there is no record of closing of the polls, election records on file with the Stephens County Board of Elections and Registration, or with the Georgia

Secretary of State's Office.

This suggests that the Stephens County Board of Elections and Registration violated official election record document processes when it failed to complete a valid recap sheet and failed to properly investigate and/or reconcile the total number of ballots following the reported discrepancy and/or palpable error and as a result it violated Georgia Election Code §21-2-493(b), computation, canvassing and tabulation of returns, investigation of discrepancies and vote counts and recounted procedure or certification of returns, change in returns.

The superintendent, before computing the votes cast in any precinct shall compare the registration figures with the certificates returned by the poll officers showing the number of persons who vote in each precinct or the number of ballots cast.

If, upon consideration by the superintendent of the returns and certificates before him or her, from any precinct, it shall appear that the total vote returned for any candidate or candidates for the same office or nomination on any question exceeds a number of electors in such precinct or

exceeds the total number of persons who voted in such precinct or the total number of ballots cast therein.

Such excess -- excess shall be deemed to -- should be deemed a discrepancy and palpable error, and shall be investigated by the superintendent.

Based on violations noted in case investigation SEB 2021-56, and on the statement by the assistant registrar that poll officials were not adequately trained and did not know how to perform certain functions related to the elections process, there is sufficient evidence to suggest that Stephens County Board of Registration and Elections Chief Registrar failed to comply with the provisions of the law that requires the election superintendent to ensure poll officers and workers received adequate training in all aspects of state and federal law applicable to conducting elections.

As a result, it appears Stephens County Board of Registration and Elections is in violation of O.C.G.A. §21-2-99(a), instruction of poll officers and workers in an election, procedures, certifications, notification of completion of training to Secretary of State.

CHAIRMAN DUFFEY: So those are the allegations in Case No. -- and they found -- recommended violations in Case No. 2020-033. Was -- there was a second report of investigation, Ms. Koth, is -- should we take these up separately, do you think? Or ...

MS. KOTH: Yes. Yes.

CHAIRMAN DUFFEY: Okay. So, is -- is there -- is there anybody here from Stephens County that would like to comment on the violations that are -- that are proposed?

(No Response.)

CHAIRMAN DUFFEY: Apparently not.

Is there any discussion among the Board as to the proposed process that we'll undergo for the allegations in 2020-33?

(No Response.)

CHAIRMAN DUFFEY: We always start off this way when I ask the question. There's this long pause.

MR. LINDSEY: And, Mr. Chairman, absent any additional evidence from Stephens County, I would move to accept the recommendations.

MR. MASHBURN: Second.

CHAIRMAN DUFFEY: The move to second it, that

we accept recommendation which -- is that the violations have been supported. But the -- the recommendation, here, I -- I guess would be to send it through the Attorney General's Office.

But, I'll tell you, it looks to me like the last case that we had similar to this, but the facts have been developed. There hasn't been any response to them. And I would say that we refer this to the Attorney General's Office with the request that it be set up for a prompt hearing.

MR. LINDSEY: I would accept that amendment to my motion.

DR. JOHNSTON: A what?

CHAIRMAN DUFFEY: A prompt hearing.

So, I would -- I would amend it in that way, that we have -- that the recommendation is to refer to the Attorney General's Office for a prompt hearing.

Is there any discussion on the motion?

Has it been seconded? Somebody said yes.

MR. MASHBURN: Yes. Mashburn, seconded.

CHAIRMAN DUFFEY: There being no discussion, all those in favor of the motion say, "Aye."

THE BOARD MEMEBERS: Aye.

CHAIRMAN DUFFEY: Opposed, "No."

(No response.)

The motion carries.

Next. Next, Ms. Koth, explain to me how -- why we have the same number for two investigations but are labeled differently.

So the one next to what I have is 2020-33, procedures for early tabulation of absentee ballots, also from Stephens County. Do we just combine those?

MRS. GHAZAL: Do you have --

CHAIRMAN DUFFEY: No, this was the last one I did.

MR. LINDSEY: Yeah, the next one, Mr. Chairman, should be Montgomery County.

CHAIRMAN DUFFEY: I'm -- I'm sorry. Excuse me.

Montgomery County, 2020-34. Duty to secure election records.

Could you brief us on that, Ms. Koth?

MS. KOTH: Yes, this one had four allegations. The first one is, Greg Palmer reported that two boxes of election records were in an unsecured closet in the Montgomery courthouse. Mr. Palmer alleged that someone could have used the records to fraudulently submit

absentee ballots.

The records were given to the Georgia State Patrol for safekeeping until they could review -- be reviewed by a representative of the office of the Georgia Secretary of State.

The second allegation: Greg Palmer reported that Gary Brady called Robert Dixon multiple times and harassed him regarding picking up his absentee ballot.

Allegation three, Greg Palmer reported that Alston precinct failed to open on time and both Billy and Cathy Curl were not able to vote.

Allegation four, Greg Palmer reported that Darwin Williamson, Tyler Williamson and Peggy Williamson were moved to a different precinct without being notified. Greg Palmer also reported that Bobbie Carpenter notified the Williamsons that their absentee ballots had not -- had been lost, then later notified them that they had been found and would be shredded.

The findings are: Allegation one, there is evidence to suggest that Montgomery County election staff failed to properly secure two boxes of election records from 2013 and 2014. The records were in an unsecured closet in the men's

restroom on the second floor of the Montgomery courthouse.

Both Probate Judge Ruby Sanders and Chief Registrar Bobbie Carpenter stated that they did not know the records were in the closet and have never used the closet for storage. Both said all the election records were stored on the third floor.

There was no evidence to suggest that the records were used to produce fraudulent absentee ballots as originally reported by complainant Greg Palmer. There was no evidence to support violations of Georgia election law for allegations two through four. All voters mentioned in these allegations were not disenfranchised and were able to vote.

The potential violations were for Montgomery Board of Registrars Bobbie Carpenter, the Chief Registrar, and Probate Judge Ruby Sanders, Elections Superintendent.

There's evidence to suggest that Montgomery Board of Registrars Bobbie Carpenter and Judge Ruby Sanders violated O.C.G.A §21-2-500(a), delivery of voting materials, presentation to grand jury in certain cases in preservation and

destruction, destruction of unused ballots, when they failed to properly secure two boxes of election documentation from 2013 and 2014 until it could be destroyed.

The boxes were in an unsecured closet in the men's restroom on the second floor of the Montgomery Courthouse.

CHAIRMAN DUFFEY: So the allegations regarding Montgomery County's securing of election records has been summarized.

Is there anybody here from Montgomery County that would like to respond? And that microphone, if you'll speak in it at -- I don't know if you have to turn it on or not. Whoever is going to speak, is -- and is that on? Do you know?

(Simultaneous speakers.)

CHAIRMAN DUFFEY: Okay. Good. Thank you.

(Simultaneous speakers.)

CHAIRMAN DUFFEY: Introduce yourselves.

MS. SANDERS: Okay. I'm Ruby -- Ruby Nell Sanders, I'm the elections superintendent of Montgomery County, Georgia and probate judge. And this is -- Bobbie, will you --

MS. CARPENTER: I'm Bobbie Carpenter, chief registrar.

CHAIRMAN DUFFEY: Could you repeat your last name, I didn't get --

MS. CARPENTER: Carpenter.

CHAIRMAN DUFFEY: Carpenter?

MS. CARPENTER: Carpenter.

CHAIRMAN DUFFEY: Thank you. All right. Proceed.

MS. CARPENTER: Proceed?

CHAIRMAN DUFFEY: Yes.

MS. SANDERS: Ms. Bobbie is going to have to help refresh this because it's actually it's records that we had stored, or she had stored. We were a little puzzled, it, you know, been since 2013, so we were little puzzled as to why they were found in the men -- the -- the closet, it's not in the men's room, but it -- they kind of make it sound that.

It's a mechanical closet where tags and things like that are kept, because she normally started everything on the third floor. We've had prisoners in, moving out a bunch of stuff for the clerk's office and junk and all from third floor back during that time. We don't know if that's when they might have got moved to that room. Okay.

That room did always stay locked. The County was having cameras installed, it's an electrical room. The people installing the cameras had a key to go and come. We had no idea what was -- well, to start with, we really didn't notice things were in there, they're old, you know, we just, I don't know, you get busy and you, you know, just -- just didn't realize they were in there.

And so as far as we know, that's what -- I don't know exactly how they came about being in that room, but we do know that it -- that room is normally always locked, and it's just that as they were installing the cameras, they are going to come in after hours and everything, these people were, just doing the installation, and apparently had just left it open because they were constantly going in there to get -- to use the mechanical part of it.

Do you have anything else to say?

MS. CARPENTER: No.

MS. SANDERS: That's about it. Though we, you know, I will say Ms. Bobbie is very conscientious. Had she known there was anything wrong she would have cleared it up. She's -- she's "Johnny on top" of everything.

MS. CARPENTER: I try to be.

CHAIRMAN DUFFEY: Any questions?

MRS. GHAZAL: Do you have a regular process for destroying the -- the documentation after two years?

MS. CARPENTER: I do.

MRS. GHAZAL: What -- what's -- what's the regular procedure that you do with that? After the statutory period the -- in which you may -- have to maintain those records is -- is -- what's your normal procedure there?

MS. CARPENTER: I normally have them destroyed.

MRS. GHAZAL: Okay.

MS. CARPENTER: And disposed on-site --

MS. SANDERS: Now, the one's that were there --

MS. CARPENTER: At that time we didn't have a shredder. We had -- we would -- whenever we could get somebody to take them and dispose of them, but it's just like Judge Sanders -- like Judge Sanders says, we didn't know they were in there and we didn't know until the -- they brought it to our attention.

MRS. GHAZAL: Thank you.

CHAIRMAN DUFFEY: My concern is this, that, I mean, these are official records. There is a process by which you are allowed to dispose of them. You know you have an obligation to store them properly.

And -- and the -- I think that requires you to have a system, so that you know that all the records that are supposed to be where they're supposed to be are there. That somebody goes through every two years to see what it is that you can destroy, and that there's just accountability for the records and a -- and awareness of what records you have and which records are being destroyed.

And in this case, I'm not sure, exactly, what the system is that you have to make sure that you're tracing and tracking all the records, and secondly why it took so long to figure out that they were gone. And the reason why there is a rule is to protect the records that are created by voters.

MS. SANDERS: She can speak to that (low audio) normal (low audio) this is a unique -- a unique situation. There were the only two boxes that -- somehow they had gotten --

CHAIRMAN DUFFEY: Right.

MS. SANDERS: -- moved.

MS. CARPENTER: It is -- is a mystery. We did not know they had not been destroyed. If you look -- if you come to our courthouse, you check, everything has been destroyed up to 2020. But these two boxes were misplaced or forgotten or something. They were stored under lock and key until those workers went in and unlocked the door, and we didn't know. And then this person just came on-site, that had no business on -- in the courthouse, but he found those boxes.

CHAIRMAN DUFFEY: So what's your system for -- for maintaining and tracking records today?

MS. CARPENTER: Well, we have -- we destroy them as the years, you know two years, five years.

CHAIRMAN DUFFEY: You just keep them in boxes on shelves?

MS. CARPENTER: No, we have them stored on third floor, under lock and key.

MR. LINDSEY: Just so -- If I may, Mr. Chairman, and just build on that. I think what -- what he's, perhaps, asking for and what I'm asking for is for instance, do you have a log --

MS. CARPENTER: Oh, yes.

MR. LINDSEY: That that -- that indicates, you know, not only where it was stored, but the date in which it can be destroyed, and -- and that -- and confirming that it has been. Does your log contain all that information on it?

MS. CARPENTER: Yes, sir.

MR. LINDSEY: And did your log contain a reference that the 2013, 2014 records had, in fact, been destroyed?

MS. CARPENTER: No.

CHAIRMAN DUFFEY: So if that record was -- if there was no indication of that, did somebody say, "Well, where are the 2012 and 2013 records? They're missing." Or to go look for them, just say "They haven't been destroyed when they were supposed to be destroyed. Where are they? Let's go look and see if they are still there." Because it sounds like somebody else found them, not them.

MS. CARPENTER: Well...

MS. SANDERS: It was some other -- going on, I can tell you that, but I'm not going to speak to that.

CHAIRMAN DUFFEY: Okay.

MS. SANDERS: (Inaudible.)

MS. CARPENTER: Would you like to see a video

of it?

CHAIRMAN DUFFEY: I -- I can't hear you.

MS. CARPENTER: Would you like to see a video of it?

CHAIRMAN DUFFEY: A video?

MS. CARPENTER: The way it got moved around.

CHAIRMAN DUFFEY: A video of what?

MS. CARPENTER: Of the way the boxes got moved out of the room.

MS. SANDERS: The boxes (inaudible) Sharon asked that they (inaudible) intend to try (inaudible) and felt like, you know, it's -- it's something that happened, and we -- we do take full responsibility, even though we really don't have good explanation, because had no idea it was unlocked.

CHAIRMAN DUFFEY: Right.

MS. SANDERS: So it was just sort of circumstances, I guess, that we should have kept up with, but, you know, when you have elections and you're doing everything else too, new elections come since 2013 and '14, you know, it's just hard to -- and it was just something that was an oversight. I'm sorry. Didn't intend to. It was not intentional.

CHAIRMAN DUFFEY: Sure.

MS. CARPENTER: But we do have a shredder on bay, on -- on the site now, so we -- this won't happen again.

CHAIRMAN DUFFEY: Any other questions?

(No Response.)

CHAIRMAN DUFFEY: All right. Thank you very much.

Does anybody have a motion on this matter?

MR. LINDSEY: I'll move to -- to accept the recommendations and to make a referral of a hope of working out some type of specific remediation, you know, in -- particularly in terms of records. So, yes.

MR. MASHBURN: Second.

CHAIRMAN DUFFEY: It's been moved and seconded to accept the recommendations, with the instruction that -- that the parties -- the Attorney General and representatives of the county promptly discuss with each other whether or not they can resolve this. So with -- with that motion, is -- is there any further discussion?

(No Response.)

CHAIRMAN DUFFEY: There being no further discussion, all those in favor of the motion say,

"Aye."

THE BOARD MEMEBERS: Aye.

CHAIRMAN DUFFEY: All those opposed, "No."

(No Response.)

CHAIRMAN DUFFEY: The motion passes.

The next is matter No. 2020-039, Sumter County polling place issues.

Ms. Koth?

MS. KOTH: This case has six allegations. Allegation one, Kimberly Page reported that her name was listed incorrectly on the ballot and it should have been Kimberly Taylor Page. When she spoke with the elections supervisor, Randy Howard, he said it was too late because the ballots had already been printed. Ms. Page later discovered that another candidate was allowed to change her name after Ms. Page's request was denied.

Allegation two, Kimberly Page reported that a poll worker told voter Stephen Milledge (phonetic) not to vote for Kimberly Page.

Allegation three, Kimberly Page reported that she paid to have her political ad ran on local radio station. Ms. Page's opponent, Stephanie Bennett, completed a public service announcement honoring veterans on the same radio station

without purchasing a political ad.

Allegation four, Kimberly Page reported that the election supervisor's sister, Aletha, was hired as a poll manager for the Leslie voting precinct. Ms. Page alleged that around 8:00 p.m., Aletha was overheard saying she already knew Stephanie Bennett had won. Ms. Page also alleged a board member also said Stephanie Bennett had won. Ms. Page alleged this was done before all the ballots were counted.

Allegation five, Kimberly Page alleged the voting precinct located at Thompson, Southwest Volunteer Fire Station did not open at 7:00 a.m., and as a result a voter was unable to vote.

Allegation six, Kimberly Page alleged a lot of voters did not receive their absentee ballots until the day of the election.

The findings. The investigator interviewed all available witnesses, and there was no evidence to support any violations of Georgia election law for allegations one through five.

Allegation six, during the interview with Ethel Hollis, she mentioned she lived in a rural part of Americus, Georgia, but used her mother-in-law's address on North Jackson Street to

receive mail. Ms. Hollis's e-Net inquiry showed she also used North Jackson Street as her registered voting address, which, through her own admission, is an address she no longer resided.

Ms. Hollis said she had a Post Office box in Americus, Georgia. Ms. Hollis's current address is on US Highway 280 in Americus, Georgia. Ms. Hollis stated she was going to update her registered voting address. However, at the time of this report, the address still has not been updated.

The potential violation, there's evidence to suggest Ethel Hollis violated O.C.G.A. §21-2-218, cancellation of registration in former state or county address changing corrections when she failed to notify the Board of Registrar that she moved from Highway 280 West, Americus, Georgia, one count.

CHAIRMAN DUFFEY: Is there anybody here from -- is Ms. Hollis here? Or is there anybody else here to speak on behalf of the County?

MRS. GHAZAL: I have a question. Do you happen to know whether or not the address where Ms. Hollis actually resided was also in Sumter County, or was it outside the county limits?

MS. KOTH: It -- it's an Americus address, but it's just not entirely clear. Let me see.

MRS. GHAZAL: And the reason I ask is because it seems to me that this is very similar to this morning's case, which we voted on a letter because there was not -- it was -- while it's a technical violation, any votes would still be valid from the former address.

CHAIRMAN DUFFEY: That was the one with the temporary address?

MRS. GHAZAL: Yes, yes. Exactly.

MS. KOTH: I don't have that in the report. If it was the same, it just says both Americus. It doesn't say.

MRS. GHAZAL: Okay.

CHAIRMAN DUFFEY: What would you like to do with this? We could continue it, and find out an answer to that question, or we could -- it's possible still to send a letter and say that that's an obligation.

MRS. GHAZAL: I think I would move to send a letter of instruction to the voter, with the -- with the instruction that -- that every voter has an obligation to update their registered address as -- as their -- their current residence, but not

to refer this to the Attorney General's Office because it -- assuming that this address is still in the same county.

MR. MASHBURN: Seconded.

CHAIRMAN DUFFEY: Any discussion? It's been moved to send -- and seconded that we send a letter of instruction, instructing as to the obligations to change registrations by providing new addresses, and that we do that with a letter and not a violation.

Is there any discussion on the motion?

(No Response.)

CHAIRMAN DUFFEY: There being none, all is in favor of the motion say, "Aye."

THE BOARD MEMEBERS: Aye.

CHAIRMAN DUFFEY: Opposed, "no."

(No Response.)

CHAIRMAN DUFFEY: The motion passes.

The next is Case No. 2020-048.

And Ms. Koth, if you would please brief us on that.

MS. KOTH: Election Supervisor Carol Heard reported that four Decatur County voters potentially voted twice in the June 9th, 2020, general primary. The voters were identified as

Pamela Rouse, Larry Clemens, Shirley Story, and Lloyd Story, Junior. There's evidence to suggest Decatur County voters Pamela Rouse, Larry Clemens, Shirley Story and Lloyd Story all voted twice during the June 9th, 2020, primary election.

Pamela Rouse voted advance, in person on October 19th, 2020, and in person on election day. Larry Clemens, Shirley Story and Lloyd Story all submitted an absentee ballot in addition to voting in person on election day.

Charles Murphy was identified as the poll manager for the Fairgrounds Exhibit Hall polling location, which was where voter Larry Clemens was allowed to vote in person on June 9th, 2020, after having already submitting an absentee ballot.

Mr. Murphy was aware of the proper procedure on how to call in and verify with the elections office if a voter was shown to have already voted.

Margaret Bryant was identified as a poll manager for the Memorial Coliseum polling location, which was where voter Pamela Rouse was allowed to vote in person on June 9th, 2020, after already voting in person during the advance voting period. This was also the polling location where voters Shirley Story and Lloyd Story were allowed

to vote in person on June 9th, 2020, after having already submitting an absentee ballot.

Ms. Bryant was aware of the proper procedure on how to call in and verify with the elections office if a voter was shown to have already voted. However, she claimed she was instructed not to do so by her supervisor, Carol Heard. Elections Supervisor Carol Heard did not recall ever telling polling staff, specifically, not call the office.

Ms. Heard said the weekend before the election, she and her staff went through the electors list and marked who had already voted, and a list were provided to each of the polling locations. Ms. Heard instructed the polling staff to check the electors list first because they may experience trouble getting through to the office due to high call volume. Ms. Heard said the polling staff could have called in if they had a question.

The potential violations for Pamela Rouse, Larry Clemens, Shirley Story, and Lloyd Story. There is evidence to suggest that Pamela, Larry, and Shirley and Lloyd violated O.C.G.A. §21-2-572, repeat voting in same primary or election, when they voted more than one time during the

June 9th, 2020, General Primary Election.

Voter Pamela Rouse voted advance in person on May 19th, 2020, in addition to voting in person on election day. Voters Larry Clemens, Shirley Story and Lloyd Story submitted absentee ballots, in addition to voting in person on election day.

There's evidence to suggest Decatur County Board of Elections and Registration, Carol Heard, Charles Murphy, and Margaret Bryant violated O.C.G.A. §21-2-388(2), cancellation of absentee ballots of electors who are present in election precinct during primaries in elections when they failed to properly verify whether Larry Clemens, Shirley Story or Lloyd Story's absentee ballot had been received before allowing them to vote in person on election day.

This resulted in all three voters voting twice during the June 9th, 2020, General Primary Election.

There is evidence to suggest that Decatur Board of Elections and Registration Carol Heard and Margaret Bryant violated O.C.G.A. §21-2-590, poll officer permitting unqualified persons to vote, when Pamela Rouse was allowed to vote on election day when she had already cast her ballot

during early advanced voting.

CHAIRMAN DUFFEY: Those are the potential violations against Pamela Rose -- Ross, Larry Clemens, Shirley Story, and Lloyd Story. And the recommended violations is against the Decatur County Board of Elections and Registration, the Election Supervisor Carol Heard, and Poll Managers Charles Murphy and Margaret Bryant, as well as the final recommendation of a violation against the -- the Decatur Board of Directors and Registration, Carol Heard and Margaret Bryant.

Are Ms. Rouse, Mr. Clemens, Ms. Story or Mr. Story here today? And would they like to respond?

(No Response.)

CHAIRMAN DUFFEY: Apparently not.

Anybody here from the Decatur County Board of Elections and Registration, or Ms. Heard, Mr. Murphy or Ms. Bryant?

(No Response.)

CHAIRMAN DUFFEY: All right. Apparently not.

Is there a motion with respect to this recommendation?

MR. LINDSEY: So moved, Mr. Chairman.

Let me also, if I may -- well, do the motion

first, and then I'll...

CHAIRMAN DUFFEY: Okay.

MR. MASHBURN: Second.

CHAIRMAN DUFFEY: Okay. It's been moved and seconded.

MR. LINDSEY: You we -- it's understandable, someone is building a house, moves temporarily, and votes at their old location. It's wrong and it's -- and it warrants letting that voter know, you can't do that. I'm at a loss to figure out when any voter thinks he can vote twice.

And so, for that reason, I do very strongly believe it needs to get to the Attorney General's Office. And for that matter, I can't figure out how an elections board could allow this sort of thing happen, either. We have safeguards in place to keep this sort of thing from happening.

So on both -- on both, when it comes to both the Board and the voters, I look forward to hearing what the Attorney General comes up with.

CHAIRMAN DUFFEY: Well, I would say this, I can't imagine any four voters vote twice.

MR. LINDSEY: That's right. Four times.

CHAIRMAN DUFFEY: And one of the things that troubles me most is that it's not one election

supervisor, one poll manager who -- who says that they didn't call, but it's two, and they say they were told not to call. And that person said I never told them not to call. That's -- that, to me, doesn't make sense, and I'm not sure that somebody is not telling the truth, but -- and -- and I would say that rather than -- I think we ought to put this on an -- on for an immediate hearing, straightforward, we need to get to the bottom of this and make sure that voters and election officials know that this won't be tolerated.

MR. LINDSEY: Yeah.

MRS. GHAZAL: I -- I agree, in particular with respect to the voter who voted in person twice.

MR. LINDSEY: Yeah.

MRS. GHAZAL: I cannot imagine the circumstances that would confuse.

CHAIRMAN DUFFEY: Yeah, I agree.

MRS. GHAZAL: I will say that the primary process in 2020 was extremely confusing because it initially was two different primaries, the presidential preference primary was separate from the general primary, and then it was consolidated

and put off. So, I can see where somebody may be confused that they received an absentee ballot, and thought it was a separate process. So I think the -- the fact-finding in this, in a hearing, will be very instructive for those voters who voted both in absentee ballot and in person, but voting twice in person within three weeks is unquestionably, I -- I don't see how that could happen without it being deliberate.

CHAIRMAN DUFFEY: I'd say there are strong feelings about this case.

MRS. GHAZAL: Yes. Yes.

CHAIRMAN DUFFEY: All right. Any further discussion on the motion to refer this to the Attorney General for an immediate hearing?

(No Response.)

CHAIRMAN DUFFEY: If not, all those in favor of the motion say, "Aye."

THE BOARD MEMEBERS: Aye.

CHAIRMAN DUFFEY: All those opposed, "No."

(No Response.)

CHAIRMAN DUFFEY: The motion passes.

The next is Case No. 2020-61, McIntosh County, poll problems, and would you please report on that for us, Mrs. Koth.

MS. KOTH: This one has two allegations.

Allegation one, Barbara Price reported she did not receive her absentee ballot in the mail, and when she tried to vote in person, was denied her right to vote. Ms. Price reported she was denied because she had requested an absentee ballot.

Allegation two, Barbara Price reported voter Gracie Townsend went to an incorrect polling precinct and wasn't allowed to turn in a completed absentee ballot or vote provisionally.

There is evidence to suggest that Delores Walker denied voter Barbara Price her right to vote, and during the June 9th, 2020, General Primary Election, Ms. Price requested an absentee ballot on May 29, 2020, but claimed she did not receive it and went to vote in person on election day.

In the original complaint, Ms. Price said she was denied her right to vote because she had requested an absentee ballot. Ms. Price's e-Net inquiry showed where she requested an absentee ballot, but has never returned to McIntosh County Elections Office.

In a conversation with McIntosh County

Election Supervisor Elenore Gale, Ms. Walker claims she was unaware of what to do in the situation involving Ms. Price. Ms. Walker attended multiple poll worker training sessions leading up to the June 9th, 2020, General Primary Election.

Ms. Gale reviewed Ms. Walker's notes from the election and discovered she had called the office for a similar issue and the voter was ultimately allowed to vote in person. There is no record in e-Net of Barbara Price voting during the June 9th, 2020, general election.

Allegation two, the investigator interviewed all available witnesses, and there was no evidence to support violation of Georgia election law.

The potential violations, McIntosh County Board of Elections and Registration and Elenore Gale, election supervisor, there's evidence to suggest that McIntosh County Board of Elections and Registration and Elenore Gale violated gave O.C.G.A. §21-2-3(d)(2), cancellation of absentee ballots of electors who are present in election precinct during primaries in elections, when poll manager Dolores Walker failed to properly cancel voter Barbara Price's absentee ballot and allow

her to vote in person during the June 9th, 2020, General Primary Election.

CHAIRMAN DUFFEY: That's the -- excuse me. Recommendation for those findings by Ms. Koth.

Is there anybody here to speak on behalf of the Respondents?

We know, of course, Ms. Walker's not available because she is deceased, but is Ms. Gale or anybody else here on behalf of the McIntosh County Board of Elections?

(No Response.)

CHAIRMAN DUFFEY: Apparently not.

Is there any motion on this matter?

MR. MASHBURN: I'll move, once again, to accept the recommendations, and to refer to the Attorney General.

CHAIRMAN DUFFEY: Is there a second?

MRS. GHAZAL: Second.

CHAIRMAN DUFFEY: Any discussion on the motion?

(No Response.)

CHAIRMAN DUFFEY: There being none, all those in favor of the motion, say, "Aye."

THE BOARD MEMEBERS: Aye.

CHAIRMAN DUFFEY: Opposed, "No."

(No Response.)

CHAIRMAN DUFFEY: The motion carries.

The next is Case No. 2020-64, involving -- I'm sorry, that's been continued.

The last case is Case No. 2021-88, City of Arlington, and would you brief us on that, please.

MS. KOTH: The complainant reports Randolph County Election Supervisor Todd Black was contracted by the City of Arlington to conduct their March 16th, 2021, municipal special election.

Complainant states last week, in one day, Todd Black received 180 absentee ballot applications, all prefilled out, and then signed by the voter. The signatures were verified and ballots were sent out.

The complainant reports petitioners went to court two days ago, and argued that a judge should throw out the applications because the prefilled-out applications were not signed by the assister, presumably the person filling of the top of the application through the -- though the law doesn't require this unless the applicant is illiterate or disabled.

The complainant states the judge refused to

do that, but told the County registrars in Calhoun and Early to hold hearings on the applications. The complainant advises there is, so far, no written order that Calhoun County has seen.

The complainant reports Calhoun County sent letters to voters, telling them their absentee ballot applications were now rejected and their voted ballots were now provisional, and had to be dealt with at the hearing now scheduled for this Friday morning and the voters have to vote in person.

The complainant states Election Supervisor Todd Black has -- voted absentee ballots which have been signature verified, and he says they have -- they are not provisional, and that they will be counted, and will not let a voter who has voted absentee vote again, so those voters are being told two starkly different things.

Complainant advises that Calhoun and Early boards, though, don't, in my opinion, have authority to reject absentee ballots in an election they aren't conducting. They are merely verifying the signatures for Todd Black.

The investigation revealed that during the March 16th, 2021, special municipal election in

the City of Arlington, that Randolph County Election Supervisor Todd Black was contracted to supervise the election.

One day, when Election Supervisor Black checked the P.O. box for the City of Arlington he found a large amount of applications. It was reported there were 180 applications. Most of the applications had the voters' name, address, and date of birth typed on the top portion of the application.

Elections Supervisor Todd Black forwarded the applications to Calhoun and Early County, so they could determine if the voters were eligible to receive an absentee ballot.

Both Early and Calhoun Counties compared the identifying information on the applications with the information on file in the registrar's office. The majority of the voters were found eligible to receive an absentee ballot and they were mailed a ballot.

On March 3rd, 2021, Betty Murdoch, Carolyn Oliver, and Sam Robinson filed a petition in Superior Court of Calhoun County to contest election.

The petitioners requested the following:

Petitioners request for a hearing and *in camera* inspection of applications for official absentee ballot. The argument states that the City of Arlington has less than 1000 registered voters, and within less than three days of early voting, the Randolph County Board of Registrars received nearly 200 applications requesting absentee ballots.

The argument states, it is the petitioners' understanding that many of the applications requesting an official absentee ballot are typed on a computer. The petitioners requested an expedited hearing on Monday March 8th, 2021, at 10:00 a.m. Petitioners filed an emergency motion challenging the 2021 municipal voter registration list.

The petitioners state over 50 electors identified on the list, but whom no longer believed to be residents of Arlington, Georgia. The deficiencies and inaccuracies also include six electors who are known to be deceased. The petitioners requested an expedited hearing on Monday March 8th, 2021, at 10:00 a.m.

On March 3rd, 2021, Calhoun County Senior Judge Joe Bishop signed an order scheduling a

hearing on petitioners' emergency motion challenging the 2021 municipal voter registration list. The hearing was scheduled for March 8th, 2021.

On March 9th, 2021, the Chief Registrar Sarah Causey and Deputy Chief Registrar called a meeting with the Board of Registrars so they could discuss with Judge Bishop had said -- what he had said during the hearing on March 8th. Ms. Deal provided a copy of the Board of Registrar's meeting minutes and the following were discussed in new business.

The Board discussed the judge's ruling on Superior Court Case 19 V 103 on Monday considering the Arlington Municipal Election. They discussed the -- the included time constraints due to the election being one week from that day, and O.C.G.A. §12-2-381, the Board unanimously agreed to send the attached letter to those electors whose applications met the criteria of concern by the judge.

On March 9th, 2021, Deputy Registrar Brooke Deal had the following letter served by the sheriff's department to 24 electors that had requested an absentee ballot during the

March 16th, 2021, special municipal election:

Dear Elector, pursuant to Superior Court Case 19 V 103, on March 8th, 2021, in accordance with O.C.G.A. §21-2-381, you are hereby informed that your application for an absentee ballot for the Arlington Municipal Election on March 16th, 2021, has been rejected.

You may still vote during advance voting or on election day. If you've already received a ballot, please bring that with you when you arrive to vote in person. Only your in-person ballot will be counted.

Alternatively, you may complete a new absentee ballot application and mail it to Randolph County Elections, P.O. Box 23, Arlington, Georgia 39813. If you've already returned a completed ballot for Arlington municipality election on March 16th, 2021, that ballot has been declared provisional.

If you wish to appeal the status of your ballot before the Calhoun County Board of Registrars, please call the voter registration office in Morgan at phone number (229)849-2972. Calls for appointments will be received between the hours of 8:00 a.m. to 12:00 noon, and

1:00 p.m. to 5:00 p.m. on March 9th, 10th, and 11th.

Hearings will be held on March 12th in Arlington, Georgia in the conference room of the Conner Insurance building, located on Highland Avenue South. Please, bring valid photo identification when you arrive for your hearing. Respectfully, Brooke Deal, Deputy Registrar.

And then has a list of the 24 voters that were sent that letter.

Brooke Deal reported that 24 electors were chosen because their names were listed on the court documents. On March 10th, 2021, Brooke Deal reported Elections Director Chris Harvey called her and asked, what is going on in Arlington? I keep getting calls about a letter you sent out regarding the city election.

Ms. Deal stated she informed Mr. Harvey of the judge's recommendation and instructions, which prompted the Board of Registrars to send a letter out to voters and ensure a fair and pressure-free election. She advised she then read the letter to Mr. Harvey, and she informed him the Board had secured a building in Arlington to make it easier for people come in and verify their application

for an absentee ballot, without pressure from anyone working for any of the candidates.

Ms. Deal stated Mr. Harvey had told her they could not do that, and the judge did not have the authority to order that. She advised Mr. Harvey asked her if she had that in writing, and she informed him, no. Ms. Deal stated she advised Mr. Harvey that she was in court, and she heard the judge's instructions and the election is next Tuesday.

She said she advised Mr. Harvey that they did not have time to wait for the written order. Ms. Deal stated Mr. Harvey instructed her to stop the process immediately and send out a letter by the sheriff's office to let the voters know there will no longer be a hearing. She advised Mr. Harvey informed her of Elections Supervisor Todd Black said that he was counting all of the votes, and she said, okay.

On March 10th, Deputy Registrar Brooke Deal sent a second letter to the electors, and advising that they would no longer have the hearing.

Investigator reviewed the order that was filed in Calhoun County Superior Court on March 12th, 2021, and the order states the

following:

A hearing -- a hearing having been held on petitioners' motion, challenging the 2021 municipal election voter registration list was pursuant to O.C.G.A. §21-2-230, and petitioners' request for hearing and inspection of applications for official absentee ballots. And upon consideration of the arguments presented by counsel for all parties, it is hereby ordered, adjuded and decreed as follows:

The Calhoun County Board of Registrars shall convene in a timely fashion, and is required, pursuant to Georgia law, to review any challenges posed by the petitioners as it relates to the 2021 municipal voter registration list for the City of Arlington, Georgia.

The Early County Board of Registrar shall convene in a timely fashion, and is required, pursuant to Georgia law, to review any challenges posed by Petitioners as it relates to the 2021 municipal voter registration list for the City of Arlington, Georgia.

In the court order, the judge did not address anything in reference to the application for a voter to receive an absentee ballot that were

typed on the top portion. The investigator met with Chief Registrar Sarah Causey, Deputy Registrar Brooke Deal and Calhoun County Attorney Ben Harrell.

Ms. Causey said they sent the letter out on March 9th, 2021, based on what the judge said on March 8th, 2021. She advised the election was on Tuesday, and it was a very small window to do it. The Attorney Harrell stated at the conclusion of the hearing that the judge gave an oral order to the parties.

Attorney Harrell advised that there was that pressure from the judge saying that in court, that they had an election coming up next week. He advised if they received a court order the next day it would have been really helpful.

Attorney Harrell stated that they felt that the court hearing that if the Board did not act immediately there would have been a violation of what the court was saying to do. He advised he would have advised the Board, if they did not do what the judge said they would have been in contempt of court. Attorney Harrell stated that their mindset -- this was their mindset. And there was definitely the sense that the judge said

to do this.

During the investigation, it was learned that Shirley Jackson provided assistance to Willie Barnes to request an absentee ballot. Mr. Barnes needed assistance because he was unable to read the English language. Shirley Jackson failed to sign application that she provided assistance to Mr. Barnes.

For potential violations, Shirley Jackson, elector, there is evidence to suggest that Shirley Jackson violated O.C.G.A. §21-2-381(a)(1)(a)(f), making of application for absentee ballot, and that Shirley Jackson assisted Willie Barnes to fill out an application to request an absentee ballot because he was illiterate. Shirley Jackson failed to sign the application that she provided assistance to Willie Barnes.

There is evidence to suggest that Calhoun County Board of Registers Sarah Causey and Brooke Deal violated O.C.G.A. §21-2-597, intentional interference with performance of election duties, in that Randolph County Election Supervisor Todd Black was contracted to supervise the March 16th, 2021, special election in the City of Arlington.

CHAIRMAN DUFFEY: Yeah.

MS. KOTH: That was it.

CHAIRMAN DUFFEY: Thank you. I wasn't quite sure, and I didn't want to interrupt you.

MS. KOTH: It was a lot.

CHAIRMAN DUFFEY: All right. Those are the allegations of the potential violations in this matter, which is 2021-088. Is there anybody here just to respond, either Ms. Jackson, somebody from Calhoun County Board of Registrars, Chief Registrar Sarah Causey or Deputy Chief Registrar Brooke Deal? Are any of those people here?

(No Response.)

CHAIRMAN DUFFEY: So there's no response.

Is there any motion on this matter?

MR. LINDSEY: So move to accept the recommendations of the investigator.

CHAIRMAN DUFFEY: And to refer to --

MR. LINDSEY: And to refer to the Attorney General's Office.

MR. MASHBURN: Second.

CHAIRMAN DUFFEY: It's been moved and seconded to accept the recommendation of the investigator and refer this to the Attorney General's Office.

In this, I think we just refer to Attorney General's Office because it's not entirely clear as far as what would be a proper resolution.

MR. LINDSEY: Yeah.

CHAIRMAN DUFFEY: And I think we need their advice. Does everybody agree with that? All right.

It's been moved and seconded that we refer matter 2021-88 to the Attorney General's Office. Is -- are there any discussion -- is there any discussion on the motion?

(No Response.)

CHAIRMAN DUFFEY: Not being any, all those in favor of the motion, say, "Aye."

THE BOARD MEMEBERS: Aye.

CHAIRMAN DUFFEY: All those opposed, "No."

(No Response.)

CHAIRMAN DUFFEY: The motion carries.

And that completes the violations list.

I do want to make say -- make one clarification on our vote on the letter cases. When we voted at the very end and those we could not deal with individually, there was a case which is 2022-28 Richmond County involving voter registration. Before the hearing, the parties in

that matter came to me and said that they hadn't received notice of this hearing, although they were here, but they were here mainly to ask if the case could be continued. And I agreed to continue it and failed to note that when we did the motion, but the motion would cover all of the cases that were not booted out individually except for 2022-28, which was previously continued upon my decision. So we will see them at the next meeting.

The next order of business on the agenda is the report to the Attorney General, who will report, as you know if you been here, we do you have a smaller crowd than we did before. You were, I think, all here. You know that there are some matters that we refer to the Attorney General's Office. These are matters that were previously referred previous meetings to the Attorney General and now they're being reported back to us after they have considered them.

So Charlene McGowan is our lawyer, and she's at the podium and ready to start, I assume.

ATTORNEY GENERAL'S REPORT

MS. MCGOWAN: Thank you. Good afternoon, Mr. Chairman and members of the board. For the

Attorney General's report today we are presenting a number of consent orders which are resolutions that were negotiated with the named respondents in each case. Some of these are consolidated cases, specifically the consent orders with Hancock County, Peach County, and the City of Forest Park, those all resolve a number of cases that are listed in the agenda.

We also have two final orders which are cease and desist and reprimand orders for the two cases listed on the agenda, those involved individual respondents.

I'm happy to entertain any questions that board members have regarding any specific cases, but otherwise, on behalf of the Attorney General's Office, I recommend that the board approve these orders.

CHAIRMAN DUFFEY: And these have all been provided to us as board members before the meeting, so we've had a chance to review each of them. I don't know if -- I don't want to put you on the spot, but could you just generally describe what these matters are and what the recommendation is that you've made to us, the orders as they're presented, or is that too complicated?

MS. MCGOWAN: Do you want me to go through each case individually?

CHAIRMAN DUFFEY: Yes, if it wouldn't take too long to do each case. Well, I don't know. That would take a long time, wouldn't it?

MS. MCGOWAN: It's up to you, Mr. Chairman. I'm happy to go through each, if you'd like.

CHAIRMAN DUFFEY: You all are very differential to me. Sometimes you ought to say, "That's not really a good idea."

Since we all have read this, there is a motion to approve the orders as they have been submitted to us by the Attorney General's Office. Is there a second to that motion?

MR. MASHBURN: Second.

CHAIRMAN DUFFEY: Any discussion on the motion? There being no discussion, all those in favor of the motion please indicate by saying "Aye."

THE BOARD MEMEBERS: Aye.

All those opposed, "No."

(No response.)

CHAIRMAN DUFFEY: The motion is carried and granted.

That is the last of the orders and the

matters on the agenda, but there are still some other things we need to do. And specifically those of you that have signed up for public comments, we would like very much to hear from you now. I'm going to call you up in the order that you signed up, and I would just ask for you to be succinct as possible and keep it somewhere between two and three minutes.

So the first person would be Frank Schneider.

MR. SCHNEIDER: Yes, thank you. Where would you like me to stand?

CHAIRMAN DUFFEY: Why don't you speak from mic number 5. Well, maybe it would be better, I think, for the videographer for you to go up to the podium. Okay.

MR. LINDSEY: Mr. Chairman, you have several members of this audience who are very well-versed in how these hearings are conducted. It would be good to always attend.

CHAIRMAN DUFFEY: Having never attended one, I'm learning a lot.

MR. SCHNEIDER: I've seen that to be the case, yes. My name is Frank Schneider. Thank you for the work you do and the value that you make for this state right here. It's important work

that you do.

A couple of things on my mind today. First off, we talked about keeping voter rolls clean, and I think you're aware of how critical this is in a fair election. And I'm glad that Mr. Evans earlier brought up ERIC the information system that's used keep data updated and synchronized across different states when people move. That's one of the things certainly that it does. I got the impression that a number of you perhaps may be getting a briefing from Mr. Evans at some point about the ERIC system, and there's a couple of things in particular that I'd like you to pay attention to: One is the founding of this company and who the founders are and the background of those founders; who's funding this organization and funded it from its beginning; who its leadership is today and their backgrounds. And two other things that I'd request as well, I looked for it and I didn't see it, but I'd be interested in seeing the contract that the State of Georgia has with ERIC. I think that that seems appropriate that it be publicly displayed where we can all read it and review it. And then I think I had one final matter too. Yes.

I'd like to see a process implemented by which -- if the voter rolls are updated on a monthly basis using the ERIC process, it seems reasonable that we would want to see not the specific individuals, but the number of people that are taken off the voter rolls and the number of people that are added to the voter rolls so we can kind of get an idea if voter registration is increasing - net voter registration - if it's staying the same, if it's decreasing. Does that make sense with population growth, that sort of thing. Okay?

Second point I'd like to make has to do with what we talked about earlier with the possible fraudulent entry of ballots into ballot boxes around the state. I know we talked about one specific example. And what I'd like to suggest -- perhaps a question first. Are you all familiar with the movie "2000 Mules"? And have you seen the movie? Okay, I see a few smiles coming up -- I see a lot of smiles coming up. I would suggest that the information contained in this movie and the petabytes of the cell phone ping data should provide some insight as to people that were around the drop boxes in our state during that critical

time period three weeks before our election and up through election day. I won't talk about the runoff at this point right now, but I think you would find that movie very insightful. Okay. Thank you.

CHAIRMAN DUFFEY: Thank you very much. I appreciate it, Mr. Schneider.

Mr. Quinn.

MR. QUINN: Good afternoon. William Quinn. I am a resident of Forsyth County. So, I was thinking about how to -- sort of put a theme around my points today. I think it's going to be one of risk.

I want to make note of something, and I will thank Mr. Mashburn for a comment earlier today. "Those who govern must" -- if I got this right -- "must be willing to stand before the people and answer for their judgments."

Sounds right to me. So, much of what we talk about in these meetings has to do with our law and our goals for elections. Georgia law prescribes that elections be secure and accurate. And in previous meetings, you all have taken great care to explain the steps you've taken to make sure that they are, in fact, safe, accurate, so forth.

Your own State Election Board duties list that you are to promulgate rules and regulations so as to obtain legally -- legality and purity in all primaries and elections.

So, on June 3rd of this year, two and a half months ago, the Cyber and Infrastructure Security Agency of the United States government released a report detailing nine separate vulnerabilities contained in the Dominion Voting Systems, and these are the same systems we use all across this state. These vulnerabilities open the systems to be exploited, and may be able to insert malicious code. So, in other words, taking control in some ways of the systems and manipulating data that may be contained in these systems. How would that appear if this were to occur? Perhaps as anomalies in the reporting, perhaps in anomalies in the way the votes appear after the fact.

I think you're aware many people across the state have brought forward anomalies. In our last meeting, I offered to deliver to the board reports from the cast vote records from a number of counties that show unusual patterns in votes, differences in the way the votes counted up based on the method that they were used to be cast.

That seems odd. So we are -- on one hand, you're told to secure the elections, make sure they're accurate, and yet these machines continue to be used all across the state. And yet we have this government report that says, "Oh, my gosh, they can be manipulated."

Now, add to that something that Frank brought up just a moment ago. Seven days ago, the same company that did the investigation surrounding "2000 Mules" held a meeting with over a hundred people to disclose a number of pieces of information, including some things that had come up in part during their investigation. Within that, they discovered a Michigan company whose selection software and apps had been sold and were in use across quite a number of counties and states in the United States. That software is said to be communicating information on 1.8 million pole workers. Their names, their children's names, finances, location, even poll location schematics, so the places that polls are located and how they're put together. The most concerning thing is they found this information residing on the UNICOM Internet Backbone on a server in China. More information has been

surfacing since this first came to light about eight days ago and has been on national broadcasts as late as last night.

If you think the people in Georgia aren't paying attention to this, mistaken. Thousands upon thousands of people are watching this very closely. It's the reason that we have about three times as many people in the room as we've had in the past I think.

Even the machine contracts itself here in Georgia runs afoul of Georgia law. It prescribes the use of nonhuman readable proprietary bar codes, but more importantly allows a device that is using software subroutines in computing, which is prohibited for election device under O.C.G.A. §212-2-7.1.

CHAIRMAN DUFFEY: Mr. Quinn, how much longer do you have? I've been pretty generous --

MR. QUINN: Just about -- just about 30 seconds.

CHAIRMAN DUFFEY: Great. Thank you.

MR. QUINN: But I can go as long as you would like.

CHAIRMAN DUFFEY: You know, I suspect that that's the case.

MR. QUINN: So here's my question. This sounds like a lot of risk to me and it does to many of the people in Georgia. The question now falls to you all. What are you prepared to do to mitigate this risk? The solutions are not easy, but there are ways to mitigate this. One, I know you're not gonna like it, would be to go to paper ballots and make a change so that we could be assured of valid and accurate elections.

I have copies of the documents supporting everything I've said. I'm available at the Board's discretion at any time for questions.

CHAIRMAN DUFFEY: Thank you very much.

Mr. Balbona.

MR. BALBONA: I'll keep it short. I wrote it out for two minutes, so there we go. Oh, that's not two minutes.

So, I'm George Balbona, I'm from Cobb. I'd like to congratulate Sara Koth, recently Sara was promoted to SOS Chief Investigator. I hope she can now expedite my complaint regarding the Cobb County Elections Department unlawfully receiving boxes of ballots under seal. I submitted this complaint over 16 1/2 months ago and it still has been not properly investigated or assigned a case

number. I want to know why DeKalb County's Elections Director -- former Election Director Erica Hamilton was placed on extended leave of absence prior to her resignation. DeKalb VRE didn't even respond to my first records request in brazen violation of O.C.G.A.

Sara, I submitted a complaint regarding this and it has not been properly investigated or assigned a case number.

When I finally received a response of record from DeKalb, some emails were completely redacted; no names, no dates, no words, nothing. This is untenable. Even the heavily redacted Mueller report informed you of who was being redacted.

I believe Erica Hamilton was forced to resign partially because she submitted a midyear budget that was $4.48 million more than the approved budget. Perhaps Erica unlawfully allowed bad actors to access voting machines like Coffee County and she needed millions to purchase new voting machines. Who knows.

Erica definitely violated county purchasing policy by improperly continuing to employ a PR company after their grant had ended. In order to cover this up, Erica lied to the Board of

Commissioners regarding last-minute BOC substitute item 2021-3005. Erica made it seem that these funds were solely to pay for the marketing of upcoming elections when, in fact, $375,000 were to pay for services already provided. Remember, by a company that did not have -- that was not properly hired. Long story short, is that a criminal offense? Misallocation of county funds? Negligent misrepresentation?

CHAIRMAN DUFFEY: Thank you, Mr. Balbona.

Ms. Davenport.

MS. DAVENPORT: Good afternoon to the chair and the Board. Thank you for giving me an opportunity to speak to you this afternoon.

CHAIRMAN DUFFEY: You're welcome.

MS. DAVENPORT: My name is Karen Davenport. I live in Decatur, Georgia, DeKalb County.

As I have sat through the hearings today, I'm here to encourage the State Election Board to make decisions as you noted in your opening prayer that are right. And as I read your task descriptions, actions that are in the service of the voter.

Among many of the items the State Election Board has considered today are cases based on unfounded claims of voter fraud. I want to

encourage the Board as you make decisions and recommendations, particularly the recommendations you make to the legislators, to look through the lens of how your decisions are impacting all voters. All voters don't have computers. All voters don't have iPhones.

As I listen to many of your responses in response to grants as well as voter registration, I encourage you to look at the infrastructure that currently exists for voters in Georgia. There are issues, in my opinion, that need thorough investigation, because some of the things that we have in place are very much voter suppression for many voters, handicap voters, voters that are not wealthy.

I also want to encourage you to look how the current infrastructure for voter registration, knowing where, when to vote, who is running. There are elements in our current structure that make it difficult for Georgia voters to vote. Please consider as you make decisions that there are serious, serious issues that the Board must deal with throughout Georgia to ensure election locations are open and operational for early voting daily from 7:00 to 7:00, helping voters

navigate the more difficult absentee process, voting on designated Saturdays and Sundays.

So I implore you, I beg you to definitely understand and take seriously, which I'm sure you do, some of the voting suppression issues that currently exist in Georgia. I encourage you to continue to make decisions based on truth, not unfunded -- unfounded claims of voter fraud which clearly undermines our citizens' trust in our elections and voter process.

Thank you.

CHAIRMAN DUFFEY: Thank you very much.

Ms. Adams.

SPEAKER: She's not Here.

CHAIRMAN DUFFEY: Ms. Hall.

MS. HALL: Good afternoon.

CHAIRMAN DUFFEY: Good afternoon.

MS. HALL: My name is Candace Hall, and I'm a Fulton County voter. I've been voting since I was 18 and watching my parents vote since I was 4. I'm coming up on 40. Thanks for hearing me today.

I appreciate the comments about data being messy. I make decisions based on complicated data daily, and messy is an understatement. I also appreciate and look forward to the standardization

of processes and practices that surround the act of voting. I'd like to make comments and a request on behalf of democracy and free and fair elections in the State of Georgia. Georgians agree that we have the right to vote in free and fair elections. And I fully expect be able to exercise that right without threats or fear of intimidation of any kind. I want that for every single Georgian regardless of party affiliation or political affinity.

The 2020 election is settled. The results have been confirmed not once, not twice, but three whole times. Any entertainment or amplification of unproven claims that say anything else undermines the trust we have in our voting process. It also leads to unnecessary and problematic restrictions to the free and fair voting that is the right of the people. Logic tells us that if we examine the elements of an argument and find that the premise itself is false, the conclusion therefore must also be false. We've done that three times. I consider this matter to be settled.

Instead, I would like to see the State Election Board refocus and commit their support to

the elections officials in each county as they prepare for what is sure to be a high voter turnout election this fall. Chasing bad faith allegations of voter fraud is a waste of everyone's time and chips away at voters' confidence. It's problematic. It's inefficient.

At the very minimum, I would ask that the State Elections Board consider promulgating rules that will help counties better implement SB 202, the Election Integrity Act of 2021, and take intentional steps to make sure elections are freely and fairly accessible to every eligible voter in this state. Let's make the rules and the messaging surrounding those rules clear for Georgians, and let's do that with integrity.

I'd like to offer the ABCs of writing, which is what I do professionally; accuracy, brevity, clarity.

Thank you for your time and your attention to this matter.

CHAIRMAN DUFFEY: Thank you. Could you tell all the lawyers that write to me those three ABCs?

MS. HALL: The ABCs; accuracy, brevity, clarity. Absolutely. Yes.

CHAIRMAN DUFFEY: Thank you.

Ms. Reardon.

MS. REARDON: Good afternoon. Thank you so much for serving and all the work that you do. I just don't know where to start. Let's see.

No matter how many times you say there was no fraud in 2020, that doesn't make it true. I want to start there.

The duties of the State Board are to make sure we've had safe and fair elections. And I won't know where everyone was in the room, but we just went through a lot of cases today, and some were fraud, some were not, some were because they didn't know what they were doing. It was a new system in 2020. But you can't just say there was nothing, because I think we've sat here through, what, five or six hours.

But some of the things that I wanted to comment on were the private funds. Last session, there was a bill that the legislators tried to figure out how to equitably distribute the private funds. It got shouted down. I was in the room. And it didn't go any further. There seems to be a lot of controversy around just how to disseminate private funds, which is crazy. So you've got that to look forward to if you have any, you know, ways

that you can offer them, I'm sure it'll be appreciated.

The 10:00 p.m. deadline. I live in Cobb County, and I was -- just as an example, in primary 10:00 p.m., that is easy to meet. And we are, what, the second or third largest county in the state. It's really easy folks. There is a poll manager at every poll on day of. They pull the tape and look at the number. They call it in to the supervisor. That's day of number. Then they've got to 7:00 to get the ballots, the absentee ballots. Those can be counted very easily. They don't have to be scanned, they don't have to be opened, they can be counted. We have X number of ballots. So up to that point on election day, you have your advance voting, those tapes are pulled on election day and are counted between 4:00 and 6:00, 4:00 and 7:00 and those numbers are available. These are the number of people who have voted.

Now, the absentee ballots, they start opening up, depending on how many we have, like a week, eight days, nine days ahead of time. Those numbers are known.

Now, we do not want to go back to 2020. We

do not want to go back to when we're sitting in the Secretary of State three days after the election, four days after the election, still can't say how many absentee ballots there are in Fulton County.

So, obviously, people are going to be up in arms about the fact that we don't know and we keep adding ballots. Where are they coming from? So that rule I think is a very good rule that the legislators made for 10:00 on the day of voting, they can at least have the numbers.

ERIC -- I do not like ERIC. I don't think I know anyone called Eric, but this ERIC system, I do not like and there are many reasons. And you can research it just like the gentleman before had said. Louisiana just canceled their contract. There are a lot of problems with ERIC.

I had a little discussion with Mr. Evans, and I look forward to having more open discussion on this topic. This is really important to me. I'm an immigrant. My vote is very sacred to me, and I went through a lot to get that privilege to vote. So this is very important.

So when we have inflated, bloated too many people on the voter rolls, there is -- that is the

whole source of fraud, and I saw it in 2020. So we do have to keep our voter rolls clean. In Cobb County, we been challenging voters, and there doesn't seem to be an adopted method of doing it from county to county to county, even though we have state law that says how it should be done and what should be done. So I suggest that you work with that and come up with the counties the method, because we go NCOA, the data against the list, find out there's 5,000 people on there that shouldn't be on there. That's about the number. This was a few months ago. So then we start running those against how many of these people have had an address change and move to all the different -- all the different states, okay. And then those people have registered to vote in those states. Take those -- and they've been sent to the Board and the supervisor. They sent out the letters. They did get letters back or responses back or they don't. And we're sitting there through all this work and they changed the rules twice now. This past meeting two weeks ago or maybe three weeks ago now, they decided -- they didn't even vote on the 106 that should've been removed before the 90-day deadline before an

election. Various reasons, "Oh, you can't use NCOA data." Well, yeah, you can. Mr. Evans just explained that earlier today. He use -- they use they run their voter rolls against the NCOA data.

And then it's like, "Well, you've got proved that they voted in another state." No, you can be registered to vote in multiple states, it's not illegal. But that's the things we get back.

It's really not illegal, but there should be a method that if somebody moves from our state or to a different county or within a county that they should know that they have to remove themselves from the voter rolls in Georgia. And that seems to be something that people just don't know.

Okay. They did it in Fulton County. Just one more thing. I wish that that had moved faster, because my son voted in the mayor election in Atlanta and they didn't even ask him for his ID.

So, there is still a lot of problems in Fulton County, because you need to have an ID to vote. Dead people are still on the rolls, people with addresses -- having PO boxes, vacant lots are still on the rolls. This should not happen in our country.

We are really victim to be a third world country. I want an investigation into why Mr. Raffensperger had just on his own decided that he was going to spend $5 million since February and with some consulting do something about the registrar and the rolls, use Salesforce. I mean, I asked questions; nobody knew the answers. But we really need to get to the bottom of this and really need to have a uniform way of removing people who do not live here, who are not -- who are dead off the rolls, because you can see them come back and vote again, and that happens as well.

So my name is Pamela Reardon. I'm open to discussion and helping and having a dialogue with everybody and helping with having some uniformity moving forward with some of these problems that we have. Thank you very much.

CHAIRMAN DUFFEY: Thank you, Ms. Reardon.

Mr. Walters.

MR. WALTERS: I want to address the Toys for Tots in the schools, my wife and I volunteered setting up the boxes and collecting for 46 years. And a couple of -- invited us to DC for the silent parades -- and the instructions we received --

CHAIRMAN DUFFEY: A little closer to the microphone, please. I can't hear you.

MR. WALTERS: I was flashing back to an earlier subject.

CHAIRMAN DUFFEY: Thank you.

MR. WALTERS: The headquarters in Quantico did tell us to keep our boxes away from -- because it's the voting season, right? Christmas collecting toys and voting but they did tell us to do that years. Yeah, that was on the punch list. So I'm hitting a subject that came up several times earlier today.

I retired 11 years ago and subscribed to as many obscure government newsletters and reports as I could, and they just pop up.

But Dominion Voting Machines has a list that this other gent referred to of vulnerabilities to the Dominion software. And, supposedly, the Department of Homeland Security prior administration had vetted them and decided this is an adequate machine and endorsement them and I think that's why most states wound up with them. But I'm not that sure about how that flowed but.

The Department of Homeland Security -- offices organizations and I spoke before with Jen

Easterly, Director of Cybersecurity, had a charge to look at all computers that interact with our government, federal or state, in any way and look for any flaws that they -- that she finds. So that's the list of nine items on last week's report, it's been as high as 11 or 12 on the first reports that I was copied on.

Let me just read one, the number one item here, and they're all kind of similar. Not only are they vulnerabilities to the system that are known, but they're undetectable, a machines built to be undetectable. And in speaking with the white hat, the good guy, programs at night in cybersecurity and part of Homeland, they said we can't call by department policy any of the Dominion voting machines to have caused any of the errors in the voting system because those hacks are undetectable. So we can assume that might be where it came from or we think that's where it came from. They kept backing away from it and June 6th of this year, Jan Easterly threw it over the wall to the states, Secretary of States and each of the 50 states asking for an inventory of all the machines in your state by county, who inventoried them, and machine ID number and have

you put in the patches that we requested between you and the vendor Dominion voting machines.

And it doesn't surprise me that there is hacks all over the place by any number of bad actors.

But just the first item here I'll read: The tested version of Dominion voting systems version ten does not validate application signatures to interested root certificate. So it's got no skills but it looks it doesn't validate itself anywhere. Use of a trusted use certificate insures software installed on the device is traceable to or verifiable against cryptographic key provided by the manufacturer to detect tampering. Well, the department of Homeland Security told me we didn't buy the fully protected version. We bought the unprotected version. And the question from the vendor is if you pay more money we will program anything you like. No, let's just stick with the machine we're looking at because that already sold it in other places to other governments.

An attacker could leverage this vulnerability to install malicious code which could also be spread to other the venerable image cast devices

via removable media.

So if a hacker can get in the first machine they can spread it through code all of the other machines in all of the other states. And it's very dangerous set up I would say and I think others are worried about it as well.

So, is this Board going to have any oversight or control interest at all in the Dominion Voting Systems? I mean I would think you would. But I don't know if that's outside of your parameters or even talking with Secretary Raffensperger about Jen Easterly asking for an inventory of our machines and having the patches put in she suggests.

But, yeah, that little hand out I put together is just one out of about 75 pages of reports on various companies, but everybody's in there, Motorola, Apple, IBM, Hewlett-Packard -- everybody I've forgotten about. But all the big names are in there. With vulnerable items and usually more fixable than this one, but it seems to be a danger.

And then the policy at Homeland Security and there cybersecurity branch is since you can't detect a hack and they're untraceable, we will

have to say we have never found one so that's the quick federal government answer. We've never identified it and they've hired research professors from Auburn, Michigan and I think they mention Stanford out on the West Coast, and they are really digging into it, but the running dead. And I thought the best answers were the fellows that call themselves the white hats. They said they were some of their finest and brightest but they need to be left alone to do their work on researching.

So that's all I wanted to tell you and any thoughts just get passed back to Secretary Raffensperger to answer the cybersecurity questions.

I, as a voter, and born and raised in DeKalb County, I got -- am interested in us and all of Georgians being safe in our votes; right?

The reports I -- obscure reports I subscribe to are mostly to do with national security, is something out of this department going to affect national security and I think we all know from the 2019, '20 elections that elections count; right? That's what they always say, "Your vote counts." So since this is where you make the sausage I

thought I'd put that up in case you think it needs any further pursual.

CHAIRMAN DUFFEY: Thank you, Mr. Walters. I appreciate it.

Mr. Metz.

I'm sorry, have you signed up?

MS. JORGENSEN: I'm speaking on behalf of Mr. Metz, he's out running a class field security training program today. So I may as the Board to present to you what he has prepared if that's possible.

CHAIRMAN DUFFEY: Yes.

MS. JORGENSEN: Thank you very much, I appreciate it.

Public speaking is not one of my things to do, so I appreciate this. Ted Metz has a lot of confidence in me. My name is Betsy Jorgensen, and I'm actually in Forsyth County.

Real quick, he's given me something to -- to share with you, and this was a letter presented to Judge Paul Nally. It was a letter Mrs. Davis had asked -- she asked this question. Why is it our State Election Board will not authorize emergency hand-marked ballots? And Judge Paul Nally responded, "Because, Mrs. Davis, they don't have

to. Nor do they believe their paramount duty requires them to judicially challenge a void contract to protect the people of the state. They prefer for politically expedient view to assume that Raffensperger would not enter into a void contract." The law of O.C.G.A. §21-2-334 clearly gives the election superintendent, whether that be an individual or local board of elections, the authority to make the decision for any other reason to authorize the use of paper ballots for in-person hand-marking and the election. Of course Raffensperger continues his threats to lower election officials. That won't be a worry. You see, the original contract which brought us the Dominion solution signed by the parties on July 29 and August 12, 2019, is void both as a matter of law and of fact. That is due to the provision of the attached Exhibit B, Paragraph 3.1, which both parties agreed that Dominion would provide an illegal piece of equipment which would produce an illegally-formatted piece of paper defined as a ballot. Clear violation of O.C.G.A. §21-2-27.1. Of that fact Raffensperger was aware yet accepted it providing his certification of illegal conduct

even though he knew or reasonably should have known of an illegal piece of equipment, the BMD, and its illegal result.

This, as a matter of law, resulted in an intentional fraud being perpetrated upon -- perpetrated upon all the legal voters of Georgia, which has been continuing over the last five elections, all of which are void.

Kemp v. Mitchell & Company, 216 Georgia 276, 282 through 283 in 1960. With the collusion of multiple conspirators, including the U.S. Election Assistance Commission, the State Elections Board, Governor, Attorney General, Speaker of the Georgia House, the President of the Georgia Senate, various judges in the state, at least one federal judge, the GBI, and not to mention a multitude of lawyers, including the U.S. DOJ, aided and abetted by the indifference to their ignorance of the sheriffs and the grand jurors of the state and least we offend -- we offend by failure to mention the FBI, the 46th, the U.S. Congress and leadership of the Georgia Republican Democrat parties. This has been, without a doubt, the most monumental fraud and theft perpetrated upon the people, and shall be recorded by historians and

legal scholars for centuries to come as they record the rise and fall of a second Roman Republic in history.

In conclusion, by the way, are you fluent in Mandarin yet? Prepare ye for the second coming of the dark ages -- of the second dark ages where you can have your organs harvested for their vote. Respectively Paul McNally -- Paul Nally.

CHAIRMAN DUFFEY: I'm sorry. This was a judge who wrote --

MS. JORGENSEN: This was a judge, Paul Nally.

CHAIRMAN DUFFEY: Who is Judge Nally?

MS. JORGENSEN: I do not know. It was a -- it was a -- this question by Ms. Davis was given to Judge Paul Nally, and this was a response forwarded to Mr. Metz which he's -- he's given to me to respond.

CHAIRMAN DUFFEY: Do you know Mr. Nally -- Judge Nally?

MS. JORGENSEN: I do not know. I do not.

SPEAKER: He's a retired.

CHAIRMAN DUFFEY: Retired from what?

SPEAKER: I would say --

MS. JORGENSEN: And so, I guess in conclusion, what I'm also want to share with you,

in October 2020, *Curling v. Raffensperger*, page 81. Final judgment of that was, ballots do not meet the definition of ballot prescribed in Georgia law. And the definition of a ballot 21-2-379.22 and 21-2.300(a)(c)(2 -- (a)(2), election system deemed critical in infrastructure.

And this is the last point he was going to make. Georgia Election Code mandates the use of BMD system as the uniform mode available for all in-person voters in federal and statewide elections. O.C.G.A. §21-2-300(a)(2). The statement is correct but does not notice the stipulation of as soon as possible and certified by SOS as safe and practical for use -- as safe and practicable for use -- the certification was, at the very least, a gross abuse of the SOS's discretion.

So thank you for your time. Ted thanks you for this time. We hope his live-streamed election training goes well. So, thank you for your time, I appreciate it.

CHAIRMAN DUFFEY: I appreciate your comments.

Mr. Le Sueur.

MR. LeSUER: Thank you. A real quick question on the grants. Are those outside grants

they come I guess lack of funds for those particular counties?

CHAIRMAN DUFFEY: I don't think we had any testimony or comment today about the source of the funds.

MR. LeSUER: I was curious why the grants were being offered in the first place. I just wondered if there was --

CHAIRMAN DUFFEY: I think, if you were here, the response was that these were mainly in 2020.

MR. LeSUER: Okay.

CHAIRMAN DUFFEY: There was no description of where they came from and that we hadn't seen very many grants --

MR. LeSUER: That's just a poi of question.

I did want to get with you on some statistics and data that I'm looking for and have been looking for for some time. I believe somebody had mentioned that you were from the business community and are familiar with business processes and so forth.

Data and information is really important, I think it would help with the transparency. I've been trying to get some data and statistics on some of these issues that you guys have been

talking about for about a year now. I contacted the Secretary of State, the Attorney General's office, and lately, your body as well. And I'm trying to get information regarding fraud, just basic stats as far as how many fraudulent cases are being heard, how many are being processed, how many have been found to be actual fraud, and how many have been found to be just fantasy. I think, if we had stats on this, it would help to clear up some of the confusion and conspiracies we see out there. At this point, I don't know what percentage of these complaints are completely valid and how many are somewhere in between and some are just, as I say, conspiracies. Without information as to where this comes from, I don't see how we can make good decisions or the legislature.

If we can -- one thing I have asked is all of these bodies is, for these fraudulent claims that have been caught, where were they caught? Were they caught after the ballot was cast? During the attempt to cast a ballot? During registration? Or afterwards? Because, if 95 percent of the fraudulent cases are being caught at the ballot box, that means you need to tighten up the

registration. If the registration -- most of it has been caught there, then you don't need to expend resources to tighten it up. So having that information as to where these issues are coming up and where they're being found I think is very critical.

In that same vein, if you can share some of this information in an easily accessible form, that would help as well, so people could see the work that you guys are doing and see what is coming from that.

The county I'm from, the school board put together a fact-versus-myth list, and that helped dispel a lot of conspiracies that people were spreading around out there. And they also did a good job of quantifying some of the issues so that people could see what they were addressing and that they were addressing them in an efficient way. So if there's any way that you can come up with some sort of dashboard online, sort of say, "Here's what we've processed. Here's what we're still looking at. This is where the disposition of these others ended up," I think that would be helpful to present to the people and see what's happened so far. I would appreciate you

considering that.

CHAIRMAN DUFFEY: Thank you very much.

MR. LeSUER: Thank you.

CHAIRMAN DUFFEY: Mr. Riggins.

SPEAKER: Who?

CHAIRMAN DUFFEY: Riggins, R-I-G-G-I-N-S. Joseph Riggins. I guess he's not here.

Mr. Ferguson.

MR. FERGUSON: Earl Ferguson, Fulton County. I'm one of the group that is exercising the Section 229 challenges to remove voters. We've been moderately successful. I give this board some of the credit for that, because of the investigation of Fulton County, they've sort of had to cooperate with us. Unfortunately, our neighbors in Cobb and DeKalb haven't had that opportunity.

I would like to bring to your attention a situation which is really not covered in Georgia law. And that's the fact that a lot of our challenges we don't know the outcome of. I was a programmer, but that's what the statement means. And going into the election, there are going to be a lot more, because we're still submitting right now -- I have some next month.

And I'm concentrating on the people who have moved out of state. And if they register in another state, they are not qualified to be Georgia voters and they should be removed. I'm not trying to get anybody who's -- for any other reason except they are not qualified to be Georgia voters. There's a provision in the federal law that says you can't remove anybody basically within 90 days of an election, so we can't have anybody removed. And the county has come up with a temporary category now that we are fitting into with all of these other counties may be in the same situation, which is why I wanted to bring it out in public to everybody's attention.

Going into the election, if one of those persons who we have challenged and the challenge has been approved shows up to vote, what do we do? Well, if you look at 230, it means the registrar has to make a decision. And if there are thousands of those, and there could very well be, that is going to be a real problem for delaying or providing the manpower -- extra manpower. So this is sort of a warning, is this is coming. I don't see any way to avoid it.

I'm the last speaker, I'm cold, and like the

rest of you, are ready to get out of you.

Thank you for listening.

CHAIRMAN DUFFEY: Thank you very much. Although somebody snuck their name on after your name, so we've got two more speakers.

JJ Jorgensen. Are you related to Betsy Jorgensen?

MR. JORGENSEN: I am. She is my wiser half.

Good afternoon, Board and fellow Georgians. I didn't bring my glasses. I can't read without seeing.

CHAIRMAN DUFFEY: I won't take that out of your time.

MR. JORGENSEN: I'll be brief. My name is John Jorgensen. Again, thank you, Board, for doing what you do. I am realizing a lot of what it is to be a volunteer these days. I've been a citizen of Georgia since 1977, and I have voted ever since I have turned 18 years old here in Georgia.

I am both ashamed and proud of myself to be here today. The shame part is because I have never been inside this capitol before today. I'm proud of myself for finally getting up out of my chair and coming out here to be with you all and

allow you to hear what I have to say.

I talked to a lot of people across where I have lived in many counties across the state, and right now I think most of them will agree that our voting system just is not in order. Voting and election integrity are bipartisan issue; it's not just one side or the other or even the people that like to lie in the middle. I think the confidence of our people has really, really been destroyed. Many of us are not happy with what is going on, so I would like to request to the Board, to you guys, to you use your sphere of influence to the legislature to please restore that confidence with the citizens of Georgia.

I would like to request we move to a national voting day. And I would like to see the State of Georgia be one of the leaders in doing that. Not only would I like a national voting day where people -- like McDonald's and Waffle House say 365/7 days a week -- they would not go out of business if you all shut them all down for one day where we all have a nice day to come and you don't have to worry about going to work, we all come and do our citizen duty, vote, and get this stuff straight. And I would love to see moving to paper

ballots as well.

Thank you very much.

CHAIRMAN DUFFEY: Thank you.

Is it Cindy Battles?

MS. BATTLES: Yes, sir.

Good afternoon. I commend everyone who has managed to make it through this marathon meeting.

My name is Cindy Battles. I am the Director of Policy and Engagement for the Coalition for the People's Agenda. I just want to address three quick things that we've talked about during this hearing today. I'll be as succinct and quick as possible.

SB 202 set up a system where county board of election, election offices, that kind of thing could be reviewed. We heard an update from Mr. Germany today about how the Fulton County review was going.

It was suggested during that discussion that Fulton County should have to pay for observers because the panel is not capable of completing its work because they themselves have election work to do. I'd like to say that I think it's unfair, especially with everything else SB 202 has put on counties to fund, that Fulton County would have to

pay for its own observers. And I would also like to point out, if Fulton County was asked to do that, they could always request observers from the Department of Justice, because those would be free.

Regarding the information that y'all were talking about with voter registration and organizations that do voter registration, I want to point out a few things, because, yes, we send out voter education material to voter registration lists. Those voter registration lists are updated daily, so it's almost impossible to have an updated list of who's moved, who's died, who's registered, who's been purged, that sort of thing. And then, because of federal law, 90 days before an election you cannot remove people. So if they've died, if they've had a felony conviction or anything else, HAVA makes it to where you cannot remove those voters. So what you're going to do is penalize organizations that are doing their best to make sure folks exercise their right to vote, because this information is not available online, and I don't think most of us would like it if our information was put online like that. We're paying money for those lists. By the time

we get the list, those lists are out of date. And then we are going to be penalized for doing those things. So that, to me, is problematic.

Another thing, because we were talking about the Collards Caucus. Y'all, I have a question. How is giving folks collard greens and cornbread different than a PAC supporting Herschel Walker giving out gas cards and groceries? Because they're giving these people information with Herschel Walker's picture on it. And what Black Voters Matter and Georgia NAACP are doing is making sure folks have food, making sure there are toys, and giving them voter registration and voter education. It's nonpartisan. You don't even have to be a registered voter to get that information, to get all of the stuff that they're giving away; the collards, the cornbread, the toys, whatever. You don't have to be registered voter, you just have to be a member of the community who showed up. As a matter of fact, I showed up to one and I got collard greens.

So it feels like, in an effort to make sure that things are on the up and up, if we're not careful, we're going to penalize organizations that are doing our best to reach out to

disenfranchised voters, because there are plenty of them in the state. There are plenty of people who feel like their voices aren't being heard.

The work that we do is not only protected by the First Amendment, but it's encouraged by the National Voter Registration Act. So I want to be really careful when we're talking about these things that, A, we're not making it impossible for us to do our job, and B, we're not punishing us for trying to make sure that people make their voice heard.

And finally -- I know, I'm sorry, I'm almost done.

There was a conversation -- and I'm sorry I didn't write the case number down -- but about someone who had a temporary residence within his county or outside of his county. You've got *Cook v. Board of Registrar of Randolph County*. That went all the way to -- not just to -- it went to the Appeals Court, and he was temporarily displaced outside the county and he was still a resident of Randolph County. And I believe it was last year, and maybe it was the year before, because sometimes things... But in Hancock County someone whose home had burned was temporarily

displaced out of the county. And that case was brought before the State Election Board and he too was found that he was still a resident and a registered voter in his own county.

CHAIRMAN DUFFEY: I think we agree with you on that.

MS. BATTLES: Yeah. So, I just want to make sure that, like, people are understanding when we're talking about this that there is precedent for that.

Again, I really commend y'all. If you want any of our research that we've been doing on chain of custody stuff, the grant stuff, we're more than happy to meet with y'all. Thank you.

CHAIRMAN DUFFEY: Thank you very much. I'm glad you got on the list.

All right. That concludes the public comment section of the meeting.

I did want to report that we did, during lunch, have our executive session, we did talk about pending legislation against members of the Board to get an update on where those cases were. And we made no decisions or reached no conclusions about anything, it was just a report on the status of the cases.

So that means that we are done with the agenda.

Is there a motion to adjourn?

DR. JOHNSTON: So moved to adjourn.

CHAIRMAN DUFFEY: They are very quick about that motion. How about, is it seconded?

MR. MASHBURN: Second.

CHAIRMAN DUFFEY: All those in favor of the adjourning say "Aye."

THE BOARD MEMEBERS: Aye.

CHAIRMAN DUFFEY: All those opposed "No."

(No Response.)

CHAIRMAN DUFFEY: We are adjourned.

Thank you for coming.

(The Meeting adjourned at 4:11 p.m.)

C E R T I F I C A T E

STATE OF GEORGIA)
) SS

I, SHANA M. LEDING, Certified Court Reporter in and for the State of Georgia, hereby certify that the foregoing record constitutes, to the best of my ability, a complete and accurate transcription of the proceedings of the Court which were accurately reported and transcribed by me or under my direction, and all exhibits admitted.

I further certify that I am neither related to nor counsel to the parties herein, nor have I any interest in the outcome of the above-styled proceedings.

This certification is expressly withdrawn and denied upon the disassembly and/or photocopying of the foregoing transcript or any portion thereof, unless said disassembly and/or photocopying is done by the undersigned and my original signature and official seal are affixed thereon

WITNESS my hand and seal as such court reporter on September 20, 2022.

Shana Leding

SHANA LEDING, CCR, CVR-CM, RVR
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In The Matter Of:

State Election Board Meeting

September 28, 2022

Steven Ray Green Court Reporting LLC
1579 Monroe Drive, NE
Suite F, Number 614
Atlanta, Georgia 30324
404-733-6070

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THE OFFICE OF THE SECRETARY OF STATE

STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD HEARING

GEORGIA STATE CAPITOL BUILDING
ROOM 341
ATLANTA, GEORGIA 30334

SEPTEMBER 28, 2022
9:00 A.M.

PRESIDING OFFICER: Mr. William S. Duffey, Jr.
Chair, State Election Board

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

APPEARANCE OF THE PANEL

Mr. William S. Duffey, Jr., Chair

Mr. Matthew Mashburn, Member

Mrs. Sara Tindall Ghazal, Member

Mr. Edward Lindsey, Member

Dr. Janice W. Johnston, Member

Transcript Legend

(sic) - Exactly as said.

(ph.) - Exact spelling unknown.

-- Break in speech continuity.

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

Quoted material is typed as spoken.

Inaudible – unable to be heard.

Unintelligible - incapable of being understood.

P R O C E E D I N G S

MR. DUFFEY: All right. Good morning, everybody. Is this is working? Can you hear me?

MR. MASHBURN: Yes.

MR. DUFFEY: Okay. I want to call to order the meeting of the State Election Board on this September 28th of 2022. Thank you for all being here, including those that are watching us by the livestream. As you know, we begin usually with an invocation and a Pledge of Allegiance. And I'm going to do that myself today.

Invocations in -- in the various jobs that I've had in public service I think serve the purpose that one, that it ought to reach across all religions and all beliefs. But it is the purpose I think of an invocation is before a meeting especially to make people think is there a higher purpose in our lives. And is there a higher purpose with respect to the -- to the content and -- and the meeting that is being conducted.

So I had a chance a couple of years ago to be on the Island of Iona in Scotland. And

there in Scotland when we were walking towards the Bay of Columba. The person who was leading us read us a poem and I'm going to read you that poem. It's by R. S. Thomas. I would ask you to just think about the words. You can view it as a prayer, if you'd like. You can view it as just something that's reflective, if you'd like. It's up to you. But the poem one, is beautifully written. It's R. S. Thomas was probably if you asked him, he considered himself more a poet than a theologian. But he was credentialed as a theologian, as well. And this is the poem: It's called The Bright Field.

I've seen the sun break through to illuminate a small field. For a while and gone my way and forgotten it. But that was the pearl of great price. The one field that had treasure in it. I realize now that I must give all that I have to possess it. Life is not hurrying on to a receiving future. Nor hankering after the imagined past. It is the turning aside like Moses to the miracle of the lit bush to a brightness that seemed as transitory as your youth once. But is the

eternity that awaits you.

And I think that puts in perspective of the issues that we're going to talk about today. But there -- it is a point in time of our lives, an important time in the history of our state and our country. And that we ought to consider how this point informs both.

So with that, if you'll all stand, we'll recite the Pledge of Allegiance.

(Pledge of Allegiance)

MR. DUFFEY: Be seated please. This is a different sort of meeting by -- for the Board. It was something that occurred to us after our last marathon nine-hour meeting. Where we went over a lot of complaints and made decisions. And I can't -- and I felt as if there was a need for an opportunity to communicate more fundamentally about things that were known to us. That I think are important to be known to you. And that we ought to have a meeting which I have called within -- within the Board in our discussions, a -- a informational meeting.

But I want -- but before we do the presentations, I want to first tell you an

incident that had a fundamental impact on me as a lawyer. I've been a lawyer for a long time. But when I was very young, I had a case that taught me two important things which has guided us I think collectively as a Board but has certainly guided me in my life in my public duties.

So when I was a very young lawyer, one of the first cases I had was a case in Florida where I was to go down and try the case. I was -- at that time I was trying cases exclusively. And my job was to go down to -- to Florida and try this case on the coast. It was a criminal case. I was going to prosecute the case. But I was going to do it in a place where I wasn't living. I was a travelling lawyer. And so I'd go from location to location.

And when I got there, I knew enough about the case but when I got there, I talked to not only the defense counsel, but also to the local prosecutor who was helping me and had worked up the case to try. And I was there a week before to get prepared to actually do that. And it was interesting because I had

these two people with two fundamentally different views of the single issue.

(Phone ringing)

UNKNOWN SPEAKER: They're buying lunch.

MR. DUFFEY: In the court I would take that away, but I don't think I can do that in this position. And anybody else who have their phones on, if you would silence that would -- that would be a good idea.

So anyway back -- back to Florida. So I have -- I have the defense counsel and I had my local prosecutor who had this fundamentally different view of a particular issue in the case and that was the defendant's alibi. So this was a woman who had been charged with selling quaaludes which was the drug of choice at the time, cocaine and marijuana, fairly significant amounts. We had three counts against her. And one of the counts the defense lawyer had raised an alibi defense.

An alibi defense is a -- is a law defense, legal defense, and once it's raised, if there's a credible basis for the alibi, then the government has to prove the element of the offense. Which is they did, in fact,

the defendant was present when the crime was committed and committed the crime. So that's the law.

And I realized at that point when I had this contest that I had to always be cognizant that it was -- it was the government's burden of proof to prove that she was present and had the intent to commit the crime. Here was the problem and it was interesting because the prosecutor, the local prosecutor and defense lawyer totally agreed upon this. They said there was a woman, the alibi witness was going to testify that on the date of one of the charges that they were together not where the crime occurred. But in a city that was about an hour and a half away visiting a place in Florida called Wakulla Springs. You've heard of that it's sort of a resort sort of place where people travel for recreational purposes. But it's -- but it's -- I found out it's also a significant wedding venue. A lot of people get married at Wakulla Springs.

So I said, I need to know the facts of this case if I have the duty to follow the law. And they said, well, she's very

believable. She tells about the day that they went which was the date in which the drug transaction had occurred. And I said, well, I know that that's your evaluation, but I need -- if I'm -- if I am, in fact, going to think about giving up a count because I believe the alibi witness is telling the truth then I've got to talk to her myself.

So we -- so we spent about an hour and a half talking to the most delightful, honest witness that I have ever had in a criminal case that was testifying on behalf of the defendant. But I couldn't understand why because the evidence of her presence was so strong. I couldn't understand why we had this conflicting evidence by somebody that I thought was incredibly believable and was trying to be as honest and forthcoming as she could.

So as we neared the end of the interview, I said, well, how -- how do I really know she was there. Not that I didn't believe her, but I just thought that I had to get more detail about the visit. And so I said, tell me about Wakulla Springs. Tell me about the weather.

The weather matched perfectly with the weather information that we had. How long did it take you to get there? She said who drove. She remembered -- she remembered all of that. And then I said, can you describe Wakulla Springs and she -- I hadn't been there, but I had enough information to -- to believe that that was an accurate description.

And then she said, and one of the things I really liked was the gazebo. I said, well, tell me about the gazebo. And she said, it's a gazebo. It was white, you know, it's kind of round. And I said, why did that -- why do you remember that? And she said, because of the wedding that was in the gazebo on that weekend. I said, well, tell me about the wedding. She said, God, it was beautiful. The bride had a long white dress. She had flowers that were blue and white. And -- and actually I think she had shoes, and she was taken by the fact that all this matched. Told about the husband, about the groom and what he wore. It was a traditional tux.

To me hearing that not only is she credible, but she's got good recollection of

the details of that day. And so I thanked her for coming in. Thanked her for her forthcoming description of everything that had happened. And then we left. And I -- and I told the -- the younger fellow who was helping me, I wasn't all that old, so he was -- actually he might have been older. I said, you know, we need to call the venue to at least confirm that there was a wedding that day.

He said, well, that's a good idea. I haven't done that yet. So we got the number for the manager of Wakulla Springs. And asked him was there a wedding. He had a book and said, well, let me check. He went through it. On that date that she said they were there, there was a wedding. And so all of this is, you know, we're trying to be fair and honest in this. But everything is lining up with respect to this alibi. So then I asked him this question: Do you -- is there anybody there that can tell me about the wedding? And he said, well, yes. I said, well, who that is. And he said, well, that's me. I said, well, why do you know about it? He said,

because one, I'm the wedding coordinator. And I'm the florist. So I'm intricately involved in all the details of the wedding.

And he said, and this book that I'm reading out of it shows the date of the wedding on the date that you asked about has -- I keep notes about the weddings, because I want to remember. And I said, okay. Well, go to the date that I gave him that she was supposed to have been there. I said, well, tell me about the wedding on that day. And he said, it's really interesting because I remember that really distinctly because it was unusual.

And I said, well, what was unusual about it? He said there was -- there were two things that one, as the florist I didn't think was in line with what you should do on a wedding in that -- in that season. And the second was that we didn't often have this. And I said, so what are the two things. He said, one, the bride was getting remarried and refused to wear a long white dress and she wanted a beige cocktail dress. And I said, so what's the other interesting thing? He said,

she insisted even though it was in the Spring of having fall colored flowers to go with her dress. I said, what do you mean by fall colors? Orange, brown, some yellow. And I said, what date was that wedding on? And he gave me the date which was the date that they were supposed to have been there. I said, well, can you look in your book and tell me about a wedding where there was a -- was there a wedding in which a woman wore a long white dress, had blue flowers and might have even worn blue shoes. He said that was the following weekend.

Completely honest witness. Simply wrong on the dates. And, in fact, it showed that our evidence was that she had, in fact, been present had no alibi and she was convicted of that offense. And why is that important? I think as a lawyer, and I think as all of us in life should do two things. One is to make sure we understand those things that guide and are required to be followed in an environment. We do that every day. We abide by laws. We know what the laws are. Sometimes we don't strictly abide by the laws because we have

some other motivation. But for the important laws we know what they are, and we abide by them.

And then second, the facts always have to show based upon the law that they support the law and the conduct that was abiding by the law or conduct that did not abide by the law. And I say that because this informational meeting is one of our purposes, is to do just that. We want you to know what the law it. And second, we want you to know what facts we know as we struggle with the intersection of the facts that are -- that are really important in this -- in this case having to do with an upcoming election. And frankly having to deal with the past election as they might reflect on the upcoming election.

But -- but secondly, to -- to know that when we agreed to do this job, one of the things that we agreed to do, is that we were bound by the law of the State of Georgia. And I -- and I went back and looked at it. We just haven't done a very good job of explaining that. We haven't done a very good job at all about telling you factually

information that might help you understand what it is that we're dealing with. Particularly how these machines work and we're not -- this is not an advocacy event.

We're -- we're not bringing in people to say, well, they work this way. No, we don't agree with that. This is just a description and it's the same description that the first thing that I did when I became Chair, is I said, I want to go and see these machines. And I want to look at them. I want to see what they're like and how do they operate. I don't want anybody to tell me about why they don't operate or do operate the way they're supposed to. I just want to understand the system. I want you to understand the system.

So that's what we're going to do today. Remembering that the law has to be followed and the facts are important. And -- and I -- and what I learned fundamentally from my -- from my experience in Florida was this: That in order to find truth, requires objectivity and an open mind and a willingness to change your position one way or the other based upon what the law is and what the facts show.

And so I think the best organizations are one where people are open to information. And only after they get a full understanding of information do they reach a conclusion about what their belief is and what they want -- and what they ultimately want to advocate. And what facts are available to allow them to advocate.

So with that, I want to start with the law. Anybody who would like to can go and pull out Title 21. I would -- I would encourage all of you to read Title 21 having to do with elections. That's the Official Code of Georgia, Title 21 which is the title having to do with elections. And read it from the beginning to the end. Because that gives you the legal framework within which laws are conducted in our state as determined by the General Assembly.

And so what we're going to do this morning is take those portions of that, is -- you know some of that is pretty formulating. It has to do with having to file certain things that are unrelated to the actual conduct of election. But I've asked Matt

Mashburn who was the acting Chair before I became Chair. But has served on this Board -- how long?

MR. MASHBURN: I'm on two, three years.

MR. DUFFEY: Okay. So as the longest serving Board member, does election law work and does a lot of work as a lawyer with having to look at legal documents and I like to make sure that they're done properly. So I have asked him to just summarize for you. And in some cases, the summary is almost verbatim what comes out of the statute so that you can understand the Board. And you can understand the election process. So with that, I turn it over to Matt.

MR. MASHBURN: Thank you, Mr. Chairman. I'm going to move this monitor a little bit this way so that court reporter can actually see my -- me making the words. I think that's helpful rather than me being behind a monitor. So you can't see.

MR. DUFFEY: They can't hear you. Can you pull the microphone closer, please?

MR. MASHBURN: I don't think -- there we go. Okay. I tried to move it earlier. It's

not on. You might need to turn it on.

MR. DUFFEY: Maybe -- well, how do I do that?

MR. MASHBURN: There's a --

MR. DUFFEY: Are you number one?

MR. MASHBURN: Yeah.

MR. DUFFEY: You mean I have control over everybody speaking?

MR. MASHBURN: Yeah. Power. Test, test, test, test, test, test.

MR. DUFFEY: Is that better? Can you hear now? Okay.

THE AUDIENCE: A lot better. Thank you.

MR. DUFFEY: And in the back can everybody hear in the back?

THE AUDIENCE: A little more. Not really. It's a little low.

MR. MASHBURN: Test, test, test.

THE AUDIENCE: (Inaudible.)

MR. DUFFEY: Now try it.

MR. MASHBURN: My voice probably picks up volume, as we go along. There we go. I'll back away now.

MR. DUFFEY: So now I can -- now I know I can turn the monitor on.

MR. MASHBURN: You've got all kind of power.

MR. DUFFEY: I can also determine how -- whether they can be heard. Okay.

MR. MASHBURN: Well, one of the things we do is as -- as lawyers, we start with the law and read the law first. And rather than read all of Title 21 for everyone here today, I'm going to summarize only the applicable statutes and provisions. So we start with one of the things that you find out as a young lawyer with regard to the law, is that you can't just understand the law by reading one provision. Because many provisions lead you to another provision that leads you to another provision. So it leads you to another provision. So we're going to do a little bit of that today. It just -- so that everybody can have the same frame for it.

So we start with Title 21, we start in Article 8A of the Georgia Election Code. And it's entitled: Statewide voting equipment. And it carries the sub-caption for 21-2-300, provision of new voting equipment by state. Uniform system for all elections to be

conducted with the use of scanning ballots marked by electric -- electronic ballot markers. Pilot programs authorize county responsibilities, education, county, and municipal contracts for equipment.

So within 21-2-300, we now proceed to 21-2-300(a)(2). And that provides that all federal, state, county, general primaries and general elections as well as special primaries and special elections in the State of Georgia shall be conducted with the use of scanning ballots marked by electronic ballot markers and tabulated by using a ballot scanner for voting at the polls and for absentee ballots cast in person unless otherwise authorized by law provided; however, that such electronic ballot marker shall produce paper ballots which are marked with the elector's choice in a format readable by the elector.

Thus 21-2-300(a)(2) has two requirements. The ballots must carry both the capability of being scanned and of being verified by the voter prior to it being scanned. And -- and also human readable in the event of a hand recount. So now we've introduced the

electronic ballot marker. Let's look at the definition of the electronic ballot marker.

O.C.G.A. 21-2-2 7.1, defines and electronic ballot marker as an electronic device that does not compute or retain votes, may integrate components such as -- such as a ballot scanner, printer, touchscreen monitor, audio output and a navigational keypad. And uses electronic technology to independently and privately mark a paper ballot at the direction of an elector. Interpret ballot selections, communicate such interpretation for elector verification. And print an elector verifiable paper ballot.

So now we move to -- we'll skip ahead to 21-2-381. And that provides: In any primary or election in which the use of voting equipment is impossible or impracticable for the reasons set out in Code section 21-2-334 the primary election may be conducted by paper ballot in the manner provided in Code section 21-2-334.

So now we have to turn to 21-2-334 and find out what the reasons are. And the reasons set out in 21-2-334 are if a method of

nomination or election for any candidate or office or a voting on any question as prescribed by law in which the use of voting machines is not possible or practicable or in such case at any primary or election the number of candidates seeking nomination or nominated for any office renders the use of voting machines for such office at such primary or election impracticable or if for any other reason at any primary or election the use of voting machines wholly or in part is not practicable.

So now we move ahead to 21-2-418(H), as in hotel. And that provides notwithstanding any other provision of this chapter to the contrary in the event that the voting machines or DRE units at a polling place malfunction and cannot be used to cast ballots or some other emergency situation exists which prevents the use of such equipment to cast votes, provisional ballots may be used by the electors at the polling place to cast their ballots. In such event, the ballots cast by electors whose names appear on the elector's list for such polling place shall not be

considered provisional ballots and shall not require verification as provided by Code section 21-2-419 provided; however, that persons whose names do not appear on the elector's list for such polling place shall vote provisional ballots which shall be subject to verification under Code section 21-2-419.

So now we're going to take a break from actually just reading statutes and move along in -- in the wake of the 2020 election, the General Assembly made public policy choices about the voting systems in use in Georgia. And did so in several ways. Two bills were filed in 2021 that would have variously required or allowed at the option of the County Election Superintendent the use of hand marked paper ballots rather than ballot marking devices. The bills were SB-233 and SB-273.

233 proposed to specifically delete ballot marking device and to change the method of casting votes to a non-electronic marking tool designed for electors to indelibly hand mark votes on paper ballots or paper ballot

card or cards that was assigned to a committee but did not advance to a hearing.

SB-273, the title of which was elections and primaries conduct elections by paper ballots in 2021. Authorize local governments proposed to specifically provide that in any primary or election conducted during 2021, the primary or election may be conducted by a county, municipality, or consolidated government, of the option of its election superintendent by paper ballot in the manner provided for in Code section 21-2-334. It was assigned to a committee but did not advance to a hearing.

In 2022, the Georgia General Assembly spoke directly about the application of the Board's emergency powers. And specifically in the context of the Board's exercise of emergency powers under the 2020 election. Unlike the United States Congress, and its congressional record that carries the proceedings of the Congress. And that a series called the U.S. Code Congressional and Administrative news that I lived in when I was an undergrad in law school.

In addition to special legislative findings that are sometimes made, the preamble to a bill is widely regarded as the definitive legislative history of laws enacted in Georgia. And the preamble to SB-202, the General Assembly wrote that some of its purposes in the bill were to limit the ability of the State Election Board and the Secretary of State to enter into certain consent agreements, settlements, and consent orders, to provide additional requirements on the State Election Board's power to adopt emergency rules and regulations. To provide for allocation of voting equipment by counties and municipalities. To amend Title 50 of the Official Code of Georgia Annotated relating to general provisions regarding state government so as to provide for the submission and suspension of emergency rules by the State Election Board. The General Assembly specifically created a brand new Code section which was O.C.G.A. -- Official Code of Georgia Annotated 21-2-35.

And that Code section carries the title, Imminent Peril Requirement for Adoption of

Emergency Rules or Regulations; Notice; Certification of Strict Compliance; Conflicting Provisions.

And, specifically, in 21-2-35(a), the law provides notwithstanding any other provision in this chapter, Chapter 3 of Title 38 relating to emergency management for Chapter 13 of Title 50, the Georgia Administrative Procedures Act to the contrary the State Election Board may only adopt emergency rules or regulations in circumstances of imminent peril to public health, safety, or welfare. To adopt any such emergency rule or regulation in addition to any other rule-making requirement in this chapter, or Chapter 13 of Title 50, the State Election Board shall give notice to the public of its intended action. Immediately upon the setting of the date and time of the meeting at which such emergency rule or regulation is to be considered give notice by email of its intended action to the Governor; the Lieutenant Governor; the Speaker of the House of Representatives; the chairpersons of the standing committees of each house of the General Assembly tasked with

election matters; legislative counsel and the chief executive officer of each political party registered pursuant to subsection (a) of Code Section 21-2-110.

And it must state in the notice as required by paragraphs (1) and (2) the nature of the emergency and the manner in which such emergency represents an imminent peril to public health, safety, or welfare. Upon adoption of promulgation of any emergency rule or regulation pursuant to this Code section, a majority of the State Election Board shall certify in writing that such emergency rule or regulation was made in strict and exact compliance with the provisions of this chapter and subsection (e) of Code Section 50-13-4.

And in the event of any conflict between the Code section and any other provision of Chapter 13 of Title 50, this Code section 21-- 21-2-35 shall govern and supersede any such conflicting provision.

So to close out the statutory portion we need to look at O.C.G.A. 50-13-4. And, specifically, 50-13-4(b). If any agency finds that an imminent peril to the public health,

safety, or welfare, including but not limited to, summary processes such as quarantines, contrabands, seizures, and the like authorized by law without notice, requires adoption of a rule upon fewer than 30 days notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule. Any such rule adopted relative to a public health emergency shall be submitted as a promptly as reasonably practicable to the House of Representatives and Senate Committees on Judiciary provided that any such rule adopted relative to a state of emergency by the State Election Board shall be submitted as soon as practicable but not later than 20 days prior to the rule taking effect. Any emergency rule adopted by the State Election Board pursuant to the provisions of this subsection may be suspended upon the majority vote of the House of Representatives or Senate Committees on the Judiciary within 10 days of the receipt of such rule by the committees. The rule may be effective for a period of not

longer than 120 days but the adoption of an identical rule under paragraphs (1) and (2) of subsection (a) of this Code section is not precluded; provided, however, that such a rule adopted pursuant to discharge of responsibility under an Executive Order declaring a state of emergency or disaster exists as a result of a public health emergency as defined in Code section 38-3-3 shall be effected -- effective for the duration of the emergency or disaster and for a period of not more than 120 days thereafter.

So finally, case law also impacts our deliberations and our discussions. In Voter GA and Phillip Singleton versus State of Georgia, Judge Kimberly M. Esmond-Adams a judge on the Fulton County State Court considered whether electronic ballot marking devices complied with voting law requirements in O.C.G.A. 21-2-2(7.1) and O.C.G.A. 21-2-300(a)(2). In this case, the petitioners claim that the State's current electronic voting system does not comply with State law. They argued that the paper ballot generated by the Dominion ballot marking devices does not

comply with O.C.G.A. 21-2-2(7.1) and O.C.G.A. 21-2-300(a)(2), the two sections that were just described previously. Petitioners requested that the Court order the State switch to hand marked paper ballots counted by scanners.

The State of Georgia moved to dismiss the case. In dismissing the case on May 31st, 2022, the Court said, the fact that paper ballots include a QR code which the system uses to tabulate votes does not violate either statute's requirements that the paper ballots be produced, and that the interpretation of the elector's intent be produced in a readable fashion. These requirements are satisfied by the printed paper ballots produced by the ballot marking devices. The Court then decided the current devices comply with the statutes because they communicate the ballot scanner's interpretation of the elector's intent in a format readable by the elector through the printed paper ballot. There is no interpretation of the facts presented that would provide petitioner relief of their claim. The State Court of Fulton County is a

trial court. The decision of Judge Singleton -- the decision in Singleton of Judge Adams was not appealed. Thank you.

MR. FAVORITO: It was appealed, Matt. That's not true.

MR. MASHBURN: Well, we'll check on that.

MR. FAVORITO: Okay. I'll tell them that.

MS. McGOWAN: It is pending appeal.

MR. MASHBURN: Well, I stand corrected.

MR. DUFFEY: So that's the --

MR. FAVORITO: There's many other (inaudible) --

MR. DUFFEY: -- excuse me. You have -- we're going to the next part of the -- of the meeting which is after having described the statute that we comply with and have to comply with. I want now for you to understand not in a sense of advocacy but just understand how the Dominion democracy sweep machines work.

So I want -- I want you to understand as it was explained to us early on in the year how exactly the machines work. Because for me, I told -- I told the people that were on the Board, I said, what I know about voting is

that I voted. But I will tell you that when I go in, I don't really scrutinize what it is that's happening. I do what I'm instructed to do. And I said, now I want to look at the system and how it operates as a -- as a whole. And I wanted to know what security devices that were on it because I -- because I knew that there were people that -- that had criticized the security. And -- and I -- I just wanted to know so I could reach my own conclusion about the security in -- in the machines and the system itself. So I want to present to you, Mr. John Poulos who is the CEO of Dominion voting to just explain to you how the system -- how the machines work. And he is --

MS. BRADSHAW: Garland said that some of the information he gave was -- was incorrect and I think we need to get that settled before we move on.

MR. DUFFEY: We're going to move on, but I will have something. If I can't -- Charlene, would you -- could you -- do you have the appeal documents if there are any in the case that Judge Adams decided? And do you

know the status of the appeal?

MS. McGOWAN: It's been (inaudible) --

MR. DUFFEY: Is -- has there been oral argument on it?

MS. McGOWAN: It has not (inaudible) --

MR. DUFFEY: It has not been --

MS. McGOWAN: (Inaudible) -- oral argument on it yet but could be.

MR. DUFFEY: Okay. So it's --

MR. FAVORITO: Mr. Chairman, I'm the lead (inaudible) on the case that Matt was talking about, and I would like the opportunity sometime today to clarify some of the false information that you just heard.

MR. DUFFEY: We'll let you do that during public comments section.

MR. FAVORITO: All right. I've already (inaudible) public comment. I'd like some extra time for that.

MR. DUFFEY: We're now going to move to a description of the democracy sweep machines by Mr. Poulos who will -- who will be presenting to you virtually. Can we do that now?

MR. MASHBURN: Mr. Chairman, if these screens don't work, I'm going to come down

here and watch.

MR. POULOS: Good day. Could you -- can you hear me?

MR. DUFFEY: Yes. Do we have him on camera?

MR. POULOS: I'm here, if you can hear me.

MR. DUFFEY: We -- can you hear us, Mr. Poulos?

MR. POULOS: I certainly can, yes.

MR. DUFFEY: Okay. Wait. We're trying to get your picture -- there we have -- I guess we have it now.

MR. POULOS: Can you -- can you hear me, Chairman?

MR. DUFFEY: Yes.

MR. POULOS: Wonderful. Well, thank you for having me. Do -- do you want me to start a description of what our system does?

MR. DUFFEY: Yes, please.

MR. POULOS: Okay. Great. Well, essentially, our system does one of two things in a precinct. And -- and I suppose the first comment that I will make is that we don't really do anything -- any -- any of the checks

or provisions of a verifying voter's eligibility that is done by poll workers. But once a voter enters into a precinct and is verified by poll workers as an eligible voter who hasn't yet voted in this election.

In the State of Georgia, they are given access to a ballot marking device. And that -- that device is a stand-alone machine. It's not connected to the internet. It's not even connected to each other. It's a stand-alone device and essentially it is a screen connected to a printer. It allows a voter to go through the appropriate ballot so it keeps track to make sure that the ballot that a voter's view it -- viewing is from the appropriate district that they should be voting on. And it allows that voter to go through contest, by contest each of, yeah, viewing each contest and making selections along the way on -- on the ultimate way of producing a paper ballot that can be further reviewed. And I'll -- I'll talk about that in a minute.

So one of the advantages that the ballot marking device presents is that it allows the

voter to make selections in -- in a perfect manner. So there is no ambiguity on the paper ballot. It allows them to scroll through each contest all the way to the propositions and -- and also allows for accessibility features that ensure that every voter regardless of the level of physical ability that they may possess allows them to independently mark and create a paper ballot for which they are able to verify privately and independently that can be accurately counted and recounted and audited as the case may be.

So at the -- at the end of this stage and this is really, as I said, the first thing that Dominion machines really do, is we help voters mark paper ballots privately and independently. On this device, on the ballot marking device, votes are not stored. Votes are not cast. There is nothing at the end of this that is stored on the machine other than a paper ballot being presented to a voter.

Now, if a voter picks up that paper ballot and is able to verify their selections that -- and verify that the selections that are printed on that paper ballot are, in fact,

accurate. Are, in fact, the voter's selections. No more, no less. And once they verify that, which, Chairman, is the very important part of the process. Then they can walk it over to the ballot box. So as they leave the ballot marking station, they -- all that's left is a paper ballot that's now in the voter's hands. There's nothing stored or nothing cast. There's no record of any kind of votes stored on the ballot marking device.

So as that voter walks over to the ballot box, the official cast record, it is important to note. This is not a backup part of the system. This -- the -- the paper ballot is the official ballot that gets cast. That goes into a ballot box by way of a digital scanner. And so that's -- that's the other piece of what Dominion does.

We have a digital scanner that scans that paper ballot and saves an image in triplicate in -- on the -- on the memory devices of that scanner. And all that scanner does is it accurately and objectively tabulates the votes that are on that paper ballot. So without any use of technology, the paper ballot would go

into a locked, sealed ballot box. The chain of custody of that locked and sealed ballot box is under the control of the election officials in that jurisdiction. And is, obviously, a very essential part of the mandated election protocols that go into place.

But in addition to the paper ballot that can be hand audited. It can be hand recounted. You also have a record of -- of -- by way of digital image of what that voter verified and confirmed at the time of casting. So if you think through some of the legacy concerns about paper ballots and why many decades ago paper ballots fell out of favor for a period of time. There was allegations that during a hand count process or even during a recount process, somebody nefarious could have perhaps a piece of pencil lead under their fingernail and make a supplementary mark on that ballot at the time of a recount or a hand count.

And one of the great advantages of having a digital scanner in this process is not only does the official record remain that voter

verified paper ballot that can be hand counted and audited. But you would additionally have a scanned image of each ballot that has gone through the machine. So as the voting day continues, it is important to note that the day starts with an open ballot box where members of the public bi-partisan poll watchers, other stakeholders who wish to watch the election, can verify that the ballot box is, in fact, empty. And they can verify that the results tape that is printed -- we call it the status tape because it -- it shows a record of what is in that ballot box. And at the beginning -- beginning of the day the essential step in the process is to print the tape that shows the machine has no votes recorded on it for this election that is about to begin.

As the election day proceeds, ballots are cast by voters after they have had a chance to verify their paper ballots and choose to cast it. Once they are happy and sufficiently, they -- they -- they view that it is sufficiently voted, no more, no less. Then they cast it through the machine, digital copy

of the ballot is captured, as I mentioned. And at the end of the day, a poll official when voting closes, will close the poll. And immediately at the end of the day when the poll is closed, multiple copies of the results tape will be printed.

And the reason -- so what's on the tape? The tape shows a complete accounting of how many ballots have been cast with the machine during the day. And it also shows the results of those ballots that have been cast in that -- in that ballot box. And that is just one piece of -- of the entire chain of custody that comes together during the canvass process. And the reason why we print multiple tapes in the State of Georgia is because tapes can be given to political parties that are present in the precinct. A copy can be given to poll watchers, bi-partisan poll watchers and a copy of that which I'll state can be publicly posted on the wall of that precinct. And it really allows for an additional step of transparency that members of the public. The bi-partisan poll watchers, the candidates themselves now know the instantaneous results

before that entire package of election material gets securely transported back to the central location.

So I'll pause briefly there. And -- and happy to answer any questions as it pertains to this -- these two processes.

MR. DUFFEY: If you have a question, if you'll write it out, I'll ask it. Just bring it up here and put it on the table.

Can -- can you explain whether the actual machines have any security?

MR. POULOS: They absolutely do. So federal certification guidelines, Chairman, have a comprehensive list of requirements that any vendor is required to meet. And these are validated through the federal testing program. Through independently tested and accredited testing agencies as it pertains to our ballot tabulator, for example, there are physical security mechanism that protect the memory cards that I referenced so lock and sealed.

It's the same type of lock and seal concept that -- that -- that protect the actual paper ballots in the physical ballot box. So not only do you have a physical lock,

but then you have a seal that can be verified very easily. They're highly visible so they can be verified by any poll watcher or bi-partisan stakeholder in the election even from a distance.

Beyond that the actual memory cards are both digitally signed and encrypted as per federal requirements. And -- and that -- that is only as it pertains to the security of -- of the -- of the system sitting on the ballot box. Above and beyond that, jurisdictions have their local chain of custody and a host of physical security processes in public testing that layer on security on top of the actual machine’s security.

MR. DUFFEY: And I -- I know that at some point for an election somebody has to put the ballot on to ballot marking devices for that particular precinct. How is that done and is it possible that somebody could put something else that would corrupt the ballot marking device after it's loaded with the ballots?

MR. POULOS: Sure. The -- the specific process is really best answered by -- by the State and basically the election officials

that are accountable for defining that process. But, essentially, the way to think about it is once an election is programmed there -- that the -- the -- the election specific nature, so candidates, the types of contest, you know, is it -- is it, basically, the specifics that change from election to election are loaded on to the ballot marking devices.

They -- they are loaded one by one into the ballot -- into the ballot marking devices so it's not by way of internet. And it's not done by network. They are done by physical cards and that process -- and the -- and the mandated protocols of physical security and checks are an essential part of this. And as I said, that is done by those who have accountability for that which is the election officials in that jurisdiction.

So there -- there are many protocols around from the federal testing standpoint that protect that process including password, including specific election security identification that is not given out. But the process doesn't end there. It's designed to

allow transparency not only for candidates but by bi-partisan poll watchers. But frankly any election stakeholder by way of public testing. So once these devices are loaded, there is a host of public testing that occurs on them to ensure that nothing nefarious has happened and just as importantly nothing has happened by way of a spelling mistake that is propagated through the -- through the checking of -- of election programming. And it gives not only the local county election jurisdiction a chance to but also any watchers the chance that the ballot marking devices presenting the choices accurately to the voters and -- and ultimately the -- the paper that is printed that allows them to review their -- their -- their selections are accurate.

MR. DUFFEY: I'd like for you to go back. You keep talking about public testing. But you never told us what that is. What is -- what is -- what do you mean by public testing?

MR. POULOS: All right. So that is a process that is controlled by the election jurisdictions themselves.

MR. DUFFEY: I want --

MR. POULOS: And, essentially --

MR. DUFFEY: -- excuse me. I understand that. I want you to tell us what that is.

MR. POULOS: Sure. So once the election is loaded on to each of the machines, it, you know, immediately preceding an election. The public is invited in. The entire system is set up. So every single unit on every single -- every single tabulator, for example, is set up and this -- this is the part where it varies jurisdiction by jurisdiction, but there is -- the goal of the testing is to create a known test deck of -- of ballots. So as -- as a participant in -- in the testing, Chairman, if you were there, you would be asked to make -- make your selections. You would then be asked to verify that the paper ballot is accurate, and we would do this over and over and over, or more accurately, the county would do this and feed those paper ballots through the tabulator. And so there should be an expected result based on how you voted. And then once the polls are closed, in this public test, the print tape is printed and you can verify your expected result to -- the result

that it's printed on the print tapes and it often -- what is often the case, they'll do a hand count of the paper ballots in the ballot box just to make sure that the expected result is the same as the hand recount which is the same as the result tape on the tabulator.

And this is a process that --

MR. DUFFEY: When you say expected result, when you put them through the scanner, and you have somebody like me if I put my ballot through the scanner, could you see whether -- what my specific votes were to make sure that they were accurately recorded?

MR. POULOS: Yes, you can. So, you know, in a simple scenario, if we had a ballot -- if we had a ballot with one contest and four candidates. A sample test that might be candidate 1, on position 1, we might want four ballots that vote for this candidate 1. The next candidate we might want three ballots that vote for candidate 2. Two for candidate 3 and one for candidate 4. So they're all unique. We would probably want to complete blank ballot, as well, just to be sure and -- and then we would feed all those five ballots

through the ballot box. So we should be expecting a result of four, three, two, one on that contest. And we'll keep it simple, and we'll say it's a one contest election. And we want to verify that the results tape exactly tells you four, three, two, one. And then we'll check in the ballot box to make sure that those ballots are, in fact, four, three, two, one.

MR. DUFFEY: And for how many ballot marking devices do you do that sort of testing?

MR. POULOS: Well, they should be done on all of them. So and at -- at -- at the bare minimum every tabulator needs to be tested in this way in the public to verify that the count is, in fact, accurate.

MR. DUFFEY: And when you say in the public, how do you know -- I'm probably not going to go down and watch the testing. I mean, how do you know that it's really public as opposed to just being people that work in the -- in the precinct?

MR. POULOS: It's a great question. It's a key part of the process. It's a key part of

the transparency and so that is -- that is certainly a question that needs to be asked in every election, every jurisdiction and encouraged -- the process needs to encouraged because that is a key part of the transparency that shows members of the public not only is -- are the machines accurate. But also educates those on how the process actually works.

MR. DUFFEY: Do any of the Board members have questions before I get to the attendees' questions?

MR. LINDSEY: I'll have one at the end after the other questions.

MR. DUFFEY: Okay.

DR. JOHNSTON: Thank you so much for being here today and presenting this information. I have a question. Do the ballots in the test deck have QR codes on them?

MR. POULOS: In the State of Georgia, currently our certified system does feature QR codes.

DR. JOHNSTON: On the test deck?

MR. POULOS: And that because they're on

the ballots, the test deck is a sample of the real ballots in the election. So, yes, both the test deck would have that.

DR. JOHNSTON: Thank you. And another question. How -- how can you demonstrate to the public that the Dominion software reads the QR code accurately?

MR. POULOS: Sure. This could be done a number of ways. The simplest and way it could be done is through a risk-limiting audit. Or any -- any -- any type of hand verification of the paper ballots in the machine.

DR. JOHNSTON: So a risk-limiting audit will verify an accurate QR code?

MR. POULOS: It sure would. Because the ballots -- ultimately one thing that should be kept in mind is the official cast record is not the QR code. It never is. The official cast record -- the official part of that ballot which accurately -- which shows the voter's intent is the text and at the end of the day that is the official cast record. So the -- the accuracy of the tabulator is actually the easiest thing in the world to double check. And the way to do that is you -

- you -- you can either look at all machines. You can look at one machine. You can look at a subsec. So a risk-limiting audit is -- refers to a certain process by which a certain percentage of tabulators or ballot boxes are chosen at random. And each ballot box that is chosen, regardless of what that number is, from more than zero to a 100 percent of the ballot boxes, you pull up the paper ballots, the voter verified paper ballots which is always the official part of the election. Those are the official results. Those are what can't be hacked, and you hand count them to verify the count on the tabulator.

MR. DUFFEY: Any other questions from the Board?

MS. GHAZAL: I have a question. Thank you. Thank you so much for -- for being here and answering our questions. I have a very simple one. Can you explain whether or not the security features and passwords are changed from election to election or is it carried through?

MR. POULOS: They should be changed election to election. That's ultimately

something that are -- is done by election jurisdictions.

MS. GHAZAL: Thank you.

MR. DUFFEY: Any other questions from Board members?

MR. LINDSEY: I'll have one at the end, Mr. Chairman.

MR. DUFFEY: Some of these questions are redundant so I'm not going to ask the redundant questions we have an explanation of --

MR. POULOS: I'm -- I'm sorry, Chairman, I can't hear what you're saying. I'm not sure if that was directed at me, but I -- I could barely make it out.

MR. DUFFEY: That's because my mic wasn't on. Now it is.

MR. POULOS: Okay.

MR. DUFFEY: All right. So I'm going through the questions that have been submitted to me are -- I'm taking out those questions which I believe have already been answered and there are some that are redundant. So here's -- here's one: Does the QR code assign a unique number to each ballot?

MR. POULOS: No. Absolutely not.

MR. DUFFEY: Here are two questions I'm going to ask it in a more general way that -- what is -- what is the function of Dominion techs? What do they do on election day? What is their purpose?

MR. POULOS: Their purpose -- their primary purpose is to be available to ask any questions. And -- and provide help to election -- election officials who have any -- any kind of need for troubleshooting. It really could be a number of things. A very common one, believe it or not, is, you know, the power -- the power seems to be on battery power even though the unit it plugged in. And a Dominion tech might come. They're -- they're instructed never to perform in any official duty that is the accountability of the poll official. But you'd be surprised at how often this one happened to where it's plugged into an outlet in a precinct that is not live and, you know, that -- that type of thing is where a Dominion tech is sometimes helpful for jurisdictions.

MR. DUFFEY: Do your machines use blue

tooth or other technology that would allow it to be accessed by somebody using the internet?

MR. POULOS: No. They are specifically designed as per federal statute or federal certification standards to not have that capability and that is what they are tested against.

MR. DUFFEY: Thank you. And do your machines have any blue tooth, wi-fi chip sets?

MR. POULOS: No. To the extent that any, like, our tabulator, for example, absolutely does not and to the extent that any other devices that we would have. So, for example, if we supplied a Windows PC for a central location, that -- that PC is an off the shelf product. And -- and they change all the time so typically we use Dell computers and the Dell models keep changing as whatever Dell brings up new versions and so there is a specific hardening procedure that is approved by the certification bodies where any functionality that might have been on a -- a PC that perhaps does some ballot rendering at a central location, that that functionality is disabled in the appropriate way.

MR. DUFFEY: When the audiences can control themselves, I'll proceed. Or -- or if you can't, you might want to step out.

There's a question asking him to interpret Georgia statutes. I'm not going to -- I'm not going to ask him to do that because he -- that's not why he's here. This question I don't understand. It's -- it has one incomplete sentence. I'll ask, is there any circumstance where a -- a scanner has to be reset? And how do you do that?

MR. POULOS: I'm sorry, Chairman. Is the -- the tabulator? The digital scanner that sits at the top of the ballot box?

MR. BALBONA: Yeah.

MR. DUFFEY: The scanner that sits on top of the ballot box?

MR. POULOS: If it needs to be reset?

MR. DUFFEY: Yeah. Or start -- there are circum -- what might have scanners had to be reset and if so, how's that done?

MR. BALBONA: For the count.

MR. POULOS: I can't think of -- I can't think of anything sitting here right now why it would need to be reset. I mean, sometimes

I've seen ballot jams where a ballot is inserted for whatever reason the ballot has a torn -- a torn corner to it. Or there's -- but you typically don't see that in precinct voting because the ballot -- it -- it doesn't travel very far. It goes from the marking area. The voter takes and looks at it. So really, I can't think of anywhere -- any time where it would have to be reset.

MR. BALBONA: But can it.

MR. DUFFEY: Well, if -- if there is an instance say, for example, where there's a turned up corner and it jams --

MR. POULOS: Yes.

MR. DUFFEY: How do you -- what is the assurance that everything was counted after that including that jammed ballot is tabulated and included in the count?

MR. POULOS: Oh, okay. So if the ballot has not been read -- is not able to go through the scanner as -- as you say, it does not go in and fall -- and cast into the ballot box. The -- the -- the tabulator -- ballot tabulator will prompt the poll official with an instruction to clear that -- that ballot

jam. And if the ballot is torn in a way that makes it unscannable, the poll official will direct that voter to create another paper ballot. They have supplementary counting procedures to make sure that that torn ballot is properly accounted for that outside of the Dominion system. Because the Dominion tabulator that sits atop of the ballot box only counts the number of ballots that poll officials allow voters to feed in. So in the course of a day, if it's 100 ballots, the -- the tabulator has no idea who the voters are. The tabulator has no idea how they've been verified. But all -- the only thing it's accountable for is to make sure that the ballots that have gone through that tabulator have been accurately counted for and not only in number of separate ballots, but also the interpretation of every -- of every vote on every contest. And that's -- that's -- that's the part that is verified independently through the use of hand count audits and hand recounts.

MR. BALBONA: I can give you a hypothetical scenario if you want. It's

pretty nuanced.

MR. DUFFEY: This is a question about training of local officials. But he is not here to talk about how local officials were trained so I'm not going to ask that. This is a question about something that happened at a local precinct, so I won't ask that. I mean, this is another question having to do with connection of machines to the internet. Can you go, I guess, could you go over again looking at your whole system. And the ballot marking devices and the scanners. If anything, else that is -- that is associated I have, in addition to that, with your system as opposed to some -- some supplemental process at the local election office. Is -- which devices have any ability to access the internet through blue tooth, wi-fi or any other technology.

MR. POULOS: Sure. Well, our ballot marking devices do not have that capability. And -- and that's what they're tested for. Not only by the jurisdiction, but by certification agencies. But -- but, again, a ballot marking device is a screen and a

printer. It doesn't store votes. It doesn't in any way. It has nothing to do with the tabulation process. It's a -- it provides a voter with a paper ballot to be verified.

On the scanner you have -- you -- you have a -- a scanner that is designed by federal requirements to operate in a -- in a -- in a -- in a air-gapped manner without connectivity. So at no point during -- after voting is there any capability of that device being connected to anything. It is -- it is a complete stand-alone system.

Now, the -- the tabulator is configured in some jurisdictions by law and Georgia is not one of those to be able to attach an external device to transmit unofficial results after the polls close. This is a process that requires breaking a physical seal and connecting something that's quite large. That -- that is -- that dongles out of that tabulator that is easily viewed. It's designed to be easily viewed by any poll watcher in that precinct. Be the -- be it a poll worker, a bi-partisan poll watcher or just a member of the public. And, again, the

most important point here is that Georgia is not one of these jurisdictions. So there -- there are absolutely no ways of connecting that we -- we haven't sold this device in Georgia. Georgia doesn't have this device. And so in Georgia that locked port that is both locked and sealed never gets opened.

I will also add Chairman, that in other jurisdictions and these are typically jurisdictions that for geographical reasons takes several hours to physically transport everything. And they're looking to be transparent by -- by offering unofficial results. But I will say is that even in those limited jurisdictions, which is just a few percent, I think now, it's rapidly declining in my view. It's going down to zero. But the physical device does not connect through the internet. It's through a private cellular network. And those results that are transmitted are only unofficial. They are never part of the official results record.

MR. DUFFEY: This question is about something happened in another jurisdiction and what caused it. He's not here to talk about

that. And I'm not going to ask that question.

Is there any -- does your system work in a way that a counter can erase a scanned ballot?

MR. POULOS: I -- I don't understand. Erase -- erase a ballot that is in the box or erase an image that's on one of the memory cards?

MR. BALBONA: On the counter on the -- on the scanner. The ballot scanner, the counter, it's kind of like the mileage is there any scenario where that number is adjusted?

MR. POULOS: I'm sorry, Chairman. I couldn't hear his question.

MR. DUFFEY: In your -- that -- that is not the question that you asked on this piece of paper. This is not a open forum for people to ask. If you want to ask a question, I will ask the question and determine whether or not it's appropriate.

We -- we asked for him to address certain things and I think it's unfair for the audience to expand this to ask questions that are not related to the way these machines work. And I think he's been generous and fair

in addressing the questions. And I've been fairly liberal in asking him things that I thought you wanted to know.

MR. BALBONA: It was just a clarification of that question.

MR. DUFFEY: Pardon me.

MR. BALBONA: It was just a clarification of that exact same question.

MR. DUFFEY: Well, I would disagree with that. What's the purpose of air-gap connectivity? And is the air-gap --

MR. POULOS: Air-gap means no connectivity.

MR. DUFFEY: What -- tell me what air-gap -- tell me what air-gap is.

MR. POULOS: Air-gap means if -- if, Chairman, if you're holding a device that set to be air-gaped, I can see that device from the other side of the room. I know it's not connected to any other device because I can see that there's no -- there's no wires. I can actually see that with my own eyes. And -- and -- and there's no connectivity through any means of electromagnetic communication such as wi-fi; such as blue tooth -- such as

some of these technology that you asked me earlier.

MR. DUFFEY: This is a question about his response to a report that is in litigation in the Curland case. Some of which has not been disclosed by the court so I'm not going to ask that question. And he was not here to respond to Mr. Halderman report.

Any further questions from the Board?

MR. LINDSEY: Yes, Mr. Chairman. If I may. I think you need to turn me on. While I do not want you to -- to discuss anything that's particularly regarding the Curland report and -- and regarding the Curland litigation. Nor I want you to and I want to make sure you understand where I’m going here. Nor do I want you to reveal anything that is presently under seal. Please make sure that you understand that. However, I do think it's important for the -- for the Board and for the general public to know that there was a -- a analysis done by an independent cyber security company called MITA that was submitted to the court in response to the Halderman report. Were you aware of that?

MR. POULOS: Yes, I am.

MR. LINDSEY: Yeah. And you're aware that presently that Mitre report is under seal. But there have been requests that it be unsealed so that the general public can see the analysis that took place by the Mitre folks in response to the Halderman allegations, correct?

MR. POULOS: I believe that report is under seal, correct. I think that was your question.

MR. LINDSEY: Yeah. It is under seal. And -- and Dominion has asked for that to be made public, correct?

MR. DUFFEY: Well, that's -- that's a question --

MR. LINDSEY: I mean, it is -- well, let me put it this way: From a review of the records, it appears that Dominion has requested that report. And be made public and -- and the also that the State Election Board has made that request to be made public. I just wanted to know if you were aware of that fact.

MR. POULOS: Yes, I'm aware of that.

MR. LINDSEY: Yeah. Okay. I'll discuss that further later, Mr. Chairman. Okay. Oh, one other question. Mr. Chairman, if I may.

You're -- are you aware that the United States Election Assistance Commission?

MR. POULOS: Yes, I am.

MR. LINDSEY: You -- you are, you are. And -- and has your Dominion system been tested and reviewed by that commission that's being used to (inaudible).

MR. POULOS: Yes. Yes, it has.

MR. LINDSEY: And has it been approved by the -- by this commission?

MR. POULOS: Yes, it has.

MR. LINDSEY: Could you just briefly tell the public and the Board generally what the US Election Assistance Commission is?

MR. POULOS: It is a bi-partisan commission that was created in -- in the years following the 2000 general -- general election. And it sought to create a list of definitive standards by which any voting system should adhere to. And the current certification guidelines I believe are thousands of pages long. That they tell you

exactly how a system should work. The types of security mechanisms that must be part of that system. And any company that wishes to market an election system in the -- in the United States submits their system for that testing.

That testing is done independently by any entity that -- that has applied and attained its own certification and accreditation by that same agency. And so really what that process does it -- it demonstrates that a testing lab is independent. The testing lab understands election protocols. And is able to independently test and verify compliance to EAC, the Election Assistance Commission standards. So typically, that process can take -- it's -- it's not uncommon for it to take years and it is very thorough. It involves any manufacturer, such as Dominion, to submit its entirety of the source code for a line-by-line code review. The entirety of its hardware platform for review. A list of manufacturing partners on the supply chain for any and all hardware parts. And ultimately at the end if certified that certified version

which is made up of the entirety of all of the hardware pieces that have been submitted and reviewed by that agency and its independent test labs. And the source code is deemed the certified version. So at any point in the future if a further change is required in any way, be it hardware, or even one line of source code, the entire package goes back to the Election Assistance Commission for another review and if deemed appropriate and compliant following certification.

MR. LINDSEY: And once again, has the Dominion system utilized here in Georgia been certified and approved by the commission?

MR. POULOS: Absolutely, yes.

MR. LINDSEY: Thank you.

MS. PRETTYMAN: Did you -- are you able to ask the question on the archived data?

MR. DUFFEY: And your name -- tell me your name.

MS. PRETTYMAN: Amanda Prettyman. Sorry, my handwriting is messy.

MR. DUFFEY: But there are two questions. Nothing says --

MS. PRETTYMAN: Primarily the archived

one -- archived data.

MR. DUFFEY: These questions both have to do with what Dominion testing and --

MS. PRETTYMAN: But there's no (inaudible).

MR. DUFFEY: In your system, Mr. Poulos, what is it within the system that archives data? If there is more than one place --

MR. POULOS: I'm -- I'm sorry, Chairman. I'm having difficulty hearing that question. Can you repeat that? Maybe it’s the mic problem again?

MR. DUFFEY: You're catching on. In your system, in what places is data archived?

MR. POULOS: Great question. So I'll -- I'll start with the -- the ballot box which is obviously a critical piece of it. So the voter verified paper ballots is where -- the most important part of the election. And that is under locked and sealed -- physically locked and sealed ballot box. In addition to that, we now have images of every ballot and scanned image as it went through the tabulator. Immediately following that independent voter verified review of their

paper ballot. That is done in triplicate form. So on the tabulator we have three pieces of -- we have three discreet pieces of electronic memory that hold that information for every ballot cast in that ballot box on election day.

At the close of that election, so if you bear with me, I'm working from immediate close of election. Back to reporting official results. On that tabulator as I said we have three discreet pieces of memory. One that is -- so that they are separately locked and sealed in full view of the public. And on as far as how they're stored digitally on the electronic media, they are both signed -- digitally signed and digitally encrypted per Election Assistance Commission's standards the so called BBSG standards.

At the close of election, we print multiple copies of the results tape. So now we at this -- at this immediate point maybe a minute following all polls closed, probably less. We have the physical ballots in the ballot box. We have three discreet copies all digitally signed and encrypted that -- that

have to -- that each set of results. So an independent copy of each of the ballots. And now we have multiple print -- print tapes that show the accumulated results of what's in the ballot box. So if there's a 100 ballots, it'll say there's a 100 ballots cast in the ballot box that can be independently verified. And then the results by candidate by contest for the entirety of the election that is sitting in that ballot box.

It's typical that you might have four or five copies of that. So one publicly posted. One given to parties perhaps another if there's -- if there's a bi-partisan poll watcher that happens to request a copy. And then a copy goes back with the ballot box. With the tabulator and with the ballot box that has the locked and sealed ballots.

When that; however, some jurisdictions do it differently, but ultimately one of the memory cards that sits in that tabulator is removed. So in -- in a -- in a -- in an open and transparent process, in front of poll watchers, the seal is physically cut and unlocked and that -- that memory card is

removed and then read into a central computer. And while it forms the basis of -- of results becoming official, through a very exhaustive process called canvas. It is just one part of it. So if anyone even has the allegation that the -- from the time that memory card is removed from the digital scanner and put into the computer. Or if there's an allegation that the computer somehow is -- has been corrupted, the chain of custody has been breached, you always can -- so not only do you have that version that sits there. And even the allegation is -- is -- is -- is a case worthy to discuss here because we still have the other memory card that is still locked and is still sealed and remains in the secure chain of custody of that jurisdiction. And up to at least a minimum of -- at least 24 months. And sometimes more if there's any kind of dispute. And above and beyond that, we have the physical print tapes that -- as a -- as a matter of protocol in the canvass process is they are compared.

And ultimately the last and, again, the most important part are the -- the actual

paper ballot that have been voter verified and locked and sealed in -- in the secure chain of custody of that election official. So by my count you have at least one being the paper ballots. You have two and three are the removable memory cards. The fourth one would be the other memory card that is -- that is yet another -- provides another copy of the tabulator and five would be the -- the print tape, which is actually five a, b, c, d, e because you have multiple copies that have been printed immediately following the poll close. And then distributed to candidates. To poll watchers and publicly posted.

MR. DUFFEY: All right. Thank you.

MS. PRETTYMAN: Can you ask him to verify if -- if it's not safe for the compact flash drive --

MR. DUFFEY: Excuse me -- are you a lawyer?

MS. PRETTYMAN: No. I'm not.

MR. DUFFEY: Are you a litigant in a case?

MS. PRETTYMAN: No. I'm a citizen. And it's an issue in my county and that's what

we're trying to figure out because Dominion told us this. So I -- so I appreciate (inaudible). I'm just trying to determine -- because I didn't quite catch the heart of the matter which is -- the records that are missing because they weren't safe from the compact flash drive, we were told by Dominion that they're archived --

MR. DUFFEY: Well, that's -- that's --

MS. PRETTYMAN: -- irretrievable.

MR. DUFFEY: Because that's -- because that's specific to you, this presentation is not for specific questions about specific election offices. It's generally his description of the process and I think that he has -- he has --

MS. PRETTYMAN: It could be other places, like I said, if we're wondering if --

MR. DUFFEY: Well, what could be and is, you know, if you want to, you can send me in this dedicated email, send your question.

MS. PRETTYMAN: Okay.

MR DUFFEY: And I'll send it to them to see if he and, I mean, because they are involved in a lot of litigation too. I'll see

if they're able to answer that. I think that's the best way to handle that. Okay.

UNKNOWN SPEAKER: But, we're interested too.

MR. DUFFEY: Well, I know there are a lot of interesting things that you're interested in, but the purpose of this meeting is informational. It's not about what's happening in specific election offices or specific counties or specific precincts. The purpose of this is to give you and I think he's actually been generous and going beyond what the explanation is of the system. And every question I've gotten that relates to the system, I've asked. But this --

MS. BRADSHAW: I did ask about the poll pads being count -- they're -- they were -- there was poll pads that was wrong, had the wrong precinct on it.

MR. DUFFEY: Yeah. One particular precinct, correct?

MS. PRETTYMAN: Yeah. But in general --

MR. DUFFEY: Because he has -- he doesn't -- his system doesn't include poll pads.

MS. PRETTYMAN: Pardon?

MR. DUFFEY: Does the Dominion system is a poll pad part of that system?

MS. PRETTYMAN: Yes. That's -- that's how you -- the person comes in. They give you their driver's license. And it -- it checks if they're a registered voter. And all that works together.

MR, DUFFEY: Okay. We're going to take a 10-minute break and we'll be back at quarter till.

MR. POULOS: Thank you very much, Chairman. I appreciate the opportunity.

MR. DUFFEY: Thank you, Mr. Poulos. Appreciate you being here and thank you for your answers.

MR. POULOS: Have a great day. Bye.

MR. DUFFEY: You too. Thank you.

(Break taken.)

MR. DUFFEY: Can everybody please take their seats. Sorry, would everyone please take their seats. Seats are those pieces of furniture that are in front of the desks.

The next is to give you a brief update on the Coffee County investigation. This is a little hard to do because there are really two

issues. So it might sound as if things are not being presented in chronological order. They're not exactly in chronological order because -- but I will tell you when something that comes up that's not in chronological order, why it's not in chronological order because what happened and when it was discovered are two different tracks. So I'll do my best on doing that.

As you -- and you inevitably know there is a ongoing criminal investigation and while I have -- I know who the investigators are, the GBI, and -- and the Secretary of State's Office investigators who are assigned to us to investigate and have great confidence in them. It is still a criminal investigation. When I was a United States attorney it was our policy that whenever anybody asked about where we were in the investigative process, you don't disclose that. For one principle reason is that investigations have to be conducted according to the investigative approach that the people that are actually responsible for the investigation want to take. And there are lots of reasons why they follow the path that

they follow in an investigation, and if we were give you an update as far as who's being interviewed. When they're being interviewed. What are the topics. They would -- they would lose the -- what the design of their investigative strategy which is to find out what happened and who is responsible for it.

So almost everything that I'm going to tell you although hopefully it'll be somewhat more of a coherent fashion than the reporting that there has been on it. But when things went -- at one time were not known the fact that they are now known and have been publicly disclosed and there -- and there’s been very little objection by anybody or correction as to what happened. I -- I think you'll find -- what I hope is a more coherent presentation to give you an idea of what happened, when -- when people knew about it and -- and who was involved in a -- in a broad sense.

To the extent that there might be information that I've learned, and if I can't, you know, somebody might say, well, who's that. And if I can't determine that, I'm not going to say. Because I don't -- I'm not

going to express to you anything where I am not confident that the information is known and verifiable.

I will say that what has been reported by the national and local press, aligns with what I learned out -- outside the criminal investigation. And I think the conduct is -- is fairly clear and that you'll see where Coffee County fits in a broader picture.

The conduct in Coffee County is similar to the conduct in Atrium County, Michigan and Clark County, Nevada. It's not entirely clear, there's been a fair amount of reporting on who was responsible for, you know, the orchestration of the conduct. But I think it is unclear as to who had specific responsibilities within the organization and -- and for our purposes what happened is what's relevant. And not who was behind it. Because what I want you to know is what happened in Coffee County. So the focus of this review is going to be not of Michigan or Nevada. It will be on Coffee County, Georgia.

So the facts show that in March of 2021 a phone call was disclosed in federal court

litigation was that a person by the name of Scott Hall stated that he had arranged for a plane to travel to Coffee County. To image hard drive information from voting equipment in Coffee County. In the call, Mr. Hall claimed that he received permission from officials in Coffee County to do so. And that Coffee County officials allowed people to enter the office to obtain hard information on hard drives.

The Secretary of State's Office became aware of Mr. Hall's telephone remarks in February 2022. So although that was available, it was not known to the Secretary of State's Office until February of 2022. And the Secretary of State's Office reached a conclusion a couple of months later that based upon Mr. Hall's telephone conversation which was had a lot of other information that he was passing along in this call, only a part of which dealt with this trip to Coffee County and based upon what was known at that time, the Secretary of State's Office concluded in April of 2022 that there had not been a breach of any equipment. Okay. So I just talked

about what somebody learned in February 2022.

Now, let me go back to 2021. In June of 2021, which, of course, was after the 2020 election, when the new Coffee County Elections Director became responsible for the Coffee County Elections Office. Because the prior director whose name is Mr. Campton was no longer working there. And the circumstances of that are unclear to me about why that happened. There's been some reporting on it but I don’t have any independent information about that.

But anyway, when this new elections director came in, they were unable to access a computer server because of password had been changed. They tried to -- with the -- with the help of one Dominion employee they -- they tried to bypass the new password to get access to the -- to that server but couldn't. So a decision was made that the Secretary of State's Office would take possession of the server. Bring it back to Atlanta. Maintain it in Atlanta and to replace the server that was taken to Atlanta with a new server. Again, that's in June 2021. In August of

2022, so now we're back into the current year, information became publicly available showing that on January 7th of 2021 a -- an Atlanta firm that does forensic work and consulting by the name of Sullivan|Strickler entered into a retainer agreement to perform work to image information on various types of devices in Coffee County's election office.

Further, in -- in recent months there has been video footage that -- that shows that Coffee -- Coffee County permitted people to enter the elections office and those same videos, and some still pictures show that Sullivan|Strickler employees were in the Coffee County election office with local officials. The images show Sullivan|Strickler employees working in front of computers in the office. Don't know exactly what they were doing. But that's something that you -- that you can see in these images.

And there -- and there were video depict -- there were depictions -- visual depictions of -- of hard and thumb drives tagged and lying on the table. It looked like they had been laid there in a orderly way. In -- so

now, on July 28th -- so now we're before August of 2022, so I'm going back in time a bit. This is a disclosure when -- when people found out about what happened in Coffee County. But on July 28th, before any evidence of the activities that I just described was known to State officials. I was advised that evidence showed that the server retrieved from Coffee County in 2021 and maintained by the Secretary of State's Office had been forensically examined. And there was evidence the data on it was downloaded to an external hard drive.

I required this information to be reported to the federal judge provided over the federal litigation I mentioned. And -- and to be given detail about what was known about -- about the attachment of a hard drive to the -- to the computer in Coffee County. The Board and the Secretary of State requested that a criminal investigation be opened immediately and that occurred.

The investigation is currently being conducted for the Board by the investigations of the division of the Georgia Bureau of

Investigation with help from investigators in the Secretary of State's Office assigned to the Board. Because the conduct in Coffee County paralleled conduct in other states, we requested the Federal Bureau of Investigations Office in the Southern District of Georgia to participate in the investigation. Because the request involves an election, it has to be processed through channels that probably ultimately decided (inaudible) justice in Washington, D.C. I've called to get an update on that and have not received it yet. Which I'll just say from experience that doesn't mean that the FBI isn't doing something maybe in other states. So they could be involved, but I don't know. I don't know what they're doing, if anything, with respect to Coffee County.

There's more recent -- so now I'll move forward from July, there's more recent information that has been disclosed that shows that a different forensic firm visited the Coffee County offices on January 26th of 2021 and were allowed into the offices by local official, election officials. What happened

inside the office or what the firm did inside the offices in Coffee County is uncertain.

One final thing which doesn't directly relate to Coffee County, but I wanted you to know about it. On September 20th of 2022, I received documents from an individual who had obtained them through a Georgia open records request, and they involved Spalding County. These documents show communications between Sullivan|Strickler and Spalding County Board of Elections in August of 2021. And there is an unexecuted engagement agreement for forensic collection preservation of Spalding County Elections Managing Systems. And another Spalding County iPhone forensic collections preservation engagement letter.

The purpose of the imaging is not clear, but it could have well have related to -- to Spalding County's desire to -- to have available information at the time of this collection was made because there might have been either issued or could be issued an order from a court requiring the information be preserved and it could be that they wanted to have an image because they thought they had a

legal obligation to do that. But we're investigating these communications and the relationship to see -- to understand why Sullivan|Strickler, a name which is now familiar to us, was the firm that was talking to them about that to see and assure us -- or to disclose to us how it related, if at all, to what happened in Coffee County or to -- or to assure that it was totally different and there for a different purpose.

As I said, a criminal investigation, while I don't know the details of it. I can tell you it is active and it's ongoing. I can't tell you when it will be done, but the purpose is to ultimately determine whether or not there has been conduct that warrants further review and then if necessary prosecution.

Now, you can ask questions, but I've told you everything I know. So I want to now go to the risk-limiting audits. I'm going to ask Blake Evans who's the Secretary of State's Elections Director for the State to explain -- this is (inaudible) information to explain what a risk-limiting audit is. What place

they play in elections in Georgia? And while you can submit to me questions, I'm going to tell you that it has to pertain only to risk-limiting audits and how they work. Thank you for coming. This is Blake Evans.

MR. EVANS: All right. Thank you, Judge. Does it sound okay? Can everybody hear me?

THE AUDIENCE: Turn the volume up.

MR. DUFFEY: Try that.

MR. EVANS: Testing. There we go.

THE AUDIENCE: That's good.

MR. EVANS: So I think what I would -- what I would like to do to start off the discussion on risk-limiting audits is to take kind of a -- of a little bit of a broad approach on what audits are in elections. And talk a little bit about how risk-limiting audits came to be part of our practice in Georgia. And then transition from that to the risk-limiting audit that we have coming up after November and talk about how that will be conducted.

MR. DUFFEY: I think that's a good plan.

MR. EVANS: So why perform post-election audits period, at all? And a big reason why

we perform them is because we as election officials we want to catch errors. We want to -- we want to make sure that the outcome that was certified was correct. To make sure that the person that was -- that was indicated as having won the election by the machine count was the correct person.

And so typically when we talk about a post-election audit whether it be a risk-limiting audit or otherwise, you're looking at a paper verifiable or a human readable -- human readable text on a ballot. And you're coming up with a hand tally that you can then compare to the machine count. And that's auditing the machines. You can't really audit machines with those same machines. That wouldn’t be an audit. You do it separately, you do it with humans. You do it with eyes looking at ballots and the text on the ballot.

And then the other reason why we do it, obviously, we want to catch errors, we want to confirm the count. But we want to increase public confidence in the election. And -- and to me, you know, doing this, of course, we

started it in 2020, but the public confidence side of it, it's a little bit kind of exercising. It's doing it consistently over a long period of time that builds that habit. And that -- and that creates kind of that culture of auditing in Georgia elections. And I think that's important.

The objective is to verify that the machine count resulted in the correct winner, and this is done by reading human readable text that is on the ballot and coming up with a tally using that text. Post-election audits in the United States typically consist of sampling some number of ballots after the election to audit -- to audit the machine count.

There are typically two categories, we're talking about ballot audits that are used in the United States. One is a -- what most people call a traditional audit which is the method that's been used by many jurisdictions for -- for quite some time. And typically, that will come with -- with some kind of a -- a random selection of a fixed percentage of ballots or precincts. For example, I've been

in a jurisdiction before in another state where we would select about two percent. We'd pull a couple of precincts out of a hat. And those would be the precincts that -- that we would audit. And that was a fixed percentage. It was about two percent of the total number of precincts.

And then there's the risk-limiting audit. So you have kind of the traditional and then you have the risk-limiting audit. So the risk-limiting audit you may hear me refer to it using the acronym RLA throughout the presentation because that's commonly what it's referred to as. But the RLA relies on statistics and mathematics to determine the number of ballots to be audited and whether the outcome of the audits supports the outcome of the machine count with a high degree of confidence.

So one way to think about it is if it's one of the things that impacts the number of ballots to be audited greatly, is the margin of victory in the contest. So if it's a wide margin, you're only sampling a relatively small number of ballots. If it's a small

margin, you're sampling a very large number of ballots. So one of the good things about RLAs is they do adapt to the margin that you're trying to audit in the county you're trying to audit.

And just to provide a little bit of background, my experience, when I first got into elections working for a county office, it was in Pensacola, Florida. And I can remember after the first election that -- that I was there for, it would have been in 2016. We had paper ballots. And we did that fixed percentage audit that I mentioned, and we did that after every, every single election.

When I came to Georgia in 2019, of course, our State was on the verge of getting a new voting system with paper ballots that would have human readable text. That could then be audited. And so part of that process was, and I wasn't necessarily a part of it, but what Georgia was going through at that time and the legislature and in the Secretary of State's Office and the counties was preparing for that new system. Preparing for those paper ballots and the legislature passed

a law to put in place audits to audit the -- the machines.

And that law is O.C.G.A. 21-2-498. And that Code section clearly defined what risk-limiting audits were. And talked through some other things. And so what I'm going to do is there are a few portions of that law that I want to highlight. So 21-2-498, as soon as possible, but no later than November 2020 general election, the local election superintendents shall conduct pre-certification tabulation audits for any federal or state general election in accordance with the requirements set forth by rule or regulation by the State Election Board. Audits under this Code section shall be conducted by manual inspection of random samples of the paper official ballots.

In conducting each audit, the local election superintendent shall complete the audit prior to the final certification of the contest. Ensure that all types of ballots are included in the audit. This is important. So whether they were cast in person, by absentee ballot, advanced voting, provisional ballots

or otherwise. Then provide a report of the unofficial final tabulated vote provided for the unofficial final tabulated vote results for the contest to the public prior to the conduct of the audit. Complete the audit in public view. That's extremely important. Audits are -- are a very, very important part of the election system. I'll talk about it in a few minutes what we did in 2020. What we're doing upcoming to make sure that they can be viewed by the public. Provide details of the audit to the public within 48 hours of completion. And then it goes on to talk about in the law, the State Election Board promulgate rules. The Secretary of State shall conduct a risk-limiting audit pilot program with the risk limit not greater than 10 percent. And that the ending of the law states that if such risk-limiting audit is successful in achieving the specified confidence level within five business days following the election for which it was conducted, then all audits performed by the Code section shall be similarly conducted, beginning not later than November 1st, 2024.

So one of the things (unintelligible) the law was that we the State were to be working towards risk-limiting audits.

So that law was put in place, and I can remember when I came to Georgia, I participated in a pilot risk-limiting audit at the county level before coming to the Secretary of State's Office. And then after I came to the Secretary of State's Office, I participated in a pilot from the Secretary of State's side. And it became clear that one of the things that -- that we could do is instead of training election officials on traditional audits, and then down the road transitioning to risk-limiting audits, which was what the law wanted us to be at by 2024. That we could start out at -- with doing risk-limiting audits.

And so we -- we decided that that's what we're going to train on. That's what we wanted to do. And the State Elections Board drafted a rule, and that rule is 183-1-15-.04. And I'm going to highlight a few sections of that.

It starts with following the November

general elections in even numbered years, each county shall participate in statewide risk-limiting audit with a risk limit of not greater than 10 percent. I'm going to pause there.

So just to -- I want to define and clarify what a risk limit is. And so when you're -- when you're talking about auditing, and you're talking about risk limits, you have to designate for the algorithms that are going to tell you how many -- how many ballots you have to sample. A -- a risk limit and because that will help determine how many ballots that you have to pull. And so the risk limit if it's 10 percent that means, essentially, would you be satisfied with a 90 percent confidence level at the end of your audit? And if the answer's yes, then you can set 10 percent risk limit you're auditing fewer ballots. If you would be satisfied with a 95 percent confidence level, then you can set it at five percent risk limit. You're going to be auditing a few more ballots but -- but you're going to have a higher degree of confidence in the outcomes of the audit.

And generally, what will happen is that is to kickstart the process and then at the end of the audit you'll have a report, and it will tell you what your actual risk limit was in the audit. For example, I remember one of the audits that we conducted after the Presidential preference primary in Fulton County. I remember that one specifically. I think it was a 10 percent risk limit or a five percent risk limit. And the actual risk limit after we audited the ballots was under one percent. And we had that in the report afterwards.

So going back to the State Election Board rule, prior to county certification the election superintendent of each county shall prepare a ballot manifest. So a ballot manifest is a document that lists all the ballot containers following the election and the number of ballots that are in each container. Another word for container could be batch. So a batch of ballots.

Going back to the rule, the contested audit shall be selected by the Secretary of State. The Secretary of State shall set a

date, time, and location after the November general election in even numbered years to select which contest to audit. Such meeting shall be open to the public. After selecting the contest to audit, the Secretary of State shall publicly announce which contest will be audited and published the selected contest on Secretary of State webpage.

In selecting the contest to audit, the Secretary of State shall consider the below criteria: The closeness of the reported tabulation outcomes. The geographical scope of the contest because we wanted it to be a statewide audit, so it needed be a contest across all counties. The number of ballots counted in the contest. Any calls for concern regarding the accuracy of the reported tabulation outcome of the contest. Any other benefits that may result in auditing certain contests or the ability of the county to complete the audit before the State certification deadline.

And then another key part that was reiterated in the State Election Board rule, was that the audit shall be open to the public

and public notice of the date, time and location of the audit must be posted on the county election office's website or if the county election's office does not have a website, in another prominent location. So that was the first half of the rule.

The next half of the rule got into the actual conduct of the audit. So the audit shall be open to the view of public and press, but no person except the persons designated by the election superintendent or the superintendent's authorized deputy shall touch the ballot or ballot container. Each election superintendents shall create audit teams comprised of at least two sworn designees, so they have to take an oath, and have to take an oath, to assist with the audit. Chain of custody for each ballot shall be maintained at all times during the audit, including but not limited to, a log of the seal numbers on the ballot containers. Before and after completing the manual audit.

For ballots marked by electronic ballot markers, the auditors shall rely on the printed text on the ballot to determine the

voter's selection. For ballots marked by hand, the auditor shall rely on the choices indicated by the voter filling in the oval adjacent to the candidate or question. So there are other parts of the rule. Those are the parts that I wanted to highlight.

And so with -- with the law and the -- and the State Election Board rule being set and with -- with -- with those in mind, and knowing that we wanted to move forward in 2020 with a risk-limiting audit. We had to select a system or a vendor that could do a couple of things for us. One, we needed from a statistical and mathematic side, we needed a system that can consume ballot manifests from 159 different entities. And so, for example, Bartow County might have a ballot manifest with 200 batches of ballots in it. This system had to consume his ballot manifest along with that of every other county and create one long list. The total number of batches in the 2020 election was somewhere right around just -- just over 40,000 batches in the State.

And so the system had to do that and then

the system had to be able to run the algorithms to determine, okay, how many ballots based on the contest that's selected need to be audited so that we have a statistically significant sample and so that when we do the hand tally, the outcome will achieve the -- the confidence level that we want.

And -- and going back to 2020, obviously, the margin was very, very close. So what I said earlier, the narrower the margin, the more ballots there were to be sampled. So the number of ballots to be sampled was so large, well over two million ballots that it became much more simpler and faster to hand count all ballots statewide then to try randomly sample 2.5 million or however many ballots it was but right around that number.

So what that does, when you're not sampling anymore, your risk limit goes to zero because you're literally counting all ballots. So you have no risk limit set at that point. Typically audits are samples. This was not. The risk limit was set at zero.

Going back to the system that we use.

That system that we chose was through a company called Voting Works and the system that was used was called ARLO. In Voting Works some of the funding came from DHS and CISA in order to create the ARLO tool which they used in our jurisdiction as part of the pilot program that they were doing in cooperation with CISA and then a few other jurisdictions, as well.

So we trained counties. Counties went through and they -- there were 41,881 ballots that they hand tallied over the span of about six days, and they hand tallied those. The error rate in the hand count can typically be a little over one percent, around two percent. The error rate when compared to the original machine count that we had in 2020, was .73 percent so we were well under that. We confirmed that outcome of the election through that.

And so if we fast forward to today -- so to be clear, that was according to the law, the -- the one and only time that counties, since the law was put into place, were required to conduct a risk-limiting audit.

The next election where they would be required to conduct a risk-limiting audit is this upcoming November 2022 election. There are some counties that have conducted risk-limiting audits since then. One of them is in the room, Joseph Kirk in the back, he conducts an audit after every single election that he has. And that's a typical but I think it is an excellent practice he's been able to earn a lot of public confidence that way.

So fast forward to today, and thinking about lessons that we've learned in 2020, and what we plan to do in 2022. So we're still using Voting Works. We're still using ARLO. And we will be conducting a batch comparison risk-limiting audit. Here's what that means: After the election, the Secretary of State will follow the State Election Board rule to select whatever contest it is that will be selected to audit. The counties will upload their ballot manifests so their list of their batch containers. Their list of ballots into ARLO. And we'll -- we'll select a risk limit because that's one of the things that we have to do. Typically other jurisdictions -- I'll

use Colorado for example, because they have been using this style of audit for a while. They set their risk limit around four to five percent. We'll set it at probably at least that, around five percent. We -- we may decide to get higher. But that's something we can discuss.

And then what counties will get is instead of getting back a list of specific ballots that they have to go pull, like we were training for in 2020, we're using a different style of risk-limiting audit. What they will get is a list of batches that they have to go pull. And they will be hand tallying complete batches. Here's the good thing about that. Is let's say that Appling County gets told, go pull the batch from precinct one in Appling County and do a hand tally for that. Appling County will go, they'll pull election day batch one. They'll hand tally those ballots. They'll have the results at the end. They can put the results of their hand tally into ARLO.

And then at the end of the audit, once all the counties have counted their batches,

we'll publish all that information on our website. We did that in 2020, but it will be a report of the results of every batch in the hand audit. And so anybody that wants to can go and they can look and they can find the batch from Appling County election day precinct one. This is what the hand tally was. They can look at scanner tapes, look at something that was produced by the machines themselves. And they can compare the results by candidate. And so they can do that for every -- any batch that's audited in the batch comparison risk-limiting audit that we're doing.

And so every county will be audited. I'll go ahead and tell you that before I go into more detail, we all know that the election is on November the 8th, Tuesday, November the 8th. Counties have to certify by November the 15th. The start of the audit is going to be Thursday, November the 17th and then all counties have to be finished by Tuesday, November the 22nd. So including the start and end dates that's six days that they have to complete the audit.

Following that, we have all the results we, again, just like we did in 2020, because we want to be as transparent as possible, we're going to put all that information, all the batch sheets, all the tally sheets, all the reports produced on the website so anybody can go and look at it. All ballot types will be audited. Every county will be auditing during that timespan so every county will be -- will have batches to audit. The audit will be open to the public. There will be audit monitors. One of the things that I will highlight specifically and then we'll probably be doing something very similar this time around. But if we go back in how we trained counties in 2020 and how we're training again. One of the official election bulletins that was put out by the Director of Elections for our office at that time in 2020, spoke specifically to public access and political party monitors.

And I'm going to read you some exert of that. The audit shall be open to the public and the press. But no persons except the persons designated by the superintendent shall

touch any ballot or container. The superintendent shall designate a viewing area from which members of the public and press may observe the audit for the purpose of good order in maintaining the integrity of the audit. The superintendent may also choose to make the audit proceeding available via livestream or webcast.

And then if I fast forward to another official election bulletin that was put out just a couple days after that one. We put out an addendum that clarified that as an addendum to the rules of political parties monitors and because transparency should be a guiding principle throughout this process. If the election superintendent can safely allow -- because this was in the time of COVID -- if election superintendents can safely allow more than the minimum number of designated political party monitors, consistent with maintaining an orderly process, space limitations and social distancing, public health guidelines if you should. Please allow as much transparency as you can while maintaining a secure, orderly process in

abiding your public health regulations.

So that's going to be the message again. As much transparency during the audit process as we can possibly get. It's going to be a little bit easier this year because of things related to the pandemic. But that's going to be our message again and has been our message so far.

So in order to start the audit, as randomly as possible. Because we don't want anybody to think that any of this was planned out or that we knew what batches were coming. As I mentioned, counties upload their ballot manifest into ARLO. And then the algorithm that runs has to have a -- has a random number generator that is used to select the -- the batches randomly.

But it's a little bit of fun thing, in order for that to happen, the random number generator needs to 20-digit number put into that. And so as part as -- of the kickoff process there will be 20, I think it's 10-sided, 10-sided dice or die, that will be rolled. So if -- Mark (unintelligible) is in the room, I know you asked about that last

week, I think. We have public in that process, you know, we'll probably invite a few people up. They can take a dice, they can roll it, and the first number is three, the first number that -- of the 20 digit number will be three. And we'll go on until we have a 20-digit number. We'll put that into the system. ARLO will kickoff and that's when the counties will be given the -- their list of batches to go audit.

Then counties take their individual lists notating which ballots they must pull to be audited. Each county will have the number of audit teams they think they need to complete the audit. So we're giving counties six days. We're telling them prepare for a slim margin. And in the event that you have to count a lot of ballots, make sure you can complete in that timespan. And once counties receive the list to be audited, they will begin on November the 17th.

So when the audit begins, let's say it's the start of -- it's the start of the audit. Everybody's starting on November 17th. If -- any county that you go into, you should see

that their ballots are securely stored. They have their batch sheet. So what they'll do is they'll bring their ballots out of storage with the proper chain of custody paperwork. They'll take their ballots in their batch to a check-in table, keep in mind every county, will do this a little bit differently depending on the size of the county. But essentially, they'll take it to a check-in table. A team at the check-in table will check the seal on the -- on the batch. And then that batch will be -- the -- the seal will be broken. The batch taken to an audit board team that's sworn an oath and then the audit board team will hand tally the batch. And they'll have results and then the results will ultimately be put in ARLO.

Once the batch has finished being audited, it will go to a check-out team. That check-out team will make sure that the ballots are stored in the batch. They'll seal it back. They'll record the seal number and then the batch will be returned to secure storage. If there are questionable marks or anything like that a ballot that needs to be looked at.

There will be -- counties will have vote review panels which are comprised just the same way vote review panels are comprised for any election. So the party nominees and the election superintendent.

So at the end, counties will enter their batch totals into ARLO. We will get the reports under results of batches with the batch names. One of the things I want to note at this time, is that the batch names, because I know a lot of folks like to go, they like to look at the batches. And they want to try to compare those to the machine tallies. So we heard that feedback from 2020. The batch names that are produced by ARLO should be very close to the same or the exact same as what comes out of the Dominion system. Again, that makes it possible for anybody that wants to go and compare what a Dominion machine got for the count to what humans got for the count. They can do that. So that makes that possible.

So, again, after -- it'll be the Tuesday before Thanksgiving that the audit will conclude and then we will release the reports

following that. Make them publicly available. The 2020 documents are still on our website. The Secretary of State's Election Division. You can go -- click on the election results, scroll down to the bottom, you'll see a link to risk-limiting audit 2020. You can click there and see all the documents.

We'll also start the process -- we'll immediately make the reports available for people go look at. And we'll also start the process of collecting the batch sheets that the counties use for -- because each individual batch has its own tally, and it goes on its own batch sheet, we'll work on collecting those and then posting those again.

So, again, the -- what we're -- what we're striving for goes back to -- we want to catch any errors, if there are any. We want to confirm the outcome of the contest. We want to build public confidence. That's what we want to do. And I think doing that consistently over -- over a period of time is -- is the way to do that. We're -- we're doing the audit in November. I know that I've heard from multiple county election officials

that there's a lot of interest even if the law doesn't require it to do an audit following the run-off as I mentioned Joseph in the back from Bartow County does an audit after every election, but audits are an extremely useful tool. Building public confidence. Auditing the machine. Being able to say that you looked at the human readable text and you confirmed the outcome based on that. It's important.

So with that I'll take any -- any questions that you have.

MR. DUFFEY: Well, I'm a little still unclear about what a batch is.

MR. EVANS: Yeah. Good question. So a batch. So the question was essentially what is -- what is a batch?

And so there are different types of voting methods. So you have election day. You have absentee. And then you have advance voting. For election day, typically, what a batch will refer to is however many ballots that were counted by a scanner. And so upon election day, you had one scanner at your polling place, 500 people came and voted, cast

their ballot through the scanner, the ballots drop into a ballot box. Then that batch for the election day precinct will be 500.

If your election day precinct had two scanners, then your election day precinct would have two batches. Because each scanner's going to print out its own individual results -- results tape and you want to be able to compare the results from the batch to the tape.

For advanced voting, similar concept. If you had over the course of three weeks, a scanner that takes 5,000 ballots, then that batch for that advanced voting location is going to have 5,000 ballots in it.

For absentee, let's say a county gets in 2,000 absentee batches (sic), they can have -- generally what counties will do is they'll -- they'll cap their batches --

MR. DUFFEY: You -- you mean 2,000 -- you mean 2,000 absentee ballots? You said batches.

MR. EVANS: Yes, I'm sorry. 2,000 -- 2,000 absentee batches (sic) beginning back in 2020 territory. I don't think we're going to

quite hit that. But -- but 2,000 absentee ballots -- generally what a county will do is they'll cap each batch at about 50. And so they'll take 50 ballots, they'll run those through the scanner. That'll be batch -- that'll be absentee batch one. They'll take the next 50 and run those through the scanner, absentee batch two. And so on until they complete the process.

And then a similar process with provisionals. So if there are 25 provisionals after the election, that are to be counted, oftentimes those will be in their own batch. Counties will run those through. That'll be provisional batch one.

MR. DUFFEY: So the question is: Are the actual ballots, which I assume are the paper ballots? Is that what you're talking about? Isn't this your -- is this your question?

MS. BRADSHAW: Mine, yes.

MR. DUFFEY: When you say actual ballot, you mean the paper ballots that are --

MS. BRADSHAW: The paper ballots that go into the ballot box.

MR. DUFFEY: Right. Are they used for --

are those the ballots used for the audit?

MR. EVANS: Yes. Yes. Those are the -- the ballots that the audit teams are doing the hand tally --

MS. BRADSHAW: And do people just tally or are those ballots run through the scanners again?

MR. EVANS: So the -- the audit will be -- that's a good question -- so the question was: Do people tally or are the batches -- are the ballots ran through the scanner? The audit would be conducted completely separate from the machines. And so it will be generally what -- what folks will do is what we call sort and stack method.

And so if it's candidate A and candidate B, and they have a batch of 50, the first thing they'll do when they get that batch of 50 is they'll sort into candidate A, candidate A, candidate A, candidate B. And then once they've sorted the ballots that way, they'll count the pages. They'll count the ballots. And that's how they come up with their tally.

MR. DUFFEY: Well, this question, Mr. Balbona, wants us to know whether or not

there's a specific article authored by a fellow by the name of Phillip Stark. I'm going to say this. I have read so much I don't know who wrote what. So I couldn't answer that question. I may have. I may not have.

MR. BALBONA: That was a personal letter. He's the creator of Risk Limiting Audits and gave a letter to Brad Raffensperger and talks about us using RLAs with the Dominion (inaudible). I just wondering if everyone up there on the podium has read it.

UNKNOWN SPEAKER: Is that the --

UNKNOWN SPEAKER: Could you speak into the microphone, please?

MR. BALBONA: He says it's election (inaudible).

MR. DUFFEY: I'm -- I'm going to say the same thing. I get so much paper and there have been a number of letters, I mean, I don’t remember that. But I'm not saying -- and I'm going to say -- and I'm not going to make everybody else do this memory test about what they had --

MR. BALBONA: I mean, he's literally the

creator of Risk Limiting Audits he -- he came up with it.

MR. DUFFEY: Oh, I understand that.

The question is whether or not -- and who wrote this? This tiny little one.

MS. DUFORT: I'm sorry.

MR. DUFFEY: And your name, please?

MS. DUFORT: Jeanne DuFort. Jeanne DuFort.

MR. DUFFEY: Has a decision been made as to how many statewide contests are going to be audited?

MR. EVANS: So the -- the plan right now as the -- the law requires is to audit one contest statewide following November. And then as I -- as I mentioned, I have heard feedback from county election officials that there's interest in -- in auditing a contest following the runoff. And -- and I'll say again, I think the -- the best way to be able to -- to build public confidence by using audits is to do it consistently over a period of time. And so I think it's a very good idea in the future for us to look at ways how to audit after every contest similar to how

Joseph does. Similar to what, you know, other -- other county election officials are starting to do because there's -- there's a lot of county election officials that see the significance and the importance of audits. But to go back to the original question. Looking at one contest following November.

MR. DUFFEY: And where does the -- how do you determine what the confidence rate that you're seeking is -- is going to be. Then how do you determine whether it's met or not.

MR. EVANS: Yeah. That's a good question. So that -- that goes back to the -- the risk limit that -- that we were talking about. So the law says that it needs to be a minimum -- or that it they cannot be any higher than 10 percent. And then once you complete the audit, based on the -- the results of the hand tally. The report will -- will tell you what you're actual risk limit was. So initially, the -- the number that you're selecting is to help kickoff the process. To help determine how many ballots you want to start auditing. It's not necessarily based on what the hand tally is,

what's your risk limit will end up being.

But, again, if we look at other jurisdictions, and what they typically do, with risk-limiting audits, ranges from four or five to 10 percent. So we might do something in lines with that. But what we want to do is we want to make sure that every county is -- that we're auditing enough ballots and that every county's participating in the audit. We want to make sure that as the State Election Board rule and the law says, we're auditing every type of ballot, (unintelligible) ballots, absentee, hand marked ballots.

And so then -- then at the end once we do that and then like I said, we'll get that report that says what the actual risk limit was.

MR. DUFFEY: And when you quoted this 10 percent figure, you referred to a law. What law is that? Where's that law at?

MR. EVANS: So at the end of O.C.G.A. 21-2-498. It says the Secretary of State shall conduct a risk-limiting -- and this is talking about the pilot programs. But conduct a risk-limiting audit pilot program with a risk of

not greater than 10 percent. And so that's typically what we used for the audit. And then if you go to the State Election Board rule 183-1-15-.04, following November general elections in even numbered years each county shall participate in a statewide risk-limiting audit with the risk limit of not greater than 10 percent as set forth in this rule prior to the certification by the Secretary of State.

MR. DUFFEY: Who -- how do you determine who's going to be on an audit team?

MR. EVANS: So how do you determine who's going to be on an audit team? So counties usually use that State Election Board rule that I referenced to be their -- their guide for who they could ask. And I'll read from that rule.

The election superintendent shall create audit teams comprised of at least two sworn designees to assist with the audit. The superintendent may designate non-employees to assist with the audit process. All persons who the superintendent designates to assist with the audit shall take and sign an oath that they will conduct the audit accurately

and securely prior to assisting with the audit. And I know one of the things the county do in practice is they'll reach out to the poll workers first and give them the opportunity.

MR. FERGUSON: There's follow-up part to that question, sir.

MR. DUFFEY: It's a repeat question about Phillip Stark. He's here to explain how the audit process works.

MR. FERGUSON: No. If there is no --

MR. DUFFEY: Excuse me it's not --

MR. FERGUSON: -- if there is public access, can it be stated at the public can be placed on it and actually see what is going on. Like Fulton County won't let you within 30 feet.

MR. EVANS: Yes, for sure, that's what's outlined in the rule is that and it's -- put the official election bulletin was that everybody should have access to be able to see what's going on. Now, if it's, you know, and I say that knowing that where we were at in 2020. And having the audits of the ballots, if you have 75 audit teams and you're --

you're standing watching one audit team, you may not be able to see what the audit team way over on the other side of the room is doing. But if you find yourself in a position where you do not have access to be able to see -- to be able to see audit teams. Be able to see the audit, that is something our office would -- would want to know.

MR. DUFFEY: What have you done to ensure that these audits will, in fact, work in the Dominion system?

MR. EVANS: So the question was: What have you done to make sure they'll work with the Dominion system.

So work with Voting Works the ballots have human readable text. And so the audit itself, is conducted separate from any machine or equipment company period. So as long as there's a human -- human readable text that you have an audit team look at the ballot. See what the choices are and tally -- hand count that way. The audit would work with any kind of system.

MR. DUFFEY: So the -- the audit is really taking the produced paper ballot which

is reviewed by the elector who puts it into the scanner. Then you compare that paper ballot against the machine count?

MR. EVANS: Correct.

MR. LINDSEY: Quick question sort of leading part of the question that was asked a moment ago. If -- if there is a question that a -- that an authorized observer has regarding a county's compliance with public access, how do they get ahold of the Secretary of State's Office to have that addressed? And I think it'd be important for folks to know that.

MR. EVANS: Yes. So we do have our -- and one -- one of the easiest ways to do it is just as far as what we put in public communication, is to go to our website and on our online form there. But we do have our -- I'm going to call him out real quick. Nic what is our --

MR. LINDSEY: You can call a friend if you need to.

MR. EVANS: Yeah -- yeah. So -- so elections@sos.ga.gov that would be a great way to reach us that way. But, I mean, if you're having an issue with meaningful access at a --

at an audit location, the best thing to do is to talk to the superintendent -- the election superintendent there. And to -- to address -- to try to address it that way. Because a lot of times if they know about it, they'll resolve it.

MR. LINDSEY: But if they don't, how do they get ahold of the Secretary of State's Office?

MR. EVANS: Yeah. A great way to do that would be call us.

UNKNOWN SPEAKER: What's the number?

MR. EVANS: You can call us. And then there's elections@sos.ga.gov.

MR. NORTHEN: There's also a really convenient contact us form on our website. And it is staffed, and those submissions do get circulated amongst our team and sent over to either investigations or our team will contact a county official based on, you know, an inquiry that was submitted that way. So there's -- there's a few -- a few ways to do it. Like, Blake mentioned, calling us. But -- but that -- that form on our website immediately triggers an email to multiple

members of the election staff. So it's kind of the -- the best way to reach multiple folks at once, if you will.

MR. LINDSEY: Thank you.

MR. FERGERSON: What's the time limit?

MR. NORTHEN: sos.ga.gov.

MR. EVANS: Yeah. Okay. What was the question?

MR. FERGERSON: The question dealt with a timely response. What you're talking about will take a month.

MR. EVANS: I wouldn't say that. I get -- we get stuff that comes to our office pretty -- pretty quickly. And if it's, I mean, if it's -- we respond to it as fast as we can. And if there's something that needs an urgent response like we're in the middle of an audit, and there are people that can't get access, which is something that qualifies as needing an urgent response. We'll get somebody on it.

MR. DUFFEY: So this question is about the photography rule which Judge Brouillette struck down. I don't think he struck it down.

MR. BALBONA: He said it was too broad.

MR. DUFFEY: I think he struck it down.

Well, first of all, I don't remember in the opinion how he described who -- what?

MR. BALBONA: He said it was too broad.

MR. DUFFEY: Well, what I'm saying is, I think the details of what he struck down --

MR. BALBONA: What he struck down was saying that you could never take a picture of any -- or video any ballot that's been cast. But there's no identifying information on the ballot or there shouldn't be. So it makes no sense.

MR. DUFFEY: Well -- well, you'll have to take that up with Judge Brouillette.

MR. BALBONA: My point is that the county won’t do it and even when I handed DeKalb County the printout of the ruling, they still wouldn't let me.

MR. DUFFEY: I don’t want to argue about your desire to video. But has that happened since Judge Brouillette's ruling which was really pretty recently?

MR. BALBONA: That was after. It was after.

MR. DUFFEY: What election was that?

MR. BALBONA: That was the (inaudible).

It was the democratic recount in DeKalb County.

MR. DUFFEY: What I would do is I would talk to DeKalb County and ask why they did that in light of Judge Brouillette's ruling.

MR. BALBONA: I have, and I asked them if they could cite what O.C.G.A they are using (inaudible) and I said, you're not just pulling it out of your butt? And she said, yes. We're just pulling it out of our butt. And I have it on tape if you want to hear it.

MR. DUFFEY: Did you file a complaint on them?

MR. BALBONA: I did. And if Sarah (inaudible) was here maybe she could tell me the status of that. But apparently the system that SOS uses can't look up complaints per complainant.

MR. DUFFEY: Yeah.

MR. BALBONA: That seems very archaic.

MR. DUFFEY: I'll talk to her and see where your complaint stands.

MR. BALBONA: Thank you.

MR. DUFFEY: Sara you wanted to ask a question?

MS. GHAZAL: Thank you, yes. I wanted to clarify that batch is not necessarily equal precinct, correct? So in the case of -- of election day voting, a batch of ballots may or may not be the total for the precinct if a precinct has more than one scanner it could be just one scanner. But in a case of early voting and absentee voting, those could be from any and all precincts across the county; that's correct, right?

MR. EVANS: Correct. So to -- to go back to the first part. If you have two scanners at an election day location, and you each -- one scanner took in 600 ballots and the other scanner took 400 ballots those are two separate batches. So the 400 batch ballot -- ballot batch gets selected to be audited, then the results from that -- will -- can be compared for the scanner tape for that one scanner, but it wouldn't be the -- the entire polling locations.

MS. GHAZAL: Right.

MR. EVANS: Same thing with absentees. There are reports. It's -- there are reports that break it out -- that break out results by

batch. And so somebody could take a report like that in the Dominion system and compare the results that way. If -- if they wanted to for the absentee batch.

MS. GHAZAL: Thank you. I just wanted to make sure that folks understand that it's not going to be a one to one comparison between what they find on the Secretary of State's website which reports by precinct versus reporting by a batch. Those are different groups of ballots and it's possible to make that comparison. But it -- it could be confusing if you're not -- if you don't understand what you're --

MR. EVANS: Correct.

MR. DUFFEY: This risk limitation audit you find some discrepancy, what's the process for addressing a discrepancy?

MR. EVANS: That's a good question. So you have the initial sample of ballots. So ARLO has given each county a list of batches to go and look at. And to report the results from. If when those results are put into ARLO, if -- if they don't align with the results from the machine count, what ARLO will

tell you is we're going to a second round of auditing. We're going to audit more batches. And you will continue that process if you continue to find errors and discrepancies until you have audited all ballots. And if you audit -- if you get to that point where you have audited all ballots, and you find there was an issue with the election, then it is before a State certification. So the counties who find errors could re-certify. And ensure that the State can certify the correct results.

MS. PRETTYMAN: I suppose is that what you're recommending for the discrepancies in hand counts ballots for the primary? Do you recommend counties pursue that?

MR. EVANS: What was that -- I could not hear.

MS. PRETTYMAN: My question: In -- in the primary there had been hand counts that had discrepancies. And so, I guess, what you're recommending is that we pursue that further and count more?

MR. EVANS: You said there was a hand count that had discrepancies?

MS. PRETTYMAN: Yes. Multiple counties and it hasn’t been dealt with --

MR. EVANS: Hand -- hand counts are generally less reliant than machine counts. And so I wouldn’t be surprised if they had discrepancies.

MS. PRETTYMAN: No. They were (inaudible) --

MR. DUFFEY: I'm going to let you take that up. That's not about generally, Risk Limitation Audits, that's a complaint you have with respect to a specific election. So your option is to bring that to the attention of whomever you want to. But this is not the place.

This -- this is -- your question has nothing to do with risk limitation audit so I'm not going to ask if it's a complaint about past elections.

MS. PRETTYMAN: Well, that --

MR. DUFFEY: It -- it says here, from previous elections and push back. So I'm not going to ask that question. But if you -- you also have options, if you want to be more precise about what your concern is, you can

submit to the dedicated email address, and I'll see that if it's -- it makes sense to have a response that will get in the hands of the right person.

Who asked this question?

MS. STEVENS: I believe that's mine, sir.

MR. DUFFEY: And your name?

MS. STEVENS: Nan Stevens.

MR. DUFFEY: This is a question of how -- how -- well, I'll read it to you -- it's what is the use of the QR code in auditing if we're -- if the written ballot is being used to verify the vote.

MR. EVANS: So really the QR code is not used for anything in an audit. You're using the human readable text.

MS. STEVENS: So why do we even have it on the ballot?

MR. EVANS: So the machine reads the QR code. And then you audit to audit the machine count to confirm you've got the right outcome.

MS. STEVENS: Both you and the previous presenter have always stated that you're going to go back to written readable text when doing an audit. So my question is: Because they

make machines that can read readable text. What is the purpose of the QR code?

MR. EVANS: So our scanners can read the ballots.

MS. STEVENS: So the scanners --

MR. DUFFEY: Excuse me.

MS. STEVENS: -- are not reading the readable text, they're only reading the QR code?

MR. EVANS: The scanners read the QR codes.

MS. STEVENS: Thank you, sir.

UNKNOWN SPEAKER: In violation of the law.

MS. STEVENS: And both you and the other fellow --

MR. DUFFEY: Excuse me. Excuse me. This is not your chance to argue with the presenter.

MS. STEVENS: Yes, sir.

MR. DUFFEY: If you want to do something that's more elaborate or make your point again, you can do it in writing and submit it to the website.

MS. STEVENS: Yes, sir.

MR. DUFFEY: Thank you. Can counties do other kinds of audits if they so desire?

NR, EVANS: Yes. Yeah. There have been counties that have gone -- like Bartow but many others, I just say, Joseph because he's in the room, who can conduct audits. The -- the preference especially if you're -- you're auditing a -- if you're auditing a state contest, like for counties that may have conducted audits in -- in May is to complete the audit before State certification. But I think, I don’t know, Ryan, if you want to say anything more to that. But -- but, yes, counties can go above and beyond the rule that is written.

MR. DUFFEY: And who wrote the little note with the butterfly?

MS. CRUZ: That's my question.

MR. DUFFEY: And your name is?

MS. CRUZ: Victoria Cruz, Athens, Georgia.

MR. DUFFEY: Thank you. In case you haven't gotten the drift here your name should be on your question.

MS. CRUZ: I'm sorry. I didn't

(inaudible).

MR. DUFFEY: Okay. Any -- any other questions from the Board?

DR. JOHNSTON: Yes. So thank you so very much for this presentation. I think audits are the important piece of an election these days to confirm that the outcome is correct. And also, to provide some confidence in the outcome. There are -- there are some assumptions and requirements for RLAs that we -- we need to all be aware of and one of course is correct tabulation by the machines. We also need to make sure that all the results are complete and in and frozen and unchanged throughout the audit process. So that counties can't go back and rearrange their data. There needs to be an -- an accurate and trustworthy paper trail with proper and documented chain of custody for every step of the way involving the ballot -- all the ballots. Like you said, thank you, are included in the audit and very important is the ballot manifest and we need to make sure that all counties have an accurate ballot manifest or the RLA will fail. So things to

be aware of. I would encourage bi-partisan participation in witnessing of the chain of custody of the ballots even to the point of retrieval of the ballots from the secure storage brought to the audit table. I think there are plenty of willing bi-partisan folks that would sign up to be a part of that team. Not to touch the ballots, but just to witness the transfer. And I would encourage livestream video of the audit.

In the medical -- in the science world, statistical significance is generally agreed upon to be the point (inaudible) level .05 percent -- .05 which is a five percent max on as far as a risk limit. So I would be -- I would expect a -- a RLA to be that at least or better. And also, what do you see in the future, if you had a perfect world as far as audits? What would you recommend for -- for Georgia?

MR. EVANS: That's a big question. I didn't know I was going to get that. I want to see audits after every election. I think that's something we've discussed in our -- our office. And I think we -- I think we all like

that idea. I think it's good for -- for counties. I think one thing to keep in mind with this particular audit that we have coming up is for -- for many counties the -- the law is written such that the audit is conducted after even year general elections, so for many counties they have not conducted an audit since two years ago. And that audit was different because it was a full hand recount. So this is the first time that many of them will conduct kind of that sampling audit. So there -- we're training on them. We're -- we're training on the audits. We're -- we're very confident. But it will be the -- the first time they've conducted an audit like this. So I think we should keep that in mind. But I think also going forward I think we need to look for ways to expand audits. A way to have audits after every election. Because it is -- it's good practice. It confirms the outcome. And it -- it builds public confidence.

MR. DUFFEY: Okay. Just one last question. In an RLA audit, how are adjudicated ballots treated and handled?

MR. EVANS: So the question was: In a risk-limiting audit how are adjudicated ballots handled. So if it was a ballot that went through the adjudication process. So there was a teams of vote review panel initially in the original count that had to look at a ballot. Maybe it was -- maybe there was an error in a mark or for some reason had to look at the ballot and try to make a decision of voter intent. We see those on hand marked paper ballots. There are also vote review panels that are part of a risk-limiting audit process. And so if there's a ballot that needs to be quote/unquote adjudicated in a risk-limiting audit, it can also go to a vote review panel for a decision to be made on it.

MR. DUFFEY: There is one more question about why don't you transfer calls better in your office. But I'm going to let that person talk to you.

MR. EVANS: Working on it. I mean, we have a dedicated group of individuals that I'm very proud to work with them. You know, I think there's not many of us. We've got 20

full-time staff in our election division. You can look at North Carolina. They've got over 60. You know, there's not many of us. We serve the counties. And there's a lot of dedicated county election officials too that do a darn good job. And I know, you know, one was mentioned earlier and on the agenda. That is -- I do want to say publicly that we've got a lot of very dedicated, very good county election officials that have -- many of them who have dedicated their whole lives to public service. And they -- they want public confidence. The elections are at their heart. And they serve the public as best they can. So I want to say that.

MS. BRADSHAW: Could I say something else about the adjudicated? I know like in Fulton County in the 2020 election, Richard whatever his last name was, said there were 106,000 adjudicated ballots?

MR. EVANS: He was wrong.

MS. BRADSHAW: Okay. Well, that's good. But -- but do you get the -- the ballot image that someone came and revoted for them, or do you get the original ballot in a risk-limiting

audit?

MR. EVANS: The -- you get -- you're looking at the original ballot. You're looking at the original ballot to make your own determination as part of the audit.

MR. DUFFEY: All right. The last agenda item is a discussion amongst the members of the Board based upon any observations or insights that you had during the course of the presentations today. One thing I would like to know is was this exercise worthwhile? It took a fair amount of time to put it together. But -- but one of the things that we're trying to do for the Board and since all our meetings are open. I think ultimately, it's also a benefit to the public. But so I'd like -- like that insight. And I'd also would like to know what your thinking is. Your insight you had as a result of what we've heard. I guess, let's start with -- somebody suggested that we start from the least senior to the most senior, except I'm taking myself out, even though I'm very least senior. Using my prerogative to wait until I hear everybody else. So that would be you, Dr. Johnston.

DR. JOHNSTON: Are you talking about age senior?

MR. DUFFEY: No, tenure on the Board. I would still beat you on age senior, too.

DR. JOHNSTON: I don't know about that. Well, I -- this is certainly I think a positive and gathering together to have this type of meeting and the presentations and I thank you for -- for organizing this and -- and pulling it together. And I think everybody that's here that has questions and, I mean, maybe seem to have comments. My goal, as always, is election integrity. And whatever it takes to achieve that, and I think that's true of everybody here on the Board. I take this meeting as a maybe a springboard for us to have further discussions of things that we might do to make suggestions to the Assembly -- the legislature in the future. And to work with maybe some formulation of some new rules that would -- would help clarify areas that are maybe unclear. And I'll look forward to that process. Is everything perfect? No. Could it be better? Yes. Are we all working very hard toward

that? Yes. And once again, I thank you.

MR. DUFFEY: Thank you. Mr. Lindsey, you're next.

MR. LINDSEY: I guess the next one falls to me, Mr. Chairman. A few comments here, if I may. We've discussed here today how the machines are supposed to work and how the system is supposed to work. But there are somethings that we're going to need the public here. And I want to reach beyond just the group here in this room. I think the group here in this room is pretty good at monitoring. Based on my observations and based on the emails that I get. But I want to sort of reach out to the folks beyond just this room to -- to encourage them to -- to let us know. And let the Secretary of State's Office know during the election process if you see something that is not correct to let us know as soon as possible so that it can be corrected. That's why I asked the question a moment ago on how to -- how folks should best get ahold of the Secretary of State's Office. During the audit process or any other part of the election process. So it's incumbent upon

all of us in the state of Georgia to make sure that the system that's been setup on how it ought to run, actually, does run. We need your help. All the way down to quite frankly looking at your ballot when it’s printed out. I saw one, on (unintelligible) study not too long ago on the fact that a large number of people don't look at the ballots before they turn it in to the -- to the machine. And I find that appalling because there are a lot of us who have been advocating for that paper backup for a long time. I think I signed when I was serving the legislature. I believe it was 2006 was the first time I signed a bill asking for that paper backup. So the paper backup, which actually has now been raised to the paper ballot period. Is the -- the voter's best chance to make sure that his or her ballot is -- is accurate before it's submitted into the ballot box. So I'm going to encourage everyone to read the ballots. And then I'm going to encourage each of us if you see something at the polling places or at the counting station or at the audit process, to alert the Secretary of State's Office as

quickly as possible. And if it can't be rectified there, to file a complaint with us so that we can then deal with it. Because I think all of us together are necessary to make sure that the system as it should work, does work.

Secondly, Mr. Chairman, I want to sort of -- sort of talk about a concern that I have, and I raised it first with the gentleman from Dominion. And I want to raise it again to the Board here today. And also, to the general public.

There have been detailed studies that have been taken regarding our security of our election system. The latest one by -- called Mitre. And for those of you who aren't familiar. It is a extremely well regarded a National Election security laboratory that's independent. That has reviewed a lot of the allegations that contain both by the Federal Government and by other folks in lawsuits. And I'll tell you right now, we've had a chance to read it but we can't tell you what's in it. Because -- because there is a gag order presently in place and it's secure.

I'm not comfortable with that. And I want to see that Federal Judge who has placed that restriction. While she reviews the reports to release it. If necessary, redact any parts that would compromise cybersecurity. But I want to see that report out as soon as possible. So that folks like you and the general public can have greater confidence in the system. Or can at least evaluate your level of confidence in the system. And so, Mr. Chairman, at the appropriate time I want to make a motion that I want this -- this Board to be on record asking that the Federal -- respectfully asking because I'm a trial lawyer too. Respectfully, asking that the trial court expedite the release of those reports so that the general public can see and evaluate for themselves. I think that's the best way to ensure confidence. And so, Mr. Chairman, at the appropriate time, I'll make that motion.

MR. DUFFEY: I'd say, while we're on the subject. Does anybody else want to say anything about the requesting Judge Totenberg to allow, appropriately so, because there --

there could well be information that everybody contends would -- would be improper to disclose generally. I don't think there's much of that. I think most of it is the evaluation. But I do think that we ought to ask the Court whether it's -- gag orders where you can't talk about something in public is actually a protective order. But I think that that should be lifted.

MR. LINDSEY: I didn’t mean gag order as a colloquial phrase but basically, it's underneath the restriction right now. And I think that -- and I've got a gentleman of the press over here. And I know some other members of the press too. How about going back and talk to your lawyers and having them file a motion to be -- be part of that attempt -- will you do that for me, Mark?

UNKNOWN SPEAKER: I'd love to see it.

MR. LINDSEY: All right. Good. Didn't mean to put you on the spot. But at the appropriate time, Mr. Chairman, I would move that the -- that the Mitre report or any other reports that are presently before Judge Totenberg that are under seal be released to

the general public subject to any needed redactions for cybersecurity reasons. So that we can have the public evaluate and have confidence in our election system. As we approach the November 8th, 2022 elections. That's my motion, Mr. Chairman.

MR. DUFFEY: Is there a second?

MS. GHAZAL: Second.

MR. DUFFEY: So it's been moved and seconded that the Board ask Judge Totenberg, who's the presiding judge in the Curling case where these two reports exist for her to release any report having to do with cybersecurity and the Dominion system.

MR. LINDSEY: Correct, Mr. Chairman.

MR. DUFFEY: But that the -- that the Court in her discretion, she believes that there is sensitive information that should not be released to the public that she redact only those provisions and release the rest.

So if -- it's a little recast.

MR. LINDSEY: Yes.

MR. DUFFEY: But any discussion on the motion?

(no response)

MR. DUFFEY: All right. They're not being any discussion. All of those in favor say aye.

THE BOARD MEMBERS: Aye.

MR. DUFFEY: Opposed? No.

(no response)

MR. DUFFEY: Passes. Thank you, Mr. Lindsey. Next, Ms. Ghazal.

MS. GHAZAL: Thank you, Judge Duffey, for the opportunity to share my thoughts and to my fellow Board members and our presenters today for taking the time and effort. It helps to understand the issues that we're facing.

AUDIENCE MEMBERS: Microphone, please. Microphone. We can't hear. Turn all of them up.

MS. GHAZAL: Thank you. We are already well underway with the 2022 general election. Voting is already happening. I also appreciate that so many members of the public are here. You're demonstrating your interest in making sure that every eligible voter is able to cast their ballot. And every ballot is counted accurately. This meeting of the State Election Board was called to evaluate

what, if anything, could be done by this body in light of the very serious allegations emanating from Coffee County. Namely, that it appears that unauthorized persons may have been granted broad and extend -- extended access to every component of the voting system there.

The outcome of the election in 2020 is not in dispute by any reputable source. The only issue at hand today is what steps would be appropriate to ensure that every vote in the 2022 general election is cast according to the will of the voter and counted as cast given what we believe likely happened in Coffee County. So I want to start with my conclusion which is that Georgia law does not authorize the State Election Board to unilaterally change the -- the system of voting in person from machine marked paper ballots to hand marked paper ballots. But I also want to make clear that even if for the sake for argument, I did believe that we had the authority to change our statewide system of voting, I would not do so today. We've heard this morning from some of the experts

who are in charge of ensuring that our elections are secure. They detailed all the ways in which our votes are safeguarded and the overlap in security measures that would very quickly made apparent if there were nefarious actors or actions attempting to change the outcome of our elections. The most critical measures built into our system include logic and accuracy testing which is ongoing right now and is available and open to public observation. Documentation of chains of custody, our reconciliation and canvassing procedures, and most importantly the paper ballots and the pre-certification audits conducted with them.

Counties have heavy responsibility to implement and document these procedures and voters have a responsibility to verify that their ballots are accurate and reflect their choices. And to that end, a rule is already in place that requires counties to assign poll officers whose sole job is to remind voters to verify that their ballot is correct. This step is more important than ever, and I encourage counties to reinforce this reminder

to voters.

Make no mistake, the allegations regarding Coffee County and the damage that has been done to public confidence are very serious. Knowingly allowing unauthorized persons to access our voting system, our varied votes is a massive violation of the public trust and possibly state and federal law. I want to see every effort given to ensuring that law -- the law enforcement investigation is thorough, and justice is administered. Any party considering engaging in such serious violations of the public trust needs to understand that these actions will not be tolerated in Georgia.

A successful election must take into account three sometimes competing interests security, accessibility, and efficient administration. If the system neglects any one of these or if it's out of balance, then either the voter or the vote will suffer. Georgia system reflects an attempt to balance these issues and interests. I have trust in our election officials and in our voters to ensure that our elections will proceed

smoothly and securely, and that the outcome will reflect the will of the voters. Thank you.

MR. DUFFEY: Thank you very much. Mr. Mashburn?

MR. MASHBURN: Thank you. Thank you, Judge Duffey. If you could turn my mic on, please.

I'd like to thank you, Judge, for putting all your hard work and putting this meeting together today is -- is an incredible amount of work. I don't -- I don't think you understood the word retirement. Because of the incredible number of hours that you put into this. So I appreciate all your -- all your diligence and I thought this was very helpful. I thought the presenters were very kind with their time and their expertise. And I appreciated -- appreciated that very much. I promise -- promise every citizen of Georgia, I will protect your vote. Everyone here on -- every person on this Board is going to protect your vote. If I see something wrong, I promise you I will raise it. Okay. If I don't see something wrong, I'll also tell you

that. But I promise you we will protect your vote. I promise you that. I will protect your vote. This Board will protect your vote. The only way we cannot protect it is if you do not cast it. So don't let anybody tell you you shouldn't vote for whatever reason they give you. All right. And with that, I use my seniority to say I have nothing further to add.

MR. DUFFEY: You know, one -- one of the privileges in life is -- is to work with people who are bright, bring different perspectives to -- to an issue. Who are hardworking. And do it not for any renumeration. They do it because they think that what we do in the form of voting is the most principle elementary participation of a citizen in their governments. And while it's -- that was nice to say how much time has been -- and that I've been spending. I tell a lot of people that this work has invigorated me because I think it's important. And it's totally in line with my values that I -- but we -- like everybody has said, we need your help and here are some specific things. You

know when I opened with this description about what happened in Florida and the -- the fundamental principles to be they have to understand the law and they have to understand the facts. What's -- what overlays all of that is if we are -- we are trying to do that collectively, there's a productive way of helping us and a productive way of us communicating with you. And then there's an unproductive way.

The productive way is that if you think you have information that is important for us to look at, and not just us, but the Secretary of State's Office. Then you ought to give it to us as soon as you have it. And not wait until there's -- there's some maybe a time that you think is more calculated or at a time that's more convenient to you. It's easier even when you're not done with your analysis, to tell us what the analysis is so that we can see whether or not we can give you input to allow you to focus on the things that are -- that would be important to us. As opposed to what you think is important to you.

So at some point this has to become not

adversarial, us against you, it has to be collegial. Which is if we want to work together, there's got to be respectful communication. And there's got to be this -- this overlay which -- which I have -- which I regret a lot. And this overlay of suspicion of each other has to stop. You could disagree with us. If we could disagree with you. But if we don't communicate honestly, we will never know what we disagree about. And it's important to define those things.

The other thing I said, is we -- we need to know facts so that we can apply them to the law. I began our session with that -- with that discussion. You need to know facts before you apply it to the law. I know we've even had a couple of instances here where there's been a -- a -- an unequivocal statement about something that was wrong. And it's on us that one of those unequivocal statements made was about the status of the case heard by Judge Adams that it's not on appeal, it is on appeal.

I know that it's fully briefed on appeal. It's an appeal that's before the Court of

Appeals. And when I -- and I have been a lawyer and I've been amazed at how well courts can ultimately evaluate a decision in our system to have a decision that then gets reviewed by another. It's sort of like an audit, looking at -- at an election to determine whether or not the count was correct. That we need to let the court system work. And then when the court system does work, we need to respect and trust it rather than saying the court got it wrong.

So for that, you know, and for any other misstatement, I just want us all the backup and say, when we make an expression of something, let's be -- let's be more certain about it. One way of building trust is -- and -- and one thing that we are putting into place is -- and if anybody has emailed me in the last four or five days and a lot of you have, there are a lot of you outside have. Except for somebody who just makes a statement, anybody who talks to me about the Board and what it should do, I think everyone of those emails I've answered.

And a lot of it is because I think that

if we're the government, you have a right to hear from your government. There's -- there's no -- I don't have a little mailbox that says this is an email. I really don't have time for it. I'm uncompensated so therefore I'm going to put it -- put it somewhere and let somebody else deal with it. Or they had their say. I'm not going to respond. And we are -- you will have our emails, if they're not already on the website, they should be on the website. Meaghan, are they restored to the SEB -- SEB website? So you have a way of communicating with us. And we will our best -- what we're going to try to do without inconsistencies by looking at it in a centralized way and then we will respond.

And the last is, I would just encourage you -- there -- there are a number of people who send things that are mean spirited to us personally and veil threats. I didn't stop sending emails when I got those, and I won't. But I wish that all of you who are inclined to do that, would cease sending them.

This is too important to get my hackles up about somebody who doesn't exercise great

discretion in their communications because I want everybody to say, this guy, these women, or these men, got an email and they -- and they didn't -- what's the current term -- ghost you. I'm not sure that's right, but it's kind of the spirit of it. But we need to work more collectively rather than uncollectively. During -- during -- I'm going to talk to the Secretary of State's Office that I am concerned about -- and I had these concerns even in my work when we had a big investigation, that we would -- we had a way where we had a group of people that if somebody saw something that needed to be responded to quickly, we had a place where that would go that was distinguished from the regular communication systems.

You know, I have seen at least in the last couple of days a couple of really troubling things which we will open an investigation on, or, at least, I think we have. That's the sort of thing that needs to be addressed right now and it can't go into some file and be put in line with other things that are not as critical. And I think during

an election year, he's had to deal with the upcoming election. We need to have a way to respond more -- more quickly and promptly to stop something that if it's not stopped in its infancy might develop into something that is more mature and thus more threatening to the election process. So I'll talk to the Secretary of State's Office about that. You know, Blake and Ryan and everybody at the Secretary of State's Office -- the one thing I've known for a while and one of the things we're going -- we're going to recommend to the General Assembly is we can't operate this State with as many people as we have with just 20 people in the elections division. That we've got to be more thoughtful about the priorities we have and where we staff.

Now, will -- will that happen? You know, sometimes it doesn't happen when the first time you -- you talk about it. It happens in successive years, but those are the sort of things that we're going to try to do to make the Secretary of State's Office have the capacity to respond to it. But I agree with Matt and with Edward that we need -- every

time you hear something that you think is going to impact an election and it's happening right now, we need to know. We're going to find a way to do that. If nothing else, you can send us an email. Send them to Mr. Lindsey. I don't mind those at all. And, in fact, I'm learning so much about this process by getting them. So I thank you for being here. I thank you for those that are watching. We are a citizen democracy and we -- and we appreciate very much your attention.

We're going to close out the meeting as we normally do with citizen comments. And -- but -- but let's take -- this is going to be true this time. It's going to be a five-minute break, but it's going to be a real five minutes as opposed to the 15-minute break that turned into a 20-minute break. We -- so five minutes. And we'll be back with your comments, and then we will be done.

(Break taken.)

MR. DUFFEY: All right. Let's everybody take their seats. Please, would everybody please take their seats.

This is the public comment section. I

will call you up as you're listed with the exception of Cindy Battles who has to catch an airplane. I'm going to let her go first.

MS. BATTLES: Thank you so much for moving me up and to outing me to everybody.

MR. DUFFEY: Well, that's okay. So long as -- and so long as you remember it’s a two-minute time limit. It's a two-minute time limit.

MS. BATTLES: I do remember.

MR. DUFFEY: And I --

MS. BATTLES: And I'm very good with my time limit as a matter of fact. Believe it or not. My name is Cindy Battles, and I am the Policy and Engagement Director for the Georgia Coalition for the People's Agenda. I appreciate the effort that y’all have made with this meeting. I don't know if it changes hearts or minds. I think that the time to have inoculated misinformation and disinformation was when it first started instead Georgia Assembly gave it a platform. Which I think is why we're still trying to put out a dumpster fire with a teaspoon.

However, what I would like to ask about

is specifically something to do with SB-202 and State Election Board rules. A few months ago you revised several -- 183-1-14-.12 which is the eligibility of application for an absentee ballot. And your revised rule states that quote: Any application for an absentee ballot sent to any voter by any person or entity except applications sent by the election superintendent or registrar at the request of the elector shall display the following disclaimer.

The rule goes on to describe the disclaimer but what we're asking is what is sent mean? Does that mean mailed? Does it also include delivery in person? We're asking because there's not enough guidance as to what an absentee ballot application forms volunteers should be using or what sent means.

We've got a number of people who have often helped people get absentee ballot requests. And just because Georgia is Georgia these days, I'm specifying we are helping people get absentee ballot requests not absentee ballots. Specifically, we have gone into Fulton County jails, not only registering

eligible voters to vote, but also helping them get absentee ballot requests. And with the ambiguity and the language, we're concerned that we're violating rules. So I understand that the State Election Board doesn't normally add -- answer questions, but we would love to have some sort of guidance on that definition. Thank you.

MR. DUFFEY: Tell me the rule number again, just so I have it in my notes.

MS. BATTLES: The rule number again? Hold on one second. It is 183-1-14-.12.

MR. DUFFEY: Thank you very much.

MS. BATTLES: Thank you. Have a good evening.

MR. DUFFEY: Have a good safe flight.

MS. BATTLES: Let's hope so.

MR. DUFFEY: Mr. Balbona?

MR. BALBONA: I'll try to be quick. I'm George Balbona from Cobb County. The Secretary of State's Office is moving money around from different POs, RPOs and VARs to pay for various items such as VM cloud-based services. SOS is also paying IT vendors that are not on Merritt Beavers IT vendors list.

Just a couple of months ago, on July 19th, 2022, Merritt Beaver SOS CIO sent an email entitled: No more presidio to the SOS agency procurement officer. Merritt explained before processing any new PO to presidio, please let Eric and myself know as we are moving all of these to CDW. She replied, I was going to ask a question because I saw that presidio for 200K and the purchase of Haiku Neutronics licensed for CDW for 28K. Merritt responded there is one more presidio RPO left out there for neutronics that we are working on now to move to another. The other two Haiku and VM we moved to CDW, end quote.

Is this legal? I thought that when a purchase order was approved, those funds were to be used only for the purposes stated. Also, SOS is blatantly playing games with my open records request. SOS combined three of my open records requests into a single cost estimate. (Unintelligible) were ridiculously inflated from 832 to 2,921 in the processing cost estimated rocketed -- sky-rocketed from $235.77 to $1,008.00. SOS made me resubmit my ORs and these numbers are for the exact same

open records requests. SOS bundled five of my other ORs into a single open records request. This is not how SOS normally processes open records requests. SOS has deemed my open records requests abandoned because they will not do as I have requested. Which is simply process my open records requests properly.

The reason I'm concerned about VM is because it was started by two Russians Veeam. They're now billionaires. I can give you their names. It's right here: Ratmir Timasher and Andrei Baronoff. And in Forbes it says they’re in estimated 1,000 plus US companies in Russia including household names like Apple, iHerb and the entirety of the back office of VM software.

The reason that's important is because SOS has decided it would be a great idea to put all of our Georgia voter registration up on the Cloud. Guess who has the contract? Yeah, VM. And I don't care if Nick Ayers, Mike Pence's former chief of staff is on the board. Who wrote the software were Russians.

MR. DUFFEY: Thank you, Mr. Balbona. Mr. Favorito?

MR. FAVORITO: Mr. Chairman, I'm the co-founder of Voter GA and we're plaintiffs in representative Phillip Singleton case that seeks relief against Dominion’s QR code voting system. I needed to correct a few problems after the public comments today. The -- just to give you a little background, this QR code issue was adjudicated in Curling v. Raffensperger by Judge Totenberg, and she reviewed the most comprehensive set of evidence ever assembled in a Georgia election integrity case to my knowledge. And she issued three -- two orders totaling 300 pages the stating orders that apparently the State, among other things, the Secretary of State's Office was "not credible". Specifically, she found in regards to the QR code says, if a Dominion system "does not produce an elector verifiable paper ballot and the elector's choices are not in a format readable by the elector. That's because they're accumulated in the QR code.

So she found that the system does not -- does none of these things that are required by Georgia law. The Secretary of State's Office

appealed the decision. And -- or at least part of it, and the Eleventh Circuit heard the decision, but has not made a ruling yet. So the Secretary of State was able to use the system again in 2022. That's the background. And the bottom line or the take away the background is that the system that was issued to conduct in the 2020 election was found to be illegal by the United States District Court as not (unintelligible) or voter Georgia talking.

But now to -- with that background, we filed a case seeking relief not to re-adjudicate what had already been adjudicated, extraordinarily, by Judge Totenberg. And our judge, Judge Adams, never received any discovery evidence whatsoever. Never adjudicated anything. Her first task was to rule on the sufficiency of our complaint. And instead, she dismissed that on the same day that a hand count audit proved the dominion system picked the wrong winners in the -- in DeKalb County District Attorney --

MR. DUFFEY: Mr. Favorito, you need to wrap up.

MR. FAVORITO: -- commission race.

MR. DUFFEY: You need to wrap up.

MR. FAVORITO: Okay. Sure. So that audit in 2022, found that the third place candidate was shorted 3,000 votes. The first place candidate received 1,400 unearned votes and 1,800 votes the system failed to count all together.

MR. DUFFEY: All right. Thank you very much. I appreciate your comments. Tamara Seymoor?

MS. SEYMOOR: Thank you. I'm following up on May 17th, 2022 letter that asked you to make SEB rules compliant with federal and state retention law and the Board still has taken no action on that. When SB-202 made ballot images public record, Voter GA submitted open records requests statewide for the original 2020 ballot images and found that 56 counties admitted destroying them and another 14 refused to legally comply with the ORR. We also found that 102 counties destroyed their drop box surveillance videos for 181,507 ballots received from those boxes.

When we pointed out that they violated

the state and federal election record retention laws, the counties blamed SEB rule that permitted destruction of those election records in defiance of O.C.G.A. 21-2-73 and U.S.C. 20701. Voter GA's letter simply asked you to make SEB rules comply with federal and state law. And to instruct the counties to preserve the original ballots in lieu of the images until all current litigation is resolved. After four months the Board has taken no action.

While I realize that the Board composition is new, this lack of action is giving us the impression that the newly structured Board has no concern for election integrity, transparency, and fraud prevention. You can demonstrate your concern by immediately adjusting these two rules in question and requesting the counties to preserve the 2020 election ballots before the 24-month retention period expires in November.

Otherwise, Voter GA must file suit in October to force you to comply with the law and to preserve the ballots from the most controversial election in Georgia's history.

Thank you.

MR. DUFFEY: Thank you very much. William Quinn?

MR. QUINN: Good afternoon, I believe it's afternoon. All right. I always try to make my comments match or meet something that was said during your hearing. I'm going to try to do that today. Let me start with this week someone that I admire greatly said that our country is in trouble. It can be saved. But some very important things have to happen and they have to happen very soon for it to avoid going over the precipice. Perhaps it's fitting that another Georgia is in the news this week. Giorgia Meloni who Italy just selected as their Prime Minister.

Her base looked to her for guidance in terms of the fundamentals they should be worried about. And they were three things: God, family and country. I think you're going to find that as this country gets more and more focused on the problems that we're facing, that you heard about through many of the things today, they are going to drop back to exactly those things. Because that, at the

end of the day, are the fundamentals that we all have to worry about. God, family and country. Truth is sometimes difficult, but it's enduring. We will see people try to paint it with various things they may call facts. But over time, information as it comes out will make that cheap paint crack off and the truth is going to be revealed.

One of the things I heard today is gosh, the counties and this Board can't take action absent law change. The fact is you've done it in the past. You did it in April 2020 by approving drop boxes. The problem is you didn't have the power of the law to do it. Right now, you say, well, we could act in an emergency. You have an emergency. It was just extended by the White House on September 7th. A National emergency with respect to foreign interference in and undermining public confidence in the United States elections. So you haven't taken action. I understand. I see you're resting on, we can't. Let me tell you how the people are going to fix this.

MR. DUFFEY: Okay. You need to wrap up here.

MR. QUINN: We need to -- we will vote like we have never voted before.

MR. DUFFEY: Excuse me.

MR. QUINN: We will help other people get out and vote. And we will inform them why it works, and we will focus on things like what happened with Carrie Lake in Arizona and we will focus on our own future.

MR. DUFFEY: Thank you.

MR. QUINN: Thank you. Remember, God, family, country.

MR. QUINN: JoEllen Shiver?

MS. SHIVER: Hello. I just wanted to say that I do have a lack of confidence in the Dominion machines. And that it's based on what I saw happen in the 2020 elections and even in the most recent primaries. I found a lot of the the results to be questionable and one example I want to cite is the -- that race in DeKalb County where there were three candidates and one candidate had -- came up with zero votes and demanded a recount, a hand recount. And she ended up winning and I found this very troubling as to how many more errors were there like this in how many races? How

many did we not catch? Is this human error? I've heard it was human error. But that concerns me that we would have machines that would, you know, have human error. But also, what other intervention can the machines get. If it's not just human error, what is -- what other human intervention can they get? My concern is also the software. Had we not -- can we not audit the software? Can software not take one vote and equate it to .76 percent of a vote or 101 percent of a vote or flip votes? That's part of my concern. So I just would say I would love to get rid of these machines. Thank you.

MR. DUFFEY: Thank you, Ms. Shiver. Ginger Bradshaw?

MS. BRADSHAW: Hi. I just want to say that I learned a lot today which means that I've got a lot more to do on -- on my plate. But and some of the things I ask, you may not have control over, but I just think it would be good for you as the State Board being over all of Georgia and election to, I'm sure you know about it, but I just want you to let it -- let you know it's a concern of mine. The

representative from the Secretary of State's Office, I thought did a great job on talking about the -- the audits and how open and how transparent they were. But I know we were in several counties that was set up to do a hand recount of the votes. And the strong -- strong arm from somebody came in and said, oh, no you can't do that. Well, part of the law, and everybody's been talking about the law today, why are we maintaining the ballots for 24 months if we can't get access to them? I know Garland has been in -- in a lawsuit that has just been pushed off, pushed off, pushed off. And then finally the Judge said, I'm going to dismiss it. So that's what gives us a bad taste in our mouth, the dishonesty. If everything is so open and apparent, give us the ballots and prove us wrong. So I don't know how much power y'all have over there, but you do have -- you do talk to people and whatever.

And the other thing, on another vote, I was a poll manager in the last couple of elections and the girl that I worked with worked for Fulton County on the registration

side and she told me the redistricting updates weren't even done. And my school board race, like, a guy, Phil Chan, ran I think, and I live in 7B and 7C which is not in his district had his race on it. Nobody did anything about it. So somebody, somewhere has got to lay the law down and get -- and -- and you talk about following our laws, but we're not following them. And somebody needs to do something about it. Thank you.

MR. DUFFEY: Thank you very much. Tom Talbot? Mr. Talbot?

UNKNOWN SPEAKER: What's the name?

MR. DUFFEY: Talbot. T-A-L-B-O-T. He's not here. Mr. Nally?

MR. NALLY: Good afternoon, Your Honor, ladies and gentlemen. I'm a little bit disappointed in this body. Not you, Your Honor, you came along a little too late to get included. Back in April I filed a complaint concerning over 20 elected public officials who were held to be by our constitutional language of our Constitution not qualified to hold their offices by reason of being illegally in possession of public funds. In

May, I filed an inquiry. In June, I'm sorry. I didn't file, I emailed an inquiry. And in June emailed again. I haven't emailed since because I have been ignored from the very first filing. It would be nice if someone had the decency to pick up a phone, drop me an email. Let the citizen know that the law is going to be complied with or it is going to be ignored. I'd just like to know which.

Now, that was my first comment. My second comment is that the -- it is my opinion that it is for a judge to determine whether or not a contract is void. The rest of us refer to it as being void or not -- or not voidable. The Dominion State of Georgia contract is void, as a matter of law. And as a matter of fact. I thank you, ladies and gentlemen.

MR. DUFFEY: Thank you, Mr. Nally. Jeanne `DuFort?

MS. DUFORT: Thank you for this remarkable meeting. I -- I can't think of a meeting in the last 20 years that's had so much interaction from Board members. And I really want you to know, and the public, and I want you to know we noticed and I'm not the

only one that appreciates it. So thank you.

Mr. Poulos' presentation reminds me of your story, Judge, about the witness who described perfectly a wedding. But the wedding was on the wrong day. If you review the substantial record in Curling v. Raffensperger. Since, let's call it August of 2019 when it started to focus on the BMP, their expert declarations, their transcript of hearings. And there's the writings of Judge Totenberg herself that would challenge the rosy picture painted by Mr. Poulos. I would encourage you all to take a look at it from the perspective.

Nearly six months ago, as Vice Chair of the Morgan County Dems, I joined Salleigh Grubbs from the Cobb County GOP and Ryan Graham from the Libertarian party of Georgia and dozens of candidates to ask you act to minimize risk to our elections in a manner consistent with existing law. Not to make new law. As the evidence mounts of what happened and compromise our State's voting system, starting in Coffee County, I'm going to refrain from saying, I told you so and simply

ask if not now, when? What would it take? If Georgia's elections software being pirated and distributed widely to well-funded characters from the Stop the Steal Movement. If that didn't scare you, what will? If CISA confirming the findings of Alex Halderman isn't sufficient, what would it take? If the urgent advice of 13 of our most well respected experts in the elections space, if that isn't compelling, what would you find compelling? And not one, not two, not three, but eight different days unauthorized individuals were in the Coffee County election office. An investigator was in the office with one of the perks and didn't bother to check his name as far as we know. So I'm asking you again, please use your authority under existing law, not new law to find the theft of our election software to be an emergency rising to the sufficiency to command the emergency paper ballot system. Thank you.

MR. DUFFEY: Thank you. Mr. Ferguson, Earl Ferguson?

MR. FERGUSON: Earl Ferguson, a Fulton County victim. I'm -- two years ago in

October of 2021 there was a ruling in the District Court of the Northern District of Georgia case is Curling v. Raffensperger and that investigated the security and capabilities of the Dominion machine. 174 pages of testimony. I read it all. And it indicated that there were several issues that even Dominion agreed with that required action. Two years later there has been no attempt by the Secretary of State or -- or Dominion to correct those problems. I would really like to know why? Thank you very much.

MR. DUFFEY: Thank you. Susie Thotochanel? Is that right?

MS. THOTOCHANEL: Yes.

MR. DUFFEY: Close, right.

MS. THOTOCHANEL: I would like to start by thanking the Board for their work especially in these thankless times. My name is Susie Thotochanel and I am a current resident and voter in Fulton County. I've lived in Georgia my entire life. And I have voted in every election in which I was eligible. But for me it has always been easy. My career, my family, my location. The

environment in which I lived always made it easy. It's not always been easy for others. Their jobs, their communities and unfortunately the restrictions sometimes set by the State made it difficult. Voting in Georgia in 2020 was finally made a little easier for those who wanted to vote, but couldn't always make it work. And security and accuracy of the 2020 election in Georgia has been confirmed over and over and over again. It is time to move on. Reasonable people throughout Georgia, throughout our State agree that all eligible voters should be able to go to the polls and vote without fear or intimidation. And that all eligible voters should have equal access to the polls. It should be just as easy for any eligible voter to vote as it has always been for me. I'm asking the Secretary of State and the State Election Board to focus your attention on the current election by providing all counties and election administrators the assistance they need now to run free and fair elections. Despite increased restrictions let's make sure that easy access to the polls is available for

anyone. Thank you so much.

MR. DUFFEY: Thank you very much. Joseph Kirk?

MR. KIRK: Hello. My name is Joseph Kirk. I'm the election supervisor from Bartow County. A lot has been said today, but I want to briefly summarize what I think matters most to election integrity as an election administrator with a history of secure transparent elections. First is pre-election testing. We have to test and verify not only the content, (unintelligible) ballots. But the hardware that we're going to use functions properly and accurately. And then we have the chain of custody. We need chain of custody for credible items as election technology, the blank, and most importantly voted ballots. And incidentally chain of custody for blank paper does not do a whole lot to increase election security. Third, reconciliation procedures. We should be constantly reconciling how many legal voters applied for ballots against how many have been issued, received and counted, both in person, as well as mail in ballots. And for bust canvassing

and consolidation procedures which happens election night and then the re-certification meeting. And that's the process of verifying that all and only legal votes have been counted and they have been reported accurately at all levels. Then finally, tabulation audits. We heard about today which are hand count procedures to compare results reported by the voting system to be human readable text on the ballots. And when done properly, these can and will detect issues with the voting system. We have to use election technology to facilitate our voting process. Hand counting is not nearly accurate or efficient enough to tabulate Georgia elections. But please know I do not mention how the ballot was marked or who makes that technology. Hand marked ballots are not a silver bullet that guarantees election integrity. Voters do, in fact, verify their ballots prior to casting them. Our system does count our votes accurately. And all these steps must happen no matter how the ballot is marked. I also wanted to mention -- was maintenance. It's a constant plus every county goes through to

keep our risk clean. Eric helps a lot with this. We -- we get information from our State and other states and it's worth noting that Eric does not add or delete voters just gives us information. And the last thing I want to mention is transparency and the importance of poll watchers. A well-trained poll watcher is incredibly important to this process. They have to be prioritized and valued. They are volunteering their time to observe a tedious and mountainous process. They should be thanked for their service. We should focus on things that truly matter if we want rebuild public confidence in our elections. Thank you very much.

MR. DUFFEY: Thank you very much.

MS. GHAZAL: Judge, may I break protocol and ask Mr. Kirk a couple of questions simply because he's not just a member of the public. But also an election supervisor?

MR. DUFFEY: Yes.

MS. GHAZAL: Thank you. Mr. Kirk, can you tell us a little bit more --

AUDIENCE MEMBER: (Inaudible)

MS. GHAZAL: Can us more about the

audits? The pre-certification audits that you've been conducting since 2020? How -- how do you conduct them? Have you identified any discrepancies? How many ballots are you using in -- in those exercises?

MR. KIRK: Absolutely. And I'll try to be brief. I use the same procedures we used in 2020 for every election that I've conducted since then. I -- I advertise the audit. I invite the parties to come as observers. I have an observation area. I have auditing teams of two people that sort and stack the ballots and counting the stacks of ten. Then count those stacks of ten. The nice thing is is with a little bit of practice it gets faster, it gets cheaper. The public has more confidence in the result. So and we actually count every ballot cast in Bartow County for a single race for every single election. To give you an example, we audited the gubernatorial from this year and -- and had a .1 percent. So .001 margin of error. And I have gone back in the past, not with that audit, but previous audits to confirm that the errors were made on the part of the auditors,

not the voting system. So I have a hell of a confidence in our system. Any major discrepancies would have been noticed in the audit both in the number of ballots cast as well as the -- the vote totals. And I've never seen anything question the results of the reported voters.

MS. GHAZAL: Thank you.

MR. DUFFEY: Thank you.

MR. KIRK: Thank you.

MR. DUFFEY: Victoria Cruz?

MS. CRUZ: Hello, my name is Victoria Cruz. I'm from Athens, Georgia. And a lot of people have already mentioned some of the things that I wanted to talk about. I -- I do want to tell you, Judge, I was very impressed by the story you were telling about your time in Florida. Because I was driving through Atlanta traffic trying to get here on time. I was listening to you. And, yes, you do have to delve deeper. Back then, you made a phone call. Now, we have access to the internet. You all have access to the internet. So there's no reason why you can't research and get information everyone can. And -- and this

is where we are right now and why we distrust. It seems like the mainstream media is telling one story, Dominion is telling one story, the Secretary of State's Office is telling one story. But there are other stories out there and how do you decide which one you're going to listen to? Obviously, you trusted the wedding coordinator because he brought the goods. We need to delve a little bit deeper, especially, with regard to the Coffee County case. Because I don't think you're getting all the information you need from the mainstream media. My last thing, because the previous speaker brought it up, is Eric our voter registration system. You need to delve further into that too. Eric violates HAVA and the data that it collects because it asks for the States to give them all those people who decline to register to vote. That is a person's right. If they decline to register to vote, why does Eric need that data? What legal authority does Eric have to get that data? And how is that data being used? And it's being collected from all the places, not just the DMV, that do the registration of

voters. From social services. From fishing licenses. There are people who choose not to vote. Who choose not to share their information with Eric and I think it's incumbent upon the Board to find out what Eric is doing with that information and why they need it. Thank you.

MR. DUFFEY: Thank you very much. Ann O'Mara? O'Mara?

MS. O'MARA: O'Mara. Good afternoon, my name is Ann O'Mara. I'm from Cherokee County. I've been speaking to our county Board of Commissioners and Board of Elections since January of 2022 to try and convince them to move to hand marked paper ballots. They listen but continue to point me to this Board saying our best recourse is through the State officials who plainly have the authority to do what is being asked of them. According to O.C.G.A. 21-2-344 and 366, our two Boards do have the authority to use hand marked paper ballots and direct the use of this optimal scanning voting systems. Every President since Harry Truman who created the National Security Counsel in 1947 has been a concern

for national security. On October 26, 2001, the Patriot Act was signed into law. Here critical infrastructure was defined. Systems and assets whether physical or virtual so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety or any combination of these matters. In 2002, the US Department of Homeland Security was signed into law. From 2001 forward, the critical infrastructure continued to be strengthened and protected. On January 6, 2017, election infrastructure was designated as a critical infrastructure subsection. This allowed election infrastructure to fall under the umbrella of DHS. In September of 2018, then President Trump signed Executive Order 13848 a lengthy Executive Order titled Imposing Certain Sanctions in the Event of Foreign Interference in the US election. In 2018, CISA was created in the same agency that just found nine vulnerabilities in the Dominion systems in an article published in June. Finally, on

September 7th of 2002 (sic) Joe Biden signed a continuation of Trump's Executive Order titled Notice on Continuation of the National Emergency with respect to foreign interference in or undermining the public confidence in the US elections. So we have been under a national state of emergency for four years regarding the security of our elections. If the two most recent Presidents believe that the vulnerability of our election infrastructure is threatened, I believe the State of Georgia should, as well. Get rid of the machines and move to hand marked paper ballots for this upcoming election. Thank you.

MR. DUFFEY: Thank you. Vesu Abhiraman?

MR. ABHIRAMAN: Thank you, Judge Duffey, for this meeting and esteemed members of the Board. My name is Vesu Abhiraman. I'm senior policy counsel with the ACLU of Georgia. I'm also a Georgian native. I'm a former software and telecommunications engineer. So I'm interested in the subject matter. And I'm a proud poll worker I've worked about ten elections in the last three years since the

rollout of new equipment. And a poll manager, as well. My biggest beef with the current equipment is the power supplies are the heaviest things that I've ever carried. If I throw my back out, I'm going to come for the State of Georgia on a worker's comp claim.

Mr. Lindsey and Ms. Ghazal, you -- both of you talk about voter verification, for the ballots. And I will say it doesn't feel like the most natural part of the process now. I believe there are things that can be done with more prominent signage encouraging voter verification of the ballots. Doing everything we can to take it from voter verifiable to voter verified, I think that's pretty important.

In general, I want to talk about the effect of persistent misinformation around elections that we've seen over the past couple of years. Our local election officials are bearing the brunt of it. We believe in the rule of law where things like the voter challenge procedure or open records the counties have had to deal with. We believe that what we're seeing right now is local

election officials having to deal with these laws and allowances being used in a way that they weren't intended to be -- to be used for. And we hope that is Board can stand with local elections officials like Joseph Kirk. Hats off to them. Or if it's Joseph Kirk, hats on to -- to Joseph Kirk. Right now, there's a holy trinity going on in our election system. Low pay, long hours, misinformation at best and threats of political violence, at worst. We encourage you to do everything you can to stand up for our local elections officials. We hope people take advantage of all the opportunities of public observation. Like with many other things that Mr. Kirk was talking about. So if there's more correct information about what's going on in the system.

A couple of concerns I have going forward. The week before early voting, elections officials have to send out all outstanding absentee ballots. They have to process all the outstanding registrations in the three days after the deadline. And then they also have to prepare for early vote the

next week. Which is the -- the method of choice for Georgia voters. And then in the four weeks between the election and the runoff, they'll have to deal with so much, as well. We hope you stand with these election officials and do whatever you can to make their lives easier. Thank you so much.

MR. DUFFEY: Thank you very much. Anne-Gray Herring?

MS. HERRING: Hi, my name is Anne-Gray Herring. I'm the policy analyst at Common Cause Georgia. And I want to thank the Board and Mr. Evans for the presentation on the risk-limiting audits. We completely agree that these audits are only going to serve to help our elections and further the public trust in the election results. We would support, as was mentioned, an RLA after the runoff in addition to after the general election in November. And would even encourage the State and counties to strive to audit more statewide races then the one that's required, you know, two or more could be audited. But we acknowledge that that's difficult for counties and would encourage the

State Board and Secretary of State's Office to provide as much support and guidance to counties as possible on their role in the RLA process. And help them better plan and prepare for that. And while we think that a risk-limiting audits are an important step that can help dispel misplaced suspicions about our election. We do want to acknowledge that it's not a solution for all the problems that exist in our State and point out some things the risk-limiting audit cannot do. It won't resolve voter confusion or mask unfair challenges to individual voters. It won't resolve discriminatory practices and the results do not show the effects of voting barriers, like long lines, closed polling places and relocated precincts and ballot drops -- drop boxes. Nor can the RLA measure the desperate impact of heightened voter ID requirements and ballot rejections. Thank you.

MR. DUFFEY: Thank you very much. Ted Metz?

MR METZ: I am Ted Metz. I am a Cobb County voter. And I would just like to ask

the Board to encourage precincts and -- and voting centers to actually hand count the ballots that are being produced by the ballot marking device. And post those results before the go into the scanner. Then that's the best way to test the scanners to see if the scanners are actually creating accurate results. That way we also have a record of -- of the votes, the voter intent from the paper ballot which is, you know, legally considered evidence of voter intent. And that will restore confidence. If the numbers match, then we can put the whole thing to rest. But we need to do this every election. So that is something I'm asking of you is to make sure that at the county level, the precinct level that they are encouraged to actually do a hand count. We've got plenty of volunteers that are willing to sit and count the ballots by hand using old fashioned tally sheets and -- and that, again, having a record of what the votes are cast, voter intent before they go in the -- in the scanners. And then comparing that the hand count to the scanner count that those numbers are equal, everybody's good. If

they're not, then we know that there's a problem and -- and we need to solve the problem which is probably by getting rid of the ballot tabulators made by Dominion because we know that they can be hacked in about 37 different ways. The only other thing I would ask is that we actually restore some higher level of signature verifications for absentee ballots. And with that I yield.

MR. DUFFEY: Thank you very much. Amanda Pettyman? Prettyman?

MS. PRETTYMAN: Amanda Prettyman from Bibb County. Thank you Board members for having this meeting today allowing public comment. A famous communist said, it's not who cast the vote, it's who counts the vote. And in the State of Georgia, who counts the vote is the Secretary of State's Office and a private company, Dominion. Maybe that's not communist, maybe it's more fascist. But the count is -- while casting the vote is done in localities and in precincts. The count is actually highly centralized so it may look like it's not, but it's all a façade. Because the programming is done for counting and then

it's -- it's shrouded in secrecy. We have no ability to check the code to make sure it's one person, one vote. How is that vote being counted? And you might refer to audits, but Phillip Stark in reading his paper in Curling versus Raffensperger has, first count audit and re-count differ substantially with the 2020 risk-limiting audit. And with the roughly 3,200 precincts in Georgia, three to four votes changed in each precinct. It can change the outcome of the statewide election. And yet with a five percent or less, when you look at just these spot checks, you just have a few off, you -- no one does anything about it. They say, well, that's within reason. But if you don't look statewide, and you don't make sure that those ballots are -- are a true voter and a number of other things, then you don't really have a true audit. And so I don't have confidence in our system. And I -- I would very much prefer that we hand count. If you can't get rid of the system for this election, at least add full hand counting. Go beyond the risk-limiting audit. In -- in Bibb County there were 26 in one precinct from the

primary in the Secretary of State's race. And the hand count was accurate. It was counted three times with the same results. And no one has done anything. So we've asked to look more to see if that problem extends further into other precincts or if it's isolated to that one, and then from there determine what the cause is. But no one will do it and part of it is because they are scared of the Secretary of State. I would prefer more, I guess, more curiosity and let's just find the truth instead of being so scared. Thank you.

MR. DUFFEY: Thank you. David Cross?

MR. CROSS: Mr. Lindsey, I understand you missed me last time.

MR. LINDSEY: I always miss you, Mr. Cross. Good to see you.

MR. CROSS: That's weird it didn't count all the votes. Those words were spoken by an election worker last October in Williamson County, Tennessee. An election observer there learned that two precinct scanners did not tabulate the votes properly. One tabulator had 163 ballots in it, but only recorded 79 votes. The other tabulator had 167 ballots,

but only 19 votes were counted. Williamson County, Tennessee contacted the Tennessee Secretary of State. He conducted an investigation and found that seven of their 18 scanners did not count ballots accurately. The Tennessee Secretary of State contacted the United States government's Election Assistance Commission to investigate. The government conducted their own tests with Pro V&V, S&L Compliance and Dominion all present. After scanning the ballots, they got the same miscount of the ballots. Investigators reviewed the system log files which is nothing more than a diary that the machine keeps of every interaction it has with a person or a piece of paper. It showed multiple instances of an error called a QR code signature mismatch with a warning message of ballot format or ID is unrecognizable. Testers noticed that the machines counted the votes properly until the error was triggered. After the error was triggered, every current ballot in the machine was not counted and every ballot after it was not counted until the machine was reset. The EAC Dominion Pro V&V

and S&L compliance report the cause as inconclusive. After a month Dominion informed the government that the cause was an error in the scanner software. The government asked Dominion to fix it and a patch was made. As part of the government's investigation, two other states that used the same software were notified of the problem, Alaska and Iowa. The EAC tells us there were no other reports of this problem. It is isolated in Tennessee. I remember seeing that exact same error code in Gwinnett County's 2020 primary files when I was researching suspect results for Judge Kathy Schrader. Those Gwinnett finals from 2020 showed 84 instances of the Williamson error. We, the election oversight group, asked the US government if the Williamson error was found in any other states or counties. The author, please give me another moment. The author told us there were no reports of the Williamson error anywhere else in the United States. The election oversight group placed open records requests for scanner history files from all 159 counties. Judge, you wanted us to present this -- this

information sooner, but we were unlawfully blocked and significantly delayed by Ryan German and Blake Evans. As of today, we have only files from 66 of 159 counties. So far 64 of the 66 counties reporting have the Williamson error. That's 97 percent of the Georgia files.

MR. DUFFEY: You need to wrap up, Mr. Cross.

MR. CROSS: I'll get there. The software causing the error was originally written 2018. The software has not been updated on any Georgia scanners. The bottom line is is our work indicates the precinct scanners in Georgia have not counted ballots accurately since they were installed. The Secretary of State announced that he's going to be removing QR codes from the ballots. That will do nothing --

MR. DUFFEY: Mr. Cross.

MR. CROSS: -- to correct the issue.

MR. DUFFEY: Mr. Cross, honor the time limit please.

MR. CROSS: I'm sorry?

MR. DUFFEY: Honor the time limit.

MR. CROSS: I hope the press will take a look at this. I sent you files. Mark, I hope you will report on it.

UNKNOWN SPEAKER: They won't.

MR. DUFFEY: If those are all the public comments, on behalf of the Board and behalf of everybody who presented today who provided information, I hope you found it valuable. For those that are watching, I appreciate your time and attention. And we look forward to seeing you at our next meeting. We'll be adjourned.

(Whereupon, the proceeding concluded at 1:47 p.m.)

CERTIFICATE

STATE OF GEORGIA
COUNTY OF GWINNETT

I, Rebecca, Certified Court Reporter, hereby certify that the foregoing pages numbered 3 through 199 constitute a true, correct, and accurate transcript of the testimony heard before me, an officer duly authorized to administer oaths, and was transcribed under my supervision.

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

In witness whereof, I hereby affix my hand on this, the 19th day of October 2022.

_____

Rebecca Barr
My commission expires April 1, 2023.

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In The Matter Of:

State Election Board Hearing v.

December 13, 2022

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