

THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD MEETING

SLOPPY FLOYD BUILDING
ROOM 512, WEST TOWER
2 MARTIN LUTHER KING, JR. DRIVE
ATLANTA, GA 30334

THURSDAY, JANUARY 31, 2013
10:00 A.M.

PRESIDING OFFICER: BRIAN P. KEMP
SECRETARY OF STATE
STATE OF GEORGIA

*DEBORAH L. MERIDETH, CCR
HAPPY FACES COURT REPORTING
POST OFFICE BOX 1063
TUCKER, GEORGIA 30085
(770) 414-9071*

APPEARANCES:

Brian P. Kemp, Secretary of State, State of Georgia

Tex McIver, Member, State Election Board

David J. Worley, Member, State Election Board

L. Kent Webb, Member, State Election Board

Ralph F. Simpson, Member, State Election Board

ALSO PRESENT:

Chris Harvey, Esquire

Russ Willard, Esquire

- - -

TRANSCRIPT LEGEND

[sic]	--	Exactly as spoken.
(phonetic)	--	Exact spelling unknown.
--	--	(Dash) Interruption in speech.
. . .	--	(Ellipsis) Indicates halting speech, unfinished sentence, or omission of word(s).
Uh-huh	--	Affirmative response.
Uh-uh	--	Negative response.

Quoted material is typed as spoken.

10:00 a.m.

PROCEEDINGS

SECRETARY KEMP: Good morning, everyone. We're going to go ahead and call the Thursday, January 31, 2013, State Election Board meeting to order. We're going to go ahead and start with the initial parts of our meeting while we're waiting on additional members to get here.

I'm going to ask Mr. McIver to give our invocation and then we will stand for the Pledge of Allegiance.

- - -

(Invocation)

- - -

(Pledge of Allegiance)

- - -

SECRETARY KEMP: Thank you, Mr. McIver. We'll now call for public comments. Our first speaker today will be Cecilia Torrence. And if you will -- where are we doing this from, Chris? If you will, we'll just let you come up and hold the mic. And just let me remind everyone, we'll need to just get your name and your address for the record, please.

MS. TORRENCE: Cecelia Houston Torrence; 1735 Rogers Avenue, SW, Atlanta, 30310. I'm here today proudly representing the League of Women Voters of Atlanta Fulton County, and November 6 I was present at the Adamsville recreation center where I was poll watcher for the League.

On that day we witnessed -- there were several of us there -- we witnessed lots of things that we feel should not have happened. One of them, the main thing that we are with concerned with, Secretary Kemp, is the lack of provisional ballots that day, and I know there will be more comments later on. But we witnessed lots of people that came there to vote that did not get an opportunity to vote because there were no provisional ballots there for them. We called everywhere that we knew to get those ballots and they just

never showed up. Around noon, we got ten; there were 50 people at that time waiting for ballots. Needless to say, there were lots of people that did not get to vote. We feel if there was one person that did not get to vote, that was too many. So we want to ensure that going forward, that people are able to vote and that it is an easy process for them. Anything we can do as the League to help ensure this, we will be glad to do that. Thank you very much.

SECRETARY KEMP: Thank you very much for being here this morning. Anyone else wish to speak in our public comment period?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, we will move on to our investigative report. The first thing I would like to do is to swear our witnesses in this morning, who I believe are seated up here on the front.

I will start with Gary Smith. If you will, please raise your right hand.

(Whereupon, the witness complies)

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MR. SMITH: I do.

SECRETARY KEMP: Thank you. Ms. Sharon Mitchell.

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. MITCHELL: I do.

SECRETARY KEMP: Thank you. Mr. Dwight Brower.

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MR. BROWER: I do.

SECRETARY KEMP: Thank you. Mr. Jones, Mr. Ralph Jones, would you raise your right hand.

(Whereupon, the witness complies)

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MR. JONES: Yes, sir.

SECRETARY KEMP: Thank you. And Ms. Pamela Coleman.

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. COLEMAN: I do.

SECRETARY KEMP: So help you, God. Thank you.

Okay. Mr. Harvey, I know Mr. Worley and Mr. Webb both were close by, but if you want to go ahead and be calling the cases, we'll just try to keep moving.

MR. HARVEY: Thank you, Mr. Secretary. The meeting today is going to address three different Fulton County cases. The two main cases deal with the general primary election on July 31 of 2012, and the November general election on November 6, 2012. There is a connecting issue between them in terms of voters living in addresses that may not exist anymore. But I'm going to start with the general on election November 6, 2012 and work backwards in time.

We've subpoenaed five witnesses, and we've also subpoenaed approximately 30 other people who worked in the polls that we'll get to some point the presentation.

SECRETARY KEMP: Mr. Harvey, let me interrupt you one second. Just for the record, so the Board will know and the others interested in this case, we did try to serve Sam Westmoreland and we were unsuccessful in doing that. I do not believe he's going to appear today.

MR. HARVEY: That's correct.

SECRETARY KEMP: Go right ahead.

MR. HARVEY: The basic format is that we will ask some questions of the witnesses, general questions about several different topics, including voter registration, provisional ballots, ballot security, problems at polling places. And then after some general questions, we will ask about some specific issues that we found in our investigation thus far.

I would like to begin by reading several complaints that our office received regarding the November 6 general election.

This is from Mr. Damien Whittaker, who has been a voter since 1976. It's a sworn affidavit.

"Precinct 02A had no provisional ballots on hand. They said they started the day with 20, ran out before 2 PM, need at least 15 at 2 PM Requested more and only received six -- that's six. From 4:00 until past 7 PM, they had many people left without voting in frustration and discussing various conspiracy theories. Mr. Dwight Brower told me that the ballots that the poll worker had been expecting for hours were presently being printing at 6 PM. After the poll manager said after 7 that she had no notices to extend poll hours and had to announce the polls closed, a few minutes later, a flashing light on a van pulled up with a small box of ballots and the people who stuck it out got to vote."

From Ms. (Unintelligible) Oyanga (phonetic), her sworn statement is:

"When I arrived at the polls at 3:30 PM, I was informed that I said [sic] I cannot be found in the express polls to cast my vote and I would have to cast a provisional ballot. At the time, the precinct did not have any provisional ballots to give. A poll employee contacted the warehouse who provided them -- and was told that they were printing more. I left came back at approximately 4:30 PM and was told that the ballots were still not here. I left again and returned at 6:30 PM and was told that the ballots still had not arrived. I waited and the provisional ballots came in at about 7:15, 7:20 PM. I was able to cast my vote after the polls officially closed."

Shakeyla (phonetic) West wrote:

"On October 2, while renewing my drivers license, I also renewed or updated my voter registration status due to a recent move. After constantly checking registration my status on the MVP, My Voter Page, website, it stated my registration information could not be found. Eventually, I was told I could still vote, but I would have to do it on a provisional and update my address at a later time. After going to my designated voting site, I was first told that my voting precinct was at Lake Ridge Elementary, which is 25 minutes away from where I live now. I informed the female working the booths that I voted at Lake Ridge in 2008, but I had moved and the system should reflect Centennial Place Elementary as my polling precinct. After requesting a provisional ballot, I was told they would love to give me a provisional ballot, but they did not have any more. After going home and coming back 30 minutes later, there were still no ballots. I spoke to one gentleman that worked the polls and he told me they never had provisional ballots in

place. He stated that earlier that morning after numerous voters left, only six provisional ballots were brought to the location.”

The last complaint I’m going to read is from Mr. Patrick Blackmon, who sent this email directly to our office on 10:15 -- I’m sorry -- 10:13 PM on November 6:

“Well, it’s too late to vote now. I received a call from the Georgia Secretary of State’s office at 7:13 this evening, but by that time I was at work and the polls were closed, anyway. I cannot express how disappointed I am in the way elections are run in Fulton County. Third world countries have better systems than this. I am clearly listed as registered on the My Voter Page of the Georgia SOS website. I had proper identification showing my correct address, but two poll workers, including the polling manager, said that I was not in their computer system. They told me that if I wasn’t in their system by October 1, then I had no chance of being eligible. How is it that I’m eligible to vote, but was denied that right to vote? I was even refused a provisional ballot. I was sent on my way and told that a call to the Georgia Secretary of State’s office would do me no good. Let me repeat: I was told by the polling manager not to contact the Georgia Secretary of State because I was not going to vote that day under any circumstances; not even a provisional ballot.

I’m heartbroken that I wasn’t allowed to vote, and I’m angered that no one in my polling station seemed the least bit concerned that I was eligible, but still unable to cast my ballot. One went so far as to say that being registered simply meant I could vote in four years, but not today. Inexcusable and quite simply unbelievable. I have been voting since I was 18 and I have never seen anything like what I saw today. The sooner I get out of this third world state, the better.”

Our office received approximately 150 different complaints on elections in the November general election.

At this time, Ms. Mitchell, I have some questions that I would to address to you.

MR. WALBERT: Mr. Chairman, it’s customary to have an opening statement from the other side after we’ve had one from the prosecution. I would appreciate that courtesy.

SECRETARY KEMP: Well, normally in these process, we've been able to do complete investigations, as well. I don't know Mr. Harvey thinks about that, but some of these people we never had an opportunity to interview.

MR. WALBERT: I would like an opportunity to just make an opening statement, sir, just in fairness.

SECRETARY KEMP: All right. I'll give you a couple of minutes to do that. If you would, just state your name and address for the record.

MR. WALBERT: Would you like me to do it from here or up there?

SECRETARY KEMP: I think you can do it from there, but you may need to pull the mic -- we just need to make sure everyone is speaking clearly and not too fast. And when you state your name, just make sure the court reporter can pick up on that. And as we go back and forth with the question-and-answer, we're going to have to keep a handle on who's actually answering the questions.

MR. WALBERT: Is this picking it up; is this working?

MR. HARVEY: Is this working any better?

SECRETARY KEMP: You might want to come up.

MR. WALBERT: Thank you. I'm David Walbert. My office address is 75 14th Street, 26th Floor, and I am here on behalf as counsel for the Board of Registration and Elections of Fulton County. There are several things I'd like to point out; really three things.

If we look at the big picture here, there are kind of two overriding issues, I think, and one of them is the issue about supplemental voting lists and the fact that it was large Fulton County. And secondly, is the provisionals that have some relationship to that.

On the -- and let's look at the big picture of the facts here, first of all, because we can't lose sight of this. In Fulton County there were 567,000 registered voters at the time of this election. In the year 2012, there were 193,000 new voter applications that came to Fulton County to be processed. That's a lot of work, but Fulton County handled that.

Well, here is where the problem began. In October of 2012 -- October -- I'm talking about several weeks right before the election, 45,320 new applications were presented to Fulton County. Now, that's a big number. But what is more important is 40,885 of those came in after the cutoff date for registration. But under law, they're legal because they had been signed under mailed prior to that date.

Now, what is a big problem here is this: Fulton County is being wildly and very strongly criticized for not getting its registration in place at the end of the season; end of the

election cycle. The fact of the matter is, and I am sure the Secretary of State, Mr. Kemp, I don't think you would have been aware of this, but the applications -- most all these are applications that came by mail through your office to us. That's 95% of them. They were at your office for one to two to more than that weeks waiting to get over to Fulton County. So Fulton County ends up getting thousands and thousands of applications right toward the very end of the time period for doing the express poll on October 25 and having that downloaded. That's the first thing. Five to six thousand received in the last two weeks of October, even though by law they had to have been provided by October 9th.

So, yes, the supplemental list was much larger than desirable and that it should have been, but we need to look much closer at the reasons for that and where that delay actually arose from.

There is a second thing we've got to take into consideration that is critically important, in my opinion, and that is the provisional issues, because the provisional, everything I've heard from Mr. Harvey this morning and so on was about provisional voting. Fulton County, I would say, has a -- what's called a liberal practice with regard to provisional voting, specifically going back to at least Mr. Garner a couple or three executive directors ago.

The practice in Fulton County was if someone comes to the wrong polling place, that's not their polling place, they're going to get a provisional ballot, even though they're in the wrong place. Now, I realize that when we look at the State, and I should say out-of-precinct provisionals is the driving factor on the number of provisionals in Fulton County. That is the factor. That explains -- that is (unintelligible).

Second, we had two polling places where the power was out, out of 319. So provisionals were used there the first part of the day until that was fixed, and things like that. But the driving factor are people who vote out-of-precinct. In Fulton County, as I said, Fulton is liberal, if you will, in its policy towards that. The State regulation on that says that if someone presents on the wrong polling place and you can determine that on the master list, then they are supposed to be sent there. That is not what the State law says, though, and more specifically, and I'd be happy to --

SECRETARY KEMP: Mr. Walbert, we're going to get into the specifics as we move through the day. So if you can kind of give us your opening statement, we would appreciate it.

MR. WALBERT: My point is, let's not lose sight of the fact that Fulton County may be

the only county in the State that is actually following federal law that mandates and expressly says if you show up at the wrong polling place, you shall get a provisional ballot. That's why there are so many provisionals in Fulton. That's different than what this Board's regulation says. But the federal laws explicitly requires that and Fulton County follows that. I would respectfully suggest and request that Mr. Harvey and all not lose sight of some of these dynamics going on.

Thirdly, as to the very particular facts and what Mr. Harvey has related here, it is an unfortunate situation -- I've never been in one before where we've really never had an itemization of charges. We have a list of some hundred and some people that have made, complaints but we have no idea what they're complaining about. That's not been ever provided. So to respond to some of these is difficult. I can say specifically that of the 19 people, for example, who complained about an absentee ballot filing, all of those we have the copies of the application and the copies of the ballot going out and every one of those 19 who will -- **Mr. Harvey** could read off today, I didn't get my ballot, and what have you. The fact of the matter is, they were all mailed on time, and of those 19, most of them, in fact, did vote, and some of them just never returned their ballot which is not Fulton County's fault.

Now, of the others, the group that we do have and have been able to find out something on our own investigation, a large percentage of those were not ever registered. Yes, you can -- you know, we can go, and if we had the media that we have here criticizing Fulton County (unintelligible), you're going to have all kinds of people think there is a conspiracy, and what have you, (unintelligible) complaints. But out of 500,000 or so that were involved, 100 complaints, you're going to have that no matter what; whether they're fact-based or not.

I would respectfully suggest and submit to you -- because we printed 20,000 -- 23,000, I think it was -- provisional ballots and distributed those throughout the system. There were no polling places that did not begin with provisional ballots. That's just not right. Fulton County is one of the few counties in the State at the time that the capacity to print provisionals during the course of the day. So if they found out and were told at the central office that they were short on provisionals, they would print and do the best they could to get more there.

So I would suggest that there is a big picture issue here as to the delay of the supplemental and the fact that the supplemental got bigger than it should have been. There's the issue of how the provisionals should work in Fulton County and in the State of Georgia. And then, subsidiarily, we all the individualized types of complaints, and so

on, and issues, which may or not have any legitimacy until you get in there and find out what the real facts were.

So I would say my own suggestion as to this, because I think we can -- we don't have any problem going and having a list of the actual charges prepared, if you will, or complaints that are specific. We don't have a problem with that if you want an ALJ for a hearing and see what really happened, rather than taking this Board's time up to hear stuff and then, you know, it's really difficult to respond to a Shekeylah Walker [sic] saying -- where, you know, we never heard this complaint before. We have that name, but no idea what the complaint said. We don't have any problem having an objective fact-finder listen to the whole record, assuming that the examination is broad enough to encompass these other issues I'm addressing: why the supplemental list was so big; how provisionals should be done; why there were so many. We have no problem with a proceeding to that effect. So I appreciate your opportunity to make that preliminary statement.

SECRETARY KEMP: We appreciate you doing that and I certainly appreciate your reference to the laws and the rules, because that's what this hearing is all about, is this Board looking at the evidence that we have and trying to figure out whether there was probable cause and State Election Board rules that were broken, potentially, State laws that are broken. You know, there's always the potential that these type cases may end up before an ALJ, but we've got a process that we go through in the State Election Board and it doesn't matter if it's Fulton County or any other county in the State of Georgia. That's why we're here today and that's what we're going to start with now, is getting to the bottom of these complaints that we had and see exactly what happened.

MR. HARVEY: Thank you, sir. Ms. Mitchell, would you give me your brief evaluation of the performance of the Fulton County elections office during the November 6 election?

MR. WALBERT: Could I ask you to be a little more specific? We could be here a month on that one.

MR. HARVEY: Well, just a general evaluation. Would you say they did a good job; excellent job; fair job; poor job?

MS. MITCHELL: Our assessment is that we did a good job for the election.

MR. HARVEY: How confident are you in the results of the provisional ballots being accurate? The provisional ballots you reported to the Secretary of State's office, how

confident are you that those results were accurate?

MS. MITCHELL: I am confident. I saw the process. I feel that we followed State law and staff. We had checks and balances in place to make those counts.

MR. HARVEY: How confident are you that a significant number of voters were not turned away either directly because they were not in the voter registration system, or were so discouraged and inconvenienced by the delays in getting provisional ballots that they did not vote on November 6?

MR. WALBERT: Could I object to -- you've got to clarify that -- if I may ask the panel -- turned away because they were not in the registration system or because they should have been and it didn't appear. Your question's ambiguous and I would appreciate if you could clarify that.

MR. HARVEY: Okay. Well, on either case, people turned away and not offered a provisional ballot under any circumstances or people that were turned away because, as you heard in some of the complaints, they went two and three and four times and were not able to vote a provisional ballot. Do you have any idea what numbers of people that might encompass?

MS. MITCHELL: I do not.

MR. HARVEY: Do you know if any poll managers actually refused provisional ballots to voters who requested them?

MS. MITCHELL: I'm not aware that.

MR. HARVEY: Why did approximately 5000 registered Fulton County voters have to vote provisional paper ballots in the November election?

MS. MITCHELL: There is a variation as to why someone was provided with a provisional ballot. Our assessment reflects about 45% of those individuals were out-of-precinct; what we call out-of-precinct.

MR. HARVEY: Has there been an internal investigation by Fulton County into the problems you encountered in the election?

MR. WALBERT: You mean outside of the Board of Registrations when you say Fulton

County?

MR. HARVEY: Within Fulton County government; outside of the State. Have you conducted any kind of investigation to determine problems, faults, successes?

MR. WALBERT: You mean within this department, then?

MR. HARVEY: Yes, sir.

MS. MITCHELL: We were in the process of doing what we refer to as an evaluation of the election.

MR. HARVEY: Has that been completed?

MS. MITCHELL: That has not been completed.

MR. HARVEY: When do you anticipate that being completed?

MS. MITCHELL: Upon conclusion of this process.

MR. HARVEY: Have there been any personnel changes in the elections office as a result of the November 6 election?

MS. MITCHELL: Not I'm aware of; no.

MR. HARVEY: How many precincts or polling places did you visit on election day?

MS. MITCHELL: I did not visit polling places on election day.

MR. HARVEY: Did you have any direct contact with members of the Secretary of State's office on election day regarding problems that were being reported in Fulton County?

MS. MITCHELL: Yes.

MR. HARVEY: What was the nature of that contact? What were the problems that were being reported through the Secretary of State's office?

MS. MITCHELL: Varies questions as it relates to provisional ballots; question as to -- relates to a poll that had electrical problems. For the most part, issues as it relates to whether a particular precinct has provisional ballots.

MR. HARVEY: Okay. Did that occur -- to your memory, did that occur early in the day, or was that something later in the day?

MS. MITCHELL: Most of it was early in the day.

MR. HARVEY: What kind of steps did you take after hearing that there were people not being offered provisional ballots to make sure that they were being offered provisional ballots, if any?

MS. MITCHELL: I was not told people would not being provided provisional ballots.

MR. HARVEY: You didn't receive an email from Linda Ford in the morning saying she was concerned about people being refused provisional ballots?

MS. MITCHELL: I received early indications that people were being given provisional ballots instead of being voted on the machines.

MR. HARVEY: How many press conferences did you conduct on November 6?

MS. MITCHELL: I had them throughout the day. At least three, I think.

MR. HARVEY: Why did the poll locator on the Fulton County website list the election day as November 7, 2012?

MS. MITCHELL: That was an error performed by our IT department.

MR. HARVEY: At what point was that corrected?

MS. MITCHELL: I can't recall the time of day.

MR. HARVEY: But that's the day after the election.

MS. MITCHELL: No. My understanding that it was corrected on that day.

MR. HARVEY: But November 7 was the day after the election, correct?

MR. WALBERT: I think he's asking about that as the date -- the 7th is the --

MS. MITCHELL: Yes. The 7th is the day after. That's correct.

MR. HARVEY: Did you bring any notes, records, or documents that are responsive to the subpoena you were issued?

MS. MITCHELL: Di I bring any?

MR. HARVEY: Yes, ma'am.

MS. MITCHELL: I issued all of them through email prior to today's hearing. We delivered over 21,000 pages of documents to your office.

MR. HARVEY: Yes, ma'am. At this point, I've got some preliminary questions for Mr. Smith.

MR. WALBERT: Might I ask direct questions of Ms. Mitchell just to follow up? It will be very brief.

SECRETARY KEMP: Well --

MR. WALBERT: Just to clarify his points.

SECRETARY KEMP: I think what we'll do is let Mr. Harvey get through this whole scenario, and then we'll give you an opportunity to respond.

MR. HARVEY: Mr. Smith, what was the scope of your role in the Fulton County elections office in the November general election?

SECRETARY KEMP: Let the record reflect Mr. Webb has joined us on the State Election Board. All right. Mr. Harvey.

MR. HARVEY: Okay. Mr. Smith, what was the scope of your employment with Fulton County elections office as regarding the November 6 general election?

MR. SMITH: I was a contractor with Fulton County to act as --

SECRETARY KEMP: Hold on just a second, Gary. They can't hear you. You've got to speak up just a little bit, even if the mic is not working. Let the record reflect that Mr. Worley has joined us, as well.

MR. HARVEY: Once again, Mr. Smith, what was the scope of your employment with Fulton County regarding the November 6 general election?

MR. SMITH: I was hired as the program evaluation manager for the -- by the County, and I started work on October 19, which was about three weeks prior to the general election. As such, there was really a limited timeframe to review the election procedures or to initiate any actions from that standpoint.

Part of the agreement that I had at the time, though, was really to assist the interim elections director, and the idea was to make sure that those procedures that had occurred in the 2012 primary election wouldn't occur again. Specifically, those items like mishandling of the accumulation process; precinct total exceeding 100%; absentee ballots (unintelligible) by optical scan units; missing (unintelligible) tapes; malfunctioning voting machines; and chain of custody failures. When I went through all of those meetings with various people in the election office, Dwight Brower; the election chief, Sharon Mitchell, who was the interim election chief; Derrick Gilstrap, who was the assistant special supervisor; and Dean Williams, who was the election preparation manager, and reviewed a lot of the documentation and procedures and information available to me at that time. And I really concluded that they had either eliminated the problems that were -- that had occurred during the primary election, and those were no longer a problem.

The other part that I was charged with at the time was to write an evaluation of the election as it occurred, and I had to sit in on a number of the meetings, updates to the poll managers by management -- the team. Had reviews of the Fulton County election Board. Monitored some of the preparation by the IT department for testing of modems. Spent time with election day technicians and sat in on meetings where they would talk about preparing the election division to handle the influx of calls that come in during an

election.

Based on that, what I've done is written report which I believe most of the members of the Board of Elections here have got. It was delivered to the Fulton County Board of Elections office and subsequently went to the Fulton County Board of Commissioners and then was released to the public information.

There were some requests to look more carefully at some areas, which I did, and I've revisited those areas with a final report which was finished yesterday and has been sent for publication.

MR. HARVEY: What with those areas you were asked for specific examination?

MR. SMITH: Areas?

SECRETARY KEMP: Mr. Smith, if you can just try to -- I apologize for our microphone situation.

MR. SMITH: Can you hear me now? I'm sorry. Can you hear me?

SECRETARY KEMP: That's great.

MR. SMITH: Go ahead.

MR. HARVEY: The areas where you asked to do some additional analysis?

MR. SMITH: The areas that I really -- I wasn't really given a lot of direction in the areas. They were looking for evaluating the elections in general. So what I did was took my background that I had as an election director in the past and work that I've done in other states with elections and looking at a lot of the things that most of us here in elections are concerned about.

One of the biggest areas I spent time on was what was being done to prepare for the election and how did the changes that had occurred in the past with regard to the loss of what's called institutional knowledge in the election office, itself; the many changes that occurred with regards to organizational structure. And then a lot of it had to do with the last moment, really. The changes that we had with regard to the loss of the election

director, Mr. Westmoreland; having to appoint an interim director. And I would say the other issue that I was looking at was trying to see how all the people who really had not had an opportunity to be involved in a general election (unintelligible) really could handle the process. There's a lot of difference between a general election in an off-presidential year, and an election.

Some of the comments that have already been made with regards to the number of registrations that have come in and only come in then. And I think the other thing to point out that is worthwhile is that we get a lot of inactive voters that come in during this period of time. These are people who really don't have an idea of where to vote. So the comment about people not voting at precincts is exasperated by the issue of inactive voters we have.

The other part we were trying to look at was what would the effect of redistricting have on the election, itself. We're getting people who really didn't have an idea of where to vote. I'll just say as a personal comment, I think most of the election directors would probably agree with me, is that one of the problems that we have seen is early voting has caused this problem, although it's good for what it does. People no longer know where they vote. They think they voted, in our case, at OC Library in the north part of the County, when really they were supposed to vote at precinct O2A, or something of that kind. So that also causes us problems on election day. So those are some of the problems we have.

In the report that I wrote, I went through all of these, and what I was trying to do, too, was to point out the other issues with regards to how well did the early voting process work; how well were the votes distributed; were the early voting sites chosen in order to make sure that they were the correct ones and that they could handle the capabilities or the issues on election day where we have huge turnouts of people trying to vote early. When those are run, you know, properly, it helps us reduce the number of people who vote on election day, which makes it easier for us, too.

MR. HARVEY: Thank you. You and I spoke briefly on election night at the warehouse -- communication system command center that Fulton County set up. Were you part of setting that up, or was that something that was set up before you?

MR. SMITH: What you're referring to is the election operations center, emergency operations center, set up a process for being able to centralize all of the issues that were

occurring within the County on election day. It was actually set up by -- I think it's the emergency operations center director, or whoever it might be. But it was a command center and it was in the lower part of the administration building. And, frankly, I thought it was outstanding. I thought it was one of those things where it could be a model for the country.

It had been set up, though, only a few weeks prior to the election, so we really didn't have time to test it out well. The responsibility, which was to take all of the external sites where complaints, calls, telephone calls, and things like that were coming in so there would be one place where they could take care of immediately of the problems that were incurred in the election. I think for the short period of time they had, I think they did a good job.

Where the problem came in, though, was really trying to get all that information from the external sites where the complaints or the calls would come in from voters getting back to the emergency operations center where the command center was. They did take care of things. I think it's one of those things that has an opportunity to (unintelligible) standard. It was great.

MR. HARVEY: You said the problem was primarily that complaints couldn't get into the center. It didn't sound like the complaints were getting into the --

MR. SMITH: I can give you an example. We had various sites to distribute the calls that would be coming in. I think that's a good idea. What was set up by the elections office was to have specific phone calls -- specific phone numbers the voters could call in so they weren't calling in on the general number and just being put into the rack. They had separated out the news media, as well, and they were calling. That's a good distribution of the complaint structure. They had set it up so that members of the Fulton County Board of Commissioners and also Fulton County Board of Registration and Elections would have a specific number to call.

The problem occurred, though, there were so many calls even though they had quite a number of people to handle the complaints that were coming in from the voters at the precincts. They were just overwhelmed. So they were unable to transfer that information easily to the command center where I spent most of my day observing what was going on. That was my job. My job was to observe and report and do that.

MR. HARVEY: Did you have any role in observing the large number voter registration applications that came in between October and November?

MR. SMITH: Well, I was there about three weeks before so I was getting involved in a lot of different things. I had a chance to see some of it, yes.

MR. HARVEY: How did it operate? Was it going full tilt? How many people were working on it? How many were they doing a day?

MR. SMITH: Well, I think the -- were they going full tilt? Yeah; they were going full tilt. They were working hard. I think the problem probably occurred was there weren't sufficient people working at the time to be able to handle the total number. That's a judgment call as much as anything else.

MR. HARVEY: But in your opinion, they needed more people to handle the number voter registration applications that came in, as well?

MR. SMITH: I would say, yes; that's obvious.

MR. HARVEY: Did you observe or were you asked to observe anything with the provisional ballot process, either on election day or in the days following the election and the processing of the provisional ballots?

MR. SMITH: Yes, I was.

MR. HARVEY: What kind of things were you asked regarding the provisional ballots?

MR. SMITH: Well, you know, with regards to provisional ballots, to start off, the number of provisional ballots being issued during the election day. That's one thing. We were monitoring the precincts to see how many were coming in. I was getting emails from some of the members of the Board here that provisional ballots were not available or needed or something like that. So we were communicating on it. As early as 8:00 in the morning on election day, we could see it was starting to be a real problem. I had communication with Sharon Mitchell and we talked about it. We started at that time. I think Ralph and his staff started to look at where did they have to go. But it compounded as the day went along. Even though you have the ability to print them, you still have to print them and you have to deliver them. So you've got 347 precincts they have to be

delivered to. If you looked at the data that came in afterward, you'd see it took a lot of work to get them to the locations they had to go.

MR. HARVEY: What about in the validation process of provisional ballots when they came back in, in terms of determining whether or not they should be accepted; chain of custody; those kinds of issues?

MR. SMITH: I wasn't involved in whether they were accepted or not. That's a process I didn't see. I was involved in the duplication process. We had to take the provisional ballots and ensure they were duplicated on the proper ballot (unintelligible).

MR. HARVEY: Did you oversee, or did you get a chance to observe the process, and I understand you weren't directly involved, but to observe the process the Fulton County election officials were using to validate and maintain custody of provisional ballots?

MR. SMITH: I didn't oversee it. I was there when they were doing that.

MR. HARVEY: We ever asked about processes or whether something was acceptable or not or good or bad?

MR. SMITH: No.

MR. HARVEY: Did you visit any polling places on election day?

MR. SMITH: No.

MR. HARVEY: Have you interviewed poll workers, poll managers, election officials since election day to determine an after-action report where there were strengths, weaknesses, failures?

MR. SMITH: No I haven't.

MR. HARVEY: So your report is based primarily on simply your observations?

MR. SMITH: It's on my observations, but it's, you know, it's discussions with people in the office and review of the results and review of data. It's a review of the processes.

MR. HARVEY: Do you have any notes, records, or documents that were responsive to the subpoena, or work product or notes from your time in Fulton County?

MR. SMITH: I've got a lot of notes but I don't have them all with me. I've got my report.

MR. HARVEY: So you didn't conduct interviews with individuals in the elections office after -- you said it was based on conversations. Who were those conversations with?

MR. SMITH: I had conversations with the people sitting here; I talked to other people in the registration office or (unintelligible) office who were involved; I've had conversations with former members of the election office, itself; I've had discussions with various Board members from the Board of Commissioners; I had a discussion with all of the members of the Board of Registrations and Elections. I've had some comments that have come to me from certain people who have been called in because they had a concern about not receiving a ballot or not. And I have talked to -- I believe I talked with one poll manager; not in person, but by email.

MR. HARVEY: Based on what you've observed from the provisional ballot verification process, how confident are you that the results of the provisional ballot verifications are accurate?

MR. SMITH: That's really hard to say. I can't give you a percentage on it. I think it was pretty well done.

MR. HARVEY: Pretty well done?

MR. SMITH: Yes.

MR. HARVEY: Any glaring errors that you saw on the provisional ballot process?

MR. SMITH: No.

MR. HARVEY: Any errors at all?

MR. SMITH: I can't pick out any individual ones.

MR. HARVEY: Thank you. At this time, members of the State Election Board, I would like to give a very brief presentation on the issue of voter registration, the supplemental list, and express poll. Mr. Walbert addressed some of that in his preliminary comments.

So that the Board has an understanding of the challenges that Fulton County faced leading up to the November election, obviously, there was a presidential election and there were a lot of people that were registering to vote. Our office received thousands and thousands of voter registration applications in the mail every day in the days leading up to the election. Our staff -- my investigative staff, the rest of the staff in the office were preparing them for delivery to the counties daily. We spent a significant amount of time doing that.

Fulton County was supposed to come and pick up their voter registration applications and process them every day, and I'll ask Ms. Mitchell about some of those specifics. But there are some key dates in the voter registration that will play into the supplemental list and people not being in the voter registration system.

In order to be registered to vote, you have to have your voter registration in by October 9th, 2012. If it's dated after October 9thth, it's not eligible; you're not eligible to vote. Now, it can be dated October 9th and postmarked October 9th. It may not to Fulton County until several days later, either because it comes through our office or because it goes through the mail. But as long as it's dated by October 9thth, and can be verified October 9thth, you're good to go.

All of those voter registration applications go into the statewide voter registration system, which is loosely referred to as express poll. That's when you go to vote and they look you up on the computer, they find your name and they tap you and create a voter access card for you. That's express poll.

Kennesaw State University runs express poll. They coordinate the express poll. And in order to have a complete list of voters for election day, they have to do what's commonly referred to as closing express poll on the second Thursday before the election. So in this case the second Thursday before the election, Kennesaw State University told all the counties, at the close of business today, we're closing express poll. Anybody who's not entered into the system after that date is going to have to go on a printed supplemental list.

The supplemental list is just what it sounds like. It's a list of voters that would be assigned to a precinct or to a county that didn't make it onto the express poll system because Fulton County didn't receive their registration until, say, October 30th or October 31st. Or they received it and didn't get around to entering it until November 1st. All those voters would be on the supplemental list.

The procedure for voting on the supplemental list is if I'm registered in time and I'm on that supplemental list and I show up at a poll, they would first look me up on the express poll system. If I don't show up on the express poll system, they would then -- at that precinct, they should then back out of the precinct level go to the statewide voter registration system to see if I'm in there. If I'm not found in the statewide registration system, they then go to their printed provisional list -- I'm sorry -- their printed supplemental list. If they find me on the supplemental list of voters, they then can make that entry onto express poll, give me a voter access card, and I vote on a DRE; on a voting machine just like everyone else.

So the only difference between being in express poll and being on a supplemental list is when your voter registration application gets processed by the Fulton County, or by the county I which you live.

So obviously, as Mr. Walbert also pointed out, the timing of this data entry is critical. The sooner you get the names in the VR system, the more complete your express poll is going to be; the easier time your poll workers are going to have managing the polls.

Fulton County reported that their supplemental list contained 9175 names for the general election. Is that correct?

MS. MITCHELL: No. That's not correct.

MR. JONES: Six thousand-something.

MR. HARVEY: Our office records indicate that there were 9175 people on the Fulton County supplemental list of voters. I'll have some questions for Ms. Mitchell and she can provide additional evidence. We've asked for a copy of the names of the people on the supplemental list from Fulton County and I don't believe that we've received it yet.

Again, obviously, having to go from express poll to supplemental list is going to take

time at the polls. If you get two express poll machines checking in and you've got a lot of voters trying to get to the voting machines and one poll worker has to stop in order to check a supplement list of names, it's going to slow things down. That's going to account for some of the long lines at the polls.

By comparison, when you're talking about supplemental lists, I believe DeKalb County had approximately 3400 on their supplemental list. And then Cobb County had maybe 200 people on their supplemental list. Neighboring counties were well under Fulton County in terms of numbers of the supplemental list.

At this point I've got some questions for Ms. Mitchell and possibly Mr. Jones. I would say also, if at any point, if somebody can answer a question better than the person I asked the question to, you're certainly welcome to answer the question.

Ms. Mitchell, what was the procedure your office had set up to receive voter registration applications from the Secretary of State's office?

MS. MITCHELL: I will start and I'll have Mr. Jones participate as well. Part of our procedure is that we have an actual staff that picks up applications on a daily basis from the Secretary of State's office. In some cases, they went on an average of twice a day based on how many applications were received. As Mr. Walbert has indicated, the department received between July up until November, as many as 129,000 applications for registration for Fulton County. Therefore, employees went on a daily basis to pick those boxes up.

After they had picked up the boxes, they in turn go to our mail center, which was a segregated component of the department that was in the basement of our building. That is where all applications are stamped prior to being processed upstairs. Once they are stamped downstairs so that they can be tallied in terms of how many there are, the date is affixed to the application and they are sorted and they're batched, what we call batching, so we can index them and distribute the work on the floor.

Once that process is completed in the basement component, it is then sent to the upstairs component where the keying process takes place and distribution work occurs. That was done on a daily basis for our election from anywhere from September until the election week itself. We were working from 6 AM to 11 PM each day. Eleven was the cutoff time because the registration system for the Secretary of State's office shuts down at 11

PM. Se we had staff that were working on a daily basis as early as 6 AM every day keying in applications.

And that process continued as it relates to the keying of registration applications. And that is how registration applications are keyed into the system and that process continued for our department throughout the election.

MR. HARVEY: Were you aware that there were occasions where the Secretary of State's office had to call and ask for pickup of the voter registration applications because they had not been done in more than a day?

MS. MITCHELL: Mr. Jones is going to respond to that component.

MR. JONES: Yes. I was aware. We had one occasion whereby when my people went to pick up the boxes, they went and picked up two. They did not see the other three that were available, so what happened was that I told them to go back the next day and pick up the rest of the applications. Yes. It did happen one occasion whereby we were not able to pick up anything at that time. Yes.

MR. HARVEY: Were you also aware that workers from Fulton County told Secretary of State's employees that they weren't taking more than two boxes at a time?

MR. JONES: No. I'm not aware of that statement.

MR. HARVEY: When did the first wave of voter registration applications sort of hit Fulton County? What point in time?

MR. JONES: Well, obviously on October 9th we got an onslaught because everybody came in person to register to vote since it was the last day. So what we did is that we had stopped all data entry on October 9th, majority, so we can process the numerous people who have come in. I think it was around 700 people came in on October 9th alone in person to come in to register to vote at that time.

MR. HARVEY: That's registering in the office?

MR. SMITH: That's correct.

MS. MITCHELL: For that particular day, also, Mr. Harvey, we actually extended our hours for voter registration for Fulton County. We also kept our office open until 8 PM so that we could accommodate the various groups. We had a number of voter registration groups. One of the things that Fulton County also did is we had a number of deputy registrars that registered voters for us as partners with us and registration activities throughout the county. And a number of those individuals were bringing their registration applications to our office on the book closing date. We extended our offices on that day as well.

MR. HARVEY: On or around October 9th, was there an existing backlog or an existing set of applications pending in Fulton County?

MR. JONES: Well --

MR. HARVEY: Let me stop you for a second --

MR. JONES: If it was a backlog, it was probably about two or three days behind. We were probably never 100% caught up at the time of applications being existing because it's an ongoing thing.

MR. HARVEY: So approximately two to three days.

And for the purposes of the court reporter, when you answer a question, would you say your name so the record would reflect who's speaking. I'll try to do a better job with framing the question, although I don't know sometime who's got the best answer.

At what point did you realize the voter registration applications were going to overwhelm your staff; your staff's ability to put them in in a timely manner?

MS. MITCHELL: The department had an actual plan for keying of applications that included the use of both temporary employees and County employees. The Department in collaboration with the County manager's office had developed something we referred to as a strike plan, where we had planned to utilize County employees to augment our staff as part of this process. That plan was activated as early as September when we had County come into the office three or four days a week and most of the evening hours. Many of them started at 2 PM in the afternoon and they assisted our staff as relates to the keying in of applications.

We also had staff at our outlying sites. We have two locations, a north location and a south locations. They were also keying applications in and that was part of their process as well.

So we believe we had an actual plan that allowed us to have the number of individuals who were capable of assisting us during the peak period that we anticipated from our historical data, the 2008 election. We saw that there were certain windows after the book closing that you have applications increase.

So we believe that we had a plan that had the proper staffing levels to accommodate those kinds of increases.

MR. HARVEY: And at what point did you realize that was not going to be sufficient?

MS. MITCHELL: We didn't feel that we had a point that it wasn't going to be sufficient. We believe that we were following the plan laid out. A secondary component of the plan allowed us to bring in additional temporary employees at a certain period of time and that aspect of the plan was activated as well.

MR. HARVEY: But the fact that there were 6000 to 9000 people on the supplemental list would indicate that were six to nine thousand the did not get entered by the time of the close of the express poll; is that correct?

MS. MITCHELL: Let me speak to that now. As it relate -- and I would like to correct that record that we did not have 9000 on the supplemental list. Our numbers indicated that we had 6635 names on the list and our data also reflects that roughly 3800 of those applications came between the week of October 21st and October 29th from the Secretary of State's office. So a portion of the names that you see on the supplemental list are the applications that were received during that period of time.

MR. HARVEY: Was there any kind of prioritization for voter registration applications that came in, new registrations versus address changes, name changes? Any type of triage of the voter registration applications?

MS. MITCHELL: That is correct. We did triage the applications so that new registered voters could be entered into the system and receive priority, or because the early voting

process started on October 15th, just a few days after the book closing of October 9th.

MR. HARVEY: Did you have a plan for dealing with applications that came in after the deadline that may have been submitted on October 15th, dated October 15th, but were not going to be eligible for the election? Did you have a process to screen those out?

MS. MITCHELL: Yes, we did. We had a memorandum that was received from the Secretary of State's office that reflected anything that had October 12th from the Secretary of State's office was considered as on time. Our staff in the mail room, as I described the previous process, the mailroom operation is the first organization that touches the application. So those applications that did not follow that process did not even come up to the area to be keyed; they never entered that area. They were segregated at that point.

MR. HARVEY: Okay. So the triage system would have weeded out the past date and they would have never even made it to data entry?

MS. MITCHELL: That is correct.

MR. HARVEY: Okay.

SECRETARY KEMP: Mr. Harvey, while you pause, let me ask a quick question of Ms. Mitchell. I believe you just stated that you never felt like you were overwhelmed with the voter registration forms come in; is that correct?

MS. MITCHELL: My statement was we felt we had a plan that would address those issues.

SECRETARY KEMP: I believe in Mr. Walbert's opening statement he was making the point that you were overwhelmed and I was just wondering, I think you also mentioned that you looked at back at '08 numbers and the rush and I'm sure can compare the same time frame in 2008 versus 2012. Do you happen to know what those numbers are?

MS. MITCHELL: I can tell you the total for that period. In 2008 we received a total of 239,582 applications. In 2012 we received 193,432.

SECRETARY KEMP: So you had more in 2008 than you had in 2012?

MS. MITCHELL: In terms of the total accumulation, that is correct.

SECRETARY KEMP: So from a historical perspective you would have been able to look back and really known what was going to be coming at you for this election to keep you from being overwhelmed. Wouldn't that be a fair statement?

MS. MITCHELL: We do review historical data. Yes, sir.

SECRETARY KEMP: Right. And therefore, if you had been prepared for that, I assume you would have met the voter registration deadlines and wouldn't have had to be entering people up until the last weekend before the election.

MS. MITCHELL: A key component of that is when you receive the applications. Part of our process had us receiving applications at the point of time the week before the election from the Secretary of State's office.

SECRETARY KEMP: So did you review the historical data when you received them in 2008 -- it would seem to me there was -- I know in our office, we knew after, you know, right bumping up to the deadline there was going to be a big rush. I think every county does. I'm trying to get to the point whether if you look back for that, then it seems like you would have been able to handle that volume and met the deadlines before the election.

MS. MITCHELL: We didn't look at the period of time when applications were received. We saw them in their entirety. Staffing considerations did take that into consideration.

SECRETARY KEMP: Okay. Mr. Harvey, do we have a clarification on the 9000 versus the 6000?

MR. HARVEY: No. This is the first actual number we've gotten from Fulton County; specific number. They did indicate earlier that it was approximately 6000. The 9000 is what our office is showing. We can -- as part of our continuing investigation, we can determine what that is.

SECRETARY KEMP: Very good. We'll continue.

MR. HARVEY: Ms. Mitchell, I've got copies of three voter registration histories that show individuals that registered after registration date, were entered on the 31st of October and the 29th of October, all of which were entered into the system and all of whom were allowed to vote and their votes counted. How would that get through the system?

MR. WALBERT: Would you show the documents are referring to?

MR. HARVEY: Sure. I have redacted the specific information on the voters, but the dates are underlined.

MR. JONES: We will probably have to pull the individual card to determine what happened. It could have been numerous reasons, though.

MR. HARVEY: Is my evaluation correct that the registration date was after the cutoff; they were entered late in the system and that they actually cast a ballot?

MR. JONES: With the information that's on the screen, the registration date is afterwards.

MR. HARVEY: Anything else that strikes you about that, Ms. Mitchell?

MS. MITCHELL: No, without seeing the other components of the document. It's just a screen printed, so . . .

MR. HARVEY: Could you pass those documents to the desk, here, please. Thank you.

MS. Mitchell, it's correct that you notified the investigators from the Secretary of State's office on Monday, November 6th that all the voter registration applications had been entered into the system, correct?

MS. MITCHELL: I don't recall that.

MR. HARVEY: You don't recall meeting with Ms. Jones and telling her that?

MS. MITCHELL: When she came into the office, you mean?

MR. HARVEY: Yes, ma'am.

MS. MITCHELL: Yes. Then if you're speaking of her, yes.

MR. HARVEY: In fact, weren't there two to three hundred voter registration applications that had to be entered on Monday due to an oversight in your office?

MS. MITCHELL: We indicated that to her, as well.

MR. HARVEY: So two or three hundred that were entered into the VR system on the day before the election?

MS. MITCHELL: That's correct.

MR. HARVEY: How would those two to three hundred voters' names get into the system where they will be able to vote if they showed up that the precinct? Because they're not going to be in express poll; the supplemental list has already gone out, which we'll get to in a minute. How were those two to three hundred people going to be able to vote on Tuesday?

MR. BROWER: Dwight Brower speaking. Yes, if those voters appeared at the poll to vote and the poll manager was unable to find their names on the express poll or the supplemental list, they typically would call our office and verify that that person is in fact authorized to vote and we would give the poll manager permission to go ahead and allow him or her to cast their ballot.

MR. HARVEY: Were you able to go back and find any voter registration applications after the election that should have been accepted before the election? They were either not accepted or not entered into the system for people that had their applications submitted in time?

MR. JONES: Not that I know of.

MR. HARVEY: Let's talk about the supplemental list for a minute. Ms. Mitchell or Mr. Brower, whoever is best able to answer, can you explain the process for distributing the supplemental list and how it's used by the poll managers?

MR. BROWER: The supplemental list is typically generated and it's delivered to what we call our election preparation center. Generally we receive that on the Saturday prior to the election. We will actually pack that supplemental list in the express poll case because the express poll operator is normally the person that would use that supplemental list. On the following Sunday, that's our Sunday pickup for poll managers. They will actually report to the election preparation center where they receive their, we call them Sunday election supplies. The poll manager then will take the supplemental list to the polls with him or her on the Monday when they're doing set-up, or on the Tuesday when they actually deliver the express poll case to the precinct.

MR. HARVEY: So the only way to get is if it's given by the election office, correct?

MR. BROWER: That's correct.

MR. HARVEY: Are you aware of any precincts that did not receive a supplemental list?

MR. BROWER: We are not aware of any that did not receive supplemental list. We did have two that received their supplemental list a little later than they should have.

MR. HARVEY: Okay. Let me correct the question. Any that did not have their supplemental list when the polls opened on Tuesday morning?

MR. BROWER: That's correct. We had two precincts. I think RW22 and I think it was SS14.

MR. HARVEY: And what happened there?

MR. BROWER: The poll -- the driver -- during the time that the poll manager was picking up their supplemental list, they were not included in their items and they were instructed to deliver them the following day.

MR. HARVEY: Do you know approximately what time the lists were delivered to those two precincts?

MR. BROWER: About 11 a.m.

MR. HARVEY: So four hours after voting started?

MR. BROWER: That's correct. About four hours after voting started.

MR. HARVEY: Do you have any idea how many voters were affected by that?

MR. BROWER: There was 261. We ran a query to see the time period between the opening of the polls and (unintelligible) about 261 voters that could have potentially been affected. Because 261 people had actually cast their ballots (unintelligible).

MR. HARVEY: So you're saying 261 people had to vote provisional ballots?

MR. BROWER: Negative. Two hundred sixty-one people had cast their ballots at the poll during that time period, from 7 a.m. until about 11 a.m.

MR. HARVEY: I understand. Were there any precincts that did not need a supplemental list, or did every precinct have a supplemental list?

MR. BROWER: It is my understanding that every precinct did in fact receive a supplemental list.

MR. HARVEY: Were any supplemental lists printed on election day and delivered to precincts?

MR. BROWER: No. There were no supplemental lists actually printed on election day delivered to the precinct.

MR. HARVEY: I think it has been answered. This supplemental list was definitely larger than it has been in the past?

MR. BROWER: They were more names on the list than there typically is.

MR. HARVEY: Moving to another area, something that happened right before the Fulton County general election. In early November --

SECRETARY KEMP: Mr. Harvey, let me just see if the Board has any questions? Anybody?

MR. WORLEY: I had a question of Ms. Mitchell. How many people were actually hired, or how many people were actually entering the voter applications in this period in October?

MS. MITCHELL: Probably about 40 people.

SECRETARY KEMP: Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey.

MR. HARVEY: Ms. Mitchell, shortly before the November election, I believe in late October, did the Fulton County Board of Elections and Registration decide to place voters in a pending status based on a concern for addresses?

MS. MITCHELL: Well, they determined they wanted to know who the individuals were from the previous housing project. Yes, sir.

MR. HARVEY: Could you explain that a little bit more?

MS. MITCHELL: There was an issue back in May, June of 2012 as it related to identifying individuals who were voters that were registered at addresses that we indicated no longer existed at previous housing projects and the Board members wanted to be able to identify those individuals for the upcoming election.

MR. HARVEY: So how were they going to be identified?

MS. MITCHELL: That's how the pending status component was used to identify who those individuals were.

MR. HARVEY: So their voter registration status was changed?

MS. MITCHELL: Not changed in the sense that you change the ability for them to vote. The pending status was just a flag that was being used for that purpose.

MR. HARVEY: What would have happened if a pending voter had showed up to vote?

MS. MITCHELL: Mr. Jones will answer that component.

MR. JONES: The idea was that when a pending person comes up, then the poll worker would then investigate it further to see what happened to this voter. Then we would allow the person to vote as long as they gave a legitimate address at that time.

SECRETARY KEMP: Mr. Harvey, I have a question. If that scenario came up multiple times on election day, I guess that would attribute to long lines holding the process up?

MS. MITCHELL: No, sir, Mr. Kemp. One of the components as relates to the pending status that we're referring to, that was a -- that took place on November 2nd. The express poll had already been downloaded on October 25th, so that was not appearing on the express poll document.

SECRETARY KEMP: Thank you.

MR. HARVEY: But is it correct that that was as a result of a communication you had with the Secretary of State's office to not keep their status in pending?

MS. MITCHELL: I can't remember the period of time, but we did have a conversation with the Secretary of State's office; yes, sir.

MR. HARVEY: So the plan was to put the people in pending status, have them show up at the polls, and then have the poll worker determine whether or not they could prove their residency in order to cast a vote?

MS. MITCHELL: That was the intent.

MR. HARVEY: If they couldn't prove their identity -- I'm sorry, their address to the satisfaction of the poll worker, what would happen?

MR. JONES: The voter was going to fill out a new card and vote provisionally at the time so we would have another way to track down those particular voters.

MR. HARVEY: So you were essentially going to make all poll workers registrars to determine whether or not somebody was sufficiently registered to cast a ballot?

MR. JONES: No. What we were doing was identifying the people to see -- make sure that the voter would have the right to vote a provisional ballot at that time so at a later time we could investigate to see what happened to the voter.

MR. HARVEY: What was the legal basis for changing someone's voter registration status?

MR. WALBERT: They testified they didn't change the voter registration status. I think we can quibble about the law here of what's going on and so on, but I object to that question. It's just asking them to assume exactly what they testified didn't happen.

SECRETARY KEMP: You want to restate the question, Mr. Harvey.

MR. HARVEY: Well, as it turned out, you had communication with our office, Ms. Mitchell, where the law was pointed out that there was, in fact, no legal justification for doing that, correct?

MS. MITCHELL: Yes. I had conversations as it relates to what pending status actually meant in the context of the law. That is correct.

SECRETARY KEMP: So, Mr. Harvey, the point you're trying to make is the Board was moving forward with something that essentially would have been illegal in that timeframe before the election, and that decision was reversed once the elections division contacted the elections office; is that what you're --

MR. HARVEY: I think that's a good summary.

But at one point the voter's status was actually changed to pending. Who changed the voter's status? Who actually processed those changes?

MR. JONES: One of our workers, Ms. Wright.

MR. HARVEY: And how many voters were put in pending status?

MR. JONES: I have no idea. I don't know the approximate number.

MR. HARVEY: Not even an approximation?

MS. MITCHELL: My recollection is about 1000 voters.

MR. HARVEY: About 1000. So she put them in all in pending. Who took them out of pending?

MR. JONES: Ms. Wright took them out of pending status.

MR. HARVEY: Are you aware there were 636 voters still in pending status on November 6th?

MR. JONES: I am not aware of the ones that were left behind, if there were any.

SECRETARY KEMP: So if the ones that were left behind had gone to vote and they were in pending status, they would have had to do a voter registration card and then vote a provisional ballot?

MR. JONES: What happened was, since the express poll was pulled already, it wouldn't have had no effect on the situation on election day. So the person would go ahead and just vote. Pending was not applicable to the election because of the -- since the express poll was pulled already. Once the express polls were pulled, the voter was in active or inactive status at that particular time. So it was a null and void to put them in pending status.

MR. HARVEY: At this point, I would like to move into some of the problems that occurred at the precincts on election day. As I said, our office received over 100 complaints of various issues on election day. I've got some questions about how your office responded.

How were poll workers able to communicate with the main office on election day if they had an issue or problem or they needed help? What kinds of means of communication did you have?

MR. BROWER: We provide each poll manager a list of telephone numbers and

numbers designated for specific issues. We provide the numbers for supplies if they had a supply issue; a number for helpdesk if they have a technical issue; and a number for registration status if they need to verify a voter registration status. We set up a call center with multiple lines for them to be able to call in (unintelligible) issues on election day.

MR. HARVEY: How would you evaluate the performance of the support that poll managers and poll workers got on election day from the main office?

MR. BROWER: I think the support was good.

MR. HARVEY: It was good. Okay. I think we've answered this, but I'll ask again. Were you informed on election day that there were poll workers that were refusing provisional ballots to voters?

MR. BROWER: I heard the comment, but I was not aware, especially considering that we initially sent out over 18,350 ballots. No precinct received less than 50 provisional ballots initially. When I say sent out, the managers themselves picked those up as part of their Sunday issue.

MR. HARVEY: So they received provisional ballots as part of their regular equipment?

MR. BROWER: Absolutely.

MR. HARVEY: Would it be safe to say that you were sort of the operations director on election day?

MR. BROWER: That's probably true.

MR. HARVEY: And you didn't receive any reports of people not being able to vote provisional ballots?

MR. BROWER: I received reports that precincts had ran out of provisional ballots and, of course, we were replacing those; replenishing those.

MR. HARVEY: But no reports that people were refused a provisional ballot?

MR. BROWER: No. No reports of anyone. It's pretty much standard policy in our

county that if a voter insists on a provisional ballot, we give them one and sort it out later.

MR. HARVEY: What was the replacement time on provisional ballots? If a precinct called and said, we're running out, how long would it normally take to restock that precinct?

MR. BROWER: It varies. Fulton County is about 70 miles long. It depends on the location. We print our own ballots, so that certainly helped. But to give you an average time, would depend on the location of the precinct.

MR. HARVEY: From the complaints you heard this morning, the three or four that I read, would waits of four to five hours for provisional ballots be something you were familiar with on election day?

MR. BROWER: Not at all. I would say that's a pretty lengthy amount of time to print a provisional ballot and get it to a polling location.

MR. HARVEY: How many vehicles did you have delivering provisional ballots?

MR. BROWER: We have 40 vehicles on the road. If there is a need for provisional ballots, we will have a vehicle come in and actually pick those up and make the distribution.

MR. HARVEY: Approximately how many precincts called and said they needed provisional ballots?

MR. BROWER: I think I had a list of about 19, I think it was.

MR. HARVEY: Nineteen precincts?

MR. BROWER: Yes.

MR. HARVEY: How many precincts could be printed at a time for provisional ballots?

MR. BROWER: Actually three, I guess. We've got three different locations that we print -- I mean, three machines that we can print from.

MR. HARVEY: Some of the reports we had and some of the complaints you heard earlier reported six provisional ballots were delivered to a precinct at a time. Were you given specific numbers? Did you send more? Was there an average number of ballots you provided based on the precinct, or based on the complaints?

MR. BROWER: Typically we did not send out less than 25. Now, there may have been an occasion, if a precinct were nearby and they say they ran out of ballots, we had some residual provisionals left over from early voting. They may have grabbed 10 or so or of what was left there to keep them going (unintelligible). But typically we distributed at least 25 provisional ballots and in some cases, more than that on election day.

MR. HARVEY: Now, when we spoke in December, we mentioned a precinct where one of our investigators, actually, two of our investigators were present and saw people waiting in excess of four hours for provisional ballots, and were, in fact, being told by poll workers you may want to try another polling place because we've been waiting for hours.

There have also been stories -- I believe the lady that spoke earlier today said that people had been waiting and an insufficient number of provisional ballots were delivered. Were you aware of -- Venetia Hills was the precinct that I was specifically referring to with our staff there. Did you get any calls from Venetia Hills on election day?

MR. BROWER: We did make -- issue additional ballots for Venetia Hills. We also talked with the poll manager there who indicated that no one came there and was there for four to five hours waiting for a provisional ballot.

MR. HARVEY: What about Adamsville precinct?

MR. BROWER: Adamsville precinct, Adamsville recreation center is an early voting site. They did run out of provisional ballots. Oftentimes voters think, just as on early voting days, they can go anyplace and vote. So that being a very active, if you will, early voting site, we did have a lot of people that was not registered in that precinct to actually come there. In some cases, people out of the County who stated that they were registered and we subsequently found out that they were not, cast a provisional ballot.

MR. HARVEY: How many calls did your office receive about equipment failures that either stopped or significantly slowed voting, whether express poll with DRE's,

something like that?

MR. BROWER: I don't know the number. We did receive calls for, in some cases express polls actually not operating, and we did receive a couple of calls in reference to TS units.

MR. HARVEY: How did you respond to that? Did you have a team set up?

MR. BROWER: We have a team of technicians that have an area coverage. They are in vehicles. They call into our IT help desk, and from there we actually -- IT help desk dispatched the technician responsible for that area and dispatch (unintelligible).

MR. HARVEY: Do you know how many precincts did not open on time in Fulton County on November 6?

MR. BROWER: I do not know of any precinct that did not open on time on the November 6 election.

MR. HARVEY: Would a poll manager report if they didn't open on time if they didn't, or how would you know?

MR. BROWER: We have a system whereby at 6:00 in the morning we require poll managers to call and tell us, hey, I'm here; I'm in the precinct. Our procedure is that if a poll is not going to open on time, we require poll manager to notify us immediately.

MR. HARVEY: Were any court orders sought or issued to extend polling hours past 7:00?

MR. BROWER: Not on election day.

MR. HARVEY: Were poll workers given guidance about -- was your office asked about allowing people to vote provisional ballots after the precinct had closed after we heard in some of the complaints?

MR. BROWER: I don't recall receiving a call from anyone asking to extend the hours for provisional voters.

MR. HARVEY: So if somebody was voting a provisional ballot at 7:20, the ballot arrived after 7:00, would that be something you considered appropriate or inappropriate?

MR. BROWER: If the poll is still open and the voter was in the poll by 7 PM, yes, I wouldn't see where that would be inappropriate.

MR. HARVEY: So they could stay until 8 or 9:30 to vote provisional ballots as long as they were there by 7:00?

MR. BROWER: As I understand the law, the voter is in the poll by 7 PM, we have to service him or her.

MR. HARVEY: Did your office make any special exceptions for celebrities or dignitaries to vote in advance or on special occasions?

MR. BROWER: We did receive a call, you know. In the interest of avoiding a media scene or media circus, in some cases, yes, and in one case particular during this election. Our goal was to get the person in, get them voted, get them out the precinct.

MR. HARVEY: At any point where authorizations given to the press to film or photograph inside precincts at management level, your level or Ms. Mitchell's level, that a poll manager might not be aware of?

MR. BROWER: No.

MR. HARVEY: So any permission would come from the poll manager or would they have to request approval from you? Let's say a news camera showed up at precinct 1A and the poll manager said, I don't know if I'm going to allow you, what would be the process that the manager would use?

MR. BROWER: Typically, the first call go to our communications department if the media wants to go to this or that poll to actually get some footage. And normally our communications department would notify us and we, in turn, would call the poll manager and say (unintelligible).

MR. HARVEY: So the poll manager would know about that.

MR. BROWER: Right.

MR. HARVEY: I'm going to read you some complaints. I would like to get your reaction as to whether or not you got any report of this on November 6th.

That people were not allowed to vote because the drivers license on their -- I'm sorry -- the address on their drivers license was different than their registered voting address.

MR. BROWER: No reports of that.

MR. HARVEY: No reports.

MR. BROWER: I did not.

MR. HARVEY: And if anybody else did, feel free to speak up.

A voter who was told they had requested an absentee ballot, which the voter denied, and then the voter was forced to vote a provisional ballot.

(Whereupon, there was no response)

MR. HARVEY: I think we talked about excessively long lines in excess of three or four hours due to difficulties involving some of the equipment. Do you know how many calls you got about long lines?

MR. BROWER: We have a call center database that outlines that. But, no. I did not remember receiving a call myself saying the lines were (unintelligible).

MR. HARVEY: How did you get updated on specific issues. Now, Mr. Smith talked about this command center that was supposed to put the issues up on the screen where everybody could presumably see if a precinct was running out of provisional ballots. Everybody would know and be able to react. How did you get your information? Were you emailed, were you texted? How did you ---- how would you know if there was an issue?

MR. BROWER: Typically I'll get a call.

MR. HARVEY: From who?

MR. BROWER: Typically from a poll worker him or herself, or from a citizen. And sometime from your office, the Secretary of State's office.

MR. HARVEY: But did you have any comprehensive way to see what was going on? If someone did not have your telephone number, how would you know if there was a significant issue somewhere in North Fulton County or South Fulton County?

MR. BROWER: In our call center we had, you know, training was that if certain events occurred, that they would actually escalate it up the chain of command.

MR. HARVEY: And at what point did they come to you?

MR. BROWER: Typically if something was going to stop the operations in the poll; all of the express polls are down; in some cases, a poll that had completely exhausted all of their provisional ballots, something like that; power outage.

MR. HARVEY: I think you've answered this, or somebody has answered this before, but you didn't receive any complaints about people being refuse provisional ballots?

MR. BROWER: I did not.

MR. HARVEY: And nobody else did, either?

(Whereupon, there was no response)

MR. HARVEY: Any complaints about illegal campaigning in polling places; people wearing shirts or otherwise illegal campaigning materials?

MR. BROWER: I did get -- I don't recall the call, but I was informed there was a polling place, and I think it was during early voting, that a person there to vote actually was wearing campaign apparel.

MR. HARVEY: Do you know how your staff responded to that?

MR. BROWER: I think we was informed after-the-fact. I think it got that through one

of the Board members, the allegation that some member of the staff was wearing campaign wear.

MR. HARVEY: And I think you said before that about 14 precincts ran out of provisional ballots you had to replenish?

MR. BROWER: It was 19.

MR. HARVEY: Nineteen. Where were the provisional ballots being printed physically?

MR. BROWER: Two locations, I think. One from the basement of our building at 141 Pryor Street, and then out at the election preparation center on (unintelligible) Street.

MR. HARVEY: Did you get complaints that polling places were unorganized in directions?

MR. BROWER: I think I saw that -- I did not get a complaint. I saw that in the list of complaints that you provided; yes.

MR. HARVEY: And you said you didn't get any complaints a polling place didn't open on time?

MR. BROWER: That's correct.

MR. HARVEY: Did you receive any letters from poll workers or poll managers after the election expressing frustration with your office in terms of support and performance on November 6th?

MR. BROWER: I received two, I think.

MR. HARVEY: What were the nature of those letters?

MR. BROWER: They just talked about the whole election process. One, specifically, entire election process and the fact that -- I mean, just the personal sentiments in terms of training -- the format of training, the fact that they felt that we should update our poll workers manual. But you know, I -- and we take all of those seriously. We look at them

and evaluate them. But some poll workers (unintelligible).

MR. HARVEY: Ms. Mitchell --

MR. BROWER: If I could mention one thing, we did -- after this election we sent out a survey to all of our poll managers and surveyed them and the results were overwhelmingly positive in terms of training and in terms of, you know, what we queried them to make sure they had the professionals, they got their supplemental lists, etc.

MR. HARVEY: And you mentioned the list that you had seen with the directionless poll workers that was on the list that I sent you.

MR. BROWER: That's correct.

MR. HARVEY: So we did send you the list of about 120 complaints, specific complaints that we have back in December, I believe.

MR. BROWER: That's correct.

MR. HARVEY: And we asked for some report on those allegations.

MR. BROWER: You did. The information that we had, you have to have telephone numbers or some way to contact these people. In some cases, it's a registration number. No way to contact them other than by mail.

MR. HARVEY: Have you contacted any of those people?

MR. BROWER: I have not at this point in time.

MR. HARVEY: Do you intend to?

MR. BROWER: Eventually.

MR. HARVEY: Mr. Secretary, this might be a good time to take a break.

SECRETARY KEMP: It's 20 minutes to 12, so do you want to go ahead and break for lunch early?

MR. HARVEY: The next segment is going to be fairly extensive, so I think it would be better to break early, and not to get 20 minutes into this and then stop.

SECRETARY KEMP: Okay. We'll go ahead and take a break for lunch.

MR. WILLARD: Mr. Secretary?

SECRETARY KEMP: Yes.

MR. WILLARD: Would it be permissible, I have a question that touches on the area we just talked about. Would you rather me hold that until after lunch?

SECRETARY KEMP: No. Go ahead.

MR. WILLARD: Mr. Jones, I have a question for you regarding an earlier answer that you gave that bridges both the supplemental list as well as what took place on election day. You described the process for the voters that have been placed in pending status or were not found in either express poll or on the supplemental list. They would call the main office and get confirmation of their registration information over the phone. Is that an accurate statement of what you testified earlier?

MR. JONES: Yes. It is.

MR. WILLARD: All right. First, what procedure was in place for those voters to verify their eligibility at the precinct level beyond just determining that they were registered?

MR. JONES: Well, as I said that once we thought about the plan in detail, they wouldn't have been able to identify them at the polls (unintelligible) because the express poll had already been pulled at that time. So that's why we went ahead and said let's put them back along with the evidence of Secretary of State calling my office, to put them back in their rightful status.

MR. WILLARD: But they would not show up on any list that the local precincts had?

MR. JONES: That is correct.

MR. WALBERT: You mean the express list?

MR. WILLARD: In the express poll list, or based on his testimony, I don't believe they were in a supplemental list, either.

MR. WALBERT: (Unintelligible) express list and not so flagged, is what I understood.

MS. MITCHELL: That's correct.

MR. WILLARD: No, because the list had been closed at that point is what I think the testimony was. And that's why I'm asking.

MR. WALBERT: Understand. Go ahead.

MR. WILLARD: So they would not have been on either express poll or the supplemental list?

MR. JONES: That is correct.

MR. WILLARD: What I'm asking you first is what sort of mechanism did you have in place for the poll workers to verify their eligibility through the presentation of their identification, through execution of a voter certificate -- were they handled at that point like a regular voter who have been found in express poll?

MR. JONES: That's correct.

MR. WILLARD: All right. Second question, what mechanism did you have in place to check them off as having voted like a worker would have if they had tagged them as having voted in the express poll system.

MR. JONES: Let me make sure I understand your question.

MR. WILLARD: I'm saying how did you know if Mr. Walbert came in, he was on the list, they called your office and said Mr. Walbert is a registered voter and we're going to allow him to vote. What system did you have in place to track that Mr. Walbert had cast a ballot?

MR. JONES: We didn't. There was no system in place because we didn't have a way to flag it down at that particular time.

MR. WILLARD: So you had no system in place that would have prevented Mr. Walbert from voting multiple times at a particular location or, as Mr. Walbert testified earlier, it was your --

MR. JONES: He would have to go through the proper procedures as to register to vote as far as bringing his ID to vote.

MR. WILLARD: I understand that. But if he comes in at 7:30 in the morning and casts a ballot, and then comes back at 4:00 that afternoon --

MR. JONES: He would have been marked at 7:30 in the morning so when he came back at --

MR. WILLARD: On what. That's what I'm asking.

MR. JONES: Oh. On express poll.

MR. WILLARD: He's not in express poll.

MR. JONES: Yes, he is.

SECRETARY KEMP: You just said he wasn't in.

MR. WILLARD: If he is one of the pending voters --

MR. JONES: Oh; oh; okay; okay. I'm with you now. I'm with you. Yeah.

MR. WILLARD: So I'm asking what procedure you had in place to ensure that a pending voter did not vote more than one time either at the same precinct or, as **Mr. Walbert** testified in his remarks earlier, if somebody showed up at a precinct that was not their own, what stopped him from voting at multiple locations?

MR. JONES: If a person is pending status they would have to vote a provisional and they would have to vote multiple provisionals and we would catch it on the back end

having seen that they had multiple provisionals.

MR. WILLARD: So it is your testimony that if they called the central office -- because I was led to believe earlier that they were actually casting a ballot on the DRE machine. But instructed them at that point for the pending voter that they were only allowed to cast a provisional ballot?

MR. JONES: Correct.

MR. WILLARD: That's all, Mr. Secretary.

SECRETARY KEMP: Anybody else on the Board have any questions, or anything?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Willard, have we got anything for executive session?

MR. WILLARD: Not unless the Board wishes to discuss anything, Mr. Secretary.

SECRETARY KEMP: Okay. We've got one announcement we want to make real quick before we break for lunch. I again apologize for the location of today's meeting. Because the Legislature is in, we just couldn't get a bigger room in the Capitol or in the legislative office building. So we're going to try to just have an orderly process here.

STAFF MEMBER: Mr. Secretary, you all can exit if you want and then I will address the crowd. What time are you going to open it back up to start again?

SECRETARY KEMP: We will go ahead and adjourn for a break for lunch. It's a quarter to 12. We'll just come back here at quarter to 1 and resume the hearing. Thank you.

- - -

(Whereupon, the proceedings were in recess)

- - -

SECRETARY KEMP: We're ready to resume the special called meeting for January 31, 2013. Mr. Harvey.

MR. HARVEY: Thank you, Mr. Secretary. We heard a lot of talk in the first part of the meeting about provisional ballots and provisional ballots being -- running out of provisional ballots and provisional ballots being restocked and provisional ballots being offered to voters. The issue of provisional ballots, as I think the members of the Fulton County election office would agree, is that is the last chance a voter has of casting a ballot. That's sort of a lifeboat. That gives a voter an opportunity to vote if he or she is not found anywhere else.

I want to spend some time talking with the election officials about the provisional ballot process in Fulton County, and I would start with Ms. Mitchell.

Ms. Mitchell, do you know if all of the voters who voted ballots in Fulton County that were rejected, have they all been notified that their ballots have been rejected?

MS. MITCHELL: Yes, sir; they had.

MR. HARVEY: That's duplicated and rejected?

MS. MITCHELL: Yes, sir.

MR. HARVEY: Have you gotten any calls or complaints from people that their ballots were improperly rejected?

MS. MITCHELL: We have received calls. Mr. Jones, the registration manager, has handled many of those calls.

MR. HARVEY: Mr. Jones how many have you received about provisional ballots being rejected?

MR. JONES: I know of four so far.

MR. HARVEY: And has there been an outcome determined for these four?

MR. JONES: The four that we investigated, they were all legitimate rejections at the

time.

MR. HARVEY: So they were all properly rejected?

MR. JONES: That is correct.

MR. HARVEY: Mr. Jones, would you be the best person to explain the process a person goes through to vote a provisional ballot?

MR. JONES: The process to go through?

MR. HARVEY: Well, when a voter goes to the poll and is told you can vote a provisional ballot, what is the poll worker supposed to do, and what is the voter supposed to do?

MR. BROWER: The process is if a voter arrives at the poll and is required to vote a provisional ballot, the voter will be so notified. They will actually provide the voter the ballot with the secrecy envelope. We would also give the voter instructions as to what he or she may do to verify if a document is required; the time and location that they would report to actually provide that documentation to sustain their vote.

MR. HARVEY: So the voter is provided written documentation about how they can verify the status of their vote?

MR. BROWER: That's correct.

MR. HARVEY: Was that done in every case in Fulton County?

MR. BROWER: Yes, sir. Every voter is supposed to get that document; every provisional voter.

MR. HARVEY: I understand they're supposed to. Are you aware of any situations when you were running out of provisional ballots, were you able to restock with the written notices, as well?

MR. BROWER: Part of our restocking is that we also take out all of the associated documentation with the provisional ballots.

MR. HARVEY: How many new voter registration applications have you all processed or received as a result of provisional voting, and will you explain why somebody would have a voter registration application with a provisional ballot?

MR. JONES: Provisional voter registration applications, we received approximately 2000 of them at that particular time.

MR. HARVEY: So 2000 from the general election?

MR. JONES: That is correct.

MR. HARVEY: And what are the circumstances where somebody would have to complete a voter registration application when voting a provisional ballot?

MS. COLEMAN: Usually the voter who has to vote PR, meaning one of the provisional codes, that person usually does have to complete a voter registration application and that is to fix the situation because we don't want them to come to another election and they're still in that status. So the code PR person becomes registered.

MR. HARVEY: And explain what code PR means.

MS. COLEMAN: Code PR stands for prior registration where the voter will say -- if their name is not the express poll, they will insist that they get registered to vote prior to election day.

MR. HARVEY: So somebody who says not in express poll or on the supplemental list, correct?

MS. COLEMAN: Correct.

MR. HARVEY: So if they are not in either and they assert that they have properly registered to vote, they are allowed to vote provisionally, but they have to complete a voter registration application?

MS. COLEMAN: That is correct.

MR. HARVEY: Any other circumstance where somebody would need to complete a voter registration application when casting a provisional ballot?

MS. COLEMAN: Pretty much, it's code PR.

MR. HARVEY: How many provisional ballots were voted in Fulton County on November 6?

MS. MITCHELL: The number we have is 9575 were cast.

MR. HARVEY: How many of those were under code PR?

MS. MITCHELL: The code PR we have is 2824.

MR. HARVEY: Could you give the breakdown of the other --

MS. MITCHELL: Mr. Jones is going to explain --

MR. JONES: I don't have the numbers in front of me. I'm sorry I didn't bring that. But out of the 9000, the majority of them -- 90% of them was PR.

MR. HARVEY: Okay. The records we have indicate there were 9429 provisional ballots with the PR status. Does that sound about right?

MR. JONES: Yes.

MR. HARVEY: If that is the case, why were there only approximately 2000 voter registration applications?

MS. MITCHELL: Can you repeat the question?

MR. HARVEY: Yes. If there were 9429 PR provisional ballots which required a new voter registration application, why were there only approximately 2000 voter registration applications processed?

MS. MITCHELL: Of the 9575 that we identified, 5101 were accepted provisionals, and 4474 were rejected applications.

MR. HARVEY: I understand that. That's not what I asked.

MS. MITCHELL: Okay.

MR. HARVEY: You received 9429 provisional ballots with code PR, meaning these people were not in the system. Is that not correct?

MS. MITCHELL: No. We did not receive that many PR. We had that many cast in terms of ballots cast for provisional ballots was the 9574.

MR. HARVEY: I'm looking at the report you submitted, Mr. Jones submitted on November 21st, and it shows the 9575 for the total number of provisional ballots that were cast, and then the total number of provisional ballots cast with the code reason PR, 9429. This is the report you submitted to the Secretary of State's office.

MS. MITCHELL: We don't have that document front of us.

MR. HARVEY: Ms. Coleman, while they are reviewing the document, you indicated the reason they completed a voter registration application was because if something had happened their voter registration, even if they erroneously cast it or they cast it in a different county, at this point, even if their ballot was not counted, they would now be properly registered to vote in Fulton County for the next election?

MS. COLEMAN: That is correct.

MR. HARVEY: And that's the importance of the voter registration application?

MS. COLEMAN: Exactly.

MR. HARVEY: And there were approximately 4000 rejected provisional ballots, correct?

(Crosstalk)

MR. HARVEY: Approximately 4000?

MR. JONES: Yes.

MR. HARVEY: So that would be -- if most of those were PR, that would mean that those were people who were not properly registered in Fulton County, correct?

(Whereupon, there was no response)

MR. HARVEY: And if only half of those people submitted voter registration applications, half of them are still not properly registered in Fulton County, correct?

MS. COLEMAN: That's possible.

MR. HARVEY: Ms. Mitchell, is this report accurate as to the 9429 provisional ballots with PR?

MS. MITCHELL: I believe it is accurate. Mr. Jones?

MR. JONES: Yes.

MR. HARVEY: So I'll go back to my other question about why are there only two thousand -- I think we got a number of 2200 new voter registration applications with these 9429 provisional ballots?

MS. MITCHELL: I don't have a response to that. I don't know that we actually had applications for only the 2800.

SECRETARY KEMP: Mr. Harvey, let me ask a quick question on the number of the ballots. We had been saying in the 9000 provisional ballot range when we started the talks this morning. But it's my understanding the County was saying closer to 6000. But just now --

(Crosstalk)

MS. MITCHELL: Supplemental --

MR. WALBERT: That's the supplemental list. That was the difference on the numbers there.

MR. HARVEY: And just for your information, the reason there may be a discrepancy in the supplemental list is the 9000 number on the supplemental list is what the supplemental list was on Tuesday, which may be different than what it was on Sunday when you printed it out. Because if you continue to update, it would grow from Sunday to Tuesday. So it could very well have been accurate 9000 on Tuesday, but only 6000 on Sunday when it was distributed. I'm not -- we can still investigate that further.

MR. WALBERT: That would not be accurate, that statement.

MR. HARVEY: What statement?

MR. WALBERT: That the list was changed like that. I think the confusion got, Chris, where the 9575 is the number of provisionals that were submitted, and that somehow got, you know, got moved over and somebody heard that or saw it and recorded it or misspoke and treated it as a supplemental list. But that was not supplemental list.

MR. HARVEY: Well, we don't want to confuse supplemental lists with provisional ballots.

MR. WALBERT: Right.

MR. HARVEY: So, Ms. Mitchell, is it your answer that you did not have enough voter registration applications to go with these provisional ballots?

MS. MITCHELL: My testimony was that I don't know the actual number. My understanding is that we had at least the 2824. As to whether there is a total of 9000, I don't know the answer to that response.

MR. HARVEY: Mr. Brower do you know if you had adequate voter registration applications to go with these provisional ballots?

MR. BROWER: I cannot confirm that, but I will say that when we make the distribution of provisional ballots, all of the associated documents go with them.

MR. HARVEY: Okay. Ms. Coleman, you're in charge of training for elections office, correct?

MS. COLEMAN: Yes.

MR. HARVEY: Do you train poll workers to give voter registration applications to voters who vote provisional ballots with code PR?

MS. COLEMAN: Yes, we do.

MR. HARVEY: Is that part of your standard training?

MS. COLEMAN: That is part of our standard training.

MR. HARVEY: If somebody didn't grasp that, they wouldn't pass poll worker training? Or didn't demonstrate the knowledge sufficiently, I guess.

MS. COLEMAN: If they did not demonstrate that, that could be a reason they would not become certified, which means they would not be able to work.

MR. HARVEY: Ms. Mitchell, you reported the 9575 number of provisional ballots that were cast in Fulton County. Do you know how that number comports with the totals that somebody would get off the list of provisional voters or the provisional voter recap sheets? Have you examined to see if that number is consistent?

MS. MITCHELL: I have not.

MR. HARVEY: Mr. Brower, has anyone else examined the numbers to see if it adds up?

MR. BROWER: I have not.

MR. JONES: No.

MR. HARVEY: Mr. Brower, if we could go back to you a little bit. In terms of casting a provisional ballot, one of the things we learned is that you have to submit a new voter registration application. You said the voter gets written documentation that explains how they can check their ballot, correct?

MR. BROWER: Yes. The voter gets written documentation as to how they can check to confirm whether or not their provisional ballot is accepted or rejected.

MR. HARVEY: And part of that law requires that Fulton County set up -- every county -- set up a system so that voters can check; either a call-in number or a website or somebody can call in and confirm -- learn the status of a ballot, correct?

MR. BROWER: I believe that to be correct; yes.

MR. HARVEY: Did Fulton County have such a system?

MS. COLEMAN: Yes, we do.

MR. HARVEY: Could you explain how that system works and when it was put in place, when it was operational?

MS. COLEMAN: I don't remember exactly when it came into play, but I do remember when that did become a requirement for the County, it was established. We did establish an 800 number. Now I believe we have the 800 number plus -- Sharon, did you set up something in addition to that?

MS. MITCHELL: We have the 1-800 number that is provided on the documentation along with our registration number for folks to call on.

MR. HARVEY: And that was in place for November 6th?

MS. COLEMAN: Yes.

MR. HARVEY: And if somebody called your office at the number that was provided and was connected to a Fulton County employee and asked about their ballot status, should they have been told to go check the Secretary of State's MVP website for the status of their ballot? Would that have been a proper response?

MS. MITCHELL: That was not the proper response.

MR. HARVEY: The MVP, Secretary of State's website doesn't have any information about provisional ballots (unintelligible) rejection, does it?

MS. MITCHELL: No.

MS. COLEMAN: Not that I'm aware of.

MR. HARVEY: On two occasions I called the number that was on the -- the Fulton County number. I was connected to somebody who told me just that. I said I was calling to check on a provisional ballot, and they said, oh, you just to Secretary of State's MVP page. It will be on there. Did you get other complaints like that, people getting misinformation when they called to confirm their provisional ballot?

MS. MITCHELL: I would like to respond to that. My understanding is that at the time that you did make the phone call, was after the period of time of the election and the person who answered the phone was not someone who typically is part of that process.

MR. HARVEY: It was after the election, so I could well have been checking on a provisional ballot.

MS. MITCHELL: Typically we see people check on the results of whether their ballot will be accepted or rejected by the third day, which is the Friday after the subsequent election.

MR. HARVEY: I see. You say you received approximately 2200 new voter registration applications. Have they been added to the voter registration system?

MR. JONES: No they have not.

MR. HARVEY: Is there a reason?

MR. JONES: We will do an investigation on that.

MR. HARVEY: When the provisional ballots are cast, the poll manager has the responsibility to account for provisional ballots, correct?

MS. COLEMAN: Yes.

MR. HARVEY: Are provisional ballots serialized? Do they have serial numbers?

MS. COLEMAN: Provisional ballots do have a stub number.

MR. HARVEY: What's that stub number for?

MR. BROWER: The stub number is required by law. It's part of the State statute. It basically identifies that ballot that's being printed to kind of track the quantity that's being printed.

MR. HARVEY: And each precinct manager is required to list the ballot stubs on their recap sheet to show how many provisional ballots they got and what numbers they are and account for them at the beginning and end of the election day, correct?

MR. BROWER: That is correct.

MR. HARVEY: Is that part of your training, Ms. Coleman, to do that for poll managers?

MS. COLEMAN: It is documented in the training as far as how to complete the paperwork and we do have samples provided for the poll worker to see how to fill out the paperwork. That is in there for them to record the number of unused ballots.

MR. HARVEY: And also, not just the number is significant, but don't the serial numbers provide protection -- stub numbers provide protection so provisional ballots cannot be passed back and forth between precincts; that I can't substitute other provisional ballots that I got somewhere for provisional ballots that were actually assigned to that precinct. Isn't that part the reason for the serialization or the stub numbers?

MR. BROWER: That's part of the reason for the ballot stub number. Each of the ballots, as we know in Fulton County, in all counties in the State of Georgia, are precinct-specific.

MR. HARVEY: Were the provisional ballots that you printed on election day, were they serialized; had stub numbers?

MR. BROWER: Yes.

MR. HARVEY: Do you know many provisional ballots were printed on November 6th?

MR. BROWER: I don't have exact figures. It's a little over 2000 provisional ballots was printed on November the 6th.

MR. HARVEY: Is there documentation of where each of those ballots, which precincts they went to?

MR. BROWER: Yes.

MR. HARVEY: And that should also be reflected on the recap sheet, correct? The recap sheet for each precinct?

MR. BROWER: Yes. The total number of ballots received should be reflected on the recap sheet.

MR. HARVEY: Eight-four of the provisional ballots were categorized as "other" in the report. What would be some other reasons someone would get provisional ballots? The report I'm talking about is the report, the first page of which Ms. Mitchell is looking at, made at the Secretary of State's office.

MS. MITCHELL: Mr. Harvey, we don't have that report. Did we give it back?

MR. JONES: If I could remember correctly, I think we had . . .

MR. BROWER: I'm not positive, but we think this may be the 84 that was associated -- we had two precincts that actually lost power, did not have any power at all when we started out that morning (unintelligible) provisional ballots.

MR. HARVEY: Okay. To go down the report very quickly, these are the reasons -- Ms. Coleman has explained PR. What is reason code PI?

MS. COLEMAN: PI stands for photo ID. The personal falls in that category is a registered voter, but on election day they do not provide any of the acceptable forms of ID. If that person wants to go and get their ID because they left it at home and bring it

back, they can do so. If not, they have the option to vote a provisional ballot, code PI. The voter has three days to provide that to our office. They can bring it in person, or they can fax it in.

MR. HARVEY: What about the code IR?

MS. COLEMAN: Code IR is another issue dealing with identification. It means identification required and that person is someone who registered by mail for the first time in the state of Georgia and if they did not provide ID when they registered, they are supposed to provide ID to whoever is working at the express poll station. If they provide ID, they will vote just as any other regular voter. If they do not, they will be provided an option to vote a provisional ballot, and, again, they have three days to provide the ID by fax, or they can bring it into our office at any of our three locations.

MR. HARVEY: What about code EH?

MS. COLEMAN: EH is for extended hours. In the event the poll has to open late, we do require or seek approval from the Judge to have extended hours. It may or may not be granted. At that point, if it is granted, the poll stays open how ever many minutes late they opened up late. If they opened up at 7:15, they have to stay open 15 minutes later.

MR. HARVEY: And there are -- do you still have that report, Ms. Mitchell? And you see there is zero with EH, correct?

MS. MITCHELL: That is correct.

MR. HARVEY: So there zero in EH. There should be zero recap sheets showing extended hours on reason for photo ID -- for provisional ballots, correct?

MR. BROWER: That's correct.

MR. HARVEY: And we said that you suspect the 84 may have been for the two precincts that lost power. Of those 9575, which I believe if you add up those categories, it actually adds up to 9585, 5104 were accepted, and 5101 of those were the PR category. Only three other provisional ballots were accepted for other reasons. There are three for other reasons. What will be an other reason? Do you know what these three ballots were accepted for? None of the ID's -- the 72 that were cast for ID, none of those were

counted. And then we've got the 84 other, and we've got three of the 84 other that appear to have been accepted. Any idea what those three other reasons would have been?

MR. JONES: Off the top of my head, I do not know.

MR. HARVEY: Is there a way -- a system that was in place on November 6th that would have prevented a voter from voting a provisional ballot at one location and then going to their proper precinct and voting on the DRE? Could that have happened?

MR. JONES: Let me make sure I understand what you just asked. They can vote a provisional at a precinct that is not designated and then go to their correct precinct and vote correctly on express poll?

MR. HARVEY: Yes.

MR. JONES: Is there a procedure in place . . .

MR. HARVEY: Is there anything that would keep that from happening?

MR. JONES: No. Not to my knowledge.

MR. HARVEY: Not at the time there were voting it. What about the back end. What about on verification? How would that be caught in verification?

MR. JONES: Well, usually the Secretary of State uploads the voting history two weeks after the election. So, therefore, we have no knowledge of who actually voted at the polls on election day all the way up until Friday. So if we would have gone through the process, then after that, there would be no way for us to actually capture both of them at the same time.

MR. HARVEY: What if you are verifying my provisional ballot and I voted on the DRE and it gets time to check my ballot, what would you do to determine whether or not I had a valid provisional ballot?

MR. JONES: Well, you know, I cannot check it from the DRE because I don't have the information yet.

MR. HARVEY: I understand. Take the DRE out of it. Let's say you're just verifying my provisional ballot. You don't know that I've voted on the DRE but I have. Are you going to be able to catch that in the verification of my ballot, my provisional ballot?

MR. JONES: I don't have the information to verify that they voted at the poll, so I wouldn't be able to catch that.

MR. HARVEY: Were poll workers given the notice that they were going to receive extensive supplemental lists; were they given any kind of warning that, hey, maybe due to whatever circumstances, whatever they get attributed to, these are going to be exceptionally long supplement lists. Was any specific notice given to poll workers?

MR. BROWER: There was not. They were informed when they picked up the list. Again, they receive the list on the Sunday prior to the election. At that time, my instruction is always to poll workers, you know, go through everything that we've given you and if you have any questions, give us a call.

MR. HARVEY: Okay.

MS. MITCHELL: Mr. Harvey, if I may add, prior to this -- for this election we also had a separate meeting with all poll managers prior to election day to go over specific issues that we had. One of the issues we talked about was to review the information prior to election day. That included all information provided to them in their kit; it included all data that was provided so they did not appear at the poll on election morning not knowing the items that they had. We have had experiences in the past where they had not reviewed the list; they had not had enough of the electrical cords. So we had a subsequent meeting outside of the regular poll worker meeting that was -- we did it in a regional basis where all managers of locations for polls actually met with Mr. Bower, Ms. Coleman and myself, to talk about issues that we felt they needed to go over prior to the election day process.

MR. HARVEY: Thank you. Let's talk for little bit about the verifying of provisional ballots. I have now cast a provisional ballot, which is a paper ballot in an envelope. What is the procedure for verifying whether or not that vote should count?

MR. JONES: The first --

MR. HARVEY: Let me stop you for a second. Let me back up one step. Would you explain the chain of custody and the process that the provisional ballots go through from the time the polls close until the verification process. I want to set that up first. So the polls close; I'm a poll manager; I've got all my election stuff. Are the provisional ballots separated from everything else?

MR. BROWER: Yes. The provisional ballots are actually separated from everything else. They arrive at the poll in a provisional ballot bag and all of the supporting documentation, of course, arrive in a separate envelope.

MR. HARVEY: Okay. It's the end of the night. I've got 50 provisional ballots that had been voted. What do I do with those if I'm the poll manager? Walk me through that process.

MR. BROWER: Once you depart the poll, you arrive at -- we have four regional check-in centers. There are -- receiving folks at each of those check-in centers. We have a station for provisional ballot. The person working receiving station verify all the documentation that the poll manager provide. If, in fact, the paperwork say they have eight provisional ballots, then the poll worker, I mean the person working check-in will actually validate that is, in fact, how many they have. At the conclusion of the check-in process, all of those documents are transferred over to a transporter who actually inventory verify what the check-in center says he has against what he's actually receiving. They are delivered directly to the provisional processing person assigned in the registration division.

MR. HARVEY: So the ballots themselves, are they individually looked at or do they receive a sealed container and a list of what's supposed to be inside?

MR. BROWER: That ballots are actually looked at. They actually have to break open the bag with the seal on the bag to verify that if the poll manager paperwork says that he or she has eight provisional ballots, that they have eight provisional ballots.

MR. HARVEY: What happens if the numbers don't add up?

MR. BROWER: Of the numbers don't match, the, you know, the poll worker -- that's why like the poll worker there; poll worker in front of them. The poll worker have to give an accounting of those ballots (unintelligible).

MR. HARVEY: So the form that they use to track the provisional ballots is called the provisional ballot recap sheet, correct?

MR. BROWER: Well, that's one of the forms. We also have an internal form called provisional ballot tracking.

MR. HARVEY: Okay. So once that's verified at the regional center, they get taken to the main office at 141 Pryor?

MR. BROWER: That's correct.

MR. HARVEY: And they are all staged in that one area, correct?

MR. BROWER: That is correct.

MR. HARVEY: They're all pulled together. Okay. Now we get to the verification process. You've got all of the provisional ballots together. Walk me through how determining if a single provisional ballot is -- let me try to understand. So now we've got at least 9575, or 85, provisional ballots. Each one of those has to be individually looked at and determined, correct?

MR. JONES: That is correct.

MR. HARVEY: Walk me through that process, please.

MR. JONES: At that time each ballot is -- each person is checked out a series of ballots, mostly a precinct, and we check them one at a time. The first check is to see if they're on the voter registration system, period. And once they go through and didn't find them on the voter registration system, the next one is to check the pending file, which is (unintelligible) information file. We have some applications that for whatever reason that needed some information, whether was a missing date of birth, did not sign, or what have you. That would be sent down to a (unintelligible).

The next one was that they go through the too-lates. Just make sure we put our too-lates in alphabetical order, just touching bases to see if there's confirmation on the too-lates.

MR. HARVEY: By too-late, you mean too late to register?

MR. JONES: For this election; that is correct.

Our final check is to see if for whatever reason did we miss them through the DDS process. So we go through DDS to see if they had some sort of some sort of registration prior to.

Eventually, the person then writes on the envelope whether or not the ballot is accepted or rejected and then recorded on the paperwork.

MR. HARVEY: Okay. So --

MR. JONES: Eventually, what happens after that is that anybody who is accepted or rejected goes through one more check from another person just to try to validate the information as closely as possible.

MR. HARVEY: So a rejection is essentially finding a negative. If you don't find me anywhere in any of those systems, the conclusion is that I'm not registered to vote and my ballot should be rejected, correct?

MR. JONES: That is correct.

MR. HARVEY: If you find me in some of those places, that would require maybe some additional investigation, or if you find me in the VR system, on first glance, you may say, hey, he's properly registered; he's good to go. That gets accepted at that point, correct?

MR. JONES: That is correct.

MR. HARVEY: So it could take from maybe thirty seconds to five minutes to do a single ballot?

MR. JONES: Yeah. It depends on the operator. That is correct.

MR. HARVEY: Now, you sent over, pursuant to subpoena, your procedure for provisional ballot verification. And you mentioned a provisional ballot -- let's see -- what's the form that you use? Provisional ballot verification form. Do you still use those

provisional ballot verification forms?

MR. JONES: We started out using those verification forms, but we did is that we went ahead and pushed it off to the side so that we can come to a conclusion at that time.

MR. HARVEY: So you mean you started in this election using them and then stopped using them?

MR. JONES: The first night. We go through and we do a quick check the first night. We just check to see if they're on the voter registration system. Very, very quick check just to touch it so that we can have some sort of reference of what were looking at.

MR. HARVEY: You did that for all 9575?

MR. JONES: Not the first night. We got close, but not all them. We only did approximately about 6000 of them at the time.

MR. HARVEY: But this form, is this the final determination as to whether or not -- if someone were looking at the record, would this form show final acceptance or rejection of a provisional ballot?

MR. JONES: It does have it on there, but that's the form that we actually use to determine that factor. It's just a guide for us so that if we needed to go back and research it, the details of the research will be written on the form.

MR. HARVEY: If I got one of the letters that said my provisional ballot was rejected and I wanted to contest it with you, you would be able to go back and pull this form and say, **Mr. Harvey**, we checked here and we checked here and you're not on any of these and that's why we rejected it?

MR. JONES: No. We wouldn't have done that. What we would have done, to be honest with you, is that we would have validated on the voter registration system to see if they were on the voter registration system, and if they were not on the voter registration system, I could have had -- we would have said that your voter registration is not -- you were not a registered voter or you were out of precinct at the time in another county based on what's on the voter registration system.

MR. HARVEY: So what is the historical record that best indicates whether or not a provisional vote was accepted? You said you write on the envelope, itself.

MR. JONES: Correct.

MR. HARVEY: And you've got this verification form. Does the envelope trump the verification form? What is the best evidence that a provisional ballot was accepted or rejected?

MR. JONES: It would be the envelope.

MR. HARVEY: So what's on the envelope trumps --

MR. JONES: That is correct.

MR. HARVEY: And in this policy, too, you talk about provisional ballot verification log. Is that the document that shows the chain of custody Mr. Brower was talking about, or is that something else?

MR. JONES: Two different chains of custody.

MR. HARVEY: What is the provisional ballot log?

MR. JONES: That's when the provisionals actually come in to we make sure we got all the provisionals from every precinct. Once we record it on that particular log, then as each worker begins to research, they have to check it out again to display, that, yes, we have custody of this particular provisional where we work.

MR. HARVEY: So if you added up all of the provisional ballot verification logs, you get 9575 or 85?

MR. JONES: I would believe so.

MR. HARVEY: Again, going back to the acceptance of the provisional ballot, let's say I question whether or not my neighbor's provisional ballot should have been accepted because I don't believe he's registered and I, for whatever reason, decide to challenge that, and I say, hey, you accepted Joe's ballot, provisional ballot. You shouldn't have.

What would you do to justify the acceptance of the ballot if that became an issue? How would you justify that we accepted his ballot on good -- is there a historical document you --

MR. JONES: You're saying that a person from the outside has challenged a person after the Friday --

MR. HARVEY: No, no. I didn't mean the legal challenge.

MR. JONES: Oh, okay.

MR. HARVEY: What I'm saying is I suspect somebody got credit for voting that didn't; they shouldn't have.

MR. JONES: Okay.

MR. HARVEY: They're not in the VR system.

MR. JONES: Okay.

MR. HARVEY: So I send you a name and say, please check Joe Smith and tell me why his provisional ballot was accepted. Would you be able to pull a document and say it was accepted for this reason, or would you have to go through the verification process again? Because you've got "accepted" written on the envelope. You also write found in VR system, or found in motor voter, or found in lates, or something like that?

MR. JONES: What we would do is we would go through the same process again. We would actually look them up on the voter registration system to see if the inquiry is correct and then go from there.

MR. HARVEY: All right. Thank you.

Ms. Coleman, I've got some questions for you about some training issues. Is it correct that poll workers were only given four days' notice to complete the online training?

MS. COLEMAN: No. We usually mail the notice out to give people enough time, and I'm pretty sure we gave them more than four days to complete the online training.

MR. HARVEY: How much training does a poll worker in Fulton County?

MS. COLEMAN: Poll workers receive training in two phases. They a online training first, and then once they finish, it allows them to -- in November, they didn't take the test online there. It has the capability to let them test online. But in November, they took the training. It allows them to sign themselves up for face-to-face training. We had training at four different locations. They select the day, location, and time. Then they attend the face-to-face training, which lasts approximately one-and-a-half hours. This time, they did have to take their exam in the class, and if they did not pass -- 80% is passing. If they did not pass the exam, they did not complete the certification, and they were not allowed to work.

MR. HARVEY: Is it part of the training you do that if the person is not found on express poll at the beginning, what are the steps -- how would you train a poll worker to locate a person on express poll if they don't come up on the first check? What does the first check on express poll usually do?

MS. COLEMAN: All right. We train the poll workers, normally they are doing a search within the precinct, then they check the County, and then check the State. They actually do this -- it's some online training, but it's reinforced. When they come to the hands-on class, it's an assimilation [sic] of what they will do on election day. So each poll worker is sitting in front an express poll and actually going through this. I give them names to look up for Unit A and for Unit B. So look in the precinct, they check the County, they check statewide. If the voter is not found there, in the curriculum it has them to check the supplemental this. We have a supplemental list in the class for them to look up and if they find the voter. Then we go through and they encode -- use the encoder option to create a ballot for the person if they are not found on the express poll and they're found on the supplemental. If they're not found on the supplemental, then that person normally falls into the category of becoming a provisional voter.

MR. HARVEY: And poll managers are also trained on filling out the provisional ballot recap sheet properly, correct?

MS. COLEMAN: We have -- we change the training from time to time. So we have had sessions where we actually go through the recap sheets completing them. This time for November, we did not actually fill it out in class. But like I said, we have -- from

time to time, we've had DRE online training so they could go through and there was an exercise to complete the DRE recap sheet there. But in their poll worker manual, we have samples of pretty much all the forms they would use on election day. We have samples filled out for them. If they have any questions -- and poll workers do from time to time -- they will call; I'm there and my team is there to answer questions. On occasion they have scheduled individual meetings to come down with me to make sure they understand and they're clear on what they're supposed to on election day.

MR. HARVEY: Thank you. I want to fast-forward a little bit. I have the provisional ballot procedures down, but I believe you've explained you guys have done a good job explaining what has to happen. These are some documents.

This is the provisional ballot procedures and poll worker's responsibilities. This is from the Secretary of State's website? Do you recognize that?

(Whereupon, there was no response)

MR. HARVEY: Do you recognize and is it consistent how you train your poll workers? It says, the voter is provided a provisional ballot and two envelopes. The worker will instruct the elector on the procedure to vote the ballot. The voter must be allowed to vote the provisional ballot in such manner that it will ensure the privacy of the vote. The voter places the voted ballot in the inner white envelope. The voter places the inner white envelope in the outer salmon envelope. And the voter places all into the secured outbox.

Does that sound consistent?

MS. COLEMAN: Yes.

MR. HARVEY: And is it the poll worker's responsibility to complete the voter certificate on the back for a provisional voter indicating why that voter is voting provisional?

MS. COLEMAN: There is a section for the poll worker to initial. There is a section for the voter; there's section for the poll official.

MR. HARVEY: And do you train your poll officials to complete that section on provisional ballots?

MS. COLEMAN: Yes. We had online -- we had a hands-on session in November, and that is in their little supplemental packet they received. We actually went through that portion in the poll worker training for November.

MR. HARVEY: Thank you. Has any -- have any of the Fulton County poll workers -- I'm sorry -- management staff that are here, have you reviewed any of the provisional ballot recap sheets and paperwork regarding provisional ballots and how that was done in Fulton County on the November 6th election?

MR. BROWER: I have looked at that and, granted, there are some precincts that need some additional emphasis in that area. In some cases, some of the voter certificates, they did not indicate the reason for the person voting a provisional ballot.

MR. HARVEY: Does that make more difficult to validate a provisional ballot if you don't have that voter certificate completed?

MR. BROWER: I don't think so, but I'll let Mr. Jones respond to that. They're going to have to research it anyhow.

MS. COLEMAN: Also, you were saying if they don't put the code in one place, normally when you are researching a provisional ballot, because the poll worker has to put it in so many places, normally there are three other places you can look to find the proper code of the ballot.

MR. HARVEY: But it is a requirement that the poll worker complete the provisional ballot certificate; that's part of the law, correct?

MS. COLEMAN: Yes.

MR. BROWER: Yes.

MR. HARVEY: Mr. Jones, did you have something to add?

MR. JONES: I was going to say the same thing what Ms. Coleman said, that I know that when we go through our verification process, one of the things that we look at the most is the number of listed voters that actually has the code on it.

MR. HARVEY: And Mr. Bower, so I understand it correctly, before the recap sheets get to you guys in the main office, they're completed by the poll manager and then they're checked once at the collection station, correct; the collection center?

MR. BROWER: That's correct.

MR. HARVEY: And so when you get it, it's been reviewed by somebody else, correct?

MR. BROWER: Well, now, understand at the collection center, they just pretty much verifying quantity.

MR. HARVEY: So they're not looking at the forms?

MR. BROWER: They're looking at the forms. They're verifying -- they'll look at the provisional recap sheet. If that poll manager says he has eight provisional ballots, they verify that there is eight in there.

MR. HARVEY: So they're mostly just looking at numbers. I understand. And this is what the salmon outer envelope of a provisional ballot looks like, right?

MS. COLEMAN: Yes.

MR. HARVEY: And when somebody votes a provisional ballot there is a white ballot that goes inside this. And when a determination is made -- now, these stay together until it's determined whether a ballot is accepted or rejected, correct?

MR. JONES: You're saying the white envelope that's inside stays together with the --

MR. HARVEY: Yes.

MR. JONES: That is correct.

MR. HARVEY: Now, if it's determined to accept a provisional ballot, what happens to the white envelope?

MR. JONES: At the time we open provisionals that Friday, that white envelope is

opened and stored; kept and stored in bundles (unintelligible) precinct.

MR. HARVEY: But that's after it's been accepted?

MR. JONES: That's correct.

MR. HARVEY: So if a provisional ballot is rejected, it will still have a voted ballot in the same envelope, correct?

MR. JONES: That is correct.

MR. HARVEY: And this is the provisional voter certificate. This is where the voters would -- the poll workers would indicate and the voter would also indicate. And this is the provisional registration form that somebody would fill out if they were voting PR, correct?

MS. COLEMAN: Yes.

MR. HARVEY: And we've got the procedures that you've been through, pretty much.

In doing our examination, we found one voter who cast seven provisional ballots in one precinct with the same name. One was marked duplicate and six were marked accepted. Can you think of any explanation how that could come about?

MR. JONES: At the process in time, I'm not aware of any details because it shouldn't have six voters like that.

MR. HARVEY: Now, you might have a difficult time reading. These are provisional ballots and they're all labeled Bridgette Jackson, and I believe it's precinct 02G. They're all marked -- they've got different ballot combinations. You'll notice up here there's a combo 9-0-0-1 (unintelligible). And they are marked accepted and duplicated. These are the next two, and that's the seventh. Is there an explanation for that?

MR. BROWER: We have since talked with that poll manager. We discovered that. There was kind of a changing of the guard for lunch; another co-worker was working that station. Instead of writing the voter's name there, she wrote her name. Instead of the voter's name being recorded on the provisional (unintelligible).

MR. HARVEY: So how is that accepted?

MR. JONES: What we did is that we went back to the original sheets to see which ballot belongs to whom, and what we did is we took the numbered list and checked off each ballot until we had the remaining number. Once we did it, we took a look at the seven ballots to see if those seven ballots, who would be remaining of that. Out of the seven ballots with the certificate and the numbered list, we found out that all of them would have been accepted on the spot. So we gave them credit for voting since there was none that was rejected.

MR. HARVEY: There is no notation on any of these envelopes as to who it actually belonged to?

MR. JONES: I don't remember or not whether we actually wrote the name on the envelopes because, technically, we wouldn't have known who the ballot was originally. But we knew that -- we knew that who the ballots, who it could have been because of the numbered list.

MR. HARVEY: So the numbered list is an important --

MR. JONES: And the certificate.

MR. HARVEY: So the numbered list and the certificate are important documents?

MR. JONES: Yes.

MR. HARVEY: So you're confident that this voter did not vote seven provisional ballots that were accepted?

MR. JONES: I'm very confident.

MR. HARVEY: Very confident. Okay. Thank you.

MR. WILLARD: **Mr. Harvey,** before you move off, Mr. Jones, Mr. Harvey said that six of them were marked as accepted; one was rejected as a duplicate ballot.

MR. HARVEY: Not rejected. It was marked duplicate, meaning it was presumably out of precinct.

MR. WILLARD: Okay. So it was counted.

MR. JONES: Yes. How we label it is that if a person is accepted and it need to be duplicated, then I sign (unintelligible) duplicate on the envelope.

MR. HARVEY: You're confident that you duplicated the right ballot?

MR. JONES: Yes, sir.

SECRETARY KEMP: Mr. Harvey, I want to make sure that we're clear on this if you can walk the Board back through. You had the number, same name on all seven provisional ballots; is that correct?

MR. HARVEY: That's correct. They all had different district combinations, if you look back. They start with 9-1, 9-2, and they go through 9-7. They've all got the same name, same precinct, different district combination. All the ballots were opened; they were all marked accepted except for the one that was marked duplicate.

SECRETARY KEMP: So we have no way of knowing whose ballot is inside that salmon envelope, correct?

MR. HARVEY: Well, right now the ballot is gone. That ballot is with the cast provisional ballots. But to my point earlier, if someone wanted to go back and find out of their professional ballot was accepted, if the envelope is the best indication of acceptance, I don't think we could say for certain which voter went with which ballot.

SECRETARY KEMP: There is no way to identify the ballot inside the white envelope; it's a secret ballot, correct?

MR. HARVEY: That's right. That would violate the confidentiality of the ballot.

SECRETARY KEMP: All right.

MR. HARVEY: At this point, I want to shift gears a little bit. We have subpoenaed --

SECRETARY KEMP: Mr. Harvey, Mr. McIver has question.

MR. MCIVER: I presume I should ask this to Ms. Coleman. But as part of this discussion, did anybody flunk? You say you rejected people for training, and so on. But were there those who were unsuccessful and therefore did not participate in the election process?

MS. COLEMAN: Yes, sir. There were those co-workers who -- there were some who did not pass the test, and so they were notified. We graded the exams on the spot they were notified that night that they did not meet the certification, and they would not be able to work this election.

MR. MCIVER: About how many of those?

MS. COLEMAN: I don't off the top of my head, but we keep a record of all of our exams and I can always get that information provide it to you.

MR. MCIVER: Would you provide that to Mr. Harvey?

MS. COLEMAN: No problem

MR. MCIVER: Any way to estimate? Ten, 50, 100?

MS. COLEMAN: I don't know and I don't want to -- I really don't know. I would have to go back and look.

MR. BROWER: I will tell you, sir, I think it was about 12 that did not pass. And some of them were managers.

MR. MCIVER: Thank you, Mr. Secretary.

MR. HARVEY: We know Ms. Jackson passed, correct?

MR. BROWER: Yes. If she worked, she passed.

MR. HARVEY: As part of the investigation -- obviously, provisional ballots are going to be a big issue in this case. With the 300-some precincts that Fulton County had, what

we decided to do was take ten precincts and zero in and examine them for the provisional ballot compliance, provisional ballot acceptance and rejection standards, and accounting and bookkeeping. As you can tell, when you get into paper ballots and envelopes and names being written on forms, accounting and bookkeeping is going to be critical to make sure you keep the integrity of the election.

So at this time, I would like to start calling some of our subpoenaed poll managers and go over some detailed explanations of the results, specifically regarding provisional ballots in Fulton County. Board members, you will see detailed analysis starting at Tab 12. Each precinct is detailed. And I'll have some slides to go with it.

MR. MCIVER: Mr. Harvey, based on what we've heard so far, I think there's some confusion as we move to this segment, particularly with respect to representation and who was assisting these poll managers, who represents them, and so on. Perhaps the best thing for me to do, even though I'm attorney, is the flip this to the Law Department and ask Mr. Willard if he will opine the status of these individuals. We obviously know they have been subpoenaed, but what is their status; are they being represented; who might that be, so on and so forth, so we can make sure we've provided every protection to them.

SECRETARY KEMP: Mr. Willard?

MR. WILLARD: Yes. I know that we've gone back and forth on this, Mr. Walbert, or at least you have with the Secretary of State's office. Are you going to be providing representation to these precinct managers?

MR. WALBERT: Our position, and frankly, this is just a page out of the Attorney General's book, is that anybody who was an employee of the Board of Registration and Elections would be entitled to counsel if they could hire their own counsel. But we provide counsel, so I will be representing them here at this time.

MR. WILLARD: And in any subsequent investigation by the State Election Board going forward on these facts?

MR. WALBERT: Yes, sir. As employees.

MR. WILLARD: So you would also be in a position to facilitate the investigation of the Board through the setting up of witness interviews, depositions, and the like? You would

not handle them any differently than you would handle Ms. Mitchell?

MR. WALBERT: At this point, that's exactly right. And I think that what representation means in this proceeding must -- I'm in a tremendous quandary. I've never been in a proceeding in 40 years of practicing law where one cannot answer -- ask the witness questions after they've been on the record. So what representation means what representation means in this context is anybody's guess.

MR. WILLARD: And to follow up, if I may, Mr. Secretary, what you've got here, this is really almost preliminary to a probable cause hearing. As you're aware, Mr. Walbert, due process doesn't attach in terms of the confrontation clause or anything along those line in a probable cause hearing, much less in a hearing that is at the fact-finding stage where the Board is empowered under the State code to subpoena witnesses and elicit testimony from them in it's investigation of whether a violation of the State election code has occurred.

MR. WALBERT: And I would add to your comment, I don't think that governments actually have due process rights. So I would be asserting that on their behalf in any event. But I just thought in a sense of fairness --

MR. WILLARD: Well, this is different than the --

MR. WALBERT: May I finish my sentence, please sir; excuse me, Russ. I think that in a sense of fairness, and I'm confident the Board wants to get a full picture, that for me to ask a question that relates back to something Mr. Harvey did three hours ago, no one's even going to remember that. I think this board wants to have a full and accurate picture of what's happened, rather than one side before they make their decision on referring it to hearings, and so on. That's my only point.

SECRETARY KEMP: Well, I can assure you that we will have a process where everyone will have opportunity during the process that we normally have for State Election Board meetings. Today we're trying to get the rest of the information that we've been trying to get over the course of the investigation. As was alluded to earlier, we had documents that were submitted yesterday and, I think, maybe even today. So I can assure you the Board will not take action until counsel has had an opportunity to address the Board and the individuals that will be involved as we go through the process in a legal way.

MR. WALBERT: And I thank you for your comment. I guess I think -- just let me give you a little example. There's a long discussion with Ms. Coleman about the training and so on. Fulton County takes the training of the Secretary of State. It would have been nice to talk about that, and they've amplified on it at the time. Now two hours later to go back on that is not going to make sense. And I won't do it. But that's the kind of thing I'm suggesting in the longer course --

SECRETARY KEMP: We're certainly glad to sit down and talk to you and the folks that are subpoenaed here today that have not been before us yet and ask those questions. So hopefully we'll have that cooperation. Mr. Harvey.

MR. HARVEY: The first witness is Mary Darden.

While Ms. Darden is coming forward to be sworn in, this is a brief analysis that you can see of the ten precincts that we did.

SECRETARY KEMP: Mr. Harvey, let me stop you real quick. Where are we going to put Ms. Darden?

MR. HARVEY: She's going to sit right next to Mr. Smith.

(Whereupon, the witness approaches and is seated.)

SECRETARY KEMP: Good afternoon, ma'am. If you would, just please pull that microphone to you and state your name and address for me, and then I'm going to swear you in, if you don't mind.

MS. DARDEN: My name is Mary Darden; it's Mary J. Darden, really. 5550 Oglesby Road, College Park, Georgia 30349.

SECRETARY KEMP: Would you raise your right hand?

MS. DARDEN: Sure.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. DARDEN: Sure.

SECRETARY KEMP: Thank you, ma'am.

MR. HARVEY: Members of the State Election Board, I direct your attention to -- you've got a copy in your folder. This is a summary analysis of the ten precincts that we examined. Areas in green are the areas where the poll managers appear to be in compliance; where their paperwork matches the number of provisional ballots and other provisional documents. The areas in red are where they don't. And then the areas in fourth column over are where -- what we found from Fulton County regarding documents when we went and did an extended investigation. That's a glance, and you will see a lot of red and not a lot of green. We'll get into some specific details, but we'll try not to belabor the points.

MR. WALBERT: Could we get a copy of that, please; the courtesy of a copy?

MR. HARVEY: I'm sure we'll get you a copy.

MR. WALBERT: Could I have that now while you're (unintelligible) leading up to your witness?

MR. HARVEY: The first precinct is 01A, which is --

MR. WALBERT: Thanks very much.

MR. HARVEY: -- Parkside Elementary School on Mercer Street in Atlanta. This is the provisional ballot recaps sheet from precinct 01A. The only thing that is filled out is the date, the county, and the precinct number. There is no information provided by the poll manager for any provisional ballot voted.

Ms. Darden, did you complete this document?

MS. DARDEN: No I did not. What it is, I was a provisional manager for about 20 years now when it first came out. What happened, we got a lady at the provisional table and

she did not want no one to tell her exactly what it was. (Unintelligible) been down to the County three or four times complaining, and what have you. But I have my degree from Spelman College and also got my masters degree from the University of Georgia. I did the provisionals and everything I've heard here was not what I learned when I went to be the provisional manager.

Number one, everything comes in a package and we sit down and we go through it. We have our sheet; we give them. They come down to the table; they fill out a form like they would at the beginning. They come through, I say, fill it out. Staff, I tell them, sign the list that I have there. When I give them the ballots, I always take my ledger sheet, and it's been four years and I have never -- haven't seen a ledger sheet since, because they people that's on it, they do not listen real good.

So at the end of it, for eight or nine years, I never had no problem. This is the only time we had problems, was this time.

MR. HARVEY: Is this normally the way you complete your provisional ballot recap sheet?

MS. DARDEN: Yes. And we have it in packages so at the end of the day, we put it in the long envelope when we go to turn it back in. This is my first time ever being the manager of a poll. We take it we send it back in. And I was trying to explain to the lady, when you put it in the white envelope, it's left up with you and the person that came in to vote to seal that white up. I will put it in the orange envelope and I will seal it up. At the end of the day, I will put it in the long orange bag. I've never had anybody to come back after me. Nobody.

MR. HARVEY: Were you ever trained that you were supposed to report the stub numbers and serial numbers of the ballots in this part of the recap sheet?

MS. DARDEN: Oh, yeah. Even if it's just a paper of mine, I'm going to write down because I'm going to cover my tracks.

MR. HARVEY: But you didn't complete any of this, correct?

MS. DARDEN: I wasn't on the provisional table at that time. But I did during the time I was on the provisional table.

MR. HARVEY: Okay. And you're the poll manager, correct?

MS. DARDEN: Right. See, at that time, I was just as assistant manager.

MR. HARVEY: So at the end of the night when you were gathering your materials, you had your -- is this -- I'll just point out that there's no accounting of any of the ballots; no serialization --

MS. DARDEN: Oh, I filled mine out.

MR. HARVEY: You filled yours out? You filled out this form?

MS. DARDEN: Not this last election, because we could not get her to do it.

MR. HARVEY: And none of the poll workers signed the form?

MS. DARDEN: Huh?

MR. HARVEY: None of the poll workers signed the form?

MS. DARDEN: (Unintelligible) assistant manager; yeah. The manager signs, then you get two assistant managers to sign.

MR. HARVEY: But this is the form that was turned in by Fulton County and there are no signatures on it. So you didn't sign it?

MS. DARDEN: No; uh-uh. No. It was Mrs. Rose. That's the one who did it this time. And by she working with the poll for so many years, that was when we were doing the paperwork (unintelligible). But at this particular time, for some reason, she wanted to do it herself.

MR. HARVEY: What was her name?

MS. DARDEN: Annie rose.

MR. HARVEY: And she's not here today?

MS. DARDEN: Oh, no.

MR. HARVEY: So we don't know how many provisional ballots you started with; we don't know how many were voted --

MS. DARDEN: Okay. Right there, we did not get enough at the beginning of the day.

MR. HARVEY: You don't know how many you got, but they weren't enough.

MS. DARDEN: No. It wasn't. So what I did, I called down so they brought some out.

MR. HARVEY: How long did that take?

MS. DARDEN: It was a little before lunch. I called them that morning. You see, this particular school is a state of the art school. So we had about three lines going around in the gym with people. Some arguing, some grumbling, some complaining, or what have you.

MR. HARVEY: Were they having to wait a long time to vote?

MS. DARDEN: Not really. Most of them didn't know (unintelligible).

MR. HARVEY: So this is the list that you talking about. Is this the numbered list?

MS. DARDEN: Right.

MR. HARVEY: This is where the voters write down their names.

MS. DARDEN: They wrote down their names, but see I have the sheet that I would put the ballot number on that sheet, then I would put their name next to it.

MR. HARVEY: So these are 158 voters who voted at that precinct and there's no accounting for what ballots they were, correct?

MS. DARDEN: No, it wasn't, because if she had came to me, it would have been different. When I went back to collect them from her to put them in the big orange bag,

she told me, you being the manager, you should have came back here and help me. I told her my mamma sent me to school; she didn't raise no fool.

MR. HARVEY: The analysis that our office did -- thank you, Ms. Darden -- showed that there were 140 voters on the list; the recap sheet was blank. When we went to Fulton County and asked to see copies of these, they were able to provide 42 provisional voter certificates, 58 provisional ballot envelopes, and of those 58, 47 were accepted and 11 were rejected.

MS. DARDEN: I'm not quite sure of that because some people came in and they wanted to fuss and all. Because, like I said, it was, really on the machines, it was 814 people actually voted on the machines.

MR. HARVEY: Our analysis also showed that 19 of those voters should have been eligible to vote on the DRE.

MS. DARDEN: This is so very true.

MR. HARVEY: So this is accurate?

MS. DARDEN: Yeah. Because I told her, we both are grown, we both are human. Don't you ever (unintelligible) again.

MR. HARVEY: Thank you. Does the Board have any questions for Ms. Darden?

MR. WORLEY: Ms. Darden, I believe you said you cannot get her to do it? What did you mean by that?

MS. DARDEN: See, number one, what it was, she never sealed the white envelope. She just (unintelligible) on the table. I explained to her when I did the provisional, when it first became available, just sit you a little small cup of water there and you seal that orange envelope. And I said, at the end of the day, you put it in the big cloth bag to be taken back downtown. And, boy, she was just screaming and hollering and going on. But you see, one thing -- I'm like this. I didn't want to get into it, but one thing I didn't know she went downtown and forced them to give her another \$30 check because she said they owed her, which was a lie.

MR. HARVEY: I've got a question for Ms. Mitchell or Mr. Brower or Mr. Jones. Can you give an explanation as to why there would be 140 voters listed and you're only able to provide 58 ballots?

MR. BROWER: Yes. After receiving the number list and processing it, we realized that this poll official had started writing everyone on the list. I think she realized some point that she had, so she ceased and desist [sic]. So that's why you have more names on there than there were provisional ballots.

MS. DARDEN: But you need a place for your provisional ballots to be numbered.

MR. HARVEY: Did you bring any documents with you, any notes or any records of your training or experiences in the election?

MS. DARDEN: I could have.

MR. HARVEY: But you didn't today?

MS. DARDEN: No.

MS. MITCHELL: Mr. Harvey, if I may interject, we did speak to Ms. Darden after the election. As we were evaluating the numbered list, we recognized that there was some conflict going on between her and one of her workers, and that workers was the person that Ms. Darden had assigned to the provisional ballot station.

MR. HARVEY: Did you pass the training, Ms. Darden?

MS. DARDEN: Many months ago, yeah.

MR. HARVEY: I assume your assistant manager also passed the training?

MS. DARDEN: I think what it was, they just let her work.

MR. HARVEY: They just let her work?

MS. DARDEN: Yeah, because there was an attitude problem.

MR. HARVEY: Thank you. If there are no more questions form the Board, I would recommend --

SECRETARY KEMP: I have one question. I assume everyone working in the polls would have been trained; is that correct?

MS. DARDEN: That's very true. You have to go through and try to quiet them, or what have you. Some go to lunch and go back when they get ready; they do just whatever they please.

MR. HARVEY: I would ask that Ms. Darden be excused if there are no more questions.

SECRETARY KEMP: Thank you, Ms. Darden.

MR. HARVEY: The next witness we would call would be Ms. Linda Hardy.

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Ms. Hardy, if you would, have a seat the Secretary Kemp will swear you in.

SECRETARY KEMP: Ms. Hardy, if you will, just give us your name and address for the record.

MS. HARDY: My name is Linda Hardy. I live at 919 Washington Street, Atlanta, Georgia 30315.

SECRETARY KEMP: If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. HARDY: I do.

SECRETARY KEMP: Thank you. Feel free to pull that mic a little closer to you.

Thank you.

MR. HARVEY: Thank you, Ms. Hardy. Were you the poll manager at 02S?

MS. HARDY: No.

MR. HARVEY: Are you 11G?

MS. HARDY: Right.

MR. HARVEY: Okay. We can do 11G. This is you, Venetian Hills? You were the poll manager there?

MS. HARDY: Yes.

MR. HARVEY: Is this the recap sheet you completed for the provisional ballots have Venetian Hills?

MS. HARDY: Yes.

MR. HARVEY: Is that your signature?

MS. HARDY: Yes.

MR. HARVEY: Did you not know to the put the serial numbers or stub numbers of the provisional ballots in this area?

MS. HARDY: At the time I didn't put it in there because I got thrown off because we had to get more provisional ballots, and I didn't know that we had the numbers -- put the numbers in there, no.

MR. HARVEY: You had to request additional provisional ballots?

MS. HARDY: Yes.

MR. HARVEY: How many times did you have to request provisional ballots?

MS. HARDY: I just called once.

MR. HARVEY: How long did it take to get them?

MS. HARDY: It took maybe about five or six hours.

MR. HARVEY: Five or six hours. Okay. Who did you speak with when you called to get more provisional ballots? Do you remember?

MS. HARDY: I don't recall.

MR. HARVEY: Okay. There's no accounting -- there are 59 people on the list of voters. There's no accounting for the ballots cast and ballots received. Is that also because you didn't have the right number to begin with?

MS. HARDY: Right.

MR. HARVEY: So you didn't add up the number of provisional ballots that were cast?

MS. HARDY: No.

MR. HARVEY: Although I'm not sure this is -- on the other provisional ballot lists, there's an indication of whether to accept or reject. I don't believe the poll manager would have anything to do with that. I believe that would be something that Mr. Jones -- Mr. Jones, the others we're going to see have marked accepted or rejected on them. Was that done by your staff or someone at the precinct, who would make the marks that would normally be seen in that area?

MR. JONES: Usually my staff would make the rejection or accepted marks on the numbered lists.

MR. HARVEY: Any idea why there wouldn't be marks on this one?

MR. JONES: No, sir.

MR. HARVEY: You've got a note here that said, had to bring more ballots.

MS. HARDY: That's right.

MR. HARVEY: And it took several hours to get there. Do you know how many they brought?

MS. HARDY: No, I don't. I can't remember.

MR. HARVEY: Did you tell other people they might try other precincts?

MS. HARDY: No, I did not.

MR. HARVEY: Now, Mr. Jones, these are two stray accept marks. Do you know where those marks would have come from?

MR. JONES: Off the top of my head, no. I know that we do put accept and reject on the numbered list.

MS. COLEMAN: That's not the accept or reject column, though, is it?

MR. HARVEY: No, it's not. It would have been your staff that would have made those marks. Do you have any idea what those marks would indicate?

MR. JONES: Your guess is as good as mine.

MR. HARVEY: Does the Board have any questions for Ms. Hardy?

MR. MCIVER: I do.

SECRETARY KEMP: Mr. McIver?

MR. MCIVER: Ma'am, did you have enough provisional ballots at the end of the day?

MS. HARDY: Not at the end of the day, but right after I called for some more, then I had enough at the end of the day.

MR. MCIVER: Was anybody turned away?

MS. HARDY: No. We had some that sit and waited.

MR. MCIVER: Until the ballots arrived?

MS. HARDY: Correct.

MR. MCIVER: But consistent with Ms. Mitchell's remarks, everybody had a chance to vote?

MS. HARDY: At my precinct, yes. Even those in the wrong precinct and they refused to go to their own precinct, we let them vote provisional.

MR. MCIVER: Thank you.

SECRETARY KEMP: Why do you think those folks would want to go to the wrong precinct? I'm just curious.

MS. HARDY: A lot of them said they had been standing in line for a long period of time and they didn't have time to go to their own precinct and it was too far away or they don't vote there anymore.

SECRETARY KEMP: Thank you.

MR. HARVEY: Where there people that came and went while they were waiting for ballots? So could there have been people that left without voting?

MS. HARDY: There could have if they were outside in the line and I didn't see them. But the majority of them stayed and voted.

MR. HARVEY: If there are no more questions, I'd ask that she be excused.

SECRETARY KEMP: Thank you, Ms. Hardy.

MR. HARVEY: Next I would call Latanya Crawford.

(Whereupon, the witness approaches and is seated.)

SECRETARY KEMP: Welcome, Ms. Crawford. If you will, just give us your name and address for the record and we will get you sworn in.

MS. CRAWFORD: Latanya Crawford, 1900 Perry Boulevard, Atlanta, Georgia.

SECRETARY KEMP: If you would raise your right hand, please.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. CRAWFORD: Yes.

MR. HARVEY: You were the poll manager at Wheat Street?

MS. CRAWFORD: Yes.

MR. HARVEY: And did you complete this form?

MS. CRAWFORD: No, I did not.

MR. HARVEY: Is your signature on it?

MS. CRAWFORD: Yes.

MR. HARVEY: Is that your signature there?

MS. CRAWFORD: Yes.

MR. HARVEY: Who completed the form?

MS. CRAWFORD: My assistant, Jeannie Jones.

MR. HARVEY: Did you have another assistant, or just --

MS. CRAWFORD: I had two; Cheetara Crawford.

MR. HARVEY: She didn't sign the form?

MS. CRAWFORD: No, she didn't.

MR. HARVEY: There's a place for a manager and two assistant managers.

MS. CRAWFORD: Yes.

MR. HARVEY: There are 79 voters on the list. There are 84 numbers listed here. We have six more ballots cast than names on the list of voters. Any idea how that happened?

(Whereupon, there was no response)

MR. HARVEY: Did you run out of ballots or have to order more ballots?

MS. CRAWFORD: We were told when we were close to getting -- running out, always call and order more. And there were some gaps in between delivery and us running out. But they did come.

MR. HARVEY: So there were times where you had no provisional ballots?

MS. CRAWFORD: There would be times, yes.

MR. HARVEY: How long did it take to get ballots after you requested them?

MS. CRAWFORD: It wasn't long. Maybe 45 minutes.

SECRETARY KEMP: Ms. Crawford, I just want to clarify one thing for the record. When you were asked the question about why the numbers differentiate, you did not know why; was that the correct answer?

MS. CRAWFORD: That's correct. I had two assistant managers and we all took on our own separate roles. We have all worked together for many years. Ms. Jeannie Jones always handles the provisional ballots. Ms. Cheetara Crawford always handles the express polls. And I always handle the TS machines, those machines which generated the most crowds.

SECRETARY KEMP: Right.

MS. CRAWFORD: So we all have worked together and we all knew our responsibilities there.

SECRETARY KEMP: Thank you.

MR. HARVEY: Did you have a printed list of supplemental voters at your precinct?

MS. CRAWFORD: Yes, we did.

MR. HARVEY: Did you have to use it a lot?

MS. CRAWFORD: Yes, we did.

MR. HARVEY: More so than in past elections or about the same? Less?

MS. CRAWFORD: Maybe in the past election I don't know if we even had a supplemental list in the past. But we did in this one.

MR. HARVEY: And were you trained in the proper handling of the provisional ballots, or did you leave that to Ms. Jones?

MS. CRAWFORD: No. We all were trained on all the procedures. We all were aware of how to handle it and how to process it. If the count was off, I can't speak to that. But both of my assistants are here today.

MR. HARVEY: I understand.

MS. CRAWFORD: We tried not to process people on provisional. That's not our goal to do that. Our goal is to get them through the express poll; that was our only intention. That's a backup. We want everybody to vote. So if we can't get you through the express polls, then you go to . . . So what we would do is if you've already -- some people come in, may not be on express polls, but they have prior registration. So if they even brought in to us anything that we can verify that they were already registered, we would do that. Some of them brought in their printout where they had registered, but it didn't make the

supplemental list. We call in, get authorization to go ahead and change their status, allow them to vote. That way it did not have to go through provisional. So we made every effort to keep from doing provisional voting. But we never turned anybody away. That's the last resort.

MR. HARVEY: Thank you. Did you turn in your documents at the collection center?

MS. CRAWFORD: I did.

MR. HARVEY: Did anybody ask about a difference in the number of ballots and the numbers on this list?

MS. CRAWFORD: I will say when we're turning in all of our paperwork, everything isn't checked to the extent of what you're saying. Some things are accounted for, I'm sure, the next day or at a different time.

MR. HARVEY: Right. Mr. Brower, I believe, has indicated that they would check the number to make sure if you said you eight provisional ballots, you had eight provisional ballots. Do you remember them checking to see if you had the right number of provisional ballots down here?

MS. CRAWFORD: Well, I will say we went through several stations. Who was checking what, I can't really say. But I believe there was a provisional station; there was express poll station. So it was different tables as you moved through the process.

MR. HARVEY: But nobody stopped you at any point and said, hey, wait a second; this isn't right. You need to fix this.

MS. CRAWFORD: Nobody stopped to check a count with me to say your count does not add up.

MR. HARVEY: Thank you.

SECRETARY KEMP: Do they normally do that in the past?

MS. CRAWFORD: I was told if your counts did not add up, you had to sit there until it was corrected. Now, I have never been stopped in the midst of that, as far as my precinct

is concerned, that our counts did not add up. I'm sure that it was because of the influx of so many people trying to vote on that day. We were a downtown precinct, so many people are working at school away from home, away from general place that they vote. Again, our effort is not to turn anybody away. Can you get to your precinct? Can you make it there? If you can, we recommend it -- highly recommended it. If you cannot, we will make sure that you vote today. So with the influx of all the people trying to vote provisional, you know . . .

MR. HARVEY: Did you actually have the bag, or did Ms. Jones actually have the bag?

MS. CRAWFORD: Ms. Jones handled it, but our procedures were very tight. You went through the complete process -- it is a process. It takes much longer to do provisional than it does express poll.

MR. HARVEY: I'm talking about in the check-in process. When you were turning in your paperwork at the collection center, did you give them the provisional bag or did Ms. Jones?

MS. CRAWFORD: I handle all of that.

MR. HARVEY: And did they open it up and check the numbers, or do you recall?

MS. CRAWFORD: I don't recall.

MR. HARVEY: But you weren't stopped?

MS. CRAWFORD: I was not stopped through the process. No; I wasn't.

MR. HARVEY: Does the Board have any other questions?

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

MR. HARVEY: I request she be excused.

SECRETARY KEMP: Thank you Ms. Crawford.

MR. HARVEY: We also have Ms. Jones under subpoena. Ms. Jones, are you here?

MS. JONES: Yes, sir.

MR. HARVEY: Would you come up, please?

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Have a seat and Secretary Kemp will swear you in. State your name and address for the record, please.

MS. JONES: My name is Jeannie and my precinct is 02S, which is that Wheat Street, 375 Wheat Street Towers on Auburn Avenue.

MR. HARVEY: Would you give your full first and last name.

MS. JONES: My name is Jeannie B. Jones.

MR. HARVEY: Thank you.

SECRETARY KEMP: Thank you for being here, Ms. Jones. If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. JONES: I do.

SECRETARY KEMP: Thank you.

MR. HARVEY: Ms. Jones, can you account for the difference in the number of ballots and the provisionals?

MS. JONES: Sir, I thought we had counted -- we did count the amount of ballots that

we, you know, that we had. But I just can remember the amount, you know, of the ballots. But everything corresponded after we did our count; me, the assistant manager -- two assistant managers and one manger. And also, we had one worker there, her name was Belva Culverson, she used to be an assistant manager, but worked for Fulton County, and she moved out that district. But they still let her come back and work back with our precinct. She worked on the provisional ballots, too, with me. There were two workers.

MR. HARVEY: Anything else you can add to explain how the provisional ballots numbers were wrong?

MS. JONES: No, because I was thinking it was right because we worked together as a team, you know. Like if one person don't understand the procedures, the next worker knew some of the things that the other worker didn't know, or we would contact our manager and we would talk about it, you know, when we came to something we didn't understand.

MR. HARVEY: Thank you. Any questions from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: No.

MR. HARVEY: I request she be excused.

SECRETARY KEMP: Thank you for being here, ma'am.

MR. HARVEY: And, again, for the record, on 02S, there are 79 on the numbered list of provisional voters. Fulton county was able to provide 40 voters certificates and 45 provisional ballot envelopes from that precinct. So, again --

SECRETARY KEMP: What are those numbers again?

MR. HARVEY: There were 40 provisional voter certificates provided by Fulton County and 45 provisional ballot envelopes provided by Fulton County. We determined that three of the voters who voted should have been eligible to vote on DRE.

SECRETARY KEMP: So they would have showed up either on the VR system the

supplemental list?

MR. HARVEY: They should have, yes, sir. The next precinct we're going to look at is 04W. Is Ms. Joan Robinson present?

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Have a seat, please, ma'am. Will you please state your name and address for the record.

MS. ROBINSON: My name is Joan J. Robinson. I live at 2824 The meadows Way, College Park, Georgia 30349.

SECRETARY KEMP: Good afternoon, Ms. Robinson. If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. ROBINSON: Yes.

SECRETARY KEMP: Thank you.

MR. HARVEY: Ms. Robinson, you're the manager at the Morehouse voting precinct?

MS. ROBINSON: Yes, sir.

MR. HARVEY: Is this the provisional ballot recap sheet you completed?

MS. ROBINSON: Yes.

MR. HARVEY: I notice up in the area where they are asking for voter certificates, you've got 6-0-3 crossed out; 440 crossed out; and 249 with your initials. How did that number keep decreasing?

MS. ROBINSON: Because we had 249 provisional ballots.

MR. HARVEY: Where did the 603 come from to start with?

MS. ROBINSON: I went over the provisional ballots with the person who actually did provisions [sic], and when I was going over it, you know, I asked them why was it that number. And then they explained it to me. We had a lot of provisional ballots and the majority of them, I ordered some at three different times. We had to come in not having numbers on them; some of them and numbers that was out of sequence. So . . .

MR. HARVEY: I see the notation here that the ballots were missing stubs.

MS. ROBINSON: Right; right.

MR. HARVEY: Does that account for not putting ballot numbers in this area on the form?

MS. ROBINSON: I don't understand.

MR. HARVEY: This is the area where you are supposed to report the ballot stub numbers of the provisional ballots, and it's blank. But you do have a note saying ballots were missing stubs; ballots without stubs.

MS. ROBINSON: Right.

MR. HARVEY: Obviously, you had 249 people vote provisional ballots, correct?

MS. ROBINSON: Yes.

MR. HARVEY: Have you been manager there before?

MS. ROBINSON: Yes.

MR. HARVEY: Is that an unusually high number?

MS. ROBINSON: Not for the college, because a lot of them are students. Students start in September. They have a school drive probably in September, so I don't know. A lot of

times it don't show up on the computer. We always have a high number of provisional ballots.

MR. HARVEY: And you have answered why there were no -- you said there were no stubs or numbers on the ballots. Mr. Brower, can you address that, why there would be no numbers or stubs?

MS. ROBINSON: On the second order.

MR. HARVEY: The second order.

MS. ROBINSON: Yes. Not the first order.

MR. BROWER: No. I have no explanation for that because that printing system will not allow you to print a ballot without a stub.

MR. HARVEY: Now, when you take the lists that were provided as attached this, there are 232 names and you've got 249. None of these numbers seem to make sense and there's no explanation of the difference. Now, when we get to the list of provisional voters, it starts off with number 1 through 20, and then it goes -- do you know where these numbers came from? We've got four-digit numbers beginning with 8; four-digit numbers -- is that some notes that you made?

MS. ROBINSON: No. The person who did the provisional ballots is here today.

MR. HARVEY: Okay.

MS. ROBINSON: But what happened, a lot of them -- the numbers was out of sequence when we reordered the provisional ballots.

MR. HARVEY: So you're putting the provisional ballot next to the name of the person of voted? Is that what that number is?

MS. ROBINSON: Yes. On the --

MR. HARVEY: These four-digit numbers, that's the provisional ballot number?

MS. ROBINSON: On the left, that first column should be the number list of provisional ballot, like 1 through --

MR. HARVEY: Right. That's 1 through 20.

MS. ROBINSON: Right. Then the next would start at --

MR. HARVEY: The next one starts at 8000-something.

MS. ROBINSON: Eight thousand?

MR. HARVEY: Eight thousand, one nineteen. And then the numbers continue. And there's no indication up here that this is -- did you mark "4W" on all of your lists?

MS. ROBINSON: Yes.

MR. HARVEY: So is it possible this isn't even from your precinct?

MS. ROBINSON: I don't remember no numbers 8-8-1-9.

MR. HARVEY: These are all provided as attached to 04W. And, again, we continue with the four-digit numbers on both of these; no designation of precinct.

MS. ROBINSON: The only thing I can say is they was out of sequence and we did the best we could put them in order.

MR. HARVEY: So you suspect those numbers were the ballot stub numbers --

MS. ROBINSON: Right.

MR. HARVEY: -- and you wrote that next to the voter. Okay. Thank you. You said you had to order provision ballots three times?

MS. ROBINSON: Maybe at least twice.

MR. HARVEY: How long did it take to get the ballots?

MS. ROBINSON: About 30 minutes.

MR. HARVEY: Did you have a supplemental list of voters?

MS. ROBINSON: Yes.

MR. HARVEY: Did you use it a lot?

MS. ROBINSON: I put it near the express poll. Whether they used it or not, I don't know.

MR. HARVEY: Were you trained on how to use the supplemental list?

MS. ROBINSON: Yes.

MR. HARVEY: Does the training that you heard Ms. Coleman talk about sound consistent with what training you received?

MS. ROBINSON: Yes.

MR. HARVEY: Did your staff instruct the provisional voters to complete -- did you issue voter registration applications with provisional ballots with the code PR?

MS. ROBINSON: Yes.

MR. HARVEY: And did you turn in those documents to the collection center?

MS. ROBINSON: Yes.

MR. HARVEY: Did they ask you about any of those numbers not being correct?

MS. ROBINSON: When we got downtown, we had so many provisional ballots, they put them in a box.

MR. HARVEY: Did they count them?

MS. ROBINSON: Yes. They counted each one by one because we stayed there a long time counting provisional ballots.

MR. HARVEY: Does the Board have any questions?

SECRETARY KEMP: **Mr. McIver.**

MR. MCIVER: Ma'am, was anybody turned away?

MS. ROBINSON: No.

MR. MCIVER: Everybody voted that had an opportunity to vote?

MS. ROBINSON: Yes, sir.

MR. MCIVER: Thank you.

SECRETARY KEMP: Thank you, Ms. Robinson.

MR. HARVEY: Again, if you look at the analysis, Fulton County was able to provide 259 provisional voter certificates; they're able to provide 159 provisional ballot envelopes from that precinct. Again, the number ballots don't add up.

Next is precinct SS14. The manager here is Ms. Vatrice Gibb. Is Ms. Gibb here?

(Whereupon, there was no response)

MR. HARVEY: What about Burt Geranda?

SECRETARY KEMP: What was the name again, Mr. Harvey?

MR. HARVEY: B-U-R-T, G-E-R-A-N-D-A; Burt Geranda.

Is Ms. Rosalyn Murphy here? Okay. Thank you.

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Thank you. Just have a seat.

MS. BURT: Geranda Burt, 7030 Brown Drive South, Fairburn, Georgia 30218.

SECRETARY KEMP: Welcome. If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. BURT: I do.

SECRETARY KEMP: Thank you.

MR. HARVEY: I apologize for confusing your name.

MS. BURT: That's okay.

MR. HARVEY: Were you the assistant poll manager at SS14?

MS. BURT: Yes.

MR. HARVEY: And Ms. Vatrice Gibb, was she the poll manager?

MS. BURT: Yes.

MR. HARVEY: Do you know where she is today?

MS. BURT: I have no idea.

SECRETARY KEMP: Ms. Coleman, do you have something?

MS. COLEMAN: I'm sorry to interrupt, but Ms. Gibb is in Virginia taking care of her parents who are ill.

SECRETARY KEMP: We'll let the record reflect.

MR. HARVEY: Thank you.

SECRETARY KEMP: Thank you.

MR. HARVEY: Is your signature on this provisional ballot recap sheet?

MS. BURT: Yes.

MR. HARVEY: This one right here?

MS. BURT: yes.

MR. HARVEY: Do you recall this being complete with these numbers when you signed it?

MS. BURT: Yes.

MR. HARVEY: And this is all in blue ink, correct?

MS. BURT: I don't remember what color the ink was.

MR. HARVEY: Well, it's a color copy, so it's blue ink. Did you handle the provisional voters or did you mix it up, or did somebody handle it?

MS. BURT: Rosalyn Murphy and I (unintelligible) together. We did it as a team.

MR. HARVEY: Is some of your handwriting over here on this numbered list of provisional voters?

MS. BURT: Yes.

MR. HARVEY: And some is the other woman's?

MS. BURT: Rosalyn's; yes.

MR. HARVEY: Now, the total names on the numbered list of voters here is 15, correct?

MS. BURT: Yes.

MR. HARVEY: And when you look down in blue, there are 15 names in blue and everything else balances out. This is a precinct that appears to balance. There was a mistake there with the counting, but you were given 50 provisional ballots, you voted 15, and you returned 35. You even thought to put the stub numbers.

MS. BURT: Yes

MR. HARVEY: Now, do you recall seeing these five names on this list of voters when you turned it in? The five names that are in red and in a different hand, it appears, than any of these. Does that look familiar at all?

MS. BURT: No. Not to me.

MR. HARVEY: Would you have signed this form with 15 on the list of provisional voters if there had been 20 on this list?

MS. BURT: No.

MR. HARVEY: So would you suspect those 15 names were the only ones on the list when you signed it?

MS. BURT: Yes.

MR. HARVEY: Did you have anything to do with turning in those documents at the collection center?

MS. BURT: Yes.

MR. HARVEY: Were you there when the provisional ballots were opened -- the bag was opened and things were counted?

MS. BURT: I'm trying to remember if I was at provisional. I don't remember that part of it.

MR. HARVEY: Do you remember being stopped or questioned about any of this stuff?

MS. BURT: No.

MR. HARVEY: So you sailed right on through?

MS. BURT: Yes.

MR. HARVEY: Do you recall any of the other poll workers being asked about, hey, why doesn't this add up?

MS. BURT: No.

MR. HARVEY: When this was signed, 50 provisional ballots that were cast. It appears that numbers 16 through 20 were added in red ink in a different hand, the red ink that seems to correspond with the checks up here on accepting or rejecting. All of the red names had their provisional ballots accepted. Do you have any idea when those names were added and why?

MS. BURT: No.

MR. HARVEY: Focus on the first voter, Sumner Bradshaw.

MS. BURT: I'm sorry. That says SS12, and we're SS14.

MR. HARVEY: I'm sorry.

MS. BURT: You see where it says in the red where it says SS12?

MR. HARVEY: Yes. I see that.

MS. BURT: Okay. I have no idea --

MR. HARVEY: But this is the form that your precinct keeps, correct?

MS. BURT: Yes.

MR. HARVEY: Sumner Bradshaw was listed as having cast a provisional ballot and it was accepted. I know this is difficult to see. This is the list of accepted provisional

ballots that Fulton County provided to us and the name at the top of this list is on Page 53, Sumner Bradshaw. This is the list of voters that voted on DRE on election day at precinct 7A, and the name Sumner Bradshaw. There are no provisional ballot documents for Ms. Bradshaw. There's not an envelope; there's not a voter certificate. We spoke with Ms. Bradshaw and she denied voting a provisional ballot. She did say that she went to the precinct and was told she needed to go to her correct precinct at Sarah Smith, which she did and then voted on the DRE at Sarah Smith. But I asked her very specifically, did you fill out anything that would be like a provisional ballot or absentee ballot. She said she did not. We also checked with the other four voters and they had the same experience.

But her provisional ballot was accepted. Again, it shows that she voted on the DRE at her proper precinct. The same is true for all four of those voters that are listed in red. Do you have any explanation for that?

MS. BURT: No.

MR. HARVEY: Mr. Jones, do you have any explanation as to how that could happen?

MR. JONES: Not at this time. No.

MR. HARVEY: I think that answers the question about whether or not someone could vote on the DRE and vote provisionally.

MR. WALBERT: Guess we have to find out what actually happened.

MR. HARVEY: I understand. And, again, document-wise, Fulton County provided 19 provisional voter certificates and 15 provisional ballot envelopes for that precinct.

Any questions for Ms. Burt?

(Whereupon, there was no response)

MR. HARVEY: May she be dismissed?

SECRETARY KEMP: Yes. Thank you, ma'am.

MR. HARVEY: Ms. Murphy?

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: State your name and address for the record, please.

MS. MURPHY: Rosalyn Murphy, 9527 Lakeview Road, Union City, 30291.

SECRETARY KEMP: Thank you, Ms. Murphy. If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. MURPHY: I do.

SECRETARY KEMP: Thank you for being here.

MR. HARVEY: Ms. Murphy, you've seen what we just went through. Do you have any explanation about the pattern?

MS. MURPHY: No. It looks like it was added after we turned paperwork in because I specifically know that Ms. Burt and I, along with our manager, did work on that. I know we only about 15 because we had maybe, like, 36. The way the ballots are set up, when you have to put the extra stub numbers down, it can be a little confusing in that little section. I know for certain that those additional names were added after because it doesn't look like our handwriting.

MR. HARVEY: Any other questions for her?

SECRETARY KEMP: Do you have any idea why that would be altered after you turned it in? Was it to make the numbers balance or does anyone have an answer to why, or do you need more time to look into that?

MR. WALBERT: (Unintelligible) makes it not balanced, the ones that were added; the

way I understand it.

SECRETARY KEMP: Right. Why they wouldn't balance.

MS. MURPHY: It looked like they were added after, and also if that is a color copy, it was added in red with the, as Mr. Burt stated, with a different precinct number. If you will notice, before that, we don't include the precinct number. So I'm not sure why that would have been modified.

MR. HARVEY: Thank you.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

MR. HARVEY: Thank you, Ms. Murphy.

SECRETARY KEMP: Thank you for being here, Ms. Murphy.

MR. WEBB: Mr. Harvey, before you call the next person, can I ask Mr. Jones some questions?

MR. HARVEY: Absolutely.

MR. WEBB: Mr. Jones you handled the provisional ballots; is that correct? You're the recipient, and they all come in to you?

MR. JONES: Yes.

MR. WEBB: For my edification, the County is in charge of voting those, correct? The County collects all the provisional ballots and then adds them to the totals from DRE?

MR. JONES: That is correct.

MR. WEBB: Okay. And when a voter votes in the wrong precinct, shows up at one precinct but he or she is registered at another precinct, and the ballots do not match, say there's 25 offices up and 20 of those are the same. How would you handle the five that

don't match?

MR. JONES: We go through a process called duplication whereby we take the original ballot where the person was registered and the ballot they voted on and begin to duplicate only the races that that the ballot is supposed -- the person is supposed to actually be voting to.

MR. WEBB: And you're only doing that within Fulton County, correct?

MR. JONES: That is correct.

MR. WEBB: So if somebody from a different county showed up at a Fulton County precinct, they would not even let them vote a provisional; is that correct?

MR. JONES: Our policy has been we've been pretty liberal and we will not turn a voter away. So if a person is issued a provisional at that precinct and they are at another county, it would be researched and if we deem necessary they were in another county, that provisional will be rechecked.

MR. WALBERT: So no way they would be able to fill it out and submit it, per the law, but it wouldn't be counted after they do that.

MR. JONES: Research it.

MR. WALBERT: It would be rejected.

MR. HARVEY: Thank you.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: Mr. Brower, who made the decision to send only 50 provisional ballots to each precinct?

MR. BROWER: We looked at a previous -- previously we would normally send 25. But usually for an election of this magnitude, double would be typically sent.

MR. SIMPSON: Did you go back and look and see how many provisional ballots you

used in the last presidential election?

MR. BROWER: We use historical data, too. That's also a basis of our decision. In terms of the number sent out, we certainly sent out more this time than we did in the presidential election of 2008.

SECRETARY KEMP: Mr. Harvey, it's my understanding you've got one more.

MR. HARVEY: Actually, two more.

SECRETARY KEMP: We'll do those and then we'll take a quick break and give y'all a minute.

MR. HARVEY: Next is precinct 3A, and the manager is Annie Johnson. Ms. Johnson.

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Please state your name and address for the record.

MS. JOHNSON: My name is Annie M. Johnson, and I live at 1424 Simpson Street, Northwest, Atlanta, 30314.

SECRETARY KEMP: Ms. Johnson, would you raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. JOHNSON: I do.

SECRETARY KEMP: Thank you.

MR. HARVEY: Ms. Johnson, were you poll manager at 03A?

MS. JOHNSON: Yes.

MR. HARVEY: How long have you been a poll manager?

MS. JOHNSON: I think about 10 years.

MR. HARVEY: You had 132 provisionals cast?

MS. JOHNSON: Yes, I did.

MR. HARVEY: Did you complete this form?

MS. JOHNSON: Yes, I did.

MR. HARVEY: And that's your signature?

MS. JOHNSON: Yes.

MR. HARVEY: There's not recording of the ballot stub numbers. Is that something you were not trained on, or why do the stub numbers --

MS. JOHNSON: I was trained on it, but it was so hectic that day. I work at the Atlanta Job Corps Center, and you have to come and visit there to understand. I so many students from all over the country and they wanted to vote. I had to even go and get security it had gotten so rough. So it was just really a day.

MR. HARVEY: Did you have a supplemental list of voters; a printed supplemental list of voters?

MS. JOHNSON: Yes, I did.

MR. HARVEY: Did you have to use a lot?

MS. JOHNSON: No I didn't.

MR. HARVEY: Those are the people on express poll?

MS. JOHNSON: Most of the people that voted were on the express poll, but these were students from the Atlanta Job Corps mostly.

MR. HARVEY: And this is the numbered list of voters?

MS. JOHNSON: Yes.

MR. HARVEY: Did you complete this, or did someone else?

MS. JOHNSON: Somebody else did that.

MR. HARVEY: You'll notice that for the first page, the names appear to be written at different times by different people, but as the pages go on, to page 4, you'll notice a very similar hand, the same hand, apparently, and the names appear to descend alphabetically.

MS. JOHNSON: Well, I don't write in red for anything, you know, unless I'm trying to send a message, and I did I do that. I did not write in red. We didn't even have a red pencil.

MR. HARVEY: Do you not recall that writing?

MS. JOHNSON: No, sir.

MR. HARVEY: And you see it continues . . .

MS. JOHNSON: I see.

MR. HARVEY: And these cross-outs, do you remember doing that?

MS. JOHNSON: No I don't.

MR. HARVEY: And at this point the alphabetical starts to break down, but from that point on Page 4 until here, it's going reverse alphabetical order. Any reason you would have been going in reverse alphabetical order?

MS. JOHNSON: No.

MR. HARVEY: The odds seem pretty unlikely that people would be coming in and voting in reverse alphabetical order.

MS. JOHNSON: I can't explain it.

MR. HARVEY: Another list, this has the 132, and this appears to be in the same hand as the first page. Do you agree?

MS. JOHNSON: Yes.

MR. HARVEY: Do you recognize this as something that either you wrote or someone in your someone your precinct wrote?

MS. JOHNSON: Somebody in our precinct probably wrote that.

MR. HARVEY: Okay. Did you have to order additional provisional ballots?

MS. JOHNSON: I did about three times and it took me a long time to get that, for them to get there. I had (unintelligible) voters that did not get to vote.

MR. HARVEY: How many voters would you say did not get to vote?

MS. JOHNSON: About 10 or 12 that did not. And they had to eat their dinner about 5:00 because it's run just like a college. So they did not want to wait.

MR. HARVEY: Had there been provisional ballots there, they would have been able to vote?

MS. JOHNSON: They would have.

MR. HARVEY: You said you had to wait a long time. What do you consider a long time for bringing the ballots?

MS. JOHNSON: About 45 minutes, or so.

MR. HARVEY: Any questions for Ms. Johnson from the Board?

MR. WILLARD: How many provisional ballots did you start the day with; was that the standard 50?

MS. JOHNSON: About 50.

SECRETARY KEMP: Any other questions for Ms. Johnson?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, ma'am.

MR. HARVEY: Is Rosa Brown here?

UNIDENTIFIED FEMALE: Yes, sir.

(Whereupon, the witness approaches and is seated.)

MR. WALBERT: What precinct is that?

MR. HARVEY: Same precinct.

Ms. Brown, could you state your name and address for the record?

MS. BROWN: Rosa K. Brown, 236 Holly Road, Northwest, Atlanta, Georgia, 30314.

SECRETARY KEMP: Welcome, Ms. Brown. Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. BROWN: Yes, sir.

MR. HARVEY: Ms. Brown, do you recognize any of this as being your handwriting?

MS. BROWN: Yes, sir. I'm the one.

MR. HARVEY: Is this all you?

MS. BROWN: She had someone to help me because she said the line was so long that, you know, they wanted to get out so they had a reason for someone to help me do the provisionals this time.

MR. HARVEY: Okay. Now, do you recognize this handwriting?

MS. BROWN: The lady what was helping me, sir.

MR. HARVEY: That's the lady that was helping you?

MS. BROWN: Yes, sir.

MR. HARVEY: Is she here today, Ms. Buck?

MS. BROWN: Is she here today, Mrs. . . .

MR. HARVEY: Cynthia Buck? Is she the lady helping you?

MS. JOHNSON: Jacqueline Banks.

MR. HARVEY: Jacqueline Banks was helping. But you recognize that as Jacqueline Banks' handwriting?

MS. BROWN: I don't know because she and I had never worked before together.

MR. HARVEY: I understand, and I'm not trying to -- I just want to make sure I understand. Are you saying that is, or you don't know if that is?

MS. BROWN: Oh, she was the only one that was helping me, so it had to be her, sir.

MR. HARVEY: Okay.

MS. BROWN: Yes, sir. Because there was only two of us working on the provisionals that day, on November 6th.

MR. HARVEY: Did you do your own list and she did her list?

MS. BROWN: Well, she and I was -- well, I would say as she needed -- the manager said we needed help so we gave her a paper list, you know, gave her a list to put down. But we were trying to keep it with our numbers of the quantity that we was given.

MR. HARVEY: Thank you. No other questions.

SECRETARY KEMP: Mr. Webb?

MR. WEBB: Ms. Brown?

MS. BROWN: Yes, sir.

MR. WEBB: The first piece of paper up there, does that appear to be your handwriting?

MS. BROWN: Yes, sir; yes, sir.

MR. WEBB: That's all. Thank you.

MR. MCIVER: Ma'am, my standard two questions. Did you turn anybody away, Ms. Brown?

MS. BROWN: No, sir. We didn't turn anyone away.

MR. MCIVER: Everybody get to vote that sought to do so?

MS. BROWN: Yes, sir.

MR. MCIVER: And you had enough provisional ballots?

MS. BROWN: That's what I was saying, as I stated to my manager, that the ballots, the 50 had given out and we had to get some more, you know.

MR. MCIVER: At the end of the day, you had enough ballots?

MS. BROWN: Yes, sir. We did.

MR. MCIVER: Thank you for coming.

MS. BROWN: Yes, sir.

MR. HARVEY: And, again, on the overall analysis sheet, you'll see 137 were on the numbered list. There were 97 provisional voter certificates provided by Fulton County and 128 provisional ballot envelopes provided by Fulton County.

I believe we've got one more precinct. Let me back up while we're here. This is the fifth page of the recap sheet, and if you look at the accept and reject up here that presumably was written by somebody on Mr. Jones's team since they were charging it with the checks, it appears that handwriting is similar to that handwriting. (Indicating) I don't know that I would go so far as to say it absolutely is, but it certainly looks similar and it's written in red ink. Mr. Jones do you have any knowledge of this?

MR. JONES: That's really not our procedure, so I don't have any knowledge of it.

MR. HARVEY: But you would expect that the accept and reject, that would be written by somebody on your team?

MR. JONES: That is correct.

MR. MCIVER: Could you back up one slide?

(Complying)

MR. MCIVER: What I found troubling about the page on the right is it seems go back to alphabetical. About mid-page, it picks up with the A, B, C, D, so on, and ends up a little askew.

MR. HARVEY: It goes reverse to that point, and then you start with A and you start going back up again.

MR. WALBERT: I don't know if you asked the individual, Chris, but it almost looks like somebody recapitulated so it's written better after the fact. But, I don't know if you wanted to ask her that, or what.

MR. HARVEY: Cynthia Buck is not here?

(Whereupon, there was no response)

MR. HARVEY: So we don't know if the same person who was accepting and rejecting ballots was creating the names on the list of provisional voters.

I believe this is going to be the last precinct. This will be a short precinct. The poll manager is Marilyn Sewell.

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Would you state your name and address for the record, please.

MS. SEWELL: Marilyn Glass Sewell, 837 Ridge Avenue, Atlanta, Georgia.

SECRETARY KEMP: Ms. Sewell, if you would, raise your right hand.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. SEWELL: I do.

SECRETARY KEMP: Thank you.

MR. HARVEY: Ms. Sewell, you were the poll manager at 02F1 and 02F2?

MS. SEWELL: Yes.

MR. HARVEY: Did you experience any difficulties with provisional voting on November 6?

MS. SEWELL: None.

MR. HARVEY: Did you complete this form?

MS. SEWELL: No, I didn't complete the form. The person handling provisional filled out the form.

MR. HARVEY: Who was that?

MS. SEWELL: This is my first time there at that poll and some people was already assigned there. So . . .

MR. HARVEY: Did you take the materials down to the collection center to turn in?

MS. SEWELL: Yes, I did.

MR. HARVEY: Did you encounter any difficulties or stopped for any reason?

MS. SEWELL: No. They checked everything.

MR. HARVEY: Your recap sheet actually matches. It all adds up. This is the first one out of 10 where everything appears to be in order. She's got the right numbers, balances out; here's the -- she did it right. Fulton County was able to provide 83 provisional voter certificates from this precinct, which is the number she turned in. They were only able to provide 72 ballots from this precinct, which is nine less than what is said to have been voted.

Thank you, Ms. Sewell, unless the Board has any questions.

SECRETARY KEMP: Any questions for Ms. Sewell?

MR. MCIVER: We need to give her a gift card for Target.

SECRETARY KEMP: Thank you for being here, Ms. Sewell.

Is that all you've got on these 10, Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Let's take a quick 15- minute break. We'll come back at 3:00.

MR. HARVEY: Mr. Secretary, again, anyone who has been subpoenaed and has not been called, can be excused at this time.

SECRETARY KEMP: Just to make that clear, if **Mr. Harvey** has not called you to speak before us today and you were subpoenaed, we will not need to speak to you this afternoon and you are free to go. Of course, you are welcome to stay if you would like. We will come back at 3:00.

- - -

(Whereupon, the proceedings were in recess)

- - -

SECRETARY KEMP: All right. Mr. Harvey?

MR. HARVEY: I do want to say, just for the record, we did look at two other precincts, 04B and 06H, they had their recap sheets balance, as well. So there were some other points where the poll manager did what they were supposed to do.

At this point, I would ask Ms. Mitchell or Mr. Jones if you have any explanation how the numbers are so off in terms of the provisional ballots.

MS. MITCHELL: Our position is that the numbers that we have are based upon the actual physical ballots, themselves. The recap sheets are done at the poll, and as you can see, there are some inconsistency in terms of how poll managers complete that documentation.

MR. HARVEY: So you're going on the physical --

MS. MITCHELL: That is correct.

MR. HARVEY: Thank you. All right. We're going to move from the provisional ballot issue to the question of absentee ballots. This is going to be the last issue with the general election.

It's not unusual for Fulton County to have complaints about absentee ballots not being delivered or accepted or being handled properly. Our office received, I believe, 23 complaints about absentee ballots not arriving; not arriving in time. We had three cases where individuals got two absentee ballots when they only requested one.

There are two complaints that I want to specify because the complainant went into great detail, and it might help answer some questions about your system.

Mr. Jones, would you be the person to talk about the absentee ballots?

MR. JONES: Yeah, I believe so.

MR. HARVEY: Could you explain briefly -- I know at the last SEB meeting there was a -- you explained some about the process, but you've got a fairly automated absentee ballot process, correct?

MR. JONES: Yes, sir.

MR. HARVEY: Okay. Could you run through that briefly, please, to refresh our recollection.

MR. JONES: What happens is that once we receive the absentee applications, it is then entered into the voter registration system. Once entered into the voter registration system, whether it's good or bad, what have you, accepted or rejected, if it's accepted, a file is generated from the Secretary of State's office and placed on our server in Fulton County. Once it resides on our server, we have an automated program to pull out the people who requested that they be pulled or they that we selected.

That is then given to the Pitney Bowes machine, which actually does the stuffing and the folding and the processing of that ballot. We then, once it gives -- before it does that one, that same file is generated from our ballot-on-demand. It takes the same file that Pitney Bowes uses to stuff and stamp the mail, also print the ballots so we get the one-to-one correlation.

Once it is printed and we stuff it and fold it, it is then run through a sorter. Once it's run through the sorter, the sorter actually takes a picture of it to see if -- to note that we did have a ballot at that particular time. And it's then sent to the mail.

MR. HARVEY: Is the first step when you receive it, if you receive something by fax, is that done automated or does that require a person to take action?

MR. JONES: Upon receiving a fax, a person will then physically print out the

application and process it manually.

MR. HARVEY: How often is that fax line checked?

MR. JONES: Fax line check, every hour. It's basically how much work needs to be done. But evidently, mostly every hour.

MR. HARVEY: Did you have something else?

UNIDENTIFIED MALE: No.

MR. HARVEY: I just want to read part of a complaint we got regarding an absentee ballot because it's sort of contradicts something that you've said. This comes from a gentleman living in New York. He says that he had requested an absentee ballot Wednesday, October 3rd.

"I mailed an application for an official absentee ballot. Approximately a week later, a colleague submitted his after I did. He indicated he had received and submitted his absentee ballot via Cobb County within a 10-day period. This seemed odd and caused me to question the status of my absentee ballot.

On Thursday, October 18th, I prepared a second application for mailing, however I wanted to talk to somebody in Fulton County to ensure I was following the directions correctly. Friday, October 19th I called the general number and was transferred to a woman who checked my records. I indicated that an application had been mailed approximately three weeks earlier. She indicated there was no record of receiving the absentee application, but to speed up the process, I could fax my second application instead of mailing it.

Given this information, I faxed it at 4:17 p.m. My belief was that the absentee ballot would be in the mail by Monday or Tuesday, October 22nd or 23rd, with arrival to my residence by Sunday, October 26th, at the latest. Nothing arrived October 26th, 28th, or 29th.

On Tuesday, October 30th, I called the main Fulton County number and was transferred to a Marsha, who served as the coordinator of some aspect of this unit. I informed her that the fax had been sent on October 19th but nothing had been received,

even though I had gotten a confirmation of delivery right back. Marsha indicated that I re-fax the form again. I told her I would with the hour and she gave me her direct line if I had any problems.

At 12:50 p.m., on October 30th, I re-faxed the application for an absentee ballot. I called her four times that afternoon leaving messages and a number for a return call to confirm receipt of the document and mailing of the absentee ballot. I received no return call for the remainder of the day.

Wednesday, October 31st, I called one to two more times first thing in the morning and left additional messages. At approximately 3:15, Marsha returned my call. While talking with her, she indicated the faxes from October 30, 2012, had not been pulled up, but she would do it while I was on the phone. I sat on the phone listening while she pulled it up and confirmed that it had been received and processed in five to 10 minutes. Keep in mind, this only happened while I was on the phone after previous conversation and several messages on October 31st -- 30th and 31st. Marsha indicated it was processed and would go out right away.

Given the lateness of the day, I anticipated it would go out either October 31st or November 1st, with an arrival of November 3rd or 6th.

When the ballot did not arrive on November 3rd, I began making plans to leave work early in order to fill it out and pay, at my expense, for overnight delivery to ensure its arrival by noon on November 6.”

To make a long story short, he came home Monday and it wasn't there. He came home Tuesday and his ballot arrived the evening of the election. His fax sat on the fax machine for almost two days. Would that be an unusual circumstance, or would everybody be backed up behind him? Could you pull them off one at a time, or select them? How did that work?

MR. JONES: That would be a very, very unusual circumstance. I would love to know the person -- who the person is so if you get into the details of it. But if that fax is on there, it should have been processed.

MR. HARVEY: I guess a bigger picture question is, does it stop at that one point and nothing gets past it? For whatever reason, let's say his was hung up on the 30th.

MR. JONES: Uh-huh.

MR. HARVEY: Would it sit there by itself, or would everything that came in before it or after be affected?

MR. JONES: Everything should have been processed. Therefore, I would think that everything on that day on the 30th, that came in on the 30th should have been processed that day. That's our procedure.

MR. HARVEY: So it may have been just an individual oversight.

MR. JONES: Yes, sir.

MR. HARVEY: And I will get you that information, if we haven't already, so you can follow up on that.

MR. JONES: Sure.

MR. HARVEY: At this point, this sort of concludes where we are with the case involving the general election in November. I'm ready to go into a brief examination of the primary election from July and then the issue of demolished residences, if the Board is so inclined to hear that.

SECRETARY KEMP: Any questions for Mr. Harvey from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: We'll move into the 2012-56, July 31st general primary election.

MR. HARVEY: Primary election was held on July 31, 2012. There were several different factors that went on in this election. One of the most significant and one of the most -- that came to our attention the most was problems with redistricting. After the census, redistricting was done in Fulton County and Fulton County had some problems in at least three precincts where voters had been redistricted and had not been put in their proper precincts or the polls had not been set up to offer them the proper ballot.

Briefly, in House District 62, there was one whole street, Chickory Cove, that was incorrectly placed in House District 64.

In Sandy Springs there were approximately 350 people who were incorrectly listed as being in Senate District 56, when they should have been in Senate District 6.

The most tumult, I suppose, the most outcry came from Lang-Carson precinct on Flat Shoals Avenue. They had a situation where they had one precinct that had House District 58 and 59, and all of the voters that went were districted, I believe, House 58. So when somebody came who was in House 59 to vote, they were only been given the ballot for House 58. This was brought to the attention of the Fulton County offices, I think, by about 9:30, and Fulton County was able to provide some instructions on how they could encode the cards properly. However, what the poll workers really needed was a map that would show where somebody's house -- what district they were in. It's our understanding that nobody was able to respond to that precinct until about 3:45 p.m. with a map that was actually able to be used.

There were at least 15 people that were identified early as having gotten the wrong ballot when they attempted to vote in the primary. This was when Mr. Westmoreland was the elections director, and he told one of the candidates there were only two streets involved, but he couldn't tell you what streets they were.

I believe Mr. Brower eventually responded to the scene with a map that was large enough so that they could determine where people's addresses were and the residence.

Mr. Brower, is that an accurate account?

MR. BROWER: It's a pretty accurate account. I think the time, though, was a little earlier on delivering the map. We actually posted a map at the precinct showing those addresses affected; which side of that -- which correct House Senate district they were supposed to be in.

MR. HARVEY: Do you know approximately how many people in all of those three places I looked, and other places we might not know about, who were not in their proper district on the primary election day? I think when we spoke in December, you said there were maybe 10 streets, or so. Any other numbers?

MR. BROWER: It was 10 streets. In terms of the number of voters, I want to say it was about 350, I think. I can get you the exact numbers.

MR. HARVEY: Has that been corrected?

MR. BROWER: Yes.

MR. HARVEY: One of the other issues in that election had to do with reporting. Because of the problems with districting in Fulton County, once they started advance voting and realized that people were in the wrong district, they opted to create what's called a dual database. I think we've had cases with dual databases of voters before.

Essentially, they take the people that have voted up to a certain day and they lock that voting system and they create a second identical voting system with the people who haven't voted, and at the end of the election, they have to combine those two databases together. The combination and the reporting has to be done manually and can consist of thousands and thousands of individual numerical entries and calculations that have to be done. They have to done on one machine and one person, so it can take a tremendous amount of time to correct these dual database errors.

Partially as a result of that, Fulton County missed the deadline for certifying their election for the July 31st primary. They certified their election about 30 or 60 minutes after the deadline required by the State statute.

It also caused some problems in the reporting that was done. When Fulton County posted some of the results on their website, it appeared that the numbers of votes had been changed. Initially, they posted one of the databases. Then they posted the second database that was thought to be the combination of the database. And then, thirdly, they posted the combined database, the final results. I believe the discrepancy in posting that led to some confusion among candidates and caused some issues there.

There were also complaints about precincts reporting more than 100% voter participation. I believe there was a story in the AJC about 23,000% at one precinct. I believe that was caused by a districting issue also. Can you comment on that Mr. Brower?

MR. BROWER: No, the precinct reporting that it exceeded 100% really had nothing to

do with redistricting. That was actually a software issue with the (unintelligible) software. It basically involved precincts that had splits that shared the same combination number; (unintelligible) combo number. What the system was doing at the time was what automatically aggregated the votes to the first appearance of that precinct with a common combo. That was subsequently, I think, in following elections, corrected.

MR. HARVEY: Another issue that came up in the general election was Fulton County was opening and counting absentee ballots before election day.

SECRETARY KEMP: This is the primary election, correct?

MR. HARVEY: I'm sorry. Primary election.

As you know, the statute allows counties who post notices with the Secretary of State's office, they can start opening and tabulating absentee ballots at 7:00 on election day. There is no provision for doing it before. Fulton County, we understand, was opening, separating absentee ballots, and scanning them on Monday, the day before the general election on July 30, 2012. When we spoke to election officials in December about this, I believe it was Ms. Mitchell's contention that she did not consider that counting of ballots. Would you care to address that, Ms. Mitchell?

MS. MITCHELL: As part of that process, the previous director, Sam Westmoreland, had gained an opinion from our county attorney's office that indicated that that was okay for us to do that. That the scanning of the ballots was not actually tabulating. The numbers were not released. They were actually stored in the machines so that they could continue to be counted the next day.

So he had an opinion from the county attorney's office that indicated that was okay for them to do that.

MR. HARVEY: And the people that were doing that were not sequestered?

MS. MITCHELL: They were sequestered and there was also members of the political parties who were present as that process was taking place.

MR. HARVEY: They were sequestered while it was going on. At the end of the day, those folks went home, correct?

MS. MITCHELL: When the process ended at the end of the day, they were relieved that day. Yes, sir.

MR. HARVEY: So overnight, an unknown number of absentee ballots had been scanned and numbers calculated before election day?

MS. MITCHELL: The ballots were not calculated. They were actually scanned into the optical scanners. They were fed into the scanners. That information was not removed from the scanners until election night when Mr. Brower and his group removed the items from the machines.

MR. HARVEY: We had reports of, in the primary, people not getting nonpartisan ballots. People went in to vote and they requested nonpartisan ballots. Actually at Wheat Street precinct where we talked about earlier, we had two individuals who said that they asked for a nonpartisan ballot and were told that they couldn't get one; they had to pick either Republican or Democratic ballot in the primary, which was not accurate.

We had a situation at a precinct in East Point where a voter arrived about five minutes before the close of polls, about 6:55. The doors were locked and the poll manager said, sorry, it's 7:00; the polls are closed. She argued with him and tried to get in. He said, no. Sorry. Look at the clock on the wall; 7:00. She started walking away. She went back to the parking lot. Apparently, some people that were there were able to convince the manager that, no, it's not 7:00 yet. He opened the door, let those people in. The woman saw it and went back to the door, and by the time she got to the door, he closed the door and said, no. Now it's 7:00; you can't vote. It seems unusual that somebody would take that step.

We've talked about the results. We had one situation, one allegation, where at a precinct, a candidate's name was not registering on the DRE. There is an individual named John Maddox who said he wanted to vote for a certain person for sheriff, and he selected the name on the DRE. When he got to the summary page, there was no candidate marked. He said he called the poll manager over and the poll manager watched him do that again and it didn't show up, and the poll manager cast the ballot for him and cast his ballot before he was able to select a candidate for sheriff.

MS. MITCHELL: Mr. Harvey, we have a comment in that regard.

MR. HARVEY: Yes.

MR. BROWER: Yes, I think the poll manager, unless she's left, Ms. (Unintelligible) Ricks, but I think she's here.

MS. COLEMAN: She probably left when he dismissed everybody.

MR. HARVEY: We actually had her subpoenaed for another reason, and I realized that when we dismissed her, we let her go.

(Crosstalk)

MR. HARVEY: That's sort of he said/she said scenario.

MR. BROWER: We to speak with her in that regards. That issue did come up and we talked with her. She categorically denies she did not cast the ballot button for him. He, himself, pressed the cast ballot button and cast his own ballot.

MR. HARVEY: Did she indicate whether or not his information was accurate, that the candidate was not showing up?

MR. BROWER: That was incorrect. She said the candidate name was (unintelligible) and you had scroll down. But the candidate name did, in fact, appear on the ballot.

MR. HARVEY: Thank you.

SECRETARY KEMP: We'll follow back up with her.

MR. HARVEY: We had a few spatterings of absentee ballot complaints about not getting ballots. We have that information to provide to Fulton County so they give an accounting of that. That summarizes the issues that were present in the primary election on July 31, 2012.

SECRETARY KEMP: Any of the Board members have questions for Mr. Harvey or any of our witnesses??

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Are you going to move on to the 2011, 110 demolished residences issue?

MR. HARVEY: Yes, sir. This case was sort of unusual. It was a complaint that came in late in 2011 from somebody who had observed that a lot of public housing units had been razed; they had been destroyed. They checked voter registration and found out that there were still thousands of people registered to vote at those addresses. You probably will recall, some meetings ago we presented a case from 2009 where the allegation was all these people had voted illegally. We found out that was not the case. People were still registered to vote there.

We got that information and we looked at it. In May of 2012, I met with Sam Westmoreland and Mr. Brower at the State Election Board meeting in May and I told Mr. Westmoreland, look, we've gotten this information that people are registered at addresses that no longer exist. Mr. Westmoreland told me, look, we're already aware of it. We're taking action; we're going to do something about it. I said, well, I would like to work with you on that. He said that he would call me back. He also indicated that he had found some elements in the Fulton County election office that were trying to discourage work from being done. He made some comments that seemed to indicate that there were some people who did not want to see the problem corrected. He told me that he would talk to me about it later. He wanted to talk out of the public eye. This was at the hotel room lobby area.

It was not long after that, in June, that Fulton County sent out letters to voters challenging their registration based on, presumably, the information they had. Mr. Westmoreland sent out approximately 2400 letters. We had only received information about 1300 addresses. It turned out that about half of the letters they sent out were to people who actually did have residences where they were registered to vote, and Fulton County (unintelligible) hearings and didn't proceed any further with addressing that issue of whether or not these folks were entitled to be registered at addresses that no longer existed.

Then shortly before the November election, as we've spoken about, the Board decided, or elements within Fulton County, decided to put these voters into pending status. And that was the discussion we had earlier. That's kind of where this case is now. The voters,

their status has been restored to active, or the status it was before, and it is unknown whether or not Fulton County is going to take any additional action to determine whether these folks are eligible to remain to registered vote.

At this time, we don't have any specific allegations except as they may be related to the general election case.

Ms. Mitchell, do you have anything else to say about the --

MR. WALBERT: We could respond on that and, you know, whatever. I mean, I sort of understood we're holding our response to the end of the . . . whenever.

MR. HARVEY: Okay. Any question?

SECRETARY KEMP: Any questions?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, is that all you've got Mr. Harvey?

MR. HARVEY: That will conclude my presentation for the time. I would ask that, at this point, the investigations are open. I would ask if the State Election Board would like me to continue the investigation and continue to look for information and subpoena witnesses and documents as appropriate?

SECRETARY KEMP: Well, I think, certainly in my opinion, I know we were just still continuing to get documents. We've had a lot of information before us today. I think there is still a lot out there that we need to look into. Certainly, we have other individuals that we need to talk to. And then, certainly, we need to allow the elections division and Mr. Walbert the opportunity to converse with us so we can make sure we've got the full picture of this story, and then we can come back and see whether we need to have another hearing to hear more evidence or whether we can move into the more formal process like we do on the normal meetings. I don't know if any other Board members have any thoughts on that, but that's kind of what my thinking is going forward.

MR. WALBERT: I request on our behalf that we be allowed to say something today.

SECRETARY KEMP: Absolutely.

MR. WALBERT: We have a little department. On election day, we have tons of employees and we have 40 people keying in stuff. But this is all this department can do is respond to subpoenas and requests for documents for the last two months. Twenty-three thousand pages, and those aren't ones you just hit a button and they come popping out. So I really would appreciate the opportunity to address this, because --

SECRETARY KEMP: What I was planning on doing was seeing if the Board members had anything to add and see if they had any questions for you about the process going forward. And then we'll be glad to let you make a statement.

MR. WALBERT: Thank you very much.

(Whereupon, there was no response)

SECRETARY KEMP: Okay.

MR. WALBERT: Thank you. And let me just start, and I think the easiest thing would be to start in reverse order and pick up on what Mr. Harvey just addressed, and maybe we can put some of these things to bed and move on and decide how to deal with other things.

On the voter purge matter he was just talking about, and I think the history of that was pretty accurately stated. That came about, as Mr. Harvey said, through a conversation between him and the ex-director, Mr. Westmoreland. My understanding, and I wasn't involved in it, but I've been told this, that Mr. Westmoreland initiated that after speaking with Mr. Harvey on his own without the Board actually knowing about it; the Fulton Board of Registration and Elections, which is clearly a problem in its own right.

Then it came about that the letter was going out within the prohibited 90 days of an election. In other words, because it was, in effect, a challenge to your voting or purge, whatever you want to call it, and that can't be done with 90 days of an upcoming election, that created an issue. Then I think counsel was involved at that point; not myself, but Mr. Parks. He advised that this can go forward. So everybody who had gotten a letter that there was a possible problem also got a letter to ignore what had happened. So they were formally told that nothing is going forward; don't worry about

this, from that point of view. No one who was involved in this was ever challenged or not allowed to vote or anything of that sort. I think is pretty important to understand that.

One of the misapprehensions that happened here was, apparently, some of the -- these were basically were housing project addresses is what this bulk of people were. And some new housing projects have been built, and I don't know if they're public or private, in the same address. So a lot of the people who had these quote bad addresses, in fact, were in the same place and there were people at those good addresses that had been assumed by Mr. Westmoreland, in his error, were wrong.

The long and short of it is this, and here's where we are today to respond to Mr. Harvey's question. Hopefully, people will have upgraded during the last election, will have all updated their registration, so those people who are still, in fact, Fulton County registrants who were at those addresses, hopefully the system has self-corrected by going through this last election on that. Maybe they filled out provisional ballots, for example, and corrected their registration at that time.

So the point of that is, A, Mr. Westmoreland should not have done what he did initially, but it affected no one. No one got put through a hearing and everybody was formally notified to disregard his earlier letter. And insofar as there are quote bad registrants still, those will be dealt with as a purge is -- hopefully the Board will have time to do this, but a purge is scheduled for February of this year, next month. I don't mean this facetiously, or whatever, off the cuff, but really the Board is really hampered in its ability to do its regular work by virtue of the tremendous amount of requests for documents and information.

But assuming the purge can go forward, that issue of how many of these, in fact, are bad addresses today, that will get rolled into that and that will be determined. Because a lot of those people who had been on that list would -- it had been self-corrected in the system; their registration address would have been changed or they are out-of-county. And if they haven't got a voting history of voting in the county, they will get a purge letter and it will take care of itself in that way.

So I think that is one that, frankly, should be -- I don't think anything needs to be done with that. The system is taking care of that. No one was denied the right to vote, and no one was stricken.

On the question about the July -- moving, again, in reverse chronological order -- on the July primary, and there were a number of things Mr. Harvey said, and I would address them.

First of all, the one about the redistricting issue and people being put in the wrong districts, that, indeed, did happen. And that, indeed, was an error of Fulton County GIS, if I've got my acronym right, there; GIS doing that at the end of the day. I would like to share this with the Board, however, and I tell you, I've been involved in four different election cycles as an election lawyer over the years, two of them in the '90's and 2000 representing the State of Georgia. So I know a little bit about some of the things that happen and always, unfortunately, it just happens that there are mistakes like that are made every time. In my experience, I've never heard of a Board proceeding being brought against any county that had that problem. It's just never happened before.

So I question, is this something -- it happened; it's unfortunate. When we get to 2021, the next ten-year redistricting, the technology is going to be totally different. To get in there and say, well, how did you do it and why did it go wrong in the GIS since last time, you can't fix that as a practical matter going forward, because that technology, every ten years, it's totally different. The software, the shape -- will there be shape files? All that kind of stuff. It's just going to be very, very different.

So it's very unfortunate it happened. Fulton has the most complex set of ballot combinations of any county in the State. If you go to Warren County, you don't have this problem. You may not even have two different ballot combinations; you may. But in Fulton County, the fact that it doesn't happen more often, honestly, is fantastic because there are so many school board, city council, county commission, House District, Senate District, Congress, and so on. With all that stack of lines, the number -- how many ballot combinations are there? A thousand?

So the fact -- it's terrible that it happened. The good news is it was looked at very, very closely. It had no impact on election. Before that was certified, we looked at that very, very closely and we took the worst possible assumption and said if everybody that had been miscategorized had, in fact, voted, which, of course, is about 30% turnout, but if everybody had, it still would not have changed any of the outcome.

In several of those elections, there were Senate and House Districts we're talking about. Obviously, if you have one House District wrong, you've got another because they're

paired together. So there were two allocation errors, one affected two House Districts, one affected two Senate Districts. In several of them, there were no candidates or an unopposed candidate. So, by definition, it didn't affect that.

SECRETARY KEMP: I have a question for you.

MR. WALBERT: Yes, sir.

SECRETARY KEMP: So is what you're saying in that situation, then, that the people that were calling our office saying that they knew they didn't live in So-and-so's district and they voted for them in a certain race on the electronic voting machine, y'all had all that fixed? Because it seems to me that person voted in the wrong district.

MR. WALBERT: Absolutely. What I'm saying is that if you take every number of everybody that might have voted and added -- it didn't change the impact. Absolutely the number of votes cast was erroneous because of that. I'm not saying it didn't --

MR. WORLEY: You mean it didn't change the outcome that day?

SECRETARY KEMP: Didn't impact the election.

MR. WALBERT: Absolutely. We wouldn't have certified if it had. And then, I guess, what would it would have done -- again, we start off with the worst scenario; assume 100% of every registered voter who is wrong voted. And that still wouldn't have affected it.

SECRETARY KEMP: I'm with you.

MR. WALBERT: Okay. And then, of course, is the unopposed and the no-candidate (unintelligible) primaries. As far as the primaries, it could have affected that. That's what I was saying there.

Again, it's unfortunate; I wish it hadn't have happened, but it did happen. Fulton is by no stretch of the imagination unique in my 30 years' of experience on those particular issues that happened. But I've never seen a Board proceeding brought or anybody suggest any sanction for a county doing that.

Mr. Harvey mentioned -- just going down his list of things -- the question about the artifact in the software and the fact that it wasn't our fault. As Mr. Brower said, KSU has fixed that and it aggravated the numbers for the whole -- the votes cast in that entire precinct, I guess, to the sub precinct of that ballot and that's why it looked like so many votes had been cast. We don't control that; we didn't control that. And it's unfortunate, but I'm disappointed to hear this being raised as an accusation against Fulton County. This County is not perfect, but I would like to see a better focus on what is done right and what is done wrong.

For example, Bridgette Jackson, we hear at the conclusion that Bridgette Jackson voted wrong six times. Well, the fact is somebody who was the poll worker, lost it -- wasn't focused and started writing her name on there six times, as we heard today. Why wasn't that question -- why wasn't -- before we cranked up this body and started having a hearing with that accusation made about one person voting six times, how come that question just wasn't asked to somebody? Is this really the right process for these kinds of questions and the time -- it would have taken two minutes, five minutes to call the person and find out what happened. Who is Bridgette Jackson? Well, that's the poll worker. Could have found that out rather than cranking up this hearing. Should we now send it to the Attorney General's office for even more --

SECRETARY KEMP: Well, we're not here to decide if anything is going to the Attorney General's office today. We're here to get the facts on the record. I think there are still a lot of facts that we need to do some further due diligence on. So I don't want to get into question-and-answer argument. I'm going to allow you to have a closing statement. But there's, you know, we hadn't allowed, you know, individuals that were affected to speak, other than our public comment period that we do before hearings. And we always do that. So I'm going to allow you to address the case --

MR. WALBERT: Thank you. I appreciate that.

SECRETARY KEMP: -- but we'll move forward and we'll have a time where we can argue about it later.

MR. WALBERT: I appreciate that. Just moving, again, backwards in time to what Mr. Harvey presented going back to the general election of this year, I think what we have heard is no one was denied the right to vote that should have had the opportunity to vote, which is essential. We have had, and I could put these witnesses up here, but I think it's

pretty apparent that, as I said in the opening statement, there's two issues we've heard that really made may touch everything, even the document area. You know, one says, well, we just got so many people in there on election day and they were voting provisional, and that's why we didn't keep perfect track on some of these forms.

Everything ties back to two things: Supplemental list and the size of it; and the provisional ballots and the number of them in Fulton County. And I don't have any problem having a further investigation about the size of the supplemental list. But that investigation must take into account the lateness of which the County got those from the Secretary of State's office. We were getting thousands and thousands and thousands of them right before time. We had 40 people putting them in. Should the Secretary of State have gotten them to us -- should there be a rule that the Board should adopt that the Secretary of State's office always gets them to the county within 48 or 24 hours of receipt? Then we wouldn't have had this problem. I'm not in any way trying to cast aspersions, I think --

SECRETARY KEMP: I think when we get into getting all the fact out, we'll know exactly when the ballots were delivered, and that's something we can debate --

MR. WALBERT: Really, I'm talking about the applications, now; the registrations.

SECRETARY KEMP: Voter registration applications.

MR. WALBERT: The other thing, and I'm not sure, I know Mr. Worley wasn't here and I don't remember, Mr. Webb, whether you were or not, but one of the things that is crucial here is this -- and I very much urge you all to consider this in going forward -- I mentioned in my initial comment the fact that Fulton County may be the only in the State of Georgia that actually follows the law with regard to provisional ballots, and I've got a copy of that federal statute I referenced. Russ can hand it to you. I've got one for everybody up here.

MR. MCIVER: Move to accept.

MR. WEBB: Second.

SECRETARY KEMP: Mr. McIver moves to accept the document; Mr. Webb seconds. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have accepted the document.

MR. WALBERT: Thank you very much. I've highlighted and emphasized the critical part, but what is essential about this federal provision that Fulton County follows that is contrary to the State regulation is that if a person appears and is not on the list of eligible voters for that polling place that he appears to, thou must give him or her a provisional ballot. Thou cannot do what the regs say and check it out and see if the person is in the wrong polling place and send them somewhere else. Fulton County follows that policy and has for years and it accepts it. So it is more permissive, if you will, on the provisional voting practice, and that's why there is more provisional voting ballots cast in Fulton County than elsewhere in Georgia. And I shouldn't say -- it's not dramatic. I think it was 3000 we heard, or am I getting my supplemental list . . . Yeah. But I think Cobb had a thousand, for example.

If you look, interestingly enough, at Fulton County compared to other counties in other states with similar size and demographics, the number of provisionals are very similar because they are also following the federal law. They're not telling somebody that comes in who's in the wrong polling place, you shall go to your right polling place and deny the ballot if they don't because that's what our regs say.

Now, I point out, too, Georgia law does not say that. Georgia law is silent on this; right in between. federal law mandates you give it to someone who appears in the wrong polling place. The State regs, you all's regs, state the opposite position, thou shalt send them to their proper polling place. And State law says neither; it doesn't address that issue or either is silent on that issue.

But it doesn't take a lawyer to give y'all a lecture on the fact that federal law controls on that issue and this is, of course, defined as federal elections; it's for federal elections. The federal law, as you know, a federal election is not just for federal officers. A federal election is that complete election for everybody who's up simultaneously with the federal

officials. So every two years, our elections in every congressional election year and the primaries, they are for our quote federal offices; federal elections. Theoretically, I guess you could this (unintelligible) -- I'd have to look at the law to have a more intelligent opinion on it. Maybe this would not apply in municipal elections that are non-partisan, non-federal; maybe. I don't know.

But for the general election we've just been talking about today, with all due respect to the challenges to provisional balloting in Fulton County, they are, in their much more liberal way of doing it, they are unquestionably following what is the explicit command of federal law. And I guess, you know, we hear things about -- we've heard things about these forms not being filled out right or wrong in some cases. And that may well be. We've heard this now for the first time and we have to go back and investigate it and give a report, I guess, to Mr. Harvey, or however that goes, and see whether that should go further.

But in terms of -- all of this, though, is really being drive by two things: The supplemental list, which is big for that reason I've been discussing; and provisional voting numbers, which are much bigger in Fulton County than other counties in Georgia. But the reason for it is we're following the federal law.

So, rather than just sort of -- and I realize -- I'll throw myself on the mercy of the Board in a sense in terms of the -- if there are specific things that need to be adjudicated, let's get down to it and maybe this, maybe looking at the -- looking at what should be the proper rule on provisional voting in Georgia. That'd be one, I'd say, would be a good rulemaking procedure for you fellows.

But to just investigate and investigate and investigate more and more, it is bleeding the group dry. The most important thing they could be doing right now in terms of (unintelligible) approving voting administration in Fulton County is identifying and seeking out, and Mr. Smith happens to have real expertise in this, Gary Smith, more advance voting sites. Because the world, as you know more about elections than I do, we're moving towards more and more advance voting. And the more and more advance voting that happens, the less and less problems you have on election day.

So I think Mr. Smith's report, if you noticed in there and he might have testified to today, recommended that it be ten advance voting sites, and the county approved six. Now, whether ten is the right number or 15 or 20 or eight, I don't know. But having their

efforts, looking to the future and for the city election coming up, the non-partisan city election here in November, having that effort done to have advance voting sites identified, so that's the real basic thing for having a prospective remedy and having a well-run election in the future in Fulton County. Their way has -- you gentlemen, everybody here, the Board of Fulton County, Board of Registration and Elections, they all have the exact same goal: run as good an election as you can at the least cost if you can do that. Everybody has the same goal.

Perceptions of what's going on and what's right and wrong can be very different in those regards, but the goal is the same and I am confident that to liberate this group here who has done nothing but respond to inquiries -- now, we got the subpoenas, but, you know, that was just dozens and dozens of requests for information beyond and before the subpoenas. And we're not -- there's never been a -- other than the document of Mr. Smith that was considered by the lawyer that set that up to be privileged, there haven't been a single document ever that Fulton denied. Ever. It was simply a refuse [sic]. It was always we'll get you everything we can when we can get it. So I would just -- I would very, very much plead to the Board to -- maybe this isn't the day to do it; maybe you do it in Executive Session -- figure out a way, what is it that we really need to do going forward. And, truly, if Mr. Harvey has a certain very specific set of allegations about somebody that didn't fill out the document right, and so on, and that's worth a hearing, okay. But the real question, I think, as to how to manage this in a way that gets everybody the goal they want, which is the best election you can have in Fulton County and throughout the State. If I'm right about these rules, you gentlemen, I know, are very concerned about that and you're going to want to do the right thing and make sure that your rules comply with the federal law.

So everybody's got the same goal and I just think -- I see these poor clients who are trying to look forward to the November election, but in looking forward and looking to do the purge right in February, they haven't had a minute to breathe.

All they do is do things because responding to these requests does not mean just going to the file cabinet and get out those documents. They all have to be pulled together; the information has to be figured out from different sources; and it has to be copied or put into a tabulation, whatever. It's a whole lot; lot of work to come up with finding 23,000 documents.

SECRETARY KEMP: Mr. Worley?

MR. WORLEY: I appreciate a lot of what Mr. Walbert has to say. But I wanted to just give my view of what this is why we are here.

I appreciate what you say about Fulton County doing it a little differently than other counties. But I think the real issue is not that Fulton County had 6000 provisional ballots this year or 9000, whatever it is. Let's say 6000 this year.

MR. WALBERT: It's 9000.

MR. WORLEY: Right. And that Cobb County had 1000 or other things. It's how many provisional ballots did Fulton County have of this year and how many did they have two years ago and how many did they have four years ago. Because, from my perspective, I spent all of election day in an election protection boiler room getting calls from all over the state about election issues and getting dozens and dozens and dozens and dozens and dozens of calls from Fulton County about provisional ballots and not getting calls from other parts of the state about provisional ballots.

I appreciate what you say about it's really not a problem because everybody gets to vote. I don't think you can really say that. The issue is, now many of those provisional ballots that were caused by this supplemental list problem, if that's the case, how many of those provisional ballots were actually counted? And were they actually counted correctly or not? And who is it that is casting these provisional ballots and who is really being harmed when those ballots are not being cast?

I would really like to see a breakdown by gender, by race, by age of who is voting these provisional ballots, and which of those provisional ballots are not being counted. Because I think you're going to find it's younger people, older people, less well-educated folks, more transient populations who are not getting the ability to vote because Fulton County, for whatever reason, mishandled the -- if in fact they did mishandle -- the provisional ballot issue.

So I'm very concerned that the Fulton County election operation is not serving voters in Fulton County very well. And I'm very concerned that it's not DeKalb County that we keep getting these problems from year after year after year. And I think that is why the Board is concerned. It's year after year after year Fulton County is the election board that we have problems with.

We fined Fulton County, I think the Election Board, \$120,000 a few years ago. Mr. Garner was brought in to clean things up. Things seemed to be getting better. He left for reasons, I think, unrelated to the election administration, and then Mr. Westmoreland was brought in, who seems to have been a complete disaster. And now there are going to be new Board members who are going to be, I guess, choosing a new administrator. I don't know that the process is. But something really has to be done about the way Fulton County administers its elections because it's impacting -- I think it's impacting poorer voters, African-American voters, elderly voters; that's who is getting impacted from what I can see from the precincts that these problems keep happening at. And I, for one, am very, very concerned about that.

SECRETARY KEMP: Anybody else on the Board have anything?

MR. MCIVER: I have, first, just a question. Mr. Walbert, one of the revelations for me today was that one of the ladies mentioned people vote out of their precinct deliberately, as if you're leaving work and you pass a sign that says, voting, and you just pull into a parking lot and go vote, I mean, as if it were some matter of conveniences as opposed . . . Where does that notion come from?

MR. WALBERT: I think -- here's really -- and to follow up on what Mr. Worley's comment, college kids are real big on it. And is that because they all go in one car to one place, and so on? Part of it's that: transportation.

It's also -- here are some other things that go into that. They're going there to vote top of the ticket. So it's irrelevant, you know, in their minds. And that's been reinforced by our advance voting laws because you vote anywhere. So for them to understand, well, I can vote anywhere 21 days out of 22, but on the twenty-second day, all of a sudden I can't, that's never going to get understood by everybody. It can't be because that's an inconsistency in the system.

So that, you know, if we go back 30 years, I don't think anybody thought they could vote out-of-precinct. And I think it's something that has changed largely because of the liberalization, if you will, of absentee -- people voting absentee for no reason nowadays, unlike the old days. Certainly, advance voting anywhere in the county has very much contributed to that perception. You add on to that the top of the ticket philosophy, and, again, college kids here from out of state, they don't know a single local person running for office. They're going there to vote top of the ticket, maybe Senate and maybe

Congress.

So it's all that together and that's why it is. And that's not something that Fulton County can change.

An I would throw this out to you, too, to think about. And that's just the desirability of it because, you know, I don't want to be dramatic about this, but you've got people that come in and you're going to have to call the cops if you want to get them out of there at some point. And that's not something you want to do, clearly; not as a general matter of public policy, and certainly around voting, it's not something that anybody wants to do to have to enforce the you can't vote here principle.

But I think this is -- and maybe this federal law is a major contributor, because around the country where these people are from -- students, I'm talking about, specifically -- they know you can vote anywhere. Yeah, it's easier to go to vote in your precinct that's nearby. You know you can go there always. But now that the federal law allows you to vote anywhere provisionally, I think all those factors are coming together why there is such a different perception than when you and I first went out to vote, where there was no question about where you had to do it.

MR. MCIVER: If that's the case, pardon my application of logic, but if that were the case and I'm the lady from Morehouse, why do I only get 50 provisional ballots if I know I've got hundreds of college students that may come rushing in?

MR. WALBERT: That was twenty-some thousand we provided out there. And I think that precinct got more. Fifty was the minimum.

MR. MCIVER: Okay. Well, perhaps -- I know she had to call for more ballots; I remember her saying that a couple of times, as I recall. So it would occur to me from a planning standpoint, I would get lots of provisional ballots at lots of places knowing this is going to repeat itself. Apparently, it was worse in '08 and for some reason we didn't get so involved in it as this situation. But here we are again in 2012, and it looks like this -- no real planning went into this.

MR. WALBERT: Well, I would really suggest to you that the real solution, the only one that's realistic that I've heard in talking to Mr. Smith and others in this, is going to be -- the national trend is to more and more advance voting, and that's actually going to be

the solution rather than -- more and more provisionals is not a good solution because they are, and don't disagree with Mr. Harvey about the difficulty of administering that system. You know, back when I started doing election cases, there was no such thing. When I got back into it recently, what the heck's a provisional ballot? I was a little surprised that was part of the law.

It's a cumbersome thing for people to have and there was no such thing in the old days. You know, you're at the poll; there's a decision made; you're in or you're out. So I don't think more and more provisionals is really the real answer. I actually think, and it's a shame that Georgia has shrunk it's advance voting time from 45 to 22 days, for whatever reason. But more and more -- in Fulton County, more and more advance voting sites making that available and more user-friendly is actually probably the realistic practical solution going forward.

SECRETARY KEMP: I think, for the record, we've shortened the in-person part of early voting. You can still vote absentee by mail 45 days before the election.

MR. MCIVER: Let me leave you with this thought. It's something Mr. Harvey may want to ask you about, but the thought I leave you with is our mission is solutions and trying to make the system work in a way that we don't have very involved matters like this. Were going to be looking to you as the representative of these folks for those solutions, as well. One that might occur to me is, in terms of training, when Ms. Coleman is training people, maybe the Secretary of State needs to have certification for just provisional balloting. Maybe there ought to be a real live certified person in each polling place that specific certification for that since this seems to be where our complexities are at this point. That would be for the Secretary to decide, I know.

But we're looking for solutions. So in addition to defending these fine folks, you know, be thinking solutions because that's where we want this to end up. We don't want do adjudicate this. We'd prefer not to have it go to a hearing. We'd like to get it done ahead of time. Mr. Parks, who has preceded you on a number of occasions here, has been very helpful to you us in that process. We need solutions so that w can get this resolved.

I think Mr. Worley would join me in that. As troubled as we all are and as concerned about the various socio-economic groups that may be disenfranchised by the cumbersomeness of this thing, it is about solutions.

MR. WALBERT: I appreciate your comments very much, and I'd just add on to the -- Fulton County training, and it may not be adequate, but we just take the Secretary of State's modules and actually expand on those. I agree with you completely with everything you just said.

MR. MCIVER: I'm charging you now to bring us solutions.

MR. WALBERT: I agree with almost everything you just said.

SECRETARY KEMP: Anybody else?

MR. WEBB: Two points to Mr. Walbert. One, if I heard you correctly, and maybe I didn't, but it was said no one was denied the right to vote. I think I could infer today that there were people who were denied the right to vote when provisional ballots were not at the polls. I think that people got tired of waiting for them, and whether they came back, whether 100% turnout came back and voted or not, I don't think so. I think it's easy to infer that people were denied the right to vote.

Second of all, in reading the federal act, the federal statute here, I think you're reading it very rigidly. I don't think there's anything wrong with a process that says you're registered in Precinct A, we're in Precinct B; you should really go to A. But if a person says, no, I want to vote here, then I think you have to give them the ballot. But I don't think just say, oh, you're in the wrong place, but, hey, here's a ballot; vote it. I don't think that's the case. So, anyway, there's probably some background information on that to determine (unintelligible) look at it further.

MR. WALBERT: That's a good point. And I think the problem, I think, as I read the State rule, you can't give them a ballot once you determine they're in another precinct. So -- and it's such a tricky judgment call. You're asking very harsh things of the -- well, offer them to go to another place and tell them they should go. But if they don't, give it to them.

Fuzzy rules like that are -- we had 400,000 votes in Fulton County for this election. Putting discretionary things on administrators at the polls on election day is a very, I would think, a very harsh thing to do and fraught with danger.

MR. WORLEY: And I agree with you it's fraught with danger. But essentially what

you're saying is, yeah, you can vote here. But you're not telling them, but your vote's not going to be worth a damn. Because it's not going to count.

MR. WALBERT: Well, I'm not sure that they aren't informing them.

MR. WORLEY: Your alternative seems to --

MR. WALBERT: Well, that should be the rule, maybe, that you do that; State rule.

SECRETARY KEMP: Mr. Simpson did you have anything?

MR. SIMPSON: Nothing.

SECRETARY KEMP: Let me make a few comments in closing, and our posture will be that we will gather back up and continue to gather information on this case moving forward.

First of all, I want to thank the employees of the Elections Board for being here today. I know it's been a long day for you, so we appreciate you showing up and answering our questions and Mr. Walbert, too. And, certainly, Mr. Smith, appreciate you being here today.

But I do want to just make a few comments because I understand Mr. Walbert's position as the County's attorney and how some may view that we should move forward from right here and fix this problem. But I think in my view, and I believe in the Election Board's view, we've taken pride over the years of investigating every single complaint that we have to make sure that those voters that should have legally been able to vote on election day get their vote counted.

I think now we still don't know the answer to that question. That's why think we need to move forward where we can have that dialogue and hear from other people. There are still a lot of people I'm sure would like to have input in this process when we have a formal hearing and call the respondents and the other folks who would like, you know, who registered those complaints, and hear from them.

We heard that there were no -- nobody that could have voted didn't get to vote. But I think there is some doubt to that. We had other people today that said folks left before

they got an opportunity to vote. We had people who it seems -- and we will verify this or not -- that they registered after the deadline and cast a ballot. So, not only does it appear that people who wanted to vote did not get to, but some people that should not have been eligible, did get to vote.

I think we also have some serious things that bother me about documents that were altered after signatures were on them and those things merit us continuing to look into that.

And I think, certainly, when you look at -- if we had had very close elections, whether at the local level, State level, or the national level with the -- with what seems like a lack of proper reporting and numbers matching up, I can only imagine what we would be going through trying to count those provisional ballots. You know, this State and this Board has passed laws and rules that we have in place for a reason, and that's to make sure we have accessible, fair, secure elections in this state.

You all have my commitment, and I'm sure the Board feels the same way, that we will move forward in a fair process that gives the County -- that allows us to work with the County as we move forward, and I would hope that we would have full cooperation as we do to get to the answers of what really happened; decide what, if anything, needs to be done; and then how we move forward. And, like Mr. Worley says, really fix this problem that we have.

This was an isolated problem. You know we had one of the smoothest elections state-wide that I've run, and certainly, the feedback was that that was the same. I know many of you working in the office on November 6 weren't responsible for some of the problems that happened in the primary that actually potentially could have led to problems that you were having to fix then, which delayed fixing things that led up to the general.

But, you know, we don't want to try to perceive anything here. I think we need to continue to move through the process and we'll look forward to working with the County when we do that.

If nobody has anything else from the Board, I'll take a motion that we adjourn.

MR. MCIVER: So moved.

MR. WEBB: Second.

SECRETARY KEMP: We've got a motion and a second. Any discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, all in favor, signify by saying, "Aye."

(Whereupon, the vote was unanimous)/

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We're adjourned. Thank you for being here.

- - -

(Whereupon, the proceedings were concluded at 4:00 p.m.)

- - -

C E R T I F I C A T E

STATE OF GEORGIA)

COUNTY OF DEKALB)

I, Deborah L. Merideth, hereby certify that the foregoing record was taken down in the stated caption; that the colloquies, questions and answers were reduced to print by me or under my direction; and that the foregoing pages represent a true, correct and complete record of the evidence given.

The above certification is expressly withdrawn and denied upon the disassembly and/or photocopying of the foregoing transcript or any part thereof, including exhibits, unless said disassembly and/or photocopying is performed by or under the auspices of the undersigned and the signature and original seal are attached thereto.

I further certify that in accordance with O.C.G.A. 9-11-28(a), I am not a relative, employee, attorney or counsel of any party, nor am I financially interested in the instant action.

This the 18th day of February,
2013.

Deborah L. Merideth
Deborah L. Merideth
Certified Court Reporter
State of Georgia

