THE OFFICE OF SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

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Tuesday, February 7, 2023

Mercer University School of Medicine Auditorium

Macon, Georgia

9:00 a.m.

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APPEARANCE OF THE PANEL

William Duffey, Chair
Sara Tindall Ghazal
Janice Johnston
Ed Lindsey
Matt Mashburn

ALSO PRESENT:

Ryan Germany, Performance Review Panel
Stephen Day, Performance Review Panel
Ricky Kittle, Performance Review Panel
Meaghan Kelling, Elections Legal Affairs Coordinator
Charlene McGowan, Assistant Attorney General
Sara Koth, Deputy Chief Investigator
Mike Brunson, Investigator
Kelly Monroe, Investigator
Mark Wright, Investigator

Transcript Legend

(sic) - Exactly as said.

(ph) - Exact spelling unknown.

-- Break in speech continuity.

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

Quoted material is typed as spoken.

TABLE OF CONTENTS

Page:

Cases Recommended To Be Dismissed 96

Cases Not Recommended For Referral 111

Cases Recommended For Referral 136

Attorney General Report 229

P R O C E E D I N G S

JUDGE DUFFEY: Good morning, everybody. My name is Bill Duffey. I'm the chair of the board. We have four other board members. Their placards are in front of them: Dr. Johnston, Mr. Mashburn, Mr. Lindsey, and Ms. Ghazal. We are all pleased to be here. We're especially pleased to be in Macon. They had such a fine facility.

Before we get started, I'll please ask for you to silence your phones. This is being live-broadcast as you know. And those people that are -- that are watching, we invite you to the meeting and we're glad that you're attending by video, Zoom.

So with that, I'm going to call the meeting to order. All five board members are here; therefore, we have a quorum.

And as is our tradition, we will begin with an invocation by Ms. Ghazal.

(Invocation)

JUDGE DUFFEY: Thank you, Ms. Ghazal. If y'all will rise, we will say the Pledge of Allegiance. Dr. Johnston, will lead us in that.

(Pledge of Allegiance)

JUDGE DUFFEY: I was thinking and listening to the invocation. Regardless of what your faith background might be, the two important things that I think we all appreciate and yearn for is grace and wisdom. And certainly as members of the board as we go about our work, sometimes we need some grace and we appreciate that when it's offered.

But most of all, our work is important. What we do we do because we have a passion and an interest in having trust and confidence by the electorate in Georgia and our system. And we have to make a lot of different decisions, all of which are better informed if we have wisdom to take the time to listen to people from the outside, including the people that come to these meetings.

We get lots of communications from people and those are helpful and we appreciate all of the input that we receive from the public as well as those that are professionals involved in the election process.

One of our goals has been this year to take what we do out into the state. We are a state board; we are not an Atlanta board. We've been

somewhat Atlanta-centric lately, and this is a way for us to make it easier for people in other parts of the state to attend.

So we called Mercer a couple -- a couple months ago to ask whether they could host this meeting. You know, sometimes you wonder what the response is going to be. You know, here's another stadium. There's some other entity that wants to use our facilities.

But the only question they had was: We can but we have to check on the dates and make sure that the facilities that we have are not taken up by some other academic -- or promised to somebody else. I think within a week John Patterson who's been our contact here at Mercer said: We're on; you just tell us what you need. And so we did. And we explained to them what our -- what our process was in Atlanta where we're hosted by the -- at the Capitol by the General Assembly staff.

And then from there, everything has been utterly seamless. This is exactly how I envisioned this to be. This is exactly what we as a board want. The facilities and the ability to broadcast the proceedings in the meeting here

today to people outside of Atlanta has worked extremely well. And that was all done really without us having to do anything.

Now, John Patterson was responsible for arranging us here, but we all know that the real people are the ones that are on the ground that had the responsibility for putting this together.

And, Becca, if you'll stand. Becca Neese?

I think Becca's working so ...

So Becca and Larry Smith have been responsible for all of the logistics here and have had very little need to ask us what they needed to do because they knew.

So to Becca and Larry, thank you very much for your on-the-ground support. And we could not have done this without you in particular.

We will have at least one out-of-Atlanta meeting later in the year. We haven't decided on that -- that facility and host yet. What I know is that it will probably be north of Atlanta as opposed to south of Atlanta. But it will be our model, at least for the foreseeable future, that we will meet both in Atlanta and get outside of Atlanta. I will say that one of the benefits of being here today is that we are not in the middle

of the General Assembly in the statehouse.

The other thing I want to do is I want to commend the counties. And I want to commend the Elections Division of the Secretary of State's Office, from what was by all accounts -- whether it's public opinion or whether it's the evaluation of us or the evaluation of the Secretary of State's Office and other people in government, including members of the General Assembly, of the experience that we all had as voters and people involved in the elections process this year in the midterm elections.

And you look at that there were close races; there were contentious, hard fought races; there were a lot of voters at all different stages of voting. And I think the most interesting thing was the public opinion poll that the University of Georgia did lately, trying to find out from the people who really matter, which are those people that exercise their participation in democracy by voting, what their experience was and across the board the experience as reported by the public. And those who participated in the process have been strongly supportive of the efforts of everybody to make voting available

with lines that were relatively short over the course of the primary elections and the general elections and the runoff elections.

A lot of that work -- as you all know, there are a hundred and fifty-nine counties in Georgia. It's counties who actually are responsible for providing the election process to people within the county. And everybody that votes has to pay a debt of gratitude to the people who are responsible for the day-to-day operations and offering of the voting process to those that participate in it.

And I extend to the counties a deep appreciation on behalf of those of us in Atlanta at the Secretary of State's Office and on the State Election Board who are working as hard they did, cooperating as much as they did with the Secretary of State's Office, and Mike Evans and his election division because the effort and the interest and the adjustments that they made for the midterm elections produced a process that I think we can begin to see that the ability of us in state government and those of us in county governments can, in fact, put on elections and offer the opportunity for people to vote in a way

that is -- that is -- allows people to exercise the most fundamental freedom we have in democracy which is to elect those people that will lead us.

Now we'll turn to the agenda. The first item on the agenda is to review and approve the minutes of our last two meetings. The first are the minutes for the December 3, 2022, meeting. Those have been distributed to the members of the board. They've had a chance to review them.

Does anybody have a motion to approve the minutes of the December 3, 2022, meeting?

DR. JOHNSTON: I have corrections.

JUDGE DUFFEY: Okay.

DR. JOHNSTON: It's says, Dr. Johnston opposed executive session.

JUDGE DUFFEY: Okay. Can you correct it? Is -- is that yours --

MS. KELLING: That is correct. I can correct it.

JUDGE DUFFEY: All right. And we will make that correction into the minutes. It will show that the -- the vote to go into executive session was unanimous.

Any other corrections?

Do we have a motion to approve the minutes

as amended?

MS. GHAZAL: I so move.

MR. LINDSEY: Second.

JUDGE DUFFEY: It's been moved and seconded that we approve the minutes of the December 3, 2022, meeting. Is there any discussion? There being no discussion, all those in favor of approving of the minutes say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

And the motion carries unanimously.

Next are the minutes of our last meeting we held in which we considered complaints. That was on December 13, 2022.

First, are there any corrections to those minutes? There not being any, is there a motion to approve the minutes of our December 13, 2022, meeting?

DR. JOHNSTON: Move to approve.

JUDGE DUFFEY: There's been a motion to approve the minutes. Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been approved and seconded that the December 13, 2022, minutes be approved. Is there any discussion? There being

none, all those in favor of approving the December 13, 2022, minutes please say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no? That motion passes unanimously.

The next item on the agenda is the report of the Fulton County Performance Review, and I'll give you a little of background on that. But I want you to know that the process that we have decided is that the report that was offered by those that were on panel will be made today.

And all of the panel members are here, and in a second I will call on them to present a summary of the report. The report is on the website if anybody wants to read it and the attachments. They're publicly available to you.

But what we'll do after the report is offer -- to the extent that board members have questions about the report, those question will be offered to and asked of the members of the panel for their response. They might want more time to respond. We will allow them to do that in writing to us if they can't answer any question. Or if they want to make any further comment, they may do that.

Thus, we will make that available to everybody on our website, but we will not take any action on the report today because of this. The report is long and it has consequences to it. The county has the right to have everything that we've asked, whatever information might be provided to us, in the next couple weeks before they are asked to respond and before we will be in position to make a decision on what to do with respect to the panel's report.

So today will be more of a reporting function and a chance for the members of the board, all of whom have had a chance to review and scrutinize the report, to ask questions that we might have. But then it will be on the agenda of the next meeting, which will be in April, at which time we will hear from the county's -- their response to the report. And only then will we have the information necessary for us to make a decision on the recommendations under the statute that we are required to follow.

So let me give everybody just a little bit of background. At the request of a number of members of the Senate and House of Representatives in 2021, and basically on

July 27th and July 30th, on August 18, 2021, the State Election Board, under O.C.G.A. 21-2-106, which is the statute that governs performance reviews, appointed what is known as a performance review board composed of Steve Day, who is a member and former chair of the Gwinnett County Board of Electors; Ricky Kittle, who is chair of the Catoosa County Board of Elections; and Ryan Germany, who was then general counsel at the Secretary of State's Office.

Mr. Germany has been general counsel, I think, for six or so years. He'll correct me if I'm wrong on that when he speaks to you today. But he, within the last couple of weeks, has left his position to go into private practice in the area of providing election assistance as a lawyer to people who need that assistance in the state.

The statute provides for this process and the result of amendments to the law in Senate Bill 202. But O.C.G.A. 21-2-106 states that the duty of the performance review board, the board that we will hear a report from today, is to, quote, make a thorough and complete investigation of the local election official with respect to all actions of the local election official

regarding the technical competency and the maintenance and operation of election equipment, proper administration and oversight of registration and elections, and compliance with state law and regulations.

You will recall that I read that it had to do with the investigation of a local election official. That too is defined within the statute as a county board of elections or a county board of elections and registration.

So if you summarize that with respect to the performance review panel that was convened for this matter where there was concerns about the election processes and the equipment that was used by Fulton County, it was a review of the Fulton County Board of Elections with respect to their competency in the maintenance and operation of election equipment, proper administration and oversight of registration of elections, and complies with state law and regulations. That's what the panel has been doing over the course of the time that they had before they produced this report. It was published on January 13, 2023.

So with that, Mr. Germany, if you would please come to the podium. We would like to hear

your summary and explanation of the process and the report that you have now filed with us, with the Secretary of State's Office, and with Fulton County.

MR. GERMANY: Thank you, Judge.

Can y'all hear me? Okay.

Thank you. As Judge Duffey said, I am Ryan Germany. I was previously general counsel at the Secretary of State's Office, a position I held for nine years.

JUDGE DUFFEY: Time flies when you're having fun, doesn't it?

MR. GERMANY: I told my wife when I took the job I thought it was a two- to three-year job. So not the first or last time I was wrong. And I appreciate the shout-out Judge Duffey gave my new private practice. So thank you, but I'm enjoying that.

And, yeah, to pick up from where you left off, and this is -- presentation is really for the board. So I'll look at you guys. But in August 2021, myself, Mr. Day, and Mr. Kittle were appointed by the State Election Board to a performance review board to evaluate Fulton County in accordance with the statute you just

read.

And so I'll start a little bit going through the details about -- about the process. This, of course, is a -- was a new law. So this performance review board is the first one. So there was definitely some, okay, how are we going to go about this; how are we going to approach this; how are we going to accomplish our goal? So I'll tell you how we went through that first.

First of all, I really just want to say thank you to Stephen Day and Ricky Kittle. They have been just excellent additions to this board in really providing that vital county perspective that we don't often get in the Secretary of State's Office. We work with counties all the time but we're not on the ground there.

And so having their perspective and especially their perspective -- Ricky is the -- he's the chairperson in Catoosa County which is in Northwest Georgia. And Catoosa is a smaller county than Fulton and Gwinnett, obviously, where Stephen comes from. But I think because of that, Stephen -- Ricky really is involved day to day more so than chairmen of large counties. So he brought that level of knowledge. It was really

just vital.

And then Stephen, in addition to being on the elections board and former chair in Gwinnett County, by training he's an engineer. And so, you know, sometimes us lawyers can get a bit similarly thinking. And I know Dr. Johnston knows that it's difficult being surrounded by a bunch of lawyers all the time, but Stephen's thought process really was focused on procedures and processes and just how engineers think about something and really building something. So he -- he brought that approach to the -- to this board, the Performance Review Board, and it was -- it was just crucial. And he came from a large county similar to Fulton. So that perspective I think was really vital.

So thank you. Thank you both, you guys, for your service.

So about the process, there's more to it than just, you know, sitting down and running through Fulton and talking to people a couple times.

And one thing that I also want to say is Fulton County was from the outset cooperative with this process. And they have very able

counsel assisting them. They were cooperative with the board to allow us to do our job. So I want to say thank you to them also.

The way that we -- that Stephen, Ricky, and I first went about it was we started with reading a report from Seven Hills Strategies which was a report of the State-Election-Board-appointed monitor who was in Fulton during the 2020 November election and also the 2021 January runoff. He had -- he spent a lot of time there, had a lot of insight and knowledge, and he wrote a very fulsome report. So we reviewed that.

We also talked with Carter Jones, who wrote that report, to give us some background and insight into, hey, what -- you know, you've basically done some of this monitoring in Fulton, how -- what have you learned; what insights do you have for us? So that was our first -- the first thing we did and that was very helpful.

The second thing we did -- because we were appointed in August 2021. So not long after that, Fulton County was administering municipal elections for its cities. And we had the opportunity to observe the processes in both. I think this was really helpful that we observed

with the municipal election first because they're smaller, lower turn-out elections. And from 2020 through 2021, there was a lot of change in Fulton County, particularly in personnel, particularly with regarding absentee ballots which was a real challenge in 2020 for all counties given the massive increase but especially for a large county like Fulton. So we observed that process and then we also observed in-person voting during advance voting at the precinct level and also on the election day.

The other thing Fulton County allowed us to do was to be part of their kind of "election day" situation room where they're monitoring all of their precincts on election day. This was for the municipal elections in 2021. And Ricky manned that and Ricky was kind of our quarterback and basically said, Hey, here's what -- here's what's happening here.

Stephen was out, going to the polling places. He was able to go and see kind of in-person, okay, here's the report they're giving at headquarters; here's how the polling place really married those two things together. So that was a really valuable thing.

One thing I'll mention really quickly -- it's a slight digression -- is the challenge to this process is that at the time Fulton County is doing elections, other counties are doing elections too, including Catoosa County, Gwinnett County, and including the Secretary of State's Office have -- doing their election duties. In the 2021 municipal elections, the Secretary of State's Office is less involved. So we were able to really kind of dive into that, working in Fulton. Gwinnett does not do municipal elections with their cities. So Stephen, I think, was a little more available. I can't remember if Ricky had a municipal election or not that year, but he still made himself available.

That's just one thing to think about and it definitely gets back to this going into 2022. That's the first thing that we did and then we did some -- some interviews with Fulton County staff, including old staff and new staff. So we interviewed both the -- the former elections director, the deputy director, the person who's now the election director -- she was not at the time -- and we interviewed the new absentee staff and new voter registration staff as well. So

that was really helpful.

Following that, we -- Fulton provided documents we requested regarding their processes. And we received those, we reviewed those. Stephen especially led up looking at those from a process perspective and comparing it with how they do things in Gwinnett. The Gwinnett County Board of Elections was -- or elections staff, I think, was a resource to Stephen to help him kind of think through, okay, here's how they -- they're doing it; here's how we're doing it; what do you guys think?

And the Secretary of State's Office was really a resource, mostly for me as well, where I could run things by and say, hey, what do you guys think of this? Because there's a lot of people in our elections division who have a much more kind of day-to-day knowledge of kind of best practices than I do. And so they were helpful. And they worked really closely with Fulton throughout the 2020 election until -- continuing to this day, the Secretary of State's Office. And they were helpful to me to, you know, allow them -- allowed me to kind of observe and be involved in those issues so we could see, okay,

what's working well in Fulton; what's -- what needs improvement? And then that played a role in the report as well.

The other -- one other thing that happened shortly after the 2021 municipal elections was redistricting. Redistricting is a once-every-ten-year process and like a lot of kind of once-every-ten-year processes in anything, it can sort of show some -- some weaknesses or some things that have potentially been -- been ignored.

So we saw a couple of things in Fulton where there was challenges in redistricting, but we also saw a lot of, I think, dedication and improvement and really jumping on any identified issues to -- to resolve them after -- after the redistricting process. Where Fulton did the redistricting in our office, the Secretary of State's Office assisted. Our deputy elections director, Dr. Jesse Harris, said that he thinks Fulton County's rolls are in the best shape -- were in the best shape after that process than it had been in a really long time. And that's because of the dedication of Fulton and because of the assistance of the Secretary of State's

Office. So we observed that, going through that process.

And then we did additional observation going into the 2022 election cycle. Now, as I mentioned earlier, this was more difficult because in that cycle Catoosa County and Gwinnett County, they have their elections duties happening at the same time as Fulton. And the Secretary of State's Office as well kind of gets busier around the same time. So our observation was more limited. We figured that out at the primary and then we talked about -- this is kind of a good segue into my -- my next topic.

But we conducted that observation of the 2022 primaries, conducted some additional observations in the 2022 general election, and we also conducted interviews with Fulton County board members. And those were very helpful as well.

One thing that -- a solution and a resource that presented itself, actually, after giving an update to the State Election Board and talking about -- I believe it was in between the June primary and the November election and talking about how, hey, this is a -- the fact the board

has all their election duties -- or the Performance Review Board at the same time as Fulton is making it a bit difficult to observe this year, I received a call from the Carter Center basically saying, Hey, maybe that's something we can help with. And that's something the Performance Review Board decided to do.

The Secretary of State's Office had worked with the Carter Center before on observing a risk-limiting audit, and so we knew the people. And I'm just really grateful that they offered their services because the amount of time they issued a full report as well that they put into observing was just massive and really increased the reach of the Performance Review Board.

I think the three of us have each spent hundreds of hours on this process throughout the time period. And I think the Carter Center calculated from a person-hour perspective they had spent 5,000 hours just giving all of the -- all the observation and training and everything they did.

And so I'm really grateful for their support as well, and I'll get into a little bit about what they found later.

One thing that I did want to address, too, is the question of did we have enough resources to conduct this job? Because, you know, it was a big job, as I just went through. We certainly wished to have more resources. That was a difficulty. It was a lot of essentially, you know, volunteer time where it's you -- you guys with the State Election Board, I know, are no stranger to it and on the county election board as well.

So the Carter Center reaching out and saying, Hey, we -- Here's how we can help, and essentially volunteering that -- because we had raised -- we'd talked about the possibility of, hey, could we bring in some outside election consultants to help us with this process? They kind of got mired in who's going to pay for that, for those services? So that might be something the State Election Board or the General Assembly could think about going forward, about how that's going to -- going to work and if that's something that can be done.

At the end of the day, I think that we were able to accomplish what we were trying to accomplish with the resources that we had. And I

think there was value in having the involvement really come from people involved in Georgia elections as opposed to, you know, bringing in people from out of state, especially kind of out-of-state-consultant-type people who maybe wouldn't have had the same background and just base knowledge by being there. So I think we did have enough.

And the other thing is, you know, this -- we were appointed in August 2021 and observing municipal elections was -- wasn't helpful. I think to really accomplish our statutory duties, we needed to observe the election in 2022. So we wanted to make sure that our report went through that time period, and I'm glad that it did. And we were able to do our observation and then the Carter Center came in and did their observation too.

The one thing the Carter Center was very clear about from the beginning is we're -- we're happy to help, but we are going to -- this is going to be an independent observation that they conduct. It's not going to be driven by any outside forces with their -- that's how they did it.

And so we were -- we were good with that. And that's what the Carter Center did. That's what Ricky, Stephen, and myself did as well. And I think that's also what Carter Jones did back when he was observing the Fulton County report -- Fulton County elections in 2020.

One thing that I think actually adds to this process is when you look at all three of those reports, whether it's Carter's report from 2020, our report that you guys have, or the Carter Center's report, there's a lot of similarities throughout those reports in terms of, I think, every single one of them notes -- noted the dedication of Fulton County staff. They noted things that can be improved.

And they all noted that they were witnessing improvements happening. Carter Jones reported this with the 2020 general election to the January 2021 runoff where they implemented certain things. And in that case one of the main things that really -- the early processing of ballots that would allow early processing of absentee ballots. And we saw additional improvements from January -- from January 2021 to the end of 2021 municipal elections and

processes. And then I think the Carter Center saw the same thing, as did we, going through 2022.

So I think that's -- the fact that three independent boards have looked and seen, you know, reached similar conclusions, I think adds some credence to the process.

I'm going to quickly go through our findings and recommendations for this board, and then I'm going to turn it over to -- I know Ricky and Stephen just have a brief -- brief comment to make, and, you know, of course, we're happy to take some questions from the board.

What we saw was that in prior years disorganization and a lack of a sense of urgency in resolving issues had plagued Fulton County elections. However, Fulton County has shown improvement in administering elections from 2020 to 2022. That improvement, we think, is due to a multitude of factors, including new staff and training in processes, new procedures, and overall organization have all improved.

The Fulton County Board of Elections and Registration is engaged in helping to drive these improvements. Our recommendation is that

replacing the board would not be helpful and would, in fact, hinder the ongoing improvements in Fulton County elections.

One thing that has also been the case since 2020 is the county manager's office in Fulton County has continued to be involved in planning, strategizing, and preparing for upcoming elections and working with the Fulton County Board of Elections on the county side and Fulton County elections staff. That involvement has positively contributed and improved execution of elections in Fulton.

One thing that we certainly observed is -- like election officials across the state, Fulton elections staff showed daily dedication and effort in carrying out and seeking to improve the administration of elections in Fulton County. And so we want to -- we want to go back and get credit for that.

And a couple final things. I do think this process, while it was, you know, sometimes difficult, especially as I was writing this report over the Christmas holidays -- but I think it was valuable for everybody. It was valuable for me. It's really allowed me to kind of get an

inside look at maybe certain challenges that we don't always see from the Secretary of State's vantage point. I hope that it was valuable for Fulton as well. And they were very cooperative. But I do think that, you know, having this process helped in making sure, hey, let's make sure we're good in our processes, thinking about how we really want to accomplish these things as we move forward in election administration.

I'm going to let Stephen, I think, talk about -- I'll say this and Stephen might have more to say on it. One idea that we thought about over time is we wished we could do -- there was a way to do this type of evaluation or kind of -- not an audit but something like that on a more positive proactive and kind of periodic review process. As opposed to coming in kind of, okay, there's a problem; let's see what it is, but more, hey, let's go through each of our counties and really figure out, hey, what can we improve? Because there's always improvements that can be made in election administration. It's a difficult logistics challenge. Excuse me.

And the other thing, the thing that kind of I want to leave on is while we have seen

improvements, you know, next year's a presidential election. And I'm giving a speech to GAVREO next weekend. And I'll preview it for some of those election officials here who are going to hear it again. But 2024 is really the first presidential election where, okay, now both parties, both campaigns and whoever they end up being are going to be very aware, very focused on Georgia from the outset, frankly probably starting now wherever those conversations are happening.

And so in Georgia we're used to some scrutiny of our elections. I think more so here than in other states, and I think that's going to serve us well. But I really don't think we've seen anything like what we're going to see next year as the first presidential election where this is really understood that if Georgia is a major kind of state in play for that election, it's going to be really important to both parties.

So I said that to say, you know, we started with a municipal election; we went to a midterm election; and next year we're going to a presidential election. And it's going to be

bigger.

And I'll turn it over now to Stephen, who's had a little bit to add, and then Ricky. And then, of course, happy to take questions.

MR. DAY: I've got about three minutes of time.

Mr. Chairman, members of the State Election Board, my name is Stephen Day, and I'm a member of the Performance Review Panel and I'm from Gwinnett County. It's my pleasure to be here with you today and to speak about the efforts of the Performance Review Panel.

First, I do want to thank my colleagues on the Performance Review Panel -- Ryan Germany, Ricky Kittle -- for their dedication, insight, and collegiality. I do offer that our efforts show that people from different political perspectives when operating in an open-minded, analytical, and systematic manner, as we did, can cooperatively and effectively resolve issues before us. And it was a real pleasure working with these two gentlemen.

But I'm from a different political perspective from them. So I also want to acknowledge while I do have the floor,

Mr. Lindsey, coming into Gwinnett County and observing our elections, both in November and December. We appreciate any member of the election board coming out and observing our processes. Any member is welcome at any time to come and visit us in Gwinnett and we appreciate the initiative that it shows from the election board that members would come and participate with us in our election processes.

I also want to thank your board colleague, Sara Ghazal, who politely but firmly convinced me to take this position on the panel, a position I neither sought nor wanted, but she really strongly made the case that when we are all called to service we do have an obligation to respond as all of y'all well know by your example here today.

So I did request of her that there would be no ideological strings attached to my service and she gave me a very firm assurance that there wasn't and that's the way all of us operated on this panel.

There are several points of consideration. Ryan's done an excellent job of going over them. And also I'd to commend him. He's an excellent

writer. He was the lead sled dog on putting -- pulling all of the report data together. We have some memorandum and stuff in the background but Ryan did an excellent, excellent job on that. We did some editorial efforts on it, but y'all should feel proud of the work that he did and thankful that you had somebody as accomplished as Ryan doing the report.

But of all of the points that were in it, the one that I would like to emphasize -- Ryan touched on it and I'm going to read the point that the existence -- the bullet point that's in the report. The existence of the performance review helped incentivize Fulton County to make improvements to their election.

But it took an enormous amount of donated work. Now, I'm going to say it because I didn't get paid one penny for all of these hours, no reimbursement of travel, nothing, nada. So anybody -- if this continues, you have to understand that you're asking a lot of people. Fortunately I'm a small business person and I control my own time in my small company. So I had the flexibility trying to adjust it.

But I'm not sure you're always going to have

that case if this process continues as it is right now. And in our bullet point, we say it's difficult to see how this process is sustainable and can continue to positively influence election administration in Georgia without some reforms.

And I agree that a positive, proactive, and periodic review process, appropriately funded, designed to support and assist all counties with election process improvements could be more effective than the performance review process in its current iteration. And I do want to strongly encourage the State Election Board, perhaps in cooperation with the Secretary of State and the Georgia Association of Voter Registration and Election Officials, to consider formulating and institutionalizing such an approach.

Such an effort will keep counties up to speed with best practices, the latest technologies, and apply metrics for performance assessment. It is better to be a partner than an adversary, better to improve systems before disfunction rather than trying to fix them after the fact.

There are several different approaches something like this could take: From the peer

review process, maybe out of the Georgia Association of Elected -- Registration and Elected Officials where you have some retired folks and maybe some volunteers to engage in a process. There is a possibility of hiring folks, like the Carter Center or the Election Center that's in Texas. Or you could have paid staff, perhaps, associated with the Secretary of State's Office or some other office, maybe four or five analysts that would every week go to a different county and do an assessment. And over the course of three or four years, you could cover every county in the state.

And this assessment would transfer information about best practices as well as maybe do an assessment in what folks -- about where they need to buckle up a little bit and improve but also give them a pat on the back for a job well done where that's deserved. So I do offer that such a program for consistency, quality control, and operational improvement in elections is well worth the time and expense.

I welcome any questions. Thank you.

JUDGE DUFFEY: Thank you, Mr. Day.

MR. KITTLE: I didn't prepare a speech for

y'all. So I don't know what to do. Bear with me.

Thank you, members of the board, for having me. It was quite an experience. I'm from a county that has about 46,000 registered voters. And when I came to Fulton County, I was amazed at the number of precincts, machines, and everything they had.

I will say when I came I had no -- made up my mind either way whether to take it over or not, but I did think about the reports. One thing I thought about was how -- as a chairman of the board, how would I feel if somebody came into my county? And I think that's something we really need to think about before we ever do this again and see if there's not a better way that we can work with them instead of coming in.

But I will say Fulton County was amazing. The people tucked us in. They answered questions. I spent the day in their command center, which if you have never been, go on and go. It's -- it was -- it's a huge room with banks of phone where they have -- if they have a problem, they call in. I didn't see the sense of urgency that I thought I should've saw, but,

again, as we know, that night their director retired. And so I guess he didn't have it. But when talking to the members that replaced him, the members of the board, we saw that they had a desire to get things going in the right direction. They're moving in the right direction. It's important that we remember that 2020 was a disaster for every county. We seem -- we forget what happened in 2020. The pandemic hit Fulton County. Both -- we stretched the election from March till forever.

We called the election the year of the eternal election. We started in March and we just kept having elections. Schools closed. Churches were closed. Workers didn't want to work because of COVID. They had people who passed away who were key elements of their teams, who got sick and could not be there. You couldn't break -- you couldn't have a group of people like this. You had to try to train people online. And I don't know if you've ever tried to teach anybody online but it's hard to see them eye to eye and see if they're even paying attention to you. But I mean, you know, do they care?

But they survived. They took problems they had with absentee ballots, which we never dreamed that we'd see in our small county, we were flooded with absentees that year. We didn't -- we wasn't prepared for it. Neither were they. But yet they survived and they did the best job -- sure, there was mistakes, but we're human. Elections are run by humans. It's never going to be perfect. I don't care how hard we try, there's always going to be something that falls through and that was a terrible year all the way around for everybody.

But then when I went to their -- to, I guess, observe, they had changed around their absentee ballot, the way they did it. It was amazing the way they had it where you could actually go in and follow the trail of how the absentees came in, how they were processed, how they were counted. You could actually see it and observe it.

So they are making great strides. Hopefully they'll continue on. But I really think we need to really think about how we did this because I, as a board member, would've been offended if you'd come into my county. I'm just glad Fulton

County did not take offense. They worked with us. I didn't -- like I said, I didn't prepare a speech, but I do -- I do think the people they have in place now are trying and that's the main reason -- in elections that's all you can do is try to improve daily.

JUDGE DUFFEY: Thank you, Mr. Kittle.

MR. GERMANY: Judge, happy to take any questions from the board.

JUDGE DUFFEY: So I'm opening it up to the board now for questions. Does anybody want to ask a question of any of the members?
Mr. Lindsey?

MR. LINDSEY: Well, first off, thank you, all three of you, for the time and effort that you put into it. And maybe a couple of questions and also a couple of observations and a couple of requests.

While Mr. Day's been donating his time, perhaps he could donate a little bit more time and then write his recommendations on how to do this audit situation, which I think you're absolutely right.

I think we know -- you know, I served in the legislature, and there are certain things that

come through the General Assembly that you think are really great ideas, then the problem sometimes happens in how it gets implemented. I don't think that when folks foresaw an audit like this or a review like this that they would think it would take a year and a half. But having read your report, I can understand exactly why it took a year and a half.

And so to the extent that we can do things to be proactive by the state and this board to assist our counties and be, you know, in a more cooperative relationship, I think that that would be extremely beneficial so that a review like this would be something of the last resort rather than the first resort. So I agree.

So, Mr. Day, I'm going to show up and I'm going to ask you for a little bit more of your donated time. And to the rest of the three of you as well, if y'all could help us work something out like that to help us go back to - and now is the time because, you know, the General Assembly is in session. Usually if there are tweaks or changes in the laws, it usually happens on a number of -- odd-number year before -- on that -- the general election.

So to the extent that we could get before the General Assembly, both in terms of financing and in terms of any type of tweaks, now is the time for us to do so. And so if you could help us, I'd appreciate that.

MR. DAY: But can I say something to that?

MR. LINDSEY: Yeah.

MR. DAY: Because -- and Ryan may be reticent to say it, but I'll say it. I don't -- didn't work at the Secretary of State's Office. They've got to fund the Secretary of State's Office. They've got to act like it's not the redheaded stepchild but it's something that should be valued.

If you value elections, then let's fully fund the staff there and give them the person-power they need to do the job rather than begging for crumbs which they seem to have to do every year in the budget.

And I can say that. Now, Ryan doesn't even work for them anymore but he might get some blowback if he said it. But I'm not afraid to say it. And we did send back an envelope of calculations in regards to if you have four or five staff people working a year, that's probably

between a one- to two-million-dollar expense to do something like that.

So if somebody wanted to look at that and institutionalizing that, those are the kind of numbers that you would -- might want to consider.

MR. LINDSEY: I appreciate -- I appreciate that.

MR. DAY: Yes, sir.

MR. LINDSEY: That, as well as the other things you were saying, I've had -- you know, I'm a resident of Fulton County. I was born in the City of Atlanta. And I actually have served on the Fulton County Elections Board about twenty-something years ago, before I got elected to the House. So I do understand the complexities.

And I've had some people from around the state ask me why is Fulton County being singled out; why is the focus on Fulton County? And I go, Well, it's the biggest county in the state. So, you know, they should expect to have a lot more scrutiny than just about anywhere else. But a lot of what you have in here are -- are situations that I'm quite confident did not happen exclusively in Fulton County.

And so one thing I would like to know and maybe in your observations or maybe if something could be sent to us on how to -- how to make sure that something like that doesn't happen again. I mean, the two hundred -- only two -- well, it was 200 votes were counted twice. I'm sure, you know, if it happened in Fulton County, it could happen somewhere else. How do we make sure that that doesn't happen again? I mean, I do like the observation that says it's something that should never happen. Yes, it should never happen. And fortunately it was 200 ballots and fortunately it was caught, but how do we make sure that something like that doesn't ever happen again? What within our technology failed, to allow that to happen?

So if somewhere down the line someone could provide that, then we could make sure of -- perhaps, Mr. Germany, you can -- what corrective steps do you know that the state could make or the county could make to make sure that that doesn't happen again?

MR. GERMANY: Yes, I'm happy to speak to that, Mr. Lindsey. And that was something that I spend a lot of time on because I -- I -- my sort

of initial reaction is why does the scanner even let that happen?

And there are some technological things that could be implemented to help that. I think some states have scanners. It's kind of an add-on to where it kind of does a physical imprint once it's scanned. Speaking to that, in looking at that solution, it's not without its downsides as well. So I think that's something to consider.

But the main thing really to stop it is basically -- first of all, I would say it happened in 2020. And so, like Ricky said, it was a massive amount of absentee ballots that people were not prepared for. So that was a big contributor. But then it really goes to the process and having a good management process.

One thing in Georgia where we were a little behind the eight ball previously was we did not have a paper ballot; we had DREs. So in 2020 in addition to when we had the COVID, this was the first time our counties were back using paper ballots for twenty -- twenty -- about 20 years.

And so I think some of those processes surrounding, okay, how are we going to manage the paper? And like just -- and it's COVID. So they

call it batch management. And we've seen improvements in that. We're going to see improvements in that. That's -- that's how we do good audits. So you have to have really good batch management. So that's, I think, how it -- that's how it happened. So I think there are technological things that can help, but really I think it's a process improvement. And if you have a good process, it's not going to happen.

MR. LINDSEY: Yeah. I guess my main thing that I would love to see -- once again what happened in Fulton, I'm sure, could happen anywhere and may very -- probably did happen elsewhere. I just want to make sure that we put in place and we inform the counties: Here's the way to make sure that that doesn't happen in your county.

Gets back to Mr. Day's comment. Let's be proactive and let's be helpful and a partner with these counties rather than be viewed as simply a stick.

MR. GERMANY: And there might be some way sort of to jump in from a rule-making perspective. We could put in place some processes --

MR. LINDSEY: Yes.

MR. GERMANY: -- around -- around batch management.

MR. LINDSEY: Yeah. And if you could talk -- we have our new lawyer, who's taking your place, here. If you could chat with her.

MR. GERMANY: Yes, sir.

MR. LINDSEY: And we can start working on that. And the same thing -- I won't -- I won't go into detail. The same thing obviously happened when it came to the tally sheets, that sort of thing. I know it was a new process that was taking place and you were hand counting an enormous number of ballots, something that's unprecedented as well, but it -- same thing, which is essentially come up with a procedure, and even the rules necessary to make sure that that takes place. Because it's one thing to be accurate, but it's another thing for folks to have confidence in the accuracy.

MR. GERMANY: Well, that's one thing that we found, looking at that specific thing, that when you look at it, it is understandable how kind of in that time period basically data is going to get mistyped. The problem is, like you're

alluding to here, it really allows for people to take that understandable mistake and turn it into, Well, how do we have confidence in anything then?

And what we found is it's actually quite difficult. I'll give a shout-out -- I didn't give one earlier, but to the SOS investigations team because they're the ones that really dug into those tally sheets and said, Okay, what is this really? And they did a great job, saying, Okay, well, he actually -- here's where this is and here's where this is, and kind of -- okay, we see what happened there. And I think that we -- at least when I heard their presentation it really made me think, okay, that's what this is.

MR. LINDSEY: Yeah.

MR. GERMANY: This is not indicative of anything else, but ...

MR. LINDSEY: It was a -- it was an administrative error. It didn't change the results. And, you know, we've already ruled on that. I'm just simply saying that, you know, let's -- let's help the counties make sure that that goes with ...

And I'll shout out to my Fulton County

chair, election chair Cathy Willard is here and I appreciate the fact that she's here. And I will also say from a personal standpoint, I've known this board for a number of years and I'm very happy and grateful to Fulton County residents that she's the chair of that body.

And that's essentially what I have, Mr. Chairman. You know, when we meet again, I look forward to finalizing this process and I hopefully look forward to hearing a little bit more from this group as to how to -- how to be more proactive in the future.

But I thank all three of you for your service and I take very seriously the observations that were made.

JUDGE DUFFEY: Thank you, Mr. Lindsey.

I've been looking at a couple things here based upon what Mr. Day and Mr. Ryan said. And that is, as we've heard, there was a process by which we got to the performance review panel. And that process included an initial review by an outside consultant which then ultimately led to this change preventively to -- but the General Assembly decided that there needed to be a mechanism that they call the performance review

panel.

You know, in some day that will be necessary because somebody -- when we have improved processes that have more reliability, there will be people that make mistakes and we ought to have some mechanism to do an investigation of a county that has more systemic problems when, in fact, the Secretary of State's Office and the Board is trying to regularize the process and make it more uniform.

And I will -- I will say this, that I had discussions with the Elections Division; we had discussions with Secretary of State's Office, mainly through Ryan Germany, is that if you think that we would like to -- what we would like to create -- and I think that's true of the Board; I think it's true of counties; and I think it's true of the Secretary of State's Office, is that, one, I don't want the Board to be perceived as it continues to be perceived, as the sheriff that runs into a county because we found a problem there. I want the Board to be perceived as the collection of issues that need to be addressed and then working proactively with counties and the Secretary of State's Election Division to say

now that we're seeing these problems, what can we do to put into place a mechanism to resolve them and make that process and resolution uniform across all the counties? But any process that that involves the creation of a process like Mr. Day is suggesting costs money.

And, you know, I'll give you my experience. When I was the United States Attorney, of course, I -- at some time in the past -- I don't know the full history of this -- but they came up with an ongoing inspection system. Wasn't my favorite thing to do to go through an inspection by the Department of Justice in Washington, but we understood what they were going to inspect. We understood what their expectations were of us. And it was my responsibility in leading that office to make sure that based upon the practices and procedures and policies that were in place that we complied with them. And if I wanted them changed, I would have to go and ask for changes to be made.

But every three years our office was inspected, not by people in Washington but by people from other offices across the country that would come in, usually for three days, and they

would -- they would test our processes and our files and our procedures against what was expected of all United States attorneys offices in the country. And then they gave us a report and told us when we did things well and when we needed -- what they would call the "challenge areas," areas where we needed to improve.

But it takes time and it takes money to create that. Right now the Board and the elections divisions in the counties don't have sufficient resources even to design a process to do that. And I think that where it has to begin is that we have to -- we have to have the courage to say if you want uniformity and integrity in these processes, you have to give us the resources necessary to create a system by which we can regularize and make uniform the processes that you expect of all of these hundred and fifty-nine counties. And then let us deploy that with a mechanism that makes economic and practical sense and where we share information and experiences in other counties with the counties we're in and looking at what they do.

Now, I hate to say this to Ms. Willard, but the best, maybe, to do that would be Fulton

County because we have this body of information. We have people that have looked at the processes that are now in place. I'd be reticent if I didn't say that there are a number of things in this report where the people that have done this report have said that there are still shortcomings that need to be addressed. And I suspect that everybody recognizes and is willing to address those. But isn't this at least an opportunity?

And, Mr. Day, I was going to give you a compliment. I was going to say you're an engineer and you told us three minutes and that you would keep to three minutes. Well, you didn't. So maybe what we'd call on you now is to give those -- that time back to us by staying engaged to some extent to use what Mr. Lindsey has said is your body of information with Mr. Germany, who now has his -- he's building his practice. This would a great learning experience for Mr. Germany to continue in this area in working with, I think, the best dressed of the panel members here, which is Mr. Kittle, and give us the opportunity to build upon that experience and come up with a template that we can use and

apply to all counties.

2024 is going to be really hard. We are going to be under a microscope. But we have the capacity and, I think, the will to say, As critical as you want to look at us, we will be prepared for that. And the citizens of the state are entitled based upon what's happened in the past to be able to leave the 2024 elections and say, We learned; we were educated by our failings; we created remedies to those things where we had not done what we were supposed to do or what we were criticized for even though we had done what we were supposed to do; and have people say that the gold standard can be this state.

You know sometimes -- my mother used to say behind every dark cloud there's a silver lining. And maybe that's our silver lining. I'm glad I didn't say how long I was going to talk because I probably violated that.

Dr. Johnston?

DR. JOHNSTON: Well, I do have some questions. And I wholeheartedly agree with Judge Duffey -- well, Chairman Duffey about establishing processes and review and investigation that can be used uniformly

throughout the state. And this is the real opportunity to have this occur, I believe.

But some questions -- just some questions about the report that I'd like to ask. Was the Carter Center, Fulton County agreement intended to be used or substituted for this investigation?

MR. GERMANY: It wasn't substituted. It was intended to basically expand the reach of the three members of the Performance Review Board.

DR. JOHNSTON: To augment it.

MR. GERMANY: Yes, ma'am.

DR. JOHNSTON: Okay. And what procedure manuals were reviewed in Fulton County?

MR. GERMANY: I'd have to defer to Stephen on that, but we asked for basically all of their kind of process -- processes and we received a lot of them.

MR. DAY: They gave us a whole litany of all their standard operating procedures. And basically what I did, I scanned through the ones that I thought were most relevant and printed them out, looked at them, talked to the people in Gwinnett, showed them to them, asked them about what we did.

But this sort of goes back to this limited

resource thing. We're basically sampling -- the idea that you would expect a $500,000 consultancy from three guys volunteering their time is not -- is not reasonable. So what we had to do was make our best judgment about what to look at and the time that we had available and see what kind of insight it gave to us.

And in particular the case of the chain of custody and standard operating procedures, they had some that didn't match up exactly with Gwinnett but they had some that looked logical. In other words, our charge was to see whether there was systemic failure in Fulton County. This did not show systemic failure. Are there things that could be improved upon? Yes.

Now, if you want to get down into the details about how to improve that, that's going to require the -- what we were just talking about, a process where you go into that. But the way I understood our charge -- and I think we all agree -- we were there to basically say are we going to blow it all up or not? Does it deserve to be blown up and the whole board removed and a new supervisor put in?

And Fulton County actually was proactive in

instituting things that eliminated a lot of the issues that had popped up that -- prior to us serving on this board. So that's -- that's where it is. I'm not trying to dodge your question but I'm just trying to give you the context it is.

And I want to say this about the Carter Center report. What it did was it gave us a much wider statistical base. I was always concerned when I went out there. And I'm looking at these precincts, okay, maybe I'm looking at the nine best ones and everybody else is, you know, chaotic.

So the idea that the Carter Center was out there and had a much broader reach than we did -- and it almost to the tee validated independently what we had observed. Their verbiage was almost identical to what I had written up in memorandums and distributed to Ryan and Ricky about I didn't see anything catastrophic when I was observing at these precincts.

As a matter of fact, what I observed was precinct workers responding to crisis and getting the job done. Maybe the main office wasn't responding as quickly as they should have -- and Ricky addressed that -- but the people on the

ground took care of business.

I'll give you one example. You know, the precinct, I think, was Independence High School. The equipment was late getting there. Then they put it in the basement level. It had to go all the way up a hill and then up a ramp and then up into the room. And the wrong room was designated and this was a facility manned strictly by females. And I'm only saying that because it wasn't a bunch of muscular guys. And these ladies took it upon themselves to shove all of that heavy equipment up that hill, up the driveway, up the ramp, and then move it from the first room to the second room. And they got the job done and they got it done on time.

So it's those kind of people that I observed. And I'm going to even say this and I may get in trouble. In one of the poorest areas I went into, it was the best run precinct. Those people were on top of it. I saw what they were doing and it was going like that (indicating). So it didn't matter whether it was on the affluent side of town or the more depressed side of town, there were dedicated poll workers in Fulton County doing the job.

Are there mistakes that are made? Sure. I'm from Gwinnett; we made mistakes. We've been before -- I think we had our attorney here back in December, if -- I'm not sure, about a mistake that we had made. So as we said, we're fallible but the -- the mentality, the new chairman of the elections board, the new supervisor of Fulton, the people that are there, they're working hard for improvement. So ...

I'm sorry. I didn't mean to get on a soapbox. Thank you.

DR. JOHNSTON: I think that was more than three minutes.

(Cross-talking)

MR. KITTLE: I want to touch on something. I know our job was to oversee Fulton County. But, again, I want to say Fulton County workers, poll workers, went out of their way. The workers in the command center went out of their way to answer the questions being called in to them: I'm at the wrong precinct or we can't find this voter on our roll -- rolls, what do we do? They had manuals there in that control room that told each person on that phone how to respond, how to look it up. When I met -- when we interviewed

the chairman, you could tell she was concerned about what was going on and wanted to improve.

We can go back and beat up -- just like you said, the 200, it was a mistake, a human error. I think we're better off now that we have better controls already in place. The state's helped us get new controls on batch management. We'd never seen a batch management in our life before 2020. Never even heard of it.

DR. JOHNSTON: Thank you.

MR. KITTLE: But I think they -- you know, we have -- we're starting to get more things in place.

DR. JOHNSTON: So the interviews, did you -- did anybody interview the chair of the Democrat or Republican party for Fulton County?

MR. GERMANY: We did not.

DR. JOHNSTON: Okay. Did anybody interview poll watchers, observers, monitors?

MR. GERMANY: We did not. When we first embarked on this, we had, I think, grand plans to conduct more interviews, including those types of people. What we found was that was not something we could reasonably accomplish within the time period --

MR. DAY: Ryan, Ryan, I want to say this. When I was doing the observing in the precincts, I did informal conversations with the poll managers, assistant managers, and from time to time I would bump into an observer that would talk to me about it and I would ask him. So there was a lot of informal conversations that were going on with people that were in the various precincts and early voting centers that we went into.

MR. GERMANY: That's a good point. I meant we did not conduct any formal interview, but we did, of course, have informal interaction with those people. And I had quite a lot of interaction with -- maybe not poll watchers themselves but people that the parties had overseeing the poll watchers who would call into the Secretary of State's Office just in general. So we had a lot of interaction with those people but not formal interviews.

DR. JOHNSTON: Was there a system or a way to review called-in compliance to Fulton County Elections?

MR. GERMANY: So the way we did that was essentially -- I mentioned, you know, Stephen or

Ricky was in the command center at the time, seeing, okay, what's being called in, and -- and he was actually relaying that to Steve who went to where they were being called in.

And, you know, a lot of time I think Stephen arrived there before Fulton County just based on the kind of -- the nimbleness. And so that's how we did that.

DR. JOHNSTON: So is there a process for logging those calls or ...

MR. GERMANY: In Fulton County?

DR. JOHNSTON: In Fulton County.

MR. GERMANY: Yes. Yes, there is.

DR. JOHNSTON: Okay. And in referral to the recount inconsistencies that you had mentioned in your report, I think it's actually a complaint case that is under investigation right now. I think the count error of 4,000 is -- 4,081 was mentioned and not just 200. And there's a question about a vote total discrepancy or difference or alleged of 16,000. So I --

MR. GERMANY: You're talking about in the 2020 election?

DR. JOHNSTON: In the 2020 election, right. And if there -- you mentioned independent audit

experts. Could you share who those were?

MR. GERMANY: I'm sorry, what?

DR. JOHNSTON: Independent audit experts.

MR. GERMANY: What are you referring to?

DR. JOHNSTON: It's was mentioned in the report that there were independent audit experts.

MR. GERMANY: Okay. So you're asking about on the hand-count audit after 2020.

DR. JOHNSTON: Right.

MR. GERMANY: As part of that investigation, which was essentially the -- because there's two separate issues here. When you do a hand count of ballots, you're not going to get the same -- exact same number as the machine count did. The reason that you do that is to say, okay, is there some problem here that -- with the machines? And that's the same -- that's the same thing when after that hand-count audit, you do a -- we did the machine recount in 2020, the presidential election. You're going to get a slightly different number there too.

The point of each of those things is to see, hey, is this result correct? And so going back to the hand-count audit -- in that investigation we did -- we did two things. One, I worked with

Secretary of State investigators and listened to them. And they went through kind of each allegation of, okay, on this -- this tally sheet says this and it's input here as this and it's in here twice and that type of thing. So they looked at that individually.

And the other thing that we did is we talked to -- the audit experts I'm referring to who work at a company called Voting Works that has helped Georgia establish its risk limiting. And we said, hey, is what you're seeing -- does this basically change the overall effectiveness of the audit or is it basically what we would expect in a hand count?

And so what they confirmed was, no, that -- like this type of data entry errors doesn't change the overall effectiveness of an audit, which remember is a statewide activity. And so the whole point of it is to confirm the results of the election. And the question is does any of these data entry things that we're seeing change that conclusion? And they said, no, that that's very much expected.

They did mention that one problem that happened to Fulton was a lot of counties have

data entry errors initially. And what they were able to do is go back and check them basically before submitting their results and see, oh, what are we -- what's the problem here? And kind of do a doublecheck of did I type it from the tally sheet into the cell sheet, essentially, correctly?

With Fulton, 2020, we had a deadline for the hand audit. Secretary of State's Office did. We already extend -- we extended it, I think, an additional day for Fulton and Fulton was still, I think, struggling to finish. And so they -- basically once they finished, they didn't have time to do that kind of quality assurance check that other counties did.

So I think that's why we saw more data entry errors in Fulton than other counties in that instance.

DR. JOHNSTON: So who were the audit experts?

MR. GERMANY: Voting -- the people at Voting Works.

DR. JOHNSTON: Voting Works, okay. It's not -- well, it may be understandable but if there's an election complaint that alleges that

the Fulton County election official reported the vote count of all precincts on election day in 2020 of being 21,800 and something, and then posted an hour later an election count of 59,143 -- and this is not -- I don't think it's been investigated yet. I'm not sure. But the -- a number as different as that, it's understandable that that might create doubt or mistrust or confidence issues.

And was the audit -- the audit, was it a surprise to the State of Georgia?

MR. GERMANY: Are you talking about the hand-count --

DR. JOHNSTON: The twenty --

MR. GERMANY: -- audit in 2020?

DR. JOHNSTON: Right. Right.

MR. GERMANY: So in 2019, the legislature put in place --

DR. JOHNSTON: Correct.

MR. GERMANY: -- audits. And we put in place risk limiting audits. The way that generally works is you do a sample of ballots and then there was a statistical formula that basically says, okay, here's how many ballots you have to look at in each county and here's the

statistical confidence level that this gives us that the result of the election was correct. The number of ballots is based on the margin of the contest to be audited.

So what the State Election Board did back at the time in instituting its audit rule was it left it up to the Secretary of State, okay, here you -- the Secretary of State chooses a race to be audited based on these criteria. After the 2020 election, Secretary Raffensperger decided we need to audit the presidential contest. In making that decision, which I think was the right decision based on the scrutiny that election was frankly receiving, the margin was so close that the risk limiting factor of the audit -- you basically had to do a hand count. So the complete hand-count aspect was not anticipated. That was something that basically we had to pivot to. I think it was the right decision. I'm glad we did it. But the hand count was not -- the full hand count was not anticipated.

DR. JOHNSTON: Right. So full recounts are sort of a, you know, kind of ultimate RLA. It's a hand -- you know, a contested election results in a full recount. So I would think every county

should and would be prepared to proceed with a recount if their contest was questioned seriously. So I don't -- I just don't understand the issue about it was a surprise.

MR. GERMANY: The hand -- a recount -- there's two different things. There's an audit of an election.

DR. JOHNSTON: Right.

MR. GERMANY: And then there's a recount.

DR. JOHNSTON: Right.

MR. GERMANY: Which are two separate things.

DR. JOHNSTON: But this audit turned into a recount.

MR. GERMANY: Well, I guess, it's probably the lawyer in me who's of quibbling, but an audit is a different thing than a recount.

In 2020 we had an initial count. We had an audit which turned into a full hand count based on the margin, and then we had a recount. And there's two -- there's separate rules that the State Election Board has: One governing audits and how to conduct them; one governing recounts. Audits are hand counts, generally not of the entire -- every single ballot but a limited subset. Recounts are conducted using the

machines and rescanning every single ballot through those machines and getting a -- essentially another count.

DR. JOHNSTON: Right. Unless the machines are not working properly and then it reverts to a full hand count which is what occurred.

MR. GERMANY: That's not --

DR. JOHNSTON: I mean, it's just --

MR. GERMANY: That's not what occurred. That's not what occurred. The --

DR. JOHNSTON: Well, it's not that the machines weren't working, but the decision was made to -- because the -- the results were so close that an RLA becomes a full recount. It wasn't an issue with machines not working properly.

MR. GERMANY: The only thing I would say is it becomes a full count. It doesn't become a full recount.

DR. JOHNSTON: Right.

MR. GERMANY: If you look at the official results of the 2020 election, those official results are based on the requested recount from the Trump campaign. The hand audit is not official results. It's a check.

MR. KITTLE: May I say something, Germany? 2020 we were not expecting that. We do now. We have guidelines in place to do it, but in 2020 we were not expecting to count every ballot. We -- you know, we had --

JUDGE DUFFEY: Mr. Kittle, could you speak -- excuse me, because the people on the screen --

MR. KITTLE: Oh, I'm sorry.

JUDGE DUFFEY: -- need to hear you through a microphone.

MR. KITTLE: I understand.

In 2020 we were not prepared. We didn't think we was going to do a hand recount. When the Secretary of State decided that that's what we were going to do, we had to find people to do that. I mean, we wasn't expecting to count, you know, seven-whatever-million ballots there were in the State of Georgia.

But now we do expect to do a hand recount. So we have procedures in place now. We're not surprised like we were in 2020. So it's not -- it's still a problem because it costs money to do all this stuff and, like we were told earlier, unfortunately the State likes to make rules without putting money behind them.

DR. JOHNSTON: Right.

MR. KITTLE: But, you know, we -- 2020 was a surprise for all a hundred fifty-nine counties. We wasn't -- we wasn't prepared to have the manpower to hand count every ballot, but we do now. We look every year that we have to.

DR. JOHNSTON: It's kind of a perfect storm, 2020.

So, Mr. Germany, there's mention of an inventory tracking system. Is it functional? Is it being actively used?

MR. GERMANY: My understanding is -- and I might have to defer to Stephen again, but it is being actively used. I know based on our interviews with some of the board members and some staff, I think they're still figuring out, okay, how can we fully implement and utilize -- and utilize this system?

DR. JOHNSTON: And the advance waiting -- on to the 2022 election, advance voting wait times in the report are inconsistent with what was on the website, Geo Map, that showed wait times. So I'm not sure how the conclusion was made. It might've been in the Carter Center report.

MR. GERMANY: The advance voting wait times

in the Carter Center report were based on their own observations.

DR. JOHNSTON: They must not observe the website.

MR. GERMANY: They were observing the actual, like, on the ground. And you're talking about the Fulton County website that publishes wait times.

DR. JOHNSTON: Right. Right.

MR. GERMANY: So I think that, of course, comes from a different source. And both of those things are essentially snapshots, right? So, you know, I think that you are going to get a sense of how things are, but my understanding is that the -- on the website for Fulton County, it utilizes, which is a great for its voters -- you know, they're basically having poll workers track at different times -- Okay, what's the line length? -- and reporting that back in.

The Carter Center report, I'm not exactly sure what their methodology was. I know -- I think given their charge of simply observing, they probably had a little bit more time to kind of measure throughout than a poll worker would. But I think that's going to explain the slight

differences.

Measuring wait times kind of throughout the whole day is difficult. I think about, like, driving down here, you know. Like, the wait time on 75 from Atlanta to Macon is going to be a little different depending on the exact time of day.

The one thing that I've talked with kind of academics who do this is, like, Yeah, we know that -- for instance, when they do surveys of wait times, they're not going to get exact numbers. What they are going to get is a good kind of overall sense of -- especially of sort of comparison. Basically, okay, these exact numbers might not be completely right, but it is going to give us a good sense of, okay, lines are shorter here and longer here or shorter at this election than this election.

DR. JOHNSTON: Actually I think the county did a pretty good job putting people out to just stand in the line and follow it.

MR. DAY: Dr. Johnston, I was just going to say that I'm an industrial engineer, so time study's part of my background. And I actually did some time studies at -- while at these

precincts.

And I would usually go on the last day of early voting because that's the biggest stress point, and I could watch what was going on. And the average processing time at an issuing station, which is almost always the bottleneck that creates the lines, is -- was pretty much the same everywhere I went. I think between two and three minutes, sometimes quicker. But that's the same in Gwinnett. I've done it many times in Gwinnett.

I didn't see anything that was out of the norm in the several time studies I did at the different precincts or the different early voting locations that I did.

And also, to speak to one of your other points about the recounts and the audits and all of that, I'm a nerd. I drew a line in 2020. I counted what the original stuff -- the original counts were, what the hand audit was, what the recount was. And in statistics it's called "random variance around the mean" and that's what you had. If you have a bunch of numbers way above the line, that means there's something wrong in the count. But if you've got little

dots, you've got a line like this (indicating), little points all around the dots, that's the human error in the recount, maybe a little glitch in the machine. But it showed that everything was still in line. If you want to talk -- you maybe have regression analysis. They were all within the regression analysis confidence interval. So anyway ...

Sorry I went off into that, but just wanted to reassure you.

UNIDENTIFIED SPEAKER: I'd like to make -- can I make a comment on that?

JUDGE DUFFEY: No.

UNIDENTIFIED SPEAKER: Okay.

DR. JOHNSTON: So was there a review of security measures or controls?

MR. GERMANY: Was there a review of security measures? Now, that's a broad question. So I think -- you know, we observed at many different locations, including --

(Phone ringing)

MR. GERMANY: I hope that's not my phone over there. But we observed at many different locations from a security perspective. So I would say specifically we weren't -- there

wasn't, like, a security checklist we were looking at. But it's more of, okay, what's going on here?

The main -- I think there's a lot of ways to think about security. You know, in the election office where the voting machines are, it's definitely a -- okay, who had access? Who's allowed access and that type of thing and are things tracked? And that's one thing that we found in the observation is the security of the warehouse and the organization of Fulton County's warehouse just showed massive improvement from 2020 to 2022. Organization in -- you know, in and of itself isn't security, but I think it's kind of an indicator that when you have kind of a place for everything and everything in its place, everything else is going to -- is going to go better. So we've seen improvements in that.

And then at the polling place, there's, you know, security of kind of systems, but, also, you know, a concern now is security of people -- Right? -- poll workers, voters, things like that. That's a difficult balance for every county.

You know, one thing we did look at that

might be part of your question too is kind of the chain of custody of -- of especially the ballots, right? Especially absentee ballots as they're coming in. And that's one of the first things that we observed. And I thought -- I think Fulton probably saw after the 2020 election, and probably every county did too, Okay, we need to really think about kind of the process that these ballots are going to go through. And that's something that we saw, I think, as one of my colleagues mentioned earlier, a lot of improvement in that chain of custody of absentee ballots as they go through the process from 2020 until now.

DR. JOHNSTON: In the beginning of the report, you mentioned Fulton County has a long history of issues with voter rolls and alluded to a report from 2012 where 10,000 names are not on the rolls during an election. And they were -- Fulton County was fined the largest fine, I guess, ever, a hundred eighty thousand dollars. Did you review voter registration?

MR. GERMANY: You know, I think the best way that we approach that, as I mentioned earlier, was in the redistricting process because that's

essentially voter registration. And so the three of us did not, but that's something that I basically worked with the Secretary of State's Office on. They kept me in the loop.

We actually had a meeting with Fulton County on redistricting. And we did -- we did notice some, I think, sort of legacy issues that were making their redistricting harder. But, you know, I'll repeat what -- the conclusion of Dr. Harris, our deputy elections director who said -- because he worked very closely and he said that he thinks that Fulton's rolls are in the best shape they've been in in a long time.

DR. JOHNSTON: Was there a review of the county auditor's financial report of the deficiencies of Fulton County elections?

MR. GERMANY: No. We're aware of the report but we -- that was not -- we did not include that in our scope.

DR. JOHNSTON: I saw no mention of the report of possible break -- or an alleged break-in or a possible break-in of the election records warehouse, summer of 2021. Was that reviewed or investigated?

MR. GERMANY: If -- not as part of this

report. No.

DR. JOHNSTON: Okay.

MR. GERMANY: I think I'm familiar with that unless I'm confusing my counties in my role at Secretary of State's Office. And I believe if it's the same thing I'm thinking of, then, where, like, a door was left open, then -- and I think that was investigated through SOS investigations but not as part of this report.

DR. JOHNSTON: Okay. And the newspaper reported alleged shredding of 300 voter registration applications in the fall of 2021. Did you review or investigate that?

MR. GERMANY: I know that was also investigated through SOS investigations. I believe those people were fired pretty quickly as well.

DR. JOHNSTON: Okay. There was a breach of election workers' personal information. Was that reviewed or investigated?

MR. GERMANY: I'm not sure what you're referring to. So I don't know. We -- I did not investigate it. That's not even something I'm familiar with from a Secretary of State perspective. So I'm not sure what you're

referring to.

JUDGE DUFFEY: What are you referring to? What's the source document for that?

DR. JOHNSTON: I think the AJC reported it, and actually my personal information was breached as a previous election worker, I guess. But I received a letter and they asked -- they referred me to typical number you can call to check your financial protection for the future.

JUDGE DUFFEY: So this was a data breach of what data system?

DR. JOHNSTON: I think this story reports that some PII of poll workers -- I believe it was poll workers or maybe election workers would -- had a data -- it was data breach.

JUDGE DUFFEY: Was it poll workers or election workers?

DR. JOHNSTON: I'm -- the story -- I'm not clear.

JUDGE DUFFEY: This was a press report?

UNIDENTIFIED SPEAKER: That was January --

JUDGE DUFFEY: Excuse us. This is a board meeting. If you want to make public comment, you may at the end of the meeting.

DR. JOHNSTON: So it was in the paper, and I

received a letter from Fulton County that my information was one of the -- one of the persons whose information was one of the --

JUDGE DUFFEY: Maybe the best thing to do would be for you to provide your letter and the article to Mr. Germany and ask him to respond to it.

DR. JOHNSTON: Thank you. Okay.

MR. GERMANY: Ricky, come up here.

MR. KITTLE: In some of our work, we relied on the Secretary of State's Office investigators. We did not have those powers that they had to investigate individuals. So we sort of -- Ryan sort of looked over stuff they had and would tell us, you know, this is what the investigator saw. Because we didn't have investigative powers to go into individual cases, we were looking at operations in Fulton County not individual things.

DR. JOHNSTON: Thank you.

And was there a review of -- in relation to operation of elections, was there a review of staffing practices and policies of hiring, training, outsourcing, performance, retention, errors related to ...

MR. GERMANY: That -- that came up in some of our interviews, particularly regarding staffing of early voting locations, which is difficult because, you know, it's a three-week commitment basically. But there's also benefits too. Like, what we see in early voting around the state is on day one there might be some hiccups as people get used to it. Day two through seventeen generally go a lot smoother.

And then, at least Secretary of State's Office, we kind of hold our breath again because then generally on election day, you have a different set of staff that are running polling locations and they generally haven't done it for a while.

So that's a -- something that I know Fulton County is actively looking at and that came up in our discussions. It's not an easy sort of thing to solve and say, oh, here is the sort of best way to handle that. So that did come up, yes.

DR. JOHNSTON: For the engineer, would a consideration of a process audit be something that you might recommend?

(Phone ringing)

MR. DAY: Well, I'd like to put that just in

the larger context of my earlier remarks.

JUDGE DUFFEY: Excuse me.

MR. DAY: Sure.

JUDGE DUFFEY: I asked everybody to please silence their phones. That is now the fifth interruption. Would you please put your phones on silent. It's not fair to the speakers to be disrupted like that.

MR. DAY: In other words, what you're requesting is -- I -- I believe in a holistic and systematic approach. Yeah. And I think that might be part of what we're advocating. But rather than individualize an assessment, I think it needs to be part of the greater process.

If you were really going to try to help election offices improve, we need a holistic systematic approach to it.

JUDGE DUFFEY: And I'm trying to figure out when we should take a break. How many more questions do you have since we have two other board members who are left?

DR. JOHNSTON: That's all.

JUDGE DUFFEY: Ms. Ghazal?

MS. GHAZAL: Thank you, Mr. Chairman. And thank you all -- Mr. Kittle, Mr. Day --

especially you as volunteers in this process. I'm intensely grateful to you and, of course, Mr. Germany for your leadership in this process. I want to take a step back, first, to correct the record a little bit. I think some of the issues that my colleague, Dr. Johnston, brought up in fact were addressed in a prior case that the board has seen and has disposed of, that apparent tabulation problems were in fact largely data-entry discrepancies and it was about batch management which -- which I know Mr. Germany has already mentioned.

And, again, thanks to the --

(Phone ringing)

JUDGE DUFFEY: Hold on a second. Whose phone is that?

(No response)

MS. GHAZAL: Many thanks to the investigators because that took a yeoman's effort to work their way through that. And at the end, I understood much better exactly what happened. And I think the batch management improvements that we've already seen will get to the bottom of that. But that's not what we're trying to talk about now, so I apologize a little bit.

But I do want to take a little bit of a step back and look more broadly at this process. I know we're not going to complete this until April but I want to strike while the iron is hot, and the General Assembly is still in session right now.

Mr. Day and Mr. Kittle, can you tell me -- the law allows for four of these performance review boards to be -- or four counties at one time to be under performance review. What is your assessment of the feasibility of that?

MR. DAY: Go ahead, Ricky.

MR. LINDSEY: Can I guess right now what he's going to say?

MR. KITTLE: It would be impossible to do four counties at one time. You could do four small counties at one time. The amount of hours we put in, the amount of time it takes to just get the interviews with the people you've got talk to, I mean, you know, scheduling. We are busy people. I mean, I can't imagine somebody calling me up on a Monday and saying, Oh, we're going to be there Tuesday. Let's talk.

It would be impossible. It may have been a good idea somebody had, but they really didn't

think this out. They just, you know, you couldn't do four counties. The shear manpower, a three-person board would've been a joke in the election -- if Carter's -- if Carter Center had not come in and helped us. We couldn't have covered this county. Fulton County. There's no way we could've even see a fourth of the county. So maybe the -- it would be impossible to do four counties.

MS. GHAZAL: Thank you. My second question is how -- are the recommendations that you all put together that Fulton County -- for continued improvements, will they apply to your own counties?

MR. KITTLE: It applies to all a hundred and fifty-nine counties. I learned stuff from Fulton County, the way they do it. I learned something from watching their people work. The processes they had were different, some of them were different than ours. But I think -- as Stephen said earlier, I think that's one thing we need to work on as a collective body from the board here, the legislature and the Secretary of State's Office to the election officials in each county to try to get a standard so everybody -- you

know, it's a lot easier to follow directions if everybody's trying to do the same thing the same way.

And we're learning. You know, this was a whole -- 2020 was a whole new ball game with these machines and stuff, and we are getting better processes. But it's -- you know, it still has some room for improvement.

MS. GHAZAL: Thank you.

MR. MASHBURN: I'm fine. Thank you.

JUDGE DUFFEY: Thank you, Mr. Mashburn, for not having any questions.

You know, I have sort of pored over this report. And it's really helpful, especially when there are areas of improvement specified. There are specific things throughout the report that are helpful to understand what can be done and what should be done, although there's one thing that the Carter Center pointed out that I thought was interesting and it is a bit troubling to me because I came into this work and I've done it all of seven months with the view that elections are a process itself.

And the administration of elections and that process is nonpartisan, that you determine how

many people need to vote, you determine what resources you have, and you deploy those in a way that does not cater to any particular group.

But there is a comment in this that the -- that Fulton County -- and this is really -- I just want to know whether or not, Ryan, you saw this in other counties or have you heard about this in other counties, that there were certain outreach locations opened on college campuses for advance voting that had the most significant staffing challenges, the pole managers having to give inexperienced staff on-the-job training. And these locations were not initially planned which I understand was not planned by the Fulton County Election Board to be advance voting locations but were added at the request of activist groups.

Can you tell me more about that? That seems to me, number one, a disruptive thing in Fulton County where the people were doing a job that they weren't trained to do. And does that happen in other locations around the state?

MR. GERMANY: So I would say, and as I formulate my answer, I agree with your concern. And I noted that we noted it mostly from a

perspective of, you know, Fulton County, I think, came up with a plan for polling locations, looking at what -- what's our needs, what's our ability to staff these places? And that's what -- that's how you do that in that scrupulously nonpartisan way that you're -- that you just referred to.

In doing so, I think after that, then they were asked by -- Fulton County was requested by activist groups to basically add locations at -- at college campuses. And they call them outreach locations. It's basically, I think, early voting locations, but they're not open the entire early voting period. They're open only a portion of it.

So -- and I think, you know, kind of trying to avoid blowback in the sense of not wanting to be accused of trying to keep people from voting, they basically said, Okay, we'll do what you're asking us to do. I think that's a dangerous precedent because, you know, there -- and especially as we're heading into 2024, there's going to be a lot of, you know, activist groups who are, you know, coming from kind of both sides of the political aisle who are going to be

basically requesting election officials to do certain things. And then if you go -- if you do what one asks, then you're going to make the other one mad. And if you do what this one asks, you're going to make these people mad.

And so I really think, we -- as we get into it, that county election officials, you know, looking at -- with guidance from the State Election Board and looking at state law have to figure out, Okay, what can we realistically do to best serve all of our voters? That -- that's not going to make everybody happy.

And so -- but they have to make that plan. And the other reason I put that in the report is you've -- to execute a plan, you've -- you've got to have a plan early on and you really want to stick to it as much as you can. And I think that was something that -- that when the Carter Center noted that those locations that weren't planned for, that were added had the biggest challenges, that's not surprising. And frankly it's avoidable by having a good plan and sticking with it and executing it.

Now, I'm not saying -- you can't be completely inflexible, right? But to me that did

not raise to the level of, hey, this is a thing that we need to change on our plan.

JUDGE DUFFEY: Have you see this sort of request for special locations by outside groups being made to other counties?

MR. DAY: Ryan, I can speak to that from Gwinnett's experience.

MR. GERMANY: And I'll say from the State's side I think there is a -- you know, you hear from that sometimes kind of -- it's very, very rare basically.

I'll let Stephen speak to the point from Gwinnett.

MR. DAY: First off, to the plan, you do whatever you have planned in advance. And the staff, it's unfair to them at the last minute to say, We need a whole nother set of early voting staffing. So you've got to be proactive and be thinking -- and think ahead.

But we did have a situation with Gwinnett where we budgeted for twelve this last election, so twelve early voting centers. And the area where we wanted to get one, we couldn't find geographically suitable locations. So we still had in the budget the resources for another one

and we did try to do one late in the process but because of some issues there -- it was actually at Gwinnett Place Mall which is now owned by the county. It's shuttered but it's owned -- not the Mall of Georgia, Gwinnett Place at Pleasant Hill. It was infeasible with that little time to go ahead and do it. And there had been some people requesting stuff. So we did get some noise about that, but you're -- the point that Ryan's making, as somebody on the election board, you want to be proactive in your planning, think ahead, and have all of that lined up. And say, Now we've budgeted, we've got our people for it, and -- and that's it.

But the best thing to do is to look at the map of your county and make sure you're geographically treating everybody the same. And population centers, it may be denser over here, you may need more. So you've got to -- you've got to think.

And I did want to address Dr. Johnston's point earlier that there was the last day of early voting that I was observing. There were hour to hour and a half delays. The Carter Center report actually says that. They said

twenty-five delays except on the last day. So if you read down in there, they say that.

But anyway, yeah, the -- you don't want to be put in that position where you're doing stuff at the last minute if you can help it. Thank you.

JUDGE DUFFEY: You know, my last question had to do with the Carter Center. It's -- I know people that are on the board of the Carter Center, have a lot of respect for what the Carter Center does. I've lived in Atlanta since 1981. I've known people that have worked there and have known people that have been engaged there.

And it never occurred to me that the Carter Center would have the willingness to help, and, you know, try to be candid with everybody. I went to Ryan and I said it was taking too long to get this report done and if we needed more people on it. His response was, We don't have more people. And I agreed with him. And he said, But, you know, maybe the Carter Center which we have used in the past, which has helped us in the past and that we respect might be available to help us in this instance.

And having read now the Carter Center's

report, it's clear that -- not only that they agreed to help, but they agreed to help in a significantly material way by the number of people that they provided and the scope extension that they allowed to the panel. And at some point, as the chair of the committee, I'm going to send them a letter of appreciation because they do need to be appreciated. I don't think we would have this report. We wouldn't have the comparison of their observations with the comparison of the panel's observations which I think is a really good thing.

And the demand that they be independent is exactly what I would expect from them. And I respect them for making that demand. So on behalf of the board, I do want to extend our appreciation to the Carter Center for the significant work that they had making their work product available to the panel that has been included in this report. So ...

DR. JOHNSTON: I have one more thing. Not a question. I would like to give my sincere, profound thanks to the three of you for agreeing to do this and taking it on in a difficult time and with many people concerned about our

elections. Thank you very, very much.

MR. GERMANY: Thank you.

JUDGE DUFFEY: All right. That concludes this portion of the agenda. It is 11:00. Let's take a ten-minute break.

(Break taken)

CASES RECOMMENDED TO BE DISMISSED

JUDGE DUFFEY: I guess I'm as good as Mr. Day is keeping time since we went a little bit longer than I said we would go.

After having heard now the report of the Fulton County performance review, we will move on to the next items in our agenda which are the investigation reports.

For those of you who are not familiar with the process, any citizen who can provide sufficient factual information to the board about something that they believe is either not done properly, may be done improperly in the election process at any stage of it can file a complaint. There's a complaint form that a complaint must be filed on our website and by completing the form, that then gets into our investigation system.

The complaint is investigated by trained professional certified investigators and then

they provide the reports to us. And we are in the portion of the meeting where the reports, having been completed for those cases that are listed, will be made now by the investigations division. Sara Koth, who is with us at the podium, is responsible for summarizing the reports for us. And then we will discuss them as a board.

Welcome back and thank you for your work.

MS. KOTH: Hello, thank you. Before we talk about the cases recommended to be dismissed, there are three that are on here that we did a further analysis and would like to pull them for -- for a few more things that we would like to address in investigations.

And those cases are 2020-225, the Henry County public viewing; 2021-106, DeKalb County excess voting; and 2022-013, Fulton County ballot harvesting. We'd like to continue those until the April meeting, please.

JUDGE DUFFEY: I'm sorry, what was the last one? 2022?

MS. KOTH: O13. Fulton County.

JUDGE DUFFEY: And you had made an evaluation that you wanted to do more

investigation before you present it to us?

MS. KOTH: Yes. On one of them we just thought we'd have the information back in time and we didn't -- we did not. So we would just like to answer the questions for -- for us before we can answer them for you all.

JUDGE DUFFEY: Well, that's a good policy. All right. So let's begin with -- these are listed as cases because the -- the investigators make recommendations to us based upon findings, the factual findings, and their evaluation of the law as it applies to their findings, whether -- what disposition should be made of a case.

The first group are cases that they recommend being dismissed, but you should know that the only authority to dismiss a case resides with the board itself. And so we will now first consider those that are recommended to be dismissed for our evaluation of whether they should or should not.

So first, is any -- having read each of the complaints that are in this first section of complaints, is there any complaint that any board member would like the pre -- the -- Ms. Koth to present a summary?

MR. MASHBURN: I do not.

JUDGE DUFFEY: Ms. Ghazal?

MS. GHAZAL: Yes. Tab 15 on absentee ballot processing.

JUDGE DUFFEY: Okay. Tab 15 would be twenty -- 2021-151, Fulton County absentee ballot processing; is that correct?

MS. GHAZAL: Yes.

JUDGE DUFFEY: Okay. Would you summarize that for us, Ms. Koth.

MS. KOTH: Yes. Yes. August -- or I'm sorry, October 27, 2021, the Georgia Secretary of State's received a complaint regarding unsolicited absentee ballots from Fulton County for the November 2, 2021, general election.

This is the one -- the investigator obtained information from a statement from the deputy director of Fulton County Registration and Elections as to the explanation as to why the respondent received six absentee ballots at his address.

We went back and redid this one -- or checked back and it was they e-mailed the acting director, Miss Williams, at Fulton County, and they advised that AB processing -- the

information that could be contained in this case for AB processing, other than the e-mail statement that was originally obtained, was that this was the clerical issue -- I'm sorry, come on (inaudible).

MR. BRUNSON: Yes. Hi, Board. I'm deputy chief investigator Mike Brunson. So we'll be copresenting today. Just to let you know, some cases we'll be taking turns.

So this was a case in which the staff was in the actual module instead of the training module. And apparently what happened is that because they were in the actual module and it was cumulative, it continued to mail out the absentee ballots to this individual. And that's how he received those six ballots.

So further conversations with Fulton County basically confirmed that. And they said that that was the information that they could provide. In the future, they did indicate what they would do to make sure this doesn't happen again as far as checks and balances, et cetera.

So that's additionally what we found and their explanation as to how this would be prevented in the future when they do training

with their personnel?

JUDGE DUFFEY: So, okay, what I hear you saying is -- since I'm the most novice person on voting here, on the panel -- is that they're -- you train people on the machines and you have -- the machine has a training function. It also has an actual use function.

MR. BRUNSON: Yes.

JUDGE DUFFEY: And in this case, there was training being conducted. But it was being done using the actual module or as if it -- you actually were involved in an election. And because that happened, every time the trainee used it, a new absentee ballot was sent out to a voter.

MS. KOTH: Yes.

MR. BRUNSON: Yes. Yes.

JUDGE DUFFEY: Did you find out why that happened? I mean, what is it about the training that caused the county not to make sure or assure that the trainees were not using the actual module? I mean, how did that mistake come about?

MR. BRUNSON: So they explained how it happened. They didn't get into the specific as to, you know, the breakdown, the granular details

on that, but then they talked to us about what they would do in the future to make sure it doesn't happen again.

JUDGE DUFFEY: And what did they tell you?

MR. BRUNSON: So basically -- apparently what happened is when the file was run, it was run cumulatively. And so in the future, they're not going to do that, as far as run the file cumulatively. And also they're going to ensure that they're in the training module of ElectioNet and not obviously in the actual module. So this will not happen in the future.

JUDGE DUFFEY: Okay.

MS. GHAZAL: If I could follow up. This -- this actually may be a better question directed to our election director because this -- this is now the first week, I believe, or the second week that our new election system -- our new voter registration system, GRVIS, is in place. And so it's a whole new system, and I just want to get a reassurance that there are sandboxes that have been established for all counties to make sure that they're conducting their training properly and this doesn't happen. Sorry.

JUDGE DUFFEY: This is Blake Evans who is

the elections director in the Secretary of State's Office.

MR. EVANS: Thank you. So, yes, Blake Evans, elections director, Secretary of State's Office.

So yesterday was our first day statewide in GRVIS, which is the Georgia Registered Voter Information System. It's our new voter registration system. We do have, quote/unquote, a sandbox or a training environment for counties to go in. It is a completely separate URL that counties have to go into to give the access. So they -- when they're training new registrars or new officials on a voter registration system, they're able to go into that. And, essentially, it's data that they can make changes to without having any actual impact on real voter records.

MS. GHAZAL: Thank you. That's exactly what I wanted to know. I don't have any other questions. Thank you.

Was that for any of them or ... okay.

JUDGE DUFFEY: Any other complaints that any board member would like to have presented by the investigators?

DR. JOHNSTON: Tab 20.

JUDGE DUFFEY: Tab 20 is 2022-027. Would you summarize that for us, please.

MS. KOTH: The Georgia Secretary of State's received a complaint from the Newton County Board of Elections and Registration. The complaint was sent via e-mail from Miss Davis of Newton County Board of Elections and Registration.

On the findings the Georgia Secretary of State stated the following: Someone requested an absentee ballot registration form 2020. Witness Number 1 was and is not capable of requesting or filling out the forms. They advised she has dementia and has been living in a nursing home in Covington. If possible they wanted a copy of the form with the signature that she allegedly signed and the name of the person who assisted her at the time of signing.

The investigator was able to find information about Witness 1 and was able to follow her voter registration. Witness 1 had been living inside the facility since 2013, the nursing home located in Covington, Georgia. The sister of the complainant was concerned that voter fraud or identity theft may have taken place with her sister.

The investigator learned that the Newton County Board of Elections and Registration did not have any absentee ballot applications filed for -- for Witness 1 and that they had never voted in Newton County. The investigator found that the activity director of the facility at the nursing home filed the voter registrations during an activity in September of 2020. Newton County rejected Witness 1's attempt at registration. Newton County received further information voter registration did take place and that the -- Witness Number 1 had never voted in Newton County.

JUDGE DUFFEY: Any further information you'd like? Or --

DR. JOHNSTON: No further information. This is just a case that I think illustrates my concern about nursing homes or special care homes that -- you know, they're wonderful places to reach out and respectfully honor and assist the elderly that want to participate in elections. And voter outreach services provide that service. However, they're also full of vulnerable voters that are not comfortable or capable, maybe, in writing, using computers, and they need

assistance. But they're vulnerable and that they may be taken advantage of, and I just would propose to this board to think of the possibility of having special teams that would go to special care homes that are bipartisan and provide services, if requested, to assist the elderly and handicapped to register to vote or to even vote. But it would provide a witness and official structure in this -- in these circumstances.

It would be great for community service. It honors our elderly, protects the vulnerable. And it even -- if it was bipartisan, it would even improve party relations. That's all.

JUDGE DUFFEY: Thank you. And I think those are wonderful comments. And certainly there should be a way in which we can encourage people to help people that want to vote to make sure that those that can and have the mental faculties to do so are, in fact, enabled to vote. But also being careful that people are not just signing papers, not knowing what they're doing.

So that's something I think we ought to think about and see how we can deploy maybe a -- a beta test of that in a county or two, see how that might work.

Anything else on this complaint? 2022-027?

Are there any other complaints that any board member would like to have summarized?

DR. JOHNSTON: Tab 28.

JUDGE DUFFEY: Tab 28 is in the next grouping.

DR. JOHNSTON: Sorry.

JUDGE DUFFEY: So in the grouping of cases recommended to be dismissed, since we listened to summaries on two of those cases, I believe that we can handle these as a group if somebody wanted to move that each of the cases listed, with the exception of those that have been withdrawn, that those cases be dismissed. We could vote on that and dispose of all of the cases in this section. Is there such a motion?

MS. GHAZAL: I move that we dismiss the cases.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: There's a motion to dismiss those cases listed under cases to be dismissed, which are listed in the agenda for today's meeting. Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: There's a second. Is there any discussion on the motion?

MR. LINDSEY: I do have a question, Mr. Chair, and it is a punitive question. You know, on -- regarding 15, would it be better to send a letter to Fulton County about the problem rather than just simply dismiss it. I'm looking to -- to further -- I'm satisfied with the investigation; I'm satisfied with the results. I think when we do have an error like that, part of me says should we at least tell them, Look, you've messed up; don't mess up again? I'm asking --

JUDGE DUFFEY: And you're talking about --

MR. LINDSEY: Judge, I'm --

JUDGE DUFFEY: You promised it was only a question.

MR. LINDSEY: Yeah.

JUDGE DUFFEY: So I'll give you an answer.

MR. LINDSEY: Yeah.

JUDGE DUFFEY: You're suggesting with respect to somebody sending out multiple absentee ballots?

MR. LINDSEY: Yes, ballot -- yeah.

JUDGE DUFFEY: If the board would agree, I

would be -- I would write a letter to them, telling them that we considered this case, but while the case has been dismissed, we just wanted to observe to them that they ought to go back and look at their processes to make sure that absentee ballots are not sent to people that are not entitled to receive them and certainly multiple ballots should not be sent.

MR. LINDSEY: Yeah. I would -- I would make that motion, Mr. Chairman, regarding number 15.

JUDGE DUFFEY: So the motion as amended is that we dismiss all of the cases in the section that have not previously been withdrawn, in the section entitled Cases Recommended to be Dismissed. But with respect to 2021-151, that the board send a letter to Fulton County, asking them to implement a process by which they assure that ballots are not sent to people who are not entitled to receive them and that ballots not be sent to an individual on multiple occasions.

Is there a second to that motion as amended?

MR. MASHBURN: Second.

JUDGE DUFFEY: So moved and seconded. Is there any further discussion of the motion as amended to include the letter requirement?

MR. MASHBURN: Just a quick point of clarification. So what we're doing is placing a condition upon its dismissal, the condition that the letter go out.

MR. LINDSEY: Yes.

JUDGE DUFFEY: Yeah.

MR. LINDSEY: To be dismissed subject to a letter going out, recognizing the mistake that was made and encouraging the county to ensure that it doesn't happen again. That's simply putting it on the record. That's all.

MR. MASHBURN: And thank you to the judge for sending it.

MR. LINDSEY: Thank you, Judge.

JUDGE DUFFEY: Okay. All those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? Motion passes.

The next group of complaints are those that are listed as violation cases, meaning if the investigator who investigated the case has concluded based upon their factual investigation that the facts support that a violation either of a board rule or a state statute was involved and that they recommend that the case, though, not be

recommended to referral to the Attorney General's Office but that a letter describing the violation and admonishing the respondent of the vi -- that they cannot violate those provisions and otherwise take whatever remedial action is necessary to ensure that the violation is not repeated.

So there are -- there are five of those cases, which are tabs 24 through 28, and is there -- and we would like a presentation on each of those, please.

CASES NOT RECOMMENDED FOR REFERRAL

MS. KOTH: Okay. So the first one is Bibb County. The Secretary of State's Office received a complaint where Bibb County self-reported a DRE memory card did not upload properly during tabulation and when election officials went to manual entry, the wrong data was input.

The investigation revealed that Bibb County Board of Elections failed to properly upload the DRE memory card which resulted in an inaccurate vote count. Election supervisor Miss Watson reported the issue was discovered on October 3, 2018. Two number two cards were created by mistake. On election night Miss Watson uploaded

the cards but one of them was not recognized. The voter total was corrected by 11:30 p.m. on November 8th.

So there was sufficient evidence to suggest that Bibb County Board of Elections and Miss Watson, the former elections supervisor, violated SEB Rule -- SEB State Rule 183-1-12.02, direct recording electronic voting equipment.

JUDGE DUFFEY: Do any of the board members have questions about this investigation report?

MS. GHAZAL: I just -- just a point of clarification for the audience. This is the previous system which used a different election management system; is that correct?

MS. KOTH: Yes.

MS. GHAZAL: And these are no longer in use in Georgia.

MS. KOTH: No.

MS. GHAZAL: Thank you.

JUDGE DUFFEY: And this was self-reported --

MS. KOTH: Yes.

JUDGE DUFFEY: -- to the Secretary of State's Office that this had occurred.

MS. KOTH: Yes. They reported it --

JUDGE DUFFEY: Self-reported meaning --

MS. KOTH: -- on themselves.

JUDGE DUFFEY: -- the county had reported it, that they had engaged in this conduct; correct?

MS. KOTH: Yes.

JUDGE DUFFEY: Okay. All right, do we have a motion on this case that a violation has occurred and that a letter be sent to them, instructing them to comply with all of the provisions and the rules of the board and that this conduct not occur again?

MS. GHAZAL: I move that we accept the recommendations of the investigators.

JUDGE DUFFEY: All right. Second?

Any discussion on the motion that we follow the recommendation of the investigators? There being none, all those in favor of accepting the recommendation of the investigators on Case Number 2'18-084 say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: And all of those opposed say no. The motion passes.

Case 2020-152.

MS. KOTH: Rockdale County, polling place change. The investigation division, Secretary of

State, opened an investigation concerning a complaint that Rockdale County mailed out reminder notices to voters with incorrect polling place information to them.

In April of 2020, Rockdale County moved five polling locations in response to the COVID-19 pandemic, resulting in several local church closures. The county followed the proper procedures, according to O.C.G.A. 21-2-265, whereby they ran an advertisement once a week for two weeks in the legal organ of the county and posted notices on the doors of the old polling locations. No boundary lines were changed and only poll site locations were moved. SEB Rule 183-1-7.01, they felt that did not apply.

In October of 2020, Rockdale County mailed polling place change notifications to the affected voters. Voter information was entered onto an Excel spreadsheet and due to an election worker missorting the polling place column on the spreadsheet, many voters were matched with incorrect polling place locations. This error was discovered after the notices had been mailed out.

Rockdale County election officials

discovered this error and in conjunction with the Elections Division of the Secretary of State's Office implemented a program to where each of the affected polling places functioned like early voting sites on election day. In this manner, any voter who presented at any polling place would be able to vote the correct ballot without any delay or confusion. The Rockdale County Elections Office has implemented an additional layer of oversight to the process of mailing voter notifications to ensure that this would not happen again.

JUDGE DUFFEY: Any comment on this?

MS. GHAZAL: Thank you, Judge -- Mr. Chairman. I actually think that this serves as an example of the enormous amount of resilience and flexibility in both the Secretary of State's Office and the county. There was not a single voter who was disenfranchised. Everyone was able to vote. They -- they made a human error. They responded and they were able to turn on a dime and use election day precincts as if they were early voting. And I think that both the Secretary of State's Office and the county deserves a commendation for their ability to do

this.

I'm not saying that there was not an error. There was an error. It's been identified. And they -- they've adjusted for it. But I think they deserve recognition for what they were able to do for the voters.

JUDGE DUFFEY: Well, I agree with that assessment. As I tried to explain, our approach to processes is that we try to understand not only whether or not there was a violation but, secondly, what response we should have with that violation. And often the conduct of the county, and in this case in cooperation with the elections division, found a remedy for a violation.

But there is a remedy, and while the pivot was one that did not disenfranchise anybody, we should not have had to make a pivot to begin with. And that's the importance. If you're a voter, anybody sitting in this audience or watching us, when you get a notice about where you're supposed to go, you should be able to absolutely rely on that. And you should expect for that notice to direct you to the right place each time.

So while I think we have to take into consideration the consequence of this being that everybody still voted, there is a violation. We ought to find that there was a violation, in my opinion, and then we ought to send them a notice, telling them that there was a violation but giving them the credit for having found a solution to it.

Anybody else have any comments on this?

MR. LINDSEY: No.

JUDGE DUFFEY: No? So is there a motion -- and in this case, we can't accept the investigator's recommendation. So I would move that we find a violation of the board's rules in the conduct described and found by the investigator and that a letter be sent to them that they have to follow all of the rules as it relates to notification of voter precincts but making note that we appreciated their quick response so that nobody was disenfranchised.

And that's the motion that I would make.

MR. LINDSEY: So moved.

JUDGE DUFFEY: Is there a second?

DR. JOHNSTON: Second.

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded that a violation be found and a letter be sent with the language that I just described.

Is there any further discussion on the motion? There being none, all in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? The motion passes unanimously.

Next is 26 which is 2020-201.

MS. KOTH: Screven County, problems at the polls. November 18, 2020, Investigation received a series of complaints, alleging the following. The first one involved Ms. Bell. She alleged that her and her husband, Mr. Yates, appeared to vote at the Cooperville fire station precinct and the poll pad machine indicated both had already voted.

But staff allowed them to complete provisional ballots. They both forgot to sign before leaving the precinct. They later returned to the precinct to sign and they discovered Yates' ballot was already signed by someone other than him. The voter crossed out the signature on the ballot and signed next to it. The provisional ballot was tabulated with election

results.

Mr. Ward. He appeared to vote at the Bay Branch precinct and the machine indicated he had already voted. Mr. Ward was issued a provisional ballot and later tabulated with election results.

Ms. Starling. She alleged on November 3, 2020, while at the Hunter's Community House precinct, she along with several other voters were informed they had already voted when they had not yet voted in the election. Mr. Hendricks (ph), Miss Hendricks, Mr. Tillman (ph), Mr. Rivers and Miss Lee (ph) and Miss Burroughs (ph), Miss Weathers (ph), and Mr. Taylor.

Mr. Rivers, he alleged that his ballot of his preferred choice was rejected by the scanner. He consequently voted a provisional ballot.

The investigation indicated several voters populated in the system as having already voted and consequently voted provisional ballots. One elector's provisional ballot -- that was Mr. Yates' -- name was forged by a Cooperville fire station precinct poll worker.

The following voters appeared at precincts and were provided ballots to cast and were later accepted as the poll pad indicated -- told that

they had already voted. So all of the other names that were previously listed, their provisional ballot was accepted.

Mr. Yates' provisional ballot was signed by someone other than the elector. Poll workers Marilyn Harvey, Joyce Smart, and Erlingo Jackson neglected to ensure that Mr. Yates signed his ballot and denied having signed the ballot themselves. Ms. Jackson admitted completing the top portion of the provisional ballot but denied having signed Mr. Yates's name. There were three poll workers assigned to the precinct in question and all of them denied or could not recall having signed the provisional ballot in question. They did not ensure that Mr. Yates signed the provisional ballot and the individual responsible for signing his name could not be determined. Therefore, the county election staff and Cooperville precinct poll manager will be cited for the violation.

JUDGE DUFFEY: Okay. Any discussion of this violation? I would hope there is.

DR. JOHNSTON: So does this -- does this mean that seven other people or persons voted before these electors presented to the polls?

MS. KOTH: I'm sorry?

DR. JOHNSTON: So the information requiring to them to vote provisionally suggests when they -- when they presented to their precinct, their polling place, that they had already voted?

JUDGE DUFFEY: If I could just add to that. The notes that I have three times on this --

(Phone ringing)

JUDGE DUFFEY: -- says the underlying question was never -- the underlying issue was never really addressed, which is how could these people have gone to the --

Can you please turn that off.

UNIDENTIFIED SPEAKER: It wasn't me.

JUDGE DUFFEY: Whose phone was that?

UNIDENTIFIED SPEAKER: I have no idea.

JUDGE DUFFEY: Please put your phones on silence. It's hard to think about questions that we're asking and it's hard for the responses with those interruptions.

(Phone ringing)

JUDGE DUFFEY: When I was on the court, I would have that lawyer give me the phone. But I don't have that authority anymore. I'm asking you as politely and as sternly as I can that that

should not happen.

So let me try again. Third time's a charm.

These people showed up to vote and they were told they had already voted. What happened that caused the records to show that they had voted? And did somebody somehow vote on their behalf in an improper way? That seems to not have been addressed in the report.

MS. GHAZAL: If I may. In some of these cases, if you dig into the facts, the problem lay with the voter access card and not with the check-in system, which means that the access card was not being properly programmed.

So that's -- that just means that they were unable to pull up the ballot on the BMD and therefore had to vote a provisional ballot. There are still errors in the system, but that -- there's no suggestion that anybody would have cast a ballot under their name.

Now, there are other cases, so this is -- it's not uniform under the facts here. And then there are a couple of these voters who did show up and it appeared that -- that there was a -- misin -- disinformation or in -- sorry, let me correct that. There was incorrect information

that came up, but it's not all due to the check-in system.

JUDGE DUFFEY: Well, maybe -- I guess my concern is maybe it wasn't incorrect information that the system somehow recorded them as having voted early. Or were people at the precinct trying to come up with -- trying to say, well, look, you've got to do it again because it shows that you've already voted? And I guess my issue is did we ever find out or should we find out what happened?

MS. KOTH: I don't believe that was answered in this report on what happened, just that their provision -- they had not voted before and their provisional ballot was accepted. So they had not voted before.

JUDGE DUFFEY: Why were they told that they had already voted? My concern here is if there's anything that shakes your confidence in this system, it would be to show up at the precinct and have somebody tell you that you've voted.

DR. JOHNSTON: I would be interested in knowing how the other person that may have voted that -- whether it was absentee or in person and checking the ballot application information and

signatures.

MS. GHAZAL: If I could move that we send this back for a little bit more investigation, and then we can -- we can review it again when we've got a little bit more background on these particular voters.

MR. LINDSEY: Second.

JUDGE DUFFEY: All those in favor of referring this back to the investigators to investigate the issues regarding why people -- why the system showed that certain people had voted and why -- and in each as to why other voters had to vote provisional ballots so that we can complete the record. Because there might be other people that should be held responsible for this.

So that's the motion to refer this back to the investigators. Is there a second?

DR. JOHNSTON: Second.

JUDGE DUFFEY: All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? The motion passes unanimously.

The next is 2021-157.

MS. KOTH: This is Stephens County. This is

another self-report. Stephens County election supervisor Miss Roberts self-reported that the EMS server computer was moved to another location without authorization. She advised via e-mail to the Secretary of State that the EMS server was accidentally moved to another desk the last week. The IT department thought the EMS server computer was the one that they were setting up downstairs. It was supposed to be a different computer. And once they realized, it was put back in its original spot upstairs.

The findings were that Stephens County election supervisor Miss Roberts reported this, that the EMS server was removed -- was moved. The server was returned to its original location and tested by a representative from the Secretary of State. The equipment passed with no issues.

JUDGE DUFFEY: But did Ms. Roberts acknowledge that the rule had been violated?

MS. KOTH: Yes.

JUDGE DUFFEY: Is there any -- any discussion on this report?

MR. LINDSEY: Move to accept, Mr. Chair.

JUDGE DUFFEY: Second?

MS. GHAZAL: Second.

JUDGE DUFFEY: Been a motion to accept the recommendation of the investigators and to send a letter advising that the Board of Elections and Voter Registration and Ms. Roberts comply with the rules of the board.

Is there any further discussion? All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no? The motion passes unanimously.

I think the next is 28, which is 2022-028, and if you would give us a report on that, please.

MS. KOTH: Yes. This one is Richmond County, voter registration. On March 31, 2022, investigations received a complaint alleging the New Georgia Project in Augusta, Georgia held a voter registration drive on a local college campus and failed to return a voter registration after a student and her mother expressed concerns of personal information being exposed and potentially shared with the public against her will.

In this one the investigation entered -- or centered on a staffer of the New Georgia Project

failed to release a voter registration form to a student, Miss Brown, and her mother, also Miss Brown. The mom and daughter requested the registration form to be returned as they shared concerns of their personal information being protected. Both the mom and the daughter witnessed the staffer shred the document but was not satisfied that their personal information remained legible.

The mother and daughter did not observe registration forms being secured in envelopes. The daughter stated that she did not observe anyone's personal information on the voter registration forms but felt that maybe she had been able to if she had looked hard enough.

As the investigator spoke with the staffer, she described the incident as strange and stated she obliged the mom and daughter by destroying voter registration documents by manually shredding it. She further stated it is not the organization's policy to give their documents to citizens but destroyed the document per the student and mother's request. She refused to meet with the investigator in person and referred him to the organization's front office.

JUDGE DUFFEY: Any discussion on this complaint?

MS. GHAZAL: I don't see where there's any violation of any election law or rule or regulation here.

MS. KOTH: There wasn't. This one was discussed on possibly a letter for best practices on what to do. And so it wasn't for a violation of itself but maybe a practice.

MS. GHAZAL: Okay. Thank you. Thank you for that clarification.

DR. JOHNSTON: My question is -- in the report, it refers to the volunteer -- I guess volunteers as registrars. Were these workers for this registration group registrars? Were they deputized registrars?

MS. KOTH: I don't think so. Let me look. I'm sorry, let me look for a second. No, they were part of a group doing voter registrations.

DR. JOHNSTON: Okay. Are they paid?

MS. KOTH: I'm not sure if they were paid or if they were volunteers.

DR. JOHNSTON: Just a question if they're paid per application. Would it be beneficial for this entity to provide their -- their written

policy regarding voter registration drives and training and financial records of payment to, quote, registrars?

MS. GHAZAL: I would object to that as being overly -- that that would not be appropriate for this body. There's no -- no violation of any election regulation or law. I think that is being obtrusive to First Amendment activities.

JUDGE DUFFEY: I do think it goes outside the scope of the complaint that was made in that it -- at least with respect to the scope of what we're doing here, that's not something we -- I believe we are authorized to do or should do in making this -- in sending a letter to the New Georgia Project.

DR. JOHNSTON: (indiscernible) go ahead.

JUDGE DUFFEY: But you're welcome to do that. I guess any board member, if they want to communicate with the New Georgia Project about proper things that they should and shouldn't do, I suspect that you would have the authority to do that.

DR. JOHNSTON: I felt this case is a good case to talk about third-party voter registration organizations. I think they're -- they're useful

and -- and they're promoting participation in the electoral process by registering el -- the vote-eligible population. I just wondered if it's time to consider more accountability of an unregulated, nongovernmental entity that collects private information, personal information in the name of a worthy goal, yet requires no oversight or accountability by the government agency that they're supposed to be assisting. That's elections, and I just want -- I question what happens to the applicants' personal information.

JUDGE DUFFEY: So I think that that is within our jurisdiction, those sort of general policies. But the request that we send a letter to the New Georgia Project with respect to how -- what their people do and how much they get paid would not be consistent with the scope of this complaint. But we can certainly entertain a discussion about whether -- and not today but at another time, whether we ought look into providing best practices to volunteer voter registration groups.

And I'll say this. I do have a problem with this, and it goes back to one of the things that concerned me with some of the complaints that

we've seen. So here's a woman. For whatever reason, she had every right to say, I do not want you to process my registration. And the response was, at least as described in the report, a pretty terse response by the volunteer in questioning whether or not she should be allowed to do that. But in the end, it gets ripped up.

Now, when I rip something up with my personal information, I make sure that you can't piece it together and get it. So, one, I'm not confident that she -- that it was objectionable for her to say, Oh, no, I want it back; I want to destroy it myself.

But the other thing that I didn't appreciate in this is that when the investigators -- I mean, these people go out on our behalf when a complaint's filed to gather facts so we can determine what happened and to reach the appropriate response to the complaint. In this case there was an attempt to contact somebody at the New Georgia Project, and there was a text message that was sent from a phone number in which the message read: Do not continue to harass me. This is wildly inappropriate and you know good and well the proper channels to go

through at the New Georgia Project if you have questions.

The system only works if people cooperate and tell us what happened. And to say that no, you haven't jumped through the right hoops when an investigator says that they want to talk to you is not appropriate and doesn't allow us on your behalf for the audience here and the system in general to get the information that the investigator believes they need to tell us what happened so that we can make a decision.

So if any letter would be appropriate, it would be to send a letter to the New Georgia Project based upon this complaint and ask them to be more cooperative if they're contacted by our investigators. But I'm not going to move for that. I'm just going to mull it over whether or not I want to do it on my own, which I might.

Any further discussion on this complaint?

MR. MASHBURN: I would like to make a point, Mr. Chairman. And that is I'd like to encourage the staff that's investigating this to be more free in asking us for subpoenas because this board has the power to subpoena.

And so feel free to ask us. If somebody's

not cooperating and giving you the information you need, feel free to come to us and ask us to issue subpoenas. So I'd just like to encourage you to use that remedy.

JUDGE DUFFEY: And that's true and I've served -- signed a number of them.

All right. Is there a motion to, I guess, dismiss this case?

MS. GHAZAL: I so move.

JUDGE DUFFEY: Is there a second? Is there any discussion on the motion to dismiss Case Number 2022-028 because there is no violation?

MR. MASHBURN: I thought we were going to -- I thought we were going to send a letter. Is that right? Wrong? Did I miss that? Because I thought you asked is this one for -- is this on for dismissal? In other words, is this in the wrong section and it was explained that you -- that those -- because we were going to send a letter? No? Am I wrong?

MS. KOTH: Yes. It was for -- yeah, a letter for best practices on what to do for -- that's what we were -- we had put up there.

MR. LINDSEY: Mr. Case -- Mr. Chairman, it sounds like your admonition to them in terms of

best practices may be a good idea.

JUDGE DUFFEY: You mean my -- the letter I --

MR. LINDSEY: Yeah.

JUDGE DUFFEY: -- was thinking about sending?

MR. LINDSEY: Since we're -- since that's the recommendation, is to discuss -- is to send to them best practices, I would move to -- to dismiss, if I may make an alternative motion, with a letter to the New Georgia Project regarding them following best practices and seeking them in the future to further cooperate with us to be able to expedite an investigation.

MR. MASHBURN: Because the question -- because the question here is I've just given these people my personal information, and then I felt uncomfortable about it. And then I asked them for the form back and they won't give me the form back with my personal information. So the question is whose personal information is it? And it's the voter's personal information. So they ought to be entitled to have that back and then they go destroy it in whatever method they feel is the best way to do it.

MR. LINDSEY: Yeah.

MR. MASHBURN: You know, I -- I either shred it or I -- I carry it in two different garbage cans in two different locations so that the potential wrongdoer has half the information over here and half the information over there. But the question is whose information is it? And it's the voter's.

So if the motion is to send a letter and then dismiss it, I second that motion.

MR. LINDSEY: Then that's my -- that's my motion.

MR. MASHBURN: Okay. I second it.

JUDGE DUFFEY: All right. It's been moved and seconded that we dismiss 2022-028 upon the sending of a letter advising that the voter information belonged to the student who had a right to request that the document on which it was written be returned to her and for further comment that the New Georgia Project ought to be more cooperative in our investigations.

Any discussion on the motion? All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? The motion

passes.

I will say I'm beginning to wonder, Mr. Mashburn. What are you throwing away that you have to get two trash cans?

MR. MASHBURN: Social security number, bank account numbers.

JUDGE DUFFEY: All right. So that concludes the cases that were not recommended for referral to the Attorney General's Office. Since we're going into a new section, I want to have us break for lunch until 1:00. At 1:00 we'll reconvene and deal with the final two groups. Is there -- okay, we're adjourned until 1:00.

(Break taken)

JUDGE DUFFEY: The first thing I want to do is clarify specifically on the cases that we just went over that were not referred to the Attorney General's Office. Those would be cases 2018-084, 2020-152, 2020-201, and 2021-157, that those cases we found a violation but the cases were resolved with letters that we described, which I think is the precise technical explanation of what we did with those cases.

CASES RECOMMENDED FOR REFERRAL.

JUDGE DUFFEY: We are now to the cases where

the investigator has found a violation and recommended the cases be referred to the Attorney General's Office.

First is Case 2020-104. And if we could have a report on that, please.

MR. BRUNSON: Okay. This is involving Decatur County, wrong absentee ballot. And we received a complaint regarding that election, the November 3, 2020, general election. And outlined below is a self-reported incident involving an absentee ballot mailed to an elder -- or elector, Joan Marie Lashley (ph), but was voted, signed, and returned by another elector, Myrtle Lois Sellers Hale (ph).

Keith B. Sellers, Mrs. Hale's son, signed the oath envelope as having assisted Mrs. Hale. Mr. Sellers was also the chairman of the Decatur County Board of Elections. This appears to be a violation of Title 21, Article 10, absentee voting, more specifically 21-2-385.

The second complaint is an improper Facebook post by election board chairman Mr. Sellers regarding social media comments in reference to the local election. This is believed to show unethical behavior and a violation of his oath.

And then the third complaint, public view of tabulation. A candidate stated he was not allowed to observe tabulation. Another candidate on the ballot for clerk of court was allowed to go inside and obtain stats. But when he tried to enter, he was stopped by election board chairman Mr. Sellers.

So ultimately the finding after doing an investigation was that Mr. Sellers assisted his mother, Myrtle Lois Sellers Hale, with completing the wrong absentee ballot, addressed to Joan Marie Lashley. This allegation is sustained.

Now, apparently Mrs. Lashley used to live with Mrs. Hale. And so Mrs. Hale has a disability, her son was assisting in filling out that ballot. And he basically stated that it was an oversight. He didn't pay attention when he was filling it out and so he sent it out. When the investigators interviewed him regarding it, he admitted to such.

The second one could not be determined that Mr. Sellers violated Georgia election code with a post that he made. He indicated that he did that on this own time and it had nothing to do with his duties as the county election board chairman.

However, the second part of the complaint revealed that Mr. Sellers held office at Decatur County Election Board while also being a co-vice chairman of the Decatur County Republican Party which is a violation of Georgia Election Code and that particular allegation was sustained.

And then, finally, the third allegation could not be sustained. It was basically one word against another and so because of that, that third allegation could not be sustained.

JUDGE DUFFEY: All right. Thank you. Do any of the board members have comments about this complaint and the investigation of it?

MS. GHAZAL: I have -- I have one question. Does Mr. Sellers remain on the election board for Decatur County at this time?

MR. BRUNSON: He did at the time of this investigation, but he did resign his position as the vice chairman of the Decatur County Republican Party during the investigation. I'm not sure if he is currently -- let's see. Yeah, he wasn't the actual supervisor, but we can follow up on that and find out.

MS. GHAZAL: Thank you. I would just ask that that be part of the investiga -- if we vote

to send this forward to the Attorney General's Office, that that form part of the further investigation.

JUDGE DUFFEY: Any other comments about this report on this complaint?

So two violations have been found. Is there any motion that we find the violations and refer to the Attorney General's Office?

MR. LINDSEY: So moved, Mr. Chairman.

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded that Complaint 2020-104 be referred -- that we accept the investigator's recommendation that the two findings of a violation are referred to the Attorney General's Office for further action.

Is there any discussion on that motion? There being none, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? The motion passes unanimous.

2020-108.

MR. BRUNSON: Okay. This is a three-allegation complaint, Charlton County, unauthorized voter registration.

Allegation 1, Charlton County elections supervisor Brenda Hodges reported Jennifer Mitchell fraudulently completed an online voter registration application for Shalonda White.

Second allegation, Mrs. Hodges reported that Jennifer Mitchell may have also fraudulently completed an online voter registration application for Shakena Maynor.

And then the third allegation made by Mrs. Hodges reported that Alina (ph) Maynor moved to Colorado but still requested and voted an absentee ballot in the November 2020 election.

So in our findings, we found that there was evidence to suggest that Mrs. Mitchell fraudulently completed an online voter registration for Mrs. White. Jennifer Mitchell spoke with the elections supervisor, Mrs. Hodges, who questioned her about the online voter registration. Initially she denied it. However, ultimately she said that Mrs. White gave her her ID.

Now, Mrs. Mitchell apparently took part in a voter registration drive sometime before the November 3, 2020, general election. She claimed that Latosha, a.k.a. Shalonda White, attended the

voter registration drive and gave her consent and provided her a copy of her ID. And she said that she used to be her neighbor and she knew her as Latosha not Shalonda.

So ultimately the other two allegations were not sustained. The second one, it couldn't be proven that she actually registered Mrs. Maynor.

And the third allegation, the investigator actually was able to contact and find out that basically Alina Maynor is actually a traveling nurse and so there was no validity to that, that she was not allowed to register to vote. So we sustained the one count, the one allegation for this particular investigation.

JUDGE DUFFEY: And that was Count 1?

MR. BRUNSON: Yes, the first allegation.

JUDGE DUFFEY: Any discussion about Complaint 2020-108?

Is there a motion that we find a violation of the first allegation and refer it to the Attorney General's Office for further action?

MR. LINDSEY: So moved, Mr. Chair.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

DR. JOHNSTON: Second.

JUDGE DUFFEY: It's been moved and seconded that Complaint 2020-108 -- that we find a violation and refer it to the Attorney General's Office for further investigation.

Any discussion on the motion? There being none, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? The motion passes by unanimous vote.

The next is Complaint 2020-122. And can you please summarize that.

MR. BRUNSON: Okay. This is regarding Dougherty County, illegal campaigning. Did I pronounce that right?

UNIDENTIFIED SPEAKER: No. Dougherty.

MR. BRUNSON: Dougherty, okay. Dougherty County, pardon me. So there were a multitude of allegations for this particular investigation. So the initial was regarding possible campaigning inside the 150-foot limit of the advanced early voting polling location at the Riverfront Resource Center, also called the Candy Room in Albany, Georgia.

It's alleged that individuals were giving water, snacks, and other campaign-related items

to voters as they waited in line to vote. It is alleged a group of people and volunteers set up an awning, table, and parked a van outside the polling location. They were identified by the complainants as wearing black T-shirts with the writing, "Black Voters Matter," on the front and "It's all about us" on the back. That was the first allegation.

The second allegation, a voter stated they went to vote October 15, 2020, at the Riverfront Resource Center, Albany, as I stated earlier. A lady who was handing out snacks and water took her cell phone and took the voter's picture while they were standing in line. She approached to within two to three feet of them and said, Now I have your photo.

Allegation 3, during the investigation it was revealed a voter carried a firearm into the polling location to vote, which is unlawful.

So upon investigating this, to Allegation 1, there was no violation that we noted. One of the things about this is that this situation occurred in October 2020. We all know that SB202 was promulgated and instituted in March of 2021 which is after this incident occurred. And so that's

why looking at this complaint, we took a closer look at it because initially that obviously would apply now if this was to happen as far as the allegation within the 100-foot, giving out the candy and food, et cetera, et cetera.

The second allegation revealed no violation occurred.

And the third allegation, regarding Mrs. Weber (sic), it was sustained, as she did possess a firearm. What ended up happening, apparently Mrs. Weber was ultimately arrested for disorderly conduct for that weapon after a confrontation occurred between her and some of the individuals that were there attending from the group.

JUDGE DUFFEY: So are you saying that with respect to the handing out of the --

MS. WEBSTER: It's me.

JUDGE DUFFEY: It's -- I'm sorry, did you try to say something?

MS. WEBSTER: Well, I thought I would be able to respond as a respondent and a claimant in this case.

JUDGE DUFFEY: You cannot as a claimant but as a respondent you can when we get to that

point.

MS. WEBSTER: Yes, dear. Thank you.

JUDGE DUFFEY: So let me try to remember where I was with respect to these that because there were no limits as far as -- at the time any distance limits from the polling place for a hundred and fifty feet, you didn't find a violation of handing out any food or water; is that correct?

MR. BRUNSON: That's correct.

JUDGE DUFFEY: And but you did find that because a weapon had been taken into the polling place, that that was a violation.

MR. BRUNSON: Yes, Judge.

JUDGE DUFFEY: Okay. All right. Is there any respondent that would like to respond to the claims brought against them?

MS. WEBSTER: Is it me now?

JUDGE DUFFEY: Well, I don't know. I don't know who you are.

MS. WEBSTER: I'm both the claimant and the respondent in this case.

JUDGE DUFFEY: Well, you may speak as a respondent, but as the letter you received said, the claim --

MS. WEBSTER: Would you like for me to respond here?

JUDGE DUFFEY: And who -- what's your name?

MS. WEBSTER: My name is Sarah Webster. I am the respondent and a claimant in this case. And I was completely, absolutely in horror when I pulled up to the polls to vote on October the 13th. I got there at around 3 p.m. and there was a line winding all the way around from the front of the building where you go to vote; through a narrow passageway, which may have been about 10 feet, the width of an alley or a road. And on one side was the voting place, the Candy Room, and on the other side was -- a throw-down was going on. They were playing hip-hop music, which there's a noise ordinance in Albany as well; they were running back and forth, up and down the line, talking to voters in the line; they were passing out food and water.

Now, I've been voting probably about 50 years and I've never seen that. I've also known about the ordinance, about the state law which requires no electioneering, no passing out water or food or anything within a hundred and fifty feet. That's always been the law. Back in

2000, I believe, I went -- because we were suspecting -- some of my friends and I suspected that one of the candidates for office at that time was going to try to electioneer with the people in line. And so I made myself familiar with law at that time. But that has always been the law. It was reactivated in SB2020 (sic), but it has always been the law. No electioneering, no handing out food or water unless you are a poll worker.

Now, I had to take advantage of some of that because I was assaulted while I was in line waiting to vote. And it got me on -- here I go again. Every time I talk about it, I've been upset and traumatized. When I pulled up, all I could -- remember the Black Panthers that stood in front of the polling place with their guns? That's how I felt when I pulled up to vote in Albany, Georgia. That's what I felt.

I'm seventy-one years old. I don't run as fast as I used to and I was totally intimidated. I'm still intimidated. I'm shaking. And it continued after that day. I was intimidated that day by the people in line. A friend -- and I will forward it to you as soon as I get it -- has

a video of one of the people who were associated with the Black Voters Matter and SOWEGA Rising who was working the line, going up and down the line, working the line.

And there were three complaints. So Mr. McCoy who was a county administrator complained that he was intimidated.

The other complaint that he read was from the assistant DA who was also intimidated.

And I -- I keep up pretty well with politics. I follow what's going on. I know what happened in 2020. And y'all can sweep it under the rug all you want to, but I know what happened, and it was a combination of a lot of different things. There was a lot of voter intimidation. When I went into -- when I was going into the -- I had to pass a little tent and the van and the hip-hop music and the people running back and forth, passing out this, that, and the other. They had a piece of paper in their hands. They were passing that out as well.

Now, later I was told that that was a voter information sheet that told who was -- who was on the ticket. But the other thing that was on their T-shirts was "fair fight." I know who

Black Voters Matter is. I think everybody in this room, if you ask them, would be willing to volunteer that they know which political party BVM is affiliated with.

"Fair fight" was on the back of their T-shirts. I sent an image of that as well. And I know who that candidate is associated with. And I -- you know, I -- when I was going through -- when I noticed what was going on, I tried to report it. I think the ACLU lists that as something that you do. If you see something, say something and report it. And I did.

And I started with a volunteer. His name is Reverend Donny Green and he may have saved my life that day. He said, There's nothing I can do about all of this, I'm just a volunteer. And I said, Okay, well, thank you. He was the one who took me inside after I was assaulted because I was shaking so badly. And then he stopped the people who were chasing me to my car after I left the polls. But anyway so he couldn't help me.

So the next person I saw was a young black police officer. And I told him, I said, Do you know that all of this is against the law? And he said, Ma'am, you can go down to the police

department and file a report. And I decided to stay in line because I needed to vote that day.

My life was completely disrupted at that time. I had been called back from Florida to stay with my mother, who was 96 at the time, and she was failing. So I was watching her. My siblings were upset that I was going to get the lion's share of the estate. They were giving me a hard time. I was working part-time. My sister, who decided to move in, had assaulted me. We were -- in the neighborhood that I'm in, it's getting worse and worse. We have break-ins every -- you know, every week. Every few days somebody's house was getting broken into. And I'm here in this house alone with a 96-year-old woman. So --

JUDGE DUFFEY: We really need to constrain your remarks --

MS. WEBSTER: Well, I'm sorry.

UNIDENTIFIED SPEAKER: (indiscernible) do.

JUDGE DUFFEY: -- to what happened on that day --

MS. WEBSTER: When I left the --

JUDGE DUFFEY: Excuse me. I expect everybody to be respectful of the speakers who

speak.

MS. WEBSTER: I'm very nervous. I'm sorry.

JUDGE DUFFEY: And when you speak, we will be respectful of you if you want to speak. But I would just ask that courtesy, that sense of dignity we have with each other that we listen to each other, we try to understand what they're saying as we will try to do with anybody who makes comments.

MS. WEBSTER: Thank you, sir. I'm sorry I'm wandering. I'm a little nervous today --

JUDGE DUFFEY: Well --

MS. WEBSTER: -- as you can well imagine.

JUDGE DUFFEY: -- this is an official proceeding --

MS. WEBSTER: But every --

JUDGE DUFFEY: -- and I need for talk to the complaint.

MS. WEBSTER: Yeah. After I passed through the narrow -- the ten foot -- they had it arranged so that you had to go by in order to get to vote. The line was long and winding around the road. Ginger Nickerson came out a couple of times and said, I'm sorry about the wait; there's a glitch in the machines.

However, I believe that the whole thing was to intimidate people from coming to vote, except for --

JUDGE DUFFEY: Well, what I need for you is not to guess and speculate on what people were doing --

MS. WEBSTER: Well, that was my speculation at the time. And that's from --

JUDGE DUFFEY: But you need to tell me the facts that you know.

MS. WEBSTER: No, I don't. The only -- the only fact that I have is that it was going on and I polled five or six of my friends and asked them if they had seen that and asked them, Did it intimidate you? Did it -- did it deter you from going to vote? And they all said, Yeah, I wasn't going down there. No way I was going there.

JUDGE DUFFEY: Those people are not here today. So -- so you --

MS. WEBSTER: Those people are not here. I couldn't find --

JUDGE DUFFEY: -- need to tell me --

MS. WEBSTER: -- anybody who wanted to do this with me today.

MR. MASHBURN: You're Ms. Webster, right?

MS. WEBSTER: I am. Webster, not Weber, yeah.

MR. MASHBURN: Webster, okay.

MS. WEBSTER: Yes, sir.

MR. MASHBURN: If you would concentrate please on you did have a gun or you didn't have a gun at the polling place.

MS. WEBSTER: Okay. Well, let me just tell you about being assaulted between the time that I passed by --

JUDGE DUFFEY: No --

MS. WEBSTER: I was assaulted.

JUDGE DUFFEY: No. Answer the question.

MR. MASHBURN: You did or you did not?

MS. WEBSTER: Okay. Well, my lawyer has told me to plead the Fifth Amendment with you people for my own protection. However --

JUDGE DUFFEY: Okay. You may do that.

MR. MASHBURN: I respect that.

JUDGE DUFFEY: And we will respect that.

MS. WEBSTER: I understand. However, it's more -- it's about more than just me. It's not just me who was affected by this. It's not just me who suffered from this and it's not just me.

But I will tell you this. I am a licensed

carry. It was in my purse. And I put it in my purse because I was intimidated when I pulled up in the lot. I was scared for my safety. And I knew -- as a concealed-carry permit holder, I knew that I could relinquish it at the door of the polling place before when I went in to vote.

However, when I got to that door, there was no sign about wearing masks; there was no sign about six-foot separation; there was no sign -- there was no security person; there was no metal detector at that door. There was no one to surrender it to. And when I left, it was still in my purse. I was getting cat-calls.

I sent you the video. If you'll notice the video has -- the audio's been removed from the video. And the reason for that is because they were chasing me, hollering at me, mobbing me. I took -- at that time, something kicked in and I took my pistol from my purse. It's an antique. It's a hundred-and-twenty-year-old .32 Long. And I put it on my hip --

JUDGE DUFFEY: Does it work? Does it operate?

MS. WEBSTER: No. I was -- it was in my car because I was taking it to be repaired so that it

would work. And I put it on my hip in its holster. Then I said, Well, maybe if they see this, they'll leave me alone.

But they were chasing me to my car, mobbing me, calling me all sorts of names, and Donny Green came up and said -- and pulled -- pulled them away from me. But I was in fear for my life that day. I was intimidated and I'm not the only one.

As I said, Mr. -- Mr. McCoy and Mr. Tattlerocks (ph) also were imitated that day.

Is there anything else you want to know?

JUDGE DUFFEY: No. Thank you very much.

Was Ms. Webster interviewed in connection with your investigation?

MR. BRUNSON: Yes, she was.

JUDGE DUFFEY: And where did that interview take place?

MR. BRUNSON: Where?

JUDGE DUFFEY: Where.

MS. KOTH: It was over the phone.

JUDGE DUFFEY: Do you know how long the interview was?

MR. MONROE: We haven't even -- it's -- we've got it. We've got the recording on file,

but --

JUDGE DUFFEY: About how long did it take you to interview her?

MR. MONROE: Maybe 30 minutes.

JUDGE DUFFEY: And you conducted --

MR. MONROE: Yes, sir.

JUDGE DUFFEY: I'm sorry, your name?

MR. MONROE: I'm Investigator Kelly Monroe with the Secretary of State's Office.

JUDGE DUFFEY: And you conducted the interview with Ms. Webster?

MR. MONROE: Yes. Yes, sir.

JUDGE DUFFEY: And the information that you -- that she provided, was that information also provided to you in the interview?

MR. MONROE: Yes.

MS. WEBSTER: Could I add one more thing, Judge Duffey?

JUDGE DUFFEY: When I'm done with him.

MS. WEBSTER: Sure.

JUDGE DUFFEY: At any time did -- did you terminate the interview, did she terminate the interview, or did it just complete as a result of the discussion being completed?

MR. MONROE: The interview ended, I guess,

cordially. It wasn't cut off or anything of that sort.

JUDGE DUFFEY: And was that interview and the content of the information that you received considered in connection with your investigation?

MR. MONROE: Yes, sir.

JUDGE DUFFEY: And as a result of that, did you do any investigation about specifically the conduct in line by the people that were --

MR. MONROE: Yes, sir.

JUDGE DUFFEY: And what did you do with respect to that part of the investigation?

MR. MONROE: I interviewed several of -- first of all, there was an incident that happened. After she had came out from voting, there was an incident that happened and she went back up to the tent where the volunteers were. And then there was an argument, a confrontation. And from that, the people that were there, the volunteers, called the police department. And the police department came and file -- they filed a report.

JUDGE DUFFEY: All right. And was this before or after Ms. Webster voted?

MR. MONROE: This was after she voted.

JUDGE DUFFEY: Okay.

MR. MONROE: And I got the names of the -- there were four people that were there. I interviewed them. I got it from the police report, and -- and I had interviewed them. And based on -- in terms of assault, if anything, it was -- it might've been verbal assault when she said she was being assaulted by people. There was no physical assault.

But one of the witnesses is the one that reported her seeing the gun, taking the gun out of her purse. She carried the gun inside the polling place. She told me she forgot to give it to the person. And by that time, she went in to vote, she came back out, and then went up to the tent and they got into the -- got into the argument, confrontation. And then at that point, she walked back to her car and she was being followed by the individuals but not chased. Because initially when she reported it, she was being chased. And I did not see where that occurred.

JUDGE DUFFEY: When you refer to "them," do you mean people that were at this tent?

MR. MONROE: The volunteers, I'm sorry. The

volunteers who were there, handing out water and snacks to the people standing in line, waiting to vote at the Candy Room.

JUDGE DUFFEY: And were one or more of these people wearing black shirts --

MR. MONROE: Yes.

JUDGE DUFFEY: -- that said, Black Lives Matter?

MR. MONROE: Yes.

JUDGE DUFFEY: And something on the back?

MR. MONROE: Yes. They were wearing black T-shirts. And the front was Black Voters Matters --

JUDGE DUFFEY: Right.

MR. MONROE: -- and on the back, "It's all about us." That's just the way it's printed up.

JUDGE DUFFEY: Okay. All right, thank you.

MR. MONROE: Okay.

MR. MASHBURN: I -- if I could ask a question. If I could ask a question, please. Were you able to determine -- I can't find it in the report, but were you able to determine whether the tent was within the hundred and fifty feet or not within the hundred and fifty feet?

MR. MONROE: One of the -- I did not see it

after -- when I interviewed a Mr. Hand who is a county election board member, he went out there and he -- I based my determination on what the statements were made. It was inside a hundred and fifty feet. Mr. Hand came out -- after the disturbance was reported inside, he came out and talked to the volunteers and they moved. They -- they agreed to move farther out and outside the hundred-and-fifty-foot limit.

JUDGE DUFFEY: But based upon what -- whatever you -- whoever you talked to --

MR. MONROE: Yes, sir.

JUDGE DUFFEY: -- did you conclude that the tent and the activity that was described by Ms. Webster occurred within a hundred and fifty feet of the polling place?

MR. MONROE: Initially, my report, yes.

JUDGE DUFFEY: But you -- but now you -- are you saying you've changed your evaluation of the distance? Whether they were within the hundred and fifty feet?

MR. MONROE: I was -- I was -- I, in my determination, was -- I determined it was inside the hundred-fifty foot, but it was later --

MR. LINDSEY: How did you determine then the

--

MR. MONROE: Based on witness statements. That was what it was based on.

JUDGE DUFFEY: And did they -- did anybody admit that they were within the hundred and fifty feet and that's the reason why they moved? Or did they just move because you ask them?

MR. MONROE: The volunteer -- the volunteers, they -- they -- they -- the ones I interviewed stated they did not -- they were not -- they were not too close. It was based on what Mr. Hand stated and also what -- we had several other complainants that I had interviewed during the investigation.

These were people totally independent of Ms. Webster, and they had came down to vote. In fact, one of the witnesses wasn't even there to vote, had -- did business in Albany, but because they saw what was going on, they drive down right in front of the Candy Room, they decided to report it because they thought it was -- it -- there was something not right. So it was -- it was based on those interviews.

JUDGE DUFFEY: All right. And how did you identify these other, what you say, objective

people?

MR. MONROE: They had filed complaints with the Secretary of State's Office. And it wasn't just one individual. There was a number of them. And Ms. Webster was one of the complainants. She filed online to the Secretary of State's Office as well.

But that's how I -- I was able to identify them and contact them. Because they leave their phone number, their e-mail, and -- and their address.

JUDGE DUFFEY: So, Ms. Koth, do you know where we are in these other complainants?

MS. KOTH: No.

JUDGE DUFFEY: Do we have other complaints about this incident?

MR. BRUNSON: No. This was the investigation of -- involving those complaints. And I interviewed all of the witnesses there. And based on the investigation, that's why -- that's why I made the recommendation that I did.

JUDGE DUFFEY: But I think the only -- isn't the only complaint in this -- well, none of the complainants on this -- hold on a second. I actually had -- so there's one, two, three, four,

five, six, seven complaints; correct?

MR. MONROE: Yes. Including the election supervisor Ginger Nickerson, she had reported it as well.

JUDGE DUFFEY: Okay. And for the -- all seven of those people, did all seven describe what was going on that day at the polling location similarly to the way that Ms. Webster has described it?

MR. MONROE: The fact that they were there. That was -- that was pretty much it.
Ms. Nickerson did not witness what happened because she was inside working, but she reported it to the Secretary of State's Office because she's the supervisor. And then the other people who made the reports -- some of these people actually they reported the -- they filed the report and they came to vote. And they thought it was odd that -- that they were handing out water and snacks and they were standing out there while they were waiting in line. And many of the people that were there said they -- you know, they've been going to vote for a number of years and that's never happened until now.

JUDGE DUFFEY: Did anybody that you talked

to state that any of the volunteers were suggesting or telling people how they should vote?

MR. MONROE: No.

UNIDENTIFIED SPEAKER: No.

MR. LINDSEY: Was there any allegations that anybody -- you know, I guess trying to intimidate those in other --

MR. MONROE: The intimidation --

MR. LINDSEY: Handing out water and handing out snacks is not intimidation.

MR. MONROE: Right.

MR. LINDSEY: So I guess I just want to know was there any allegation with any witnesses other than what Ms. Webster said? I've heard Ms. Webster. Were there any other individuals who you interviewed who said that any -- any of the voters were being intimidated?

MR. MONROE: Yes, some of the complainants. But their feeling of intimidation was the fact that they were there standing in line and people were walking up and down the line, handing out -- to them, that's what they considered as intimidation.

MR. LINDSEY: Okay. Which was -- was legal

at the time.

MS. GHAZAL: Just for clarification, I think it's important for those who are listening and watching and possibly following up on this that the actual law concerning firearms is the same limit as electioneering which is one hundred -- the 150-foot zone. If you are not a certified peace officer, you're not allowed to have a firearm within a hundred-and-fifty-foot zone of a -- of a polling place. So ...

And I know that's -- I appreciate the fact that you -- that you cited that, but I wanted to make sure that anybody who's listening or watching is aware that that is Georgia code.

MR. LINDSEY: Mr. Chairman, there are other people listening here who are respondents. Do we have them -- are any of them here?

MS. GHAZAL: Mr. Sells is here to represent them.

MS. WEBSTER: May -- I'd like to respond please to Mr. Kelly Monroe. I think --

UNIDENTIFIED SPEAKER: Can we respond?

MS. WEBSTER: -- there were some things that --

MR. LINDSEY: In a minute. Let's let them.

JUDGE DUFFEY: Let's let them speak first. So if you'll please be seated.

But before we get to that, can I ask -- put Charlene on the spot, that before -- at the time of this incident, which was in October 2020, what was the law regarding what conduct was and was not permissible for voters that were standing in line to vote?

MS. MCGOWAN: You want me to ...

JUDGE DUFFEY: Yes, please. Am I allowed to ask you to do that?

MR. LINDSEY: You're the chairman.

JUDGE DUFFEY: I know.

MS. MCGOWAN: But to be fair, our office obviously has not received this case yet or the investigative file. So without commenting on the specific facts of this particular case, under O.C.G.A. 21-2-414, which is the code provision that has been cited in the investigative report, that -- that did previously prohibit what we call campaigning or electioneering within a hundred-and-fifty-foot location of a polling place.

In SB202 is specifically added a language -- so previously it said no person shall solicit

votes in any manner or by any means or method, nor shall any person distribute or display any campaign material within the hundred-and-fifty-foot zone. SBA 202 added the language about giving, offering to give, participating in the giving of money or gifts, including but not limited to food and drink. So that -- that particular provision, the food and drink provision, was added in SB202.

MR. LINDSEY: And that was in 2021.

MS. MCGOWAN: Correct. That was not in place during the 2020 general election.

JUDGE DUFFEY: Before SB202, were there any board actions or are there any board rules that talks about what electioneering conduct is?

MS. MCGOWAN: It varies. And also there's other provisions in the code, specifically 21-2-570, that separately prohibits the giving of any gift in exchange for voting, so which we commonly refer to as the vote-buying statute. So that is commonly used in connection with -- with that. And it has been used in the past to address contact by parties at a polling location.

JUDGE DUFFEY: Would that include electioneering being defined as -- and do you

have to -- does it have to be a quid pro quo that they'll give you the water?

UNIDENTIFIED SPEAKER: Yes.

JUDGE DUFFEY: Who shouted that out?

UNIDENTIFIED SPEAKER: I did.

JUDGE DUFFEY: In a moment if you don't -- if you don't adhere to the decorum required of this, I'm going to ask you to leave.

UNIDENTIFIED SPEAKER: I did --

JUDGE DUFFEY: Do you understand that?

UNIDENTIFIED SPEAKER: Yes, Your Honor.

JUDGE DUFFEY: Thank you.

UNIDENTIFIED SPEAKER: Chair.

JUDGE DUFFEY: I answer to both.

UNIDENTIFIED SPEAKER: That's why I said both.

UNIDENTIFIED SPEAKER: I said it too.

MS. MCGOWAN: I will say in -- for this particular case in the investigative report, 21-2-570 was not cited in -- with respect to any of the respondents. So I don't think they been given notice of that.

JUDGE DUFFEY: Okay. Thank you.

MS. GHAZAL: In previous cases, the question has always been whether or not provision of water

or things like that, comfort items, were -- was contingent on voting or if it was freely available to anybody in -- in the area.

MR. MASHBURN: The case -- the case I'm remembering very recently that the board handled was a case involving -- a candidate was handing out pizza at Cross Keys -- Cross Keys precinct in DeKalb County. But -- go ahead.

MS. GHAZAL: That was a candidate wearing a candidate shirt. So that's -- that's distinguishable in this case.

MR. MASHBURN: Good point. Good point. There was a -- yeah, and the other -- the other one was a candidate who was -- again a candidate who went to Sam's and published on the Internet her trip to Sam's and her intention to commit electioneering in the videotape, if I'm not -- if I remember that correctly, and that everybody would know her by -- she didn't need to wear campaign material because everybody would know her by her hairstyle, if I remember that case correctly. Remember that one?

MS. GHAZAL: I'm not sure.

MR. MASHBURN: Okay. Those were all candidates, not nec --

MS. GHAZAL: That is exactly. Yes.

MR. MASHBURN: All right. I see.

JUDGE DUFFEY: Thank you. Helpful. Any follow-up with respect to those -- to those we just discussed?

MR. LINDSEY: No. But I guess we --

JUDGE DUFFEY: We are.

MR. LINDSEY: No, I was going to say -- going to ask could he -- could he -- part of this discussion could you focus on whether or not the water -- whatever the (indiscernible) it was -- water, candy, whatever was given to everybody or just to certain voters that they thought might vote for -- do you understand where I'm going here? Was it something that was given to anybody who was in line? Or was there preferences given to certain voters and not to others?

MR. SELLS: Could I -- may I speak?

JUDGE DUFFEY: (nodding)

MR. SELLS: Thank you, Judge Duffey and members of the board. I'm Bryan Sells and I am representing the four individuals who are the subject of Ms. Webster's complaint. They are, I believe, no longer respondents because the investigators found no violation of law. We

agree with those findings. And I only got up to speak to ask that when you make a motion, that you distinguish between allegations 1 and 2 and Allegation 3, which concerns Ms. Webster.

The allegations against my clients should be dismissed. They deserve that peace of mind, knowing that they did nothing wrong and they're no longer in legal jeopardy.

But to answer your question, there's no indication whatsoever that my clients were conditioning the water, the chairs on the basis of -- of anything. It was a hot day in Dougherty County and the water was available to anyone -- black, white, Democrat, Republican -- you name it. There's no allegation, no finding of any kind of quid pro quo with respect to the provision of comfort items which, as has been said several times, was legal at the time.

So we would ask that the case against my clients be dismissed. I'm happy to answer any other questions, but I want to try to be brief.

MR. MASHBURN: I have a couple.

JUDGE DUFFEY: Okay.

MR. MASHBURN: Do you agree that this behavior would be prohibited under SB202 as it

exists today?

MR. SELLS: I believe that the text of SB202 would prohibit it. Whether SB202 is a lawful statute is, as you know, subject to litigation.

MR. MASHBURN: And not -- this will put you on the spot a little bit, but I have great faith in you. And that is do you remember our case where the guy was wearing a MAGA hat and the board issued a letter of instruction? And their question was whether that was campaigning to wear a campaign slogan at a precinct. Do you remember that?

MR. SELLS: I do not, I'm afraid. I --

MR. MASHBURN: Okay. That's a fair answer.

MR. SELLS: I may or may not have been present at that meeting.

MR. MASHBURN: Yeah, that's a fair answer, okay. I was going to get you to distinguish or compare and contrast that, but if you don't remember it, then that would be hard, right?

MR. SELLS: Well, so --

MR. MASHBURN: So let's not do that.

MR. SELLS: I don't think it's that tough to distinguish it, respectively.

MR. MASHBURN: Okay.

MR. SELLS: MAGA --

MR. MASHBURN: Go ahead.

MR. SELLS: MAGA was a campaign slogo -- slogan, you know, that identified with a particular candidate using that slogan. Black Voters Matter was not any candidate's slogan. It is the name of an organization that is nonpartisan. So I think they're very easily distinguishable.

JUDGE DUFFEY: Any other questions?

And your name again was?

MR. SELLS: Bryan Sells.

JUDGE DUFFEY: Any other questions for Mr. Sells?

Okay, thank you.

MS. WEBSTER: Can I defend myself, Your Honor -- Judge? Please? I've heard some things that just are a little bit ...

JUDGE DUFFEY: I'll give you one minute. You've had a half-an-hour conversation with the investigators and you've had -- I'm being patient with you, but so long as you don't say anything that repeats what you've already said.

MS. WEBSTER: He's misrepresenting me in a couple of statements. So that's why I wanted to

respond.

JUDGE DUFFEY: You have one minute, okay?

MS. WEBSTER: All right. I was going to mention that --

JUDGE DUFFEY: In front of the microphone.

MS. WEBSTER: Okay. I was going to mention the MAGA hat. I think it was a --

JUDGE DUFFEY: First of all, that is not before us.

MS. WEBSTER: Okay. I understand. However, I have -- Inspector Monroe has an image that I sent him.

JUDGE DUFFEY: One moment.

And who are you, sir?

MR. YOUNG: I'm one of the respondents --

JUDGE DUFFEY: Okay. Well, would --

MR. YOUNG: -- in the complaint.

JUDGE DUFFEY: Would you please sit down until --

MR. YOUNG: Yes, sir.

JUDGE DUFFEY: Okay. Go ahead.

MS. WEBSTER: All right. On the -- on the T-shirts, the Fair Fight logo was there. Stacey Abrams is the proponent of the Fair Fight. And the Fair Fight logo was on the image that I sent

to Inspector Monroe along with the other -- the other images that I sent him. You know, when people tell me things that aren't true, I get really upset.

The other thing I wanted to say was had they not chased me -- and I also sent him testimony from someone who was there, who indicated that -- and I have it right here, that they did chase me to my car and that they were very upset with me and he didn't know why because they were very nice to him. I -- my life was in danger. I got death threats.

And as far as the pistol was concerned, it was never visible. The police report actually indicates that the person complaining said that I went to my car and then I took out my gun. No one ever saw it. It was never brandished, which was reported in the news. I'm being thrown under the bus because -- because I'm not able to imitate y'all. And I -- I say that with all respect.

But I think there are some things that happened that need to be investigated deeper and perhaps not by Investigator Monroe. James Fitzgerald's comments, the fact that they videoed

me all the way to my car and yet there's no audio, absolutely no audio. The only audio was at the very beginning. When they stopped me at the table, because I said, Communism is great until you have to cook your puppy for dinner. That's what I said. And one of them said, What? And I repeated myself.

UNIDENTIFIED SPEAKER: One minute.

MS. WEBSTER: And then I walked down to my car --

JUDGE DUFFEY: You need to wrap up.

MS. WEBSTER: -- and they chased me to my car. And I've got a witness that says that they chased me to my car. And video.

JUDGE DUFFEY: Okay. You need to wrap it up.

MS. WEBSTER: I've got all of that right here.

JUDGE DUFFEY: You need to wrap it up.

UNIDENTIFIED SPEAKER: One minute.

MS. WEBSTER: Okay.

UNIDENTIFIED SPEAKER: There's one more thing? No.

JUDGE DUFFEY: Excuse me. The next person that says one more minute is leaving.

MS. WEBSTER: Uh-oh.

JUDGE DUFFEY: When you're sitting up there, you're quiet. Who said one minute?

UNIDENTIFIED SPEAKER: I said one minute.

UNIDENTIFIED SPEAKER: We all said one minute.

JUDGE DUFFEY: Three times.

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: Because that's a long minute.

UNIDENTIFIED SPEAKER: Everybody in here is saying one minute.

UNIDENTIFIED SPEAKER: My phone registered here --

JUDGE DUFFEY: Let me tell you something --

UNIDENTIFIED SPEAKER: -- at one minute and twenty-five seconds --

UNIDENTIFIED SPEAKER: Go ahead and tell us something.

JUDGE DUFFEY: Excuse me. I'm in charge of this meeting. If I'm going to --

UNIDENTIFIED SPEAKER: You asked a black man to sit down and she was standing the whole time while the attorney was speaking --

UNIDENTIFIED SPEAKER: And kneeling while

they were speaking.

UNIDENTIFIED SPEAKER: Yes. So you need to be fair.

UNIDENTIFIED SPEAKER: So we just ask you to be unbiased across the board. That's all.

UNIDENTIFIED SPEAKER: Period.

UNIDENTIFIED SPEAKER: You said one minute. Let's adhere to one minute.

UNIDENTIFIED SPEAKER: Exactly, sir.

UNIDENTIFIED SPEAKER: So we can move on with the hearing.

UNIDENTIFIED SPEAKER: And we're (indiscernible) --

UNIDENTIFIED SPEAKER: Thank you. We appreciate it. Thank you.

MS. WEBSTER: Y'all are going to have to walk me to my car.

UNIDENTIFIED SPEAKER: We heard that.

JUDGE DUFFEY: Are you done?

MS. WEBSTER: I just wanted to read this. Federal law protects voters --

JUDGE DUFFEY: No, excuse me. Do you have anything else factually that happened?

MS. WEBSTER: I'm sorry, I do. Let me give you --

JUDGE DUFFEY: Ms. Webster, we have gone over -- most of what you have repeated has said --

MS. WEBSTER: This is -- this is for you. I made this up for you. It has ACLU items on what intimidation --

JUDGE DUFFEY: Ms. Webster, if you want to give something to me, file it on the website.

MS. WEBSTER: Well, it's a lot.

JUDGE DUFFEY: File it on the website.

MS. WEBSTER: It's a picture of Fair Fight --

JUDGE DUFFEY: File it --

MS. WEBSTER: Fair Fight on the back of this T-shirt.

JUDGE DUFFEY: File it on the website.

Ms. Webster, you need to sit down.

MS. WEBSTER: All right. I --

JUDGE DUFFEY: Ms. Webster --

MS. WEBSTER: -- have filed it but it was not investigated properly.

JUDGE DUFFEY: Thank you. Sit down, please.

And your name is?

MR. YOUNG: My name is Demetrius Young. I'm actually an elected official in Albany. And I

just want to set the record straight. What happened here was a coalition of citizens who were just trying to help. That's all this was. That's all this ever was.

Now, we can't do anything if somebody's intimidated by a T-shirt that says the word "black." I can't do anything by -- about somebody who's imitated because I'm a 300-pound, six-foot black man. And just because I walk by, somebody's intimidated.

I spoke to Ms. Webster and explained to her what we were doing. We were simply trying to help people who were in 90-degree heat, standing in line for six hours, trying to cast their vote, many of them passing out on the sidewalk. She and others got water from us. The gentleman that she mentioned named Mr. Green, he was with us. The person that she said helped her was with us.

Now, whatever T-shirt we were wearing, whatever organization we were representing, it had nothing to do with any campaign or election -- electioneering. I got a phone call at 11:00 that morning, saying, Commissioner, we need help. People are out here passing out. It's 90-degree -- it's 90 degrees in South

Georgia on hot pavement and people are simply trying to cast their vote.

The Candy Room is about half the size of this room. Albany, Georgia is a town of 70,000 people. Many folks were showing up for a historic election, lines around the corner, most of which our elections office -- I just have to say it, they were not prepared for. And we came to their aid. We came to help. We have been dragged through the mud for three years about this.

We have been dragged, saying we electioneered, we did something wrong. Even some folks went as far as to say we somehow, you know, stole the election. I don't know how we could steal an election by handing out water. Everyone got water. Everyone got help whether you're a Democrat, whether you're a Republican. As the attorney said, that's all this ever was.

And I'm speaking today against the advice of our attorney because I want to set the record straight. We have been silent for far too long and had to sit on all of this while the accusations were made, while people came up here and said we were somehow some kind of criminals,

thugs because we were playing music, trying to help people get through a 90-degree day in South Georgia, trying to simply cast their vote. And I want you as a board to understand that.

Now, of course, we know this was before 202. We feel like 202 was written just because of what we did. There are a lot of things that 202 -- that does a lot more to damage people's faith in elections and their will to participate because it simply makes it harder. 90-degree weather, six hours.

But those people came, they stayed, they voted, they were happy, black, white. Whatever they wanted to vote for, they were happy. Those folks who saw black on the T-shirt were the ones upset. Those ones who saw a record number of black folks show up to vote were the ones who were upset.

JUDGE DUFFEY: You previously gave us a title when you first stood up.

MR. YOUNG: Yes. I'm a city commissioner in Albany, Georgia.

JUDGE DUFFEY: Were you a candidate on the ballot in that election?

MR. YOUNG: I was not a candidate on the

ballot. I was not running for anything. And nobody associated with us was running for anything or campaigning.

JUDGE DUFFEY: Okay. Did you hand out water to anybody within the hundred and fifty feet?

MR. YOUNG: We did. We did because we felt we were within the law to do that at that time.

JUDGE DUFFEY: Did you hand it out to them with the intention that you helped -- that you hoped that they would stay in line and vote?

MR. YOUNG: Absolutely not. We specifically had instructions and told people that we don't care who you want to vote for, take this water, stay in the line, vote. Stay in line and vote. That's all we were trying to do, help them get through that process and stay in line.

JUDGE DUFFEY: So you wanted to incentivize them to vote?

MR. YOUNG: No. I wanted to help them.

JUDGE DUFFEY: Not in any particular way, but to --

MR. YOUNG: I wanted to help them through the 90-degree heat, do what they came to do. That's it. That's not incentivization or whatever you want to call it. That's not

incentivizing anybody. That's helping them. That's what more elections offices should do, is help folks.

MR. LINDSEY: Let me ask another question because of an allegation. So I just want to clear it up --

MR. YOUNG: Uh-huh.

MR. LINDSEY: -- Councilman. Were there any pamphlets being handed out within a hundred --

MR. YOUNG: Absolutely not. Absolutely not. We didn't even have anything. I mean, I was stopped by a sheriff's officer who didn't even know who I was, saying I could not come up to the polling place with my Black Voters Matter T-shirt on. And I said, Why? He said, Because you're campaigning. I said, This doesn't say anything about a candidate. This doesn't say anything about, you know, who to vote for, you know. So there was a lot of confusion at that time about that.

So again that was never the case. These folks, you know, again, good folks. And it wasn't just the four of us. There was a community coming together of folks who were either -- they were either there passing out

water, they brought supplies, and they were just trying to help, you know.

MR. LINDSEY: Well, I don't want any -- background because, you know, I've heard --

MR. YOUNG: Right.

MR. LINDSEY: -- Ms. Webster's allegations. Do you know anything at all about this chasing her to her car or anything like that?

MR. YOUNG: That didn't happen. That didn't happen.

MR. LINDSEY: I just wanted to ask. I mean, because we need to put that on the record.

MR. YOUNG: That didn't happen. Thank you.

MR. LINDSEY: Appreciate it.

JUDGE DUFFEY: Does any other respondent want to speak against the advice of their lawyers?

MS. WEBSTER: Against the advice of my lawyer. May I? One more?

JUDGE DUFFEY: No more.

MS. WEBSTER: To rebut him?

JUDGE DUFFEY: No.

MS. GHAZAL: Mr. Chairman, if I can make just one comment. And I think fundamentally what this is about is the fact that long lines are

incredibly problematic for voters, for everyone who wants to go cast a ballot. I think that the Secretary of State's Office has done a yeoman's job trying to help provide counties the tools to reduce that.

I also want to encourage counties to plan ahead when we're looking ahead for 2024, making these decisions early so that you can have the time to get the staffing at the locations so we don't ever have to see a six-hour line again in 90-degree weather. It is unfair to voters; it's unfair to counties; and that's -- that's what this case is really about. And I hope the counties are able to plan ahead and get the support that they need to do this. Thank you.

MR. LINDSEY: Mr. Chairman, now is the time to sort of reflect. The fact of the matter is and, you know, we'll leave it to the courts just whether or not 202 is -- is fair. But at the time that the law -- in terms of the law, there was no such prohibitions regarding what is -- what was alleged by black voters -- against Black Voters Matter. And we'll let the courts decide whether or not 202 and its restrictions were appropriate.

The law, Ms. Webster -- and I understand, and, you know, if we refer to the Attorney General's Office, you'll have a chance to sort of talk with them about it. But the law by contrast was very clear in 2020. And I quote the law: That no person except police officers regularly employed by the federal, state, county, or municipal government or certified security guards shall be permitted to carry firearms within 150 feet of any polling place. That's provided for in subsection (b) of Code 16-11-127.

MS. WEBSTER: Please scroll down. There is an exception.

MR. LINDSEY: The law is very clear, that code section. So, you know, I think that we're going to be bound by what was in place in the law at the time, not by what someone may or may not feel that the law should be in terms of going forward but what was in place in the law at the time.

JUDGE DUFFEY: Any other comments? I want to conclude by going back to the beginning of this meeting in which Ms. Ghazal offered two words in her invocation, one was grace and the other was wisdom.

MS. WEBSTER: Was what?

JUDGE DUFFEY: Wisdom.

MS. WEBSTER: Nothing about truth. Nothing about truth. I'm sorry.

JUDGE DUFFEY: No. But there was another word -- justice -- which invents truth.

MS. WEBSTER: Justice. Thank you.

JUDGE DUFFEY: What I want to say to everybody here is that there'll be a temptation to leave and say, I won this battle between these two forces that occurred this day in a line in Dougherty County. Grace argues against that as does wisdom.

We can make a choice even in meetings like this to decide that it's time to forgive and forget and mend fences between people that see things differently. And I would ask that all of you think about whether or not it is better for us to try to resolve differences in a meeting where people are not shouting and telling me that I can't keep time and allow people instead to defer to people who are trying to create an environment where people can speak.

You know, the one really good thing that happened here today is a politician didn't follow

the advice of his lawyer. Sometimes lawyers interfere with what our job is which is to evaluate people that make presentations to us to determine what the just thing is to do and in doing so offer grace and try to exercise wisdom.

And sometimes lawyers and the law get in the way of people trying to understand what happened and what their motivations were so that they can have whatever therapeutic effect that has so that people can get along with one another.

Now, I'm 70 years old. I don't have to do this. None of us have to do this. You know how much we get paid to do this? Nothing. We do this because we believe in the system. We believe in the rights of everybody and the truth that everybody has a right to vote and that we all have to encourage each other and not do anything to deter somebody from doing that.

And all we can do in this often ungrateful job that we have is want to continue to press on and persevere and to hope that someday people in a room like this will say, Things in controversy and acrimony needs to stop. We need to focus more on grace and forgiveness and not saying, I won.

So with that, we'll turn to 2020 --

MR. MASHBURN: You need a motion.

JUDGE DUFFEY: I'm going to ask.

MR. MASHBURN: Okay.

JUDGE DUFFEY: 2020-122. Is there a motion that there was finding of violation -- well, first, what motion do we have as to violations on which we should add? Does somebody have a motion?

MR. MASHBURN: I believe there's been sufficient cause to show that there has been a violation of Allegation 3 in that the respondent was in possession of a firearm within a hundred and fifty feet of a polling place. So I would move that that be referred over to the Secretary of State's Office for further processing.

MR. LINDSEY: To the attorney general.

MR. MASHBURN: To the attorney -- what did I say? Secretary of State? I'm sorry, Attorney General's Office for further processing.

JUDGE DUFFEY: Is there a second to that motion?

DR. JOHNSTON: Second.

JUDGE DUFFEY: Is there any discussion on the motion to refer the violation of carrying a

firearm by the respondent into a polling place be referred to the Attorney General's Office?

There being none, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

The motion carries unanimously.

Are there any other motions with respect to the remaining allegations?

MS. GHAZAL: I move that we dismiss the remaining cases as per the recommendations from investigators.

JUDGE DUFFEY: Is there a second?

MR. LINDSEY: Second.

JUDGE DUFFEY: It's been moved and seconded that the remaining allegations against the respondents be dismissed. Is there any discussion? There being none, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no? The motion carries unanimously.

We now go on to SEB2020-190.

MR. BRUNSON: That was 190, Judge?

JUDGE DUFFEY: Yes.

MR. BRUNSON: Okay. Okay, this is Colquitt County, polling place issue. The complaint: It was reported by Mr. Christopher Merritt that when he went in to vote, he was told that he could not vote because he had already voted at 9:30 a.m. that same morning. He was told that he had turned in his absentee ballot. Mr. Merritt reports that he informed the poll worker he had not voted and that he had not requested --

JUDGE DUFFEY: If you're going to leave, would you do so quietly so we can move on with the rest of the complaints. And if you're a member of the press and you want to interview somebody, could you do that outside the room, please.

All right. Can we start over.

MR. BRUNSON: Okay, this case is about Colquitt County, polling place issue. It was reported by Christopher Merritt that when he went in to vote, he was told he could not vote because he had already voted at 9:30 a.m. that same day. He was told that he had turned in his absentee ballot. Mr. Merritt reports that he informed the poll worker he had not voted and that he had not requested an absentee ballot. Mr. Merritt

reports that after several minutes and confirmed with something via telephone, the poll worker asked Mr. Merritt if he would be willing to vote under his father's name because his father had not voted. Mr. Merritt reports he was told that he would be -- that would be the only way to resolve the problem.

So in looking at this case, Mr. Merritt's father has the exact same name basically. His father's name is Christopher Jackie Merritt and apparently his name is Christopher J. Merritt. So at one point in time, apparently Mr. Merritt had a business on a street in which his father actually lived on that same street. So what happened is that when his father went in to vote earlier in the morning, the poll worker basically looked at it and entered him in as his son.

So therefore when Christopher Merritt goes in the poll, Hey, you've already voted. Well, actually, it was his father voting. So he was told at that point in time that, Well, do you want to vote on your father's record because your father hasn't voted, which obviously is not correct.

So ultimately during further investigation,

it was determined that Mr. Merritt actually did not live where he was reported to live through voting records. He actually had move some years before but failed to change his address while voting during this. And so ultimately, looking at the violations, there's evidence to suggest that Mr. Christopher J. Merritt violated O.C.G.A. 21-2-218(c), cancellation of registration in former state or county, address changes and corrections.

And then there's also evidence to suggest for the initial part that multiple individuals from Colquitt County violated general election board rule 183-1-12-.11, 2(a) to 2(b) when Mr. Christopher Jackie Merritt's identity was not verified and he was issued a voter access card and cast a ballot under the identity of his son, Mr. Christopher J. Merritt, for the November 3, 2020, general election.

JUDGE DUFFEY: Are there any questions or discussion about this complaint?

MS. GHAZAL: Yes, Mr. Chairman.

UNIDENTIFIED SPEAKER: Your Honor, I'm here on that estoppel. Can I proceed (inaudible). I'm one of the respondents (indiscernible) to

speak.

MR. MASHBURN: He's one of the respondents.

JUDGE DUFFEY: Okay. Give me a second.

UNIDENTIFIED SPEAKER: I -- I'm sorry, I just want to make sure.

MS. GHAZAL: Mr. Chairman, I have one question. One question with regard to the first count. Did Mr. Merritt -- was his move inside the county or was it to a different county? Was he just simply in a different precinct? Or was his residence outside the county where he was voting?

MR. MONROE: I believe it was in the same county. It would just appear from his (indiscernible) it was in a different part --

MS. GHAZAL: Right.

MR. MONROE: -- which would have put him in another precinct.

MS. GHAZAL: Okay, thank you. Thank you very much.

JUDGE DUFFEY: Are there any other clarifications about the summary that we were just given?

DR. JOHNSTON: The question I have is in the investigation. It says both were challenged

voters. Do you have the grounds for a challenge?

MR. BRUNSON: What page is that on?

JUDGE DUFFEY: Could you repeat that, Doctor?

DR. JOHNSTON: It's just before the findings. Next to -- next to the last paragraph.

MR. BRUNSON: Okay, let's see.

JUDGE DUFFEY: The paragraph that begins on nine thirteen two twenty twenty twenty-one.

MR. BRUNSON: Yes. (indiscernible) voted a regular ballot.

JUDGE DUFFEY: Is that the paragraph that --

DR. JOHNSTON: Correct. Correct. And just -- just (indiscernible) at the end of the paragraph.

MR. BRUNSON: Oh, it looks like, yeah, they changed it at the -- so it looks like they reached out to our office to get advice on what to do because this was a unique situation and looks like they attributed him as having voted a regular ballot and his son as having voted a provisional ballot and that, you know, accurately reflects what occurred. So apparently they reached out. They were unsure and then they got that advice from our office.

JUDGE DUFFEY: Any other clarifications before we get to the respondent?

All right, you may come speak.

MR. LEWIS: Judge Duffey and members of the Georgia State Election Board, my name is Wes Lewis. I'm the elected probate judge and election superintendent of Colquitt County. I'm here on behalf of our office. I just wanted to point out that we admitted the violation in this case.

To just kind of get the picture here, as Larry Munson would say, this was a November election. Lines are backed up. Father comes in, Christopher J. Merritt, that morning. He comes in to vote. Poll worker looks up on the poll pad. You mainly type in a name. Generally you'll type in the last three letters of the last name, first two letters of the first name. Christopher Jay -- Jackie Merritt is -- Christopher J. Merritt, excuse me, is pulled up. The poll worker pulls that, he turns that screen to the voter, says, This correct? He looked at it, signed it, he went on to vote. That's what happened.

That afternoon, Christopher Jack -- J.

Merritt, born in -- son, born in 1974, came to vote the afternoon. He shows up to vote. Lo and behold, the safe -- people don't realize all the safeguards are on, on the system, but it shows he's voted on the poll pad. Poll worker can't change that. Your -- you have to make a call. I think there was a comment made -- what do we do? Lines are backed up, presidential election. The son -- I think there was a comment made to vote -- the dad's information where they both have a chance to vote.

The proper thing was actually done here which the son voted a provisional ballot. We researched that, got him in, both votes properly counted.

So I just wanted to point out a few things that would -- we would point out that we admit a violation, but we would respectfully ask the board to treat it as a nonserious one for the following reasons.

First of all, this was a busy, busy election. And I just wish that I -- you know, you can't fathom being over an election when the lines are backed up and you make a call, a comment, whatever, but, you know, this -- the

comment was made at the bottom line. Both these voters, the father and the son, got the chance to vote and their vote counted.

But we would point out that we admitted the error on our part for allowing the father to vote his son's registration. But we'd note that error was based in part on the father and son's actions.

First of all, the father reviewed the information on the poll pad and signed the verification, not noticing it was his son's information. Secondly, the son was voting in the wrong precinct. Given -- so they lived on the same street. He would've been in the correct precinct, this wouldn't have happened -- again we're just pointing out that this was some things to point out in the reason this was done. The father's address was on Overlook Drive. According to the son's old information, his address was on Overlook Drive.

So you had the same -- and again this is easy to do when you're in the heat of the moment. You know, poll worker turns the screen, looks at it, he signed it, you know. If the son had properly given his change of address, it would've

been a lot more noticeable. And it would -- and it really would've pointed out he couldn't have even voted in that precinct. He would have had to have gone to the Moultrie precinct versus the Autreyville precinct.

This was an error, this was unintentional, and most importantly both parties were afforded the right to vote which is really the reason we're all here. I would ask to entertain any questions, but I would respectfully request that you consider finding this be treated as a nonserious violation.

We have used this as a poster child in our training on what not to do to make a comment. Voters crisscrossed the information. It was probably a remedy -- and it was suggested by our registrar. She -- Paula McCullough's the most honest person in the world. She -- when I made the comment, that probably led to the mistrust in this situation.

Ironically, the choice, either that -- do provisional, that was the right thing to do in that situation based on what had happened that morning. So I would want to point that out that the remedy of what happened was correct in the

sense both got to vote.

I'd be willing to ask any -- entertain any questions or comments or whatever.

MR. MASHBURN: I have a couple -- I have a couple questions.

MR. LEWIS: Yes, sir.

MR. MASHBURN: Help me -- help me understand if the -- if the son voted the provisional ballot --

MR. LEWIS: Yes, sir.

MR. MASHBURN: -- what was the need to check him in or vote him as the father? What --

MR. LEWIS: Well, what --

MR. MASHBURN: Tell me -- help me understand that.

MR. LEWIS: Okay. You're probably asking why -- what was the comment made to let him vote as the father?

MR. MASHBURN: Oh, that was just a comment? It didn't actually happen at least?

MR. LEWIS: Correct.

MR. MASHBURN: Okay. Okay, I misunderstood.

MR. LEWIS: Correct, yes, sir.

MR. MASHBURN: Okay. Okay. All right. All right.

MR. LEWIS: And our registrar, we've been together since '06. We -- she's admitted the comment was not a -- you don't -- you don't -- you know, it was the wrong thing to do.

MR. MASHBURN: Okay.

MR. LEWIS: We've used this case as a poster child in our training, what not to do as far as when you have the wrong person.

MR. MASHBURN: So you don't think --

MR. LEWIS: Vote it provisional.

MR. MASHBURN: You don't think this will ever -- you don't think this will likely come up again in the same circumstances, but if it does --

MR. LEWIS: You know --

MR. MASHBURN: -- if it does, y'all feel that y'all are adequately staffed and trained and prepared to deal with it.

MR. LEWIS: This -- yes, sir, we do.

MR. MASHBURN: And it -- and it won't happen again?

MR. LEWIS: No, sir.

MR. MASHBURN: So you think it would be a proper resolution of the matter today to just the board find the violation which you admit but

issue a letter of instruction and not send it to the attorney general; correct?

MR. LEWIS: I respectfully request that because I do believe, based on the things I've mentioned, we admitted our error and it was nonintentional and both folks got to vote. And again we -- we've learned our lesson with that and this is -- we've used this in our training. We would point out to any election folks here probably they can sympathize how this could happen with poll pad. But we would ask that, Mr. Mashburn.

JUDGE DUFFEY: Any other questions or comments of the respondent?

Thank you.

MR. LEWIS: Thank you, Judge Duffey. Members of the board, thank you for your time --

JUDGE DUFFEY: You're welcome.

MR. LEWIS: -- and consideration.

MR. LINDSEY: You know, Mr. Chairman, we send to the attorney's general office acts of -- intentional acts, sometimes borderline criminal if not criminal. They are backed up. We've got in this situation a respondent who's admitted to it, seems to be taking remedial steps. I've

stood in line with my son Edward Harman Lindsey, III, and have them ask, Well, are you junior? and then having to correct.

I'm just not sure if this rises to the level of sending it to the attorney general, given -- quite frankly, we send a lot of stuff to the attorney general and -- and there are a lot of things that need to go to the attorney general. I'm just not so certain where justice will be furthered in this situation if we send it to the Attorney General's Office and have them come back with -- with a recommendation pretty doggone close to --

JUDGE DUFFEY: Cease-and-desist --

MR. LINDSEY: -- to a cease-and-desist, don't ever do it again. If we could go ahead and dispose of it here and now and let the attorney general deal with some of the other more serious issues that we've sent to them in the past.

So at the appropriate time, I'll make a motion.

JUDGE DUFFEY: You know, there's a false saying, no good deed goes unpunished.

The two things that I always look at when I decide what we should do, one is was there an

admission, acknowledgment, or self-reporting of a violation? And then the second is did it affect what we are all here to do which is to protect people's right to vote?

Here both people got to vote. I can envision what it was like down there that day. With this -- with the resources that they had, they seemed to make a reasonable decision that accomplished what they wanted to accomplish, is to allow two people to exercise their right to have a say in who were their leaders. And I think I agree with that, that this -- I don't see why we can't consider finding a violation but resolving it with a letter.

MR. MASHBURN: Yeah. That was a satisfactory answer to me that it was a bad idea but it wasn't a bad act. We stopped -- we stopped short of a bad act. I'm satisfied that they're going to -- they're going to impose their own cease-and-desist order and not do it again.

So at this time I'll make a motion that this just be resolved with the issuance of a letter of instruction.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: If I could make a friendly

amendment, Mr. Merritt is also subject to a -- to a count, a violation, but, again, because this was a relatively minor -- a failure to update his address and he was still qualified to vote in the county and the violation was he voted in the wrong precinct, I would also make a friendly amendment that he als -- his case also be resolved as finding a violation but with a letter of instruction as opposed to binding him over to the attorney general as well.

MR. LINDSEY: I'll second that amendment.

MR. MASHBURN: That's an acceptable -- acceptable amendment.

JUDGE DUFFEY: Right. So there's a motion with respect to this complaint which is 2020-190 that for the respondents, each of them, that we -- that we find a violation but resolve it in separate letters, one stating the need to update your address and the second with following the -- not allowing somebody else to vote under somebody else's name.

And that's the motion. Is there any discussion on it?

DR. JOHNSTON: The only thing I'd mention is that if it's a move within the county, the

election office has the duty and the right to just change the address if there's been a change of address put -- an NCOA or a change of address. So that's in the code as far as moves and the ability of the county to -- to change the address.

JUDGE DUFFEY: Yeah, but in this case, didn't the county not do that because they weren't -- the change of address had not been identified to them by the voter?

DR. JOHNSTON: Beg your pardon?

JUDGE DUFFEY: I mean, they can do that when you show up and you can say that's not my address. They have the authority to change the address.

DR. JOHNSTON: Right. But when the county receives NCOA lists or data that they do now, then they have the authority to go ahead and make a change of address and issue that -- within the county and issue that elector a new precinct card.

JUDGE DUFFEY: But we don't have any evidence that the county received notification.

DR. JOHNSTON: Right. Right.

JUDGE DUFFEY: And the young man or the old

man or whoever it was showed up and should have look at the data and his address and recognized that he hadn't changed it.

DR. JOHNSTON: Right. Both parties should've checked the address.

JUDGE DUFFEY: So I think we're back to the motion which is to find violations and with respect to the -- Christopher Merritt, that we send a letter saying that he has an obligation under the law to advise county officials of his change of address.

And then with respect to the other respondents, that they have an obligation to allow only those people who are registered voters to vote.

Any further discussion on that motion? There being none, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? It passes unanimously.

Next SB2021-120.

MR. BRUNSON: Okay. This is -- you know what, I'm not originally from Georgia. Is this Houston County or Houston?

JUDGE DUFFEY: Houston.

MR. BRUNSON: Houston, okay. Houston, all right.

JUDGE DUFFEY: And by the way, it's not Albany, it's Albany.

MR. BRUNSON: Albany, okay.

MR. LINDSEY: And given where we're meeting right now, you better know where Houston County is.

MR. BRUNSON: All right. So the complaints on this particular investigation -- it is reported that Brooke Taylor Walsh under the name Brooke Taylor Cunningham voted in the states of Georgia and Florida respectively. Mrs. Walsh possesses both a Florida and Georgia driver's license, and it appears as though she voted in the November presidential election under the name Brooke T. Cunningham in Florida, and then Mrs. Walsh voted in Houston County, Georgia for the January senate runoff election. But she did so under the name Brooke Walsh.

So in looking at this particular case, we were able to determine, looking at voting records, that she actually moved to Georgia in 2020. I lost my case.

She moved to Georgia in 2020, February 26,

2020, registered to vote in Georgia July 24, 2020, and while she was visiting her father on November 2nd in Florida, she used her Florida driver's license to vote in that election. She then returned to Georgia and voted in the senate runoff election, January 5, 2021, in Houston County, Georgia.

So based on that, her actions are a possible violation of O.C.G.A. 21-2-216, sub (a), sub (4) as she lost her Georgia residency with the Florida vote one month prior to her voting.

MR. LINDSEY: Have you guys alerted Florida because my guess is -- I know Florida has a lot of different laws. In fact, my guess is they probably don't like people voting twice there either.

MR. BRUNSON: Yes. Well, now, she's actually moved back to Florida.

MR. LINDSEY: Doesn't matter. She voted twice in 2020. That's all I'm saying, is that she's in trouble here in Georgia, and I'm about to make a motion to that effect, but she should also be in trouble in Florida. I just want to make sure that they're also alerted in Florida as to her actions as well.

MR. WRIGHT: We've made them --

MR. BRUNSON: Yes. The investigator's here.

MR. WRIGHT: They've been made aware --

MR. LINDSEY: Thank you. That's all I wanted to know.

At the appropriate time, Mr. Chairman, I'll move on it. I think this is pretty cut and dry.

JUDGE DUFFEY: Did you talk to her and did she acknowledge that it was wrong to vote in two states?

MR. BRUNSON: Well, the investigator did talk to her.

MR. WRIGHT: I'll come down there. My name is Mark Wright. I'm an investigator. I did speak with her during that investigation. And her comment was, I didn't vote in the same election. So she was actually told by her husband that she shouldn't have done so. But she did anyway. And, like I said, her comment to me was, Well, I did -- I didn't think I did anything wrong. I did not vote in the same election. So that was her thought process.

DR. JOHNSTON: Chairman, comment?

JUDGE DUFFEY: What?

DR. JOHNSTON: Comment? All 50 states have

agreed that having two regular active driver's licenses is illegal and actually there's a violation -- I would suggest a violation of 40-5-20(c)(1)(e)that says: For Georgia, no person shall be permitted to have more than one valid driver's license at any time. I know there are exceptions as far as commercial license or international license, but I just wanted to emphasize the issue of two driver's licenses, voter registration in two states is not appropriate.

JUDGE DUFFEY: All right. Is there a motion?

MR. LINDSEY: Mr. Chairman, I move that we accept the recommendations of the investigator and refer the matter for further investigation by the State Attorney General's Office.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

JUDGE DUFFEY: Is there any discussion on the motion? The motion is to refer Case SEB2021-120 to the Attorney General's Office based upon its violation and its need for further investigation. All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? It passes unanimously.

Next case is SEB2021-126, City of Sumner, qualification notice.

MR. BRUNSON: Okay. The complaint is the City of Sumner city clerk did not publish the qualifying notice in the newspaper in a timely manner.

So in looking at this, Investigator Wright confirmed that Mr. Jay Crowe and Mrs. Melissa Dobbins -- that the newspaper article to announce the qualifying period did not run prior to the requalification as required. The dates for candidate qualifying for the town of Sumner November 2021 municipal election was August 16th through August 20th, but the newspaper article to announce the qualifying dates did not run in the newspaper until August 18 which is obviously two days -- and not -- did not meet the requirement.

JUDGE DUFFEY: Any questions about the summary? Yes?

MS. GHAZAL: Just briefly, is this a municipal -- a municipality that runs its own elections and does not rely on the county to do so? They don't contract with the county; is that

right?

MR. BRUNSON: Let's see. This is Investigator Wright again. This is his case.

MR. WRIGHT: Yeah, that what I'm checking.

MR. BRUNSON: Oh, okay. Oh, we have the attorney here, too, from Sumner County. Maybe they can answer.

MR. CROWE: May it please the board, I'm Jay Crowe, the attorney from the town of Sumner.

JUDGE DUFFEY: Thank you.

MR. CROWE: Thank you all for the opportunity to speak. Thank you for your time. And let me just also say thank you for having us here today. You don't understand what kind of chance this is to be able to have interaction in Middle Georgia. Also, it cuts my driving time down by about half.

JUDGE DUFFEY: Now we're getting to the real reason.

MR. CROWE: That's right. In terms of this case, to answer the first question, Sumner does run its own elections or did at that time. We've actually for some time been in the process of negotiating with the county to take over our elections. I spoke with the county attorney last

week, and he did tell me that the board had agreed to enter in to undertake our elections for us. We're in the process of hammering out an intergovernmental agreement for that purpose.

I'll be glad -- I've got some other comments I'd like to make. I'd be glad to respond to any other questions but I'll be glad to sit down until you finish your presentation.

MR. BRUNSON: Yeah, I mean, that was it. It's pretty straightforward.

JUDGE DUFFEY: Okay. He's done.

MR. CROWE: Okay. I just didn't want to step on anybody's toes.

This -- this incident happened in August of -- I believe it was 2021. From the time it occurred, we've admitted that we made a mistake. We, in fact -- I was told by Ms. Dobbins who was our clerk at the time that she contacted the Secretary of State's Office to let them know what was going on.

In addition the complainant actually contacted my office. He actually was the city council member for whose position the qualifying notice was not run, Mr. Jesse Kelly. He contacted the Secretary of State's Office on

the -- this was, again, the week of the 16th. On the 18th and 19th, there were numerous conversations back and forth with the Secretary of State's Office. I believe I spoke with several folks up there, swapped e-mails, ask for any input as to how we could cure the -- the deficit.

Ms. Dobbins indicated that she posted on the door of the town hall the notice of elections and qualifying. In addition, she posted on Facebook. We actually had three people qualify for this election. Mr. Kelly, who was the complainant, whose seat it was, he qualified and ran; Jane Long, she qualified and ran; Todd Spence qualified and ran. Out of those three individuals, the sitting councilman, the one that complained because his seat was not advertised actually lost the election and somebody else came in.

So no one has come forward and complained that they did not have an opportunity to qualify. We did not have anybody say they were prevented from doing that. The other thing to add on, Sumner has a population, I think, a little over 500 people, so it's a fairly close-knit community

in terms of what all is going on.

And so in this situation we admit that the notice was not run in a timely fashion. We would ask that the board take that into consideration and treat this as a minor infraction if possible. Because, again, as far as we can tell, nobody was hurt or impaired. And from the very get-go, we've been in communication with everyone.

In addition Ms. Dobbins is no longer employed with the town. She was terminated in August of last year. We have a new clerk who in fact passed her qualification requirements, I believe, just January 30, 2023. So she's taken over that role.

But even in that regards, we're doing everything we can to let the county handle our elections from now on as well. So we admit it. We'd ask y'all to take that into consideration. And, again, as far as we can tell, nobody was hurt in this, disenfranchised, or anything like that.

JUDGE DUFFEY: All right, thank you.

MR. CROWE: Thank you.

MR. LINDSEY: Have you spoken to the new clerk about this?

MR. CROWE: I have, at length. In fact she's already run a qualification notice because we're in the midst of trying to get the county to take over our elections. She's already sent a qualification notice, again, to the paper for the upcoming elections that are coming up. She's young, she's undergone training, she's never done this before but she's a go-getter and I'm doing everything I can to work with her to, first, keep her, and also make sure she understands what we need to do.

MR. LINDSEY: That will have a bearing on the motion I'm about to make.

MR. CROWE: Thank you.

JUDGE DUFFEY: So when she did the qualification notice, did she do it on time?

MR. CROWE: Miss -- the new clerk?

MR. MASHBURN: The new one.

JUDGE DUFFEY: Yeah.

MR. CROWE: Yeah. I think we're well within the time limits this time.

JUDGE DUFFEY: I just wanted to make sure the remedial action took.

MR. CROWE: I -- as far as I understand, it was sent in well in time. I've had several

conversations with her about it.

MR. MASHBURN: If I might, there's -- there's a lot of cities and counties that listen in to these hearings that don't have the fact patterns that we have in front of us. So this -- this resulted all from some sort of system crash. So she didn't actually know that her -- her e-mail hadn't transmitted or -- or the -- she didn't really know the failure until it just didn't appear in the paper.

MR. CROWE: Yeah.

MR. MASHBURN: And that's when she found out?

MR. CROWE: And, again, my information is from Ms. Dobbins, who I do not represent -- I represent the town -- and what she told me at the time. She indicated to me that there was a computer crash at some point. And, in fact, we've been able to confirm the computer did crash, that she believed she sent the notice in. She could never produce to me the e-mail where she sent it. In fact, I disclosed that to the investigators. But it's my understanding this -- this was -- was known by her, communicated to everybody, and basically from the beginning we

said, Okay, we made this mistake; this is what happened.

And she also -- she also told me she had had COVID, I think the week before. She was the only -- we had one full-time employee and one part-time who actually -- the clerk's a part-time clerk, my county maintenance folks. So it's my understanding from her city hall was not even open because nobody was available at that time, that week before.

MR. MASHBURN: Okay, thank you.

MR. CROWE: Thank y'all.

MR. LINDSEY: Mr. Chairman, similar to the matter two or three matters ago, I think clearly there's a violation. The city has acknowledged it. The city as taken remedial action to try to make sure that it doesn't happen again. I think it's appropriate for us to go ahead and resolve it today. Find a violation, send a letter to that effect, and then move on to the next matter.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been moved and seconded to find a violation in Case Number 2021-126 against the respondent but that it be resolved

with a letter of instruction. Is there any discussion on the motion? All those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no? Passes unanimously.

MR. CROWE: Thank you, Chairman and the board.

JUDGE DUFFEY: Thank you.

MR. LINDSEY: Tell your client that you earned your keep today.

JUDGE DUFFEY: SEB2021-128.

MR. BRUNSON: Okay, this is the City of Meigs. I want to make sure I'm saying that right. Is that correct?

MR. LINDSEY: Meigs.

MR. BRUNSON: Meigs, okay. Candidate qualifying issue. Mr. Frank Scoggins, Thomas County election supervisor informed the Secretary of State's Office that the City of Meigs did not open candidate qualifying until the week of August 23, 2021. Mr. Scoggins advised that Thomas County has an intergovernmental agreement with all municipalities to conduct all of their elections. The municipalities themselves are

responsible for qualifying their respective candidates and to report to the State Transparency Department Ethics.

Mr. Scoggins advised that the clerk for the City of Meigs who was responsible for opening the qualifying is Mrs. Catawba Hill. He also advised that Mrs. Hill was new at the time but that he has insisted she become qualified and he documented that she has.

So ultimately the finding is that the City of Meigs should've opened the qualifying the week of August 16 through August 20, 2021. But qualifying wasn't opened until the week of August 23rd. So this is a vi -- very similar to the previous one, violation of O.C.G.A. 21-2-132, sub (c), sub (3), sub (a).

JUDGE DUFFEY: Any questions about this summary?

MR. LINDSEY: Is there any evidence that someone was not able to qualify that wished to qualify?

MR. WRIGHT: No.

MR. BRUNSON: No.

MR. LINDSEY: And they acknowledged that -- that they had -- that they had violated this

rule?

MR. WRIGHT: Yes, sir.

MR. BRUNSON: Yeah, I'm sorry.

MR. LINDSEY: And is Ms. Catawba Hill still the city clerk?

MS. KOTH: Did they self-report it?

MR. BRUNSON: Yes. It was reported by Mr. Scoggins who's the Thomas County elections supervisor.

MR. MASHBURN: Is there anyone here on their behalf?

JUDGE DUFFEY: Are there any respondents for the City of Meigs or --

MR. MASHBURN: So there's no -- there's nobody here to tell us, We're sorry, we won't do it again, and we apologize. So there's -- so this could be treated differently because we're not hearing the response that we have gotten from the previous cases, that they're taking it seriously, they're going to do something about it, and they're making sure it doesn't happen again. We didn't get that in this case.

MS. GHAZAL: I think that to the extent that the election -- county election supervisor insisted that the city clerk did get training and

certified subsequent to this --

MR. MASHBURN: Yeah.

MS. GHAZAL: -- is evidence of remedial action. And also the fact that they have an intergovernmental agreement already. The county conducts these elections and the city clerk is only responsible for that. It's a good --

MR. MASHBURN: Good point.

MS. GHAZAL: -- opportunity to point out in 2023, as we're moving into a new round of municipal elections, that cities that choose to undertake their own elections, they're -- this is a heavy responsibility. It's not nearly as easy as it may seem. There's a lot going on with these and a lot of moving parts that whoever is responsible for has to make sure that they understand and are ready to fulfill these requirements.

So I'll get off my soapbox now.

MR. LINDSEY: I'm going to make a similar motion, but to Mr. Mashburn's point, I would like to see them come before us in the future. If you -- if you make a mistake, let's talk about it. Let's make sure that you acknowledge that you have, whether or not you'd be in person or

send something in writing to us. Particularly if you're a smaller jurisdiction -- it'd cost you money to send somebody up here -- to see some acknowledgment in writing to us.

And for those of you are listening in the greater atmosphere or whatever, just in the future, I would like to see some type of acknowledgment before I make the motion I'm about to make.

But I haven't made that -- that statement before, so I couldn't enforce it today. But in the future, you know, I'll say it goes a long way.

Let me sort of back up about. About five or six months ago, I made a motion to send something to the Attorney General's Office on a technical violation but in part because the people decided, where it was clearly in violation, to lawyer-up and refused to -- to acknowledge the mistake.

And that was one of the reasons why we had to send it to the Attorney General's Office, because we didn't see any evidence that that local jurisdiction was correcting the problem as opposed to several times that we've seen here today in which people have acknowledged that they

made a mistake and they have made that assertive step. And this apparently is what has happened here.

And so for that reason, Mr. Chairman, I would make a similar motion that I've made before, that instead of referring the matter to the Attorney General's Office that we resolve the matter here. We find a violation and we send a letter to the local jurisdiction.

(Phone ringing)

MR. LINDSEY: It's not my phone, I promise.

MS. GHAZAL: Oh, my apologies. It was me, Your Honor, and I did not know that my iPad was connected. I --

MR. LINDSEY: Anyway that's my motion, Mr. Chairman.

JUDGE DUFFEY: Well, I'd fire Sara, except that'd just leave one less person.

MS. GHAZAL: You're welcome.

MR. MASHBURN: Well, one of the -- one of the comments that I hear from counties sometimes is that they -- well, we're not going to -- we're not going to send anybody down there because y'all are going to send it to the attorney general anyway, no matter what we do.

So I think there is a good lesson to be learned that this hearing is important. But I'm also sensitive to we're not going to put down a rule until everybody gets notice of the new regime.

MR. LINDSEY: And I'm a little more understanding --

MR. MASHBURN: So that's fair.

MR. LINDSEY: -- of the City of Meigs --

MR. MASHBURN: Yeah.

MR. LINDSEY: -- because it was my home city. If it was the largest city in the state, I'd probably be a little less understanding than I am of a small town.

MR. MASHBURN: That's fair. Okay.

JUDGE DUFFEY: So we have a motion to find a violation but resolve it with a letter of instruction?

MR. LINDSEY: Yes.

JUDGE DUFFEY: Is that your motion?

MR. LINDSEY: Yes.

JUDGE DUFFEY: Is there a second?

DR. JOHNSTON: Second.

JUDGE DUFFEY: It's been moved and seconded that -- that a letter -- that we find a violation

by the respondents and that a letter of instruction be sent to them.

Is there any discussion on the motion? There being none, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

MR. MASHBURN: No. Just to make a point.

JUDGE DUFFEY: The motion carries four to one.

MR. LINDSEY: If I could, to our investigators, you do an excellent job.

JUDGE DUFFEY: You do. Good presentation.

MR. LINDSEY: If you would, also when you talk to them, you see a violation like this, tell them if you either come or you at least send us something in writing, acknowledging a mistake, you're going to get treated a lot better. And show us how you're fixing it.

MR. BRUNSON: Okay, will do.

JUDGE DUFFEY: Thank you.

MR. BRUNSON: All right. Thank you.

ATTORNEY GENERAL REPORT

JUDGE DUFFEY: So now we have one final set of complaints, consent orders that have been

negotiated by the Attorney General's Office, and final orders. And Charlene McGowan who is from the Attorney General's Office will make those reports for us.

MS. MCGOWAN: Thank you, Mr. Chairman. For the attorney general's report today, we have three cases to present. The first was Case Number SEB2020-1112(sic), Henry County. That respondent is Kelly Rose Alderfer.

Mr. Mashburn, this is the -- one of the cases you referred to where the candidate -- she was cited for campaigning and handing out gifts at a polling location.

This consent order includes a civil penalty of $250 as well as a cease-and-desist and public rep -- excuse me, just a cease-and-desist.

For Case Number 2020-221, Worth County, that is respondent Dylan Harris. That involved an allegation of out-of-state voting. That respondent has agreed to a consent order containing a $500 civil penalty, public reprimand, and a cease-and-desist violation.

The final case is SEB2021-098, Troup County. That particular case involved two different respondents. One of the respondents agreed to a

consent order that includes a hundred and fifty civil penalty. And both of these cases involved individuals who signed voter registration applications for others.

The other case involves a respondent who had assisted her mother with filling out a voter registration application and signing her mother's name with her permission. So our office is recommending a final order that includes a cease-and-desist and a public reprimand but no penalty.

I'm happy to entertain any questions that the board members have, otherwise I would recommend that the board approve these three consent orders and a final order.

JUDGE DUFFEY: Are there any questions for Ms. McGowan?

MR. LINDSEY: So moved, Mr. Chairman.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

JUDGE DUFFEY: Well, thank you. Otherwise we couldn't move forward.

So for consent orders 2020-112, 2020-221, and 2021-98 and final order 2021-098, the motion is to approve the consent order and final orders.

Is there any discussion on the motion? There being none, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? Then the orders are approved.

So that is the last of the complaint cases. We have one final matter of business and that is to receive public comment which I will remind --

MR. LINDSEY: Excuse me, Mr. Chairman, I have a question. Not dealing with the order but I had a question for the Attorney General's Office.

Several months ago we authorized the attorney general to enforce subpoenas that we had issued regarding an allegation. I believe the organization is True the Vote; is that correct? And I'm just wondering if I could get an update on has the -- has the respondent acknowledged receipt of the subpoenas or -- well, in that case, I mean Complainant acknowledged receipt of the subpoenas and have they complied with our demands?

MS. MCGOWAN: To answer your question, the complainant, True the Vote, as well as a number of their associated individuals, a lawyer for the

organization has accepted service of the subpoenas on behalf of the organization as well as the -- the named complainants that -- or, excuse me, the individuals that were served with subpoenas. To date, no, they have not complied with the subpoenas and, as you mentioned, the board did vote to authorize the Attorney General's Office to seek court enforcement of the subpoenas if necessary. I think the hope was that the organization would comply with the subpoenas after the board took that vote. That unfortunately has not happened.

So unless the board members have any objection, the AG's office can move forward with moving to compel compliance with that subpoena.

MR. LINDSEY: Given the seriousness of the allegations that were made, I'd simply ask that the Attorney General's Office keep us apprised and I'm going to ask the same question at the next meeting.

MS. MCGOWAN: Okay. Certainly, Mr. Lindsey.

MR. LINDSEY: Thank you.

MR. MASHBURN: What was the return date for the subpoenas?

MS. MCGOWAN: It was sometime in the spring

of 2022.

JUDGE DUFFEY: I'd say that was enough time for them to respond.

Okay, thank you very much.

MS. MCGOWAN: You're welcome.

JUDGE DUFFEY: There have been a number of people that have signed up to make public comments. The public comment process is each person will come and speak from the microphone in front of us. And we'll do it in the order in which people signed up on the sign-up sheets. And the comments are limited to two minutes per speaker.

The first is Erik Christensen.

MR. CHRISTENSEN: I could speak for two hours on this but I'm going to make it two minutes. So my name is Erik Christensen. I am a resident of DeKalb County. And I have been working on various pieces of this for the past 27 months. I've got some recommendations for the board. I want to thank you guys for what you're doing.

You are the keepers of Article I, Section 4 of the Constitution. I hope you get independent status where you don't report to the Secretary of

State, rather the Secretary of State reports to you.

I'm going to read my executive summary, otherwise I will go way over two minutes. Okay, I'm also a CPA. I worked for Arthur Andersen. I'm a systems consultant with Deloitte. I own my own business now. I'm able to be here because one of my kids is running the business for me right now. So ...

But the current system for administering, processing, and accounting for elections is not uniform and is currently unauditable. The process lacks basic internal accounting controls, chain of custody controls. And these problems have allowed incorrect election results to be posted by the Georgia Secretary of State and certified by the governor in the November 2020 election.

A majority of Georgians lack confidence in the integrity of Georgia elections, okay? And I want to give a specific example here of why I say that. In one specific example presented to the governor, Fulton County absentee ballots were counted, audited, recounted, and posted incorrectly three consecutive times. This does

not lead to confidence and the governor has even admitted this and said, you know, this is a problem.

We talked about it this morning. And when you have 36 rows in a spreadsheet and you get it wrong one time, you get it wrong again at a risk limiting audit, and then you get it wrong again at the recount, it's virtually impossible to do that unless you're totally incompetent. I mean you have to catch one of those hundred and eight mistakes, and we didn't catch any one of those hundred and eight mistakes. They all passed through three times.

So the Secretary of State is not qualified to perform a risk limiting audit, and he's not trained in it, and we need to hire somebody who is.

So I'm going to go through the goal of the recommendations:

To develop uniform processes and procedures for the handling of all ballots in all counties and all precincts in the State of Georgia. Tedious but very imminently doable.

To require an annual independent audit performed by a CPA or CPA firm of the processes

and procedures -- and we touched upon that earlier too -- that are uniformly being followed and they're compliant with not only the Georgia Election Code but also the rules and regulations that you guys promulgate.

To require that all ballots processed and managed under the direct supervision of a CPA, CPA firm and that preliminary and tentative election results are posted on election night. You guys represent the legislature. You need somebody in every precinct that represents you to make sure that we are doing things consistently and uniformly. I can tell you we're not today.

To require an annual audit performed by a CPA or a CPA firm of the election system selected, used, or recommended by the Georgia Secretary of State to print, scan, store, and tabulate the ballots.

JUDGE DUFFEY: You just have a few seconds.

MR. CHRISTENSEN: Pardon?

JUDGE DUFFEY: You just have a few seconds.

MR. CHRISTENSEN: Okay. The goal of this audit is to provide assurance any system is both secure from hacking, data manipulation, and the system produces complete and accurate results and

finally require a post-election audit to make sure the results are correct.

And there's five pages of stuff in here, but, like I said, I could talk for two hours on it. But --

JUDGE DUFFEY: You can give that to us.

MR. CHRISTENSEN: Pardon?

JUDGE DUFFEY: You can send that to us.

MR. CHRISTENSEN: Can I give you a copy or ...

JUDGE DUFFEY: Well -- okay, thank you.

All right, thank you, Mr. Christensen.

Next is Cliff Albright. Mr. Albright?

Hannah G? Protect the Vote Georgia? She's not here.

Then Elaine Lucas?

So you didn't have to drive very far, did you?

MS. LUCAS: Pardon?

JUDGE DUFFEY: You didn't have to drive very far --

MS. LUCAS: Not far at all, just across town.

Good afternoon.

JUDGE DUFFEY: Afternoon.

MS. LUCAS: My name is Elaine Lucas and I'm a member of the Macon-Bibb Commission. And I -- first of all, I was thinking that this might be earlier in your meeting because I wanted to welcome you here to our wonderful city. We're progressing, we're changing, and we're glad that you're here, and we would like to invite you to have these meetings here as often as you like because people -- I don't like driving to Atlanta. I'm sorry, Atlanta folks. But I -- and a lot of these other folks don't either. So we love having you come here to -- to Macon. And we're glad that Mercer is hosting you. They're a great institution.

This morning before my husband -- you probably know my husband, Senator David Lucas, who's served us for almost 50 years, served the Macon area for almost 50 years. We had a conversation and guess what our conversation was about? It was about the Georgia State Election Board meeting. Now, of all things, two politicians in a household, you know, we didn't talk about grandchildren, we talked about the elections board meeting and what y'all were going to do and how people were nervous about the

actions that you were going to be taking.

And, frankly, I came here -- I am so glad that we got a chance to listen to all of the issues that were brought before you. And I'm glad that I got a chance -- after having worked in voter registration for over 30 years myself, here in Macon-Bibb, I am just so pleased to see that you are a deliberative body, that you discuss all of the details, that you have investigators who get down to the nitty-gritty. I'm real pleased with that.

The one thing I want to say, though, is when you were -- with the new membership, the makeup of the board, there are a lot of people who look like me who are afraid that you were set up to disenfranchise us. And women, a lot of women feel that way. A lot of younger folks feel that way. So when you mentioned earlier that you didn't want to be the sheriff, that you didn't want to be in that position, that resonated with me because you shouldn't be.

And so the gentleman earlier mentioned the fact of your becoming an independent group. And I think that's the direction that we need to go in, where you're free to make decisions and

nobody can skew things to make it seem like that you're put in place to take away the right to vote. I am as nervous as anything about my right to vote and I hold on to it. It is very, very important to me, as important as my children and grandchildren because it impacts what happens to them.

So welcome again to our wonderful city. But I just want you to keep in mind that there are some people who don't have positive and altruistic intentions like you do. You're intending to do what's right and to follow through on your pledge to all of Georgia's voters. They' are some other people who have terrible, terrible motives in this state and we all know that.

So protect all of us and thank you so much for planning your meeting here, having it here. We look forward to having you here again. So on behalf of the mayor and the other nine members of the commission, welcome and thank you.

JUDGE DUFFEY: Thank you.

MR. MASHBURN: Thank you.

JUDGE DUFFEY: And thank you for staying.

MR. LINDSEY: And please tell Senator Lucas

hello.

MS. LUCAS: I will.

JUDGE DUFFEY: This person took penmanship lessons from the same person who taught me penmanship.

MS. WILLIAMS: I bet I know who it is.

JUDGE DUFFEY: Are you Brenda?

MS. WILLIAMS: I sure am.

JUDGE DUFFEY: Okay. I'm not sure what your last name is, but --

MS. WILLIAMS: It's Williams, Brenda Williams. How're you doing?

JUDGE DUFFEY: I'm good. Thank you.

MS. WILLIAMS: I've got a bad knee. So if it's not handicapped accessible, that's a --

UNIDENTIFIED SPEAKER: Hold the chair.

MS. WILLIAMS: But I'm coming. I'm sorry about that.

MR. LINDSEY: You're doing fine.

JUDGE DUFFEY: You're doing good.

MR. LINDSEY: That's a lot of stairs for someone with a bad knee.

MS. WILLIAMS: It is. It is.

MR. LINDSEY: We should've come out to you.

JUDGE DUFFEY: We could've done that.

MR. MASHBURN: If you know you've signed up for public comment, you might want to go ahead and start moving down to some of these closer rows and that'll help us move along.

MS. WILLIAMS: Hello and I want to thank you so much for giving me this opportunity to come and speak before this body today. My name is Brenda Williams, and I'm the president of Georgia Women and Those Who Stand With Us. And I'm excited to be here today.

I came here with -- with -- I won't say an expectation, but just I wanted to make sure that things were done so it was fair. I look at that seal and it says: Wisdom, justice, and moderation. That's what we stand for as a state. And I look at the middle and that part says justice. I just want to make sure as the voice for women that we get justice and we get equal representation.

One of the -- is -- one thing I want to talk to you about -- or probably a couple, but one was about older people who are a nursing home. I don't know how many of y'all have got a mom in a nursing home but I've got one. And I'm saying to you that the laws that have been put in place --

which I know that some of them, I mean, you've got to do what you've got to do, but it does put a hardship on families because not only am I taking care of my mother, I've got to go up there and get Mama to write her name.

I've got to go -- and then I've got to do this, and then I've got to go back and -- and I just wish that while you were thinking about those processes, you think about those caregivers who have to go back up there once they get those -- once they get those ballots in the mail. Because everybody's not trying to cheat everybody.

The other thing is this. I look at this body -- I'm raising my grandbaby, and I always tell her, look at leadership. This leadership don't look like my grandbaby. It doesn't look like me. And I know that there are people in Georgia who look like me who are qualified to sit on this board. So my hope in the future that when you're making select -- so whoever's making selections that it's more diverse. This board does not represent the 38, 39 percent of people who look like me.

And I'm not saying that it's not fair as far

as to the way that you've administered what it is that you're doing because you've done an awesome job. I just think it should be more inclusive and just look like Georgia.

Thank you so very much for having me and listening to me today. Y'all be blessed and have a safe trip home.

JUDGE DUFFEY: Thank you so much. Go slow.

MS. WILLIAMS: You know I was trying to walk fast.

JUDGE DUFFEY: I know. But you were getting a little wobbly. That was why ...

Karen Carlisle.

MS. CARLISLE: It's the hips.

JUDGE DUFFEY: I got a new one. I'd recommend it to you.

MS. CARLISLE: I got two.

JUDGE DUFFEY: Oh, I'm sorry.

MS. CARLISLE: Just recently too. Thank you for your time. My name is Karen Carlisle and I'm a concerned resident, a registered voter in Lowndes County, Georgia.

My concern is with the rogue DeKalb County Board of Registration and Elections Chair Dele Lowman Smith who openly admits in a January 27,

2023, DeKalb County Board of Election meeting she facilitated a two million-dollar noncompetitive consortium contract agreement with the unvetted organizations US Alliance for Election Excellence and the Center for Civic Tech and Civic Life through the DeKalb County Finance Department to undermine passed legislation SB202 that states: No superintendent shall take or accept any funding, grants, or gifts from any source other than the governing authority of the county or municipality, the State of Georgia, or the federal government. The State Election Board shall study and report to the General Assembly a proposed method for accepting donations intended to facilitate the administration of elections and a method for an equitable distribution of such donations statewide by October 1, 2021.

The Alliance for Election Excellence obtained eighty million dollars through memberships, then awarded grants for scholarships to the Center for Civic Tech and Civic Life that in turn provide services to modernize and create a voter-centric election process.

This ponzi-type scheme may have violated the Election Protection Clause by violating the

spirit of SB202 legislation. The Secretary of State's Office may now have disenfranchised voters as well as other election offices who did not receive a portion of the funding or counties who may not wish to open this Pandora's box. Thank you.

JUDGE DUFFEY: Thank you.

MR. LINDSEY: Thank you.

JUDGE DUFFEY: Is it Merronila Telford? Forest Cooper? Anthony Saunders? I think this is Carolyn Hargrove?

This is printed: Jennifer Lee.

MS. LEE: Good afternoon, Judge Duffey and members of the board. I know it's been a long day. So I thank you for your attention. My name is Jennifer Lee and I am a policy director at Asian-Americans Advancing Justice Atlanta. Asian-Americans Advancing Justice Atlanta is a nonprofit legal advocacy organization dedicated to protecting the civil rights of Asian Americans, Pacific Islanders, and Arab Middle Eastern Muslim, and South Asian communities in Georgia and the Southeast.

I would like to call your attention to a letter that we sent to the board's counsel on

Friday and supported by 35 other organizations, requesting that the board implement rules with regard to procedures and standards that will apply in the case of voter challenges.

As you know, hundreds of thousands of voters in counties all across Georgia have had their voting eligibility challenged in recent years. And the county election boards have devoted significant resources towards responding to those mass challenges, many of which were determined to lack sufficient evidentiary support.

We share the board's concern to administer efficient elections that are trusted by Georgia voters. And the subject of the letter and what we would like to raise today are just -- are concerns that the recent large challenges to voter registration risks both the efficiency and voter confidence and fair and accurate elections.

Additionally there seems to be some confusion around what both state law and federal law under the National Voter Registration Act require in these cases and has resulted in different approaches at the local level and placed strain on election workers who in many cases are already stretched very thin.

So we're invested in seeing the board formulate some rules and -- that would reduce the administrative burdens on counties responding to these challenges while ensuring the voters whose eligibility is challenged do have a fair opportunity to respond.

We hope that implementing rules like this will create some guardrails and will help ensure greater consistency and uniformity in how these challenges are handled across counties. Support local boards in achieving compliance with state and federal laws and also reduce the impact of meritless or unsubstantiated challenges on a county's limited resources, often at very stressful times for counties administering elections.

So we thank you for your attention and we look forward to continued engagement with the board about this matter. Thank you.

JUDGE DUFFEY: Thank you. I'll let you know that we have already identified that as an issue that we need to address, you know. It's a fairly recent phenomenon of the mass challenges and the residency registration law is not easy to understand. It's certainly not easy to apply,

but we appreciate the letter.

Leo Seyg Allen? Arena Franklin?

MS. FRANKLIN: Isn't it Ciara? Ciara Franklin?

JUDGE DUFFEY: Yeah. Could be, yeah. Might, yeah.

MR. MASHBURN: Common Cause Georgia?

MS. FRANKLIN: Yes.

JUDGE DUFFEY: Okay. Sorry. I didn't mean to mispronounce your name.

MS. FRANKLIN: No, you're fine. No worries.

May it please the board. Good afternoon, Judge Duffey, members of the board, and community members. My name is Ciara Franklin and I serve as the outreach and engagement organizer with Common Cause Georgia. We are a nonprofit, nonpartisan advocacy organization. I'm also a proud resident of Albany, Georgia.

I wanted to briefly take the time to thank you for your willingness to meet communities across our wonderful state where we are and also thank you all for your hard but very necessary work. I'm looking forward to the announcement of other meeting locations across the state as this meeting has been well attended and received.

Again thank you for your time and attention today.

JUDGE DUFFEY: Thank you very much.

Willie Dumas? Macon NAACP? Vikki Moody?

MS. MOODY: That would be me. And the reason that my name is --

JUDGE DUFFEY: But they can't -- people that are watching can't hear you.

MS. MOODY: They don't have to hear me.

MR. LINDSEY: Well --

MS. MOODY: Especially with what I have to say.

JUDGE DUFFEY: -- if they don't hear you, they just send us something saying that they couldn't hear --

MR. LINDSEY: Can't hear. Trust me. We get texts when they can't hear.

MS. MOODY: I am Vikki Moody and I signed that list because this kind young lady who greeted me this morning said I had to sign in. So I had no idea that I was signing anything (inaudible).

Therefore, while I'm here, may I just tell you thank you for what you have said today and what you've done today. I'm really excited to be

here and I'm very proud to have had the opportunity to hear what you're doing and how you do it. So thank you very much.

JUDGE DUFFEY: Well, thank you for taking the time to come.

Make sure she's always on the list.

MS. MOODY: I was just going to say be careful what you sign. So ...

JUDGE DUFFEY: Earl Ferguson? Gwen Westbrooks? Worth? I can't tell if that's an s or an r. Is it Worthbrooks?

MS. WESTBROOKS: Westbrooks.

JUDGE DUFFEY: Oh, I was right the first time. Gwen, come on down.

MS. WESTBROOKS: I've got a bad knee too.

JUDGE DUFFEY: I'm sorry.

MS. WESTBROOKS: Good evening. Thank you for allowing me to speak this evening. I am Gwen Westbrooks, president of the Macon-Bibb branch NACP. And I wanted to speak today.

I came here today in support of the case for the Black Voters Matters. A lot of times -- I just want to say a lot of times that organizations like that, organizations like the NACP are often misunderstood because I know

especially with the NACP, they don't know -- they don't your history. They haven't been educated on actually what the organizations stand for and the history of the organizations.

And I've got to admit that I was concerned when I came because the panel didn't look like the people that -- that was here being -- being charged. But I do want to say I thank you all for listening to the facts. And I appreciate you all being here and listening to the facts and making your decision and judgments on the facts.

I am concerned because I -- and also about the nursing home, that was a concern to me. I really -- I don't know if you've gotten concerns or complaints about people being in a nursing home but I don't think that we need to fix something that's not broken. I do know that people -- as far as giving out water, I think that we -- different things like that, something like that to me is a form of intimidation, and you have to -- I want people to understand where we're coming -- where I'm coming from because if you know the history, people of color have not always had the right to vote.

And even when we were -- the Vote Rights Act

was passed in 1965, we had to renew our voting rights every 20 years to be able to continue to vote. So giving out water, I -- you know, you're talking about six hours in line. People giving out water, I think that's -- that was just horrific what happened to these people that they had to wait a couple years not knowing what their fate is.

I just -- I'm just hoping at some point that the Georgia State Elections Board, our Secretary of State, community leaders can come together and -- with some type of reconciliation as to what -- because it only hurts the voters when we put things in place that kind of deters people from voting.

But I want to thank you all for allowing me here today. I just think we need to continue to -- people should have access to the polls and people that are there for support should not be criminalized for being there for support. Thank you.

JUDGE DUFFEY: Thank you very much.

MR. LINDSEY: Thank you.

JUDGE DUFFEY: Thanks for speaking.

Meaghan, is there anybody else that you made

sign up that's here?

Well, that is --

MR. MASHBURN: Is that a separate --

JUDGE DUFFEY: No. No. That's the organization.

Well, is there anybody who signed up that expected me to call their name so that they could speak? No? That's the last order of business on the agenda. And I will entertain -- first of all, we -- we were delighted to be Macon. This has been a good experience for us to be out of Atlanta.

Somebody said they don't like driving here from Atlanta. Well, sometimes I don't like living in Atlanta. So this is a treat to get out of the big city. We thank you for your attention and helping us maintain decorum during the meeting. We hope to be back. The president of the university came down and said hello, and he said we are invited back if we want to come back. But we also need to go to other cities and give them the advantage that you have had today.

But that's all that I have and I'll entertain a motion to adjourn.

MS. GHAZAL: So moved.

JUDGE DUFFEY: Second?

DR. JOHNSTON: Second.

JUDGE DUFFEY: Okay. Four or three seconds which I -- I think I know how this vote's going to come out. There -- we have a motion to adjourn. All in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Those opposed, no?

MR. LINDSEY: No, because I don't want to drive back.

JUDGE DUFFEY: We're adjourned.

(Concluded at 3:26 p.m.)

CERTIFICATE

STATE OF GEORGIA

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This, the 6th day of March, 2023.

Mary K McMahan

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

THE OFFICE OF SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

Tuesday, June 21, 2023

Georgia State Capitol, Room 341

Atlanta, Georgia

9:00 a.m.

Volume 1 of 2

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APPEARANCE OF THE PANEL

William Duffey, Chair

Sara Tindall Ghazal

Janice Johnston

Ed Lindsey

Matt Mashburn

Transcript Legend

[sic] - Exactly as said.

(ph) - Exact spelling unknown.

-- Break in speech continuity.

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

Quoted material is typed as spoken.

TABLE OF CONTENTS

Page:

Response to Fulton County Performance Review 8

Cases Recommended To Be Dismissed 51

Cases Recommended For Letters of Instruction or Referral 113

Reporter's Certificate 241

P R O C E E D I N G S

JUDGE DUFFEY: Good morning, everybody, and welcome to the meeting of the State Election Board, June 20, 2023. I will say I came up here and in my place was -- were some papers, the first of which was entitled Tax Incentive Review Panel. And I know that this is a dynamic process and things are happening, things are added to our agenda all the time, but I had not heard about the Tax Incentive Review Panel which I've been told has nothing to do with me.

So we will start with the order of business today, and we will begin with an invocation given by Mr. Mashburn.

(Invocation)

JUDGE DUFFEY: And, Sara, if you will lead us in the pledge, please.

MS. GHAZAL: Of course.

Please rise.

(Pledge of Allegiance)

JUDGE DUFFEY: All right. First order of business is I need a motion to approve the State Election Board meeting agenda and minutes for February 7, 2023. Is there such a motion?

MS. GHAZAL: So moved.

JUDGE DUFFEY: Second?

MR. MASHBURN: Second.

MR. LINDSEY: Second.

JUDGE DUFFEY: It's been moved and seconded that the State Election Board meeting agenda and report for February 7, 2023, be approved.

Is there any discussion? If there isn't any, then all in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

The decision is unanimous.

Let's turn to -- and there's one administrative thing that I want to announce about tomorrow, which is neither considered a separate meeting nor a continuation of today's meeting. But tomorrow, after we consider the petitions that have been filed, I have asked the Secretary of State's Office and its -- the people that are most knowledgeable about this to do something which I need. And based upon e-mails that I've received over the past several days, I think it's something that everybody needs.

There's been this referral generally to concern about the update to the Dominion Systems machines being held off until 2025. That's a

decision that was made by the Secretary of State. As I've gotten questions about that, I realized one thing I did not know: what exactly the update was. I didn't know what it did; I didn't know what it addressed. Everybody just refers to it as the update.

And so I have asked the attorney -- I asked the Secretary of State's Office to give a briefing tomorrow after the first item of business which relates to the petitions so that all of us will -- and many of us for the first time, certainly me, understand what the update is intended to address, what it does address, why it addresses it, and then I've asked for it to be an objective factual presentation so that we will all understand what the update is and what it seeks to accomplish.

This -- the Secretary of State's Office, through Blake Evans and Charlene McGowan, have agreed to do that. So we will do that tomorrow. And I would ask all those that are interested, even if you're not here, to tune in because I think it will be the first time that we've gotten that explanation.

My understanding is that the Secretary of

State sent out a letter yesterday. I don't know whether that was for public consumption or whether that just went to people that were -- that are in the elections process at the counties.

I also know that at 3:30 today -- or at least I've been told that he is having a Zoom call with all the election officials in the counties to answer questions about the update, all of which I think is good because it's -- because I think that is something we all need to know as we consider our respective positions on that.

So that's the other administrative announcement with one final exception. I, this morning, granted postponement of Case Number 2022-205, Fulton County, vote buying which is in the section of the agenda regarding violation cases recommended for letters of instruction or referral to the Attorney General's Office.

The Secretary of State's Office and the State Attorney General's Office have asked for time to consider the representation of the respondent in that case and whether or not there is or is not a conflict. And I have granted the

postponement. So that will not be heard today.

So with that I want to turn to the matter of the Fulton County Performance Review report. This has a longer history than I do on the board, but it has a history that is law. These are matters that were brought up and required upon the request of the Fulton County delegation to do a performance review of the conduct and performance of the Fulton County Elections Board following the 2020 election.

We have received the performance review report that was issued by Mr. Germany, Mr. Day, and Mr. Kittle. That is on the website for those of you that wanted to read that. There was a response by the county that we received and have considered.

At the county's request, knowing that we are going to have a hearing, they asked for the board members to forecast to them any questions that they had and we submitted those to Fulton County to which they have now responded.

So we have -- we have a number of different facts and arguments that have been presented to us, some opinions expressed in the Fulton County -- on the re -- the performance review

report by the members of the review board. And today is the -- is a chance for Fulton County if they want to add something further to the record that they have submitted to us, they can.

And I've asked Mr. Tyler who represents the Fulton County Board to be present to answer questions that board members might have. And I've also asked for members of the board to be here and for one member, the executive director of the staff, to be here.

And so thank you, Ms. Woolard, for being here.

Thank you. I know that you probably don't want to be here but you are, Miss Williams.

And the chair -- oh, I guess chair-appointed-elect who will become the chair of the board, I guess, on July 1st; is that right?

MS. PERKINS-HOOKER: That is correct.

JUDGE DUFFEY: And that's Ms. Perkins-Hooker. So thank you for being with us.

And so at this point, I think I'm going to turn it over to you, Mr. Tyler.

MR. TYLER: Thank you very much, Judge

Duffey and members of the State Elections Board.

JUDGE DUFFEY: And let me -- do you have a microphone in front of you?

MR. TYLER: I do have a microphone.

JUDGE DUFFEY: What -- is there a number at your seat? Are you seat 6? Let's pretend you are.

MR. TYLER: Now I think it's on.

JUDGE DUFFEY: There you go. Thank you.

MR. TYLER: Good morning, Judge Duffey and members of the State Election Board. My name is Michael Tyler. I'm with the law firm of Kilpatrick Townsend along with my law partner Ron Raider. We are here to represent the Fulton County Board of Registration and Elections.

We have with us, as the judge indicated, Cathy Woolard who is the current chair of the BRE. We also have Nadine Williams who is the executive director of The Fulton County Department of Registration and Elections and Patrise Perkins-Hooker who as of July 1 will become the new chair of the BRE.

I would say briefly we have been very pleased at the engagement that Fulton County's BRE has had with the Performance Review Board

appointed by the SEB. That was a point -- that appointment was made back in August of 2021. The BRP actually had a year-and-a-half investigation, a very thorough investigation they engaged with the county collaboratively. They issued their report back on January 13th, a very comprehensive report.

We, then, as the Fulton County BRE, submitted our response on May 23rd. We were pleased to be allowed to do that. We attended the hearing on February 7th. We certainly were pleased at the engagement of this board with the Performance Review Board. All the questions that were asked then, it was our hope and our expectation that the board would resolve the matter at that particular time.

The board however asked us to give our report, our response to the report which again we did on May 23rd. We followed up. When we were asked to come before this board at the next meeting, we did, in fact, ask for an opportunity to respond to any questions that any of you might have. We were pleased to receive your written questions in advance and we did disseminate our responses thereto.

So we are very pleased at the level of engagement. This has been a very long-standing process, one that has gone on, as I said, for over a year and a half. We certainly are confident that this board at this point, having received a very favorable report from the Performance Review Board -- we are hopeful.

We have every expectation that based upon the comprehensive report, based upon the response that we have provided, both in terms of the response on May 23rd as well as the response to all of the questions that you had of us and based upon the additional responses that we are totally prepared to give you today -- it is our hope, it is our expectation that this board will see fit to follow the recommendation of your very own performance review board which found, as you know, that Fulton County's Board of Registration and Elections has made significant progress over the course of the past two years and that it is fully engaged in driving those improvements that have been demonstrated and that, in fact, it would be detrimental to remove that board.

So it is our hope, it is our expectation that this board will now see fit to adopt that

recommendation, to adopt that report, to adopt what we believe is the only fair, the only right thing to do. And that is to close out this case. We are totally committed. We have demonstrated the improvement. We have put in place mechanisms, infrastructure to sustain that improvement and we intend to do so.

So at this point, I wanted to say, Your Honor, Judge Duffey, what we would like to do is to basically have the questions that any member has. Primarily Ms. Woolard in her capacity as well as Miss Williams in her capacity are the ones that have the most knowledge about the processes, the historical context, as well as the future plans and the current plans of the Fulton County BRE.

So we'll entertain any and every question. What we would like to do, though, is to begin with an opening statement, very, very brief, by Miss Woolard. I'll disseminate a written version of this but we'll turn it over to her. And then any questions that any of you have, Your Honor, we would then entertain and allow the person who has the greatest knowledge to provide the answer that works for this -- this board.

Again, we're pleased and privileged to be here. I'll turn it over to Miss Woolard.

JUDGE DUFFEY: Do you have a separate microphone?

MS. WOOLARD: I do.

(Mr. Tyler hands document to Judge Duffey.)

JUDGE DUFFEY: Thank you.

MS. WOOLARD: It's on? Okay.

JUDGE DUFFEY: Is it on?

MS. WOOLARD: Yeah. Okay, great.

Well, thank you. I'll be brief because we submitted a rather lengthy statement in response. But I just wanted to thank you, Chairman Duffey and members of the board, for inviting me to speak today and allowing me to be part of this.

As chair -- I'm going to read a little bit today, but normally I'm a more extemporaneous speaker, but we want to make sure for the record that we -- we make a couple of points.

I'm here on behalf of the full board. The full board has been apprised along the way of our communication with you in my posture here. As you know, Ms. Williams is here who is our director. And my successor is here as well, Patrise Perkins-Hooker who will become chair.

I want to thank Ryan Germany, Stephen Day, and Rickey Kittles [sic] for the time and effort of the Performance Review Board. We really appreciate the time they put in, particularly Stephen Day and Rickey Kittles as volunteers who put in as many hours as we did into this. But no slouch on Mr. Germany who put plenty of his own time.

They reviewed the procedures and processes of the department and observed polling locations and election center operations during the complete '21 and '22 cycles. That's nine separate elections during that time.

I want to thank the Carter Center for its report. We were asked by the Performance Review Board if it would be amenable to having the Carter Center observe. And to that, of course, in keeping with our posture of cooperating in everything, we were happy to invite them to do that. Their report and observations during 2022 were very helpful.

And then Seven Hills Strategy [sic] for its observations in the 2020 general election and runoff election.

In all of the reviews in all of the

elections in which we all participated, none of the reviews and reports found any violations of the Fulton County Department of Registration and Elections or of the Board of Registration and Elections. We look forward to ending the process today. We feel like we've made significant progress over time.

Since the performance review was appointed nearly two years ago, in August 2021, we participated in multiple meetings, submitted tons of documents, you know, facilitated many, many inspections. And I have been open and transparent about our plans and performance.

And I'll take a little bit of liberty to say I want to thank the members of the board. We have a bipartisan board and I think -- you know, I've been in politics for a long time and I've sort of been proud of, I think, a record of being bipartisan and fair. And what is probably my happiest achievement about this board is that we have been unanimous on virtually every decision. I think in two years, possibly, there have been two or three votes where somebody felt like they had to vote differently. That's a significant achievement in a time of partisan discord. And I

think it's one of the things that has led us to make so much progress over the two years.

As I mentioned, the Performance Review Board did not cite any violations during the last two elections, but we continue to address any concerns anyone might raise and to try to answer questions that anyone might have. But those concerns don't constitute any violations of the election code.

Mr. Chairman, I just want to thank you all again for the opportunity to speak. We welcome any further questions and look forward to seeing a vote in the matter today. Thank you.

JUDGE DUFFEY: Before we open it into questions, I want to frame the discussion. Everybody is entitled to characterize what the report says and I understand your characterization and I appreciate it. And there's certainly text in the report that supports that.

What I want to note is this -- and is this --

Does somebody have some water for me? Not that because somebody's been drinking out of that already.

-- is this. If you -- a fair reading of this report does not say that there are no problems and that there were no problems. A fair reading of this report is that there were significant problems causing a significant change in staff. We now have a change in the leadership of the board. There is an open position on the board. So the amiability that has been on the board, we don't know whether or not that will continue because it's different.

You have gone through a number of election cycles but you will not have a calendar in an election cycle like you will in 2024. The election cycle in 2024, my prediction is, will be just what happened in 2020, or at least it has the potential for that.

So my concern is between now and 2024. What about the other comments within the report that say that there have been significant changes, mainly, I think, to overcome the systemic problems and the cultural problems that occurred in 2020?

But there are, at least, in the conclusions and recommendations the following statements: Training processes and procedures, organization

have been improved as well, but those -- but -- the first part is what you cite. I'll cite the second part: But those things need further improvement to ensure readiness and success in the 2024 election. And that's the opinion of somebody who's been involved in the actual election process for years.

Second, the county's manager office in Fulton County has continued to be involved in planning, strategizing, and preparing for upcoming elections which has positively contributed to the improved execution of elections.

Third, director -- staff level -- staff and the Fulton County Board of Elections needs to ensure that staff has the necessary tools and guidance to ensure best practices and compliance.

Next, the existence of the performance review helped incentivize Fulton County to make improvements to their elections, which doesn't surprise me. When under scrutiny, people do, in fact, change. But it took an enormous amount of donated work and is difficult to see how it is a sustainable process that can continue to positively influence election administration in

Georgia without some reforms. A positive, proactive, and periodic review process, appropriately funded, designed to support and assist all counties with election improvements could be more effective than the performance review process in its current iteration.

That is a statement, I think an opinion of the members of the panel that there isn't in place a system by which Fulton County and other counties that have problems can sustain their performance or improve their support -- performance, going back to the first comment, which is that there has to be an assurance of readiness and success in the 2024 election.

And then finally, while the Performance Review Board has seen improvement in Fulton County elections since the 2020 election, further improvement is still needed to ensure readiness for the 2024 presidential election cycle.

Presidential election cycles see more voters than midterms. And that was -- and we know the midterms -- while I think it's fair to say that because of the results there was less controversy and less complaints about it, it -- when you have a close result like 2020, the circumstances and

the ability to contend with those in -- and reach the highest level of readiness and preparation are necessary.

Georgia will be a competitive state in next year's elections. So election preparation needs to recognize that Fulton County's actions, and all counties for that matter, will be heavily scrutinized by political parties, campaigns, candidates, and activist groups. To ensure successful execution of the 2024 election, Fulton County should continue the improvements it has already embarked on and prioritized the areas for improvement noted in this report.

So I think that the issue for me personally is what could be put in place that meets the requirement and the opinion of the panel, that there has to be something in place to ensure that the corrections that were made from the performance in the 2020 election, the improvements that have been put in place in order to achieve that, that the further improvements that the people in this report -- who had no ax to bear with anybody and I think their sole intent was to try to help us and to help those people that are reviewing their report to find a

way in which the -- what has happened, the improvement process is sustained and that we are prepared for what they predict will be a very difficult election in 2024.

So that's -- that's what I want to frame. I'll have some more comments and some ideas on how to do that, but I think a lot of it is -- for me will be what would your response be to come up with a means to ensure that the improvements that are made can be sustained?

And I will say I -- Stephen Day, after this work was all done, when I thought he would say, "I'm done, you know, I've contributed my hundreds of hours to do this" but was concerned enough to express to me -- he said, How might we do this better?

And what we are looking for, at least what I'm looking for -- we'll hear from the other members in a second, but what I'm looking for is a process to ensure that the progress that was made would be continued, that those additional things that need to be put into place, and to help, in fact, new people on the board including its new leadership to do that.

Do -- Ms. Perkins-Hooker, let me tell you

this. I know you're a lawyer and you served as a lawyer to the board. I was a lawyer until I got to this job. I'm still a lawyer, but this is totally different than anything I've experienced in my professional life. And I think to some extent you need someone to walk alongside you.

I call election directors when I see issues that are percolating. And I call them and talk about what the downside is for the election process and whether or not we can -- and I personally can get -- offer them any guidance on what they might do so that they can maintain the integrity of the process. And those have been helpful, fruitful, and satisfying conversations.

The question is are we going to draw a line in the sand which is let us go, be done with this, and leave us alone? which is a little bit of what I hear in your comments, Mr. Tyler. Or are we going to say it's time to change?

It's time to change this process and work, as I've said to lots and lots of election groups around the state. It's time for collaboration and cooperation and to do things differently than we've done them in the past. And I think we're prepared to do that.

But before we do that, let me let our board members ask whatever additional questions they have. We'll begin with Ms. Johnston.

MR. MASHBURN: She didn't hear the last part.

JUDGE DUFFEY: Oh. Well, people can ask questions. I'm going to just go down the row, beginning with Dr. Johnston.

DR. JOHNSTON: I have no questions.

JUDGE DUFFEY: Mr. Mashburn?

MR. MASHBURN: I have no questions.

JUDGE DUFFEY: Ms. Ghazal?

MS. GHAZAL: I have no questions.

MR. LINDSEY: You want questions and wait for comments.

JUDGE DUFFEY: Just questions.

MR. LINDSEY: I have no questions.

JUDGE DUFFEY: Okay. Now comments, beginning with Dr. Johnston.

DR. JOHNSTON: Well ...

JUDGE DUFFEY: So far I'm 80 percent complying with (indiscernible) to make sure people have their microphones on. Now I'm only 60 percent complying. So bear with me as I try to manipulate these speakers.

DR. JOHNSTON: I think -- on? On. Three things. I want to thank the Performance Review Board members for serving in this capacity. I'm grateful for their willingness to take on the assignment and just would like to say, in my world of medicine, a planned -- or unplanned, yikes, visit by the Joint Commission of Accreditation creates stress and tension, but its goal is to help doctors and hospitals measure, assess, and improve performance in order to provide safe, high-quality care for patients. And I would wish the same for elections.

I also want to express my thanks to Mr. Tyler, Ms. Woolard, Ms. Williams for responding to the report and the state election board questions. The kind words spoken by Misters Germany, Kittle, and Day during their report of the review are encouraging.

Since this is the first time for a performance review report that has been requested and performed, just a reminder that the scope as written in SB202 legislation describes it as a broad, thorough, and complete investigation and evaluation. However, the limitations of the Performance Review Board was made evident,

suggesting that issues like funding, focus, and scope need to be addressed.

As Ms. Ghazal said in August of '21 at the time of the creation of this board, any election office has two goals: to ensure that every eligible voter can access their ballot, cast it by the method of their choosing, and that those ballots are counted accurately and transparently in such a way that assures the public that they can have trust in the outcome.

I think that's four and not two things. But nevertheless it's a great assessment and I appreciate that. I look forward to the discussion and comments of my fellow board members. Thank you.

JUDGE DUFFEY: Mr. Mashburn.

MR. MASHBURN: Thank you, Judge Duffey.

When the Performance Review Board was created, my comments were I hope Fulton County takes this opportunity to do better rather than throw up their hands and say, Well, it's in the hands of the Performance Review Board and we're going to give up. And I'd like to -- I'd like to say that I'm very happy that in this years long process that Fulton County didn't give up.

One of the things that the general public does not know is that each of these board members, volunteers, have been going to each of the counties, and one board member each to a county and watching, especially tabulation centers. So the board members have put in an extraordinary amount of time for each county and we get pictures sometimes from Ed, appearing at two in the morning and he's still -- he's still counting.

So the board members worked very hard on this. And during this process I was assigned to Fulton County. Now, one of the reasons I was assigned to Fulton County was because, as a poll watcher, I had watched Fulton County for maybe as long as 20 years, every election. And so one of the things that I saw is remarkable change and improvement during the process.

And so for that I extend a hearty appreciation and congratulations to Cathy Woolard for all of her hard work.

Now, one of the things that Fulton County has always dealt with -- and I had friends on the board of Fulton County elections and while we're down in the tabulation center we'll talk. And

I'll say, you know, Well, what are y'all doing about this? And they're just like, They won't listen to us. And this was a board member. And so to hear the report today that the board is now moving unanimously is a substantial improvement and a remarkable improvement. I think the process has been very good and thorough and everybody took their time.

There was a lot of talking on the television, on the Internet that this was a rash power play to take over Fulton County on a partisan basis. And I think everybody involved in this process proved that they were dedicated to making the experience of the voter and the results being trustworthy as their primary goal.

So I think everybody acted toward that goal and I think the talking heads were wrong. And so with that, I'll turn it over to my fellow board members for their comments.

JUDGE DUFFEY: Thank you, Mr. Mashburn.

Ms. Ghazal?

MS. GHAZAL: Briefly. I just want to thank everyone who has been a part of this process: the members of the review board, including Mr. Germany, Mr. Kittle, Mr. Day, and certainly

everybody involved in Fulton County, starting with Ms. Woolard and everyone else. Ms. Williams has been working, laboring for two years under what has basically been sort of a down place, not knowing what this process would look like and how it would end.

I'm exceedingly grateful for all of the work that everyone has put into this.

And, Ms. Perkins-Hooker, I believe that you are being -- you have the great good fortune of inheriting a much improved body and a more im -- with a great deal more confidence in it. It's been an enormous amount of work. I hope if there are legislators or legislative staff who are watching -- either watching or taking note of this that they understand a two-year process is really not sustainable. We do need something else.

Now, while the focus has been so much on Fulton County, because let's face it, it's the biggest, most important, most prominent county in the state, I think we probably have similar reports on a hundred and fifty-eight other counties. And I want to keep that in mind as we talk about improvements. These are writ large.

It's not just one county that has had problems.

We had unique circumstances in 2020. We'll have other unique circumstances in 2024. I hope that counties are preparing for the fact that they may have to do another redistricting between now and then and that takes enormous resources. I have no crystal ball, but it's entirely possible.

So we have to -- we have reached a great point now, but we can't -- we can't let up. We have to continue to keep on top of the processes and make sure that we're constantly improving. And I hope that you will see us as an ally and an advocate and not just as a quasi-judicial body. We want -- we're all here to make sure that the voters of Georgia are served. That's our -- that's our goal and I hope that we can work together in doing that. Thank you.

DR. JOHNSTON: Thank you, Ms. Ghazal.

Mr. Lindsey?

MR. LINDSEY: Thank you, Mr. Chairman. In response to Mr. Mashburn's comment about my picture, let me tell you why I sent the picture.

MR. MASHBURN: No, that's all right, Ed.

MR. LINDSEY: No, no, no, no. It's a good

one because I sent the picture of me and the Gwinnett County Election Board to celebrate the fact that among the four largest counties in the state, Gwinnett County finished first. But I don't live in Gwinnett, I live in Fulton. So next time out, I want to see Fulton come in first and I want to see y'all beat Gwinnett in terms of the election -- county.

That's part of your challenge, Ms. Perkins-Hooker.

I'm a longtime resident and I think I've spent about 80 percent of my life in Fulton County. So you know why I'm particularly gratified by the report and gratified by the county's cooperation with the investigation and appreciative of the efforts that was undertaken by everyone involved in its investigation.

I also recognize that Fulton County has a lot of challenges. I mean, it is a county, if I remember correctly, that's over 70 miles long. That is the largest county in the state and so you're going to have a lot more focus on you than maybe some of the other ones do. And that's -- and that's a good thing quite frankly, given the fact that you hold such an important role in any

type of -- with a tight election. And there will be a tight election about -- according to everyone who's predicting one in 2024. And overall the state will have a target on its back, and we need to work with everyone.

As y'all hopefully have noticed, this board, underneath the leadership of Chairman Duffey, is much more proactive than, perhaps, it has been in the past in terms of being collaborative with counties and, you know, with those that are on the front line, seeking not only to tell you where you went wrong but to also encourage what could be done to make things better, to try to be your mouthpiece with the state election -- with either the Secretary of State or the General Assembly in terms of what needs to be done, in terms of -- of making our election process better and more fair.

A lot of things -- having served in the General Assembly, I could tell you a lot of things that are -- in theory look good when laws are being considered, however, in practice become very difficult. So we would want to be that advocate not only for -- to go after folks that misbehave but to go after folks who are trying to

do the right thing, to help them do so. And that's our goal.

I have, as the other board members have expressed, been encouraged by the progress that's been made by chairman Woolard. And I know from a long time Miss Perkins-Hooker. And I know that while you're picking up a board that's in a process in Fulton County that's better than the one that Ms. Woolard was handed, you are nevertheless going to be facing a lot of challenges as was expressed by the report that said that certain things need to be done and continue to need to be done to make things even better, particularly as we face the challenges of 2024.

So when -- those are basically -- my main points that I want to make is that, you know, I recognize the difficulty that the county board members have. I actually served on Fulton County Election Board in 2002, two thousand -- no, actually 2003, 2004. So I'm aware of the challenges that you face and I hope that this will open and continue to open a dialogue between this board and the county board and let us be not only folks who could tell you how we even have

perhaps done some things wrong but also y'all tell us how you can do your job better. And let us be your advocate with those various entities that I discussed earlier.

With that, Mr. Chairman, I thank you and I thank the board members and wish Miss Patrise Hooker all the luck in the world. Perkins-Hooker, sorry.

JUDGE DUFFEY: So let me make my comments. While I've only done this for a year, it seems like several years. I've learned this, that the board has been too reactive. And by reactive, it basically does two things. It responds to complaints -- and there are a lot of them -- and then it occasionally, in recent history, not often, passes rules. And I don't think the state election board should function that way.

On July 1st, we become an independent agency. Under SB222 we have our first appropriation. Like all entities it wasn't enough, but it's a start. But it gives us -- what I had requested at the very beginning of my tenure was independence and adequate resources. And we are on that track in a way that we weren't able to a year ago.

When you're on that track, you can look at what the mission is of the board. And if anybody reads 21-2-31 of the duties of the board, they're broad. They're very broad and it's certainly more than making rules and hearing complaints.

This process -- and I'll tell you a little bit about this process. This process has taken way too long because of lack of resources and to ask two willing members of the election system to -- to donate their time to help. And they did that, I think, and they did that well.

I think the two most important lines in this report that they issued are the members, Stephen Day and Rickey Kittle. And when Rickey Kittle Rickey spoke at our meeting in Macon, he said, I only have about five minutes worth of comments. And forty-five minutes later, I think, we were the beneficiary of why he did what he did and why Stephen Day did what he did. And it was all geared towards trying to give us input on the imperfections in the system.

And the imperfections are that when you pass a piece of legislation, when that legis -- when you take authority under that legislation -- and I've been a judge for a long time -- people draw

lines. And they say, Let's go back to what we're required to do and what we're not required to do rather than saying, What should we do? And how can we do that not just alone but with others?

I've been told early on in this process, I said there's -- there are -- maybe are two other counties that we ought to have performance reviews and I was told there's no money to do that. And I'm now convinced that there isn't. So we passed a statute which by its nature is imperfect and I think by its nature required the investigation to go longer than -- the review to go longer than it should have and I think longer than it necessarily should have. But that happens when you're working up against a statute and guiding a client and guiding a panel that is -- that is constrained by a statute passed by the general assembly.

And I said, Why are we doing that? Why are we not taking a step back and looking the way I look at the election process which are three entities: Secretary of State's Office, the counties that run the elections, and the State Election Board. And as I've said often to election officials, those three entities are way

too silent. Everybody stays within their silo. They communicate with each other, but there's -- but there needs to be more cooperation and collaboration between those three, including us, which I think we're more capable of doing now that we are an attached agency to the Secretary of State's Office.

And I -- it's really interesting in this job how often something I've done in the past informs me on suggestions in the way that we might leap forward in the future. And when I was the United States attorney, one of the first things after I was the United States attorney is I was told that we were going to have an evaluation by the Administrative Office of the Association of United States -- of the Department of Justice.

And what they were going to do is they were going to send a team -- not of hired consultants, not of outside third parties, but a collection of people from other United States Attorneys Office. And I think ultimately the team was about seven or eight people. And they had a checklist of what they were going to inspect when they came to our office.

One, I knew what they were going to inspect.

And when I looked at it, I said those are the things that need to be inspected. And if we're doing something poorly, I need to know that. And if we're doing something well, I need to know that so I can tell the people that are doing things well that they are.

And secondly, if they're not doing things well, what we can do to meet the expectations of the team? They spent three days, filed a written report with me, briefed me when they were done, and I found it incredibly valuable because I was being evaluated by people that had the same job I had, in the same environment in which I worked.

And I said, Why does that not exist in the state of Georgia? You know, why don't we have a system so that big counties can help little counties, little counties can help big counties, and finally sit down and say, What is it that a county needs to do to run as fairly, efficiently, with integrity in election? And can we come up with a list that we would distribute to everybody and say, Every three years somebody's going to visit you and see how you're doing against that list? The list does not exist. The structure to do the collaborative review of each other does

not exist, and it should.

The people that are best capable of helping us develop a system like that is Fulton County right now. And I'm convinced, having met with election officials in other counties, that not only would they endorse that, I think they're desperate for it rather than everybody doing their own thing.

When somebody comes in that is doing the job that you're doing and says, I've looked at the way that you're doing it and what you're doing is inefficient, it's not cost-effective, or it's wrong, then my invitation to the county is that they would partner with the board to develop that system.

And on behalf of the board -- we haven't voted on this, but I could say on behalf of the board, in hopes that they would support this, that we would, in fact, engage in that process with you. And we ought to do it right away because we have to begin at least telling people in the counties what we expect collectively so that they can have at least a few months to prepare before the 2020 [sic] election.

And I don't know if anybody else in the

country is doing this and frankly I don't care. If this is what makes our system better and we are willing to devote the time to do that, then we should because we owe that to every citizen in the state. I am -- it makes me weary to know people that -- to have people that I trust and that are friends of mine say they don't know if they trust the system anymore.

And I think we have a collective duty to change that. But there has to be a step in that direction and it has to be a step different than the steps we've taken in the past.

So in a second, I'm going to entertain a motion on what -- on what our response is to the board report. My hope is that I would get a response from Fulton County that they are willing, able, and enthusiastic about doing things differently in the state.

Does anybody else want to add to that? Is there a motion?

MS. GHAZAL: I would like to move that we accept the recommendations of the Performance Review Board and choose not to -- leave the board in place.

JUDGE DUFFEY: You said choose not to leave

the board --

MS. GHAZAL: No, no. No. We allow the Fulton County superintendent to continue to do the work and continue to make the improvements that they have been doing.

JUDGE DUFFEY: Is there a second?

MR. LINDSEY: Second.

JUDGE DUFFEY: It's been moved and seconded that the -- we accept the recommendation of the Performance Review Board and allow Fulton County to continue in its current organization and to continue to make improvements in anticipation of the 2024 election. Is there any discussion?

DR. JOHNSTON: What -- what I would hope to see is measures, assessments, and improvement. Three things. Measures are metrics that can be assessed and can be improved upon and then can be demonstrated to show sustainable improvement.

JUDGE DUFFEY: That's a comment, but that's not a modification to the motion?

DR. JOHNSTON: No.

JUDGE DUFFEY: Okay. Mr. Mashburn?

MR. MASHBURN: The -- the reason I'm inclined to support this motion and will be voting in favor of the motion -- it's been moved

and seconded -- is that the issue that related to Fulton County, there's no -- there's no doubt about it, Fulton County was challenged in this area for a long time and the answer was, We can't do better. We're doing -- we're doing the best we can. We can't do any better.

And so now I'm convinced that there is a standard that Fulton County itself has set that is the standard that they've shown what they can do. And so now it's not, We can't do better, it's, We've got to keep doing what we did while people were watching us very closely.

And so the ultimate -- the ultimate decision point in my mind that is going to guide my vote is the question of will one result or another benefit the voters of Fulton County who I believe have been benefited greatly through this process and the improvements that -- that this process has brought about.

And so the people who even raised this for Fulton County in the first place, the legislator, should be commended because they brought about change that nobody thought could happen. And so, you know, thanks to them for starting it. But will it benefit the voters of Fulton and the rest

of the state in that does the rest of the state trust the results coming out of Fulton? So it's not just the voters of Fulton who have benefited by this process, but the rest of the state has got a very intense interest in what happens because it impacts their elections as well as those results need to be trustworthy.

So that will -- that will explain my vote of why I'm in favor of this motion.

JUDGE DUFFEY: Thank you.

Ms. Ghazal?

MS. GHAZAL: I made the motion. So --

JUDGE DUFFEY: Are you on?

MS. GHAZAL: I am on. I made the motion, so I have nothing further other than to call the question.

JUDGE DUFFEY: Okay. Well, Mr. Lindsey hasn't --

MR. LINDSEY: Yeah. The only thing I would add to what Mr. Mashburn and the others have said is that, you know, the bottom line is -- you know, I'm saying this as, once again, not only a member of the State Election Board but as a resident of Fulton County -- I'm looking for an accurate, fair, transparent election process that

the voters can have confidence in the outcome, given the efforts by the Fulton County Election Board over the last two years and underneath Ms. Woolard's leadership. And having confidence because of my history with Ms. Perkin-Hooker, I believe that that progress will continue.

And I thank you all for serving.

I want everyone to remember that these boards are voluntary, by the way, and that -- and as part of it, I recognize and I think our board recognizes that we have a responsibility to assist you in that process.

And for that reason, Mr. Chairman, is why I seconded the motion and why I will vote in favor of it.

JUDGE DUFFEY: Okay. The motion is to accept the recommendation of the Performance Review Board and allow the current structure of the -- of the administrator of Fulton County to remain in place and continue their work and to make further improvements in the election process in Fulton County.

All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

The motion is unanimous.

Now, before you leave, I'd like to know what your reaction is -- probably, Ms. Williams, you might be the best, to your reaction that you -- whether or not you would agree to partner with the board to set up a system of review for all counties. Maybe I ought -- I don't know who your boss -- I guess your boss is technically Ms. Woolard but you're about to have a new boss.

So whomever wants to answer that question.

MS. WILLIAMS: The issue is -- she can answer.

MS. WOOLARD: I can answer. And then -- and then I can let my successor answer for her.

JUDGE DUFFEY: Okay.

MS. WOOLARD: I've learned quite a lot in my two years in this tenure. And I was at the January meeting in Macon, thinking that we would be at this point in January. So I'm glad to finally be at this point. But what I have observed in the last two years, especially with new legislation coming down from the General Assembly that has imposed new requirements on us and other kinds of things is that we have to be very, very careful to preserve the ability of

election boards and staff to do the work they need to do to prepare for elections and run those elections. Any additional effort that we have to make put anyone at risk of not paying -- you know, not following the ball when they need to follow the ball.

If I were to be able to give you some suggestion -- well, I'm going to give you some suggestions of where I think you might be helpful to all of us in the hundred and fifty-nine counties is to have a discussion with staff and boards from the hundred and fifty-nine counties about where we could use your assistance.

I've been very frustrated over the last two years that there hasn't been some conversation at the General Assembly about the impact of some of the changes that have gone on, particularly with Senate Bill 202.

And I -- I'm not saying this from a partisan perspective, but I'm saying this from the operational perspective. When you put into place new requirements, sometimes not well-written, and you have a hundred and fifty-nine counties trying to figure out what was meant and to comply, it creates additional burden and it creates

additional cost. When you don't do an assessment about whether the changes that have been brought to us have achieved the desired object, then you've failed to analyze whether you've actually achieved that. So we think there's a broader conversation to be had with all of the counties.

But I personally think to make it the responsibility of Fulton County to come up with that is not appropriate because it doesn't account for what is useful to smaller counties. We have a hundred and sixty-five thousand voters. We have a county, as you mentioned, Mr. Lindsey, that's seventy miles long. We have extreme logistics requirements that are very, very different than a county that might be somewhere else but might be more similar to the four or five metro counties that are equally large that could participate in a process like this and bring points of view that we might not have because of our focus on our needs.

So what I would say in answer to will we partner, of course we will always partner. We will always be open and transparent. We welcome people coming to observe our elections and our processes. But for us to be the focus of that, I

don't think is appropriate and I think we prefer not to do that. But we would -- but we would hope that as you go about figuring out what your agency will be embarking on, that this will be a collaborative process involving the election administrators from across the state.

JUDGE DUFFEY: Well, I think you misunderstood what I said.

MS. WOOLARD: Maybe I did.

JUDGE DUFFEY: Yeah.

MS. WOOLARD: Why don't you clarify?

JUDGE DUFFEY: And -- because I didn't -- if I said that, I didn't mean to say that. It's not that you're going to be under any specific set of conditions that it -- what might be set to whatever process we have, but I've had these discussions with other counties already.

What's missing is a comprehensive approach for all counties to come up with those things. There are certain things that all counties have to do. And there are certain things that are harder to do in a big county than a small county. In -- you know, my mother used to say -- because she had a broken nose and never got it fixed, she said, My nose may look like a turnip but I didn't

come over on the truck yesterday. That -- I know that there's differences.

I'm not asking you to be the sole focus of this. I'm asking there -- to do what I've proposed to the counties which is that we have working groups to develop comprehensive systems that would guide counties and allow for the chance to review and have feedback.

So if you think I'm just imposing something on you, then you have really misunderstood me.

MS. WOOLARD: You mentioned nothing about working groups or working with other counties. So my assumption was that you meant entirely Fulton County. Thank you for the clarification.

JUDGE DUFFEY: You're welcome.

Let's see. You're number --

MS. PERKINS-HOOKER: Number 3.

JUDGE DUFFEY: Ten?

MS. PERKINS-HOOKER: Three. Wherever I -- this is live.

Chairman, I -- we -- we don't have a board to speak to at this point in time, but as of July 1, I know as the incoming chairman, at that time, I have no problem whatsoever proposing to our board that we work in conjunction with the

SEB to help work with other counties to develop, I guess, that checklist that you indicated that was used in the Attorney General's Office review, because it's needed.

This is all new territory, new grounds. Fulton County's been paving the way and we do need to be engaged collectively to address the problems that are in the law, the confusion that is in the law, and develop that checklist that I think Dr. Johnston mentioned that has metrics and some things that we can analyze and assess uniformly.

And that's what I am willing to propose to the new board. I have no objections to that concept. And that may get us across the threshold with the challenges that have just besieged us. Despite the fact we have no violations, it's still very hard to navigate through this law. And we could apprec -- I would appreciate the SEB's assistance with that.

JUDGE DUFFEY: Thank you very much. And I appreciate your willingness to embark on this -- on this new process.

Anything else from -- Mr. Tyler, anything else you want to say or ...

MR. TYLER: Again, I'd just like to thank the board for the decisions made and for your deliberation. Again, I would thank the members of the Performance Review Board. The collaboration that we had with them was very instructive and very productive.

So thank you for your decision. Thank you for your participation.

JUDGE DUFFEY: Before we go on to the next topic, I want to -- I want to note this.

Chairman Pitts, I think that's you. Isn't it?

I just want to tell a story about Chairman Pitts, about being a responsible citizen and a responsible elected official.

You won't remember this. Years ago, when we were attending St. John United Methodist Church, you showed up at our service one day. And we had a really short conversation. I welcomed you and just asked you, you know, How did you decide to attend? And while I can't remember exactly what you said, you said this. I'm not -- I don't have any agenda. I go to church and I worship with other people and I want to worship with the people who elected me.

And I thought that that was one of the guiding principles about serving in a public office, which is that your presence among the people to whom you are responsible and who you are trying to serve sometimes I think is more important than your policy. And I just want to thank you for standing as an example for me many years ago. And I've taken it to heart. Thank you.

All right. So we are -- we then conclude this portion of the meeting. And we will move to investigative reports.

Thank you for coming, and go and do good work in the future. We look forward to working with you, Ms. -- Ms. Perkins -- Perkin-Hooker.

Cases Recommended To Be Dismissed

JUDGE DUFFEY: All right. So we're now going to turn to item number 4 of the agenda which are cases that the investigators who investigated them have recommended to be dismissed.

Those are listed on the agenda. There are nine of them? Is that right? And because of their recommendation and because we have all read these reports, we've had a chance to -- to look

at what the investigation provided and what the facts were. And I will begin by saying is there anybody within this group of cases recommended to be dismissed on the agenda that would like to dis -- that they would like to discuss individually?

MR. LINDSEY: Yes, Mr. Chairman.

JUDGE DUFFEY: All right. And which one would you --

MR. LINDSEY: The first one, 2020-059.

JUDGE DUFFEY: All right. So --

MR. LINDSEY: The only thing I want to discuss separately is that -- and I do agree that the issue should be dismissed, but this is a request to my chair. I would like to ask, because of what the particular poll worker has gone through -- two poll workers have gone through with certain false claims, I would like to ask that you as the chair write a letter to them, affirmatively telling them that the matter has been dismissed should the board so vote. Just so they could have that. Which we don't normally do, but I think that would be nice. That's a re -- simply as a request.

JUDGE DUFFEY: And, Alex, if you would make

a note that that request has been made so that if it is, in fact, dismissed that you will remind me to write that letter and I will.

So if not, if there's nobody that wants to discuss any -- any of these individually or --

MS. WINDHAM: Mr. Chairman, the elections supervisor for Spalding County -- I'm sorry, Stephanie Windham, the county attorney for Spalding County. But the elections supervisor for Spalding County would like to address the board regarding the Spalding County matter in this group.

JUDGE DUFFEY: What is the -- the Spalding County matter would be 22-236?

MS. WINDHAM: Yes, sir.

JUDGE DUFFEY: Which is tab number 9. Has this been provided to us before or is this new?

MS. HARDIN: No. This was brought this morning.

JUDGE DUFFEY: Pardon me?

MS. HARDIN: This was brought this morning.

JUDGE DUFFEY: Well, give us a second to review this. I haven't had a chance to read it.

MR. LINDSEY: And, Mr. Chairman, while you're reviewing that, let me also add that --

that there are two items that I would ask the board to vote on separately, simply because I need to recuse myself from them because of my firm --

JUDGE DUFFEY: Okay. What are -- what are those?

MR. LINDSEY: Those would be 2021-19 and 2021-106. Because of my firm's activities, there may be a conflict of interest. So whether I -- so I don't --

JUDGE DUFFEY: So you're recusing yourself from --

MR. LINDSEY: From those two.

JUDGE DUFFEY: From those two.

MR. LINDSEY: I just wanted -- for that reason, I would ask that you vote to dismiss those two separately without my participation.

JUDGE DUFFEY: All right.

So let's -- if we're going to -- let's -- so that the record is clear, let's do this. Let's take them one at a time.

Is there a motion to dismiss Case Number 2020-059, Fulton County, poll worker fraud?

MS. GHAZAL: I so move.

JUDGE DUFFEY: Is there a second?

MR. LINDSEY: Second.

JUDGE DUFFEY: It's been moved and seconded that Case Number 2020-059 be dismissed. Is there -- and it's been seconded. Is there any discussion?

There not being any, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no? The case is dismissed.

Next is Case Number 2020-203. Is there a motion to dismiss that case?

DR. JOHNSTON: Mr. Chairman, I have a question.

MR. MASHBURN: So moved.

JUDGE DUFFEY: Is there a second? Is there a second?

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded that Case Number 2020-203 be dismissed. Is there any discussion?

DR. JOHNSTON: I have a -- a question about the case. Mr. Chairman, my question is during -- in complaint number 1, how many ballots were scanned during the time period in question?

JUDGE DUFFEY: Do we have an investigator that has that information?

MS. MCGOWAN: Good morning, Mr. Chairman and members of the board.

JUDGE DUFFEY: Wait. Wait.

MS. MCGOWAN: I am Charlene McGowan. I am the general counsel for the Secretary of State's Office and I was prepared to present case 2020-203 if the board wanted to hear additional information about a summary of the case. But I also can answer specific questions if you would like.

JUDGE DUFFEY: Dr. Johnston has a -- has a specific question. Can you answer that?

MS. MCGOWAN: Can you state your question again, please?

DR. JOHNSTON: The question is in complaint number 1, how many ballots were scanned? Two, do you have the batch numbers of those ballots? And, three, is there a chain of investigation?

MS. MCGOWAN: So I'll sum up what complaint number one is for SEB2020-203. For the people listening, this was a complaint that -- that was submitted by four poll watchers who were presently at the tabulation center at State Farm

Arena on election night, on November 3, 2020.

Those poll watchers all complained that they were not able to adequately view the tabulation process at the tabulation center at State Farm Arena and then were -- and claim that they were told to leave by election workers before the tabulation ended on election night.

This also addresses some of the complaints that were made in 2020-059 that after the poll watchers left that some of the election workers removed alleged suitcases of ballots that had been hidden underneath tables and began scanning them.

So if you could clarify for me when you're talking about how many ballots were -- were scanned, what -- are you talking about a particular time period? Because this was the tabulation center and they were processing ballots all day long that day.

DR. JOHNSTON: So from the time of this allegation, from the time that the ballot boxes were opened at 11 p.m. and resealed at 1 a.m., is there a record of how many ballots were scanned on the ICC scanners?

MS. MCGOWAN: There would be scanner logs

that -- that would show that. That was not a part of this particular investigation, though, because that was not part of the complaint. The complaint was whether the election worker -- the complaint was whether or not election workers had done anything unlawful by scanning those particular ballot bins. And the investigation did determine that those were lawful ballots that were put in ballot bins and election workers that were there that night were simply doing their jobs and properly scanning ballots.

DR. JOHNSTON: Thank you. In complaint number 2 was there a contract with the ACLU and were they paid?

MS. MCGOWAN: Fulton County -- the investigation did discover that Fulton County did have a contract with the ACLU attorneys to assist with helping voters who needed to cancel their absentee ballot go through that process and sign that affidavit so that if they showed up to vote in person, they were assisted in being able to cancel their absentee ballot and be able to vote in person.

DR. JOHNSTON: Where they paid?

MS. MCGOWAN: I do not know. The finding of

the investigation was that there was nothing unlawful about that particular arrangement.

DR. JOHNSTON: Did those workers all sign oaths? Were they -- were they vetted and checked as any election worker would be?

MS. MCGOWAN: Yes. Yes. They were sworn in as deputy registrars.

DR. JOHNSTON: And further in complaint number 2, there was a report of Dominion personnel were removing ballots from the tabulators. This is -- were they legally approved to remove or touch ballots?

MS. MCGOWAN: That particular part of the investigation determined -- first of all, our investigators interviewed all of the witnesses that were present there that day at the Georgia World Congress Center where the tabulators were being -- being received. So there were Dominion personnel that were involved in the transport and receipt of that. I believe the investigation confirmed that those people -- anyone that was involved with touching the ballots was properly sworn.

DR. JOHNSTON: In complaint number 4, is there a record of the paper type used for

absentee ballots, emergency ballots, and in-house printed ballots?

MS. MCGOWAN: Yes. So this is an allegation relating to a complaint that pristine ballots were found by auditors that were present, doing the hand-count risk-limiting audit that was done at the Georgia World Congress Center. As part of an investigation, the investigators did look into the claim that pristine ballots were found and looked at the particular box of batch numbers that were identified by the complainant in complaint 4.

They did -- investigators did review those ballots and determined that they did not meet the description provided by the complainant. They did not appear to be counterfeit. They appeared to be lawful ballots.

As part of that, our investigators did obtain a lot of information from Fulton County regarding, you know, both the emergency ballot procedure and they did determine that emergency ballots as well as -- excuse me, that emergency ballots were printed on -- on different paper.

DR. JOHNSTON: That's all.

JUDGE DUFFEY: Any other discussion?

It's been moved and seconded that Case Number 2020-059 be dismissed. All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

It is -- the vote is unanimous.

We now move on to 20-203, Fulton County, tabulation and audit issues. Is there a motion to dismiss it?

MS. MCGOWAN: (indiscernible)

JUDGE DUFFEY: All right. Excuse me. Well, I thought that was 59.

MR. LINDSEY: We're already -- Mr. Chairman, you've already handled that one.

JUDGE DUFFEY: Okay. Well, good. We're moving right along.

Case number 2020-225, Henry County, is there a motion to dismiss that complaint?

MS. GHAZAL: I so move.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been moved and seconded that Case Number 2020-225 be dismissed. Is there any discussion?

MR. LINDSEY: Yes, Mr. Chairman. Perhaps we

need to do it by a rule or statute, but in the final part of the investigative report, there was no SEB rule or statute that prohibited the issuance of multiple ballots to a voter. I've got to ask, why not? And if we don't have such a rule, we need to definitely come up with it.

In this particular case, there was only one ballot cast and so that part was good. But, you know, I'm simply just making a comment here, Mr. Chairman. I don't oppose the -- the dismissal, but we certainly need to look into whether or not there needs to be a rule or suggest a statute to the General Assembly that only one ballot get issued.

JUDGE DUFFEY: Ms. Ghazal?

MS. GHAZAL: I'm not sure that there's anybody here who can answer this question, but I had a note whether or not the GRVIS system has a safeguard against exactly that. Because the allegations here were that poll workers were losing their spot, reviewing the list, and accidentally printed the same ballot multiple times.

So I don't see Mr. Evans here at the moment, but I would like at some point to understand

whether or not this is something that the GRVIS system can prevent happening again.

JUDGE DUFFEY: There's Mr. Evans.

MS. GHAZAL: There he is, speaking of the devil.

JUDGE DUFFEY: We have a question for you.

MR. EVANS: Sure.

MS. GHAZAL: Sorry to put you on the spot.

MR. EVANS: I'm fine.

MS. GHAZAL: We're reviewing a case from Henry County in which poll workers in --

Well, I'm sorry. I don't want to do your job, Ms. Koth. Would you mind very briefly giving an overview of what happened in Henry County, and that would be SEB case 2020-225.

MS. KOTH: Yes. Yes, this is the one where -- this was a continued case. This is one where the superintendent shall procure a sufficient number of blank forms of return made to the proper manner and headed as a mature -- the nature of the primary election may require for making out full and fair statements to all voters.

This is the one where the guy got -- he had a couple of applications. You continued this

from last month.

So I think the question was about GRVIS, if that would catch that.

MR. BRUNSON: Was it the fact -- there was one citizen that was issued the four ballots --

MS. GHAZAL: That's exactly it.

MR. BRUNSON: -- because of the continue. So I guess the question was would GRVIS catch that in the future?

MS. GHAZAL: Yes, exactly.

MR. BRUNSON: So like this, that's the question basically.

MS. GHAZAL: And for context, GRVIS is the new system that is -- has been put in place for the registration.

JUDGE DUFFEY: Now, when you say -- catch that or prohibit it?

MS. GHAZAL: Either -- either way.

MR. EVANS: Prohibit.

MS. GHAZAL: Is there -- is there something within GRVIS that would either signal to -- because there may be a reason to have to print a second ballot. So I wouldn't want it to prohibit printing a second ballot, but to give a notification to the registrar or the deputy

registrar that multiple ballots have been printed.

JUDGE DUFFEY: Red flag.

MS. GHAZAL: A red flag, something. Something. Rather than just --

MR. EVANS: Yeah.

MS. GHAZAL: -- allowing it.

MR. EVANS: So you can only issue one live ballot at a time.

MS. GHAZAL: Okay.

MR. EVANS: And so in order to issue a second ballot for somebody because they made an error on their first, then the person at the county would need to cancel the existing live ballot to issue that second ballot. And the cancellation would occur in the system.

MS. GHAZAL: Okay. So that answers the question. Thank you.

JUDGE DUFFEY: But the --

MR. LINDSEY: Mr. Chairman, in that case, let me -- if I may be allowed to make a substitute motion. And that is instead of a dismissal that we do a letter of instruction regarding the systems and a letter of instruction on how to make sure this sort of thing doesn't

happen again.

JUDGE DUFFEY: So let's see. Would we still find a violation? Or are you saying dismiss it --

MR. LINDSEY: Dismiss with a letter of recomm -- of -- I have no -- I would dismiss but with a letter of instruction on proper procedures to ensure that this does not reoccur in line with what was previously outlined.

MR. MASHBURN: You would issue the letter of instruction first and then the dismissal second.

MR. LINDSEY: Yes.

MR. MASHBURN: Once it's dismissed (indiscernible).

MR. LINDSEY: Issue the letter of instruction.

JUDGE DUFFEY: I mean, don't I have, as the chair, the power to sent a letter saying that the board expects for them to do -- I have to -- can't -- couldn't I do that anyway, even without a complaint? I mean, we can dismiss the complaint; I can still send a letter, can't I?

MR. MASHBURN: I agree with that one.

JUDGE DUFFEY: Okay.

MR. LINDSEY: Yeah. That's what I'm --

that's -- thank you. I accept that friendly amendment to my --

JUDGE DUFFEY: Well, one of the questions I still have is if there's no rule prohibiting that, that's what GRVIS does. But there's still -- there are a lot of invented ways in which people could circumvent the process. Should we still have a rule that makes it ...

MR. LINDSEY: We need -- we need a rule. That's a separate issue for us to come up with.

JUDGE DUFFEY: Okay.

MR. LINDSEY: But the -- for today I simply want to get a letter of instruction --

JUDGE DUFFEY: Okay.

MR. LINDSEY: -- on the proper procedure to ensure that doesn't happen again.

MR. MASHBURN: Mr. Chairman --

MR. LINDSEY: I'm looking for --

MR. MASHBURN: -- and just to clarify a couple points on that. It is illegal to vote twice.

MR. LINDSEY: Yeah.

MR. MASHBURN: No question about it. And we punish many people for doing that. It's also illegal to possess multiple ballots. We've

prosecuted and punished people for that. And it's also -- there's a rule for the counties that they can't allow people to vote twice. So there's lots of -- I think this might be a loophole that needs to be closed.

MR. LINDSEY: That's what I'm talking about.

MR. MASHBURN: But just for the people listening out there --

MR. LINDSEY: Yeah.

MR. MASHBURN: -- who might get the wrong idea, I wanted to clarify that.

MR. LINDSEY: Thank you.

JUDGE DUFFEY: So the motion still is to dismiss -- it's been seconded -- this particular complaint which is 2020-225. But there's also been a request, which is not part of the motion, that I send a letter to tell them that they have to follow proper procedures, including whatever the GRVIS procedure is, which -- I guess, Mr. Evans, if you'll look at the letter to make sure what I say is correct, but at a different time will we consider whether or not we -- we will consider whether or not we need to amend or adopt a new rule prohibiting multiple issuance of ballots.

MR. EVANS: Yes, Mr. Chairman.

JUDGE DUFFEY: Okay. Any further discussion?

So, Alex, did you make a note of all of those things?

MS. HARDIN: Yes.

JUDGE DUFFEY: Excellent.

There being no further discussion, all those in favor of dismissing Case Number 2020-225 say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

It passes unanimously.

The next is Case Number 2021-19 which is a case that Mr. Lindsey is recused from. So he will not participate either in -- in this matter, even, including the discussion of whatever motion might be made, nor will he vote on it.

Is there a motion to dismiss 2021-19?

MS. GHAZAL: I so move.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been moved and seconded to dismiss 2021-19. Is there any discussion? There being none, all those in favor of dis --

DR. JOHNSTON: I have a question or a discussion to ask. In looking at this case, I don't -- I think this particular case should be dismissed, but it raises -- it raised the question of services offered to voters for transportation to the polls.

And my question is if transportation is offered, it -- I would want it to be offered to every eligible voter in the state. I think offers of vote vouchers or Uber vouchers should be accessible and applicable to every eligible voter in election -- in a statewide election.

And I just wanted to make that point. This case, I think it was, it was -- the report initially -- a report said it was offered to people in Atlanta. But with looking further, it was actually offered to everyone in Georgia. But it did not take but two minutes looking on the Internet and I found Uber vouchers offered to -- by nonpartisan, nonprofit groups for particular candidates.

So I think really we'd like to make the point that it's one thing to offer rides as a community service act, a civic-minded sort of act. It's another thing to vote haul, which is

what it's called, vote hauling to get people to the polls.

JUDGE DUFFEY: But there's -- of course we're considering a specific complaint as it relates to specific conduct. I'll note I live in Clarksville. There's no Uber and there's no Lyft. So those options would not mean anything to me.

So it's -- I think you'd have to have legislation on that or I'm not sure that we could require it by a rule. But that's not something that we could consider today.

Does everybody agree with that?

All right. Any further discussion on this matter? All right, all those in favor of dismissing SEB2021-19, knowing that Mr. Lindsey has recused, say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: And opposed, no?

It's unanimous and Mr. Lindsey did not vote.

The next is Case Number 2021-106. Again Mr. Lindsey recuses from this. So he will not participate in the discussion of it or vote on it.

Is there a motion to dismiss 2021-106?

MS. GHAZAL: I so move.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been moved and seconded that Case Number 2021-106 be dismissed. Is there any discussion?

MS. GHAZAL: If I can ask a clarifying question of the investigators. This is a case in which there was a voter who was found to have multiple registration numbers affiliated with their records. Do I -- did I read correctly that, in fact, upon list maintenance activities conducted by the county that those excess numbers were, in fact, removed from the system? So there's only one voter registration record associated; is that correct?

MS. KOTH: Yes.

MS. GHAZAL: Thank you.

No, I -- nothing further.

JUDGE DUFFEY: Yes.

DR. JOHNSTON: Is the voter still on the Georgia voter rolls?

MR. BRUNSON: That we do not know.

DR. JOHNSTON: The report says that the registrant had moved to another state. And my

suggestion might -- I don't know, might be that the supervisor be informed to -- or encouraged to obtain a written request to cancel her registration, her Georgia registration.

JUDGE DUFFEY: Well, is that separate from the motion to dismiss?

DR. JOHNSTON: Yes.

JUDGE DUFFEY: And if it is, what specific additional activity are you recommending?

DR. JOHNSTON: A letter to the supervisor of elections.

JUDGE DUFFEY: By whom?

DR. JOHNSTON: By you.

JUDGE DUFFEY: Well, having spent about a month looking at registration and cancellation, if you have, a move a change of address is not presumptive that they've -- they're no longer a resident, not allowed to vote in Georgia.

I think the best thing to do would be to write and ask the county to look into whether or not she continues or he continues to be a resident. Make --

DR. JOHNSTON: That's my recommendation.

JUDGE DUFFEY: -- that determination. All right. That's the recommendation separate and

apart from the motion to dismiss.

If there's no further discussion, all those in favor of dismissing case 2021-106 say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

It passes unanimously and Mr. Lindsey did not vote.

The next is Case Number 2022-218, Stephens County, voter registration fraud, at tab 8.

Is there a motion to dismiss Case Number 2022-218?

MR. LINDSEY: So moved, Mr. Chairman.

JUDGE DUFFEY: Is there a second?

DR. JOHNSTON: Second.

JUDGE DUFFEY: It's moved and seconded that Case Number 2022-218 be dismissed. Is there any discussion?

MS. GHAZAL: I would like to make a quick comment. This is a case in which a voter had secured a voter registration in order to -- as a form of identification. And I just want to make the point that while the number of voters who don't have proper identification, who don't necessarily have a driver's license is vanishingly small, there are still voters out

there.

There are still people who are eligible to register but who do not have access to the necessary paperwork that they need to get other benefits because it says that the reason this person got the ID was their current ID was expired.

And I just want to highlight that there are still people out there who have trouble obtaining proper voter ID, proper driver's licenses, and I'm grateful that this person is not going to be in trouble for doing what they needed to do. They did not -- there were no false pretenses involved. There was no vote purchasing involved while it may have appeared that way. But this is a highlight that we still have vulnerable voters out there, vulnerable citizens out there who need support and help.

JUDGE DUFFEY: Well, I think that's a good comment, especially for the person who has had the complaint dismissed, and it's an interesting and true observation. So thank you for making it.

All those in favor of dismissing 2022-218 say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

It passes unanimously.

Now we're to Spalding County. This is Case Number 2022-236, Spalding County has given us some information about their case.

Give us a second to review.

Does anybody need additional time to review these materials?

You have a questioning look in your eye.

MS. GHAZAL: Well, I -- I would like to request that we have a full presentation of this case.

JUDGE DUFFEY: Okay. All right. Can you present this case, please? Can you make a presentation on this case so that we have the background and everybody else has the background?

MR. BRUNSON: Okay. We ready?

JUDGE DUFFEY: Yes, please.

MR. BRUNSON: Okay. The Secretary of State's Office initiated this investigation after it received a complaint alleging that someone had cast a fraudulent ballot in the November 2022 general election, a potential violation of Official Code of Georgia Annotated 21-2-566.

Ultimately the investigative findings revealed that the extra ballot that was discovered from a scanner with what appeared to be -- let me back up a little bit. I kind of have a loud voice. So what appeared to be notebook paper styled lines was tested and subsequently determined by the Georgia Secretary of State as being printed on authorized security paper.

The Georgia Secretary of State's Office also determined that the BMD printers are capable of printing ballots in a format that looks like notebook paper style lines if certain buttons are touched. Interviews were conducted and none of the poll workers noticed anyone acting suspiciously, nor did they notice or locate any stray paper laying around or near the voting booths during the routine voting equipment inspections.

The State Election Board rules stipulate that each polling location is to have a poll official stationed at the scanners. And a poll officer stationed at the ballot scanner shall offer each voter specific verbal instructions to review their printed paper ballot prior to

scanning it.

However, the investigation could not conclude there is sufficient evidence to show the expectations were not properly monitoring the scanners which led to the ballot in question being scanned into the scanner.

Additionally, there were reports of multiple printer malfunctions and as the BMDs are not closely monitored, like the scanners, there is a possibility an unidentified voter could have interfered with printer buttons during one of the jams and inadvertently printed a duplicate ballot.

The poll manager performed the proper reconciliation process and was able to catch and remove the ballot in question and said ballot was not included in the tabulation.

JUDGE DUFFEY: Let me just clarify one thing. The practice is there's supposed to be a precinct worker at the scanner; correct?

MR. BRUNSON: Yes.

JUDGE DUFFEY: And that that precinct worker is supposed to watch to make sure that the ballot is scanned; correct?

MR. BRUNSON: Yes, that's correct.

JUDGE DUFFEY: And do you know if it's possible to scan two ballots at a time? Or --

MR. BRUNSON: No, that's not possible.

JUDGE DUFFEY: So your finding is that while that was a requirement, that you couldn't determine who was there at the time that the two ballots were inputted into the scanner.

MR. BRUNSON: Yes, basically. It's unknown exactly when that occurred.

JUDGE DUFFEY: And I guess if you can't do them two at once, somebody, if they had been watching, would've seen two separate ballots being scanned?

MR. BRUNSON: Yes. That's what would have had to have happened because you can't scan two at the same time.

JUDGE DUFFEY: All right. Okay, thank you.

MS. GHAZAL: I have a couple of questions. How many -- how long would it take standing at the printer to scroll through the menu and reset the printing parameters to use the notebook setting? Like, how many times do you have to push a button to go from the preset of a blank scanner to something that looks like this?

MS. KOTH: It's roughly five times. It was

like hitting the button five times it did it. It was the button above the power button. We actually replicated that in the one office and it was just hitting the button continuously. I think it was five times.

MS. GHAZAL: And does it stay on that setting or is it -- would it -- so in other words, would subsequent ballots from that same printer still look like this or would it simply -- would it revert to the standard preset with a blank printing?

MS. KOTH: I think it defaulted back to the original.

MR. HUMES: Yes. It reverted back because there were no other ballots printed on that type of paper.

MS. KOTH: When we did it, it defaulted back. It only did it the one time and defaulted back to the original setting.

MS. GHAZAL: I also want to thank you all from Spalding County for providing this. This is extremely helpful to us to understand exactly what happened. And I also wanted to point out the fact that this was caught the day it happened. It was caught through normal

reconciliation processes.

This is one of the very absolutely critical safeguards that occurred throughout the early voting process. You have to make sure that what goes in is the same thing that comes out. And if you -- when you have an extra number, you figure out what happened and that you all immediately reported it. So I wanted to thank you for that diligence.

JUDGE DUFFEY: And one other thing I would add is that -- because I heard about this as soon as it happened, that it was -- it was really well done that we perceived this, but there's no question about what happened.

And a complaint that's initiated is the only way -- it's the fastest and most immediate way to get an investigator out there to find out what had happened. And so a complaint in a case like this -- you know, the purpose of the complaint system is to find whether or not something's there or not there. It also gives us the chance to get information in order to make a decision, which I think we got in this case. So ...

MS. SLAUGHTER: I do have comments.

JUDGE DUFFEY: What's your number? Are

you -- speak into that. See if that ... Can you speak into the microphone? I just want to see ... Now try.

MS. SLAUGHTER: Okay. All right. Can you hear me? Yes.

JUDGE DUFFEY: Yes.

MS. SLAUGHTER: Thank you. And thank you for allowing me to speak. I'm Kim Slaughter, elections supervisor for Spalding County. I'm here this morning to speak on behalf of Spalding County voters, the Spalding County Board of Elections and Voter Registration, my staff, and myself in regards to State Election Board Case 2022-236, fraudulent voting.

I've taken the time to review the duties of the state election board so that I may fully understand your role when a case comes before you. And I would just like to share a quote that I did find on there: Voting is indeed the most fundamental act of citizenship and public voting since the foundation upon which cities, counties, states, and the national government are empowered to function.

In short, voting is an essential and precious right. Those who choose to participate

in the voting process do so because voting is something they value. Voting is the citizens' voice in their government. As a citizen of our country, an election supervisor, and a spouse of a veteran, I could not agree more with this statement.

So now I would like to just share briefly with you what happened. In October of 2022, during early voting for the November general election, our staff, through daily balancing procedures, noted that the number of early voting applications processed and the number of the times that the ballot marking devices were used totaled. However, the number of votes cast located on the ICP scanner -- and that is where a vote -- someone cast their vote -- reflected one more than that of the applications and the touchscreen totals.

After much consideration, I knew that the only way to confirm the -- whether we were truly out of balance was to conduct a voted ballot removal process. I notified the board, the county attorney, and the county manager of the time that we would conduct this process early the following morning so to -- not to interfere with

early voting.

The following morning, as we were pulling the ballots out of the ICP scanner, we noticed a piece of paper of lightweight card stock containing a printed image of notebook paper with a ballot image over it. And you have that there in your folders with you. That's basically a reference. What I provided to you is a reference to the things that I've discussed with you this morning.

Securing the fake ballot aside, we continued the hand count. After counting the remainder of the ballots twice, the total number of ballots equaled 1,520 without the notebook printed image ballot. Therefore our totals were the following: 1,520 absentee applications in person, 1520 total votes marks on the ballot marking devices, and 1,521 votes cast on the ICP scanner.

The Secretary of State's Office was immediately contacted and an investigation began right away. Seven months later, on May 23rd, our office received the first official communication in regards to this issue from the Secretary of State's investigation division. This is concerning. You can only imagine my frustration

and disappointment after such an alarming event and several e-mails to the Secretary of State's Office in regards to this matter. And at times very little to no response.

I imagine each of you are aware and hear often the scrutiny elections supervisors and officials endure this day and time. We are on the front line of elections because we choose to be. We endure the scrutiny because we see the larger picture, being a part of a process bigger than ourselves, securing the right of fair and legal and orderly elections because we believe in the process.

If we're going to boast a secure election equipment process, then at least we could answer the question why. Why was the fraudulent ballot allowed to be accepted and counted by the ICP scanner?

As an election supervisor, this investigation was started by myself, not by the Secretary of State's Office, because it was necessary. As I have never doubted my poll workers and their work ethic, I do understand that all possibilities should be explored as noted in the response by the Secretary of State's

investigation division.

However, to receive an investigative summary which only addresses Spalding County's processes and procedures as it pertains to early voting and purposely ignore the security settings of the ICP scanner is unacceptable. It is condescending and insulting of Spalding County, our voters, our board, and to me as an election supervisor. Simply put, it's inexcusable.

My presence here today is to inform you of just a few things. First, to say thank you to the investigative division for confirming that in Spalding County we have established efficient procedures and processes for early voting and that we have employed staff and poll workers who follow these procedures with the highest standard of work ethic.

Second, to address what the Secretary of State's investigative division did not address. Why did the ICP scanner, where a vote is cast, accept the type of image before you? Why will it accept any image other than the correct ballot image without lines? And why will it count it?

These are very reasonable questions and they have both been neglected to be answered

thoroughly throughout the investigation. I have taken an oath to carry out the duties of election supervisor for Spalding County. No matter how difficult those duties become, I'm expected to perform and be held accountable and rightfully so.

Spalding County voters, our local board, and our staff deserve the same by those in authority over us to address why there has not been communication along with processes and procedures from the Secretary of State's Office, to address in regards to the possibility of printer error if a voter presses certain buttons on the printer, to address that this communication should include that the image could appear like a notebook image and/or any other images that have been found to be true.

Simple reminder, the candidates' names on the ballot are not what are counted by the ICP scanner. It is the QR code which is read by the scanner. Therefore, the question is why would printers which are capable of printing lines through the QR code be an option as a part of the voting equipment? This is common sense.

The Dominion ICP scanner should be set to

accept only one type of image of a ballot. And there should be processes in places to prevent a printer from printing notebook paper lines if this is indeed the case. Any other type of image should be rejected from the ICP scanner and reviewed by the local election officials.

This is my request. It would've been much easier and simple on my part to see that this case is set for dismissal today and continue the important tasks back at the office. However, apathy is not an option and I hope that it will not be for you as well.

So these are the following requests: Request for a letter correction be written to the Secretary of State's Office to take measures to secure our voting system by setting the ICP scanner to a more secure setting so that fraudulent ballots cannot be counted. Request for a letter of correction be written to the Secretary of State's Office requiring to take measures to inform counties of the possibility of the printer printing images other than what is acceptable for a ballot image. Request to require that the Secretary of State's Office compose an official election bulletin for

processes and procedures to secure the printers so that voters do not have the capability of changing printing options, to ensure that only the proper ballot image can be printed. Request for the Secretary of State's Office to compose an official election bulletin to communicate to counties about the possibility of balancing errors due to the ICP scanner accepting other images than that of a valid ballot image.

I want to pause here to say that I have the opportunity to work with a lot of the staff in the elections division at the state and I'm very thankful for their hard work and their efforts and what they do to aid the counties in the election process. But this is an issue that must be addressed by the Secretary of State's Office.

I'm sure that everyone, along with yourselves, want election equipment to work properly so that we can provide fair, legal, and transparent elections. Please listen to those who are on the front line of elections and take their concerns seriously. Remember to hold all involved with elections accountable, not just those at the county level. This error was not caught by a computer. It was only caught due to

the tireless diligent efforts of balancing all records as suggested before by our staff in Spalding County.

As I accept the praise to our staff for the secretary -- from the Secretary of State's Office in finding the fraudulent ballot, it is much more important to take the measures needed to ensure that it does not happen again.

Thank you for your time and thank you for your consideration in this matter.

MR. LINDSEY: Mr. Chairman, comment?

JUDGE DUFFEY: Yes, sure.

MR. LINDSEY: First, you know, there are two issues here. One is whether or not Miss Slaughter and her staff did anything wrong. That's what the complaint's about. So I certainly think that we should dismiss that.

The second question is what can we do to make sure the Secretary of State takes the necessary steps or find out from the Secretary of State what necessary steps to make sure this doesn't happen again.

We do this periodically, I mean in terms of asking for the Secretary of State's Office to appear. For instance, I believe it's tomorrow

we'll have the Secretary of State's Office come and appear and discuss what steps they're taking in terms of the -- the recommended updates in terms of the timing. We're going to have them come testify tomorrow.

And that was pursuant to a letter from you, Mr. Chairman, for them to come and then for us to consider that.

So -- and I want Miss Slaughter to understand. I'm going to move to dismiss the complaint but I don't think your office did anything wrong.

But at the same time, I would once again, Mr. Chairman, as we often do, ask for you to ask the Secretary of State's Office to appear to be able to answer what nec -- what are the necessary steps needed to make sure this doesn't happen again, similar to what we're doing tomorrow with the software update request?

But I want to make a motion to dismiss -- ask the matter to be dismissed, but I do think that the board, in keeping with what Miss Slaughter has stated, that we get the Secretary of State's Office to come in. It may very well be after -- at the next hearing because they'll

probably need some time to figure out what exactly needs to be done for a fix.

So I want to make sure you understand when I move to dismiss what's going on.

MS. SLAUGHTER: I appreciate those efforts.

JUDGE DUFFEY: And I would respond too. The -- you know, I have all of these -- all of these complaints in my notebook. The most tabs I have are on this complaint because it's still a mystery to me, based upon this, what happened, why it happened, what safeguards are there so that it won't happen again?

And I think what -- your suggestions, while I didn't assimilate and really understand all of them, I'd ask for you to go ahead and if you don't mind just typing them -- making -- giving me a copy of what you read. I think that the issue on this incident is not closed and it needs to be further investigated.

I don't think I can ask the Secretary of State's Office to do that tomorrow because I've given them another charge. But I do think we ought to have a report on this at the next meeting, how this happened and why did it happen and how can we make sure it doesn't happen again?

I mean, from what I understand so far, even from the investigators, is that it could happen anywhere.

MR. MASHBURN: Mr. Chairman?

JUDGE DUFFEY: Yes.

MR. MASHBURN: May I make a comment?

JUDGE DUFFEY: You may. I know you want your microphone on.

MR. MASHBURN: Two. Yeah, that's true. Thank you, Mr. Chairman. I have a comment. I will -- it might be the time to -- for this to -- to raise this when we have discussion after the motion's been made, but I will probably dissent from the motion to dismiss, although I expect it to pass, for the simple, inescapable conclusion that the scanner worker allowed one person to scan two ballots.

And so if we look at this from a rule-making or a statute-making standpoint, what's the best way to prevent this from happening? The very best way to prevent this from happening is to station a scanner worker, an election worker at the scanner and make sure that one person doesn't scan two ballots. And the county didn't do that. One person did scan two ballots.

And so I just dissent and disagree with the statement that any new rule-making needs to be put in place because I think we already have the rules in place to prevent this from happening, is that the scanner worker should have noticed that there was a nonconforming ballot printed on what appeared to be notebook paper. And the scanner worker should've -- should have been able to identify that one person was scanning two ballots.

Now that being said, there are good things that happened here. And as a longtime poll watcher, one of the very first thing -- and a tabulation monitor, one of the very first things I would do is I would, at the end of the day when the ballots were finished -- when the balloting was finished, I would compare what we used to call the numbered list of voters to how many ballots there were. And so as the volunteer tabulation monitor, I would -- I would discover it.

And here the county did discover it. So I credit the county and I appreciate the county's diligence on that, in catching that. And just for the people that are listening, that shows the

system worked. That's one -- and Sara brought this up a minute ago. And she said, you know, that's one of the basic fundamental checks is you say, Do we have more ballots than people who voted? And so that is in place and that worked. It work perfectly.

The other thing to bring up, and just for education purposes for the people out there, is that's why the concept of the margin is so important in election contests in that you have one rogue ballot out there and what would happen is the candidates in the case would bring an election contest and a judge would say, Well, do we have one ballot that's issued here or do we have 1521 ballots that are issued here? And the judge would make a decision as to whether or not to have a new -- to have a new election. So there's also a process put in place for that.

Now, for the other counties out there, you know, we bring up ideas to other counties. And one of the things I'm going to have to do -- or one of the things I'd like to do with this case is to mention to counties make sure -- your scanner workers have to thread a very difficult needle because they have to stop one person from

scanning two ballots, but they also have to not appear like they're looking to see how a person voted. Because if counties don't thread that needle very carefully, we're going to end up with thousand complaints of people who said the scanner worker looked to see how I voted. And I'm just -- I'm just telling you that's coming if you don't do it right.

So just be thoughtful about what you do. But two things need to be to done, is that the scanner workers need to be more diligent against this new threat that has emerged and -- but they can also not -- they've got to be sensitive and not appear to be looking at people's ballots.

So that's my comments.

JUDGE DUFFEY: Let me just add one thing. The -- when I asked the investigator -- because the respondent in this case is the supervisor. But I asked the investigators whether their finding was not that somebody had done something that they shouldn't have done which is watch two ballots being scanned, but whether or not they could identify who that person was. And the investigators said they couldn't.

So does that mean since we don't really know

what happened and we don't know whether or not somebody was in cahoots with the person who did two ballots and therefore that would not -- would that be the responsibility of the respondent? I mean in this case the elections supervisor?

And I think on this, on the record that we have here that the finding that -- that we don't know who did it, we don't know the circumstances under which it was done, and we don't know if it was done surreptitiously by somebody cleverly having two ballots. Knowing that they wanted to put two in and did it one after the other, knowing that the person is careful not to be looking at whether -- who they voted for, is that something that the superintendent should be responsible for?

Now, that said, I'm not -- so I'm not sure that we should not dismiss the complaint. But your comments accentuate this problem. There is a problem here that needs to be resolved. And I don't know how you correct it and what we can do to correct it, but I think we ought to make an effort to find a correction because I still, with all of my little questions, don't know what happened. And I want to know.

MR. MASHBURN: I agree. I agree that that is a problem that needs to be addressed and it may be that we can't get -- we can't figure out what happened. And in that case the important detail is if you can't figure out how it happened is that you've got to rely on your procedures that are in place that clearly: Wait a minute. We got -- we've got more ballots than we have voters. Alarm, alarm, alarm.

And so they did the right thing there. And there's no question about it. They did the right -- the absolute right thing there. And it might be that -- that we can't figure out a better way to catch it. And we just have to rely on the systems in place. And here the systems in place worked -- worked absolutely perfectly.

So, you know, I don't know. I don't know. But we still don't know what happened. I agree with that. And we -- and we ought to know if it was -- and we ought to know absolutely if -- if it was the scenario when one voter put in two ballots, the ideal result of that is my scanner worker said, Don't do that, sir or madam. You can't do that. That would -- but it didn't.

So, you know, maybe somebody smuggled one

in, you know, at the end of the day. I don't know. We just -- we just don't know. But the system worked.

MS. SLAUGHTER: I'd like --

MR. MASHBURN: It might be -- it might be that the result of an investigation -- and investigate this further -- is that you've just got to trust the system that's in place to catch it if it happens.

JUDGE DUFFEY: Ms. Ghazal.

MS. GHAZAL: An alternative to one -- one voter scanning two ballots would be somebody who had used the BMD and did not have a voter access card could have alone scanned that extra ballot somehow.

So my question is does the rule for the -- there may be a -- there may be a rule-making fix if we could put a tweak to the rule that the scanner's poll worker ensures that anybody scanning a ballot also still has their voter access card that goes into the BMD. If they're not already doing that -- and I don't have the text of the rule in front of me, but that could be sort of your "I have the card, here's my ballot."

So part of the responsibility of the scanner poll worker is to ensure that anybody who has a ballot to scan also still has their card because if they have that card that means that is a val -- that they have just gone through the -- checked in the -- they got the card so it's a valid vote and that -- and they can only have one vote.

Do you see where I'm headed with that? I don't know.

If you can enlighten me and --

MS. SLAUGHTER: I'd like to speak to that.

MS. GHAZAL: Yes.

MS. SLAUGHTER: To a couple of things that have been said, also another possibility. Because believe me, my mind went round and round, how did this happen?

Also, we had many voters who were assisted by other people. So just to bring to light that if an -- if someone assisting a voter was not voting but had possession of a fraudulent ballot made somehow, some way, or -- and then was in line and cast that just like every other voter in line to cast their ballot, that is a way it could happen.

Now, that would prevent it by -- and that is what I made sure of, is that my poll workers were watching that each person who scanned a ballot had a card in their hand --

MS. GHAZAL: Yeah.

MS. SLAUGHTER: -- to ensure that that would not happen.

Just to mention, before when you stated about the poll worker didn't do -- as far as catching it, you can't look at the ballot. You can't see that the lines -- the ballot can be scanned facedown; the ballot can be scanned faced up, backwards, forwards. So you would not know.

Also, I don't know if you're aware, the ICP scanner also accepts paper that's not of security. So there are measures. We can look at the county side of it and, yes, there are processes and procedures in place and they should be followed.

But we also need to look at the other side of it. And the ICP scanner should be more secure. It should be set only to accept security paper. And it should be only set to accept one type of ballot image.

MR. BRUNSON: Can I just clarify something?

The ballot was actually on security paper.

MS. SLAUGHTER: Right.

MR. BRUNSON: So it's not just --

MS. SLAUGHTER: No. And I wasn't saying it wasn't. Yeah, I just wanted to --

MR. BRUNSON: I just wanted to clarify that. So it came from that printer. It was security paper. It was wanded by the Dominion wand and determined to be security paper.

JUDGE DUFFEY: Yeah. I think we understand that.

Somebody made a motion to dismiss.

MR. LINDSEY: I said I'm going to.

JUDGE DUFFEY: Okay.

MR. LINDSEY: And I said that I look forward to hearing the discussion as to what we do next. And so I'll -- I'll go ahead and make the motion to dismiss at this time.

JUDGE DUFFEY: Is there a second?

All right, there's a motion to dismiss Case Number 2022-236 but it has not been seconded. So what happens in a complaint --

MR. LINDSEY: Well, I can make a second motion since my first one went down in flames. A motion to continue and then we'll have further

investigation --

JUDGE DUFFEY: All right. So now there --

MR. LINDSEY: -- into the matter.

JUDGE DUFFEY: Now there's a motion that case --

MR. LINDSEY: See about continuing this one first.

JUDGE DUFFEY: I'm trying to channel exactly what you really meant to say, which is you want to move to continue to the next meeting Case Number 2022-236 and instruct the Secretary of State's Office to further investigate this matter and to explain to the board the various possibilities according to which this could have happened under the current Dominion system.

MR. LINDSEY: And how -- and what corrective measures could be taken, will be taken to make sure it doesn't happen again.

JUDGE DUFFEY: All right.

MR. MASHBURN: I'll second that motion, and I'd like to add to it, if it's acceptable to the movant. But I -- I second the motion to continue.

I would like the record to include a list of the names of the voters who were in on that 1520.

I would like the record to include that. And it can be redacted for the public, but I think the board has the right -- and I think it's public record, but I think the board has the right to review that.

JUDGE DUFFEY: And what's your thinking on that?

MR. MASHBURN: Just if there's anything remarkable about the people who appear on that list.

JUDGE DUFFEY: All right. We could -- that could be added to the motion if you agree.

MR. LINDSEY: Yes.

JUDGE DUFFEY: So it's been moved and seconded that we continue 2022-236 and that the Secretary of State provide further investigation and an explanation to the board, which I would request be in writing, as to what are the possible means by which this ballot could have been entered in the system, to explain why the scanners would accept or how a -- how a duplicate QR code could be stamped upon the ballot that had the lines on it, which is the ballot that should not have been scanned, and then, finally, to provide to us a list of all the people whose

votes were counted.

MR. MASHBURN: Were included in the 1520.

JUDGE DUFFEY: Were included in the 1520.

And has that been seconded? Have you -- did you second that?

MS. GHAZAL: Second.

MR. MASHBURN: Second.

JUDGE DUFFEY: And you accepted the amendment. So your motion we can consider as amended?

MR. LINDSEY: Yes.

JUDGE DUFFEY: All right. Is there any further discussion on the motion?

There being none, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

Motion's unanimous.

All right. The next is Case Number 2022-273, Fulton County, phone solicitation vote buying.

Is there a motion to dismiss this case?

MS. GHAZAL: I so move.

JUDGE DUFFEY: Is there a second?

DR. JOHNSTON: Second.

JUDGE DUFFEY: It's been moved and seconded to dismiss case 2022-273. Is there any discussion on the motion?

There being none, all those in favor of dismissing 2022-273 say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

The motion passes unanimously.

And the last in this section of complaints is Case Number 2020-140, Fulton County, wrong ballot style.

Is there a motion to dismiss this complaint?

For the audience, it's not that -- this group in particular is not shy about speaking up. Sometimes you've got to go back and remind yourself what exactly the complaint is.

MR. MASHBURN: What tab are we on?

JUDGE DUFFEY: Twenty-five.

MR. LINDSEY: Twenty-five.

MR. MASHBURN: Oh, I'm sorry. My bad.

MS. GHAZAL: May I request that this case be fully presented.

JUDGE DUFFEY: Yes.

All right, can we have a presentation on this case, please.

MR. BRUNSON: Yes. So this is case 2020-140, Fulton County, wrong ballot style.

On October 23, 2020, Investigator Hall spoke with a Mrs. Dixon who wrote a letter to the Secretary of State's Office indicating that her family received different ballot styles even though they all registered at the same address in East Point.

Ms. Dixon and her daughter received ballots of the wrong congressional district listed for their residence. Thus neither she nor her daughter were able to vote for the Fifth Congressional District candidate. Instead of Congressional District 5, her ballot had Congressional District 13.

Further investigation and an interview with Michael Barnes, the director of the Secretary of State's CES, revealed that there was a mistake made when the ballot was printed out. That ballot was then sent out to Fulton County. The assistant elections director, Dwight Brower, reviewed it, approved the ballot, and that is how the two different ballots went to the same location.

So as far as -- there were 94, we believe,

individuals that may have been affected by this, although only two individuals came forward. And that was the complainant and her daughter.

So the investigator researched the election results for those particular races that were impacted: U.S. House District 5 and U.S. House District 13. And both of those elections were decided by -- well, first, District 5 was decided by 249,211 votes and District 13 was decided by 36,446.

So basically those 94 individuals that we deduced were impacted would not have ultimately impacted the election results. Both of them were quite significant as far as the differences between the two candidates.

JUDGE DUFFEY: Well, in order to have a discussion, I think need a motion.

Would you like to make one?

MS. GHAZAL: I would like to move that we issue letters of instruction in this case because ballot builds and failure to proof ballots have consistently been a problem. Not isolated to any single county, this has happened across the -- across the state. But we just had a special election that was decided by 14 votes last week.

So when this happens, it -- the outcome is really significant and I don't think we should be dismissing cases like this.

JUDGE DUFFEY: All right. So would you find a violation?

MS. GHAZAL: I would find a violation by the county and by the Secretary of State's Office. And I think that -- the difficulty for the investigators is they were getting some alternative stories. There was a violation. We don't know exactly who did it, but there was definitely a violation of election law here and I don't think we can dismiss it.

JUDGE DUFFEY: And what would the violation be? What I hear you saying is you want to make a motion to find a violation and then --

MS. GHAZAL: Yes. The county failed to properly proof the ballots and identify the error. That appears to be -- it appears to be a ballot proofing error and not a districting error according to the investigative report.

And I don't -- I don't know whether or not the Secretary of State's Office said there was a specific violation. There was an error on their part. I do not know whether that would

constitute a violation. So that's something that I think --

JUDGE DUFFEY: So what would your motion be? A violation against which respondent?

MS. GHAZAL: Against the county certainly. I would move that we issue a letter of recommenda -- a letter of instruction to Fulton County with regard to ballot proofing.

MR. MASHBURN: I'll second that.

JUDGE DUFFEY: All right. It's been moved and seconded that SB2'20-140, that there be a violation found against the county with the recommendation that a letter of instruction go out to them as the remedy, rather than referral to the Attorney General's Office.

Is there a second? Did you say that?

MR. MASHBURN: I did.

JUDGE DUFFEY: Any discussion? You all sort of discuss -- you know, it's interesting. We heard the Fulton County Performance Review. This is a 2020 complaint, following the 2020 election. And I think this, in and of itself, is an illustration of the problems that Fulton County was having in 2020.

You know, I -- as a voter, when I go in, I

expect to get the right ballot. And if I don't get the right ballot, you can't trust me to recognize I have the wrong ballot. And I think that this is a significant error and I would support the motion.

In fairness to the respondent, if there is anybody here from Fulton County that would like to speak to this, they may.

MR. ALEXIS: Good morning. Chad Alexis from the Fulton County Attorney's Office. We are here but, no, we would not like to speak to this.

MS. GHAZAL: And I just want to add to be clear, this is not an issue that is in any way isolated to Fulton County. This is an issue we've seen repeatedly. But it is one of the most important things -- one of the most important responsibilities in preparation for an election, that every single ballot, every single ballot style be proofed carefully.

If -- when mistakes like this -- we had a nearly catastrophic failure in some county commission elections over this. It is absolutely critical that everybody work together and take this portion of the process incredibly seriously and figure out how to build in redundancies to

make sure that it's not just one person's eyes looking at these.

We're not going to tell you how to do your job, but we are going to tell you you have to do your job. And this is an important part of it.

JUDGE DUFFEY: You know, this particular process, it's at the very beginning of the process. And it's probably the easiest thing to do, which makes you wonder why it's missed so often. You -- the people that are running elections should know what their ballot style should be and who should be on it. And that -- that needs to be correct.

All right. Any further discussion?

All right, SEB2020-140, there's a motion to find a violation but to send a comprehensive letter explaining the importance of not violating the statute by not sending out the correct style of ballot to voters. All those in favor say aye?

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

It passes unanimously.

All right. We've been going for two and a half hours. Frankly, I think this is a logical place to stop for lunch. So we will adjourn for

lunch. I would like to take -- before everybody starts moving around, I would like to only take 45 minutes for lunch and be back here at 12:15 to begin again.

All right. We'll be in recess.

(Lunch recess)

Cases Recommended For Letters of Instruction or Referral

JUDGE DUFFEY: We are back in session. We will now return to the violation cases recommended for letters of instruction or referral to the Attorney General's Office. And it is our custom to hear a report on each of these, and we will follow that.

So let's have a report on Case Number 2020-01, absentee ballot irregularities in various counties.

Twenty-five. No, twelve, twelve, twelve, twelve.

This report by the way is 87 pages long.

MR. BRUNSON: Yes.

JUDGE DUFFEY: Don't read each page.

MR. BRUNSON: No, no, no. I'm just going to try to give an overview and then if you want I can go through -- there's 17 respondents here.

So -- and I can kind of give a -- a overall.

So this case involves absentee ballot signature irregularities that involve numerous counties in Georgia and ballot applications and ballots that were rejected due to mismatched signatures.

Overall there were 17 respondents in the investigation and it revealed the following. Thirty-nine absentee ballots were rejected due to the elector not signing their oath. One absentee ballot was rejected due to missing information on the oath envelope. One absentee ballot was not a mismatched; the ballot was not returned. One absentee ballot was rejected because the elector wrote the wrong date in the date of birth section. One absentee ballot was listed as rejected but it was not rejected.

A hundred and ninety-eight absentee ballot signature mismatches were not resolved. Sixty-nine applications for official absentee ballot signature mismatches were not resolved. Nineteen absentee ballot signature mismatches were resolved. And sixty-two applications for official absentee ballot signatures were resolved.

So, I mean, I can go through each one of the violations that we saw the citizens and the circumstance if you would like. Board?

Chairman, do you want me to go through each one? I can do that if that's what the board ...

JUDGE DUFFEY: Can you maybe go over a couple of representative samples of what you saw with respect to violations that you found?

MR. BRUNSON: Okay. So looking at the first individual, Mary Bryant -- so during the November 6, 2018, general election, the Bartow County elections office received an application for official absentee ballot in the name of Demarcus(ph) Bryant. The application was not signed in the name of Demarcus Bryant. The signature on the application was Mary Bryant. The elector was found not eligible to receive an absentee ballot because of a signature mismatch.

Lynn Christian. There is evidence to suggest she violated O.C.G.A. 21-2-318[sic](c)(i), making of application for absentee ballot, in that during the November 6, 2018, general election, the Bartow County elections office received an application for official absentee ballot in the name of

Theophilus Christian. The elector was found not eligible to receive an absentee ballot because of a signature mismatch. Lynn Christian advised during an interview she signed her husband's name to the application because he was not home to sign it.

Denise Cobb. There's evidence to suggest Denise Cobb violated O.C.G.A. 21-2-385(a), procedure for voting by absentee ballot and that during the November 6, 2018, general election, the Burke County general elections office received an absentee ballot in the name of Janiel(ph) Jones. The absentee ballot was rejected because of a signature mismatch. Denise Cobb stated during her interview she might have voted her son's ballot and signed his oath because he was away at college.

So the rest of the potential respondents are very similar in nature to that in which there was an admission, basically, that they signed either an oath envelope or an absentee ballot application for someone else. And then they gave various reasons for that. Some of them were the person was not at home, the person was sick, and those type of things.

So that's pretty much a representative of the rest of the 17 individuals that basically were listed as respondents.

Now, there were some individuals, in looking at this case -- this was a voluminous case, 87 pages -- there's a couple of individuals upon further review that we're going to take a look further at, specifically one in which a mother indicated that her daughter might have signed it. So we're following up on that. Just found out that the mother has since passed. This has been five years ago, but we're still trying to track down the daughter.

There are some other people that are part of this case that said, Well, I might have; I can't remember, that type of thing. So those are the individuals that, you know, maybe an LOI, something of that nature. It's not enough as far as preponderance in some of these cases. And unfortunately this is almost five years ago when this happened. So that's what we're kind of looking at with this -- with this case.

JUDGE DUFFEY: Okay. Can you tell us -- because it says that this was instituted by the Secretary of State's Office, but -- and it does

relate to a bunch of different counties. What was the emphasis -- or the impetus for these to be investigated? How did this come about that the Secretary of State's Office commissioned the investigation?

MR. BRUNSON: Okay. There was a series of e-mails, I believe, during that time.

Glenn, you want to come up here?

Glenn Archie was the inves -- he's our supervisor in the Macon office. At the time he was the investigator who -- who put this 87-page investigation together. So ...

MR. ARCHIE: Yes, Your Honor. Back in 2020, we were asked to look at this particular election in 2018. Part of that election, I think there was a court order that came out from one of the courts in Georgia in reference to treating them as provisional ballots in reference to signature mismatches and other things like that.

And we were given spreadsheets of numerous counties in Georgia to follow up on. So we had to have the Atlanta office and the Macon office to cover all these counties and contact the elections offices and get the documents and then, of course, interview the voters.

And like the deputy chief said, there are several people that were cited for potential violations, but during -- the ones I spoke with, there were some where a family member had a stroke; they were not aware that they couldn't sign their name. There were several of those involving that. And I -- you know, I informed them that, you know, I would include that information in my report and then the board would review it and make a decision case by case.

But that -- I mean, that's pretty much in a nutshell. We were asked to review it and see if they were cured properly by the counties and all of that, involving that court order.

JUDGE DUFFEY: Okay. Well, we've all had a chance to go through this. It's -- it is lengthy. I would say I'm impressed with the amount of detail that you provided. And the effort that you went with respect to each person, it's heartening to see that there's enough here for us to review to say that looks to me like the right conclusion that you reached as investigators. And so I appreciate all of your hard work on this and I know that this took a long time to prepare. So thank you for that and

we appreciate it.

Is there a motion with respect to this complaint?

MR. KIRK: Can I speak to one of the cases?

JUDGE DUFFEY: Pardon me?

MR. KIRK: Can I speak to one of the cases?

JUDGE DUFFEY: Sure. Which one?

MR. KIRK: Investigator -- the family was just here a moment ago, the one who she signed her husband's name, Bartow County (indiscernible).

MR. ARCHIE: Lynn Chris -- Lynn Christian was her name.

MR. KIRK: So Lynn contacted me about a week ago -- she is a voter in Bartow County -- about this case. She'd been trying to reach out to the investigators, was not able to reach them, to explain what was going on. She was here earlier but had to leave. It was a hardship for her to make it down here today and couldn't stay through lunch, but wanted to make sure y'all knew -- I offered to speak for her since she had to leave -- that her husband was at home because he had a stroke.

And she doesn't -- she was allowed under law

to request that ballot on his behalf because of that disability. And the application that she had to use was a postcard application from a campaign. And back in 2018, the campaigns confused their own form for applications. On their old postcards. You know, they had a name, an address, sign here if you want your ballot and send it in -- and then you're to go ahead and send it in.

They had no instructions for assistance; no instructions for requesting on behalf of another; no place to say, He has a disability, I'm going to sign on his behalf. And she did the best she could with her knowledge of the law, understands now that that was the wrong way to do it, understa -- and, of course, it's a moot point now. We can't do those applications anymore.

Now, thankfully, every voter has -- or every family member, the instructions in front of them to know what's legal, what's not, and the proper way to do it. But I did think it was important to note that the piece of paper she had in front of her only had one line to sign, no instructions for assistance, no instructions to request on behalf of another at a time that her family was

in crisis.

I just thought y'all would want to know that. Thank you.

JUDGE DUFFEY: All right. Thank you, Mr. Kirk.

Ms. Ghazal?

MS. GHAZAL: I don't have a motion to make on this entire case because I think it's really important to differentiate between applications and ballots because, well, even in 2018 the law differentiated between who was eligible to apply for a ballot.

So there may have been some technical errors by family members who in fact were -- submitted lawful requests but signed on the wrong line on an application or did not have the line to sign versus those voters who signed the ballot on behalf of a family member which is and was a violation of the law.

So I think that we're going to have to address the respondents on an individual basis.

JUDGE DUFFEY: Well, if you've looked at the ballot people, why couldn't we move -- make a motion with respect to them and refer the registration people back for further

investigation?

MS. GHAZAL: I think the applications I -- I would move that those respondents who signed applications on behalf of family members simply receive a letter of instruction.

So that's my first motion.

JUDGE DUFFEY: All right. Is there a second to that motion?

MS. GHAZAL: I think we actually may have some respondents here who would like to speak.

MS. COBB: I just have a question regarding -- you read my name off (indiscernible).

JUDGE DUFFEY: One -- one second. Where -- what number are you? Your seat number?

MS. COBB: (indiscernible)

JUDGE DUFFEY: Okay. Now try it.

MS. COBB: Okay.

JUDGE DUFFEY: So you're the person I helped get your parking ticket this --

MS. COBB: Yeah. (indiscernible).

JUDGE DUFFEY: Parking sticker this morning. No, that's her. Got it?

MS. COBB: Okay. I just wanted to see if whether each person was going to get to speak.

JUDGE DUFFEY: You are. You can speak.

MS. COBB: Because what --

JUDGE DUFFEY: Well, what's your name? Tell us your name.

MS. COBB: I'm Denise Cobb. I'm Ja -- Janiel(ph) Jones was the person.

JUDGE DUFFEY: Okay. Wait a second because it's -- and what county are you from?

MS. COBB: Burke County.

JUDGE DUFFEY: Denise Cobb?

MS. COBB: Yes.

JUDGE DUFFEY: Got it. Okay. Go ahead.

MS. COBB: Yes. And with my case, they said that I signed for my son to vote, but I actually -- actually the day they did the investigation, I was driving. So my son called and I ended up speaking to my son. And he was rely -- relying -- he was replying whatever I said to the person that was there. He said it was somebody from the voters board.

So I thought that they was talking about the application for him to get the absentee ballot. And I did sign that. I signed one for him and one for my daughter to get one because he was going to -- I'm sorry, I'm a little nervous. He

was going to Albany State and she was going to Middle Georgia State. So I signed for them to get them. And when he said, Did you sign? I thought he meant did I sign the thing for them to get the applications.

Because when I got the applications, I knew it was going to be too late for me to take up to the school. So I threw them in the trash. And I -- I guess I -- you know, I talked to my lawyer twice and she said that's something that I shouldn't have did, was throw them in the trash for both kids, because I said I knew that they had to do it with their school and I thought the school had to send some information, saying that they was registered in school.

JUDGE DUFFEY: Well, the -- just so that you're clear, the allegation is that the absentee ballot was signed, not the request for a ballot.

MS. COBB: Yeah. And I didn't do that. I thought -- because this had been so long, I was thinking when the people -- because I actually was at the store and they asked me did I have anybody that needed one. And I told them yes. I said, But my kids are at school so I can't sign for them. And the lady said, You can because

you're their guardian. So you can sign to get their ballots.

And that's what I thought they were talking about when he called me on the phone because I was driving. And I -- I am really a nervous driver, but when I saw my son's name pop up, I thought some -- it might've been an emergency situation. So I answered.

JUDGE DUFFEY: So what you're saying is that the conversation you had with the investigator, you thought, pertained to a request for a ballot as opposed to the actual ballot.

MS. COBB: Yes. And with me driving, I -- that's why I said I might've got a little confused but I kept thinking that it was talking about the application for that. And so I said, Yes, I probably did. I probably did. That's what I was telling my son because I talked to my son, not the person that was at the house.

But he told me that he -- if he needed to talk to anyone, he would. But he had to work last night, so he couldn't be here.

JUDGE DUFFEY: Okay. Do you know who signed his absentee ballot?

MS. COBB: I don't know because I -- I threw

it in the trash. I didn't think that anybody would've -- because it was him and my daughter. They both were away at school -- at school. So I threw both -- I had two. I threw them both in the trash.

JUDGE DUFFEY: But if you threw the ballot in the trash, there wouldn't be any record to show that there was a missed signing. So I think if I'm right, this absentee ballot was actually returned --

MR. ARCHIE: It was. It was returned --

MS. COBB: Yeah. That's why I said I don't know what happened and how it would've got returned because I had two. So it should've been him and my daughter that somebody would've did it for. I don't know that somebody went in there after me or whether it was my -- because I live down the road from the landfill. So we throw our trash out there. Whether somebody might've went to the dumpster and got it, I don't know.

But I know the only thing I signed for was them to get the paperwork to do them. And like I said, I knew I didn't have enough time because I thought everything be in sunk through the school. So I just threw them away.

MR. ARCHIE: Can I add something, Your Honor?

JUDGE DUFFEY: Yes.

MR. ARCHIE: When I spoke with her son about -- in reference to this case, he told me at first that he was not registered to vote. Then I went through my documentation. I pulled off the road so I could pull my documents. I said, You registered when you -- through DDS. And then he sort of remembered registering to vote.

Later on, I did talk with Miss Cobb. And during the interview, I also make sure they understand I'm talking about either applications or absentee ballots. And when I asked her questions about the absentee ballot, that's when at one point in our interview she said she might have voted his ballot and signed his oath because he was away at college.

MS. COBB: Your Honor, what date did I talk to him on? Because the only time I remember talking to somebody was when my son called me and I was driving. And I didn't talk to that person directly; I talked to my son. Because I remember the person saying -- like, making him repeat himself and that was it. I never spoke to

anybody directly.

The only time I spoke to someone directly was when I got my package in the mail. And when I called then, I told them, I said I -- you know, I didn't say that I signed it. I said I think it was a miscommunication. And they said, Well, you want to go back on what you said, then you can do that. But this is what we have in the paperwork. And I said I never talked to anyone directly. I talked to my son and my son was delivering the messages.

JUDGE DUFFEY: Did you ever talk to her son?

MR. ARCHIE: I did. I contact --

JUDGE DUFFEY: What did he say?

MR. ARCHIE: He advised me -- like I've already said, he said at first he wasn't a registered voter. But then I -- I informed him he was. And then he had no knowledge of receiving an absentee ballot or voting one. But it was returned in his name.

JUDGE DUFFEY: All right. Any further questions either of the respondent or the investigators?

All right. Thank you very much.

MS. COBB: Thank you.

JUDGE DUFFEY: You have to use -- use that one.

MS. COMBS: I'll take yours.

Sorry, Your Honor.

JUDGE DUFFEY: We know that one works.

MS. COMBS: I'm Kontaunya Combs. And I received a letter.

JUDGE DUFFEY: Hold on for one second.

MS. COMBS: Okay.

JUDGE DUFFEY: Tell me your name slowly.

MS. COMBS: Last name is Combs, Kontaunya.

JUDGE DUFFEY: Okay, thank you.

MS. COMBS: You're welcome.

I received this letter a few weeks back and it blew my mind. But I contacted the number that -- well, I pulled up a number on the Internet and called and spoke to Gil. Gil told me to reach out to -- well, he transferred me to Mr. Archie, I think, the next day.

And I spoke to Mr. Archie, and he asked me did I ever get interviewed? And I said, No, I was never interviewed but my grandmother was in regards to signing their ballots, her and my grandfather, since -- he's since passed and he passed in November so he's not here. But they

did speak to my grandmother.

But I've always signed everything for them. She has trembles, whatever. He couldn't sign because he had a stroke. So I did let him know that. But he said that -- to get them new voter cards, get new voter cards and let her sign it best she can. And then when she does this again, then she can sign it herself. Because I sign every -- I do everything for her, legally, whatever it may be. So I didn't know that that was an issue.

So that's what I wanted to say. But she's here if you need to speak to her also.

JUDGE DUFFEY: She being your grandmother?

MS. COMBS: My grandmother, Sara Scott.

JUDGE DUFFEY: All right.

Ms. Scott, thank you for coming down.

Any other respondents want to speak?

MS. GHAZAL: I'm sorry. Mrs. Sara Scott? I have a very quick question for Ms. Sara Scott.

MS. COMBS: She's right here.

JUDGE DUFFEY: No, we can take --

(Cross-talking)

MS. GHAZAL: We can -- we -- you -- it's oh, yes. That's fine. I'm so sorry to -- to

inconvenience you.

But, Mrs. Scott, did you, in fact, complete your ballot, the ballot that your granddaughter signed on your behalf? Did you complete your own ballot?

MS. COMBS: She said did you complete your ballot that I signed for you?

MRS. SCOTT: As far as I know, I did.

MS. GHAZAL: Thank you, ma'am. That's -- that was the only question I had for you. I appreciate it.

And thank you so much. I know it was -- it's a great deal of trouble coming here. So I really appreciate that you all came down here for this.

MS. COMBS: Thank you.

MR. MASHBURN: Tinisha, before you get comfortable, I have a question for you --

MS. COMBS: Yes.

MR. MASHBURN: -- if you don't mind. Need you to come back up, sorry.

JUDGE DUFFEY: If you hold that long enough, we give it to you.

MR. MASHBURN: So you -- you've done the research you need to do to make sure that in the

future you're going to do this the right way?

MS. COMBS: Yes. We are ordering new voter registration cards to let her sign it herself.

MR. MASHBURN: Okay.

MS. COMBS: So when she does, when this comes around again -- next year? Yeah. -- next year, I'll just assist her. I won't touch anything. Whether her signature is scribbled, you can barely see it, that's just how it's going to be. I'm not touching anything ever.

MR. MASHBURN: So if we sent you a letter that said don't do it again --

(Cross-talking)

MS. COMBS: Oh no, you have (indiscernible) --

MR. MASHBURN: -- you're not going to do it again.

MS. COMBS: No.

MR. MASHBURN: So that'd be a good solution from your mind, right?

MS. COMBS: Yes.

MR. MASHBURN: Okay.

MS. COMBS: Yes.

JUDGE DUFFEY: Any other respondents care to speak? I suggest that we maybe deal with these

two on separate motion. Is there a motion regarding Denise Cobb?

MR. LINDSEY: I move that a letter of instruction be issue to her. Finding a technical violation, but a letter of instruction.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: Okay. It's been moved and seconded that Respondent Denise Cobb's complaint against her, that while we find a violation, we send her letter of instruction admonishing her to follow the proper procedures and not to sign ballots on behalf or even registrations on -- requests for absentee ballots on behalf of other people unless she follows the procedures that allow that to be done.

Is -- is that what everybody understands the motion to be?

So that's the motion. All those in favor, say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

That passes.

MR. ARCHIE: Your Honor, can I say something about three other respondents? They contacted me

but they weren't able to make it here. It was a Miss Whitfield, also a Miss Scurry, and also a Deborah(ph) Black.

They had similar circumstances where one -- one is the daughter of the mother. She -- she suffered a stroke. That's the reason why she signed hers. She also had power of attorney. Also, Miss Black, similar situation. There was medical and physical disabilities. And also Miss Whitfield.

JUDGE DUFFEY: All right. With --

MR. LINDSEY: Chairman, I move that in the case involving Katie Whitfield, Nedra Scurry, and Deborah Black --

MR. ARCHIE: Yes, sir.

MR. LINDSEY: -- that we similarly find a technical violation and issue a letter of instruction.

JUDGE DUFFEY: Well, should we add Miss Combs to that? Or Tinisha Scott?

MR. LINDSEY: Oh, yeah, I'm sorry. I thought we already ... correct, yes, Mr. Chairman. Sorry.

JUDGE DUFFEY: So for --

MR. MASHBURN: And Lynn -- and Lynn

Christian from Bartow County, I think.

MR. LINDSEY: Yes, that one too. I'm sorry.

MR. MASHBURN: Mr. Kirk?

MR. KIRK: Huh?

MR. MASHBURN: Christian? Lynn Christian is yours?

MR. KIRK: Yes.

MR. LINDSEY: Yeah, accept those friendly amendments, Mr. Chairman.

JUDGE DUFFEY: Where's Christian?

All right. Then for respondents Lynn Christian, Denise Cobb -- or did we do Denise Cobb? -- Katie Whitfield, Tinisha Scott, Nedra Scurry, Deborah Black the motion is to find a violation but to send letters of instruction requiring them to -- where?

DR. JOHNSTON: (indicating)

JUDGE DUFFEY: Oh, okay (indicating).

MR. CORBIN: My name is Laurel(ph) Corbin.

JUDGE DUFFEY: Can you -- try that. See if that's right. Keep -- just talk into the microphone.

MR. CORBIN: One, one, two. One, two. One, two. (indiscernible) one, two. One, two. One, two. One, two.

JUDGE DUFFEY: Okay, try it -- try it again.

MR. CORBIN: One, two. You got it, okay.

Just I got one from -- there's evidence to suggest that Laurel Corbin violated O.C.G.A. --

MR. MASHBURN: What's his name?

MR. CORBIN: -- dash two -- 21-2-8 -- 385.

JUDGE DUFFEY: What's your name?

MR. CORBIN: Laurel Corbin.

JUDGE DUFFEY: Give me one second until I -- what's the last name?

MR. MASHBURN: It's the last page.

JUDGE DUFFEY: Got it. Okay, go ahead, Mr. Corbin.

MR. CORBIN: It say: During the November 6, 2018, general election, the Taylor County election official -- official received an absentee ballot in the name of Agnes Corbin. The absent ballot was rejected because of the signature mismatch. During this interview, Miss Agnes Corbin, she said that she did not why her husband signed his name on her oath envelope, on the envelope.

JUDGE DUFFEY: So the question is did you -- for your wife, did you sign her name to the oath envelope?

MR. CORBIN: It's saying that I signed my name.

MR. MASHBURN: I think he -- he signed his name.

JUDGE DUFFEY: To her -- to your wife's --

MR. CORBIN: Yes. Yes, sir.

JUDGE DUFFEY: Did you do that?

MR. CORBIN: Well, I -- like I told -- I don't remember signing the -- my name to her -- she say she didn't know why I signed my name to her envelope.

JUDGE DUFFEY: Right.

MR. CORBIN: Her oath. It was on the oath envelope. I didn't sign it. It kind of maybe sounded weird to me because -- but it was rejected because they said I signed my name to the oath ballot.

JUDGE DUFFEY: So, Mr. Corbin, I think what the allegation is -- that a ballot was sent to your wife, Agnes Corbin. Is Agnes Corbin your wife?

MR. CORBIN: Yes, sir.

JUDGE DUFFEY: So what -- when she was contacted, because it's her ballot that was being reviewed, the signature on the oath envelope,

which is where you swear that the ballot is true and correct and the person that's submitting it. Your wife said she didn't understand why you had signed --

MR. CORBIN: Yes.

JUDGE DUFFEY: -- her oath envelope. And I think the -- the -- all the -- the only question we have is did you sign your wife's oath envelope?

MR. CORBIN: If I did, it was by -- what I was con -- consumed that it had to be witnessed, you had to have the ballot witnessed to vote to be returned in.

JUDGE DUFFEY: So you're not denying that you did that, you just had a misunderstanding about it.

MR. CORBIN: Well, yes, sir.

JUDGE DUFFEY: Okay. Can --

MR. LINDSEY: Mr. Chairman, can I ask the investigator something?

Did he sign his name?

MR. ARCHIE: He did, sir. Yes, sir. His name was signed on her envelope.

MR. LINDSEY: So in other words, he didn't try to forge her name.

MR. ARCHIE: No.

MR. LINDSEY: He just signed his own name.

MR. ARCHIE: No, sir.

MR. LINDSEY: Okay. That's -- that's --

JUDGE DUFFEY: -- helpful.

MR. LINDSEY: Okay, I understand.

Mr. Chairman, I would add his -- his name to my motion.

JUDGE DUFFEY: All right.

MR. MASHBURN: Mr. Corbin? Mr. Corbin, I --

MR. CORBIN: Yes, sir.

MR. MASHBURN: Let me ask you. I assume that on a signature mismatch, if a ballot's being rejected, they would've sent you a notice that said it was being rejected. Do you remember getting a notice in the mail that said your ballot was going to be rejected and not going to count?

MR. CORBIN: No, sir. I don't even know whether her -- most of the time, we work out -- I work out of town and that was the purpose of the absentee ballot. And after we had -- no, there was -- after I got this letter, I know now for my own I just don't need to get an absentee ballot. I'll just to try to, you know, take the day off

or whatever I need to do to -- to go and vote now.

MR. MASHBURN: Okay. So -- but you're clear in your mind that you should sign your ballot and she should sign her ballot?

MR. CORBIN: Well, go and vote, we -- both of us at the age now we can -- you know, like I say, I'm almost 70 years old and I'm still out working. But just when it comes to the election now, it's better just to go to the poll and, you know, do it.

MR. MASHBURN: So Ed's got a motion.

Have you made the motion?

MR. LINDSEY: Yeah.

JUDGE DUFFEY: I'm going to clarify.

MR. MASHBURN: Okay, thank you. Okay.

MR. LINDSEY: I'm going to be adding the name to the --

JUDGE DUFFEY: Okay. So I'm going to just restate and make sure I have all the names.

MR. LINDSEY: Let's make sure I do.

JUDGE DUFFEY: So the motion is --

MR. LINDSEY: The motion is find a technical violation, send a letter of instruction to people not to please do it again. I believe the folks

that we have listed are Lynn Christian, Katie Whitfield, Nedra Scurry.

JUDGE DUFFEY: Now we have Kenida(ph) Tinisha Combs.

MR. LINDSEY: Laurel Corbin, Deborah Black.

MS. GHAZAL: And a friendly amendment to add Mary Bryant, the very first person who the technical violation was with regard to an application and not the ballot.

MR. LINDSEY: I'll second.

JUDGE DUFFEY: Okay. Just make -- so here are the names I have: Mary Bryant, Lynn Christian, Katie Whitfield, Tinisha Scott, Nedra Scurry, Laurel -- Laurel Corbin, and Deborah Black.

So the motion is to find technical violations by these people but to send them a letter advising them that they should not sign on behalf of other people and to follow the laws with respects to applications and ballots and ballot oaths.

MR. LINDSEY: Yes.

JUDGE DUFFEY: Okay. And has that been seconded? We need a second?

MS. GHAZAL: I second it. I second it.

JUDGE DUFFEY: So it's -- it's seconded. Is there any discussion? All right.

MS. GHAZAL: I just want to make a comment that this was in 2018. In 2019, the law changed rather substantially so that there is now a cure process. And I want to also commend the incredible investigative work that went into this. There were hundreds. I don't know that you -- nobody can see the investigative files on all of the -- the cases that -- that were investigated and dismissed, just -- which is a testament both to your work and to the work of the counties that they have undertaken over the years in making sure that they are taking that process and the signature review processes very seriously.

So I just wanted to point that out and my thanks to you all.

JUDGE DUFFEY: The other thing I'd like to say is this system works. If we didn't have the respondents who took the time to come down here and provide the explanations to us that they have, we would -- could not have reached this fair decision.

So we appreciate the time and effort.

Citizen participation is important in all things. And with that, I'll ask -- I'll call for the vote.

All those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those oppose, no?

The motion passes.

So all of the respondents that would rather spend time at places other than here, I encourage you that you may leave now if you like.

MR. MASHBURN: You don't have to tell her twice.

JUDGE DUFFEY: Well, we're not locking you in. I mean, it's --

UNIDENTIFIED SPEAKER: Please don't. Thank you.

JUDGE DUFFEY: Next is Case Number 2020-80, Fulton County, the 2020 runoff election.

Could you brief us on that, please.

MR. LINDSEY: We have others --

MS. GHAZAL: I'm sorry, we still have other respondents.

JUDGE DUFFEY: Oh, you're right. I'm sorry.

So with respect to the other respondents, do I hear a motion?

MR. LINDSEY: Mr. Chairman, I might suggest we take them one at a time, beginning with Denise Cobb. And my concern about Denise -- about Ms. Cobb is that she maintains that the only thing she did was sign the application but not sign the ballot. But the ballot --

If I could have the investigators up here.

It's the ballot that was signed improperly. And at this time I don't believe I have clear enough evidence, clear enough knowledge as to what exactly happened there. And for that reason, I would move that it be referred to the Attorney General since there was a discrepancy in the testimony.

JUDGE DUFFEY: Is there a second? A referral to the Attorney General doesn't mean that they can't provide more input or --

MR. LINDSEY: They can provide more information. The problem is that the respondent insert -- you know, asserts that she simply signed an application, which, you know, I was prepared at that point to -- to go along.

This would be a letter of instruction, but the investigators found that the problem was with the ballot not with the application. So there is

a discrepancy that that --

MR. MASHBURN: I think we just voted to send her a letter of instruction.

MR. LINDSEY: No, uh-uh.

JUDGE DUFFEY: No.

MR. LINDSEY: No, I didn't --

MR. MASHBURN: Okay.

MR. LINDSEY: I did not include her anymore for that reason, is because there's a discrepancy.

Now, I don't know if it's a discrepancy that can -- that may be able to be cleaned up by the Attorney General's Office, but we do have two different stories. We have -- we have the -- more specifically we have the documentary evidence, then we have her testimony, and they -- they don't -- they don't match.

For that reason, I would send her -- send the matter to the Attorney General for further investigation.

MS. GHAZAL: Second it.

JUDGE DUFFEY: Okay. It's been moved and seconded that we refer Denise Cobb to the Attorney General's Office for further investigation and appropriate disposition. And

that appropriate disposition, by the way, could be that they recommend to us that we dismiss it. It's just a matter of trying to resolve these discrepancies.

MR. MASHBURN: Yeah.

JUDGE DUFFEY: Is there a second to the motion? Did you second it?

MS. GHAZAL: Yes, I did.

JUDGE DUFFEY: It's been -- is there any discussion?

It's been moved and seconded with respect to Denise Cobb on 2020-01 that her complaint against her be forwarded to the Attorney General's Office.

There being no discussion, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Those opposed, no?

Passes unanimously.

Linda Howard.

MR. LINDSEY: Let me -- if the -- investigators, let me ask you about Linda Howard. Did you find any discrepancy between your findings, documentary findings, and her -- and what she said had happened? Did you find any

discrepancies?

MR. BRUNSON: You know what, in talk -- supervisor Archie just left. But, yes, I spoke with him and he said that basically what she said and his investigation were totally two different things and that what he found was what he documented in his interview with her, et cetera.

JUDGE DUFFEY: This says that she signed his -- her husband's oath envelope by accident. What was the accident?

MR. BRUNSON: Oh.

MS. GHAZAL: This is -- this is Linda Howard.

MR. LINDSEY: Linda --

MR. BRUNSON: You know, I thought -- I thought we were talking about --

MR. LINDSEY: No, no, no, no. I'm talking about Linda Howard. I'm going down the list.

MR. BRUNSON: Howard, okay. Let's go back. Let me go back.

MR. LINDSEY: My point being I don't see a discrepancy. I just want to get that confirmed before I make a motion.

MR. BRUNSON: Yeah. Looks very similar to the previous where she signed her name to her

husband's oath envelope.

MR. LINDSEY: Okay. With that understanding, Mr. Chairman, I would move for us to take a similar position with a finding of a technical violation and sending a letter of instruction to her.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded that we find a technical violation for Linda Howard in this complaint and that she be sent a letter of instruction. Is there any discussion?

MR. MASHBURN: Linda Howard should send Mr. Corbin a letter of appreciation.

MR. LINDSEY: I leave that up to Ms. Howard's discretion.

JUDGE DUFFEY: I don't have to draft that letter too, do I?

All right. There being no further discussion, all those in favor that Linda Howard be found in technical violation but receive a letter of instruction say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

It passes unanimously.

Teresa Davis.

MR. LINDSEY: Mr. Chairman, if I can, same question: Did you find any discrepancy? But, you know, apparently she says that she signed her husband's name because of his medical disability. I guess two questions there.

Number one, did y'all get a chance to talk to the husband? And was the documentary evidence consistent with what she claimed?

MR. BRUNSON: I would have to get the file because the investigator actually just walked out. Let me get the file and I'll go through the file.

MS. GHAZAL: If I might add a comment on some of these. I see a substantive difference when a voter is signing somebody else's name and when they sign their own name on somebody else's line because there is no intent to --

MR. LINDSEY: Yeah.

MS. GHAZAL: -- make anyone else believe that -- you know, when you're signing your own name, it's very clear that you're signing your own name. When you're signing somebody else's name, while there may not be an intent to defraud, that is still a fraudulent signature.

JUDGE DUFFEY: Yeah. I think I agree with that. But it's ambiguous whether when they said they signed their husband's name --

MS. GHAZAL: Right.

MR. LINDSEY: Yeah, that's what I'm looking for.

JUDGE DUFFEY: -- whose name they signed.

MS. GHAZAL: Exactly.

MR. LINDSEY: That's what I'm looking for.

MR. BRUNSON: You know what, the most expedient thing to do potentially is maybe to have the investigator come back because otherwise I'm going to have to dig through this and, of course, it's 87 pages and a lot of exhibits.

MR. LINDSEY: Okay.

MR. BRUNSON: So if we want, can we come back to this? Because he should be on his way back. We're going to have him come back.

MR. LINDSEY: That's fine.

MS. GHAZAL: So should we continue this until later this afternoon, the remainder of the case, so that we can keep going?

I move that we continue this, the remainder of these cases, until we can get a little bit more information. Either we can -- at the end of

this afternoon or tomorrow morning, depending on when the investigator is available.

MS. KOTH: He's coming back.

MS. GHAZAL: Oh, he's coming right back? Okay.

MR. BRUNSON: I thought -- I think he thought it was over and he was heading back to Macon. So ...

JUDGE DUFFEY: Define "right back" for me.

MS. KOTH: He was getting (indiscernible). He was walking out of the building. He parked over in our building. He's from Macon.

JUDGE DUFFEY: Okay. So right back means as soon as he walks across the street?

MS. KOTH: I don't think he made it that far. Gil just --

MS. GHAZAL: Okay. All right.

JUDGE DUFFEY: Well, I'd like to finish this if we can. So if have to wait a couple minutes, let's do that.

(Pause)

JUDGE DUFFEY: All right. I'll entertain a motion to defer the rest of these people for our next -- for first of the meeting tomorrow. Can somebody make that motion?

MS. GHAZAL: I already did.

JUDGE DUFFEY: You did?

MS. GHAZAL: Defer it till tomorrow?

JUDGE DUFFEY: Yes.

MS. GHAZAL: I so move.

JUDGE DUFFEY: Okay. Is there a second to defer the rest of the individuals on this complaint until tomorrow morning?

MR. MASHBURN: Second.

JUDGE DUFFEY: Is there any discussion?

MS. GHAZAL: Well, one -- one question. Does that mean that your investigator will have to drive back up from Macon again?

MS. KOTH: Yes.

MS. GHAZAL: So what about deferring it till the end of today?

MR. BRUNSON: Yes, that would be perfect.

JUDGE DUFFEY: Well, tell me why he left. This -- we're in --

MR. BRUNSON: He thought it was done because of the ruling on -- he didn't know that you were going through each individual.

MS. GHAZAL: Right.

MR. BRUNSON: So he thought you were done.

JUDGE DUFFEY: Well, the next time he should

ask whether or not we're done with his services.

All right. We'll defer these until the end of the meeting. Is there any objection?

THE BOARD MEMBERS: No.

JUDGE DUFFEY: All right. They're deferred until the end of the meeting.

Let's go on to the next, which is 2020-80, Fulton County, 2020 runoff election, tab 13. Can we have a report on that, please.

MR. BRUNSON: Okay. For this case, there were multiple complainants, 29 citizens, about the Fulton County Board of Elections and Registration. The complaints ranged from citizens not receiving their absentee ballots to votes not being counted, and issues/problems at polling locations in Fulton County.

Absentee ballots, oath envelopes, and other election related documents were requested from various citizens regarding this complaint, from Fulton County by the investigator, including by e-mail and subpoena. However, in 17 instances, no information was provided.

In one instance, the wrong information was provided regarding the election. The question was about the August 11, 2020, election and the

documents received from the November 2020 general election.

So ultimately the findings reveal that Fulton County elections personnel failed to process absentee ballot applications or failed to process them in a timely manner for the following elections -- even though the case is dealing with the August 11, 2020, runoff election, there were other elections that were involved in the complaint -- the June 9, 2020, general primary; the August as listed; the September 29, 2020, special election. And this ultimately resulted in 12 citizens being unable to vote.

One of the citizens was able to vote in person. One citizen ended up voting by a provisional ballot. However, election records indicate that she did not vote in the state election. She was never notified of the reason why her vote was not counted. In addition, Fulton County did not include her vote as part of the official tabulation which would be a violation of O.C.G.A. 21-2-437(d).

So during this investigation, there were 14 complaints out of the 29 that were submitted in which there is no evidence of any election law or

rule being violated.

However, in one instance, a citizen admitted to repeatedly taking pictures of her ballot over the years, and that was not written up as a violation. However, we addressed that with that person who did that and to let them know that that is prohibited, that is a violation of the law.

So as I stated, there's multiple charges and I can go down the list and read what we discovered during our investigation if you would like, Board.

JUDGE DUFFEY: What's the board's preference on that? Did we need to go through each person and vote on them separately?

MR. LINDSEY: Essentially ...

MR. MASHBURN: No, this is all the same respondent, right?

JUDGE DUFFEY: Yes.

MR. MASHBURN: Yeah. So I don't think we need to go by them.

MR. BRUNSON: It's just the counts.

MS. GHAZAL: Yes.

MR. BRUNSON: Multiple counts.

JUDGE DUFFEY: Right. Was there a motion?

MS. GHAZAL: Do we want to give the respondent an opportunity to speak to this?

JUDGE DUFFEY: Yes. Does the representative from Fulton County want to speak to these?

MS. WILLIAMS: Good afternoon, Chair, Members of the Board. Our staff recently reviewed this case and found the following. I can go paragraph by paragraph or read each person's name if you prefer.

For the first paragraph, for those three voters, the ballots were mailed on September 19, 2020, and not returned by the voter.

On the second paragraph, for Voter Cantor, the ballot was mailed on 9/9 and accepted on 9/21.

JUDGE DUFFEY: Miss Williams, I'm just having a following -- a hard time finding what paragraphs you're referring to on the potential violations. Is that ...

MS. WILLIAMS: Well, I'm -- I'm looking at -- yes, right now I'm on Voter Quinton Nixon.

MR. MASHBURN: She sent in the third (indiscernible) on our potential violations.

MS. WILLIAMS: Each paragraph has a different voter's name.

MR. MASHBURN: Page 2. Page 2 of the summary.

JUDGE DUFFEY: Okay. So let's start again. Cheryl(ph) Henning, Mark Olson, and Dorothy Berganon(ph).

MS. WILLIAMS: Yes. Our archives indicate that the person -- the ballot was mailed to each of these voters on September 19th and not returned by the voter.

On the second paragraph which is Angela Cantor.

MR. LINDSEY: Can I -- can I ask a question. 19th?

MS. WILLIAMS: September 19th.

MR. LINDSEY: The special election was ten days later.

MS. WILLIAMS: It was -- it was -- well, the -- it was mailed on September 19th is what I have -- we have in our records.

MR. LINDSEY: All right.

JUDGE DUFFEY: How long before the election are the ballots supposed to go out? Ten days?

MS. GHAZAL: Prior to the passage of SB202, they had to go out minimal of at least five days before the election. So the Friday prior to the

Tuesday election day. So this was well within the -- the previous legal deadline.

JUDGE DUFFEY: Okay. Thank you.

MS. WILLIAMS: Okay. For Angela Cantor, the ballot was mailed on September 9th and accepted on September 21st.

For Mr. Nixon, for the June election, the ballot was mailed on May 17th and not returned. For the August election, the ballot was mailed on July 25th and not returned.

From Mr. Robert Boyd, there are sixteen electors that have the same name. So we would need more information to review that voter.

On paragraph number --

MR. MASHBURN: Miss Williams, let me interrupt you real quick.

So on the ones that you've already done, that you -- that you say that you mailed out the ballot in a timely fashion with the law, you want us to dismiss those, right?

MS. WILLIAMS: Yes.

MR. MASHBURN: That would be your request?

MS. WILLIAMS: Per our records, it was mailed timely. It was just we did not receive the ballot back from the voter.

MR. MASHBURN: Okay. It'd be -- it'd be very helpful to us -- not that you were doing anything wrong, but just to help us out -- if you -- if you think that y'all complied with the law and did what you were supposed to do, say -- just let us know that you don't think there's a violation and you'd like for it to be dismissed and that'll help us keep -- keep score if that's okay.

MS. WILLIAMS: Okay. Yes, sir. May I say that we believe that we complied with all of the voters on this list?

MR. MASHBURN: You could probably just shorten it and say, We -- in order to be dismissed or something.

MS. WILLIAMS: Okay.

MR. MASHBURN: Just to kind help us keep up with it.

MS. WILLIAMS: Okay. Yes, will do.

Okay. So for Mr. Boyd, there are 16 electors with the same name. If they provide more information, we could do more research on that voter. But we would like that to be dismissed.

For Mr. Russell, we have no record of an

absentee ballot request. So we would also like that to be dismissed.

For Mr. Alphason(ph), there was also no record of an absentee ballot request. We would also like that to be dismissed.

For Vivian -- and forgive me for the last name -- Cappernew(ph), there was no voter under that registered name in our records. We would also like that to be dismissed.

For the next two voters, Rachel Quasbarth(ph) or a Mr. Travis, the GRVIS system does not indicate what party those persons are registered for. So we're not able to confirm what ballot -- what ballot was mailed. It's not currently in the GRVIS system.

And now I'm on paragraph 10, Mrs. Margaret Sullin(ph). The next three paragraphs refer to that same voter. And per our records, the ballot was issued to her on August 7th. It was canceled and our records show that she voted on election day. And we would also like that to be dismissed.

And that concludes the voters listed on this report.

JUDGE DUFFEY: So let me ask the

investigators this. You looked at each of these people. Who gave you the names, claiming that they hadn't voted when the records are so contrary to what the claim is?

MR. BRUNSON: So one of the issues is that in those 17 instances, we didn't receive any information. And from the investigation, it looks like there was nothing on ElectioNet to verify what the Fulton County representatives are saying.

So in many cases there was a subpoena sent out requesting information on all these individuals and that information wasn't provided to our investigator --

JUDGE DUFFEY: Subpoena went to Fulton County?

MR. BRUNSON: Yes, sir.

JUDGE DUFFEY: Why did that happen?

MS. WILLIAMS: This happened in 2020, so I have no record of that. But if we can now provide supporting documents for everything that I read off today, we can do so.

JUDGE DUFFEY: Well, but what I hear is that the -- you were subpoenaed to provide the documents about these voters, now all of a sudden

you have the information.

MS. WILLIAMS: I was not subpoenaed. This is our previous director.

JUDGE DUFFEY: Well, I'm not saying you. I'm just -- you in the -- in the broad sense, the institution.

MS. WILLIAMS: I cannot confirm or deny that that (indiscernible). But we do have supporting documents if needed at this time.

MR. LINDSEY: Mr. Chairman, I move to continue and ask Fulton County -- Fulton County has indicated their willingness to provide the necessary documentation, I would move to continue so that they can provide that -- so that they can provide that documentation to the investigator so that, if correct, we can deal with this expeditiously. But let's get the documentation to the investigators. So I'd move to continue.

JUDGE DUFFEY: I'd amend that by saying that I'll continue it, but I will give you until the 1st of July to have somebody from your office come down and meet with the investigators and give them the information that you claim you now have.

MS. WILLIAMS: Okay. We'll do that. Thank

you.

MR. LINDSEY: Thank you. With that friendly amendment from the chairman.

MS. GHAZAL: I second.

JUDGE DUFFEY: It's been moved and seconded that we continue these to the next -- these -- this entire complaint -- Was it SB two -- 2020-80? -- to the next meeting but that a representative from Fulton County meet with and provide to the investigators in this matter all of the underlying information that -- that they've claimed disputes the recommendations and found violations in the report. Is there any discussion?

DR. JOHNSTON: Mr. Chairman, question. Are absentee ballot outer envelopes scanned before they're mailed?

MS. WILLIAMS: Did you say scanned?

DR. JOHNSTON: Correct.

MS. WILLIAMS: We -- we have a -- I believe we have a image of them before they're sent out.

DR. JOHNSTON: I'm sorry, a what?

MS. WILLIAMS: We have a record of them. There's a log that we keep as when they're mailed out.

DR. JOHNSTON: Okay. Is USPS tracking utilized for absentee ballots?

MS. WILLIAMS: No. We mail them through the postal mail. We do not put them through ...

DR. JOHNSTON: I'm sorry?

MS. WILLIAMS: We mail them -- you said UPS?

DR. JOHNSTON: USPS tracking.

MS. WILLIAMS: I'd have to -- we do not currently have a system that tracks that. But we do -- like I said, we do have a log of when it's mailed and -- and stamped.

DR. JOHNSTON: It would great if all of the ballots were scanned in the office before they're mailed and also USPS tracking was utilized to follow outgoing ballots -- absentee ballots.

JUDGE DUFFEY: Well, while that's not part of the motion and that might be a good suggestion, if USPS tracking is as good for the county as it is for my home, I'm not sure it's all that reliable.

But you might want to consider whether or not that's worth asking the postal service to provide that service for you.

All right. Any further discussion?

All those in favor of the motion for a

continuance and for the production of information and a person to explain the information to the investigators by July 1st say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

That passes and this is deferred.

I will say this is really frustrating that we spend all this time going through all of this and find out that there's information that was never provided. And now we have to defer this. It could take time. And it's -- we came here ready, thinking that we had all the information that had been requested by the investigators. And it's troubling that it hadn't been.

All right. The next is Case Number 2020-201, Screven County, problems at the polls.

Can we have a report on that, please.

MS. KOTH: Yes. November 18, 2020, investigations received complaints from the following electors concerning the November 3, 2020, general election.

Kaitlin(ph) Bell alleged that her and her husband, Leon Yates, appeared to vote at the Coopersville Fire Station precinct and the poll pad machine indicated both had already voted.

The staff allowed them to complete provisional ballots and they both forgot to sign before leaving the precinct.

Bell and Yates later returned to the precinct to sign and they discovered that his ballot was signed by someone other than him. The voters -- the voter crossed out the forged signature on the ballot and signed next to it. The provisional ballot was accepted and tabulated with election results.

Thomas Ward appeared to vote at the Bay Branch precinct and the machine indicated that he had already voted. He was issued a provisional ballot and later tabulated with election results.

Natalie Starling alleged that while at the Hunters Community House precinct, she, along with several other voters, were informed that they had already voted when they had not voted in the election. She referenced Charles Hendricks(ph), Laura Hendricks, Chris Tillman, Larry Rivers, Betty Lee, Tonya Burroughs(ph), and Benny Weathers and Michael Taylor in her complaint affidavit.

The investigator met with Dorothy Glisson at the Screven County registrar concerning the

allegations contained in the complaints. Miss Glisson assisted the investigator by providing copies of provisional ballots for the following electors referenced in the complaints as having already voted: Ms. Starling, Ms. Bell, Mr. Yates, Mr. Matthew Ward, Mr. Hendricks, Ms. Hendricks, Mr. Rivers, Ms. Lee, Mr. Tillman, and Ms. Burroughs. All had provisional ballots that were accepted.

All provisional ballots referenced above were accepted and tabulated with the November 3, 2020, election results. ElectioNet verification determined that electors Benny Weathers and Michael Taylor did vote in person.

An investigator spoke with Kaitlin Bell concerning her and her husband and their voting experience. She said that she and her husband were given voter access cards and when they scanned them, a message populated on the machine, stated that they had already voted. She mentioned that her and her husband had to vote absentee though she meant a provisional ballot.

And she thought everything was fine until she was contacted a few days later, informing her that she needed to sign the ballot. When she

returned to the office to sign the ballot, Leon discovered someone had forged his signature. So he crossed it out and then he signed it.

The findings of this case were that Leon Yates' provisional ballot was signed by someone other than the elector. Poll workers Marilyn Harvey, Joy Smart, and Erlingo Jackson neglected to ensure that Mr. Yates signed his ballot and denied having signed the ballot themselves. Ms. Jackson admitted completing the top portion of the provisional ballot but denied having signed Leon Yates's name.

There were three poll workers assigned to the precinct in question and consequently all of them denied or could not recall having signed the provisional ballot in question. They did not ensure that Mr. Yates signed the provisional ballot and the individual responsible for signing his name could not be determined.

Therefore the county election staff and the Coopersville precinct poll manager was cited for the -- will be cited for the violation. The potential violations were for Screven County Board of Elections and Registration; Ala Rhodes, election supervisor; Marilyn Harvey, Coopersville

precinct poll manager for violation of the O.C.G.A. 21-2-41(b), provisional ballots, when Leon Yates was allowed to vote a provisional ballot and staff did not ensure the voter certificate was signed by Mr. Yates but ultimately by an unknown individual.

JUDGE DUFFEY: One question I have is there's this listing of the people who had their provisional ballots accepted. Begins with the statement that the investigation indicated several voters populated in the system as having already voted and consequently voted provisional ballots. Did you mean to say as having not already voted?

MS. KOTH: Yes. It's saying that they had voted and they hadn't voted.

JUDGE DUFFEY: So the system showed that they had voted?

MS. KOTH: Yes. There's a -- there was a memorandum done where it says: It was discovered during the 2020 general election that poll officials were prematurely removing the voter access cards from the poll pad before the poll pad processed the voter's information.

As a result, the access card was reading the

previous voter's information. So they hadn't voted but the card was saying that they had voted.

JUDGE DUFFEY: Well, whose fault is that? I mean, it seems a flawed system if somebody goes there to vote, they vote, but their vote's not re -- but they're not recorded in the records as having voted. How could that happen?

MS. GHAZAL: Can I ask a clarifying question? So is it that the voter access cards were not properly coded? So in ENet it was up properly but the -- because they were pulling out the voter access cards before they finished programming, when they took that to the BMD, the BMD said you've already cast a ballot on that card? Is that how it --

MR. HUMES: Yes.

MS. GHAZAL: Am I understanding --

MR. HUMES: The equip -- the equipment was working properly. So the poll -- the error's on the poll clerk. So they were prematurely removing the access card before it was fully processed. So when they went to the BMD unit to vote, the card was reading the previous voter because it not -- it had not properly uploaded

the new voter's information.

So basically that was a problem that was happening statewide. So Michael Barnes had advised that information had went out to the election directors of each county, all hundred fifty-nine, making them aware of that.

And I think Blake might be able to give further information.

MR. EVANS: One point of clarity that I want to provide is the only information that's stored on that voter access card is the information to pull up the ballot. So it doesn't identify a voter or anything like that.

But if it's not encoded and the previous voter who had it marked their ballot on the BMD and then it doesn't get encoded again and it's gets put back in the ballot marking device, then it's not going to pull up a second ballot because it was never properly encoded again. So I just wanted to make that point.

MS. GHAZAL: So to be clear, this is a poll worker error because they were simply pulling the cards out prematurely, before they were properly programmed. Is that a correct understanding of what happened?

MR. EVANS: Correct. So the poll book would check the voter in, but if the card was pulled out too early, then the card wouldn't get encoded.

MS. GHAZAL: Okay.

JUDGE DUFFEY: What does it mean to be pulled out too early? How does the poll worker know that they've pulled it out too early or shouldn't pull it out --

MR. EVANS: Well, so the -- the poll pad, when the voter gets fully checked in and the card gets put in and gets encoded, there will be a screen or a check mark and actually a little sound that gets made that just says that the card has been encoded and everything's been complete essentially and the card can be pulled out and handed to the voter at that point.

So, I mean, if you're, you know, processing hundreds of voters in a day, there could be a time when you're doing it and just out of habit, you pull the card too early.

MS. GHAZAL: If I could make an analogy. Is it like when you're using a credit card and you pull -- you pull it out before the terminal has actually processed it and it says not processed

and you have to start over again?

MR. EVANS: That's a good analogy.

MS. GHAZAL: Yeah.

JUDGE DUFFEY: So it's the poll worker that when they get that error message doesn't do what they're supposed to do which is to call the person back and say, Look, I've got to do this again.

MR. EVANS: Essentially, yes, the poll worker should've left the card in longer. So, yes.

JUDGE DUFFEY: Does the poll worker get an error message saying not encoded?

MR. EVANS: I do not believe in that instance at the poll pad --

MR. KIRK: No.

MR. EVANS: Okay, no. Thank you, Joseph.

JUDGE DUFFEY: Yeah, I've heard --

MR. EVANS: So what would --

JUDGE DUFFEY: I saw the hat going up and down. So I knew it was him.

MR. EVANS: What would happen is then when the -- when the voter access card gets put in the ballot marking device, then it would show a message saying that there's not a ballot to be

pulled up. It would say card already voted or something to that effect.

JUDGE DUFFEY: So the voter would also get an error message of sorts?

MR. EVANS: Yes, when they take that card and insert it into the ballot marking device. And that's when a poll worker would get notified and they would start to troubleshoot the situation.

JUDGE DUFFEY: And would the proper troubleshoot be to go back and redo the card, or is the proper troubleshoot to give them a provisional ballot?

MR. EVANS: If the poll workers know, okay, this person's not actually inserted a ballot into the scanner, they've not actually voted, then they could reissue the card properly this time and then the voter could vote normally at the ballot marking device.

JUDGE DUFFEY: But the voter that gets this unloaded card and puts it into the ballot marking device, does the ballot come up and -- I mean, would the voter know that there's a problem?

MR. EVANS: Yes. The -- if they get a card that has not been properly encoded again, then it

would say card already voted. Because essentially once you use a voter access card and you print your ballot, without encoding that card again, you cannot bring up another ballot.

JUDGE DUFFEY: Right. So that voter says, Well, look, I can't vote. How could they have voted?

MR. HUMES: Provisional ballot.

JUDGE DUFFEY: Well, they -- so how could they have done -- I mean, how could they have done anything? How could they have gotten a ballot?

MR. HUMES: So prior to the mass notification going out to the county directors, they were voting by provisional ballot.

JUDGE DUFFEY: No, that's not my question. My question is the system where somebody has a card that's not encoded and puts it into the ballot marking device, he sees the screen and it says card already voted --

MR. EVANS: Uh-huh.

MR. HUMES: Correct.

JUDGE DUFFEY: -- so are you saying the voter said, Oh, I must've voted even though I didn't do anything and then they leave?

MR. HUMES: No. The voter complained to the manage -- poll manager.

JUDGE DUFFEY: Right.

MR. HUMES: The poll manager allowed that voter to vote by a provisional ballot.

Now, the second part is when notification went out to the counties, the county then knew let's reencode the card so that they can vote.

JUDGE DUFFEY: How many instances across the state did that happen?

MR. HUMES: I don't know if the total number of those instances were actually captured. But we do know that notification did go out by the former elections director notifying the counties of the issue. And we -- I don't think we've had any issues since then, after the notification went out.

JUDGE DUFFEY: All right. So ultimately the only -- the only violation here is this one person where somebody unknown signed somebody else's name; correct?

MR. HUMES: Yes.

MS. GHAZAL: I have a couple other questions. Were all of these provisional ballots at the same precinct and on the same day, or was

this scattered over the course of a couple of days?

MS. KOTH: They were not at the same location.

MS. GHAZAL: Okay.

MS. KOTH: They were a couple different places for these complaints. They were Hunter's Community, Bay Branch, and Coopersville Fire Station.

MS. GHAZAL: And were there more than three poll workers at any of the locations, or did all of these polling places have only three poll workers at each site?

MS. KOTH: I'm not sure about the other -- that -- the Coopersville had the three. I'm not sure that the other ones had a minimum of three.

MS. GHAZAL: And this is not a violation. There's -- it's a best practices question. Because there are so many moving parts that sometimes I can see where if you have enough poll workers and enough eyes on the polls and the voters, you can see that, in fact, this voter did not cast a ballot.

We can reprogram a card versus not knowing and then being forced to go the provisional

ballot route. So this is as much a learning opportunity and best practices question as a violation question.

And if you don't have that information, you don't need to go --

MS. KOTH: Looks like most of the people that he interviewed are no longer working there, but he interviewed everybody at the precincts. I was -- he didn't number them, how many were at each one though.

MS. GHAZAL: That's fine. Thank you.

JUDGE DUFFEY: Does this process still work the same way today?

MS. KOTH: With the cards?

JUDGE DUFFEY: Does this problem exist today? I mean, even though you sent out a notice telling them how to do it correctly, if somebody pulls it out too late will you get -- will the voter get the same message on the ballot marking device? And do they --

MS. KOTH: Do we still have them?

JUDGE DUFFEY: Do they have to file a provisional ballot or do they have to go back down and get a new card, or ...

MR. MASHBURN: Is the difference now that

they know about it, so they --

MS. KOTH: Yeah.

MR. MASHBURN: -- they recode it and so they don't -- rather than default to a provisional ballot, they just recode it on the spot now?

MR. HUMES: Yes, sir.

MR. EVANS: That's a lot of it. Yes, sir. As that -- if that occurs, they know to recode the card. And so we don't hear about it as much at the state level because counties know to -- if it happens, how to respond to it.

MR. MASHBURN: And so these people were allowed to vote by provisional ballot and all except for one -- one case maybe, their votes were counted. They were allowed to vote in the provisional balloting system that was -- that's -- was innovative, at its time worked.

In the old days you just got -- too bad, you got sent home and you didn't vote. So the provisional balloting system worked, but there's a different cure now so you don't have to resort to the provisional ballot, right?

MS. KOTH: All of the votes counted. Two of the people did vote in person though --

MR. MASHBURN: Okay.

MS. KOTH: -- that that women's affidavit had. So they did vote.

JUDGE DUFFEY: All right. Any more questions from the board members, and, if not, is there a motion?

MR. MASHBURN: So we've got just one count of forging of a voter's to a -- to a provisional ballot or some form that they forgot to get him to sign it when he -- when he was there. And so they forged it. And they came back and they went: Oops, he's here, we don't need the forgery anymore.

Okay, I got it. And so I move --

JUDGE DUFFEY: He marked -- he crossed out the name --

MR. MASHBURN: And then he signed.

JUDGE DUFFEY: -- then he signed it.

MR. MASHBURN: Okay. All right. So I'm convinced that's a violation and it should be sent to the Attorney General's Office.

So I make a motion that the one count be sent to the Attorney General's Office.

JUDGE DUFFEY: Is there a second?

MR. LINDSEY: Second.

JUDGE DUFFEY: It's been moved and seconded

that SEB2020-201 be sent to the Attorney General's Office. Is there any discussion? There being none, all in favor of the motion vote aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

The motion carries.

SB2020-217, Statewide, buying contest. Can we have a report on this, please.

MR. BRUNSON: Okay. This case involves two allegations.

JUDGE DUFFEY: Hold on for one second. So Mr. Lindsey recuses on this matter because of a conflict. He will not be participating in the consideration of it or the vote.

Go ahead.

MR. BRUNSON: Okay. This case involves a contest, an online contest -- actually there's two allegations here. So the first involves an online contest and the second involves what we determined later was an employment offer or opportunity.

So in looking at this case, this came to the Secretary of State's attention in December of 2020 and it involved the runoff election. And in

looking at this case, there was an advertisement, a giveaway contest from a website indicating that someone could enter for a chance to win a Tesla if they requested a mail-in ballot or checked their voter registration status and a contested pledge to vote.

Now, there was a disclaimer at the bottom of the page stating voting, voting by mail, or completing a mail-in ballot application are not required for entry. And additional online and digital magazine articles were also located that discussed the giveaway as well as the partnership between a organization by the name of Headcount and the music artist Two Chains.

So our investigator reached out, spoke with the executive director of Headcount, Andy Bernstein, and in summary he reiterated that to be entered into the contest, a person had to request an absentee ballot through the Headcount portal, complete a check-your-status voter registration verification entry form or by mailing an entry card to them which contains the contestant's information.

They confirmed that a winner was selected after compiling all of the contestants onto a

spreadsheet and then using a random number generator program to obtain a random number. Once this number was generated, the corresponding row number on the spreadsheet was declared the winner.

The winner was notified on December 22, 2020, and the prize was redeemed by the winner on January 20, 2021. So that's the first part of the complaint.

The second part, there was an advertisement regarding community mobilizer positions on the Jon Ossoff campaign website, electjon.com. During this time he was involved in the U.S. Senate runoff election which was held January 5, 2021. The advertisement stated: Now hiring, apply now. And Jon Ossoff for U.S. Senate is looking to add people to our team who are willing and able to talk to their own friends, family, and community members about this runoff election.

Our investigator was unable to locate any additional information, postings, or advertisement which offer gifts or payments for voting, registering to vote, or voting for a particular candidate. Nothing in the wording appeared to be directed towards the voter

themselves, rather to a potential employee or a canvasser or campaigner acting on behalf of the campaign to solicit votes.

So ultimately we did find evidence in the first part of the allegation based on the giving of the gift, obviously, the Tesla that was ultimately won by an individual. The second part we did not find because there was no offer for those things. It was more of an employment to be a canvasser or a campaigner for a particular campaign.

MR. OLENS: Your Honor, whenever the time is appropriate, I'd be happy to make a comment.

JUDGE DUFFEY: It's your turn.

MR. OLENS: Thank you, Your Honor, Members of the Board. I represent Headcount. I don't represent the second part where the allegation was determined to be unsubstantiated concerning Senator Ossoff.

Headcount's been around for over 19 years. This is the first time there ever was a complaint con -- excuse me -- concerning Headcount. They're involved in civics initiatives. There were three ways to enter the contest. And as stated, way one was to check your voter

registration status, way two was to request a mail-in ballot application, and way number three was to mail in an entry postcard.

All three of those are fully compliant with O.C.G.A. 21-2-570. Crucially, registering to vote was not a method of entry. Whether someone voted or was registered to vote had no bearing on their chances of winning. The rules themselves specifically stated in numerous places: Voting, voting by mail, or completing an absentee ballot application are not required for entry. Once again totally consistent with the code section.

There was -- however, an ancillary material, as referenced, that is a mistake, that should've never gone out, that Headcount feels terrible about, that was not consistent with the rules of entry, and that was not pertinent to the rules of entry.

Headcount thought they were fully complying in the rush of the runoff for the senate race. Quite frankly, as I mentioned, that was in error. It shouldn't have happen.

Once again, they've never had a prior complaint with the state of Georgia. They acknowledge that that shouldn't have happened and

they would welcome a letter from this board of instruction and promise that this type of thing would never happen again.

Thank you, Your Honor.

JUDGE DUFFEY: All right. Is there a motion?

MR. MASHBURN: I'll move that we issue a letter of instruction as requested.

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded that a violation be found and that there be issued a letter of instruction. Is there any discussion?

Well, I don't agree with that disposition. If I am to accept what is said in this report, it said that the mail-in balloter -- stated that you could enter for a chance to win a car if you requested a mail-in ballot or checked your voter registration and the contestant pledged to vote.

Now, at some point somebody won a car. And so by pledging the voter to do one of these two things, they, in fact, got an automobile in return for conduct which I think is prohibited by the statute. And to say that -- to entice people to engage in the process -- I mean, we're not

talking about a basket of fruit. We're talking about an expensive automobile which ought to motivate a lot of people to do what is requested and to make a pledge that you're going to vote.

And I think a letter of instruction with a company that claims that they do this all the time and didn't do it in this instance ought to be held accountable for that or at least add to let the Attorney General's Office look at it carefully and study the statute carefully to decide what the appropriate disposition is that they would recommend to us. And I just think a letter of instructions is not enough.

MR. OLENS: May I speak again, Your Honor?

JUDGE DUFFEY: Yes.

MR. OLENS: There's never been an allegation that they've ever done this before. The only evidence before the board is that in the rush of the runoff, they made a mistake.

Also, I don't say this with anything other than a factual statement. When you read the statute, this statute is not well-worded, like many statutes. And it literally says giving or receiving money or gifts for the purpose of registering as a voter, voting, or voting for a

particular candidate. Pledge, frankly, isn't even a part of the statute. One can easily make an argument that it should be a part of the statute, but it is not.

This company, this nonprofit is coming forward, acknowledging a mistake was made in an advertisement. There is no evidence that the rules of the contest violated Georgia law. The only evidence is that an advertisement used inappropriate language. And I think there's a distinction between a contest that overtly violates the law and an advertisement that accompanied a contest that was inconsistent.

And that's the only thing I would raise to the members of the board. And I appreciate your assistance.

JUDGE DUFFEY: Oh, I understand your -- the distinction that you're trying to make, but we generally do letters of instructions for fairly innocuous events. This is not -- I mean, this was an attempt to incite people or to encourage people in return for something valuable to engage the system.

And I'm just not comfortable making that decision based upon -- and to resolve this by me

writing a letter saying, Don't do this again. Thank you for reporting yourself, in this particular offer.

And what I'm saying is I think it ought to be sent to the Attorney General's Office for their evaluation and to let them do whatever additional investigation they want and then to come back to us to say what they think is the appropriate disposition. And if they say that it's a letter of instruction, then we can decide to do that. Or if they say it's a consent order that they don't do it again, we could do that. I just don't know what their advice is going to be.

So that's my input. And my board members are perfectly capable of voting differently than that.

So my amendment -- I would make an amendment to the motion which is that it be referred to the Attorney General's Office and that we delete the language about -- and to issue a letter of instruction.

So is there any discussion on the amendment?

MR. OLENS: Your Honor, I apologize. I -- your mic wasn't clear and I honestly didn't hear your amendment.

JUDGE DUFFEY: No, you and I have the same problem. Our voice is becoming weaker and weaker, but that's all I need.

So my amendment is -- the motion on the floor is to refer to the attorney -- to find a violation and to send a letter of instruction. I'm making an amendment that we find a violation and that we refer to the Attorney General's Office for further investigation and for whatever they decide is the appropriate disposition, which could be a variety of different things. I just don't know what they would recommend to the board or whether they would take it to a hearing.

So the amendment is to delete the -- if after we find a violation is to delete the language "and to send a letter of instruction" and to substitute for that "to refer to the Attorney General's Office." So the amendment is to refer to the Attorney General's Office and now the amendment is open to discussion.

Great. So we'll vote on the amendment to begin, which is to substitute "refer to the Attorney General's Office" for "a letter of instruction."

All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed?

MS. GHAZAL: No.

MR. MASHBURN: No.

JUDGE DUFFEY: So it's two two because Mr. Lindsey is not here. The motion does not carry by a majority.

So now we'll go the main motion which is to refer -- to find a violation and to refer a letter -- and to send a letter of instruction. Is there any further discussion on the main motion?

All right. All those in favor say aye.

MS. GHAZAL: Aye.

MR. MASHBURN: Aye.

JUDGE DUFFEY: Opposed, no. No.

DR. JOHNSTON: No.

JUDGE DUFFEY: So it doesn't carry. So what I would suggest is that we defer this when we -- I guess we'll never have a full contingent. So I guess that motion fails. I don't know. What do we do now?

MR. MASHBURN: I'll move to table it. I'll move to table this case.

JUDGE DUFFEY: And what -- what do you mean

by that under Robert's Rules?

MR. MASHBURN: It goes on the table until someone makes a motion to pull it off the table.

MS. GHAZAL: I -- I find it exceedingly difficult for the respondent because that's -- that just leaves it hanging there.

So perhaps we should get into a little bit further discussion and maybe we can re -- we can try to figure out if we can move this because I think for the sake of the Attorney General's Office, the investigators, and the respondent, it would be in everybody's interest to try to get some kind of resolution here.

If I can ask a clarifying question, Mr. Olens, that it -- was it very clear in all of -- aside from the one advertisement, was it very clear that there was no other -- no action related to voting required in order to qualify to win this prize?

MR. OLENS: Absolutely. It was listed in several places when you look at the actual rules, which is about a four-page document. Approximately three times that's expressly stated.

MS. GHAZAL: And how many -- where was this

advertisement? Was this a -- mainly social media? Online?

MR. OLENS: Soc -- online.

MS. GHAZAL: Okay.

MR. OLENS: And my client would be agreeable -- I don't know if it would make a difference to the -- you know, as far as this, to -- they'd agree to meet with SEB and have an instruction program, whether it's Zoom, et cetera.

They're not looking to do anything other than follow the law. And we're simply knowledging that that one page was in error. We're not looking to be anything other than fully compliant with Georgia law.

MR. MASHBURN: You may not know the answer to this question, but how did the -- how did the page that was sent in error get past -- is there a legal department or somebody serving -- or is that you or ...

MR. OLENS: No, it wasn't me, Mr. Mashburn.

MR. MASHBURN: Okay.

MR. OLENS: I think candidly it -- in the haste of the runoff, a mess-up arose. It's -- it's literally that simple. Someone made a

mistake. It wasn't done by the executive director, it wasn't done by the number two, but we don't deny that the mistake was made.

MR. MASHBURN: I see. And your desire, your intention, y'all's attitude toward this is that we can't believe this happened and we don't think it'll happen again.

MR. OLENS: No. Our -- our statement to the board is it should've never happened. We fully seek to comply with the law. We acknowledge a mistake was made on that one page and we want to make sure it never happens again.

MR. MASHBURN: And so if this were to get referred to the Attorney General's Office, y'all would be of a mind -- and I don't want to bind you to this or get into attorney advice or anything, but y'all would be of a mind that a cease and desist would be an agreeable outcome from y'all's position.

MR. OLENS: I'd want to see the language in a cease and desist, Mr. Mashburn. I've noticed, you know, there's numerous types of cease and desists. They're no longer doing this.

MR. MASHBURN: Yeah.

MR. OLENS: This happened literally once.

Unfortunately this is the once. You know, this dates several years back. It hasn't again, won't happen again.

And they're just coming before the board -- frankly, they're not trying to play games with the board. They're not trying to be ambiguous with the board. They're acknowledging that one time was one too many and that they will make sure it doesn't happen again.

JUDGE DUFFEY: Well, I think the question was would they object to entering into an acceptable cease and desist?

MR. OLENS: Theoretically they would not object. It's frankly a function of what is the exact language that the Attorney General's Office would proffer?

MR. MASHBURN: So if we -- if we refer it to the Attorney General with a statement from the board that the board is leaning toward a cease and desist as a favorable outcome, are we overstepping our bounds into their authority to negotiate the case?

MS. VAUGHAN: I have seen similar recommendations before where the board has thoughts on the case and in order to be resolved,

it would be sent over to the AG's office.

JUDGE DUFFEY: I'm happy to make that -- to agree to that recommendation, and I'm happy you'll be involved in the discussion about what the cease and desist is. I think that that's the practice of the Attorney General's Office as you probably know.

MR. OLENS: Yes, Your Honor. Yes, Your Honor.

JUDGE DUFFEY: If that's the case, if we refer it with the recommendation that it be resolved by a cease-and-desist order, I would entertain that motion.

MR. MASHBURN: Second.

JUDGE DUFFEY: So the motion is to refer this matter to the Attorney General's Office with a recommendation that they enter into, in discussions with counsel for the respondent, a cease-and-desist order.

And so that's the motion. Is there any further discussion?

DR. JOHNSTON: I would be interested to know did the invest -- the attorney general's investigation looked into the markets that were advertised to, and in this context if it was

directed toward a specific group or certain voters.

I'm very sensitive to (indiscernible) prizes or gifts for enticing people to vote.

MR. OLENS: And, Dr. Johnston, I heard your comments earlier this morning and that would -- there were no limitations, none at all.

JUDGE DUFFEY: All right. Any further discussion? There's a motion to refer this to the Attorney General's Office with a found violation but with a recommendation that it be resolved with a cease-and-desist order.

All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

The motion passes unanimously. I think --

MR. MASHBURN: There's also an allegation 2.

JUDGE DUFFEY: Oh. In allegation 2 is there a motion with respect to allegation 2 that was found to be unsubstantiated?

MS. GHAZAL: I would move to dismiss allegation 2.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: Any discussion? Okay.

MR. MASHBURN: For purposes of discussion, yeah, to me this just sounds like paid canvassing. And Republicans do it too. And, in fact, a friend of mine's daughter does it for the Republicans and he would be very mad if I took away her job. So, yeah, I think this is just paid canvassing.

JUDGE DUFFEY: Which is not why we're taking this vote, to protect a young woman's job.

All those in favor of the motion to dismiss say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

Then it passes unanimously.

Thank you very much. Thank you for your presentation. We appreciate it.

MR. OLENS: Thank you, Your Honor, Board. Thank you.

JUDGE DUFFEY: All right. We're now on 2021-141, Fulton County, illegal shredding.

Can we have a report on that.

MS. KOTH: Yes. The Secretary of State office opened an investigation after receiving a report which alleged that two Fulton County election staff members improperly shredded voter

registration applications which they claim were illegible, otherwise unable to be processed, a potential violation of O.C.G.A. 21-2-585, removal, destruction, or alteration of documents, and O.C.G.A. 21-2-236, period of retention of applications.

The former election director, Richard Barron, advised two of his former employees, Ms. Little and Ms. Parker, were accused of illegally shredding voter applications. Richard stated that Ms. Dixon overheard Little and Parker talking to each other about shredding registration applications that they couldn't read.

The investigators spoke to Ms. Dixon and she advised that they were sitting at her desk and heard the shredder running. Dixon stated they weren't supposed to be shredding anything. So she approached Little and asked her what she was doing. Little advised the applications were old. Dixon stated that Parker was handing the applications to Little to be shredded at this time.

According to another witness, Ms. Frazier, she heard Little state that she was going to

shred registration applications that she could not read. Frazier heard the shredding machine turn on and saw Little shredded documents that appeared to be voter registration applications.

Frazier also heard Parker as Little -- heard Parker ask Little what she could with applications that she could -- what she should do with applications she could not read and Little responded with "shred them." Parker asked Little if she was sure and Little laughed and stated that she had just shredded some and that people need to learn how to write.

Frazier advised that Little and Parker were shredding the applications and that Parker hid the applications behind the shredder and turned off the shredder because she thought the supervisor was walking into the room. Frazier said at the time she could see that they were shredding registration applications.

The investigator e-mailed Patrick Eskridge to know how it was determined that Little and Parker shredded registration applications based on shred evidence collected. Mr. Eskridge stated that when the bag of shredded paper was retrieved, he looked inside and immediately

recognized the shredded paper as voter registration applications based on their appearance.

The investigator obtained from Fulton County elections office deputy director Patrick Eskridge the standard operating procedure when registration clerks encounter an application which is either not legible or unable to be processed. And in summary, the clerk is supposed to conduct additional research to attempt to identify the registrant.

For new voters the clerk should've entered as much information into ElectioNet as possible and checked the missing box if any information was missing. If a registered voter's street is not found, the voter was to be sent a letter and the application retained until the deadline on the letter expired.

The findings on this case are: The allegation that two Fulton County election registration clerks improperly shredded voter registration applications which the respondents claim were not legible or otherwise unable to be processed is substantiated. The actions of the two respondents were witnessed by two other

election office clerks. The bag of shredded material was collected and secured by election supervisors and turned over to the Fulton County DA's office.

Based on their appearance and texture, some of the contents of the bag were immediately identified by election supervisors as voter registration applications. Potential violations were the O.C.G.A. 21-2-585 and O.C.G.A. 21-2-236 for Rhonda Parker and Shamen Little.

JUDGE DUFFEY: Thank you.

Are there any questions for the investigator?

Is the respondent -- are either of the respondents here?

MS. WILLIAMS: I can make a statement for Fulton County. In regards to that, yes, there were two workers that reported that they saw their poll workers commit this act. Our department reported it to the DA. Our department reported it to the SOS. We also made a public statement for any voters at that time who had submitted applications if they had not received verification to make sure that, you know, their voter -- their application was processed.

To make sure that this incident -- and also those employees were terminated immediately. And to make sure that this incident does not reoccur, we removed the shredder from the work area and repurposed one of our absentee drop boxes as a lock place to place the items that need to be shredded at a later date.

JUDGE DUFFEY: Well, you're not a --

MS. WILLIAMS: And I do ask the case to be dismissed if possible.

JUDGE DUFFEY: Well, first, you're not a respondent. Only the two individuals are respondents.

So is there a motion?

MS. GHAZAL: I motion that we bind these two respondents over to the Attorney General's Office for further disposition.

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been moved and seconded that we refer this to the Attorney General's Office for further investigation. I think the Attorney General has the option, assuming that there's criminal liability, that they could refer this to the district attorney.

So that's the motion. Is there any further

discussion?

MS. GHAZAL: Just in brief I wanted to thank the -- I remember when this happened and we all learned about it as it happened because the county responded very quickly.

And I'd just like to commend you for doing that and being very transparent with the response. And also my question was going to be have you moved the shredder? And you anticipated that and you did. So thank you.

(The chair conferred with counsel from the Attorney General's Office.)

JUDGE DUFFEY: So I've just been told that if there's a referral to the district attorney's office, it has to be made by us. And then what the board has done in the past is voted to refer it to either -- well, to the dist -- to the Attorney General's Office and to the district attorney.

So what I would move, since we could not refer it to the Attorney General's Office for further referral to the district attorney, I would make a second motion that it also be referred to the district attorney for Fulton or any other appropriate district attorney.

Is there a second to that?

(The chair conferred with Mr. Mashburn.)

JUDGE DUFFEY: And, in fact, it has already been referred to the district attorney's office so that we don't have to make that recommendation. In fact, there's some question about they had custody of the -- of the shredded ballots or the applications and they were investigating these two women. So -- so it's not necessary to do that.

So we can move on to the next complaint.

And thank you very much, Beth, for telling me that.

MS. GHAZAL: Are we going to send those to the Attorney General's Office?

JUDGE DUFFEY: We've already voted. (indiscernible)

All right. The next case is 2022-088, Gwinnett County, out-of-state voter.

MR. BRUNSON: Your Honor? Yeah.

JUDGE DUFFEY: I'm sorry, twenty -- 2022-10, Cobb County, residency.

MR. BRUNSON: Okay. This case was brought to the attention of the Secretary of State's Office February 2, 2022, after we received a

letter alleging that a Miss Samara Tushban(ph) was a resident of Barrington, Illinois when she requested an absentee ballot from Cobb County and voted in the November 3, 2020, general election. This would be a potential violation of O.C.G.A. 21-2-217, rules for determining residency, in addition to statute 21-2-216.

So our investigator conducted a search of the Cobb County Tax Assessor's Office on Mrs. Tushban's listed address in Marietta. It was the same address listed on her voter registration. It showed that the home was owned from September 12, 2012, until an ownership change in June 29th -- on June 29, 2019.

He spoke with the current owners who stated the house was vacant approximately six months before they purchased it, and they had never met the previous owners.

The investigator was later able to speak with Mrs. Tushban who indicated that during the 2020 election she was living in Chicago and had been living there since 2018. She stated that she did not have property or a residence in Georgia since her home was sold there in 2019. When asked why she voted in Georgia while a

resident of Illinois, she indicated that she was still registered there and that she had not registered to vote anywhere else.

She was not definitive on returning to Georgia at some point in the future. She has since then registered to vote in Illinois in 2023. She also obtained an Illinois driver's license on February 23, 2023.

So when she requested an absentee ballot for the state of Georgia, she was living in Illinois is basically what we found out through our investigation, and the two violations that I noted were our recommended findings for this case.

JUDGE DUFFEY: All right. Any questions in the investigation?

Is the respondent, Ms. Tushban here or her representative?

All right, is there a motion?

MR. MASHBURN: I found there's sufficient evidence to believe a violation has occurred and move to refer it to the attorney general.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

DR. JOHNSTON: Second.

JUDGE DUFFEY: All right, it's been moved and seconded that Case Number 2022-10 be referred to the -- find that a violation be found and that it be referred to the Attorney General's Office. Is there any further discussion?

There's being none, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no, that it is referred.

And the motion passes unanimously.

All right. Now we're to 2022-88, Gwinnett County, out-of-state voter.

MS. KOTH: On 5/21/22, we received a complaint via the online reporting system that two voters, Kyler Knudsen and Kevin Knudsen, live out of state but voted in Gwinnett County, Georgia during the early voting for the general primary election, May 24, 2022.

On 5/25/22, Kyler Knudsen returned the investigator's call and advised he currently lives in Alabama. He advised he used the Sugar Hill, Georgia address and is the only permanent address he ever had. He advised he went to college in Alabama and graduated in 2019. He

advised he was unsure about staying in Alabama until recently, about a week ago, before 5/25/22.

He advised he recently decided to stay in Alabama and is closing on a house and he will become an official Alabama citizen after the closing of the house is complete.

Through research the investigator learned Kyler has an Alabama insurance license. She spoke to Ms. Moore of the Alabama Department of Insurance and she confirmed that Kyler has an Alabama insurance license. And she advised when Kyler applied for the license, he applied as an Alabama resident and listed Alabama as his home state.

She advised Alabama does not offer a resident or nonresident option when applying for an insurance license because it is not a requirement to live in Alabama to obtain an Alabama insurance license.

She also confirmed that he would not be able to sell insurance in Georgia with his Alabama insurance license.

Kevin Knudsen called and advised that the Sugar Hill, Georgia was still his permanent address. He advised he left for college and

graduated in 2020. He advised he currently works a remote job for Cigna and he is still uncertain as to where he will end up permanently.

He advised he goes between Georgia, Tennessee, and Arizona. He advised he never voted in any other election outside of Georgia and that has been confirmed by the general counsel for the Arizona Secretary of State.

Through research the investigator learned that Kevin has an Arizona insurance license. She called Arizona Department of Insurance and the financial institutions to inquire about an Arizona insurance license. It was confirmed that Kevin has that -- an Arizona license.

It was advised that Arizona has a resident and a nonresident option for insurance licensing. And in order to obtain a resident Arizona insurance license, a person must be a resident of Arizona. It was confirmed that Kevin applied for the Arizona insurance license as a resident. It was confirmed that with an Arizona insurance license Kevin would not be able to sell insurance in Georgia.

On June 6, 2022, Steve Knudsen returned the investigator's call. He advised he had been away

on vacation. He confirmed that he lived at the Sugar Hill, Georgia address. When she asked him who lived at his residence, he confirmed his wife, his parents, his oldest son, son's wife and child.

He advised that Kyler and Kevin have kept that address as their primary address because they are currently working on their first careers out of college.

The allegation that Kyler and Kevin reside outside of Georgia were substantiated. It was confirmed they both voted in the general primary election, May 24, 2022, therefore they were not qualified electors in the state of Georgia and were ineligible to vote in the state of Georgia. It was determined that Kyler Knudsen and Kevin Knudsen were in violation of O.C.G.A. 21-2-571.

JUDGE DUFFEY: Are there any questions for the investigator?

Are Kyler Knudsen or Kevin Knudsen here to respond?

They are not. Is there a motion?

MR. MASHBURN: I believe there's sufficient evidence to -- to show that a violation has occurred and move to refer it to the Attorney

General's Office.

DR. JOHNSTON: Second.

JUDGE DUFFEY: It's been moved and seconded that complaint -- Case Number 2022-88 be referred to the Attorney General's Office. Is there any further discussion?

There being none, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no.

The motion passes unanimously.

Next is Case Number 2022-216 with the -- can we get the investigator's report on this now.

MS. KOTH: The Secretary of State's Office initiated this investigation after it received a complaint alleging that the City of Ranger has not received -- has not sent in any election results, a potential violation of official code O.C.G.A. 21-2-77.

On September 20, 2022, the Georgia Secretary of State received a complaint regarding no municipal election results have been submitted from the City of Ranger since 2007.

Chad Stamey, City of Ranger mayor, said that he was appointed mayor in 2017 due to the lack of

citizens attending and participating in city meetings. Mr. Stamey stated that the city has approximately a hundred residents and hardly any of the residents come to the city meetings or participate in city business.

He also stated that when he was appointed to mayor, he had been serving as a city councilman since approximately 2014 or 2015. He stated that the city has not held an election during his involvement with the city, therefore there would not have been election results to forward to the state.

Investigators spoke with Shea Hicks, Gordon County elections supervisor. Ms. Hicks stated that the city no longer contracted with Gordon County to supervise or operate the municipal election since 2007. The last election Gordon County had for the City of Ranger candidates on the ballot was the general election in November of 2005. For this election, it included the mayor and city council posts 3 and 4.

Ms. Hicks stated that the reason that the City of Ranger broke away from the contract was due to financial hardship. Ms. Hicks confirmed that there are 64 registered voters inside the

city limits of Ranger at the present time. Ms. Hicks has no further knowledge of any election process taking place in the City of Ranger.

JUDGE DUFFEY: Any questions for the investigator?

Ms. Koth?

MS. KOTH: I'd like to add, though, that they -- the city was dissolved in May of 2023. It's --

JUDGE DUFFEY: What does that --

MS. KOTH: -- no longer a city.

JUDGE DUFFEY: -- mean? Well, we saw this coming, didn't we?

MS. KOTH: I think a month ago it was dissolved. Yeah.

JUDGE DUFFEY: So what does it mean that the city -- can we find somebody in violation if they no longer exist?

MS. VAUGHAN: I would have to look into that issue. I don't know (indiscernible).

MR. MASHBURN: I think there's sufficient evidence --

JUDGE DUFFEY: Refer it to --

MR. MASHBURN: I think there's sufficient

evidence to show that a -- to indicate that a violation has occurred. And I'll leave it to the Attorney General to figure out what the dissolution of the city means. So that's my motion.

JUDGE DUFFEY: Is there a second?

DR. JOHNSTON: Second.

MS. GHAZAL: Second with the comment that if you are statutorily obligated to hold an election, you need to hold the election. Even if there's only one person on the ballot, you still have to hold the election.

MR. MASHBURN: Yes. Agreed.

JUDGE DUFFEY: Yeah, I agree with that. But it didn't sound like a highly motivated group of people to have an election. So I would simplify the motion just -- to just -- to that there's -- that we find a violation and that it be referred to the Attorney General's Office.

MR. MASHBURN: Correct.

JUDGE DUFFEY: Is there any further discussion?

There being none, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

Motion carries unanimously.

All right, the next is Case Number 2022-336, Whitfield County, vote buying. Can we have a report on this complaint.

MS. KOTH: The Secretary of State's Office opened this investigation on November 4, 2022, following a complaint from Ms. Valdarez(ph) of Chattanooga, Tennessee regarding Whitfield County resident Angelica Angeles.

The complaint is regarding a raffle that Angeles advertised online regarding her eyelash business. The raffle offered participants a free full set and one retouch eyelash application. The requirements of the raffle were to share a selfie displaying a voting sticker and to follow her online business. The raffle winner was announced on November 8, 2022.

The investigator received the e-mail from a Ms. Meenie with a notarized statement written by Ms. Angeles. In the statement, Ms. Angeles admits that she was the one that got the idea for the raffle and it was to generate new customers for her business. She denied trying to influence a person to vote for any party or candidate.

Based on the respondent's cooperation, online posting on her social media, and her written admission to having the idea and holding and completing the raffle, there is substantial evidence that the allegation of giving gifts for voting did occur. There is substantial evidence to support a violation of Georgia Code 21-2-570.

JUDGE DUFFEY: All right. Is there any questions for the investigator?

All right. There being none, is there a motion?

MR. MASHBURN: I find there's sufficient evidence to believe a violation has occurred and therefore move to refer it to the Attorney General's Office.

JUDGE DUFFEY: Is there a second?

DR. JOHNSTON: Second.

JUDGE DUFFEY: It's been moved and seconded that -- oh, is there any discussion?

It's been moved and seconded that Case Number 2022-336 be referred to the Attorney General's Office and that we find the violation. All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

The motion carries unanimously.

The next is Case Number 2020-078 which is DeKalb County, illegal campaigning.

Can we have a report on this investigation.

MR. BRUNSON: Okay. This case involved two individuals, one of which was a candidate, Andrew Bell, and Benny Franklin. The office received information that an individual that we later identified as Benny Franklin was petitioning for Andrew Bell at the Peachcrest Elementary School on August 11, 2020.

This location was an active voting precinct on this day and Franklin's location was within the hundred-and-fifty-foot rule, according to O.G.C.A. 21-2-414(a)(1). There were photographs that were sent to us of this particular incident which show that that vehicle was within that hundred-and-fifty-foot space.

Also we were able to obtain a picture of what he was soliciting. And he was basically trying to get signatures for a petition. Ultimately the investigator was not able to concretely locate a Benny Franklin, although from the driver's license picture that we have, we're pretty certain that it's the Benny Franklin in

question. We're just looking at the pictures. But since he wasn't able to concretely identify him, he was listed but it's not definitive.

Ultimately he spoke with Mr. Bell and Mr. Bell basically said that Mr. Franklin was there on his behest and he got permission from election representatives from DeKalb County to be where he was located, where Mr. Franklin was located. He basically filed a -- didn't file it, but he reported on issues regarding the signatures later that he ultimately took to court and subsequently, after going through different levels, it was dismissed.

His -- his complaint basically was that he got 2210 signatures that he purported were valid. However, upon review by election personnel, they deemed that many of the signatures were not valid.

And so because of that he filed a legal action against the Secretary of State basically saying that he received a letter saying that the signatures originally were valid. And ultimately that case was thrown out.

So what we've ultimately found was that Andrew Bell and Benny Franklin were in violation

of O.C.G.A. 21-2-414(a)(1), restrictions on campaign activities, basically for where he was located and his conduct at that location.

JUDGE DUFFEY: Was -- in 2020 was the prohibited distance a hundred and fifty feet?

MR. BRUNSON: Yes, sir.

JUDGE DUFFEY: All right.

All right, any questions for the investigator?

MR. BELL: May I speak on behalf of Andrew Bell. He's not here.

JUDGE DUFFEY: And who are you?

MR. BELL: I'm Walter Bell.

JUDGE DUFFEY: So you must be related to Mr. Bell.

MR. BELL: I can't hear you. It's muffled.

JUDGE DUFFEY: You must be related to Mr. Bell.

MR. BELL: I'm his father.

JUDGE DUFFEY: And can you get -- can we give him a microphone?

MS. GHAZAL: It's flashing.

MR. BELL: Yes, sir. Ask me that question again.

MS. GHAZAL: Yeah. Try it again.

MR. MASHBURN: Say test, test, test.

MR. BELL: Test, test. Okay.

JUDGE DUFFEY: Okay, we got you.

MR. BELL: Yes. I'm Andrew Bell's father. He is out of town. He wasn't able to attend. He only received this notice on the ninth. And he gave me this letter to either read to you or summarize to you regarding why he could not attend.

Basically it's that he did not receive proper 30-day notice, and, I guess, he rejects some of the findings by your investigators.

Now, he sent the notarized version of this letter to your office at Suite 802, 2 Martin Luther King Drive. And basically I have the letter here that's signed. I could read it to you or summarize it to you, whatever you want. But --

JUDGE DUFFEY: Mr. Bell, is what he's asking for is a continuous so that we hear it at a later meeting?

MR. BELL: Yes, sir. I would like -- I think he would like a continuance.

JUDGE DUFFEY: All right. I'm going to grant the continuance. We will hear it at the

next meeting. We'll hear it at the next meeting.

MR. BELL: Say it again, sir. It's kind of muffled. I am a dis -- I have hearing problems.

MR. KIRK: He said yes, sir.

MR. BELL: Okay. Good, good, good. Thank you, sir.

JUDGE DUFFEY: Thank you, Mr. Bell.

All right. Now, we are back to 2020-01. Is that right? Is that right? For me, it's (indiscernible). No, it's 2020-80. Tab 13, right? Yes, tab 13.

MS. GHAZAL: That's the one that we had (indiscernible). 2020-001?

JUDGE DUFFEY: Yeah, that's what I thought. 2020-001. Mr. Mashburn confused me.

This is the irregular signature.

MS. GHAZAL: Yes, the signature irregularities.

JUDGE DUFFEY: And so where we were is -- and did y'all have a chance to review the transcript? And -- I need to check on something.

(The chair conferred with staff from the Attorney General's Office.)

JUDGE DUFFEY: So we have -- we are at Teresa Davis; correct?

MS. GHAZAL: Uh-huh.

JUDGE DUFFEY: Yes? Teresa Davis?

MR. MASHBURN: (nodding)

JUDGE DUFFEY: All right. So where we left off was that we were asking for -- we're going to take these up individually because our experience with a couple of them is that we got more information as we heard the report.

So what we're doing is we're down to Teresa Davis and one of the principal issues, for example, with her is it says: Teresa Davis stated during interviews that she probably signed her husband's ballot.

MR. ARCHIE: Right.

JUDGE DUFFEY: And we don't know what -- when she -- when the person you interviewed, when they -- when Teresa Davis said that, did she mean she signed her name to her husband's ballot or her husband's name?

MR. ARCHIE: I believe she signed her husband's name to his ballot because he had medical problems.

JUDGE DUFFEY: All right.

Any other questions about Teresa Davis then?

MR. MASHBURN: Yes. Her -- was her

testimony consistent with what you --

MR. ARCHIE: I did not -- I did not interview her.

MR. MASHBURN: Oh.

MR. ARCHIE: It was part of the combined investigation.

MR. MASHBURN: Okay.

MR. ARCHIE: And it -- that's what it said when I -- when I did a summary of that investigation -- or that interview. It just said he had medical problems.

JUDGE DUFFEY: All right.

So is there a motion for Teresa Davis?

MS. GHAZAL: I move that we refer Ms. Davis to the Attorney General's Office.

MR. MASHBURN: Second.

JUDGE DUFFEY: All right. It's been moved and seconded that Teresa Davis, the complaint against her, be referred to the Attorney General's Office. Is there any discussion?

There not being any, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

Then the motion is unanimous.

Next is Lidel(ph) Harris. This is Mr. Harris. Stated that she probably signed her husband's oath and the question is did she sign her name or her husband's name?

MR. ARCHIE: She signed his name because he had to work and he couldn't get off in time to go vote.

JUDGE DUFFEY: All right.

Any further questions about Mr. Harris?

MS. GHAZAL: Is there any evidence on the record when they received that ballot?

MR. ARCHIE: I'd have to pull the documents.

MS. GHAZAL: Okay. Thank you.

MR. BRUNSON: And the documents, unfortunately, I thought -- they're in a big -- of course with 87 pages, there's -- so it's in our office.

MS. GHAZAL: No, that's quite all right for our purposes.

JUDGE DUFFEY: Is there a motion for Mr. Harris?

MR. MASHBURN: Move that it be referred to the Attorney General's Office.

DR. JOHNSTON: Second.

JUDGE DUFFEY: All right. It's been moved

and seconded that we find a violation and refer this matter to the Attorney General's Office. Is there any discussion?

There being none, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

It passes.

Next is Martha Baylor.

MR. ARCHIE: This was a mother of a son that had some disabilities. She signed his name to the absentee ballot. She got notified because it was rejected. She went down there and talked with them and they told her the correct procedure. He was issued another ballot. He was allowed to sign it and his vote counted. I think it was just a misunderstanding on her behalf because, you know, he's got some type of disability. Special needs, it says.

JUDGE DUFFEY: So does that mean she did what the election officials told her to do?

MR. ARCHIE: Right. After the first one was rejected, when it -- when it -- sent back in, it was rejected because of signature mismatch, either they contacted her or she contacted them.

They issued him another ballot and she allowed him to make his mark and the vote counted.

JUDGE DUFFEY: Any further questions for the investigators?

MR. MASHBURN: No.

JUDGE DUFFEY: Is there a motion?

MR. MASHBURN: I think this would benefit just from a letter of instruction. I don't see the advantage, any benefit of it going to the Attorney General's Office. I think it'd be unlikely to occur and she's clued in to how it should work.

So I'd move this be closed with a letter of instruction.

DR. JOHNSTON: Second.

JUDGE DUFFEY: To find a violation and that we issue a letter of instruction?

MR. MASHBURN: Correct.

JUDGE DUFFEY: All right. Has that been seconded?

DR. JOHNSTON: Second.

JUDGE DUFFEY: It's been moved and seconded that we find a violation and send to Ms. Baylor a letter of instruction.

Is there any further discussion?

There not being any, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

It passes unanimously.

Joel Wallace.

MR. ARCHIE: This was where he assisted Joan Blackmon(ph) with her absentee ballot. He actually signed it for her and she advised he allowed -- she allowed him to do it because his handwriting was neater.

JUDGE DUFFEY: And did he sign her name?

MR. ARCHIE: Yes. Yes, Your Honor.

JUDGE DUFFEY: With her consent and at her request?

MR. ARCHIE: Yes, Your Honor.

JUDGE DUFFEY: Do you know if she watched him sign it?

MR. ARCHIE: I don't believe I conducted -- another investigator conducted that interview.

JUDGE DUFFEY: Okay.

And is there a motion on Joel Wallace's complaint?

MS. GHAZAL: I would move that Joel Wallace and Joan Blackmon be -- although she is not

listed as a respondent, so I don't think that -- she has not had proper notice. So I actually would like to hold this, to continue this particular case because I think when a voter adjures someone else to violate the law on their behalf, there needs to be some sort of recourse for them as well.

So I would move that we continue this one particular case so that we can also provide notice to Ms. Blackmon.

JUDGE DUFFEY: Well, if Miss -- well, can we move forward on Mr. Wallace?

MS. GHAZAL: I'd be fine with that, yes. Or I --

JUDGE DUFFEY: Let's do that.

MS. GHAZAL: Okay. I move that we refer Mr. Wallace to the Attorney General's Office but request that we open an investigation for Ms. Blackmon.

JUDGE DUFFEY: All right.

So the motion is to find a violation by Mr. Wallace and to refer to the Attorney General's Office. Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: Is there any further

discussion?

There being none, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

Passes unanimously.

And we would request, Sara, that we open an investigation of Ms. Blackmon and get her story about the circumstances and why did she re -- why did she not do something to indication or do -- why didn't she sign her own signature even though it wasn't neat? Why did she ask somebody else to do it for her?

The next is Naomi Lupton.

MR. ARCHIE: She requested the absentee ballot for her son. She stated that he had moved to the University of Alabama. And she said instead of her taking the time to have him fill the absentee ballot out, she completed it and signed his name because she knew how he was going to vote and then she returned it to the elections office.

MR. MASHBURN: I have no questions.

JUDGE DUFFEY: Any questions?

MR. MASHBURN: I believe there's sufficient

evidence to indicate that a violation has occurred and move to refer this to the Attorney General's Office.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

JUDGE DUFFEY: Any further discussion?

All those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

It passes unanimously.

Now, I would say this. As a dad, I would never presume to know how my kids are going to vote. Talk about a parachuting parent.

The next is Samuel Reid(ph). Could you brief us on that, please.

MR. ARCHIE: Okay, sir. He assisted his sister to vote her absentee ballot. He signed her name on the oath envelope because her -- his sister's hands were shaking and she could not sign her name.

JUDGE DUFFEY: So Mr. Reid is Mrs. Reid's husband? Do we know that?

MR. ARCHIE: It's her brother.

JUDGE DUFFEY: Brother. Just doesn't seem -- it's interesting when you look at so many

of these, you -- you see the risk of us saying, well, it's okay in this instance, it's okay in that instance. The process is that if you can't -- if your penmanship is shaky or you have a hard time writing, you can always make a mark and then that could be verified by somebody.

MR. MASHBURN: Well, and now it can be cured.

JUDGE DUFFEY: And now ...

MR. MASHBURN: So if you're -- if you -- if you sign your own ballot --

JUDGE DUFFEY: Right.

MR. MASHBURN: -- and the court say no, you -- you get a message now that the law is that there's a mismatch and you need to cure it. And so --

JUDGE DUFFEY: And even back then when we didn't have that, there's --

MR. MASHBURN: There's even less reason for it now.

JUDGE DUFFEY: This sort of -- I'm going to -- let me do it the way I think I ought to be able to do it as opposed to the way I should do it.

Is there a motion?

MS. GHAZAL: I move that we refer this to the Attorney General's Office with instructions that they dispose of it with -- we would be inclined to dispose of it with a letter from the Attorney General's Office, but, obviously, with further investigation.

JUDGE DUFFEY: I don't think the Attorney General's Office sends letter, do they? Or ...

MS. VAUGHAN: No. Letter of instruction can be from the board. I mean, there are a range of possible civil penalties that would not necessarily include a fine we recommend --

JUDGE DUFFEY: Yeah.

MS. VAUGHAN: -- that be (indiscernible).

MS. GHAZAL: Thank you for the proper terminology.

I move that we refer this to the Attorney General's Office for further investigation and stop there.

MR. MASHBURN: Second.

JUDGE DUFFEY: Okay. So the motion is that we find a violation and refer it to the Attorney General's Office. Is there any further discussion?

If not, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

It passes unanimously.

Next is Audra Brooks-Roberts.

MR. ARCHIE: What was that name again, Your Honor?

MR. BRUNSON: I got it.

JUDGE DUFFEY: Audra Brooks, hyphen, Roberts.

MR. BRUNSON: There is evidence to suggest that she violated O.C.G.A. 21-2-385(a) in that during the November 6, 2018, general election, the Richmond County elections office received an absentee ballot in the name of Bernard Roberts. The absentee ballot was rejected because of a signature mismatch.

During the interview of Audra Brooks-Roberts, she admitted signing her name to her husband's oath envelope. Mrs. Roberts stated she was trying to help her husband out and she promised not to do it again.

JUDGE DUFFEY: Is there any questions of the investigators? If not, then --

MS. GHAZAL: To clarify this case, she signed her own name?

MR. ARCHIE: No, she signed her husband's name.

MS. GHAZAL: Oh, she has -- her husband's name. Okay, thank you. Thank you.

MR. BRUNSON: Wait.

JUDGE DUFFEY: No. She's admitted signing her name --

MR. BRUNSON: Wait. Wait. Signing her name.

JUDGE DUFFEY: -- to her husband's oath envelope.

MR. BRUNSON: Oh, I'm -- her husband's oath envelope. She signed her name.

MR. ARCHIE: Correction. She signed her name. I'm sorry.

JUDGE DUFFEY: Okay. So --

MR. MASHBURN: When somebody signs their own name, we've been sending letters of instruction, right?

JUDGE DUFFEY: Right.

MR. MASHBURN: Okay. So I move that this matter, we find a violation and send a letter of instruction.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

MR. MASHBURN: And she -- and she promised not to do it again as well. She got the point.

JUDGE DUFFEY: Yeah.

All those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no.

The motion passes unanimously.

The next is Janet Price.

MR. ARCHIE: Okay. She assisted her mother to vote her absentee ballot because she was disabled and her mother could not sign her name on the oath envelope. So she marked -- where her mother was supposed to sign her name, she marked an "x" for her mother. And she also -- the daughter signed at the bottom portion that she assisted her.

JUDGE DUFFEY: There's always a little twist, isn't there?

MS. GHAZAL: Yeah.

Was -- is there any indication in your investigation that the mother would have been capable of making the "x" herself?

MR. ARCHIE: Let me see.

MS. GHAZAL: Because that, to me, is the only violation whatsoever because the -- as

the -- as Ms. Price signed as in assisting, that is wholly within the -- the scope of her --

MR. BRUNSON: It says that the mother was disabled and she could not sign --

MR. ARCHIE: Yeah. Could not --

MR. BRUNSON: -- her name on the oath --

MR. ARCHIE: -- sign.

MR. BRUNSON: -- envelope.

MS. GHAZAL: Okay.

MR. BRUNSON: Disabled and could not.

MR. ARCHIE: Right.

MS. GHAZAL: Thank you.

JUDGE DUFFEY: It seems a reasonable position that if your mother can't do it, you can't sign her name because it might -- might be deceptive that she could sign her name and this was the most that she could do and she wanted to make it clear that it was just a mark. But then she acknowledged that she helped.

MS. GHAZAL: Right.

MR. MASHBURN: I'm having trouble finding a violation on this one. I think she tried to do what she thought she ought to do. And it's not relying on the ignorance of the law as a defense, but I just -- I think she tried her best to do

what she thought she had to do.

JUDGE DUFFEY: And she wasn't trying to deceive --

MR. MASHBURN: She wasn't trying to deceive anybody. So I think -- looking at this, I think I'll make a motion to dismiss it.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

JUDGE DUFFEY: Is there any discussion?

All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no.

The motion carries unanimously.

Now I ask my fellow board members, did I miss any of these? Did I miss any of these?

MR. MASHBURN: I don't think so.

JUDGE DUFFEY: Okay. I think that's the last thing we had on the agenda for today.

Did anybody sign up to make public comments or are we going to do that all tomorrow?

MS. HARDIN: We were going to do that tomorrow.

JUDGE DUFFEY: Okay. Then I'm going to adjourn the meeting until tomorrow. We will reconvene at 9:00.

(Adjourned for the day at 2:59 p.m.)

CERTIFICATE

STATE OF GEORGIA

I hereby certify that the foregoing meeting was taken down and was reduced to typewriting under my direction; that the foregoing transcript is a true and correct record given to the best of my ability.

The above certification is expressly withdrawn upon the disassembly or photocopying of the foregoing transcript, unless said disassembly or photocopying is done under the auspices of the undersigned and electronic signature is attached thereon.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties; nor am I financially interested in the action.

This, the 7th day of July, 2023.

Mary K McMahan

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

THE OFFICE OF SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

Wednesday, June 21, 2023

Georgia State Capitol, Room 341

Atlanta, Georgia

9:00 a.m.

Volume 2 of 2

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APPEARANCE OF THE PANEL

William Duffey, Chair
Sara Tindall Ghazal
Janice Johnston
Ed Lindsey
Matt Mashburn

Transcript Legend
[sic] - Exactly as said.
(ph) - Exact spelling unknown.
-- Break in speech continuity.
. . . Indicates halting speech, unfinished sentence or omission of word(s) when reading.
Quoted material is typed as spoken.

TABLE OF CONTENTS

Page:
Petition for Amendment 11
Violation Cases 109
Attorney General's Report 266
Consent Orders 267
Final Orders 280
Reporter's Certificate 317

P R O C E E D I N G S

JUDGE DUFFEY: Good morning, everybody. I want to call the June 21, 2023, meeting of the State Election Board to order.

We will begin with our invocation which will be given by Mr. Lindsey.

(Invocation)

JUDGE DUFFEY: Thank you.

Now, Andrew McMillen, who is here, would you please come up.

You know, as I announced yesterday, on July 1st of this year, which is -- since I've lost track of time -- just a few days away, pursuant to Senate Bill 222, the State Election Board becomes an independent agency.

And one of the things that we've done in anticipation of that, we have authority to hire an executive director and that's in the process. We have the authority to hire two investigators and that will be in the process.

But I've also thought about what sort of support do we need and where can we get it as we begin to consider what our responsibilities are under this new status that we have. Well, one of which is -- because I don't have authority to

hire a lawyer -- although it's not like we don't have enough lawyers on the board, but sometimes you just need somebody in an outside capacity to help us understand what our obligations are and what our obligations are not and what we can do and what we can't do.

So for a few semesters I've been making professionalism presentations at Georgia State, and one of the things that they --

It's kind of awkward standing up here, isn't it? But this is all about you, so deal with it.

MR. MCMILLEN: I'm reveling in it, sir.

JUDGE DUFFEY: Okay. We also need a little humor every now and then.

But one of the things that I have talked to Professional Lawlor about at Georgia State is her desire to introduce lawyers to paths of practice other than just going into a law firm and practicing and whether it's a big firm or a small firm. But she's very interested in at least getting exposure to students who are interested in the opportunity to see how public service is different. In my life, public service, I can tell you, is very different than being in private practice.

And so I asked her if she -- if there might be somebody interested in their school, who's a law student, to serve as an intern for the State Election Board. And she identified one of her top students who is standing behind me. His name is Andrew McMillen.

And so, Andrew, I want to welcome you to the team and thank you very much for your willingness to fit this in with your other activities. And know how important, from us to you, to add your services. So thank you very much.

And so I have asked Andrew to lead us in the Pledge of Allegiance. So if you'll all stand please.

(Pledge of Allegiance)

JUDGE DUFFEY: I do want to take up just two matters which are not on the agenda but one of which came up yesterday and the other of which actually came up in the afternoon yesterday with respect to our processing of complaints.

The first is in the morning when we were considering the Fulton County Performance Report, one of the things that we discussed with Fulton County was would they be willing to partner with the State Election Board in trying to come up

with a template of things which ought to be evaluated periodically in each of the counties as a way of allowing counties collectively, with large counties and small counties, to develop what it is that's most important, what it is that ought to be assessed from an operational performance standard periodically.

And while that whole idea has not been fleshed out, I've gotten a couple of e-mails from people who are in the counties that have e-mailed me, having watched this yesterday and said that they had never thought of an idea like I proposed yesterday and that the board endorses and that they -- and they were looking forward to what we're going to do.

What I would like, because Fulton County including their new chair, Ms. Perkins-Hooker, in a conversation when she left yesterday, told me that she was committed to helping and wanted to participate. With that expression, I wanted to ask anybody, especially the county people that are watching this or listening to it, that if there's anybody who would be interested in talking to us about being a member of a working group to work without Fulton County and others

that have expressed an interest in being part of that initiative, if they would please e-mail Alex Hardin. Alex, who is our paralegal, she will accumulate those names and we'll see who's interested and try to get that group organized quickly.

The second issue procedurally is that yesterday we considered a complaint having to do with mismatched documents and ballots and applications concerning Denise Cobb. During the course of that, there was some confusion, including on my part, whether we had passed -- whether we had passed a resolution in which -- or voted on a disposition of that by finding a violation but instructing a letter of instruction be given.

And then as we went through some other ones individually, we realized that we really needed to maybe do them as a group because there were so many so similar. So we -- so another motion was presented in which Ms. Cobb, having already voted on something on the complaint against her, was included.

So we have Ms. Cobb now is the -- is the person who now is dealing with two inconsistent

votes of the board and we need to procedurally correct that. I'll note that Ms. Cobb apparently left because she thought that we had voted on her complaint. So I think she had every right, thinking that that was done. And then something happened when she wasn't here.

So here are our options for the board and I'll ask what they would like to do. If we decide that the board wants to, instead of giving her a letter of instruction, referring her case to the Attorney General's Office, the matter that was taken up when she was not here. We will have to put her -- give her another notice of the complaint that she is a respondent in the complaint and that she has a right to appear at the next meeting in order to respond to the complaint again so that we can decide what we should do.

If we elect not to do that, we'll need a motion saying that the motion that included her for referral to the Attorney General's Office, that she be removed from that motion, in which case the action that we had initially taken which was to find a violation and send a letter of recommenda -- a letter of instruction would stand

and that's the course that we would take.

Let me check with our lawyer to make sure I've explained that adequately.

MS. VAUGHAN: That makes sense.

JUDGE DUFFEY: Okay. So what would the board like to do?

MR. LINDSEY: Mr. Chairman, in the interest of fairness, I believe that we need to -- I need to make a motion to reconsider the decision regarding Ms. Cobb, to refer that to the Attorney General at this time and ask for the board's approval -- and ask for the board's approval as to that.

And then I would make a motion to continue. I -- the problem is that the evidence was incon -- her testimony was inconsistent with the documentary evidence that I think warrants further investigation. But in the interest of fairness, to allow her to come and explain herself again before we make a final determination. I think it's important.

So for that reason, Mr. Chairman, at this time I would move to reconsider Ms. Cobb's -- the decision to refer Ms. Cobb's case to the attorney general.

JUDGE DUFFEY: Okay. And that we then put that on -- give her notice of the reconsideration and the complaint and that we'll hear from her again --

MR. LINDSEY: Yeah. I mean, I don't -- if we can do it in one motion, that's great. I was going to do it in two. But if we can do it in one, all the better. We can move on to the next matter.

JUDGE DUFFEY: I think we -- let's do it all in one.

MR. LINDSEY: Okay. I move to reconsider and to continue her case to the next hearing of the State Election Board.

JUDGE DUFFEY: Which would require if she's on that agenda --

MR. LINDSEY: Yes.

JUDGE DUFFEY: -- to send her a new notice.

MR. LINDSEY: Correct.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded that Ms. Cobb's case be reconsidered at the next meeting of the State Election Board, that we give her notice of the reconsideration, and that --

and give her the opportunity to respond again to the complaint that has been filed against her. Is there any discussion?

MR. MASHBURN: And for discussion, do we also need to reconsider the ruling that gave her a letter of instruction? Don't we need to reconsider that too?

MR. LINDSEY: Let me put it this way. I move to reconsider any and all determinations yesterday regarding Ms. Cobb and move as part of my motion to continue her case to the next State Election Board meeting with her being provided with sufficient notice to appear.

JUDGE DUFFEY: Right. Is there a second to that?

MR. MASHBURN: Second.

JUDGE DUFFEY: All right. Is there any further discussion?

All right. All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no.

It passes unanimously.

Petition for Amendment of Rule 183-1-12

JUDGE DUFFEY: The next order of businesses is a petition that's been with the board that has

been put on for the hearing today.

There will be two sets of presentations to us. The first will be a 20-minute aggregate presentation by the petitioners. There are two. One is the Coalition for Good Governance who is represented by Marilyn Marks. And the second is a petition which is substantially similar to the petition filed by the Coalition for Good Governance, and that is -- the petitioner in that case is Jeanne Dufort. She will be representing the petitioner in that case.

So with that I will turn the floor over to whomever of Ms. Marks and Ms. Dufort wants to speak first. Welcome.

MS. MARKS: Thank you. Is this microphone on?

JUDGE DUFFEY: Yes.

MS. MARKS: Okay, great. Good morning. Good morning, Members of the State Election Board. Thank you so much for letting us speak today.

Ms. Dufort and I will divide the 20 minutes between us. She'll be speaking for -- I'll be speaking for Coalition for Good Governance. She'll be speaking for the Morgan County

Democratic Committee.

And we had planned to this: I'll spend about seven minutes, she'll spend about seven minutes. And if we could, we would like to reserve the remainder of the time to come back after your staff has presented to answer anything that we feel like we need to from there.

So thank you for considering our rules petition today.

JUDGE DUFFEY: Excuse me. When you first asked for time, I gave you the time of 20 minutes. So we're going to have two 20-minute presentations and we're not going to reserve any time. So you need to use that judiciously.

MS. MARKS: Okay, thank you.

So it's clear over the last year from the publicly reported events that a vulnerability and incident management reporting system, which is a mandatory system, is urgently needed when we recognize that there are vulnerabilities and -- that were detected and reported by Dr. Halderman, were reported to the state in the summer of 2021. Yet no mitigation measures were taken or addressed for two years, even to attempt to protect the 2022 midterms.

And now those vulnerabilities are public and the state is saying that yet still it will not mitigate those vulnerabilities through the 2024 presidential election cycle. The vulnerabilities remain unaddressed and the risk of their exploitation greatly elevates because of the Coffee County breaches. If all of us here have learned anything from Coffee County and the breaches that occurred there, it is that there is no effective security incident reporting management system in place or mitigation system in place.

The breaches occurred in January 2021 and the extent of them and the widespread impact is still not fully understood and not investigated. As recently as last night the Coffee County Board of Elections met and concluded that simply terminating Misty Hampton, the then-election supervisor was sufficient. And although some of them were actually involved in the breach and were aware of the breach, they concluded that simply terminating the person -- actually not even terminating her but allowing her to resign, separating from employment, was plenty. That's all that was required.

They concluded that again last night. Yet this was the largest voting system breach ever -- we were ever aware of in the nation's history. So clearly that shows that there is a compelling need for a mandatory reporting system for vulnerabilities and for security incidents and that reporting needs to come from election officials.

Gabe Sterling said, in his February 2022 deposition, that if, in fact, imaging of an EMS server had actually occurred, it would require mitigation, yet that mitigation has not been accomplished all this time later.

We fast-forward to November of 2022. The state learned that Ms. Hampton from Coffee County had also been given access and programming rights to the voting system in Treutlen County, yet no action was taken until we at Coalition for Good Governance were able to get a few scraps of documents five months later in March.

And then, of course, I contacted you, Judge Duffey, to let you know of that situation, and you reacted promptly in getting investigators on the case.

But these are situations of security

incidents of the type the Secretary of State should've been notified of immediately, perhaps was notified, but yet there were no requirements for incident reporting or to be able to address this.

So what our rules do is make reporting mandatory by election officials and work through mitigation measures that are required when those -- when that's been reported.

In recent years, the board has promulgated rules, election rules, that govern the deployment of the backup balloting system when the system is inoperable or it is -- it is unworkable in some way. What we're doing is asking you to expand those rules to include not just the type of physical inoperability that might occur in a power outage but instead -- not instead but in addition to promulgate rules that expand the rules already on the books for security incidents as well.

We want to be clear. We are not asking for emergency rule-making. In fact we think that a very deliberate process needs to take place, your normal rule-making process that would allow for public input after the proposed rules -- they may

need to be tweaked -- are published.

And, in fact, I can think of some things now that -- it's months later since we first proposed these, I can think of some things that need tweaking now with the knowledge that we've gained just since we proposed these. So I want to make sure that we're clear about that.

So if the board adopts these rules, we hope that they would be quickly followed by robust and complete policies and procedures that would give the election officials a step-by-step manual on what to do and what to do rapidly when security vulnerabilities and incidents occur, when vulnerabilities are noted and when they occur.

We can step through the rules if you want, but in general I think you're well aware that they -- that the proposed rules define vulnerabilities and define incidents and then require reporting on a certain rapid response timetable by the election officials.

Then we step to mitigation. Mitigation is required to take place for security incidents. And serious security incidents such as software access, assumed software access, would be a -- would have an immediate mitigation of going to

the rules that are currently in place for the backup balloting system: hand-marked paper ballots followed by much more robust audits during the time that the security incident is being assessed and mitigated; and that before the state would return to the standard method of voting, that this board would meet in conjunction with the Secretary of State in a public hearing and determine that the mitigations were sufficient for -- for security mitigations.

And that's kind of the sum and substance of what we have proposed. And we would greatly appreciate your favorable consideration and certainly the opportunity for the public to make needed refinements for your consideration.

We'll look forward to answering any questions that you have.

JUDGE DUFFEY: Thank you.

Ms. Dufort.

MS. DUFORT: Thank you, Marilyn.

Good morning. My name is Jeanne Dufort, and I'm here today on behalf of the Morgan County Democratic Committee.

Last September when videos from Coffee County were just emerging, I stood before you on

behalf of a coalition of Republicans, Democrats, Libertarian candidates, organizations, and citizens, asking you then to take action to protect our elections.

My question that day was if not now, when? What would it take to convince you to protect our elections? Here we are nine months later and the Secretary of State has done nothing that would protect our elections from future cyber risks.

Two and a half year ago, the software that powers Georgia's election system was copied, uploaded to the share file, and downloaded multiple times. It was, as Marilyn said, the largest -- and I would add, the most well-documented -- election security breach in U.S. history.

Two years ago Dr. Alex Halderman filed a report so alarming that it was promptly sealed in federal court. And that report documents specific multiple vulnerabilities that could be exploited to change outcomes.

Our nation's agency tasked with protecting critical infrastructure -- and election systems are critical infrastructure -- the DHS department, the Cybersecurity and Infrastructure

Security Agency, known as CISA because that's a mouthful, they confirmed Dr. Halderman's findings and they recommended prompt mitigations be taken. That was a year ago.

The Halderman report is now unsealed and it's available to the public. Yet last month, state's attorneys told a federal judge that partial mitigations would begin in 2025, after the next presidential election. Voters can't wait. American can't wait. The path to the 2024 presidential election runs through Georgia and it is unfathomable why anyone would refuse to protect our elections if they had the power to act.

We know that some people are willing to do anything in pursuit of their preferred outcome. 2020 told us that. Secretary of State, independent from you -- Right? -- as of July 1st, clearly prefers to protect Georgia's voting system from criticism rather than to ensure our outcomes reflect the will of the voter.

He's promoting and his staff are promoting. We'll hear it in a little while, I suspect, the false narrative of the Mitre report, the false premise. They're not mentioning the false

premise of the Mitre report, that the vulnerabilities while real can't be scaled. That's -- that's what's being trumpeted. That was told to a statewide call of election officials yesterday. It's in the press release. It's in the press.

But the Secretary of State is choosing to overlook the footnote on page 1 that Mitre's findings assume -- assume strict and effective controlled access to Dominion election hardware and software. Let me repeat that. The Mitre conclusion that Alex Halderman's vulnerabilities can't be scaled is dependent on the premise that we have strict controls, access to that system. And whoever -- whoever wrote the unsigned Mitre report must be the only person in America that hasn't watched the Coffee County videos.

So, Members of the State Election Board, it's up to you to act. Fair, legal, and orderly elections. I don't know who wrote that, but that's the watchword on your website. Great basic standard and commitment. Every one of us learned before Kindergarten that there's nothing fair about a rigged game. And there's nothing fair about a rigged election.

The elections system software that powers our elections has been in the hand of partisan actors for two and a half years. We've seen their text. They have expressed intent to use it to change election outcomes and they believe they can do it. That scares the hell out of me. My grandmother would not be happy.

Our proposed rules tell local election officials that they must report security incidents and act swiftly to preserve evidence. They also commit all Georgia election officials to act first to secure the system before investigations are completed. Quite simply, you put out the fire before you call in the arson team.

I've heard a lot about waiting for the GBI, waiting for -- I read your frustration with the slowness of the GBI, and I'm all for holding people accountable. But that is not the right way you deal with cyber incidents. First -- first you protect the system and then you do your investigation. You can't wait until after the investigation.

It's common sense and it's the state operating procedure for companies and

institutions across the world when dealing with cybersecurity risk policy. When you use electronic systems to secure your valuables -- money, ID, votes -- you have to have a robust plan for how to act when breaches occur where vulnerabilities are reported and it's got to be fast.

If your financial institution told you they found a software vulnerability that could compromise your account, and, by the way, they'd also had a breach, you would close your account if they didn't also tell you what they had done to protect your funds. We all would.

Since we filed this petition, I've been talking to voters across the state. Once I finish presenting, the first question is why didn't we know about this risk to the 2024 election sooner? And they ask, Well, why isn't the state doing something? Or what's the state doing? And then they say, How can I help? Some of those people have been writing to you because that's one of my answers: These are the guys who can do something about it. So tell them how you feel. Don't tell me.

Voters across Georgia are shocked that state

election officials haven't done more to protect our elections. If you refuse to adopt common sense security incident rules now, it'll be hard to explain why when our elections depend on an electronic system that has no vulnerabilities and has been compromised.

Let's spend a few minutes on why protecting the ballot itself is the simplest way to protect the 2024 election because the entire system was breached. But think about the voting process. Voters make selections, ballots are scanned, votes are tabulated, audits performed, rules are certified. Really in the scheme of all business models, voting is not a complicated business. I ran handmade factories in India. That's -- there's a little more complication in that, right?

We can overcome a hack of the scanning and tabulating part of the system with robust audits. But a hack of the ballot itself is a fatal attack. Audits are meaningless if you don't have confidence the ballots you're auditing reflect the will of the voter. And the ballot created by a touchscreen and a printer is the most vulnerable part of our system.

One of my attorney friends calls the BMD ballot hearsay evidence that wouldn't be admissible in court because it's how the computer says you voted, not what you actually marked. And computers are vulnerable to hacking, especially in Georgia, in light of the January '21 election system breach and the vulnerabilities documented by Dr. Halderman.

In light of the increased risk, just inverting how we use our system, most people who deploy the Dominion system around the country use it in a different way than we use it. In most jurisdictions, most people mark their ballots by hand and a few people use those touchscreens and printers. In Georgia, we're all in on touchscreens for everybody who's in person.

So just invert it. Use it in what I would call the standard way in everywhere else except Georgia, right? It's a simple and effective way to greatly reduce the threat. Because if you have a ballot that you know is absolutely reliable and not vulnerable to a hack, all the rest of the possible hacks can be overcome through good audits, recounts if necessary if you have the original will of the voter.

We have a back-up balloting system. Marilyn referred to it to be used when it's impossible or impractical or unusable. It's -- the legislature started with that system. You and your rules defined it. But up until now, we have mainly imagined that that's a case you use when you have power outages or you have equipment malfunction like happened countywide in my county in November of 2020, and we switched over in every precinct, quickly. 7 a.m., voters walked in, the cards wouldn't code the tablets, boom, hand-marked paper ballots. You know, four hours later we -- the Dominion tech got there and made the system work again. It is not hard and voters don't care. They just want to come in and vote and know their vote counts as cast.

I talked a little bit about the why, why you should act favorably on our proposed rules today. But let's review quickly what they do. Adopting the rules proposal gives you, the State Election Board, some powerful tools you do not currently have.

You can hold people accountable if they don't follow these rules. That's most of what you do -- Right? -- is hold people accountable.

They create a common understanding of what constitutes a serious security incident. They require immediate reporting of any suspected security incidents.

And this is important: They require local election officials to preserve important evidence, like security footage. We only have the footage of the Coffee County breach because they preserved it for a different reason, a personnel reason, right? But we could've looked at that. Inspector Josh, who encountered Jeffrey Lenberg in January, in the Coffee office, could've asked to look at the video and, obviously, concerns would've been raised much more quickly and come to your attention much more quickly. So that preservation of evidence piece is a super-important part.

They commit investigators to act swiftly to determine whether the incident presents a likely threat, and if so determined, requires swift action to sideline the equipment that is the most vulnerable, those touchscreens and printers, and keep it sidelined till the risk is over.

Elections are our public treasure. They're the cornerstone of our democratic republic. So

these rules require a public hearing where state officials can present findings and explain to the public why it's safe to resume standard operating procedure.

From where I sit -- and I'm going to call it "we," I'm a communitarian -- I mean the Morgan County Democratic Committee and all of the people I've been talking to in the last month, from where we sit, the single best way you can act to promote confidence that our election system produces outcomes that reflect our collective votes is to see state leaders commit to having a responsible set of rules in place to deal with security breaches swiftly and commit to enforcing those rules.

JUDGE DUFFEY: Ms. Dufort, excuse me, I hate to --

MS. DUFORT: Yes, sir. Am I out of time?

JUDGE DUFFEY: You're too much like me. I sort of get wound up and lose track of time sometimes.

MS. DUFORT: Am I out?

JUDGE DUFFEY: Well, you're close.

MS. DUFORT: Okay.

JUDGE DUFFEY: So if you could --

MS. DUFORT: I'm wrapping up.

JUDGE DUFFEY: Great.

MS. DUFORT: I'm very close to the end.

Today might just be another meeting day for you, right? Thank you for your service by the way. But it's a consequential day for the voters of Georgia and the American people. The Secretary of State's Office has made it abundantly clear that they will not act despite the advice of CISA and our top experts in cybersecurity.

So you alone, as an independent body, can make the choice to follow the science, follow the experts of how to manage cybersecurity risk or punt, in which case our 2024 elections will remain at risk. You have the power to act. The question is do you have the will?

I appeal to you for your favorable consideration of our rules. Thank you.

JUDGE DUFFEY: Thank you. In your closing -- your closing remarks sentence might be where I want to go next which is -- and you can sit down. Go.

It's one thing to have power; it's another thing to have will. You can't have will unless

you have the authority to do something. There hasn't been any discussion here this morning, nor is there any discussion in your petition about the authority that we have under Georgia law to do the things that you've requested in the -- in your petition.

So I've asked -- because Andrew didn't have enough time to do this legal research project, but I've asked the Secretary of State's Office not to address the decisions that they made with respect to 2024 and the update. What I've asked them to do is simply, based upon their experience, to discuss with us legally what the board can and cannot do in their opinion.

And we have independently as lawyers looked at the authorities before we even got the chance to hear what they're going to represent to us this morning. But I think it's important for everybody to understand what the law is upon which the coalition and you are requesting that we act. And you're stuck with four lawyers that sit on the board that say we always have to be cognizant of what we can and can't do. It's -- my wife says that it is that, you know, if a law makes you stay in your lane. And we want to stay

in our lane and we can't -- we can't really consider what's been requested until we understand what our authority is.

So with that, I'm going to ask the Secretary of State's Office to make their presentation. They too will only have 20 minutes. Well, I would say they too have 20 minutes which is a long time. At the court of appeals in the Eleventh Circuit, you only get fifteen.

MS. MCGOWAN: Good morning, Mr. Chairman and Members of the Board. Thank you for the opportunity to present to you this morning. And at the board's request, I am presenting the Secretary of State's position on the petition and will specifically address the chairman's question about what Georgia law requires and what the authority at the State Election Board is.

We did provide the board with our detailed written comments last week as the board requested. So I will use my time this morning to highlight some critical information that the board should consider when taking up the petition.

But the chairman really hit the nail on the head right now with the threshold issue. And

that is: What does Georgia law require? And first and foremost, the board should deny the petition because the proposed rules are contrary to Georgia law.

The petitioners are asking the board to make sweeping changes to the state's method of voting via rule-making. But the method of voting in the state of Georgia is a policy decision that should be made by the Georgia General Assembly. And any changes to the state system of voting is a decision that the Georgia Legislature should make.

But let me be clear. The state's electronic voting system is safe and secure as verified by independent testing and has been proven over the past four years to produce accurate election results that Georgians can have confidence in.

Our system is battle-tested and the Secretary of State welcomes any opportunity to describe in detail how the state is a national leader in providing secure, fair, and accurate elections. The recent politicized attacks, criticizing the security of our system are being made by those who want to so distrust in the integrity of our elections and cast doubt on the

accuracy of the results.

But the Secretary of State will continue to provide secure elections, protect the security of our voting system, and any changes to the system will be done in a deliberate, informed, and responsible way. We will not be reckless with the security and integrity of our election system, especially going into a presidential year. And we will not take the drastic action of making major changes to our system and our voting software without testing it first. And any responsible actor should agree with this.

But turning back to the threshold issue, the board should deny the petition because it is contrary to Georgia law. The election code mandates a uniform system of electronic voting, utilizing ballot marking devices that produce verifiable and auditable paper ballots that are tabulated by optical scanners. This is in O.C.G.A. 21-2-300.

The General Assembly enacted this law and made the policy decision to adopt this system of electronic filing in 2019 when it enacted House Bill 316. This law requires all counties in Georgia to utilize the same uniform method of

electronic voting for all federal, state, and local primaries and elections. The state of Georgia made a substantial investment in purchasing new equipment for all of our counties. And this equipment has now been safely used for the past four years and in two statewide elections.

The petitioners asked the board to promulgate rules that would ignore the clear statutory mandate that counties use a uniform system and give county election superintendents the discretion to use hand-marked paper ballots if the superintendent determines that a security incident has occurred.

However, there is no provision in the Georgia election code that supports the creation of such a broad exemption to the clear statutory mandate that all counties use a uniform system of electronic voting. And any decision to create such an exemption is a policy decision that should be made by the Georgia General Assembly.

And although State Election Board rules do allow election superintendents to use hand-marked paper ballots in an emergency, that is a narrowly defined situation where voting on the equipment

is impossible or impractical, in other words when the voting equipment simply doesn't work and can't be used when voters need to be voting.

The overall purpose of the State Election Board rules is codified in the election code as to obtain uniformity in the practices and proceedings of county election officials.

The petitioners proposed rules are vague, overly broad, and likely to be interpreted and applied inconsistently between counties. This will undermine the very uniformity in election administration that the board's rules are intended to achieve. It will also require retraining of all county election officials on your procedures. And it will be confusing to voters who expect to show up in person and vote on the BMDs that they are used to.

And most importantly, the relief sought by the petitioners is contrary to the express will of the Georgia General Assembly that all counties use the state's uniform system of electronic voting. And for this reason alone, the petition should be denied.

But the petition should also be denied because the petitioners' security concerns are

unfounded. Our voting system has been certified as safe and secure by the U.S. Election Assistance Commission and the Secretary of State. It has been through rigorous independent testing and has consistently been proven that the results the system produces are reliable and accurate.

Furthermore, mandatory audits have been conducted since the statewide implementation in 2020 which affirmed the integrity of our election results. These audits have provided us with confidence that our system is working as intended. And in addition to the certification process and lab testing that has confirmed the security of the system, our election processes have built-in layers of safety nets that also ensure that the results are accurate.

First, there are already board rules that require strict physical security measures to protect the security of our voting equipment.

Second, before any election the equipment is subject to rigorous logic and accuracy testing to make sure that the tabulation scanners are accurately reading the printed paper ballots.

The paper ballots printed by the BMDs also provide the voter the ability to verify that the

choices marked on the paper ballot are accurate.

And fourth, risk limiting audits confirm that the tabulated results are accurate prior to certification. And audits are now mandatory for every primary and election with state and federal races with recent legislative changes to O.C.G.A. 21-2-498.

I do want to address one part of the petition related to audits. The petitioners ask that the board promulgate a rule requiring audits for at least 50 percent of all races on the ballot. I will say that this is contrary to the audit requirements in the election code, but more importantly, it's simply unworkable. And it's not something that counties can practically do. It would impose significant burdens on them to be able to conduct that many audits within the certification deadline.

I would also like to address the petitioners' claim that there are certain vulnerabilities in the system which they identified in an expert report that was submitted in the Curling litigation. This particular individual is the plaintiff's paid expert witness. He was given unrestricted access to the

voting equipment in a laboratory setting for 12 weeks with password information and documentation on how to operate the equipment. And even with all of this access, he's only been able to identify hypothetical vulnerability scenarios rather than concrete evidence of any sort of actual attack.

I will -- as I noted, this report was submitted in the Curling litigation and it is just one piece of evidence that is before the federal district court in that case. Both the secretary and the State Election Board are named defendants in that case, as you are aware, and have submitted their own independent reports that thoroughly rebut the concerns raised by the petitioner.

For example, the Mitre report that was also recently released concludes that the proposed attacks in the plaintiff's report are operationally infeasible, meaning that they are nearly impossible for a bad actor to accomplish in a real world setting due to those stringent safeguards that are actually in place in our polling locations. This includes constant observation by polling officials.

And the alleged vulnerabilities were also deemed to be nonscalable in the Mitre report. And to put that in simple terms, it means that the impact of any potential attack is limited to a single device at a time. It cannot be spread to other pieces of equipment without gaining physical access.

The petitioners have also pointed to the Coffee County breach as evidence of a further security risk. Let me be clear. The secretary has strongly condemned the actions of these rogue election officials and those who aided them. We expect that those who violated the law will face the appropriate legal consequences.

However, it is essential to highlight that this incident did not compromise the security of any election. We took swift action by replacing all of the equipment in Coffee County including the server. And even the petitioners' own expert, who has had a forensic image of the Coffee County equipment, did not find any evidence of a malware installation.

I also think it's important to note that the federal district court has had all of this evidence, a full evidentiary record that has been

developed over years of litigation. And the court has taken no action to enjoin or restrict the use of Georgia's voting equipment.

So I would submit that the petitioners are coming in before the board to try to achieve before the state board what they have not been able to achieve in federal litigation.

As I mentioned before, our election processes have a number of safety nets built in that mitigate the risk of a security threat. So it is extremely unlikely that a bad actor would be able to exploit our voting system in the real world.

We would support some sort of reporting requirement as an additional safety net. If this is something that the board is considering, we would submit that any rule-making on this issue should be done in consultation with county election officials.

But looking ahead to the 2024 presidential election that is before us, I want to point out that the Secretary of State's Office is taking additional steps to add even more safety nets and enhance the security of our voting system even more.

First of all, we are doing system security health checks in all hundred and fifty-nine counties to verify the integrity of our election management systems, ballot marking devices, and scanners. Our system technicians will ensure that the equipment is working as it should and has not been tampered with.

We are also collaborating with the Department of Homeland Security to perform physical site security assessments of our election equipment storage and warehousing in every county.

We also have worked with the Legislature this past session to get expanded precertification audit requirements for primaries and elections.

And, as I mentioned, we are also conducting a pilot of the latest version of the Dominion Democracy Suite software which is version 517. This pilot will be conducted in select municipal elections and this will allow us to select -- or to test the new software in a real election setting to determine if it is safe and practicable for use here in the state of Georgia.

And our election experts are going to

provide a briefing to the board later this morning on this new software, but let me quickly correct some misinformation that has been spreading about the software.

First, the 5.17 software version is not a patch. It is a reinstallation of a new version of the software. It cannot be implemented statewide with the simple push of a button. It must be physically installed on every single piece of equipment in every county in Georgia. It will require hundreds and hundreds of man-hours to accomplish this. It also has not been used in an election in any jurisdiction in the United States.

We are -- we are still in the evaluation and testing phase of the new software version. We will be testing it, as I mentioned, in the fall in a pilot program that will allow us to evaluate it in a real-world setting so that we can certify it as safe and practicable for use as is required by Georgia law before we can use any new component of the system.

And one thing that we have learned throughout this testing process and evaluation process is that the new software version is

incompatible with some of our voting system components, namely our poll pads that program the voter cards that allow voters to actually use to vote on the BMDs.

So had we done what the petitioners asked us to do and rushed forward with an installation of the new software, we wouldn't have functioning election equipment for our fall elections, let alone for the upcoming presidential election. And we've talked about voter confidence. It's difficult to imagine a situation that would harm voter confidence more than if we make drastic changes that will render our equipment nonfunctional.

So this notion that there is a simple and easy fix that will address every security risk that the secretary is just refusing to do is simply false.

And, again, those who are pushing this want to sow distrust in our system. They're asking the state to make rash knee-jerk decisions which we will not do because Georgians expect better. And the Secretary of State will not be reckless with the security and integrity of our state's voting system. We will act in a responsible,

informed, and deliberative manner that ensures the security of our system in a way that is consistent with Georgia law.

We know that the State Election Board shares this commitment to Georgia law and ask that you deny the petition and defer to the will of the Georgia Legislature and then make -- let them make policy decisions regarding our elections system.

JUDGE DUFFEY: Thank you.

MS. MCGOWAN: Thank you.

JUDGE DUFFEY: I want to take a moment to reset the -- what we're doing here this morning with respect to these petitions. One thing that we have all learned from this experience and we saw it play out here today is that what we requested and what they wanted was a discussion about the actual amendments that were being proposed, not an efficacy about shortcomings in the system. And then we wanted to know what the law allows us to do and not do.

One of the duties that we have, which is -- which I hope everybody understands is we have to detach rhetoric from reasoning. Our responsibility is to reason through a petition

without making disparaging or critical remarks of the other side. We take this in a much more pure approach which is a petition has been filed. There's specific language within the petition and we have to decide whether or not we have the authority to do so. And if we do, what does that look like and what does the process look like?

A lot of what I've heard this morning I have read e-mails to me, I've read on presentations by various people in the news, and this is just not the place for that. What I want to do is I want to consider -- you know, I want to consider the specific request that had been made and our legal authority to do that, which ultimately there is -- there is some of that information in the presentations that were made to us.

So I want to reset that our job is to listen to these presentations and from it take the information that's necessary for us to make a reasoned and informed decision on the petitions, that we don't take sides with respect to what other -- whatever philosophical or advocacy position, either, anybody wants in this.

Our job, as we -- as our mantra, which is we deal with facts and then we apply the law to the

facts and that's what I want to do now. So I hope that resets what our duties are.

I've asked Mr. Lindsey, my board colleague, to sort of guide us through this process with respect to the petitions with the help of Ms. Ghazal. And so at this point, because I want to reserve what I had to say about this until after I hear the other board members' comments, I want to turn it over to Mr. Lindsey.

MR. LINDSEY: Thank you, Mr. Chairman. And if I -- I think I need to turn on my microphone. And if I may sort of start off with -- you know, I think it is important for folks to know where -- where folks start from.

And, you know, as someone who's been part of the election system in Georgia for about a quarter of a century as someone, who was a member of a county election board, and I've had my name on a ballot for several election cycles, I've been an attorney dealing with election disputes, and now I serve on the State Election Board, I firmly believe, contrary to some other folks, that an electronic system is a system that if properly run is both more secure and more accurate.

First off, regarding accurate, anyone who thinks that paper ballots can be -- cannot be manipulated, I suggest you read Charles Bullock's excellent book on the 1948 election in Georgia for governor in which we ended up with a dispute over three people claiming to be governor. And when it comes to the accuracy of -- of any kind of ballot method that involves the human application of their preference versus simply touching a screen, I suggest you go and look at the twenty -- the 2000 presidential election in Florida, which is why so many states including Georgia moved to an electronic system.

But in order to have an electronic system, you have to have a rigorous process in terms of security and always maintaining that. There are two issues involved in the proposed petition for rule changes. One involves reporting requirements of breaches, of any kinds of breaches. The second is -- involved what power the State Election Board would have when it comes to remedial action should a breach take place that folks believe to be catastrophic and requiring alternative methods.

And I believe that the intent of the

petitioners regarding reporting requirements has merit. I strongly believe it has merit. However, the specific language that is being proposed in here has some fundamental problems in terms of ambiguity and in terms of practicality and also in terms of protecting that information that may be transferred to this -- either the election board or the Secretary of State should a breach or a criminal activity take place that I think requires some further study before we move forward with a rule change.

And so while, Mr. Chairman, I will be asking for a motion to deny this petition, I'm going to also be making a request that this committee create a five-person study committee to be -- come back with another proposed rule and that takes -- include two members of the State Election Board and three folks from various counties: from a large county, a medium-sized county, and a smaller county.

And where's my friend from Bartow County? By the way, I'm going to be looking for you on the second category. And so perhaps from one of the four larger counties, also including a small one because I do think that we need to try to

figure out what exactly -- how exactly a rule would apply so that should a situation such as Coffee County or any other kind of breach, that we have a requirement for a rapid reporting of that and an ability to do a rapid investigation.

I do, however -- and I think that one of the presenters even acknowledged that there are possible changes that they would make and we would welcome their input as well.

So I do have -- for that reason, I think that at this time, regarding the specifics of what they propose, we should -- we should turn that down, but we should also not ignore the issue involved and that we should move forward with trying to develop a rule that satisfies at least a great amount of their concerns and including some of their additional input.

The second part is what kind of remedial action that we should have and what authority we should have. I think clearly, oh, we do not have the authority that they are seeking within these rules based on my analysis as an attorney and based on the analysis of other attorneys that have looked at it as well. That doesn't mean that some other activity should take place or

some authority should take place.

Some of that is going to require legislative changes in the next legislative session. And part of our duties, I will tell you right now, is to make recommendations. If you look at our ascribed duties underneath the -- well, it's to make recommendations to the General Assembly. There's an open question as to how much authority should be given to us exclusively and how much of it should be shared with elected officials.

I can tell you right now, I am hesitant to give so much authority exclusively to the State Election Board to change how we change -- how we vote. I think that that probably -- in an emergency situation or in a situation of a serious breach in an upcoming election, that that responsibility should be shared. But I'm more than willing to work and I think the board should work with the General Assembly to figure out, for instance -- this is simply hypothetical -- whether or not an elected official such as the governor were to -- were to -- underneath it's his powers to give us the authority to then take a look. In other words, there's a certain check and balance taking place. How exactly that takes

place is something for us to work on between now and January.

But I do think that there needs to be an ability of the state, should a catastrophic breach take place, that we have that ability. But we simply -- this state election board simply at this time does not have it.

And for that reason, Mr. Chairman, I'm going to move at the appropriate time that we deny this petition, but a follow-up request is that you put together a -- that we put together a committee that will first look at -- in terms of reporting requirements that is both secure but also put duties on the counties and is something that is workable by them because there is a concern -- I do worry about us making rules. For that matter, I worry about the General Assembly making laws that are simply impractical when it comes to our county people being able to act that out. We've seen some of those problems already.

And so anyway, Mr. Chairman, that's my report to the committee.

JUDGE DUFFEY: Ms. Ghazal, would you like to speak?

MS. GHAZAL: Just very briefly. As a matter

of policy, I come -- I come at this from a different perspective. Anybody who has followed my activity knows that I actually am a very strong supporter of paper ballots.

But as a matter of law, we do not have the authority to make changes to the policies that have been set by the General Assembly. The way that the General Assembly has defined the emergency circumstances by which paper ballots can be utilized is very circumscribed. I adhere to the analysis provided by the Secretary of State. The only time that we can shift from that method is when it is physically impossible or impracticable, meaning it cannot be done. We don't have the authority to usurp. What the General Assembly has decided will be the way forward.

So I agree entirely with the legal analysis of my colleague, Mr. Lindsey.

JUDGE DUFFEY: Mr. Mashburn.

MR. MASHBURN: Thank you, Mr. Chair.

One of the things that lawyers are very familiar with that the general public is not familiar with is the idea of subject matter jurisdiction. And a court will -- the first

decision that any court has to make in any case is do I have the authority over this subject matter?

And so it's a jurisdictional issue. And if the court decides that it doesn't have subject matter jurisdiction, it does not proceed any further and it doesn't even hear the merits of the case. I think the chairman here was wise to allow the parties to address the merits of the case. And so I thought that was helpful.

But with regard to the subject matter jurisdiction, another thing that makes me particularly sensitive to it is that each member of the board is appointed by a different entity. There's a democratic member of the board or a democratic-appointed member of the board. There's a Republican party member of the board -- appointed member of the board, the House, and I'm appointed by the Senate.

And so each -- while each of us -- and the chairman is appointed by both houses, the House and the Senate. And so while each of us represents and works very hard to represent and hear the voices of all Georgians, we do have a particular channel that's set up by statute for

us to make sure that we hear.

Now, I'm the only member of the board who was here during COVID. And so I remember distinctly passing the regulations that we had to pass with regard to COVID. And that was an unprecedented situation that we were in. It was an emergency. We had probate judges who were election superintendents die. Courthouses were the original super-spreaders. So, you know, that was a big issue and the board acted, but the General Assembly spoke after the board acted.

In SB202 -- and the General Assembly was very clear. If they weren't clear in the statute, they were clear in their communication to me that: If we haven't given you specific authority to do something and it's not an emergency, you're not -- you're not authorized to act.

Now, one of the things that we have to be very careful about on this board and we are very careful about is the idea of the unfunded mandate. Now, everybody who's listening from a county and everybody who's here from a county knows that they hate unfunded mandates. And they hate it even when the General Assembly does it.

So imagine an appointed board of five volunteers, no matter that we're the -- they're the hardest working volunteers I've ever seen on any committee that I've worked on, but no matter how hard we work, we don't have the authority to pass an unfunded mandate and cause the counties to spend money that they don't have and that we don't have any authority to give them.

So we've got to be very sensitive to that. And I -- so I would be very worried in that.

With regard to emergency, I heard the petitioners today specifically say this was not under the emergency rule-making powers of the board, and so therefore now it's a question of is this our job or the General Assembly's job?

And so one of the speakers said that you have a choice of either act -- you can either act or punt. And if you're in a debating society or deductive logic class, you'll recognize that it's what's called a false dilemma in that it presents only two choices when there might be more.

And just one I would present is follow the Constitution might be another option. And so I think the framework of the government that's set up in Georgia is this is an issue -- regardless

of how good an idea might be, this is a question for the General Assembly to answer and not for the board.

So I will vote to oppose the petition for that reason.

JUDGE DUFFEY: Dr. Johnston.

DR. JOHNSTON: Thank you. In listening to the petitioners today and to the Secretary of State, I have several questions.

To Ms. Dufort, as she stated, protecting the ballot itself is everything. Is every ballot that -- my question is is every ballot that leaves an election office by absentee secured and protected? Aren't all hand-marked absentee ballots hackable?

To Ms. Marks, I am concerned also about the amended petition, that it would potentially create an interrupted election which would cause chaos and bedlam in the middle of one of our elections.

To -- for Ms. McGowan, Secretary of State, the claim that the state uses a uniform method of voting when one-third of voters actually use hand-marked paper ballots by absentee voting and is now -- and now there's an increasing number of

voters that are allowed to use e-mail voting, I question whether we are actually using a uniform method of voting.

So to -- in the last presidential election, one-third or greater than a million and a half absentee ballots were produced and two-thirds were voted by the electronic method of voting.

So I think there's things to consider, and I agree with the comments of my colleagues about the subject matter jurisdiction and the remedies proposed. Thank you.

JUDGE DUFFEY: Thank you, Dr. Johnston.

You know, it's interesting hearing the comments of my colleagues which I haven't heard before. This is the first time that any of us have expressed our view of this particular statute. It's -- you're hearing it as I'm hearing it.

And it's interesting that I take -- having thought about this before coming here, that I take a similar approach but with a different perspective. And it's that perspective that makes me support that we -- that we do -- that we deny these petitions. But I want to explain why I do, what my analysis is as a lawyer but also as

somebody who, although only doing this for a year, has spent a fair amount of time talking to election officials in the counties and for the first time really understanding what their job is, how hard they work, and the challenges that they are presented with and the way that they view us, the board, and the way that they view the Secretary of State's Office.

As a federal judge, which I did for almost 15 years, I got a lot of -- federal -- subject matter jurisdiction, by the way, is --

(Cell phone interruption)

JUDGE DUFFEY: Maybe we could turn that off.

That there -- the notion is that we cannot do something which is contrary to a statute nor can we do things that might not be directly contrary but to -- to pass rules that are clearly within the province of the General Assembly to pass. And I believe that that wholly applies here, that the requests made in the petition -- and I have focused on the petition and I'll tell you why in a second.

One requests us to do things under -- that are -- have already been addressed by the General Assembly. And for us to act in a way that we are

not authorized to act would be wrong, and as a lawyer, I wouldn't do that. I would hate to have been in Mr. Mashburn's position when he was on the board, to get a call from the General Assembly and told that: We have our job and you have your job and your job is not to do our job.

You know, I think as basic principle that's true, that we are guided by statutes that give us the space to act and denies us space not to act.

In the years that I was on the court, I spent a lot of time evaluating statutes. And in a way, this rule was the same process which is you look at the rule, especially when you're considering something that's being proposed, and in the case of a federal lawsuit is challenged. My practice always was to go without listening, without reading any brief, without talking to it -- about it with any of my clerks. I would look at the statute. And in looking at the statute, one of my questions would be would I be able to understand it?

And I do not understand this, especially the definitions in this statute. I find them to be extremely vague and ambiguous and would be very, very hard to apply. That would be from me as a

lawyer.

To say that we would require county officials to interpret what these terms mean to determine whether or not they have some remedial responsibility, I think would be asking them to do something which is -- they're incapable of doing.

And for that reason alone, it's hard to look at the rest of it because if you don't know what a security incident is, you don't want to -- know what a security vulnerability is, how can you then determine whether or not you have -- under other proposed amendments that you've got some duty to act?

I do agree that the General Assembly -- and we've looked at this language in the past -- has really prescribed the incidents in which paper ballots can be used. And that's entrusted to supervisors within the counties in the event that there -- it's either impossible or impractical to conduct an election using another system.

And so therefore I think that provision in and of itself runs afoul of the statutes passed by the General Assembly and therefore it's -- it would be, I think, unfair and really imprudent

for us to pass these amendments and impose these ambiguities and duties on people in the field.

Now, I'll say that after I looked at a statute, my next question always was why is there a dispute or why do some people interpret a provision differently than somebody else? And that's important to me because I want to understand what they're trying to accomplish. I mean, what does the statute try to accomplish and what does that impose upon the people who are required to follow the statute and can they do that and is the statute clear enough?

This is a really worthwhile request for us to deal with. How do we learn of and then what do we do with potential insecure in -- vulnerabilities that arise in the election system?

I think that that -- in my lifetime here in Georgia, we've had all sorts of voting systems. I think at one point I took a little thing and punched a computer card, and in Florida that resulted in hanging chads. And then we've moved to a paper ballot and then we moved to another electronic process, then we moved to yet another electronic process.

All of that, I think, is worthwhile, that we look at changes in technology and whether or not there are systems that are safer; better understood, especially by a younger population, than filling out paper ballots, which I don't know if they fill out anything on paper anymore. But that's just a change of culture and I think that we always like to see whether or not changes in cultures ought to be addressed in the systems the government presents to citizens.

So the idea that we take seriously vulnerabilities and security incidents, while I don't agree with these definitions, I do think that we ought to consider that. And I agree with, I think, what everybody has said on the panel which is it's time to do that so long as we can do that within the authorities granted to us.

Some of these, I would agree with my colleagues, are matters for the General Assembly. And in my little taste of interacting with the General Assembly, I've reached this conclusion: That if you go to the General Assembly with a thoughtful presentation of what you would like for them to do, with adequate reasoning why that should be done, with something that is in writing

that they can look at to decide whether or not it can inform people who are required to follow that law, that they are a lot more receptive than somebody going down to the General Assembly and talking to somebody in the corridor, which they do a lot of, and say, you know, We would like this, and then turn it over to somebody else to find the solution.

My experience is that there's not enough of the prework that's required for the legislatures while they're here for their three months to be really deliberate and really understand, including the economic imposition that would be -- it would be imposed upon county election officials in the counties themselves. That all needs to be addressed. And if you do that thoughtfully in something that they can study and do that other than on the first day of the General Assembly, I think that there is a strong possibility that it would at least be favorably received, might not be enacted, might be changed some, but I think that it would be given more serious consideration.

And I see that as what Mr. Lindsey is proposing, it's that we do this the way that it

ought to be done which is to have a group of knowledgeable people review this -- these questions that are presented and these remedies that are suggested in the petitions and that we try to do something that we believe we have the authority to do and which would work. And if we can't do it, to propose to the General Assembly the specific -- specific legislation where they could act where we can't. To me, that's a really reasoned approach to the way that we as a board want to do business.

There are security issues. You know, in the short time that I've been on the board, we've had a number of instances where we -- where it has to be known we -- because we know that it happens that people are storing equipment in unsecured locations, and they have lots of reasons why they do that.

And they have lot of reasons why they might give a key to somebody else because they're really using the facility because it's been given to them by somebody and they don't have enough space themselves. But to give acc -- to give a key to somebody who is not an election official to be able to enter into that space where --

where machines are being stored, even if they're not -- they don't ever intend and they're fully trusted not to do any mischief, it's just wrong.

It's the responsibility of the election officials to secure the equipment and to make sure that only authorized people have access. And if it means that we have to have security people, then you have to hire security people to make sure that nobody get access unless they're authorized. That imposes a financial burden on the counties and we ought to -- including looking at physical security in addition to whatever electronic vulnerabilities there might be. Then we need to address those things because we know, the five of us know, that that happens.

And we've heard complaints and have had to respond to complaints of people that don't secure their facilities. So security is a vital issue. The one thing that has always disturbed me is that as much burden as we put on county officials, we impose a greater responsibility on them.

And to have looked at all of those videos where somebody who was an elected official holds a door open to allow people that they know are

not entitled to see, to touch, to download information from machines is terribly, terribly wrong. That's why I'm frustrated that it's taking a terribly too long period of time to respond to that.

But if you think about it hard, it's that vulnerability that I think has created this furor, at least the -- what the -- Ms. Dufort and Ms. Marks is that -- look at the vulnerability. Well, the vulnerability, that person could just as easily have given somebody access to paper ballots. People that want to act the way that people acted in Coffee County have been acting since the beginning of man.

But it's a very physical vulnerability, and we have to find some way of making sure that only people that can be trusted in the election process are allowed to participate in it and certainly manage it which is why I was equally upset when I heard that the county whose name I have a hard time pronouncing, Treutlen, that that person was able to have access to machines in a different county and that there was no system by which people that are hiring election officials and election people to work on machines don't get

some sort of notification that this person can't be trusted with the machines. That's a security vulnerability in and of itself.

And there is no -- nobody has ever developed a system that will find somebody who's not trustworthy that we let other election -- other counties know that those people should not be entrusted with responsibilities with -- the thing that I agree with everybody is that the right to vote is, in fact, a fundamental val -- it is the fundamental way in which you and I have a right to choose who leads us and that has -- we have to do everything in our power to make sure that that right is protected in every manner and way that we can.

So unless anybody else has any comments ...

Dr. Johnston, do you?

DR. JOHNSTON: No.

JUDGE DUFFEY: I'll entertain a motion.

MR. LINDSEY: Mr. Chairman, I move that we deny the petition.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

MR. MASHBURN: (indiscernible) repeat that, please.

MR. LINDSEY: Mr. Chairman, I move that we deny the petition.

JUDGE DUFFEY: And --

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded that the petition be -- the petitions be denied. Is there any further discussion?

There being no further discussion, all those in favor of the motion to deny the petition say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

The vote's unanimous and the petitions are denied.

MR. LINDSEY: Mr. Chairman, I don't know if you would prefer to hear a motion regarding the creation of a committee. At this time, I would wish to do so underneath your inherent power. But I would be happy to give a motion, propose a -- that a committee of five, consisting of two members of the election board, one Republican and one Democrat -- Guess who's going to be the Democrat? -- and three folks from various counties -- one from a larger county, one from a midsized county, one from a smaller county -- be

assembled to first propose rules regarding reporting breaches and then also make proposals to the -- to the board by December -- well, the first one would be by the next -- in terms of the rules part be before the next committee meeting or board meeting.

And then regarding the legislation would be a proposal to the board by December to make -- so that we can make a proposal to the General Assembly on any type of legislative changes. That same group be done for both.

JUDGE DUFFEY: So the motion would be to appoint a committee composed of two members of the board, one Republican and one Democrat, and a representative from a large county, a medium-sized county, and a small county as determined by --

MR. LINDSEY: By the chair.

JUDGE DUFFEY: By --

MR. LINDSEY: You.

JUDGE DUFFEY: -- me?

MR. LINDSEY: Yeah.

JUDGE DUFFEY: -- by the chair and that they promptly convene and meet and by -- I would say rather than the next meeting that -- because we

could have a special meeting to do that if we wanted to, and a meeting within the next 70 days that they report on -- how would you put --

MR. LINDSEY: Proposed rules regarding reporting of instances of breaches of the state election system.

JUDGE DUFFEY: So it's proposed rules to report suspected breaches and then by December 1st that that same group report and make recommendations regarding legislation that we would request the General Assembly to consider enacting during the next legislative session. Is that accurate?

MR. LINDSEY: Yes, Mr. Chairman.

JUDGE DUFFEY: Does everybody understand the motion?

MR. MASHBURN: Yes.

DR. JOHNSTON: (nodding)

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been moved and seconded that we move to convene the described group with the deadlines that have been stated. Is there any discussion on the motion?

There being none, all those in favor of the

motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

The motion passes unanimously.

Well, I want to thank Ms. Marks, Ms. Dufort, and the Attorney General's Office and Ms. McGowan for the information that you provided to us. It was very helpful, and we have acted upon it but appreciate your input. It's valuable to us as all input from citizens is valuable to us.

So with that we will move on to our next order of business.

I announced yesterday at the meeting --

(Sound interruption)

JUDGE DUFFEY: That sounds like an alarm telling me that my time is up and so -- I take it that that wasn't the case.

One of the things that I did not understand, one of the things I think a lot of the public does not understand, and it's been alluded to in the presentations we had this morning, especially by the Attorney General's Office, as to the update that the Secretary of State has announced. And the update would apply to the current Dominion Suite Voting System, would be beta

tested now but would not be implemented until 2025.

I'm not here to discuss that policy decision, but what I've found is I don't know what the update is. I don't know what it does. I don't know what it seeks to address or fix or how does it seek to expand the functionality of the system? And I think not only should I know that and everybody else on the board know that, I think everybody needs to know that because I get lots of e-mails about the update. And I'm not sure anybody really knows what the update does. It's been characterized, but I think if we are going to evaluate public arguments and arguments here about the update, we need to know what the update does.

So I've asked the Attorney General's Office and specifically Blake Evans and whoever else he wants to help explain this.

MS. GHAZAL: Secretary of State.

JUDGE DUFFEY: I'm sorry, Secretary of State's Office. The -- I assume that the Attorney General's Office would not like to do that. No. Correct? Okay.

So if -- may I turn the floor over to you to

explain to us what the update is and what it does. And it's -- I don't want to -- I see you're bringing up your rules book. This is a fact presentation about what the update does and not a legal analysis of what -- how it fits into the statutory scheme, you know, unless it's ne -- necessary to explain.

MS. MCGOWAN: I agree. Don't worry. You've heard enough from me. I'm not going to talk. I'm going to turn it over to our elections director, but I just wanted to give my little lawyer disclaimer first that there are -- that Georgia law prohibits us from disclosing information that would jeopardize the security of our election system including software.

So there's just information, technical information, that our staff cannot get into and I -- I want the board to understand that to the extent they can't answer a question, it's not because they're being evasive but just we have to protect what information we can disclose.

JUDGE DUFFEY: No, we fully understand.

Welcome, Mr. Evans.

MR. EVANS: Thank you and good morning, Board.

You know, one of the things that we often have to tell counties sometimes is -- when we get questions is you need to -- you know, this is what the code says, consult with your county attorney. So I often remind them that I practice what I preach and keep my attorney very close by.

But what I want to do today really in this presentation, you're going to hear a little bit of me and then you're going to hear a little bit of Michael Barnes who is our deputy director of voting systems here in Georgia. And I'll say that I am very fortunate to work beside somebody like Michael. Michael has been a servant to the voters of Georgia for over 25 years. And not many states -- in fact I don't know of another state that has somebody in the voting systems realm like what we have in Michael. He's very -- very knowledgeable. And so I'm excited to have him beside me for this.

But what I want to do in this presentation is first I want to kind of start high level and then we'll get a little bit more granular. But I want to start with just kind of an overview in defining what the Secretary of State's role is whenever we get a new software installation like

what we have with Dominion 5.17.

And then second I'll provide some specific context as far as where we're at in the process of accessing 5.17.

And then third I'll hand it over to Michael since he is on the team that is actually reviewing 5.17 for potential state certification.

And so first focusing on the Secretary of State's role. So by the time that we get a new software installation in our office, it has gone through already review and certification by the United States Election Assistance Commission. And what generally happens is that a vendor, in this case Dominion, will submit for review software.

And then the United States Election Assistance Commission will get one of the voting systems test laboratories which there are two of in the country. Those are commonly referred to as VSTLs. So they'll get one of the VSTLs to review the software.

And what the VSTL will do is they'll take the software and they'll run it against what is also called as Voluntary Voting System Guidelines. You might see the acronym VVSG for

those. As of now the highest VVSG version that has had equipment certified against, so all the way through the process to certification, is 1.0.

So after the software version is tested against the VVSG standards by the VSTL, the VSTL will send the report to the EAC. The EAC reviews the report, and then assuming that the equipment has met the standards, the EAC can issue their certification.

At that point, the software version can be submitted to our office where we are required to review it or where we can review it for state certification pursuant to O.C.G.A. 21-2-300 and O.C.G.A. 21-2-379.24.

So once we receive the software installation, we begin reviewing it because obviously with voting vendor -- voting system vendors like Dominion, they have customers all over the country. And the EAC is looking at it from a federal perspective. We have to look at it and make sure that the software works within the context of Georgia.

And so now I'll pivot to the second item. And that's where Dominion 5.17 fits kind of within that timeline and that framework that I

just laid out. So Dominion Software Suite 5.17 was certified by the EAC in mid-March and then we got a copy of the new installation and began reviewing it.

We began testing it to determine among other things the functionality of it, also the time and effort that it takes to update the equipment. In addition to these efforts, part of what we do or what we can do when we have a new software installation is obviously reach out to other jurisdictions around the country, our connections, our network to figure out what their experience is with the software. And so we've been doing that as well.

We also communicate -- we're in frequent communication with the vendors to see what their experiences are as they communicate with customers and perform installations in other parts of the country.

So since we're still working through this process, what we have right now is an incomplete picture of 5.17 because we're still reviewing it. So some of the information that we have so far, before I hand it over to Michael, we do know currently that the software installation does not

currently work with the other components of the system that we have in Georgia.

And when I say that, there were two counties in Ohio that upgraded to Dominion 5.17. One of them rolled back from 5.17 to their -- their other version because they have an election upcoming in August. And what they found was that cards encoded by their electronic poll books, when put into the ballot marking devices, could not bring up a ballot. And so the ballot couldn't -- the ballot marking device could not read the voter access card.

So we also know, and we're keeping track of this, the update has not been used in an election. The first election where it will be used in a jurisdiction is in Ohio in August. And so we're keeping close tracks of that.

At this point, you know, I want to state unequivocally we're committed to continuing the process of learning more about 5.17. Michael and his team are testing it. They're learning more about it. As Ms. McGowan mentioned earlier, we are planning pilots in several jurisdictions in November of this year where we want to see how the software update functions from the beginning

of the elections process to the end of the elections process.

Obviously with that, what we'll -- we need to make sure that the poll book is compatible by that point which we're working with our poll book vendor to make sure that we stay up to date with the progress on that. But we're hoping that that's at a point where it is compatible for us to be able to run pilots.

So for that what I'm going to do at this point is hand it over to Michael Barnes.

JUDGE DUFFEY: Welcome, Mr. Barnes.

MR. BARNES: Good morning. Again my name is Michael Barnes. I serve under Blake in the Secretary of State's Office as his deputy director of elections, and I work mainly with the voting systems that we use in the state of Georgia.

We have begun the process of interacting with Dominion Suite 5.17 to get a true understanding of what changes we may see between 5, 5A, which is what we are currently using in Georgia, as we transition potentially to 5.17.

The one good news, I think, from a voter experience, which -- what a Georgia voter will

see when they interact with a touchscreen if we transition to 5.17, it's not a big change for what the voter experience will be.

However, the majority of the changes are really in the back end of the system, primarily within the election management system. And that is the system that builds the ballots. That's the system that counts the ballots. That's also the system that transfers the information from the election management system to the devices that are used, the BMDs, the scanners themselves. Because unfortunately what we've been -- what we've called this process is, potentially, we call it an upgrade. It's really not an upgrade.

This -- even though it starts five -- it says 5.17 and we may use 5.5, this really will require us to fully rebuild the system and that means the election management systems have to be completely rebuilt; the operating systems on those devices have to be renewed, updated to a different version. The back-end application in which these applications sit have to be updated and replaced.

So an additional amount of hardware has got to be procured for county use. And I'm not

talking about touchscreens and ballot scanners. I'm talking about the CPUs that are placed within the county offices that run the elections process, where the election project sits, where the ballots become tabulated. And we were not anticipating that initially when we began having discussions with Dominion about potential changes in the voting system. But that now is what we are seeing, is that we are going to have to look into going back to the legislature and asking for potential funds to upgrade some of the CPUs that are at the county level. There may be an opportunity us for to -- to reuse some equipment that is already at the place but I'm afraid we're probably not going to be able to do that.

In regards to your BMDs, to your scanners, those are still available to be used with the new Democracy Suite but that will require not just a simple install and update and it updates. We're going to actually have to break them all the way back down to the BIOS level. We've got to change a BIOS setting, we've got to adjust operating systems, and then install applications. All of this process takes a significant amount of time per individual device.

In the testing that we have done in our office, it takes with our staff about 15 to 18 minutes to go through a full installation process on a single BMD. For the installation on an optical scan unit, we're looking at about approximately 20 minutes. But there is some scalability in the optical scan units. We can have multiple optical scans going through an update process in a simultaneous period.

The other issue we will have as we take on the process of potentially updating is the equipment is not all in one central location. It is spread out amongst a hundred and fifty-nine counties. So it will be an effort to figure out the logistics of whether the update process will require us to go to each individual county and do the work locally or whether we have to work with the counties to potentially bring equipment back to some sort of locational hub and do the work in a hubbed environment. And all of those decisions are yet to be made.

But as Blake alluded to, we are still in the process of learning more about 5.17, learning also what we will need to undertake to train our local officials on the use of 5.17. Is there any

additional information that we need to make sure voters are aware of in regards to 5.17?

There is some additional hardware that's available in 5.17 that we have not previously used. There is an upgrade to the ballot scanner that is available under 5.17 that does not currently work with five fif -- the 5.5 option that we have. And there are some larger counties in the state that may be interested in potentially procuring this additional hardware because of it's scalability, it's ability to hold more information.

So there's a lot of information that we're yet to really fully understand and get the full grasp of. So we want to move in a very meticulous fashion where we learn about this process, where we learn about 5.17, and we can then instruct the county election officials to the best of our ability on what things they will have to do in order to execute elections successfully moving forward.

So we're in the process of learning. I wish we were at a state where we knew everything about it at this point, but unfortunately we do not.

The biggest surprise that we've encountered

so far is the fact that the poll pads are not yet compatible with 5.17. The vendors are working together to resolve that but we don't yet have a timetable on how long that may take. And I'm sort of thankful that we had not gotten too far out ahead of ourselves because we could've really been in a situation where we could've been inadvertently impacted in an upcoming election. So I'm thankful that we have -- are taking this meticulous approach at this point in time to learn as much as we can about 5.17.

JUDGE DUFFEY: Any questions from the board members? Questions?

MR. LINDSEY: Yes. Before you I have one for that matter.

Let's sort of take a timeline. And I want to make sure I understand because I've heard lots of different things here. What is the drop -- for want of a better term, drop-dead point in which whatever system we have, we have to have it for the 2024 elections? Because I realize, you know, we're not talking about November.

We're -- you know, we have a general election in November. We have primaries and runoffs in May and June -- May, June, and July.

We have special elections. We have a presidential primary in March. So in order to have the -- whatever system we have ready and then for you guys to do whatever you need to do to prepare for the election, what is the drop-dead date?

MR. BARNES: It's getting very close, but I will try my best to give you a timeline answer. The scheduled presidential preference primary is early March. We have to have ballots ready in the counties' hands for mail-out distribution no later than 49 days prior to the election for UOCAVA voting purposes. That means that the election project that has to exist in order for ballots to be generated and ballots printed has to be completed. We always aim to have all election projects for an election completed, especially when there's a 49-day ballot -- ballot window, at 60 days prior to that scheduled election. So we're going to have to have all of the election projects for the state of Georgia finished by middle of January.

In order to build those databases, we -- or election project files, we start receiving information from the counties in November of the

preceding year. I believe that we will be obtaining from these -- the Democratic and Republican parties somewhere around November of who will be the candidates for their parties on the presidential preference ballot.

Once that information's received, we're also receiving information from counties if they plan to have any special elections tied to the presidential preference primary. And we're trying to obtain that information at 90 days or sooner, prior to election so that we have adequate time to put that information, to organize the ballot, to provide counties ample time to proof the ballot to confirm that what is laid out is properly correct.

And then once they sign off, we have to finalize it. We have to get the ballots to print. We have to get the election project packaged so it can be delivered to the county so that it can then be installed locally on their election management system so that counties can then begin the process of their logic and accuracy steps prior to the election.

So the voting system needs to be in place for a uniform system of voting. In the state of

Georgia, we've got to be ready to go in December.

MR. LINDSEY: Okay. Mr. Chairman, can I ask another one along the same line?

JUDGE DUFFEY: Yes.

MR. LINDSEY: I'm curious. I'm not sure which one of you sort of commented about Ohio but Ohio is also dealing with the same software updates. And apparently there was a problem with compatibility between the hardware and the software that Ohio was equally concerned about. But -- but they seem to have maybe -- maybe I have it a little bit wrong here. What did they do in order to fix that compatibility problem so that they could have 5.17 in place or at least by a -- pilot program by August. What did they do in order to fix that?

MR. BARNES: What -- what the various counties in Ohio are doing -- and Ohio's a different system than of course what we do in Georgia. Georgia's a uniform system where every county is using the same types of equipment. In Ohio it's -- it's jurisdictional. Each county decides what they use to service their voters.

In those Ohio counties that have been transitioning to 5.17, there are multiple poll

book vendors in play. But there are two poll book vendors that are unable to currently work with the 5.17 model. That's KNOWiNK's poll pad and Tenex is the other vendor who is currently unable to work.

The jurisdictions in Ohio, what they have opted to do, one county, because they wanted to still maintain the use of their poll pads -- or actually their Tenex devices, have decided to downgrade from 5.17 and actually go back to their 5.5 level on their voting machines so that they will be able to still use their poll pads to manage the voter as they come in and participate during the election.

The -- another county that has that same dilemma of: We have a set of poll books that are not working currently with our 5.17 environment, what that county has opted to do is to not use their poll pads or their poll books for this election, that they're going to go through another mechanism of preparing the voter access cards that will be then given to the voter that it will allow them to interact with the machine.

So they are using a different tool to create the voter access card that'll be presented to the

voter and they are not using their normal poll pad procedure.

JUDGE DUFFEY: How many in Ohio are using the Dominion system?

MR. BARNES: The last count I got from the vendor yesterday, I believe that that are seven counties in Ohio that have now upgraded to 5.17.

JUDGE DUFFEY: And of those -- and how many counties are there totally?

MR. BARNES: I'm not aware of the total number of counties in Ohio?

JUDGE DUFFEY: Do you have a good estimation?

MR. BARNES: It would be nothing but an estimation and I would hate to be inaccurate on that.

JUDGE DUFFEY: All right.

MR. BARNES: They don't have a hundred and fifty-nine counties. I know that.

Eighty-eight counties? Thank you. Eighty-eight counties.

JUDGE DUFFEY: You're off by one but you're forgiven.

How many updates has Dominion offered to Dominion users since we first bought the system

for use in our elections?

MR. BARNES: In checking what is currently federally certified under the Dominion -- under the Dominion brand with EAC, I was checking yesterday, there are -- I believe there are four different versions of the 5.5 series. There's A, B, C, and D. The newest version is 5.17.

JUDGE DUFFEY: And does 5.17 incorporate everything that was in the prior updates?

MR. BARNES: It incorporates a lot of various things from when the last time Dominion had put a suite together for EAC certification. There have been hardware enhancements. There have been statutorial changes in elections in our state but also in other states that they serve. So vendors tend to put those type of items into their -- into their suites so that they can expand their customer base potentially.

JUDGE DUFFEY: And of these EAC-certified updates, how many of those did we, Georgia, incorporate onto our machines?

MR. BARNES: We have only stayed with the 5.5A series. There has been -- we -- we went through an update, which was a true update, of one of the applications within the election suite

in 2020. And that was on the BMD touchscreen that we had to go through an application update in order to facilitate a two-column screen when we had 21 candidates for a single contest.

And so we had to actually upgrade or update our version number from 5.5.10.30 to 5.5.10.32.

JUDGE DUFFEY: Yeah, I'll try to remember all --

MR. BARNES: Yeah. If you do, congratulations. That's ...

JUDGE DUFFEY: In these updates, ones that weren't implemented in Georgia and in 5.7[sic] if you can answer this, do any of those address security in making the system more secure?

MR. BARNES: The five -- the 5.17 application, Democracy Suite, was developed in response to those concerns that have been raised over the last two to three years.

JUDGE DUFFEY: And do you know with more specificity what the concerns are that are addressed in 5.17?

MR. BARNES: I'm afraid if I start getting into some of those answers that I'm -- I'm opening ourselves up to talking about things that we would be unsafe to disclose.

JUDGE DUFFEY: Well, can you do it in a more general way?

MR. BARNES: There are -- basically the applicational backgrounds, the backbones of the -- on which the applications are being reinforced and enhanced. And that's -- I think that's about as far as I can go.

JUDGE DUFFEY: What does reinforced and enhanced mean?

MR. BARNES: This gets into the coding that you put in place within applications to make applications more secure.

JUDGE DUFFEY: Okay. And is that more secure with respect to internal or external threats?

MR. BARNES: It's a combination of both.

JUDGE DUFFEY: And is that being implemented in 5.17 throughout the system for everybody who uses it that's being taught?

MR. BARNES: Yes.

JUDGE DUFFEY: Okay. Is it your sense that this will be a good update that will be good for the machines that we use in Georgia?

MR. BARNES: The process of learning about it is absolutely a good step to learn more about.

I have been around a lot of voting systems in my time. And sometimes when a new version comes out, it's best to be cautious because there might be another version coming right behind it because sometimes that thing that we thought was -- that fixed everything, turns out it got close but not quite.

So I can't say with absolute that, yes, this will be great because it is an element that we need to learn more about it before we move too quickly.

JUDGE DUFFEY: Just one more question on timing. If for the presidential preference we have to be able to build ballots and the system be available for voters, that has to occur by December did you say?

MR. BARNES: Yes, sir.

JUDGE DUFFEY: Okay. Is it possible to do all the things that you described were necessary to do -- the investigation and state certification and be comfortable with the system, is it possible that that could be done by December?

MR. BARNES: It is really important for us to see the use of any update to the system, any

upgrade, any -- any change to the system in a real election environment. Before we transitioned to our current system, we actually put the system through a piloting effort in 2019. And we did that in an effort to learn not only how to use it, but also how to train officials and train voters on how to use it. And it's very important to have those real election circumstances because things happen in elections that sometimes we don't anticipate. And it's not when the election goes perfectly how does it react, it's how does it react when something happens that we weren't expecting?

And that's the real life experience we gain through a pilot. And with a pilot scheduled for November -- of course as long as the poll pad application gets in line and we're able to use it -- if we're not done with a piloting operation until November, I don't know how we could then transition to a statewide implementation in 30 days.

JUDGE DUFFEY: Any other questions?

MR. LINDSEY: Yeah. Going back for me, Mr. Chairman.

Why can we not use Ohio as the piloting

aspects?

MR. BARNES: Well, we definitely use other jurisdictions and learn from their experiences. The one thing with the Ohio experience, Ohio, in the counties that are updating to 5.17, they actually don't use it as a BMD client. They use it as a DRE, a direct record electronic system. So it's the same touchscreen but what the voter does in Ohio is they interact with the touchscreen and then the ballot is printed out onto a little tape that's attached to the touchscreen device.

The voter looks at the tape, looks at the selections on the tape, and then if they accept it, the tape rolls up and that becomes the vote of record.

So they're using a compartment of 5.17, but it is not the same thing that we would be using in the state of Georgia. So we can learn a lot but it's still not in the same environment that we would be using it.

MR. LINDSEY: Okay.

MS. GHAZAL: I just have one question. Do you have an accurate estimate of how many person-hours it would take to do the full

upgrade?

MR. BARNES: I don't have an accurate estimate as of yet because, again, not understanding yet how we would -- how we would handle the logistics. It will take a tremen -- I started doing some calculations on man-hours, but unless I know if I've got to travel to the county or if they're coming to me, it's hard to come up with a good estimate at this point.

MS. GHAZAL: Yes, okay. Worst case scenario --

MR. BARNES: Worst case scenario.

MS. GHAZAL: -- having to go out to a hundred and fifty --

MR. BARNES: Worst case scenario, I do have experience of us having to go out in the counties and do updates on the preexisting system, but that update was a much quicker installation process. This is a much bigger rebuild.

In those exercises in the past, it was always a six-month operation. With this process, I honestly am thinking it's probably going to be closer to a nine- to ten-month operation.

MS. GHAZAL: So it's based on personnel available.

MR. BARNES: It's based on personnel available, yes.

JUDGE DUFFEY: And when you do this, do you hire supplemental personnels for the rollout and then on a part-time or a temporary basis?

MR. BARNES: Each -- the leadership in each agency determines what they think is the best course. In previous installations, under different administrations, we used -- we used actually a contracted source that had a relationship with the Secretary of State's Office for installation purposes.

I don't know of yet how the Secretary of State's Office might want to facilitate this installation process because of what will be involved. My division, of course, would be involved heavily. I have seven to ten people that report to me. But we're going to need a lot more than that.

I know that we have made some -- some inroads into working with the Technical College of Georgia to maybe use some personnel from the Technical College of Georgia to help us with this process, but those discussions are very -- in the very preliminary state.

JUDGE DUFFEY: And I think you said that the system requires new CPUs to be used in each of the counties?

MR. BARNES: (nodding)

JUDGE DUFFEY: And it doesn't work without the new CPUs, so you need new CPUs for it to work?

MR. BARNES: You're going to need the CPUs because one of the elements of federal certification is that it actually gets down to the hardware level where it says this type of device is -- you know, this server, this -- what was classified as, like, an express server is on a particular type of Dell machine that has certain workings there within.

So, yes, we're going to have to make some adjustments at the CPU level.

JUDGE DUFFEY: And ultimately would the counties have to pay for the new CPUs?

MR. BARNES: That is -- that is an element of the Secretary of State's Office, having to determine what that is going to be. I can't speak to that at this point in time.

JUDGE DUFFEY: Do the counties have at least an order of magnitude of maybe what that

equipment costs so that they can go --

MR. BARNES: Not at this point.

JUDGE DUFFEY: Do you have a thought on the --

MR. BARNES: I don't have an order of magnitude of what the cost would be at this point. But it would -- it would not be insignificant.

JUDGE DUFFEY: Well, that's pretty ambiguous, but I understand. You know, insignificant might mean different things to different people. But for counties, I think that insignificance is a pretty low level.

Okay, thank you. Appreciate it.

MR. LINDSEY: One last question. We talked about worst case scenario. Let's just take the best case scenario. Let me ask you if this is practical. Everyone brings all of the equipment to the World Congress Center and you're able to do all of the necessary upgrades to the equipment at one location. Does that shorten the time period you need?

MR. BARNES: It -- in a centralized location with all of the people that you could possibly need, it's going to shorten the time. But, you

know, possibly one way to -- we've sort of done this before -- we did this in 2020 with the initial rollout. And we went through, in a central warehouse, 30,000 devices that were installed and then acceptance tested by the state and then packaged and distributed out to the counties. And in that central warehouse environment, it was still six to seven months.

MR. LINDSEY: Okay.

JUDGE DUFFEY: And I assume in order to get the machines to a central environment, that would be a cost that would have to be incurred by the county?

MR. BARNES: I suspect there would be some county costs. What those county costs would be, how much they would be, I do not know.

JUDGE DUFFEY: I'm just -- no, I'm just (indiscernible).

Dr. Johnston.

DR. JOHNSTON: Michael, does this upgrade elevate the certification to VVSG-2?

MR. BARNES: No, ma'am, it does not. 5.17 was certified -- 5.17 was certified under the VVSG-1.0. At this point in time, I believe there's only one voting system that's currently

in review by the VSTLs at the 2.0 stage.

DR. JOHNSTON: And could we use -- utilize the upgrade without using poll pads?

MR. BARNES: That would be a decision that would be made by people above my pay level. But it could be possible to do that. It could be if you chose not to use poll pad for a voter access card activation.

DR. JOHNSTON: Okay. And does this satisfy the CISA mitigation recommendations?

MR. BARNES: The -- the software package was worked in response to those. I will just say that's what it was brought forward based upon.

DR. JOHNSTON: Okay. And this -- is this part of what will be presented as far as health check of the computers of the voting system.

JUDGE DUFFEY: Don't ask me?

DR. JOHNSTON: Oh, well, you -- I thought -- Blake, were you going to speak to the health check?

MR. BARNES: Okay. I can -- I can answer some of your questions on the health check. We are currently in the process of visiting all 159 counties in the state to sit down with their election management systems that are currently in

place and to do an assessment on those CPUs to determine if they are ready, and basically in a health way, for the upcoming elections: Do they have the applications that they are supposed to have? Not only do they have the applications, do they have right installation of those applications present? Is the -- is the system connected as it should be? Is it working? Is it working in a sense of where it's sharing information across all of the CPUs that may be connected to that system within the county?

We are also inspecting their voting equipment and assessing whether on what has been installed on the equipment is supposed to be there. And not only is it installed properly but also is it functioning properly? Is it acting as it should? Is it taking the acceptance of an elections project file? Is the interaction of the voter as expected, as should be when you put a test scenario in? Are ballots being produced as they should? Are those ballots then being scanned and tabulated properly?

So we're in the process of visiting all 159 counties. I think as of yesterday we've completed visiting eight counties. So we've

still got a lot of work in front of us and this will be ongoing through the rest of the calendar year. We -- we are going to try to get as much done before the end of August as we can because we know we have a lot of jurisdictions that will have ongoing elections that they must be preparing for in September, October, November. But those jurisdictions that don't have elections, we'll continue visiting those counties and it's our objective to complete all hundred and fifty-nine counties by the end of the calendar year.

JUDGE DUFFEY: Just one final thing on -- just on that answer. And I don't know if it was Mr. Evans or you but I think -- there's statements saying that the machines had nothing added to them. What do -- I don't know if I heard that correctly, but ...

MR. BARNES: Well, what we are -- what we are looking at is the status of their equipment. And we have the ability to know what's supposed to be there. And we are making sure that what is there is what's supposed to be there.

JUDGE DUFFEY: Meaning that if something's not supposed to be there, you would address it.

MR. BARNES: Yes.

DR. JOHNSTON: So you'll do a virus check?

MR. BARNES: We are check -- we are checking the system to validate that what's in the system is what's supposed to be there. Yes, ma'am.

DR. JOHNSTON: Okay. And review of, like, intruder log or something.

MR. BARNES: Yes, ma'am.

DR. JOHNSTON: Okay.

MR. LINDSEY: Mr. Chairman. Good questions lead to more questions. These health checks or whatever you want to call them, in terms of our system, given the fact -- you know, assuming for a moment we do not do the upgrade to 5.17, has CISA weighed in on whether or not the remedial efforts that we are taking to attempt to ensure our system is efficient? Has CISA weighed in on that?

MR. BARNES: Do you want to say anything about CISA?

MR. EVANS: (indiscernible) has not made any statement.

MR. BARNES: To our knowledge CISA has not made any statement on it.

MR. LINDSEY: Is it appropriate for us to

make that request to CISA to see if it's appropriate, if it's adequate in their opinion? Is that an appropriate inquiry to CISA?

MR. EVANS: So we -- CISA -- so we were reached out to by, I believe, the EAC field team and had an initial meeting with them. And there's a chance they might come to kind of observe.

Michael, do you have any more details than that? More -- I know it's kind of early.

MR. BARNES: Yeah. And thank you, Blake, for reminding me.

We have had discussion with the EAC field services office. And I have invited them actually to come down to Georgia to go with us out as we're doing some of these health checks so they can see what we are doing in an effort to make sure that the system in Georgia is ready for the elections that are oncoming. So we feel like that is an opportunity for EAC to be involved, to see what steps we are taking to make sure that Georgia elections are ready.

MR. LINDSEY: Yeah. I guess my -- my point is that I think it would reassure a lot of folks if either EAC or CISA or some other agency other

than the Secretary of State's Office, somebody could validate what you are proposing independently. I'll leave it up to you guys to figure out who.

MR. MASHBURN: I have a question. In response to Mr. Lindsey's question, I think you were answering what -- what can I build and you backed out of an ele -- you backed an election, you ended up with a 30-day period between November and December. I think you were answering the question what can I build? What can we build?

But as I also hear, this is actually not going to be ready to be put in place until the Secretary of State and the General Assembly figure out how we're going to pay for new CPUs which you said is not an insignificant number. So there is no way to do it November to December. There's no way to do it in December of this year.

MR. BARNES: I guess that's my advantage. It's -- I don't -- I don't have to figure out the money and there is a money compartment to this and that's, again, for people above my pay grade to be figuring out what we can or cannot do yet.

MR. MASHBURN: Thank you.

MS. GHAZAL: I wanted to go back to your description of some of the upgrades and to talk about specifically some of the scanners and how that might impact some of the local counties.

Now my -- my assumption, which please correct me if it's wrong, is that some of these upgrades will allow the larger counties to use a single scanner for early voting because it will accept more ballot styles.

MR. BARNES: Potentially.

MS. GHAZAL: Potentially.

MR. BARNES: What we -- well, potentially. What the -- they have increased the ability to hold more information. However, we want to be able to see is it still enough to hold what we would have to do in Fulton County, for example.

We feel like it is, but when you start getting into a general primary ballot that's 18 inches long, in some cases it's two pieces of paper that are 18 inches long and all the information that goes into that, when you create the digital image that we have to collect along with it, they say that it can hold it. I'd like to see it and test it out.

MS. GHAZAL: And now, is this a hardware

upgrade in addition to a software upgrade for this functionality?

MR. BARNES: That would be a whole new piece of hardware. There are -- what we use in the state of Georgia is classified as an ICP, Image Cast to Precinct. The new piece of hardware that's available in the Democracy 17 Suite is an ICP-2, Image Cast to Precinct 2. It's just a different model. It maintains information in a different type of storage medium.

MS. GHAZAL: Can I -- is it an accurate guess that it would not be -- could not be retrofitted to be compatible with --

MR. BARNES: It -- yeah, it -- unfortunately it is not compatible with our version.

MS. GHAZAL: Okay. Thank you.

JUDGE DUFFEY: Any further questions?

Both of you, this has been really, really helpful. And I think it's probably been helpful to everybody who's listened to it as to understand what it is rather than just referring it to the update. To have context and facts to evaluate what the update is is, I found, personally enlightening. But like some of the things that we ought to do maybe more often.

But thank you for coming. Thank you for agreeing to do this. And, you know, I think it tells me that maybe we ought to be doing more of these educational sessions. Thank you.

Violation Cases Recommended for Letters of Instruction or Referral to the Attorney General's Office

JUDGE DUFFEY: All right. Now, we will move on to Item 3 where we are going to consider violation cases recommended for letters of instruction or referral to the Attorney General's Office which is a continuation of what we were doing at the end of the meeting yesterday.

And we'll begin with Case Number --

(Background noise)

JUDGE DUFFEY: That was not for you.

Case Number 2019-43, Paulding County, enclosed space violation.

Can we have a -- when you all get settled, we would like to have a report on that, please.

MR. BRUNSON: Good morning, Board and Chair.

JUDGE DUFFEY: Good morning.

MR. BRUNSON: So we'll start off with Case Number SEB2019-043, Paulding County, enclosed space violation.

On November 5, 2019, an SOS employee was

observing the pilot use of the ballot marking devices at the Paulding County Watson Government Complex. She observed three citizens in the enclosed space, looking at the BMDs. She took a few photos of the individuals. Once the investigator viewed the photos, he identified those citizens that were in the enclosed space as Richard DeMillo, Marilyn Marks, and Rhonda Martin.

Deidre Holden, the Paulding County elections supervisor advised that the three entered the enclosed space without permission and they never identified themselves to the poll manager.

Gayle Coombs, the poll manager at the location, stated that the three individuals went into the voting area and the male, Mr. DeMillo, took photos of the equipment. She said that the three did not ask for permission to enter the voting area and she did not know that they could not be in the space. She later identified the three via photos as the subjects inside the voting space.

The investigator interviewed all of the poll workers and all stated that they did not give the citizens permission to enter the enclosed space.

The investigator reached out to other election precincts in the surrounding counties.

Forlendia Kennerly(ph), the poll manager at the Smyrna 1-A precinct at Argyle Elementary School indicated that she had issues with two females. She described them as a blonde-haired woman and a dark-haired women.

According to her, the dark-haired woman identified herself as a poll worker. So Mrs. Kennerly allowed her inside the enclosed space. She asked for -- she asked her for her credentials. The dark-haired woman did not have any. She told her that she should have documents and identification if she was a poll worker and then she instructed her to sit in a different area.

The investigator sent Kennerly a photo, and she identified Marilyn Marks and Rhonda Martin as the females who came into the polling location. She stated that Mr. DeMillo never came into the enclosed area. All three citizens denied going to the Argyle Elementary voting location.

So based on this, we determined evidence suggests that Gayle Coombs, Deidre Holden, and the Paulding County Board of Elections and

Registration violated Georgia Code 21-2-413(h) when they allowed the citizens to enter and remain inside the enclosed space at the Watson Government Complex when they were not voting or acting in the capacity of a poll watcher or a poll officer.

It indicates that it shall be the duty of the chief manager to secure the observances of this code section to keep order in the polling place and to see that no more persons are admitted within the enclosed space.

Also poll manager Gayle Coombs allowed Marilyn Marks, Rhonda Martin, Richard DeMillo to enter and remain inside the enclosed space at the location when they were not voting or acting in the capacity of designated poll watchers.

Also there's evidence to suggest that Marilyn Marks, Richard DeMillo violated Georgia Election Code 21-2-413 when they entered and remained inside the enclosed space when they were not voting or acting in the capacity as poll watchers or poll officers at the Watson Government Complex.

And then there's also evidence to indicate that Rhonda Martin violated two counts with the

violation of the Watson Government Complex and at Argyle Elementary based on the statements of Ms. Kennerly.

JUDGE DUFFEY: All right. Is there -- is Respondent Paulding County Board of Elections and Voter Registrations present? Would they like to be heard?

MS. HOLDEN: (indicating)

JUDGE DUFFEY: Yes, please. Well, I'll tell you what might be -- since he's all set up here. This microphone should work once I turn it on which is -- try to ...

MS. HOLDEN: Okay, thank you. Thank you for having us here. Thank you for your presentation. I'm Deidre Holden. I'm the elections director for Paulding County.

I do want to say something before I go into what we're here about. I want to commend this board for reaching out to counties and getting our input because I've been doing this since 2004 and I've never seen this happen. It is important to us as election directors and officials to know that you want to know what we do. So thank you.

On to this case, I want to say this. In 2019, Paulding County was the largest county to

be a part of the pilot using the new voting system. We were excited to do that on that day. We had the Secretary of State and a lot of his staff there and media from all over the United States. This was a big deal.

I was not in the area when Ms. Marks came in. I was notified by a member of the Secretary of State's staff because she was standing there at the entrance of the enclosed space.

I think one of the arguments you're going to hear is there's no such thing as an enclosed space, and I disagree with that. You may have photos that have been submitted to you. The Watson Government Complex is where our office is located and we use a very large area to vote the masses of voters that we see. Our area is partitioned off. It's very clear that there are voting machines in there.

We also employ what we call a machine host that stays in that area for the entire duration of the election. So those machines are being constantly watched. If a voter has a question, they raise their hand and that machine host goes and assists them.

You know, I've always been one that believes

that we should learn something new every day, and when we start -- when we stop learning is when we fail. Thankfully, I've never had to identify an enclosed space. But when this happened, you better believe I identify enclosed spaces now. Once that happened, we post signs at all of our polling locations, identifying what the enclosed space is. So that was a lesson learned.

I believe that in 2020, when we went through the pandemic and we finally got to have an election in June, at this point the Secretary of State was making enclosed space signs and issuing them to every county in the state. We haven't had this issue since 2019.

I understand the excitement about this system. I understand people wanting to see it. But there are boundaries. There are lines that you don't cross. Had I been out there, I would've been able to assist Ms. Marks and her friends that were with her. But I do want to say that we do now -- we have put procedures in place where it's very identifiable of where the enclosed space is.

Do you have any questions?

MS. GHAZAL: Would you find it more helpful

to have these definitions of an enclosed space articulated more clearly in the regulations? Because under the regulations right now, the rule-making that was done through this body, it says it shall be enclosed with a guardrail or barrier. Would it be helpful for your implementation and enforcement to adjust that?

MS. HOLDEN: Absolutely. I think there's a lot of gray areas in the code and in the rules that need to be more defined so we'll know and so that the voters know. That's who we work for and we want their experience to be a positive one when they come to any polling location. So I do think it needs to be better defined.

MS. GHAZAL: Thank you.

MR. MASHBURN: Thank you, Mr. Chairman.

I've been out to Paulding County and I've toured their facilities personally and they run a first-class shop out there. And I was very impressed with their -- how they -- their diligence and their zeal for elections.

So one of the things that kind of concerns me about these cases sometimes is the counties will report they've had this problem, and then we turn around and say our answer to this problem is

we're going to prosecute you.

MS. HOLDEN: Yeah.

MR. MASHBURN: And so I think there's a little unfairness there. And so kind of for that reason -- pictures -- I mean, the defendants -- the other respondents in this case -- it's all together, but we're kind of doing them one at a time, but the respondents in this presented pictures of Watson. And I looked at those pictures and that -- that is a very well-defined enclosed space with a very well-defined barrier. I mean, it's a tiny little passageway with blockers.

MS. HOLDEN: Yes.

MR. MASHBURN: There -- I mean, so -- and I was a poll watcher for many years. So I'm funneling all of this through my knowledge as a poll watcher, and I've been in hundreds of precincts.

And just for the people out there listening, my practice -- and I never had a problem with it in twenty years, twenty-five years maybe -- was I would iden -- I would walk up to the poll manager with my ID, identify myself, and say, Where would you like for me to stand? And if I didn't like

it, the statute says if you have a problem with the poll manager, you report it to the election superintendent.

MS. HOLDEN: That's right.

MR. MASHBURN: So for everybody out there, if you want to know what an experienced poll watcher has as advice, that's the way to do it. So I would prefer that we dismiss the charge against Paulding County. But if the board is not inclined to do that, I think a letter of instruction of saying, "Please be more diligent in keeping people out of the enclosed space and don't let strangers in the enclosed spaces" is warranted. But I -- I'm very sensitive that we not establish a practice where we punish people who report violations.

MS. HOLDEN: I would like to comment to what you said, Mr. Mashburn. I appreciate the passion that Ms. Marks has. I look up to her. She's a wonderful person and in no way in Paulding County would we ever discourage a poll watcher or an observer. In fact, we invite people to come watch the process because people don't understand elections until they see it on the back side.

So we want people to come in and watch that

process. We want people to be interested. And, you know, I don't think there was any ill intent of Ms. Marks and the people that were with her. I think she was just very interested in this new voting system.

But there again, I don't like to be blamed for something that really didn't happen. It happened that they went in there, but to say that it's my fault or my board's fault, we've done everything we can do. We've trained people. And I just think that a better definition and also better training for people who are going to be poll watchers and who are going to be poll observers to say, Look, you need to follow these protocol. And there won't be any issues. So I appreciate what you said.

JUDGE DUFFEY: I have a further question. You said that you've added new marking?

MS. HOLDEN: Yes, we made signs. We immediately made signs and started posting them in all of our polling locations that identify the enclosed space. It says, This is the enclosed space. And we cite the rule and the code.

JUDGE DUFFEY: So with respect to this enclosed space at the Watson community center or

Watson --

MS. HOLDEN: Watson government --

JUDGE DUFFEY: -- government center, did you place the signs at that entrance where people would enter that would have these --

MS. HOLDEN: At Watson, that is our largest early voting location, but it's also one of our largest precincts. So after this occurred and we realized, look, we want people to know what the enclosed space is.

Watson has two enclosed spaces. We have one that we have for our elderly and disabled so they don't have to stand in line for a long time. And then we have the larger enclosed space for just the regular voters. So, yes, signs are placed at the entrance. Before anybody walks in and breaches that area, it says, This is the enclosed space.

JUDGE DUFFEY: All right. So you didn't redefine the enclosed space, you just put signage to show that it was.

MS. HOLDEN: Absolutely, yes, sir.

JUDGE DUFFEY: And, second, did you freely let citizens who were interested just walk in and out of the enclosed space?

MS. HOLDEN: No, sir.

JUDGE DUFFEY: Did you ever see anybody milling around to look at the --

MS. HOLDEN: No, sir.

JUDGE DUFFEY: -- operation and to observe it?

MS. HOLDEN: No, sir. I was not out there when this happened. I had, you know, 18 more precincts I had to deal with that day. But I will say with the Secretary of State staff being there, it was just recently brought to my attention. I was told that this was going to be a state case not on the county level, but there again I see, you know, where Ms. Coombs had to be brought in place because she was the poll manager and it happened while she was there.

JUDGE DUFFEY: Right.

MS. HOLDEN: But, you know, when we have observers, they're very polite; they come and they tell us they're there to observe. They don't interfere with the election process. If they did, I would deal with it. But I think that people know their limits. Poll watchers have more restrictions on them than an observer, and an observer can just come in and watch everything

and we want them to. But I was not aware that this happened. But we've never had this happen in any of our polling locations or early voting.

JUDGE DUFFEY: When you say "observer," what do you mean by that?

MS. HOLDEN: Anybody can come in and watch the process.

JUDGE DUFFEY: From where?

MS. HOLDEN: From, I mean -- my neighbor could come in and say, Hey, I want to watch what's going on. And we have to allow them. And I think that's good because that shows that they're interested and they want to make sure we're doing our jobs and they're holding us accountable.

But a poll watcher has restrictions. A poll watcher is there to make sure the election is flowing as it should. They're there to identify any issues and bring those to our attention as well. An observer is just there to make sure -- well, they're not really there to make sure of anything. They're just watching. They're just observing what's going on.

JUDGE DUFFEY: And can an observer walk around the areas where people are voting just to

see what's happening?

MS. HOLDEN: They can walk around. Most of our observers just come in and sit down and they -- they can sit in an area where they can see everything that's going on. They don't talk to the voters. They just watch. They just watch the process.

JUDGE DUFFEY: But can they watch and walk?

MS. HOLDEN: Can they walk around?

JUDGE DUFFEY: So can -- can a watcher -- can somebody who's an observer -- let's say you have three different areas of people that are voting, using the ballot marking devices. Can they kind of walk around there to see how people are using them and what they look like?

MS. HOLDEN: We -- we don't let them go close to our voters because we don't ever want to give up that secrecy of their ballot.

JUDGE DUFFEY: Right.

MS. HOLDEN: They can watch at a distance. I think six foot is a good distance. We don't let them hover. But most of them don't want to go into that room because they do know people are casting their vote there and they respect that privacy.

JUDGE DUFFEY: So are observers watching the process from outside the door or are they actually coming into the enclosed space?

MS. HOLDEN: I don't have observers going into the enclosed space.

JUDGE DUFFEY: Okay. I misunderstood then.

MS. HOLDEN: Yes.

JUDGE DUFFEY: Okay, thank you. All right. Any other questions for --

MS. HOLDEN: Any more questions? Thank you so much.

JUDGE DUFFEY: -- Ms. Holden. Thank you very much. Is Miss Coombs here?

MS. HOLDEN: No, sir, she's not here.

JUDGE DUFFEY: Okay. Thank you.

All right. How about Ms. Marks and Mr. DeMillo?

MR. BROWN: Good morning, Chairman Duffey. Thank you. Bruce Brown. I am representing the respondents in this case and in a following case.

I want to address the Argyle Elementary School allegation first. That is the allegation that there were two women: one dark-haired, one lighter-haired.

JUDGE DUFFEY: Wait a second. We need to

close -- somebody close that door, please.

I'm sorry. And can you speak up a little bit. I --

MR. BROWN: Sure.

JUDGE DUFFEY: That's good.

MR. BROWN: I'll deal with the Argyle Elementary School allegation first. And that is the one where -- that is against Miss Martin and she is alleged to have been in the enclosed space and also next to Miss Marks.

The fact that that allegation got to the board, as busy as it is in dealing with the crucial matter of Georgia election security, as it has this morning, is of some concern. That allegation is completely false. My clients denied it to the investigator.

The investigator undertook a separate investigation to try to find some corroborating evidence, including looking at license plates at Argyle Elementary School. Could not find any. And then he says in his investigative report, I couldn't find any evidence that my clients were there. Even though there's no evidence, here we are three years later -- four years later, dealing with it, with our time and with your

time.

It must be dismissed. Miss Marks was in Charlotte, North Carolina at the time. I have -- and I will give them to you if you like -- a printout showing she was in Charlotte because it was election day and she has a Mecklenburg County voter history. We told all of this to the investigator. They were not there.

And still, for some reason, these people, who happen to be also litigants against the State Election Board -- this complaint persists, even with everything we've written about it to the board. So it needs to be dismissed.

Now, the other one --

JUDGE DUFFEY: Are you saying that the State Election Board motivated the investigators to investigate Miss Marks --

MR. BROWN: No.

JUDGE DUFFEY: -- because we're defendants in some case?

MR. BROWN: No. But it needs to be dismissed.

JUDGE DUFFEY: I understand that.

MR. BROWN: Okay.

Now, on the second one, the -- about the

enclosed space. It's an interesting issue. We've written -- I hope you have the memo that we wrote on it. But the enclosed -- there was no enclosed space at the Watson school -- I mean at the Watson government center.

What the enclosed space is -- and this is defined by a statute -- is the space around the election -- around the -- the area around the voting booths. But there's -- the features of that are that you have to be able to see. It can't be a physical barrier like the one she's describing. What she's describing is the voting room. That's what the law calls the voting room. You see the pictures. The very big barriers, that's the voting room. That's not the enclosed space.

And if you look at the law as, Judge Duffey, you mentioned, the first thing to do, just look at the law, the law says the enclosed space is something within the voting rooms. It's not equated with the voting rooms. And it also says that the enclosed space is -- the enclosed space has a guardrail or barrier. There was no guardrail or barrier.

MR. MASHBURN: Do you agree -- I'm sorry to

interrupt, but do you agree or disagree that that's -- in your picture you show the large partitions, do you agree that -- or disagree that that's a barrier?

MR. BROWN: It is a barrier. That's the voting room. And they -- in fact, the witnesses themselves refer to that as the voting room. The law refers to an enclosed space as something within the voting room. It's very clear on that.

JUDGE DUFFEY: Is it impossible for the voting room and the enclosed space to be the same thing?

MR. BROWN: It is. Because otherwise the laws would make no sense, Your Honor. You wouldn't --

JUDGE DUFFEY: Is it possible that the voting room and the enclosed space can be the same space? Or are you saying that the law requires there to be a voting room and that the law -- even if it's a small space, you then have to designate some portion of the voting room to be the enclosed space?

MR. BROWN: Two answers to that. One, sort of an academic answer, is that it looks like the law of the statute is distinguishing between the

voting rooms and enclosed space because it says enclosed space is a space within the voting room. Okay, that's the first -- that's the first point.

And so I would caution if you do provide more -- a better description of the enclosed space, that it not be contrary to the statute which makes that distinction. Okay. However --

MR. MASHBURN: Let me interrupt you there on that point.

MR. BROWN: Sure.

MR. MASHBURN: One of the things that you -- if -- we had a chief justice named Nahmias. And he was very famous for this formula that I'm about to give you. He's retired now, but he was -- I've read a lot of his opinions. He always said -- so if you say the voting room, the enclosed space has to be within the voting room and you say they can't be the same, what is your definition of within? One inch? One millimeter? One centimeter? One nanometer? Ten feet? What's your definition of the requirement of within?

MR. BROWN: I don't care. They need to be different or else the legislature wouldn't have said that they're different.

MR. MASHBURN: All right. And you're basing it on the fact that they're different while one has a requirement of visibility and one does not.

MR. BROWN: Two things. One is the statute says that the enclosed space is a space within the voting room, okay?

Now, I think a fair reading of that if -- if you could read that and say all it says is within, that's not inconsistent with it being the same thing, you could say that. I don't think that's a reasonable interpretation of it, okay?

But the other point, I think, is more important. This is your second point. It's that the law also provides that it has -- the enclosed space cannot be a visibility blocking barrier. And that's the important point because as the other speaker remarked, it's crucially important for observers and for poll workers and for everybody to be able to observe what's going on in the -- in the enclosed space without interrupting the voters.

So that's the -- that's the point. So the way the law is is it makes a lot of sense. And that is you've got the voting machines and then maybe six feet out from that you have some sort

of barrier. But it's not a physical barrier you can see -- or that's why it says guardrail or barrier. So ...

MR. MASHBURN: Well, let me continue to interrupt you. I'm sorry I keep doing it but --

MR. BROWN: You have some questions, so that's fine.

MR. MASHBURN: Traditionally whenever I was a poll watcher, every poll watcher I knew always treated the check-in table as the barrier because there was somebody sitting there and you had to get the permission of that someone to go any further. Are you saying the check-in table could not be a barrier?

MR. BROWN: The rule says enclosed space shall mean that area within a polling space enclosed with a guardrail or a barrier, closing the inner portion of such area.

So to get back to your question about Justice Nahmias, enclosed from the inner portion of that area would indicate that it is a different area. So that only such persons as are inside such guardrail or barrier can approach within six feet of the ballot box.

MR. MASHBURN: Okay. So if we have a table,

the check-in table, and a person there, saying nobody goes past this point, and we've got to make sure the machines are at least six feet away from that point, your argument is that the traditional use of the check-in table is not a sufficient barrier, is your argument, right?

MR. BROWN: I don't need to make that argument because here the check-in table was right in the middle of the voting room.

MR. MASHBURN: Are you talking about Argyle or Watson?

MR. BROWN: Argyle, we weren't there. I don't know what was at Argyle.

MR. MASHBURN: Okay.

MR. BROWN: None of our people do because --

MR. MASHBURN: All right. So we're talking about Watson, okay.

MR. BROWN: Talking about Watson. At Watson the check-in room was in the middle of the voting room, okay. And if that were the barrier, then the voting room itself wouldn't be the barrier. There -- here's the thing is that the -- it -- there was a big physical barrier that you described. It's about eight feet. It blocked visible access to the voting rooms. It's very

clearly a barrier.

That -- if that is the enclosed space, it clearly violated Georgia law because you have to be able to see the voting machines from the members of the public. That's what the county manager just described is that the public has to be able to observe it. Under the law it's very clear. It's that you have a barrier, an enclosed space. Six feet's good but that doesn't block physical access and that's within the voting room.

You can tell in our -- in getting back -- getting away from sort of the academic part -- I don't mean academic in the sense it's not important but just on the interpretation of the law.

MR. MASHBURN: No offense taken.

MR. BROWN: Yeah. The -- if you look at what the allegations are in this case, it's that -- that my clients went into the voting room, okay. That's what they said. They didn't say enclosed space.

That's what the investigators are putting on top of this, okay. But Coombs and also Hausmann said, They went into the voting room. They

didn't say they went into the enclosed space. It's the investigator that put that gloss on it. It wasn't an enclosed space.

In fact, the representative admitted there was no enclosed space because in response to the questions from the board, she said, After this we started putting up signs or whatever denoting the enclosed space. So there wasn't an enclosed space there. So --

MR. MASHBURN: I understand your argument.

MR. BROWN: Okay.

JUDGE DUFFEY: Mr. Lindsey has a question.

MR. LINDSEY: And I appreciate the legal back and forth and in terms of the long term, figuring out possible rules.

I'm going to ask a more factual question. Where exactly were they?

MR. BROWN: They were in the voting room.

MR. LINDSEY: They were in the voting room?

MR. BROWN: They were in the voting room, Mr. Lindsey --

MR. LINDSEY: That's all right. I just wanted --

MR. BROWN: -- with --

MR. LINDSEY: I just wanted to know where

exactly they were.

MR. BROWN: But they were in the voting room with members of the press, with Ms. Hausmann, with Steve Fowler, all of them were there. They were -- they are the three that are being prosecuted. The photographer would've been vi -- if that was the enclosed space, the photographer would also be a per --

MR. LINDSEY: Okay, yeah.

MR. BROWN: -- would also be a perpetrator. So the Exhibit A would be taken by someone who was a perpetrator if that was the enclosed space. It's not the enclosed space. None of them were violating the law. Steve Fowler wasn't violating the law, Liz Hausmann wasn't violating the law, and neither were my clients.

MR. LINDSEY: That's it. I just -- I just wanted to know physically where they were. Thank you.

MR. BROWN: Sure.

MR. LINDSEY: And I heard the rest of the argument.

MR. BROWN: And I didn't mean to overanswer your question --

MR. LINDSEY: No, no, no. I'm just trying

to figure out where exactly they were --

MR. BROWN: Sure.

MR. LINDSEY: -- in light of the discussion you had with --

MR. BROWN: Yeah.

MR. LINDSEY: -- Mr. Mashburn.

MR. BROWN: And so that's -- that is the -- that is our response. But I'd also like to emphasis that there's no -- and this is very important. And you heard the nice remarks that she made about Miss Marks and Dr. DeMillo and Miss Martin. You know Miss Marks.

Richard DeMillo -- Richard DeMillo is our -- one of our main experts in the Curling case. He has been -- he is one of the leading experts in the country on cybersecurity. He was praised by -- by Judge Totenberg in her opinion that led to the pilot that this was a part of.

As a part of the pilot, one big question that Judge Totenberg has was can they -- you heard the -- you heard the difficult process that we're going to undergo this next time, of converting to the next software. Well, when we got the DREs enjoined, the question was will the state be ready to put in the BMDs. This was back

in 2020. Judge Totenberg was very concerned, but one of the things the Secretary of State said, as you heard today, was they were going to do a pilot.

And Paulding County was one of the pilot locations. That's why everybody was out there, including the expert -- our expert and including Miss Martin, also an expert, and Miss Marks. Those were the people that were out there. These are professionals that are highly respected and there's no suggestion that they did anything wrong. They didn't touch any of the equipment. They didn't talk to any of the voters. There's no suggestion that they were in any way rude or anything else.

And so particularly given the propriety of their actions, the importance of their cause, in the absence of any evidence that they were in an enclosed space, we ask that it be dismissed today.

MR. LINDSEY: And they were there as an observer, right?

MR. BROWN: They were there as observers.

MR. LINDSEY: Mr. Chairman, would it be appropriate, I want to ask a question to our

investigators.

JUDGE DUFFEY: Let me just ask one more fact question. Did anybody within your clients take pictures of anything?

MR. BROWN: Yes. The -- the panorama that you have in your material, I think, was one of our -- I think was one of our photos.

JUDGE DUFFEY: Took -- taken on the day of --

MS. MARKS: That's not (indiscernible).

MR. BROWN: Oh, we didn't -- I'm -- I thought that was one of ours. But that was -- that was from the Secretary of State's Office. So, no. The answer is no.

Thank you.

JUDGE DUFFEY: Would that have been okay for them to take pictures?

MR. BROWN: Well, it depends on what it's of.

JUDGE DUFFEY: Pardon me? I mean, can anybody who's an observer or a poll watcher take pictures?

MR. BROWN: Part of my -- part of my difficulty in answering is the law has changed on photography and so I don't want to -- I don't

want to comment on that.

And when -- and some -- some of them are actually being challenged. Some of the laws are being challenged in a separate lawsuit. So I don't want to ...

JUDGE DUFFEY: So we've got the law at the time of this incident, what was it with respect to pictures?

MR. BROWN: I do not know.

JUDGE DUFFEY: Okay. I'm sorry.

MR. LINDSEY: No, I could wait. I just wanted to see whether or not my investigators -- the Secretary of State's investigators, can you confirm that -- Mr. Brown has told us that in addition to his clients, there were other individuals there as well, including Ms. Hausmann and --

Who were the other ones, Mr. Brown? Mr. Brown, who were the other ones? You said Ms. Hausmann --

MR. BROWN: Some reporter and some camera --

MR. LINDSEY: Reporters? Were they also at the same place where Miss Marks and her group were?

MR. BRUNSON: From the reports, they were at

the location, however, not in the same places that the three individual were. There's photos of them right near the voting machines.

MR. LINDSEY: They --

MR. BRUNSON: The three individuals --

MR. LINDSEY: Were they in -- were Miss Hausmann -- I don't mean to call her out necessarily. Were those individuals also in the proximate location, sort of in that general location as well? I'm just trying to figure things out.

MR. BROWN: He's -- one of the things I'd like --

MR. LINDSEY: Let me ask him real quick and then I'll let you respond.

MR. BROWN: Sorry.

MR. LINDSEY: No problem. I just want to ...

MR. BRUNSON: Yeah, you can't -- you can't discern that from here, but the photos that were taken were of the three individuals that were near the voting machines, very -- in close proximity, within probably -- just looking at the photos, maybe a foot of the voting machines. Maybe even closer.

MR. MASHBURN: Is anybody other than the three people in the picture?

MR. BRUNSON: Okay, this looks like Mrs. Martin by herself in one, Mrs. Marks by herself in another picture --

JUDGE DUFFEY: Well, we've not seen those. Could we see those?

MR. BRUNSON: (indiscernible) some copies (indiscernible).

JUDGE DUFFEY: Well, just show us -- just show us the pictures.

DR. JOHNSTON: To be -- to clarify, photography can be -- take place in a polling place at the discretion of the poll manager.

JUDGE DUFFEY: So you'd have to ask permission.

DR. JOHNSTON: Yes. While -- while persons are voting.

JUDGE DUFFEY: Miss Holden, do you have some pictures too?

MS. HOLDEN: Yes, sir. I would like to say that Ms. Hausmann, she would have been permitted since she is a member of the Secretary of State. She would have been permitted because she's considered an election official.

MR. LINDSEY: Not at that time though. She was -- I don't believe -- I don't believe she was at that time. 2019?

MR. BRUNSON: Yes.

MR. LINDSEY: She was still in the county --

MS. HOLDEN: She came there with the Secretary of State and was introduced to me as a member of the Secretary of State's Office. But she did take the pictures. That's how I knew about it.

I did want to show you a picture that we have of the area. Is that permissible to show you?

JUDGE DUFFEY: I guess, we're looking at pictures. But yours happens to be on a device. Let us look at these first.

MS. HOLDEN: Okay.

(Ms. Holden showing pictures to the board.)

JUDGE DUFFEY: Thank you.

MS. HOLDEN: You're welcome.

JUDGE DUFFEY: Can I just ask you, is -- this is an exhibit, 42, in the file. Is that Mr. DeMillo?

MR. BROWN: Yes, Your Honor. And you're looking at things that we've -- we've asked for

in advance of this hearing but did not get. That is Dr. DeMillo. He's here if you'd like --

JUDGE DUFFEY: Can you tell me what he's holding in his hand? What does that appear to you to be? Well, looks to me like a cell phone. In fact, there's a whole camera up in the --

MR. BROWN: Yeah, it could have been a cell phone. The -- to get back to the allegations, the allegation isn't -- as I think the investigators will confirm is that the violation is not standing too close to a voting machine. That's not the violation that's alleged, right? Instead it's being in an enclosed space which did not exist.

And the photography, I don't know what your -- I don't know what photographs that you're reviewing because we haven't seen them.

JUDGE DUFFEY: Well, we'll show them to you in a second.

MR. BROWN: Okay. But if you have any other questions, I'm happy to answer them.

JUDGE DUFFEY: Let's show -- let's show him the pictures we have, that we -- that we've just seen.

DR. JOHNSTON: Chairman Duffey, I see no

voters in those photos.

JUDGE DUFFEY: The photos say -- the photos are the photos. What they show, they show.

DR. JOHNSTON: Beg your pardon?

JUDGE DUFFEY: What they show, they show. Oh, we're going to show them to Mr. Brown.

MR. LINDSEY: Mr. Brown.

JUDGE DUFFEY: If you want to step back and show them to Ms. Marks, you can.

MR. BROWN: Let me just check with my client to make sure I've got my facts right on this, okay?

JUDGE DUFFEY: Sure.

MR. BROWN: I do want to mention one thing Your Honor. It's, Judge -- it -- the page 5 of 7 of the photographs, and we need to look at all of them. This is a distorted image because what it is is a zoom. It is a crop. If you take the -- I've seen the -- the larger size one of this. And if you look at the normal size of this, you will see about 20 tiles in the floor between Miss Martin and the machines. But it's compressed because they've cropped it as you can do.

So they've taken a somewhat accurate

photograph and given you a crop that makes it look like she's much closer than she is. So that's troublesome. But more important is they're not -- we're not here to defend a charge of violating an election law of standing too close to an election machine because there's no such law. And there's no jurisdiction to enforce a non-existing law. And --

MR. MASHBURN: I don't see a charge -- I don't see a charge of standing too close.

MR. BROWN: Right.

MR. MASHBURN: The charge is being within the enclosed space.

MR. BROWN: Right.

MR. MASHBURN: I understand your argument.

MR. BROWN: I believe so and I think that's confirmed by the county's observations as well. Thanks.

JUDGE DUFFEY: Well, we under -- your argument is that because there was no barrier that -- there was -- everything was the voting room and that even though people were in there, they were able to vote on machines, that there's nowhere in that space that was the enclosed space. That's your legal argument, right?

MR. BROWN: Yeah. The law defines enclosed space --

JUDGE DUFFEY: No, I'm just --

MR. BROWN: Yeah. That is the ar -- that is the argument --

JUDGE DUFFEY: Your argument is --

MR. BROWN: Yes.

JUDGE DUFFEY: -- in this case there was no enclosed space and because there wasn't, anybody could go and watch people vote and stand around machines because that's allowed because it's only the voting area.

MR. BROWN: The law says you may not go into enclosed space --

JUDGE DUFFEY: I know -- look -- look --

MR. BROWN: -- and that there wasn't one. There wasn't an enclosed space.

JUDGE DUFFEY: You're saying -- and that means that because there was no enclosed space, there was no prohibition from a person going into the voting area and looking at anything they wanted to look at.

MR. BROWN: Yes, Your Honor. In fact, the law says that in the voting room the public must have access. It's not -- it's not that they --

it's not that they got away with doing something that is wrong or should be wrong, it's that they did what the law expressly allows and requires the county to provide. It's -- it's --

JUDGE DUFFEY: Look, I understand your legal argument. I'm just saying does that mean that if somebody wanted to stand next to a voter and watch them vote because they're only in the polling area, that they could do that?

MR. BROWN: That's a crime, okay. That actually is a crime to do that. Watching somebody vote is a -- is a felony. So, no, they could not do that.

MR. MASHBURN: Well, let's -- let's -- like we did in law school, let's change the facts.

MR. BROWN: Sure.

MR. MASHBURN: They're not watching the person cast the ballot, but they're inside -- they're a foot away from the voter and their back is turned to the voter so they're not watching the voter, but they were watching the environment in which the voter ... That's okay with -- under your definition -- Right? -- because they're not within the enclosed space because there is no enclosed space.

MR. BROWN: I would ask the same question, is what law would that violate?

JUDGE DUFFEY: No, no, no. The way this works, he asked you a question, you answer it, and then you --

MR. BROWN: Those aren't the facts here because there's no picture of a voter.

MR. MASHBURN: But I'm just trying to get your definition down.

MR. BROWN: I don't know of what law that would be violating, okay?

MR. MASHBURN: Yeah. If we accept -- if we accept your definitions and your argument, we have to also accept that if someone is standing right next to a voter but not watching them vote, they haven't done anything wrong. That has -- that's still -- that's where your argument puts us.

MR. BROWN: No. No, it's not.

MR. MASHBURN: Okay.

MR. BROWN: If the -- if the county is doing what it's supposed to do by having an enclosed space, then that should not happen.

MR. MASHBURN: But in the absence of an enclosed space, it's perfectly fine, right?

MR. BROWN: The law -- we need to follow the law and not drag it. Okay, the law says that the county is supposed to have -- it's -- it's not that hard. And the law -- the legislature has decided this for us. And this legislature has decided that -- several things.

One, there needs to be enclosed space which is different than the voting room. Two, that you need to be able to view voters. Not their screen, they're very clear on that. But you have to be able to observe the process of voting, and you must have an enclosed space and you may not enter the enclosed space.

So that all is clear. And so if it's done right -- and I answered your very -- actually your very good hypothetical questions, but all of the laws have to be respected.

Most important is the requirement for visibility actually from a public observation standpoint. It's also crucial for security because your poll workers have to be able to see whether any -- anybody's -- this has come up in our other cases, the poll workers need to be able to ensure that nobody's putting a USB drive into one of these -- those BMDs.

So you don't want to rope them off. It needs to be open. And so that's why the law is --

MR. MASHBURN: Well, you don't want strangers near the machines either, right?

MR. BROWN: You do not. You do not.

JUDGE DUFFEY: Well, I thank you.

MR. MASHBURN: Well, I appreciate it and I'm -- I'm -- when the appellate judge jumps in and takes over the appellate lawyer's argument time, it's not deemed as fair but I appreciate your candor and your good arguments and your zealous defense of your clients.

MR. BROWN: Well, I --

MR. MASHBURN: You did a very good job.

MR. BROWN: I'm glad to have the opportunity to answer the questions provided. Thank you.

JUDGE DUFFEY: Ms. Holden, can you come up, please.

MR. MASHBURN: Did we get our pictures back?

MR. BRUNSON: Yes.

MR. MASHBURN: Did we get our pictures back?

MR. BRUNSON: No.

MR. MASHBURN: Well, we need to get our pictures back.

MS. HOLDEN: Do you want me to take them the pictures? They need them back.

JUDGE DUFFEY: No, we need all the pictures.

MS. GHAZAL: Miss Holden, I have a couple of clarifying questions. And I'm sorry, you're going to have to take a look on my device here. Can you describe to me based on these pictures where you define the enclosed space began?

MS. HOLDEN: Okay. This is the enclosed space, and I wish that there was a better picture than this one. This area right here is the second area for our handicapped and disabled. And they go into this room here. So that is the enclosed space.

Over here, if you had a better picture, we have a clerk that you have to get the access card. That is the enclosed space.

His argument is there is no enclosed space. If you don't have an enclosed space, you can't vote. So that's the enclosed space.

MS. GHAZAL: So can you show -- can you tell me -- I think there's a sketch as well. Right -- right there? Is that right?

MS. HOLDEN: I'm sorry.

JUDGE DUFFEY: The sketch is

(indiscernible).

MS. GHAZAL: No, it was -- it was also --

(Cross-talking)

MS. GHAZAL: Is that accurate?

MS. HOLDEN: This area here is where the clerk sits, where the voters check in. This is the enclosed space. This is not -- this is not that closed in together.

MS. GHAZAL: Correct.

MS. HOLDEN: The machines are in here. There is a person here at this table. He was the machine post to make sure there's no issues.

Same thing here. They check in out here. They go in here to the voting room.

JUDGE DUFFEY: That's the place for the disabled and handicapped?

MS. HOLDEN: Yes. Yes, sir.

And then out here is where the voters come in, they check in. And then here's a scanner for the handicapped/disabled to deposit their ballots on the inside of this room. And then back here, I believe, they have -- no, that was when we got the (indiscernible).

But basically there's no voting going on in this room. So I'm going to argue that that's not

a voting room. There's no voting going on. The voting is going on here. To me, the voting room and the enclosed space is the same thing.

MS. GHAZAL: Where can observers watch? In this set-up, where can they observe safely if they're not violating the rules?

MS. HOLDEN: Okay.

MS. GHAZAL: Where would you go to have them watch?

MS. HOLDEN: There -- this actually extends out further. But this is a wider area and they are welcome to go in and observe, just not up on the voter, okay?

MS. GHAZAL: Okay. Thank you.

MS. HOLDEN: And, I mean, they can go and look. They just don't need to (indiscernible). I mean, could you imagine if we let everybody walk in that room where people are voting what chaos we would have?

MS. GHAZAL: Absolutely. Absolutely.

JUDGE DUFFEY: Thank you very much.

MS. GHAZAL: Yes.

MS. HOLDEN: You're welcome.

JUDGE DUFFEY: Any other questions for you?

MS. GHAZAL: No, sir.

JUDGE DUFFEY: I think we probably ought to take these one respondent at a time if that makes sense.

So the first are the alleged violations against the Paulding County Board of Elections and Voter Registration, Paulding County elections superintendent Miss Deidre Holden, and Paulding County poll manager Gayle Coombs.

Is there a motion with respect to those three respondents?

DR. JOHNSTON: I'd move that we dismiss.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been moved and seconded that the motion against Paulding County Board of Elections, the election superintendent Miss Holden, and the poll manager Miss Coombs be dismissed. Is there any further discussion?

MR. LINDSEY: Question, I guess. And I think I agree with the motion but how do we -- I'd like to get the discussion going on how can we provide the space? And would a letter be the best way to do that and it would be something down the road? Or -- this is a question to the board and to you, Mr. Chairman.

JUDGE DUFFEY: Do you mean how do we do it generally?

MR. LINDSEY: Yeah. Well, the process and instruction to maybe Paulding County. I don't think they violated any rules, nothing's wrong. That's why I'm going to vote to dismiss. But just perhaps Mr. Mashburn has a solution on how we -- how do we fix this issue?

JUDGE DUFFEY: Well, we have two means of doing that in a way. One would be we could modify the rule and go through the process of having that heard. Two, what we do with -- hope to be able to do regarding challenges which is to send down a guidance sheet. Probably need to do that with the Secretary of State's Office since they've done some things already about (indiscernible) goes through in order to get things out sooner rather than later. And so that we don't have to do another rule, change the rule.

MR. LINDSEY: Thank you, Mr. Chairman.

JUDGE DUFFEY: That would be my guidance memorandum.

MR. MASHBURN: What I'd like to do if it's agreeable to the board is I think that there

might be -- that there is a technical -- a technical violation here because the person was within -- if we expound that the person was in the enclosed space, there was a technical violation because somebody was in the enclosed space.

So I think if we had -- if we -- if we dismiss it, it will be on the basis that while there was a technical violation, I don't think there's any punishment that should be warranted in this.

JUDGE DUFFEY: That would not be a motion to dismiss, though, that would be a finding.

MR. LINDSEY: Would that be Paulding County?

JUDGE DUFFEY: Yeah, on the county part. We would send a letter of instruction.

MR. MASHBURN: So it's your motion, Dr. Johnston, but would you -- would you consider amending your motion to issue a letter of instruction? Is that the question?

JUDGE DUFFEY: Well, that is a question. Let's -- let's -- the main motion right now that's on the table and seconded is to dismiss the complaint against the county respondents.

MR. LINDSEY: I'm going to move -- I'm going

to go with a dismissal with the idea of working with the Secretary of State's Office to send out a clarification as to the kind of spaces that we have. That's really needed. So I'm -- I'm not going to request an amendment. (indiscernible) have to be.

JUDGE DUFFEY: All right. So a motion to dismiss, and in my capacity as chair, I would ask the Secretary of State's Office to provide guidance, some appropriate instruction to Paulding County with respect to designation of enclosed space. Any further discussion?

All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Those opposed, no?

The motion passes unanimously.

The next is the -- against respondents Marilyn Marks and Richard DeMillo. Is there a motion with respect to Ms. Marks and Mr. DeMillo?

MR. MASHBURN: I appreciate counsel's well-reasoned and well-defended arguments. He did a great job for his clients. But I think the enclosed space, in my mind, my reading of the statute, is that the enclosed space was sufficiently barriered at Watson Government

Complex.

So I move that that matter be forwarded to the Attorney General's Office for further processing.

JUDGE DUFFEY: So it's been moved. Is there a second?

The motion fails for lack of a second. Is there another motion?

MR. LINDSEY: I want to move to -- I'll move to dismiss.

JUDGE DUFFEY: Is there a second?

DR. JOHNSTON: Second.

JUDGE DUFFEY: It's been moved and seconded to dismiss the complaint against Ms. Marks and Mr. DeMillo. Is there any discussion?

MR. LINDSEY: If I may, Mr. Chairman. You know, I guess I go back to my voting history. I don't think I'd be comfortable with the number of people that were milling around this place. And all the times I've ever voted, I've never had this sort of number of people milling around.

However, I do accept the fact that the ambiguity in the law and also the fact that while Paulding County was attempting to protect the privacy of the voters -- and I appreciate that --

the way some of the barriers were set up made it difficult for observers to actually be able to do their observations in this particular narrow case.

I do think that we need to clean up the law and clean up the rules before we would, you know, impose any kind of sanction on any individual. I think that -- that the law here does not give us the power to do so here. And I hope that some of the folks, Ms. Marks and others, that -- for instance, that it -- that proposed certain rules here earlier respect the fact that I couldn't -- I couldn't exceed what I think my authority was before and I can't exceed here either.

And for that reason, I'm moving to dismiss. But I do think that at the same time we need to work with the Secretary of State's Office and should it be necessary for rules or for whatever it takes to help work with Paulding County and other counties in terms of clarifying what is a private space as a private space so that an observer can -- can observe things from away and yet still allow voters to have that -- that quiet moment that we all want when someone actually casts their ballot. Because I would not want --

as a voter, I would not want people that close when I'm voting. But I accept the fact that there were certain ambiguities in this narrow situation, and that's why I'm moving to dismiss.

And I don't believe that anyone was intending anything nefarious either, don't get me wrong. But I do think that we need to clarify the rules and work with folks, my good folks from Paulding County and others to come up with any kind of tightening of the definitions so that an observer can observe from afar and still see everything but that we have a well-defined private space.

So for that -- that's the reason why I'm moving to dismiss, Mr. Chairman.

JUDGE DUFFEY: Was this seconded?

DR. JOHNSTON: Yes.

JUDGE DUFFEY: I think you -- my issue with this has been that I think for anybody who -- on this occasion, with this event, with this being a project that the ability to -- you know, there ought to be some clear rule about the distinction between the enclosed area and the polling place.

And as it relates to observers, I don't think observers should ever be entitled to go

into the enclosed area, but they -- if that's the case, they ought to be accommodated within the polling place so that they can see the enclosed area and observe. And I think that's essentially what Mr. Lindsey's saying, is that that's something that they're entitled to do.

But when you say, Well, yeah, you can step in but you can't go too far in, I think that does not accomplish what the law intends to accomplish, as Mr. Lindsey said. It's to let somebody engage in the serious business of casting their vote and not have somebody who's not engaged in that safe process be in the enclosed area.

And I think on this occasion, that was not clear.

MR. LINDSEY: Can I add one other thing, Mr. --

JUDGE DUFFEY: Yes.

MR. LINDSEY: -- Chairman, for the record. I want to thank my investigators because I think you raised good points here. I think you brought a matter of good faith and I think that you attempted -- you dealt with a unique situation here, and you brought the facts to us to take a

hard look at it.

And I think that you -- by virtue of this complaint, we have a -- we are going to be able to address a very serious issue. So I was not particularly happy with anybody casting aspersions on you guys. I think y'all -- I think y'all -- I appreciate the situation in Paulding County with that investigation because I think that it does raise and address some important issues. So I do thank you for that. So I'm --

JUDGE DUFFEY: And if I -- I'm going to add to that before you say anything. I feel the same way. When we get to this point, we want to hear facts. We don't want to hear somebody's characterizations or insinuations. Just tell us what you know, show us what you have. And to the credit of the investigators, we have hundreds of complaints that they're trying to get done.

And any suggestions that this complaint was dealt with any differently than any other complaint, I don't appreciate.

MR. BROWN: I wanted to clarify that the investigator for our matter was not the gentleman here. And I'm just saying it was done prior to that and I didn't -- wasn't taking any personal

shots at that. We look at the facts as we get them and we look at who was prosecuted and who wasn't and we make the arguments with respect to that as clearly as we can, as objectively as we can. Thanks.

MR. LINDSEY: But, Mr. Brown, you're an advocate. So I had no problem with what you said either. I just wanted to make sure he understood that too.

MR. BROWN: Yeah. Except that I did want to make sure it wasn't --

MR. LINDSEY: I understand. I wasn't casting aspersions on you either. You're an advocate. He's my -- he's our investigator. I just want --

JUDGE DUFFEY: I understand that, but I'm going to say this, that in the years that I have been doing this, the one thing that I've tried to get lawyers not to do and that I don't countenance is making characterizations, one, when the person's not here, and, secondly, to make characterizations that they did something because they had some motive to do it and to have that weigh in to whether or not it's believable.

And my practice and my profession needs to

change. And it needs to change by not excusing everything just because you're advocates. It needs to change because we need to focus on what we do on facts and the law and not somebody's characterizations because as a matter of advocacy they think it helps their clients. And I've just wanted -- I've said that a lot of times to a lot of groups. That happened here and I'm going to say it here.

All right. Rhonda Martin.

(The Chairman conferred with Mr. Mashburn.)

JUDGE DUFFEY: All those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: And all those opposed, no.

The motion passes unanimously.

Rhonda Martin. Is there a motion with respect to the complaint against her?

MR. LINDSEY: Move to dismiss for the same reasons.

JUDGE DUFFEY: Is there a second?

DR. JOHNSTON: Second.

JUDGE DUFFEY: Any discussion?

All right. There being no discussion, all those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no.

The motion passes unanimously.

I think we -- it is 12:25. I think that the next one is liable to go long as well. So we're -- so we are going to take a lunch break to 1:30 and look forward to seeing everybody back at 1:30.

(Recess taken)

JUDGE DUFFEY: Welcome back, everybody. We are continuing with Section III, the violation cases.

The next case is 2020-089. Can we please get a report on the case.

We're ready.

MS. KOTH: Oh, I'm sorry. Stupid thought, sorry.

Case Number 2020-089. The Office of the Secretary of State received a complaint that Marilyn Marks took a photograph of a voter list on August 11, 2020, while at the Peachtree Christian Church polling location.

Ms. Marks advised she was an unauthorized poll watcher and stated the following: Mr. Ware(ph) showed me the voter list. To my

surprise, the list was dated June 9, 2020. Attached is Exhibit A, it is a true and correct copy of a photograph that I took of the June 9, 2020, voter list that Mr. Ware showed me.

Mr. Ware was interviewed and advised that Ms. Marks did not ask permission to take the photograph. Per the conditions for inspection, Rule 34, page 6, states: Photographs, video, electronic and paper copies and printouts of all documents related to activities inspected are permitted to the extent that they do not contain personal identifying information.

Marilyn Marks admitted in a declaration of Marilyn Marks that she took a photograph of a voter list at the Peachtree Christian Church polling location on August 11, 2020. The photograph she took contains voter registration numbers, voter status, name, date of birth, residence address, and district combo.

Potential violations are 21-2-413, subsection E. That's it.

JUDGE DUFFEY: All right. Does the respondent want to respond?

MR. BROWN: Thank you. The -- the facts in this are very straightforward. Pursuant to

discovery in the Curling case, Fulton County and my client agreed to a series of different inspections over -- and are still in the process of doing this over the years, of different voting equipment, physical equipment, access to polling places, assess to documents out of the discovery process.

As a part of that discovery process, we had a protective order and the protective order made it very clear that personal private information was not to be posted on the -- with anything that was filed. Pursuant to our Rule 34 request, Miss Marks and Harri Hursti were given access to the polling place at issue and allowed to take photographs as was the agreement per the rule. It was a Rule 34 request to be able to do that.

We took the Curling plain -- the coalition plaintiffs took the information that Marilyn Marks had obtained and it included the photographs of a ballot book. And the reason for the photograph was it was a part of our claim that the -- that the state needed to use updated-to-the-minute backups for the E -- for the poll books -- that's one of our claims -- and that what the -- what the problem -- the claim

that we were pursuing, Judge, was that the -- the poll books go -- go down so frequently and there's no backup to them.

The state contended that, no, there was a backup. We obtained evidence -- and this is a part of that -- that the poll -- that the ballot were -- are dated, that they weren't up to date. And so this was a photograph of the page of the ballot book which showed its date, which is May, and the election was in August.

We used that as a part of a lot of other evidence and actually obtained an injunction from Judge Totenberg that the state use properly backed up -- paper poll book backups.

When I filed -- when I filed -- not Ms. Marks, but when I filed our evidentiary support for our motion, I did not redact the column of the date of -- my memory is the date of birth of the -- the voters. I was immediately notified, I believe by the Secretary of State's attorney, one of them -- I don't think it was Mr. Tyson, but one of them. I immediately pulled it and filed a redacted copy.

Months pass and then we are alerted to the fact that this is the subject of a -- of a state

investigation. I then contacted Mr. Tyson. It was both myself and Mr. Ichter communicated -- my co-counsel, Cary Ichter, communicated with Bryan Tyson.

This was when it was -- it was -- this complaint was actually on the board's docket two years ago. It came up on the board's docket and I contacted Bryan Tyson and said, Isn't this a discovery -- first thing I said, it was my fault that this was put on the Internet. But isn't this a discovery issue under the protective order in front of Judge Totenberg rather than a -- something that should be prosecuted by the SEB? He didn't -- in fairness, I don't want to overstate, he did not respond to that.

However, it was instantly dropped from the -- from the board's docket. And that's all I heard about it. That was two years ago. And then it came up again today.

And so that's all we had to say. I would say that the -- just a couple points. There's, of course, the -- the power of a litigant to obtain information under Rule 34 is far -- far more extensive than the law would otherwise allow, or else you wouldn't need it. And it is

through the Rule 34 discovery that we even know about Coffee County or Treutlen County or had Dr. Halderman's report.

And so it was in the course of that discovery that this was conducted. A mistake was made; I made it. I fixed it immediately. Ms. Marks has done nothing either contrary to the protective order or to the law.

And we respect the state investigators for pointing that out but believe that it should be dismissed because this is a discovery issue in front of Judge Totenberg, not something for the board to consider. Thank you.

MR. LINDSEY: If I may.

Mr. Brown? Bruce?

MR. BROWN: Oh, I'm sorry.

MR. LINDSEY: I'm not -- you know, the discovery part, in terms of accidentally and redacted, that's another issue. But I'm more interested in -- I understand the discovery side, but the poll worker isn't necessarily -- the poll worker -- for that matter, the county isn't necessarily always privy to what the discovery is.

So I guess my question is was there a

specific authorization from the county -- in other words, you have the authorization from the judge. You have an agreement. Did anyone go to the county and get an authorization? That's what I want to know.

MR. BROWN: My statement of the facts was incomplete. The Rule 34 request was to Fulton County and their lawyers, Cheryl Ringer and others.

MR. LINDSEY: Yeah.

MR. BROWN: And that's who we dealt with. And we actually would negotiate with Fulton County over which polling location we could go to.

So, for example, in this one, there were five -- five or six different locations. One of them was Peachtree Christian Church.

MR. LINDSEY: Yeah.

MR. BROWN: And we went back and forth on you want this one, you want this one. So there was a lot of exchange between counsel. Also discussion about hours, When are you going to go?

MR. LINDSEY: Yeah.

MR. BROWN: And that sort of thing.

And so it was discovery to Fulton County and

they responded and we negotiated the arrangements for when Harri Hursti could go.

MR. LINDSEY: Okay. Was there any kind of -- from the -- from the election superintendent or from the Fulton County election board? A specific authorization? That's what I'm looking for.

MR. BROWN: It was their lawyer. Yeah. Yeah.

JUDGE DUFFEY: Well, let me -- having presided as a federal district court judge myself, my guess is that Rule 34, you serve a request to produce and there's a response by the respondent. And the judge generally doesn't get involved unless there's a motion to compel or a motion for a protective order. So I assume that didn't happen in this case; is that correct?

MR. BROWN: There have been a number of motions to compel, et cetera. This -- I don't believe this was subject to a -- to a motion to compel. It --

JUDGE DUFFEY: So according --

MR. BROWN: But I'm not sure it hasn't. I'm not sure this one hasn't because we had a -- we had some very drawn-out discovery disputes with

Fulton County. So I --

JUDGE DUFFEY: Well, can you represent to me here today as counsel involved in this litigation that Judge Totenberg understood that information that you requested -- that you were requesting required the violation of a state law?

MR. BROWN: Specifically, no. However, a lot of the discovery if you didn't have a subpoena would be in violation of the law. For example, we got a server. When Dr. Halderman got the machine, we got the --

JUDGE DUFFEY: No, I understand, but a subpoena is different from a request to produce under Rule 34. A subpoena is a court document that allows you to do certain things that under compulsion of law has to be produced. Did you have a subpoena to look at these and to photograph these voter rolls?

MR. BROWN: We -- we -- to a party, your -- I mean, I defer to your better knowledge of the federal rules, but to a party the Rule 34 request is the same as a subpoena.

JUDGE DUFFEY: No, it's not.

MR. BROWN: And so we served it upon the other party and we negotiate --

JUDGE DUFFEY: Subpoena?

MR. BROWN: The Rule 34 request.

JUDGE DUFFEY: The Rule 34 request is under the Federal Rules of Civil Procedure, under Rule 34, provides for discovery between parties in a civil litigation to exchange information and that you do not require a court order or a subpoena to do that.

MR. BROWN: Right.

JUDGE DUFFEY: So first of all, this judge never authorized you to go to a place and take a picture of something which there was -- and that picture being in violation of state law.

Now, if you lawyers decided that you had it within your authority to do that, which I suspect you didn't, it was -- Ms. Marks was there with the county or somebody from the county, and they asked somebody to engage in conduct that was a violation of state law.

What I would expect if I was -- somebody was in my courtroom -- and I think any federal court judge would expect -- and I suspect Judge Totenberg would suspect that if somebody said, Now, look, one of the things that we want to do is we want to go and take a photograph of a log.

And by the way, state law prohibits that photograph from being taken if it has individual information, can we have permission to do that? You know, my guess is that she might well think well of that, or she might say, No, you can photograph it after the personal information is redacted.

What I focus on in this -- which, by the way, the date of this report is 2021, so it is -- it is old. It's not like it went away. It's been a matter under investigation. Regrettably it's taken us a long time to get to some of these, but as of the report of 1/26/2021, the allegation is this: that Ms. Marks, as a litigant went to a place, claiming that she thought she had permission to cause -- to engage in conduct that violated state law. And that's a violation.

And you can take responsibility for all of the other things that you should -- that you should've done. I would say what you should have done is gone to the court and say, Look, we're going to do this. My guess is you had no idea this was going to happen. And if Ms. Marks was there and she made the decision because she thought that as a litigant she could, under Rule

34 and her understanding of it, but she never consulted with you and say, By the way, we're going to take a picture of that, is that okay? But you didn't know any of that. And I believe that to be true. And if it's not true, be interesting to know that. But I don't think it is true.

I think she engaged in a -- in conduct that violated state law, and that's what she's being charged with. And, by the way, the next time you make a production or file something, there's a standing rule in the Northern District of Georgia where this case is pending absolutely making it your responsibility to redact personal information, and for some period of time that was public.

MR. BROWN: Absolutely, Your Honor. And if that was --

JUDGE DUFFEY: And it's policy because she took a picture in violation of state law. If she hadn't done that, we wouldn't be here.

MR. BROWN: Your Honor, the -- the filing of the information ran at least two red lights. One of them was even without a protective order, the rules require when you file something to make

sure that there's no personally identifying information.

JUDGE DUFFEY: And people get in a lot of trouble --

(Cross-talking)

MR. BROWN: It's right there. It's right there on the ECF. It says make sure you haven't done it. And so you're exactly right on that.

As to the -- as to the discovery aspect of this, though, I don't know if I disagree with much of what you said, except litigants frequently with a document request to the state through Rule 34 or a subpoena are allowed access to all kinds of information, data, that they would not otherwise have privy to including information that if they didn't have that authority would be a violation of law for them to obtain.

We got -- we inspected scanners. We got under the hood of scanners. We did scanning tests. Won that injunction also because of what we found. We -- Dr. Halderman got a copy of the -- got the machine itself. He couldn't have -- he couldn't have done that by -- by himself. And no -- and Fulton County couldn't

have given that to him without violating the law --

(Cross-talking)

MR. MASHBURN: (indiscernible) --

MR. BROWN: -- absent a court approval.

MR. MASHBURN: Wasn't that pursuant to a court order? Did the court order that? Specifically order that?

MR. BROWN: For the Dr. Halderman -- well, for all the gear, yeah --

MR. MASHBURN: Yes.

MR. BROWN: -- we got it -- we got in discovery to fight over it. And Judge Totenberg -- and we sorted it out. Yeah. And I don't know if it was ever an order, but we agreed to it.

JUDGE DUFFEY: You agreed to it, but that was a consent order, I think, signed by the court, meaning the court authorized you to do that because the position, I think, that the state took was that it was otherwise a violation of state law in order to do that. They couldn't -- they were not going to produce it pursuant to the regular rules under Rule 34 without court intervention. And the court

intervened to give permission.

MR. BROWN: Yeah, I don't -- I don't know the -- from our -- from my standpoint is we served a Rule 34 request, the other -- you don't need a subpoena for that. It's the same as a subpoena.

JUDGE DUFFEY: What is?

MR. BROWN: A Rule 34. All a subpoena --

JUDGE DUFFEY: It's not. No, it's --

MR. BROWN: Your Honor, I can send a subpoena without a court order. A subpoena is the --

JUDGE DUFFEY: Is it to be issued by the court?

MR. BROWN: It -- under autopen by the clerk. It's not --

(Cross-talking)

JUDGE DUFFEY: Exactly. But it has to be issued by the court. It's different.

MR. BROWN: But it would -- if we had sent Fulton County -- let me -- I think this is moot or not -- it's really beyond the point. Here's why. If I had sent a subpoena with that Rule 34 request, what you're -- if that was wrong, it was wrong whether it had a subpoena or not.

The subpoena, I think, is a red herring. The fact is it was a discovery obligation that captured information that state law says should not be disclosed.

JUDGE DUFFEY: Well, let me try this because you don't answer questions very directly. If there had not been a Rule 34 request, would it have been a violation of state law for Ms. Marks to take a photograph with personal information of a voter roll?

MR. BROWN: Yes.

JUDGE DUFFEY: And you're saying that somehow that violation is excused because of the -- of the allowance under Rule 34, parties to voluntarily participate in information. So you're saying that the state can voluntarily violate the law if they have a Rule 34 request.

MR. BROWN: I do. Thanks --

JUDGE DUFFEY: Well, I just think you're wrong about that.

MR. BROWN: Okay. But I mean tres --

JUDGE DUFFEY: You don't --

MR. BROWN: -- trespass is the same thing.

JUDGE DUFFEY: Well, it's at least a trespass.

MR. BROWN: Trespass is illegal. If you're given permission, it's not illegal.

JUDGE DUFFEY: Well, I know --

MR. BROWN: It's not everything. All of discovery involves a potential infraction of state law, criminal law, criminal trespass.

JUDGE DUFFEY: You know, I would -- you know, Rule 34 requests usually are an exchange of information between lawyers. It's extraordinary for a client to go out and participate under a Rule 34 request to say, I -- I'm the one that gets to make a decision on whether or not something can or cannot be accessed by me.

MR. BROWN: I mean, Rule thirty -- look, this is -- this is not a document request.

JUDGE DUFFEY: That's what Rule 34 is, request for the production of documents. Rule 33 is request for interrogatories.

MR. BROWN: No. This is a Rule 34 request for inspection of things. That's what this was. This wasn't a document request. This is an inspection of things. That's how we get the gear is for the other part of Rule 34 that has to do with inspection of things.

And, no, lawyers are not the ones doing the

inspection. Lawyers might be the ones getting the documents, yes, but not inspecting things like this one was. I do think that's -- that's a difference.

MR. LINDSEY: If I may, Judge, question and maybe even a comment, and then I'll give you a chance to respond. I don't know if Fulton County or even Fulton County's lawyers can waive state law regarding a -- regarding whether or not someone can make photographs. I can see where a judge can. Quite frankly if y'all had gone and said, We have this agreement, Judge, here -- and part of what I'm trying to do here is sort of make sure that we set things up because, believe it or not, y'all aren't the only lawsuit that takes place on election law.

And I kind of want to sort of make sure our road map gets taken out here. It is that if there's going to be a waiver of state law, there needs to be a court order, not simply even two judges -- two lawyers agreeing or even a county agreeing, should that have taken place, is that -- and I do worry about that. I do understand, you know, Judge Totenberg certainly would have that authority and has exhibited that

authority in other area as we've discussed.

But I do worry about lawyers or even a county waiving a state law or a state prohibition. I just sort of throw that out to you. And I'll give you a chance to respond.

MR. BROWN: Thank you, Mr. Lindsey. I appreciate that concern going forward. My point today is that the respondent or -- the respondent, Miss Marks, with Harri Hursti, her expert, undertook this investigation of the polling place which included taking pictures of the ballot books with a very reasonable understanding that it was authorized specifically negotiated by Fulton County at the specific location. And whether or not the Rule 34 request gave Fulton County the authority to -- to do what they did or -- I don't -- I don't know and it could very well be that in situations where -- in situations like this that it's better practice to get the court to order it, like we would have with the physical equipment. Yeah. I don't -- I don't doubt that.

But in terms of the respondent's responsibility for this, we believe that the -- the charges should be dismissed.

MR. LINDSEY: Thank you.

MR. BROWN: Thank you.

MR. MASHBURN: Mr. Brown, attorney Brown, I have a question if I might. The same statute -- the exact same statute says that no photography shall be allowed of a ballot or the face of a voting machine or a DRE unit while an elector is voting such ballot or machine or DRE unit.

So your argument would've been that if she had taken pictures of voters in the act of voting or a ballot, that would've been okay too under this rule, right?

MR. BROWN: No, that would not -- we -- that would be wrong. I mean, I don't think the -- the -- I mean, I think that's actually a very good Socratic question.

JUDGE DUFFEY: No, it's a very good practical question --

MR. BROWN: Right. I --

JUDGE DUFFEY: -- because you're saying the inspection lets you do whatever you want as long as the county let's you do it. I mean, you can't parse through them. I mean, I know you're making the best argument you can. I understand the advocacy. But the moment she took that picture,

it violated the law. You're saying it's excused because she didn't know that and she thought she could rely upon what she was told by the county attorney.

MR. BROWN: Well, I do think that the fact that it was done pursuant to discovery and an agreement with the county should have an impact upon the board's consideration of the matter. I do.

Mr. Mashburn, I -- I understand your point in that consent has its limits in terms of the violation of law and it's not going to -- it's not going to excuse it. And I also understand the -- the admonition about the difference between discovery pursuant to a court order and something that's done pursuant to counsel. The complexity of the litigation -- I mean, I know we're not the only election case, but the complexity and the amount of negotiations that goes back and forth for these, perhaps sometimes the litigants believe they have more authority than they do.

JUDGE DUFFEY: That's why they have lawyers.

Is there a motion?

MR. LINDSEY: Mr. Chairman, I would make a

motion to find a technical violation with a letter from this board to go ahead and adjudicate it now. No further sanction but I do think that we need to make sure that -- not just in this case because you guys have been going on for about eight years, I may be off by a year or two, and you're probably going to go on for a few more, but there are about 20 other lawsuits that we have now as well.

But I do think that we need to send out a clear understanding that any kind of, maybe, a deviation of state law, that that needs to be taken up by a court.

So for that reason, I'd like to go ahead and have us go ahead and send that message now rather than send it to the AG for further -- or -- so for that reason ...

JUDGE DUFFEY: So what's your motion?

MR. LINDSEY: Motion to find a violation and letter of instruction.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

JUDGE DUFFEY: Any discussion?

MR. MASHBURN: One of the things that we do with letters of instruction is that we respond to

issues where a person thought they were doing something that was okay and we inform them that it wasn't. So that fits in what the board has traditionally done with letters of instruction.

MR. LINDSEY: And may I also add, Mr. Chairman, if I can. This is not just to -- in this particular case but anyone who engages in litigation because my next -- my next motion for the next time this sort of thing comes up, I'm going to send it to the Attorney General's Office for -- for heavier sanctions.

But this should put on the public record, folks, how -- how things should happen. I do believe that the lawyers were acting in good faith. I believe that Miss Marks thought she had authorization. Clearly she did not have it underneath state law. But I believe that she was acting as believing that she did.

For that reason, that letter of instruction and we end it here so that the parties then understand moving forward how such activity needs to be engaged in, not just in this case but in any other case involving election issues.

JUDGE DUFFEY: I'm going to move to amend by striking the letter of instruction and adding

entry of a consent order that specifically provides in the context of what we heard is a very complicated litigation. The litigants don't know what they're supposed to do because it's so complicated it's gone on for years that it needs to be clear that anytime that they request information that they get a court order in order to get the information if it would otherwise a violation of state law.

MR. LINDSEY: Can we ask them if they would agree to consent order?

JUDGE DUFFEY: What?

MR. LINDSEY: Mr. Brown, can y'all agree to a consent order?

MR. BROWN: Could you repeat the consent order.

JUDGE DUFFEY: The consent order would be that in its own context of this litigation that you say has gone on for a long time, that the litigants, because there's been lots of activities, don't know what they can do and can't do. But what we know happened here is that there was conduct on behalf of the litigant that violated state law. You claim it should be excused because there's confusion with respect to

the people you represent.

But the consent order would be that you agree not to -- not to engage in this conduct again and that any time you request information that is otherwise protected or prohibited by being made available because it would violate state law that would you first get a court order.

MR. BROWN: We would consent to that.

MR. LINDSEY: I agree with that.

JUDGE DUFFEY: Don't we still have to send it to the Attorney General's Office?

MR. LINDSEY: Yeah. Do we send it to -- in that case, I amend it to send it to the Attorney General's Office to simply get a consent order between the parties as agreed to by the respondent in this matter.

JUDGE DUFFEY: So that's first -- so you're amending your --

MR. LINDSEY: Amending -- you are amending and I'm agreeing to it.

JUDGE DUFFEY: Okay. I need everybody to agree to it.

Does everybody agree to the amendment? If you --

MR. MASHBURN: Just to ask, did the court

reporter get Mr. Brown's response?

(The court reporter responded in the affirmative.)

JUDGE DUFFEY: Okay, thank you.

So the motion now with the now-accepted amendment is that the -- we find a violation and that the case be referred to the Attorney General's Office with an instruction that we enter into a con -- that a consent order be entered into between the board and the -- and the respondent, Ms. Marks.

It provides that they will not violate the section of the code in the future and that anytime they engage in conduct in the course of this ongoing litigation that if it would be a violation of state law, that they get a court order allowing the production of the information to be produced if not under a court order would be a violation of state law.

MR. LINDSEY: Thank you.

JUDGE DUFFEY: And our lawyer, Beth, is that appropriate for us to instruct you to do that?

MS. VAUGHAN: (nodding)

JUDGE DUFFEY: All right. Does everybody understand the motion?

Okay, the motion's been moved and seconded. Is there any further discussion?

All those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Those opposed, no?

The motion passes unanimously.

All right. Thank you.

So, Mr. Brown, I know that -- when you're here, you make things a little longer but you make them a lot more interesting and it's kind of fun to be a lawyer again.

MR. BROWN: Don't like interesting.

JUDGE DUFFEY: What's that? Pardon me?

MR. BROWN: Don't like interesting. I like short and not interesting.

JUDGE DUFFEY: Well, you know, if it's not going to be short, though, it ought at least be interesting.

MR. BROWN: (indiscernible) May we be excused?

JUDGE DUFFEY: You're excused.

All right. The next is Case Number 2020-86. Can we please have a report by the investigators on this? Oh, I'm sorry. This -- this is continued.

Didn't I continue this, Alex?

MS. HARDIN: 2020-120?

JUDGE DUFFEY: No, 2020-86.

MS. HARDIN: Yes. 2020-86 has been continued.

JUDGE DUFFEY: So that has been continued to the next meeting. So the next is 2020-120, Fulton County, poll watcher issue.

All right, can we hear about this case, please.

MR. BRUNSON: Yes. Robert Sinners and Michael Proenza, both certified poll watchers, both filed affidavits indicating that they arrived at a polling location at the Buckhead library, October 12, 2020, when they observed a democratic poll watcher using her cell phone and iPad inside the polling location.

They indicated that two of the poll watchers were inside the location and one was in the voting area, sitting at the voter check-in table. This poll worker was recording and taking pictures.

They approached the poll manager, Kate Daniels, and presented their credentials. However, they were not allowed to enter and were

told that since two poll watchers were already there, they would not be allowed to enter.

Mr. Sinners told her that he would not be on the poll watcher's list as they received their commission from the Secretary of State pursuant to Georgia Statute 21-2-408. And that statute allows for two statewide poll watchers in addition to those on the county-appointed list.

After some checking, the poll manager said that only one of them would be allowed inside. They repeatedly implored the poll manager to read the statute which would inform her of the legality of their presence and the illegality of the democratic poll watcher using electronic devices in the polling location. The poll manager told Sinners to stop speaking to her and she walked away. They departed, that is Sinners and Proenza, approximately 45 minutes after their initial arrival.

The investigator was able to speak with the democratic poll watcher in question, Toni Staple, via telephone. She admitted to having her iPad and using her phone. She stated she did not know that she could not use her electronic devices. When she arrived, she was told by the poll

manager that she was not inside the enclosed space. When the GOP workers -- poll watchers arrived, they told her that she was inside the enclosed space. At that time, she put away her tablet. She denied taking any photos in a polling area.

She told the investigator that the poll watchers were rude and abrasive to the poll manager. She indicated that she was 12 feet away from the voting machines. Her understanding was that she could legally be there. However, due to the confusion, the poll manager told her to leave the room if she wanted to use her phone.

The investigator tried to set up an in-person meeting with Ms. Staple, however, he received an e-mail from the general counsel of the Democratic Party indicating that if he wanted to speak with Mrs. Staple, he should contact him first. This attorney also indicated that Mr. Sinners and Mr. Proenza were rude and aggressive toward the poll manager.

The investigator tried to interview the poll manager, Kate Daniels, on the scene that day, however, it was too busy. He gave her his business card. She said that she would complete

a statement. She did not contact him. He returned later and spoke with her a second time at the polling location. She did indicate she would write a statement, however, she never did.

He also e-mailed the Fulton County election office, asking for contact information for Miss Daniels, however, they never responded.

So ultimately the findings was there was no evidence to suggest that Toni Staple was using electronic devices or taking photos within any enclosed space.

There is evidence to suggest that Mrs. Daniels did not allow Mr. Sinners or Mr. Proenza in the precinct at the same time as the poll watchers. And Mrs. Daniels unfortunately never responded to the investigator to give her version of events.

So in looking at this, this would be suggested violation of O.C.G.A. 21-2-408, sub (3), sub (A).

JUDGE DUFFEY: Is someone from the Fulton County Board of Registration and Elections or is poll manager Kate Daniels, the respondents, here and do they want to respond?

MS. WILLIAMS: Good afternoon, chairman and

members of the board. Yes. I'm Nadine Williams, director from Fulton County. We did receive a statement from Miss Kate Daniels and I'll read that to you now.

(reading): All I remember since this -- this is from year 2020 is that two young men came into the Buckhead library and told me that they were poll watchers. I asked them for their letters and they did -- they did not produce one. They were intimidating and arrogant, so I called the chief of elections, Mr. Dwight Brower, and asked him if they have letters from the Secretary of State's Office. So I asked them again if they had a letter and I was then shown both letters.

(reading): Mr. Brower advised me that it was okay to allow them to stay. I then -- I then told them that one could observe from the lobby and one could stay inside. This is due to COVID-19 in a very small location. They insisted that they both could stay inside, so I gave them the opportunity and both stayed inside. Shortly after, they left the Buckhead library.

(reading): I apologize for the -- for not responding due to a serious accident that required medical attention and I'm still trying

to recuperate. Kate Daniels.

May I also add a statement from Fulton County in regards to this matter?

JUDGE DUFFEY: Yes.

MS. WILLIAMS: I would like to add that our county welcomes public observers and poll watchers to observe our open and transparent elections and we train our poll managers to do so per election code guidelines.

Because of the numerous reports we received from our poll managers in 2020 that poll watchers were attempting to intimidate and distract them and/or would not provide credential letters and badges as required, we actually drafted a poll watcher and public observer guideline flyer, outlining the protocols poll watchers and public observers and poll managers are to follow.

We forwarded that flyer to SOS for approval and upon approval we provided the flyer to the political parties in the hopes they would distribute this information to the poll watchers.

From Ms. Daniels' statement, I believe she followed protocol once she received both their credentials letters. Therefore we ask that this case be dismissed.

JUDGE DUFFEY: Thank you.

Any comments or questions by the board?

MR. LINDSEY: Question to the investigator if I may.

JUDGE DUFFEY: You may.

MR. LINDSEY: Did the poll watchers have credentials?

MR. BRUNSON: The -- Mr. Sinners and Mr. Proenza?

MR. LINDSEY: Yeah.

MR. BRUNSON: Yes. Yes, sir.

MR. LINDSEY: Okay.

MR. BRUNSON: They were on the list.

MR. LINDSEY: They were on the list?

MR. BRUNSON: Yes, sir.

JUDGE DUFFEY: Is there a motion?

MS. GHAZAL: I've got a quick question.

JUDGE DUFFEY: Sure.

MS. GHAZAL: Do you know whether they -- whether they were actually wearing their badges when they came or did they just -- is that indicated in the investigation file? I -- having served as a statewide poll watcher, you -- they are given badges to actually wear in addition to their letters, to make it obvious.

MR. BRUNSON: They both filed affidavits. I can try to look at them real quick and see if that's mentioned.

JUDGE DUFFEY: Those are on page 6 and 7.

MR. BRUNSON: Yeah, it just says credentialing letters to the managers.

JUDGE DUFFEY: Yeah. There was nothing in the affidavits, as I recall, that said that they had credentials, that they just said that they had letters or that they were --

MS. GHAZAL: Okay. Thank you.

JUDGE DUFFEY: That she would look at them. But that is the standard practice, isn't it? That if you are permitted, one of the reasons why they do that is to let everybody know that you have a right to be there?

MS. GHAZAL: Exactly. Exactly. And I think that's one of the important lessons here is that -- we're going to see this again. You know, we're going to see lots of very engaged, interested poll watchers and they're a critical part of the process. But it's -- but they have duties and one of those duties is when you're given a badge, make sure you're wearing it so that voters understand what your role is and they

are not questioning -- voters as well as poll workers. And it's a responsibility.

In fact, the -- we have the responsibility and I think there was -- SB202 included additional training requirements and certification requirements on the part of poll watchers. And I think it's incumbent on us to review those and make sure that that includes a reminder that all of the credentialing is used properly by the poll watchers.

JUDGE DUFFEY: And who does the credentialing?

MS. GHAZAL: The -- each county. Well, in the -- for the -- for the specific county and assigned ones, the political parties --

JUDGE DUFFEY: Right.

MS. GHAZAL: -- identify and send those credentials into the -- send the names to the county supervisors and the county supervisors provide the badges.

JUDGE DUFFEY: But I think they were state --

MS. GHAZAL: But for the statewide -- for the statewide it's the Secretary of State's Office. And there's a longer lead time. That

has to be three weeks in advance or something. Two weeks.

MR. LINDSEY: If I may ask another question --

JUDGE DUFFEY: You may.

MR. LINDSEY: -- to the investigator.

How long after this incident -- I think I know the answer, I just want to kind of just confirm -- after the incident did you talk to the two poll watchers?

MR. BRUNSON: Couple -- seven days.

MR. LINDSEY: Seven days --

MR. BRUNSON: October 20th it looks like.

MR. LINDSEY: Seven days.

MR. BRUNSON: From October 12th.

MR. LINDSEY: And now we have --

MR. BRUNSON: Eight -- eight days.

MR. LINDSEY: -- the respondent poll worker three years later. And as you point out, she -- her recollection is not too good now because it's three years later and that the only reason we have that recollection because it's three years later is that she didn't come and talk to us -- to you when you first asked.

And so, you know, a fundamental principle

when it comes to witnesses is that your memory fades. And so I tend to want to listen to folks who give a statement within seven days versus someone who gives a statement three years later and doesn't provide it to the investigator until the date of the hearing.

So to be honest with you, that's -- the seven days has more weight. And that's sort of a cautionary tale to my friends at the very county level. If you've got a witness, get them to the investigator immediately. Do not let time lapse because we don't want to be listening for folks -- all things being equal, to someone who is prompt in terms of giving an interview versus someone who delays for an extended period of time.

Number two, while -- you know, we can't tell the level of rudeness or not rudeness. Certainly would always prefer poll watchers to be polite, but if you do not (indiscernible) to something, but I'm entitled to it, I might get a little irritated too. So I wanted to make that observation as well.

Based on the evidence, they had at least a letter. They should've -- it'd be better if they

had the lapel as well, but they had the letters. They were denied when they were entitled. So I think we need to be considerate of that.

And the chief witness for the respondent waited three years to come forward.

JUDGE DUFFEY: Is there a motion?

DR. JOHNSTON: I move that we refer this to the attorney general.

JUDGE DUFFEY: Is there a second?

MR. LINDSEY: I'll second it.

JUDGE DUFFEY: It's been moved and seconded that a violation be found and that it be referred to the Attorney General's Office. Is there any further discussion?

There being none, let's all vote on the motion. All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

The motion carries unanimously.

I do want to -- I think in this report there is something that concerns me a bit. This is a -- kind of a lawyer thing.

There's an e-mail that was sent by the general counsel for the Democratic Party in which he made this statement: I'm -- and this was to

the investigators: I'm general counsel of the Democratic Party of Georgia. I understand that you are conducting an investigation relating to the Buckhead library early voting location that may involve the conduct of one of DPG's, Democratic Party of Georgia's, poll watchers at that location. I also understand that you spoke with one of DPG's poll watchers at that location. To the extent that you did not know that DPG is represented by legal counsel, I'm informing you of such. Therefore if you wish to speak with any DPG employee, agent, and/or designated poll watcher, please let me, Matt Weiss -- DPG deputy general counsel copied -- know and we will assist you in facilitating that conversation.

Now, what bothers me about this is to say that you -- anybody who is employed or your agent, that you have to contact first counsel for a party seems to me to be a deterrent to investigators doing their job. And I don't know, I've got -- other lawyers and Dr. Johnston, I don't know if you share that same feeling, but I do want the investigators to know that they are entitled to do their job thoroughly and that every time that they talk to somebody, they don't

have to ask whether or not they're an employee, agent, or designated poll watcher and can't talk to them unless they contact counsel for the Democratic Party. That seems to me an overstep.

MR. LINDSEY: I would agree. And simply also as a matter of instruction, I think if this lawyer said, To the extent that you need to talk to anyone, please let me know and I'll be happy to facilitate. Without some type of instruction, that could've gone a long way.

And quite frankly, that's a lot of times what lawyers do. Mr. Brown exhibited that today. I don't believe he ever tried to block our investigators talking directly to people, but he certainly facilitated getting information to us. That's how things should be done in terms of lawyers involved in these of matters should be helping to facilitate the investigator getting that information promptly.

That would've been fine, but it's when you try to block the investigator's investigation directly. That's when -- that's when you cross the line for that.

JUDGE DUFFEY: Would any member of the board object to me writing to the general counsel of

the Democratic Party advising him that I wanted to make it clear that they had taken this position, but if they're represented and the investigator knows they're represented that they -- they could say that they're offering help, but they can't require them to go through the general counsel's office?

MR. LINDSEY: I would not object and I wouldn't even mind if you cc'd the Republicans because I've got a feeling that we're going to have this come up next year. And I would -- I'd like the other party to also know you're not supposed -- maybe send it to the Democratic one and cc it to the Republican one.

JUDGE DUFFEY: And the Libertarian and anybody else's --

MR. LINDSEY: And the Libertarian and any other counsel that we may know --

JUDGE DUFFEY: I'm happy to.

MR. LINDSEY: -- because I've got a feeling that we're going to hear about this quite a bit. And I want -- I'll -- it'd be good if everybody understood the right -- same rules of the road.

JUDGE DUFFEY: I will do that. Thank you. Unless anybody else has an objection.

DR. JOHNSTON: No objection.

JUDGE DUFFEY: Okay.

All right. Then we are now on to Case 2020-147, Paulding County, absentee ballots.

MR. BRUNSON: Okay. So this complaint involves a number of allegations, all within Paulding County, a number of respondents.

We'll start with number 1, Audrey Taylor. She sent in her absentee ballot on September 28, 2020. It was verified and accepted on the same day. She then shows up on October 26, 2020, and votes in person at the Watson Government Complex.

She was later interviewed by the investigator and she stated that she hand-delivered her absentee ballot and was told by an unknown female that her vote was not going to be counted. She also indicated that she received a letter stating that her vote was not going to be counted. Because she believed that her ballot was not going to be counted, she went and voted in person.

She cannot describe the female employee that made that statement to her and she did not have a copy of the letter that she alleged was sent to her. She alleges that she turned the letter in

to the election office. And she also said that she did not believe that she was voting twice in the same election.

Later an e-mail was sent to Paulding County elections supervisor Deidre Holden requesting additional information, including any letter on file that may have been sent to Mrs. Taylor. Mrs. Holden replied by e-mail that: You will find the affidavit that Mrs. Taylor signed, canceling her ballot on October 26, 2020. However, she had already sent her paper ballot in and it was processed during early tabulation.

One of the early voting clerks went in to ElectioNet and canceled the ballot and let her vote on the BMD. Obviously the clerk was not paying attention to see that the ballot had been voted and accepted on September 28th.

The registrar clerk on the application for official absentee ballot is April King. April King claimed that she did not allow Mrs. Taylor to vote in person even though her name was on the absentee ballot application along with her initials. She claimed that she left her computer when she went to lunch and it could have been someone else. So that's the first part of it.

The next, Brenda Johnson Mitchell --

JUDGE DUFFEY: Before you go on to that --

MR. BRUNSON: Okay, I'll pause it.

JUDGE DUFFEY: Since we have done this, multiple people, in a -- yesterday in one of the complaints, I wonder if we ought to just take these one at a time.

Okay. Is -- all right. Is -- does any -- Ms. Holden or anybody else want to respond to the allegations as they relate to Audrey Taylor?

MR. PHILLIPS: Good afternoon, Members of the Board. My names is Jayson Phillips. I am counsel for the Paulding County Board of Elections and Voter Registration as well as Ms. Holden. Bear with me as sometimes my reading glasses don't make it as far down to this piece of paper.

This first allegation, involving the one particular double vote -- there's another one. They're very similar in regard. So I'd like to address -- my comments are going to be addressed to both of those.

JUDGE DUFFEY: Who's the other one?

MR. PHILLIPS: The other is a -- I think we've got the two --

MR. BRUNSON: Brenda Johnson Mitchell.

MR. PHILLIPS: Yes. We've got the two voters were Audrey Taylor and Brenda Mitchell. So as to these allegations, I think the bottom line is factually we have two cases of double-voting. There was a vote cast absentee, a paper ballot. There was also a vote cast early voting in person.

Factually -- and I don't want to -- just the bottom line here. We have two poll workers that didn't conduct themselves consistent with how they were trained and as a result of that, we have a problem. Neither the Paulding Board of Elections nor Deidre Holden had any individual interaction with these voters. It was simply the actions of the two poll workers.

What the board did do in this case, however, is that they have trained these poll workers on a process that is designed to prevent and prohibit this from happening. In fact, for the November 2020 election, our board did train 384 temporary poll workers.

And as a part of that training, these poll workers were specifically trained that when a voter presents themselves to vote, you are to

check their identification on the ElectioNet system. Once checked on the ElectioNet system, the system would indicate whether or not an absentee ballot has previously been issued.

The training specifically, at that point, is if you see that an absentee ballot has been issued, those poll workers are to immediately contact the absentee ballot clerk. Once that contact is made, the absentee ballot clerk looks at what has occurred, the absentee ballot clerk will then make a decision, one, if that absentee ballot has not been accepted, then that voter who has appeared in person at that point in time will be allowed -- allowed to vote, the cancellation will be occurring. If the vote -- if the absentee ballot has been accepted, the clerk would advise the poll worker that person may not vote in person because their absentee ballot has already been accepted.

That is specifically how they are trained. Despite that training and for reasons unknown, these two voters were allowed to vote in person. Had they followed their training, had they simply contacted the absentee ballot clerk as trained, no double-voting would have occurred here.

That's what these poll workers did, but as far as my two clients, Ms. Holden and the board of elections, what they did, they trained them in a way to prevent this from happening. During each day of early voting, there's is an -- a daily auditing process. During that auditing process, this scenario was uncovered. And what they did in response to that as a board, as the elections director, they informed the Secretary of State's Office. They self-reported that there had been an incident and that brings us to why we are here today.

In particular regard to these poll workers, you know, we've got 384 of them. Every year that goes by we get more poll workers. We train them as is our mandate. Yes, the board is their supervisor, but when they veer from their training, when they violate their training, problems like this happen.

As a board and as an elections director, I would contend we've done as much as we can. We can't sit there and monitor each voter individually. The board knows that. That's not how this system is designed.

I wanted to report -- I wanted to comment on

something Mr. Mashburn said earlier today that's in regard to self-reporting. I've been in front of this board three times since I've been doing this since 2004. And what I found is that when we have a technical violation we self-report, we get prosecuted administratively, hopefully not criminally. But we've self-reported this, and as I've watched these patterns happen over time, I think the right thing is to identify an error when it occurs.

But also knowing that these things can ultimately travel down the road to at the -- an end possibility being a criminal prosecution, there is -- there is some tired -- tiredness that's -- that's occurring in self-reporting. I don't want to counsel my clients not to self-reported a violation, but in a scenario such as this, where my client has done all that I believe they can reasonably be expected to do, other than to process the voter themselves, it becomes a little bit onerous and in some sense they become disincentivized to report violations when a technicality has occurred and we know we're going to be down here to be prosecuted to some extent for it.

I just want the board to bear that in mind. I know every board is different. And we're glad to appear in front of you on this. I would ask -- there are multiple respondents in this case. My two particular clients, I would ask that the case be dismissed. In a worst-case scenario I would ask that there only be a letter of instruction to do all we can to prevent any future incidents of double-voting.

JUDGE DUFFEY: Okay. Any questions for --

MS. GHAZAL: I have one question.

First of all, thank you very much for coming down here. It's -- we learn so much more when we're able to have this sort of give-and-take, and hopefully it's instructive to not just you all and us but also other counties that may be watching.

There's one indication in the file that multiple poll workers were using the same login with one employee's password. And so therefore it was impossible to identify exactly who might have done this because at least the report from Miss King was that she was off at lunch when this happened, but the deputy registrar was using her login. Is that the standard practice?

MR. PHILLIPS: It is not the standard practice, and I inquired of that myself. What I learned is that on this particular day, the poll workers that were going to -- supposed to log in to the system, their ID and passwords, for whatever reason, were not functioning that day. So they had to bring in a full-time elections employee to get that precinct up and running, using her ID and her password so that they could begin the voting process for that day.

I will also say this. As I was preparing to appear in front of y'all today, I asked about the -- the investigator's note says this investigator was unable to determine which poll officer permitted an unqualified person to vote. Looking at that particular voter's absentee ballot, there are two initials on top of that ballot: S.E. I've asked the staff who would S.E. be? They said it -- that would correspond with a woman by the name of Sharlene Eusery who was a poll worker that day. I believe that that was the poll worker involved in the Brenda Mitchell double vote.

MS. GHAZAL: Thank you.

MR. PHILLIPS: And Ms. King was in the

Audrey Taylor.

MS. GHAZAL: Were the poll manager or the administrators able to figure out what happened so that we don't see this happening again where we have to use an administrator's login? Because I think it's very important that the responsibility and chain of custody is maintained and that we know exactly who was undertaking what steps.

So what assurances do we have that this shouldn't happen again, given -- all things being equal as long as the systems are working properly that we won't see this where we've got unknown users using those logins?

MR. PHILLIPS: That is a great question which I don't have the answer to, but Ms. Holden, who's with me, may have that answer. I'll defer to her.

MS. HOLDEN: The reason this happened was it was one of the first days of early voting, and the system we used to work in, ElectioNet, could not handle the massive amounts of people signing in. When you have a lot of people waiting to vote, they're getting very irritated. So the best thing we knew to do was send Jessica, sign

on those computers, and get these voters through.

Now that can't happen. With our new system, it requires two factor. It's got to have their own personal login. And that's something that was put in -- in place by our new system, GRVIS. We had that, you know, in the past. But ElectioNet just could not support all of the users that were signing on and that's why that happened. But that can't happen anymore thankfully.

MS. GHAZAL: Perfect. That's exactly the answer I was hoping to get.

MS. HOLDEN: Okay, thank you.

DR. JOHNSTON: So Ms. Taylor, the first person described, sent in her ballot on September 28th and then she shows up to vote on October 26th. When did the office discover that she had voted twice? What was the date of your recognition of that?

MS. HOLDEN: I think what had happened was we were in the process of doing the early opening as we can. And our absentee ballot clerk, she conducts audits every day to make sure we're balanced. And I think that when she went into the system, she saw that "Wait a minute,

Ms. Taylor's ballot has counted and someone has allowed her to vote early."

So I'm going to say that it was found probably by the end of that week, which I think was the 27th was the last day of early voting.

DR. JOHNSTON: But the absentee ballots had already been processed?

MS. HOLDEN: They'd already been scanned.

DR. JOHNSTON: Opened and scanned.

MS. HOLDEN: Yes, ma'am. Not tabulated. Yes.

JUDGE DUFFEY: Any more questions?

It does look like we can have a motion that deals with both Ms. Taylor and Ms. Mitchell's incident as it relates to the claims against the county. And if you agree with that, would somebody please make a motion?

MR. MASHBURN: I would move that we accept counsel's recommendation for a letter of instruction. And the reason why is because I want the county to be able to use it as a training tool and not to go to the employees and say, Hey, we almost got in trouble but our lawyer got us out of it, but rather, Hey, we actually did get in trouble. So y'all need to bear down

on this and do better because I don't like getting in trouble.

So that's kind of my spirit on this one. So I'd move that we issue a letter of instruction to Paulding County.

And then we're holding up on what we're going to do to the double voters, right? Okay.

JUDGE DUFFEY: Is there a second?

MR. LINDSEY: Second.

JUDGE DUFFEY: Okay. It's been moved and seconded that we find a violation but send a letter of instruction.

Before we vote on it, I'll add this, that the letters of instruction will be different. They used to be pretty formulaic, but in this instance, I think I would specifically tell the county that we appreciate that they're self-reporting, self-reporting is important to us, and while there was a violation, that this violation was handled expeditiously in the sense of us being able to decide it and that we continue to encourage self-reporting.

Because this was a double vote, it's a little more serious than some of the others. I will say that our practice in the past has been

we've dismissed some cases, but we sent a letter of instruction because we realized there was a problem. We wanted to let people know that there was a problem.

So we have adopted the model, and those were all self-reported cases. So if there is self-reporting, it is important to all of us and meaningful to all of us when that happens. And we've tried to ramp down the consequence of the violation and in some cases dismiss it, but with a reminder that there was a problem.

So that's what I -- just so that when you vote on this, that's what I would want you to know that I would expect to say when I send the letter.

All right. Any further discussion on the pending motion?

Then with respect to these two, Ms. Taylor and Ms. Mitchell, as it relates to the county, all of those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

Passes unanimously.

So now we'll go on to Ms. King and then Ms. Gresham. And by the way, I think we said we

haven't even -- we haven't addressed the people who engaged in the actual conduct that is allowing double-voting but that's because we don't know them.

MS. GHAZAL: Right.

JUDGE DUFFEY: Okay. All right. Can we do Ms. King.

MR. BRUNSON: Okay. There is evidence that suggests that April King violated State Election Board Rules 183-1-14.09, sub 2, when an absentee ballot which has been voted shall be returned to and received by the board of registrars, it shall be deemed to have been voted then and there; no other ballot shall be issued to the same elector.

Audrey Taylor voted absentee by mail. She is allowed to vote again in the same election at the Watson Government Complex on October 26, 2020. This is for the November 3, 2020, election. April King's name and initials are on Ms. Taylor's application for official absentee ballot as the registrar/clerk.

JUDGE DUFFEY: All right. Is there any questions on the April King matter?

All right. Not at this -- is there a motion?

MR. LINDSEY: Move to refer to the Attorney General.

DR. JOHNSTON: Is there a second?

MR. MASHBURN: Sending April King to the attorney general?

JUDGE DUFFEY: Yes.

MR. MASHBURN: Yes, I second it.

JUDGE DUFFEY: It's been moved and seconded that we find a violation and refer April King to the Attorney General's Office for further processing. Is there any discussion on the motion?

There not being any, we will vote on the motion. All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

The motion passes unanimously.

Now let's go on to Janna Gresham.

MR. BRUNSON: Judy Godfrey died on August 6, 2020. Her voted ballot was received by Paulding County on October 29, 2020. Her daughter, Janna Gresham, as assisting was listed -- her address was listed on the return address and on the front of the ballot.

Our investigator spoke with Gresham and told

her that her mother requested an absentee ballot on May 21, 2020. The ballot was mailed September 18, 2020. It was received by Paulding County on October 28, 2020.

Gresham stated that her mother was in hospice and there was a lot going on at that time. He asked her specifically if she voted her mother's ballot and she stated that she did not know and that she did not remember. She stated that she knew her mother's wishes and she knew who she would have voted for.

The signature on her mother's oath envelope and the signature on Judy Godfrey's oath envelope, application for official absentee ballot, and her department of driver services appear to be similar.

Judy Godfrey's vote was ultimately canceled according to ElectioNet.

JUDGE DUFFEY: Any questions about this -- this individual's conduct and the report of it?

MR. MASHBURN: I believe the evidence is sufficient to conclude that a violation has occurred, and I move to refer it to the Attorney General's Office for further processing.

JUDGE DUFFEY: Is there a second?

DR. JOHNSTON: Second.

MR. LINDSEY: Second.

JUDGE DUFFEY: Any further discussion?

Yeah, I actually think that the -- if you really read what was reported in the report carefully, based upon what Ms. Gresham explained, to say that she can't remember, but then she says, I knew her wishes politically; I knew what she wanted to do, seems to have selective recollection that maybe she under -- that she, in fact, voted it for mother because she knew what she wanted. Whether or not she did that because she wanted to honor her mother or that she did that because she wanted to take advantage of an opportunity is not material.

But I do think that this is appropriate to send to the Attorney General's Office. Any further discussion?

All those in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

Passes unanimously.

The next is 2021-79 which is numerous counties, deceased voters.

MR. LINDSEY: Mr. Chairman, could we take

about a two-minute pause. I've got a quick question for you.

JUDGE DUFFEY: For me?

MR. LINDSEY: Yeah.

JUDGE DUFFEY: Okay. We'll take a two-minute pause.

(Pause in proceedings)

JUDGE DUFFEY: All right. We're going to come back to order, please. Let's wait until everybody sits down.

All right.

DR. JOHNSTON: Point of order. In the previous case, I believe we dealt with Paulding County. Did we deal with each of the individual double voters?

JUDGE DUFFEY: Yeah, we're going to do the individuals after we get through the -- the county rather than try to shift from individuals to county -- to the entity.

Okay. So we do have the individuals. Yeah, I -- before we go on to the next case, we've dealt with the county on the matter which is twenty -- 2020-147, but we still have the individuals who double-voted in -- can't we take those as a group, do you think?

MR. LINDSEY: No.

JUDGE DUFFEY: No, okay. Let's start with Audrey Taylor. We know Audrey Taylor's -- the facts involving her because we dealt -- heard those when we dealt with the county. Is there a motion with respect -- first, does anybody have anything else they need from the investigator with respect to Audrey Taylor?

MS. GHAZAL: If I can clarify, Ms. Taylor signed an affidavit when she was at the polling location, canceling her absentee ballot; is that correct?

MR. BRUNSON: Yes, but it had already --

MS. GHAZAL: Okay.

MR. BRUNSON: Yes.

MS. GHAZAL: So I move to dismiss any violation here because she thought she was doing -- following correct procedures.

JUDGE DUFFEY: All right. So there's a motion to dismiss. Is there a second?

MR. LINDSEY: Second.

JUDGE DUFFEY: It's been moved and seconded that the claims against Audrey Taylor be dismissed. Is there any discussion?

MR. MASHBURN: Just by way of a question,

just making sure I understand. Wouldn't she have -- wouldn't that affidavit be her swearing that she hadn't previously voted? Am I -- what am I -- I'm missing something.

MS. GHAZAL: You can -- there is an affidavit canceling your absentee ballot.

MR. MASHBURN: Oh, okay. Okay. All right.

MS. GHAZAL: She thought that that was accurate if she was able to cancel the absentee ballot. She did not undertake anything that would've indicated to her that she was voting twice.

MR. MASHBURN: Thank you.

JUDGE DUFFEY: All right. With there being no further discussion of the motion, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

It passes unanimously.

Let's go on to April King.

MS. GHAZAL: We did her.

JUDGE DUFFEY: Okay. Brenda Mitchell. You did such a good job of summarizing Audrey Taylor. Could you do it for Brenda Mitchell as well?

MS. GHAZAL: Well, is -- was -- did Brenda

Mitchell also sign an affidavit canceling her absentee ballot?

MR. BRUNSON: I'm going through it right now to see.

MS. GHAZAL: Okay. Thank you.

My recollection was that she simply forgot.

MR. BRUNSON: Yes, that's what it looks like.

MS. GHAZAL: Is there any indication in the file how -- what the age of the voter was?

JUDGE DUFFEY: You're not suggesting that somebody elderly would be more likely to forget things?

MS. GHAZAL: Individual circumstances matter.

JUDGE DUFFEY: I agree with that.

MR. BRUNSON: Yeah, that's Ms. Taylor. (indiscernible) in here. Sixty-nine.

JUDGE DUFFEY: Okay, so she's a spring chicken.

MS. GHAZAL: I -- she's not here I take it?

I would move that we find a technical violation and send a letter of instruction to Ms. Taylor to make sure that she understands. My -- from my recollection of reading the file,

both she and her husband understood that she inadvertently voted twice. That is -- this is a serious violation. I do not think that there would be any risk of it recurring. And I -- and I do believe it was entirely inadvertent, based on my reading of the case.

So my -- there was a violation. I don't see that justice would be particularly served by tying up the resources of the AG's office for something that I would not imagine recurring. So that would be my -- my motion.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: Okay. It's been moved and seconded that we find a violation but send a letter of instruction to Ms. Mitchell, describing our understanding of the circumstances and that she couldn't remember whether she had or had not but that she needs to be aware that she may only vote twi -- only vote once. She could only vote twice but if she did, she'd get in really bad trouble. No. That she can only vote once and that she needs to be careful in the future and making sure that when she votes that she has not voted by absentee ballot.

MR. MASHBURN: That is consistent with the way we have handled elderly people who have forgotten in the past.

JUDGE DUFFEY: Yes. All right.

Okay, any further discussion on the motion? If not --

DR. JOHNSTON: Mr. Chairman.

JUDGE DUFFEY: Oh, okay.

DR. JOHNSTON: I'll go along with that but I'm -- I worry that we send a message to all our voters that they can simply appear at the polls and see if they can vote twice and then just claim that they forgot.

So understanding that she's not a spring chicken, I don't want to inadvertently send a message to our voters that this is permissible to try to do this.

JUDGE DUFFEY: All right. Any further discussion?

All right. All of those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

DR. JOHNSTON: No.

JUDGE DUFFEY: The motion passes four to one.

Next is deceased voters, SB2020-179. Sara?

MS. KOTH: Yes. 2020-179, deceased voter fraud. The Secretary of State's Office initiated this investigation following an allegation of deceased voter fraud by Fox 5 News I-Team.

And Fox 5 News -- Fox 5 News received an e-mail from an e-mail address titled Donald J Trump for President Inc. alleging that deceased voters were used to vote in the November 2020 general election.

Out of the thirteen names provided, only one person was identified as a deceased voter who had a vote counted for the November 2020 general election after their date of death. It was determined that an absentee ballot application was requested and a subsequent absentee ballot was submitted to the Dade County elections office in the name of a deceased voter, Edward Skwiot. Based on a voluntary handwriting -- based on a voluntary handwriting exemplar submitted by persons of interest, it appeared that Jeffrey Laws' exemplars had significant similarities to that of the decedent's forged signatures on the absentee ballot application and oath envelope.

Based on the significant similarities that

the decedent's forged signature on the absentee ballot application and oath envelope and that of Laws' provided on a handwriting exemplars, there is evidence to suggest that Jeff Laws, an occupant of the residence where the absentee ballot was mailed, violated O.C.G.A. 16-9-121, identity fraud, and O.C.G.A. 16-9-2, forgery in the second degree.

JUDGE DUFFEY: There are some unknown subjects, at least in my summary. It says that these false registrations are currently under investigation by Georgia DDS?

MS. KOTH: Yes. There was an additional nine allegations that came in afterwards and out of those there were some that we thought that DDS has an open investigation into that, the department of driver services. Those were for the voter fraud cards. So they weren't used for any type of voting.

JUDGE DUFFEY: All right. Then with respect to Jeffrey Laws, is there a motion?

MR. MASHBURN: I believe there's sufficient evidence to believe a violation has occurred, and so I move to refer Mr. Laws to the secretary -- to the Attorney General's Office for further

processing.

MR. LINDSEY: Second.

JUDGE DUFFEY: Is there discussion?

Of course, we don't know what --

MR. LINDSEY: Yeah. (indiscernible) I'm sorry. Go ahead.

JUDGE DUFFEY: Since we don't know exactly what Mr. Laws intent was, is this something that we should also refer to the appropriate district attorney?

MR. MASHBURN: I'm fine with that.

MR. LINDSEY: That was going to be exactly my question.

JUDGE DUFFEY: All right. Then I'll amend that we refer it to the Attorney General's Office and to the appropriate district attorney. Is there any discussion on that motion?

MR. LINDSEY: Just one question, Mr. Chairman. Should we ask our investigators to also investigate Dade County regarding their handling of the matter in terms of their voter list? Sorry.

JUDGE DUFFEY: That's an interesting thought.

MR. LINDSEY: No, we deal with --

JUDGE DUFFEY: Let's first deal with Mr. Laws.

MR. LINDSEY: -- this in -- okay, that's fine. I wasn't -- simply just part of the discussion.

JUDGE DUFFEY: Is there any further discussion or motion involving Mr. Laws?

There not being any, all in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

So back to you, Mr. Lindsey. What would we tell the investigators to investigate? What conduct?

MR. LINDSEY: In terms of the voter rolls and whether or not any of their procedures in terms of being able to catch the sort of activity was in violation of any of our rules.

MS. GHAZAL: For --

JUDGE DUFFEY: But as I recall, there's only one person who was found to have voted after they were deceased.

MS. GHAZAL: Correct. I think the reason that was possible, according to what -- for the benefit of the folks who don't have the files,

this is the one case where list maintenance activities were not conducted in a way that ensured that a deceased voter was immediately removed.

I -- in fact, I was impressed with all of the other cases that were investigated where a voter died in February, was removed or the can -- registration was canceled in March; died in October, registration canceled in November.

In this case the decedent remained registered for five years which indicates some sort of failure on the part of the county to appropriately conduct their maintenance -- list maintenance activities.

JUDGE DUFFEY: I mean, I think that would be appropriate to refer to the investigators to open an investigation with respect to voter roll maintenance generally but specifically to remove deceased persons after their death.

Does everybody concur that I should do that?

DR. JOHNSTON: Yes.

JUDGE DUFFEY: I don't think I need to take a vote on that but I will make that referral.

Next Jackson County, unlawful assistance, SEB2020-183.

Ms. Koth, whenever you're ready.

MS. KOTH: Yes. According to the complaint, Jake Sherman posted on his Facebook page that he requested an absentee ballot to be mailed to his address and his parent completed the ballot and returned to the election office on his behalf.

During an interview with Jacob Sherman's mother, Samantha, she stated that she and Jacob completed their ballots at the same time. She did not complete Jacob's ballot. She showed him how to complete it himself by allowing him to review her ballot.

An interview with Jacob confirmed he posted the message to Facebook, but he claimed the statement was false and it was his way of expressing his concerns about election security. During the recorded telephone interview with Jacob, he stated he was present when his mother completed his ballot for him as he called out his selections. He then looked over his ballot and signed it and returned it. However, in his written statement, he stated he completed his own ballot and his mother only gave him guidance on how to fill in his choices.

A review of Jacob and his mother,

Samantha's, election records for the 2020 general election revealed Jacob's signature on his oath envelope was not consistent with his signature on file. His printed name and date on his oath envelope appeared to be the same handwriting as his mother's handwriting on her application for absentee ballot.

There is sufficient evidence to suggest a Georgia election code violation occurred. There is evidence to suggest that Samantha Sherman's in violation of O.C.G.A. 21-2-385 and that Jacob is in violation of O.C.G.A. 21-2-560, making of false statements.

JUDGE DUFFEY: Is there anything -- any further explanation that we would like from Ms. Koth? Is there a motion?

Oh, is this -- are you the respondent?

MR. SHERMAN: Yes, sir.

JUDGE DUFFEY: Okay. Come on up. Sorry, didn't see you. I should have asked if you were here. I apologize.

MR. SHERMAN: Honorable Members of the Board, greetings and thank you for granting me this opportunity to address you today. I am the respondent in this case. Before we begin, does

the board have my written statement in question in front of them? If not, I have copies.

JUDGE DUFFEY: This is your statement?

MR. SHERMAN: My statement. My written statement.

JUDGE DUFFEY: Yes. Could we see that, please?

MR. SHERMAN: Yes, sir. I wish to assert with the utmost sincerity that the written and notarized statement I've provided to investigators accurately reflects the complete truth to the best of my recollection regarding my 2020 absentee ballot. I took it upon myself to make my own choices, casting my votes and signing my name in adherence to the oath on the envelope.

Although my mother and I completed our separate ballots in the same room, I want to emphasize that our decisions were never influenced by one another. It was during this time that she demonstrated the proper method of filling in the oval on her own ballot which I observed after already marking my own. So I took it upon myself to correct my ballot but I firmly maintain my votes were solely my own.

Regarding my previous conversation with the

investigator over the phone, I cannot recall the specifics of the exact statements I made. However, I distinctly remember the interview took place while I was under considerable stress and in an inebriated state. It is evident that in my case summary, that I must've misspoken or misremembered certain details. Regardless I should have requested to speak at a later time, when I was sober and focused, enabling me to provide the investigator with accurate information.

Furthermore, I would like to extend my sincerest apologies to the esteemed board and all of the dedicated individuals involved in the 2020 Georgia election process to my ill-advised and arrogant post on social media back in 2020. My remarks which expressed doubts about the integrity of the absentee ballot voting system could not be further from the truth, especially in light of this hearing and the diligent efforts of the investigators which exemplify the seriousness in which the state treats its elections.

I would also like to apologize to my mother who could not make it today. She's sick. I hope

she gets better very soon. I apologize for involving her in this whole ordeal.

And I humbly ask the board to view this as a significant learning experience and consider leniency. I acknowledge the unintended effects that my actions may have had on the lives of my loved ones and that -- and for that, I sincerely apologize.

I approach this situation with a genuine sense of reflection and understanding. I extend my heartfelt gratitude to all of you for your time and kind consideration.

JUDGE DUFFEY: Thank you, Mr. Sherman.

Are you -- you were in the Merchant Marines; is that right?

MR. SHERMAN: (nodding)

JUDGE DUFFEY: Are you still?

MR. SHERMAN: (nodding)

JUDGE DUFFEY: And where are you stationed?

MR. SHERMAN: I'm working overseas in New Zealand and up in Seattle. I flew in for this.

JUDGE DUFFEY: Oh, so you flew in to be here today from Seattle, Washington?

MR. SHERMAN: Yes, sir.

JUDGE DUFFEY: Well, I appreciate your

candor and appreciate what I think is a pretty transparent explanation of what happened. And I appreciate the fact that you undertook to come here and, one, be present and, second, be present and say what you said. So why don't you return to your seat while we discuss this.

All right. We've heard the report from the investigator and have now had a chance to hear Mr. Sherman's statement, and we have a copy of it. Let's discuss this before we decide on a motion.

MR. MASHBURN: I'll just kind of give you my thinking on it. We've had a case very similar to this before where a Facebook page statement was false. And I remember my comment at the time was it's not against the law to lie on Facebook. And the -- kind of the remark from the audience was, Well, that's a good thing for most of us because most people are lying on Facebook to begin with. So it kind of got a chuckle from the audience.

So I would offer Mr. Sherman a choice and that is if he'll post something similar to what he just read us -- it doesn't have to be the exact words -- I'm inclined to dismiss it. If he doesn't like that choice, then I would vote -- I

would be inclined to issue a letter of instruction. So that's just how I -- that's just how I think about it. Throw it out there for discussion.

JUDGE DUFFEY: I have a -- I would deal with it slightly differently. The problem is if he posted something like this on Facebook, would they believe that?

MR. MASHBURN: Yeah.

JUDGE DUFFEY: And in a sense that strikes me as a little bit too much -- I don't know. It just -- it doesn't seem right to me. What I think seems better would be for me to write him a letter as chairman of the board, explaining to him about the election system, the need, you know, in this day and age especially not to disparage the system and not -- because that could discourage people from voting.

And it would be like, you know, my -- my sons are waiting -- well, one of my sons is waiting for me back at home. He's come up to spend a couple days with us. He's a little older than you, but I'm certainly old enough to be your father. And maybe you'll put that -- a letter like that in your file kind of as part of your

story and remember it whenever you decide to do something as -- as errant as this.

And I would move to dismiss.

MS. GHAZAL: I've got a little bit of trouble with this because we moved today to refer a virtually identical fact pattern to the Attorney General's Office, wherein a mother either filled out the absentee application or the ballot for her son and we -- we dismissed it yesterday, reconsidered it today, and are referring it to the Attorney General's Office.

And there was a discrepancy in what was stated to the investigators and what she came and stated here, just as there is a discrepancy in what was stated to the investigators and what was stated here. And to treat like matters in a like fashion, I think it is incumbent for us to be doing that and to treat like voters in a like fashion.

I would not be comfortable with a dismissal in this case. And there's further -- and again there were discrepancies in the signatures as well in both cases.

JUDGE DUFFEY: Mr. Sherman, can you explain the discrepancy in the signatures?

MR. SHERMAN: Yes, sir. So right here I have my Georgia driver's license issued in 2019. If you look at the signature on this license compared with the one on my notarized statement back in 2020, you will see that they are similar but not consistent. I just have a very sloppy signature. And I wasn't given any evidence on this. So would the board mind?

JUDGE DUFFEY: Well, hold on for a second. So it's the signature on -- on what? The application?

MS. GHAZAL: The ballot versus the signature on the -- that -- Ms. Koth, isn't that correct? Did the investigation show that --

MS. KOTH: Yes. It says --

JUDGE DUFFEY: Do you have a copy of the ballot signature in the file?

MS. KOTH: It says a review of Jacob and his mother's election records revealed that Jacob's signature on his oath envelope is not consistent with the signature on file. His printed name and date on his oath envelope appear to be the same handwriting as his mother's handwriting on her application for the absentee ballot.

JUDGE DUFFEY: And who made that

determination? The investigator?

MS. KOTH: Yes. And she didn't fill it out --

JUDGE DUFFEY: Do we have those documents --

MS. KOTH: -- saying that she assisted.

JUDGE DUFFEY: -- so that we can make the comparison ourselves?

MS. KOTH: And that matched his recorded statement that she filled it out for him while he called out --

JUDGE DUFFEY: I'm sorry, I couldn't hear you.

MS. KOTH: I said in the recorded telephone interview with him that he was present when his mother completed the ballot for him. So all of that matched his statement that was recorded.

MR. MASHBURN: While they're looking that up, on that other case wasn't it that the mother voted the ballot -- oh, scratch that, scratch that. The mother said she threw away the ballot and then the ballot showed up, getting voted anyway. And so her theory was that somebody dug it out of the landfill and voted it. Wasn't that --

MR. LINDSEY: Yeah. It was an application,

but it was -- there was ballot that got --

MR. MASHBURN: So there was an application and the actual ballot, both things going on.

MR. LINDSEY: Yes.

MR. MASHBURN: And that she -- her testimony was that she threw it away and that somebody -- the best she can figure, somebody dug it out of a landfill and voted it.

MS. GHAZAL: Yes.

MR. MASHBURN: Okay.

JUDGE DUFFEY: Do we not have the file or ...

MS. KOTH: I'm pulling it up on my laptop.

MS. HARDIN: She's going to pull up the digital copy.

MR. HUMES: Your Honor, I've got a digital copy.

MR. MASHBURN: While they're looking, let me ask you a question. They indicate that you were here in Georgia when this ballot got voted. Is that right? You weren't off on deployment anywhere.

MR. SHERMAN: No, sir. I was on -- I was a -- 2020 COVID-19 dropped all jobs. I was working part-time at a book packing facility. It

was just a bad time.

MR. MASHBURN: So in most cases you rely on an alibi and say, I wasn't there. But in this case it's the reverse of that: I was here.

MR. SHERMAN: Here. I was here, yes.

MR. MASHBURN: Okay. All right.

JUDGE DUFFEY: Was the similarity in the signatures or the similarity in the --

MS. KOTH: It's the handwritten part.

JUDGE DUFFEY: Signature part.

MS. GHAZAL: Printed.

MS. KOTH: Yes. The -- his printed name and date on his oath envelope appeared to be the same handwriting as his mother's handwriting on her application. So they're saying that she assisted in helping him write it out without saying that she helped him write it out. She didn't fill out the part saying that she helped him fill out his ballot.

MR. LINDSEY: But the signature is similar to the signature on his affidavit; is that correct?

MS. KOTH: It just said that his signature wasn't consistent with the signature on file, not that it matched hers. They're just saying that

the printed part was the same as her --

MR. LINDSEY: I understand the printed part. I'm just talking about -- I think that the key thing -- I'm sorry --

MS. KOTH: Yeah, the signature --

MR. LINDSEY: The key thing for me is the signature. It's whether or not the signature on the ballot was consistent. And it --

MS. KOTH: It just said it wasn't --

MR. LINDSEY: Hm?

MS. KOTH: It just said it was not consistent with the signature on file.

MR. LINDSEY: Yeah, but the point -- I guess my point is his affidavit, at least my amateur view, appears to be consistent on the affidavit and on the ballot.

JUDGE DUFFEY: See, that's the way she signs.

MR. LINDSEY: Am I wrong?

JUDGE DUFFEY: No, come here and look at this.

MR. LINDSEY: I've got to put on my glasses. I can't see.

JUDGE DUFFEY: So if we're looking at signatures, that's the way she signs.

MR. LINDSEY: Yeah.

JUDGE DUFFEY: Which is (inaudible).

Do y'all want to see this?

DR. JOHNSTON: Yes.

MR. LINDSEY: Mr. Sherman?

MR. SHERMAN: Yes, sir.

MR. LINDSEY: Do you have your driver's license?

MR. SHERMAN: (handing)

MR. LINDSEY: Thank you.

Mr. Chairman, my observation is that the signature on the affidavit is consistent with the signature on the ballot. And for that reason, I would agree with the suggested motion.

JUDGE DUFFEY: And I would make a further point that the comment was made the signature was consistent with his mother's signature. We've looked at her application since we have the application. That app -- her signature is distinctly different than his signature and his signature on the -- even on the document that he's provided today is consistent with what was on the ballot.

And did you have your driver's license?

MR. SHERMAN: Yes, sir (handing).

JUDGE DUFFEY: Some -- somewhat different but actually pretty close to what was on the -- on file that they had for your signature when you had registered.

Does anyone want to see his driver's license?

Oh, and I don't really remember anything about your personal identifying information. All right, so why don't you go back to your seat. Thank you for coming back up.

So I can't remember -- I guess we started with your motion and then I had --

MR. MASHBURN: Sara had an objection.

JUDGE DUFFEY: Yeah. But what was your -- I'm just trying to remember what your motion was.

MR. MASHBURN: I was just thinking that.

JUDGE DUFFEY: Oh, okay.

MR. MASHBURN: But I was focused mostly on the damage that was done from the false post and correcting that. But that's not what he's charged with. So my motion kind of missed the target.

So Sara pointed out that she was troubled about what was actually charged, making a false statement to an investigator. So we're kind of

at Sara's objection or her statement that she was troubled that we were treating two similar cases differently. That's how I recall it.

And Sara, of course, can speak for herself. She's here.

JUDGE DUFFEY: She's never been unwilling to speak for herself. So ...

You know, this is -- you know, if -- you know, we're trying to accomplish a lot of things as a new -- what is consistency? But the other is showing that we are very -- we are focused on looking at what really happened and why did people do it and showing that we are -- if we find ways other than approaching these formulaically.

MR. LINDSEY: If I may, Mr. Chairman. I have two issues here. One issue -- one issue is was a -- was there a fraudulent ballot? And I don't believe there's evidence of a fraudulent ballot because the signature on the ballot is consistent with the signature on the affidavit that Mr. Sherman gave shortly after the election. So that's that.

The second one is -- is misinformation to the investigator. That's a lesser issue but it's

an issue. So I would prefer simply to do a letter of instruction on that issue to -- you know, I have no problem, you know, dismissing the ballot issue, but I don't want people to get -- feel like they can make misinformation to them. But given the fact that the ballot's valid, I don't think we should go as far as sending it to the attorney general for any kind of criminal thing, but I think a letter of instruction to the respondent on the issue of false -- on the need for candor and accurate information needs to be impressed upon it.

JUDGE DUFFEY: Of course we still have a motion on that. We need to --

MR. LINDSEY: Let's -- well, I also want to make a substitute motion.

MR. MASHBURN: Is that a motion?

JUDGE DUFFEY: So let me first explain to Mr. Sherman.

There are a number of options that we have. One would be to dismiss. One would be to find a violation but not to refer it to any -- to the Attorney General's Office or to anybody else, that you would get a letter from the board saying that you're instructed with respect to whatever

thing we find the violation, what we're here and we're talking about.

Not being candid, for whatever reason you weren't candid, you have an explanation for it. That explanation rings true with at least me. But you still need to have something of record, saying that you have an obligation that when you talk to law enforcement or to investigators for us that you have to be candid and honest and not mislead, even if that's done without -- under the influence of a substance, that that was wrong to do. And you would get a letter to that affect.

So the substitute motion you would like to make, Mr. Lindsey, is what?

MR. LINDSEY: Would be a letter of instruction regarding the false, incorrect information provided to -- and the failure to cooperate with investigators, focusing on that.

JUDGE DUFFEY: Is there a second?

MR. MASHBURN: Second. And the reason why the two cases are different now is because the voter appears to have voted his own ballot --

MR. LINDSEY: Yeah.

MR. MASHBURN: -- and in the other case, it appears --

MR. LINDSEY: The ballot issue that I want to send to the AG.

MS. GHAZAL: Yes.

JUDGE DUFFEY: Right, correct.

MS. GHAZAL: I agree.

MR. MASHBURN: I knew Sara had it. I just wanted to make sure it's clear for --

MS. GHAZAL: Yes.

JUDGE DUFFEY: -- for me. I know for me.

MR. MASHBURN: -- the audience.

JUDGE DUFFEY: So there's a motion to find a violation but to send a letter of instruction to Mr. Sherman based up his statements to and cooperation with the investigators.

MR. MASHBURN: And then -- and to dismiss against the mother, right?

MR. LINDSEY: Dismiss against the mother.

MR. MASHBURN: Okay.

JUDGE DUFFEY: And to dismiss --

MR. LINDSEY: And to dismiss any claim regarding the false ballot. Yes.

JUDGE DUFFEY: So that's the motion. Is there a second?

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been moved and seconded.

Is there any further discussion on the motion? All right. There being -- all in favor of the motion say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All opposed, no?

It passes unanimously.

Thank you, Mr. Sherman. We appreciate you coming down and, I guess, coming over from Washington. It was helpful to have you here and I hope you'll understand our reasoning.

MR. SHERMAN: Thank you, Board.

JUDGE DUFFEY: The next matter to be heard is Case Number 2020-234, DeKalb County, absentee ballot processing.

Ms. Koth, we're ready.

MS. KOTH: The Georgia Secretary of State's Office received a complaint where an elector had checked his "My Voter Page" website and found out that the absentee ballot had been challenged and not counted. This occurred during the early voting for the November 3, 2020, general election.

Mr. Almond said the DeKalb County Board of Registration and Elections told him that their records showed that he had early-voted in person

at a church precinct. He stated that he did not vote in person at the early voting church location and that his precinct is at a school.

The election supervisor, Tiffany Gilbert, stated she personally looked through the absentee in-person applications for the date in question for the Berean Christian Church early voting poll precinct and did not locate an application for Mr. Almond. Ms. Gilbert further stated because she did not find an application for Mr. Almond, she concluded that an error had been made at the advance voting location. Ms. Gilbert also stated she did not feel that a thorough search was conducted.

In summary, an unknown poll worker allowed an unknown respondent to vote in person during voting for the 2020 general election at the Berean Christian Church precinct, using the identity of the complainant, James Doyle Almond, Jr. at the -- a search for the absentee in-person application for James Doyle Almond, Jr. was conducted by the election supervisor but was not found.

The unknown poll worker challenged the ballot -- absentee ballot of elector Mr. Almond,

Jr., failing to notify him of said challenge and follow the procedures for a challenged absentee ballot in O.C.G.A. 21-2-386.

There is evidence to suggest that an unknown DeKalb County poll officer did fail to write challenge, the elector's name, and the alleged cause of challenge on the outer envelope and deposit the ballot of an elector in the secure sealed ballot box and be counted as other challenge ballots are.

There is evidence to suggest an unknown absentee ballot clerk failed to notify the elector of said challenge.

JUDGE DUFFEY: And the violation claimed is what?

MS. KOTH: O.C.G.A. 21-2-386, subsection 7, subsection (e).

JUDGE DUFFEY: And that's DeKalb County's Board of Registration --

MS. KOTH: -- and Elections.

JUDGE DUFFEY: -- and Elections.

Is anybody from DeKalb County here?

MS. VANDER ELS: Good afternoon, Chairman Duffey and Members of the Board. My name is Irene Vander Els and I represent the DeKalb

County Board of Registration and Elections.

And we did receive notice that this case would be heard today, but the notice simply described in very general detail that an absentee ballot processing error had occurred during the early voting for the November 2020 election but didn't identify the voter, the voting location, the date on which the alleged activity occurred.

So I would ask the board if -- we contacted the investigator's office and they declined to provide additional detail that would help my client prepare a response to the allegations. And so we would request a continuance. I've taken notes here so that I can take this back to my client and confer with them.

I understand that a statement was made, but as I'm sure you understand, there were many, many, many cases and investigations from the 2020 election. And so just based on the notice letter we received, we're not able to, you know, recollect or collect any information that we could provide to you related to these specific allegations.

So if we could be continued to the next calendar and hopefully get more information from

the investigator, that would be helpful.

JUDGE DUFFEY: Who transmits the letters to the respondents?

MS. HARDIN: I do that.

JUDGE DUFFEY: And did we just send this one paragraph summary to them?

MS. HARDIN: I sent them the notification letter and the summary of investigation. That's all that I was told we were allowed or typically do send to respondents.

JUDGE DUFFEY: My question was this is -- we just sent this summary of investigation that we have in our notebooks?

MS. HARDIN: That's all I sent.

JUDGE DUFFEY: But the summary of investigation doesn't say anything.

MS. GHAZAL: I --

JUDGE DUFFEY: We can't do this. I mean, we've got to provide more information about the -- under -- in the summaries if that's what we're going to send. To give somebody a notice to say, Oh, I see what they're saying. It happened on this day with all these people. And now let us go and check and see if we can do an investigation.

So I totally understand. Now, looking at this, that -- I think the error's on our part in not giving instructions about how detailed these need to be for respondents.

Unless anybody has an objection, we'll just put this off till the next meeting.

MR. LINDSEY: For the record, Mr. Chairman, I just need to recuse myself because my firm's in DeKalb County.

JUDGE DUFFEY: Okay.

MR. MASHBURN: Yeah. Mr. Chairman, the prep -- this -- I'm looking at this summary of investigation and this particular summary for this particular case for this one incident seems to be more devoid of information than they usually are.

So I think this summary is the one-off --

MS. GHAZAL: Yes.

MR. MASHBURN: -- as opposed to, like, all of the summaries. I think it's okay that -- as a general practice that we send the summaries, but I think this one was the one most out of the group, right?

JUDGE DUFFEY: Yeah. I agree with that.

MS. VANDER ELS: That's been my experience,

much more detailed.

JUDGE DUFFEY: I'm really surprised that you couldn't figure it out from the summary.

MS. VANDER ELS: We had over 200,000 absentee ballots in that election.

JUDGE DUFFEY: Okay. We'll -- we'll hear this at our next meeting.

MS. VANDER ELS: Thank you.

JUDGE DUFFEY: Thank you.

Next is Case Number 2020-280, Morgan County, pictures of polling places.

Sara, we're ready.

MS. KOTH: This one has three allegations. They all involve three people taking photographs.

Allegation 1 is Rosalind Hanna Mayer(ph) took a picture of her printed ballot and then refused to delete the photo after being asked to do so.

Allegation 2 is Lori Michelle Frost took a picture of her printed ballot, posted -- and then posted it on Facebook.

Allegation 3 is Luke Wilkins took a picture of his printed ballot and posted it on Facebook.

Allegation 1, the election director, Ms. Doran, advised she told Ms. Hanna Mayer to

delete the photo but she refused. The investigator contacted Ms. Hanna Mayer and she advised her of the complaint. She was advised that she was unaware that taking the photograph was against the law.

In the second allegation, Lori Frost put it on Facebook. The investigator attempted to contact her numerous times which went unanswered. The investigator contacted her husband at their address who referred the investigator to their attorney.

Allegation 3, Mr. Wilkins also posted that photograph on Facebook. Mr. Wilkins was advised -- advised that he did take the photo but did not know that doing so was against the law. He advised that he would not do so again.

There was evidence to suggest that all three -- Ms. Hanna Mayer, Ms. Frost, and Mr. Wilkins -- violated Georgia Election Code 21-2-413 when they used photographic or other electronic monitoring or recording devices while such person is at a polling place while voting is taking place.

JUDGE DUFFEY: Is there anything further from the investigator that you would like to

hear?

MR. LINDSEY: Just one. After they referred you to the attorney, refused to cooperate, did the attorney ever -- ever cooperate with you?

MS. KOTH: Let me double-check. Let me see. Yes. Yeah. Their lawyer contacted the investigator.

JUDGE DUFFEY: Okay. What did the lawyer say about their conduct's client -- their client's conduct?

MS. KOTH: Said he reached out to the investigator, advised him of a federal injunction, barring the state of Georgia from pursuing O.C.G.A. 21-2-568.2. However, in that same case, it advises the following: 21-2-413.

JUDGE DUFFEY: So his position was that the investigator was violating a statute by questioning the voter?

MR. MASHBURN: No. He was saying that (indiscernible) injunction on some other aspect of photographing.

MS. GHAZAL: Different.

JUDGE DUFFEY: Oh, it was a different --

MR. MASHBURN: This was a different statute.

MS. KOTH: Yeah, it just says barring him of

a federal injunction. Barring the state of Georgia from pursuing O.C.G.A. 21-2-568.2.

MR. LINDSEY: Mr. -- it would appear that this lawyer wishes to run up his attorneys fees -- and I'm going to give him an opportunity to do so -- by not cooperating. And at the appropriate time I'm happy to make a motion as to all three.

JUDGE DUFFEY: Okay.

MR. LINDSEY: I would move that the first, inconsistent with our other -- in terms of the first and third allegation, that a letter of instruction be sent to them.

In regards to the second one, I would refer the matter to the Attorney General for further investigation.

JUDGE DUFFEY: And what's the distinguishing feature --

MR. LINDSEY: Was the first and the third were cooperative and were willing to work with our investigators and expressed regret.

But what they did, the second one refused to cooperate and the lawyer refused to cooperate. So we don't know all of the pertinent facts.

JUDGE DUFFEY: All right. It's been moved

and seconded that we find a violation for Ms. Hanna Mayer and for Ms. Frost, but that we send them a letter of instruction, reminding them --

MR. MASHBURN: No, Frost is the one --

MR. LINDSEY: No, that's where -- no, no.

(Cross-talking)

MR. MASHBURN: -- (indiscernible)

MR. LINDSEY: That's Hanna Mayer and Miss --

JUDGE DUFFEY: Mr. Wilkins.

MR. LINDSEY: And Mr. Wilkins.

MS. GHAZAL: Ms. Frost (indiscernible).

MR. LINDSEY: Oh, yeah.

JUDGE DUFFEY: Yeah, well, Ms. Frost's name is in Allegation 3. I just misread that.

So for Ms. Hanna Mayer and Mr. Wilkins, we will send a -- we will find a violation and send them a letter of instruction and we will refer Ms. Frost to find a violation and send it to the Attorney General's Office; is that correct?

MR. LINDSEY: Correct.

JUDGE DUFFEY: Any discussion on the motion? If not, all those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

It passes unanimously.

MS. GHAZAL: May I make a quick comment for any listeners --

JUDGE DUFFEY: Yes.

MS. GHAZAL: -- in the listening audience? Many times people -- people want to -- to retain a copy -- they claim they're taking photographs so that they can have a receipt of their ballot. There is a policy reason behind prohibiting that.

And that is, retaining proof of your vote allows for vote buying. It allows for fraud to enter into the system by showing evidence to an interested party and receiving some sort of remuneration in exchange for your vote.

And that is the policy reason behind the prohibition against photographing voted ballots.

JUDGE DUFFEY: And regrettably that happens. And the risk is real.

And so that concludes our consideration of complaints.

Attorney General's Report

JUDGE DUFFEY: Our next order of business is to consider the attorney general's report on matters that we have referred to the Attorney General.

So, Ms. Vaughan, if you could help us with that, we'd appreciate it.

MS. VAUGHAN: All right, good afternoon. We have coming from the Attorney General's Office four matters that have been referred by the State Election Board. We have some proposed consent orders as well as a proposed final order.

If it's the will of the board, I'll take each of these matters one at a time.

JUDGE DUFFEY: Thank you.

Consent Orders

MS. VAUGHAN: I think that would be preferable.

The first matter that we have is a proposed consent order in State Election Board Case Number 2020-034. It's regarding the Montgomery County Board of Registrars, including respondents Bobby Carter, the chief registrar; and probate judge Rudy Sanders, the elections superintendent.

This came from the August 22, 2022, State Election Board meeting, regarding a complaint that boxes of election documentation from 2013 and 2014 were not properly secured. During the meeting, the request was made for the referral to the Attorney General's Office that the Attorney

General's Office try to work out a plan for remediation with these respondents regarding the storage of records going forward.

The attached proposed consent order includes a reprimand as well as an order to cease and desist. It includes a statement reflecting that effective January 1, 2023, the new Montgomery County Board of Elections and Registration was formed and that this newly established BOER is located in a new building that is equipped with cameras and has rooms with locks to secure and store elections materials, and that this building is not accessible to unauthorized persons.

The Attorney General's Office recommends that the board accept this proposed resolution as it provides, we believe, a response to what the board suggested at that meeting when the case was referred to our office and reflects that new procedures have been put in place with this newly constituted board.

JUDGE DUFFEY: All right. Is there any questions of Ms. Vaughan about the proposed consent order resolution?

MS. GHAZAL: I simply want to express my gratitude for the speed with which this is being

done. This is one of the few instances where I have a direct recollection of the case itself. And now it's being resolved expeditiously. So I really appreciate that.

MS. VAUGHAN: Thank you.

MS. GHAZAL: Thank you.

JUDGE DUFFEY: I do too. I think that when you -- when we hear something -- we heard this in August, that they had this finalized just a few months after that, I think it's a great confidence to the people that have to go through this system. They don't have to wait forever for a resolution. So thank you.

MS. VAUGHAN: Thank you.

JUDGE DUFFEY: All right. So a motion to approve the consent order.

DR. JOHNSTON: Second.

JUDGE DUFFEY: It's been moved and seconded to approve the consent order. Is there any discussion? Seeing none, all those in favor of the consent order say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

The motion passes unanimously.

MS. VAUGHAN: Okay.

JUDGE DUFFEY: Next.

MS. VAUGHAN: All right. So the next State Election Board case that we have, there are three proposed consent orders that we have regarding State Election Board Case Number 2016-110, 2016-110. This is regarding three individual respondents who were part of a broader discussion in an investigation involving Long County.

From the February 17, 2021, meeting and the April 18, 2021, meeting, I will start with the proposed consent order as regard to Harriet Smith. The proposed consent order provides for an order to cease and desist, a public reprimand, and a civil penalty of $1,000.

Ms. Smith was bound over for violations related to her post office box as a temporary mailing address for absentee ballot applications for twenty voters during the Long County, July 26, 2016, general primary runoff election.

Given the age of the case, we do believe that this is an appropriate resolution. You know, we -- we think that it would guarantee results. And since the conduct occurred so long ago, it would be challenging to take it to OSAH.

Would you like to discuss Ms. Smith's

consent order, or should I continue and discuss the other three indiv -- the other two individuals?

JUDGE DUFFEY: Well, let's -- well, let's take them one at a time. Is there -- and let me note for those that are listening and that are here that this case was opened in 2016. And so when -- when Ms. Vaughan says it's been a long time before it's gotten taken care of, it's -- it's regrettable it's taken this long. It should not take this long and it will not take this long in the future.

So I do think that you used sound judgment when you -- when you look at things like that to determine what the appropriate resolution is. We all appreciate your sensitivity to that.

MS. VAUGHAN: Well, we understand that. We're trying to provide the perspective that it does guarantee a resolution in which there is a reprimand, a cease and desist, and a civil penalty that's guaranteed without the risk of a hearing.

JUDGE DUFFEY: And I'll say this about Ms. Vaughan. She has worked -- she has been our lawyer now for how many months?

MS. VAUGHAN: Well, I started with the Attorney General's Office in November of 2021 and just came into this role, I guess, in February, March. So it's -- it's been a pleasure to work for the board.

JUDGE DUFFEY: So it's that sort of attentiveness to the duties in her service to us that has been really, really impressive, and it's helped us manage our workload and get things done.

So thank you very much, Ms. Vaughan.

MS. VAUGHAN: Thank you.

JUDGE DUFFEY: So is there a motion to approve this consent order?

DR. JOHNSTON: So moved.

JUDGE DUFFEY: Second?

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded that the consent order involving Harriet S. Smith in SEB Case 2016-110 be approved. All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

Passes unanimously.

Next.

MS. VAUGHAN: Regarding the next two proposed consent orders for 2016-110, I'm going to describe them jointly because it's very similar conduct and I think that's the most straightforward way to discuss them.

So there was also a referral made to the Attorney General's Office in relation to Brenda Velazquez Gomez and Yaritza Velazquez Gomez who were sisters and were foster children who were residing in Harriet Smith's group home. She was the respondent that we just addressed her proposed consent order.

Ms. Smith's personal postal office was entered as a temporary mailing address on the absentee ballot application submitted in regards to Yaritza's name for the Long County, July 26, 2016, general primary runoff election. That absentee ballot was not returned but the investigator did find that Yaritza voted in the November 4, 2014, general special election as part of the broader investigation.

Yaritza told the investigator that her sister also lived with Ms. Smith and the investigator pulled records for Brenda Velazquez Gomez. Those records show that Brenda Velazquez

Gomez voted in person in the July 26, 2016, general runoff election. Both sisters said they left Ms. Smith's home after they turned eighteen.

It is expected that if these cases did proceed to an OSAH hearing, both sisters would testify that they did not register to vote and that they did not vote which is consistent with their statements to the investigator and their following statements.

The proposed resolution for these individuals, for Brenda and Yaritza Velazquez Gomez, is a $100 civil penalty each. Again that would just provide for a guaranteed resolution without having to take this to a hearing, given the age of the case and the conflicting evidence that's presented. And the $100 civil penalty is lower typically than what would be suggested for a noncitizen voter which was kind of the key issue to their cases and was part of their referral to the AG's Office.

But there's also evidence to support a finding, we believe, at a hearing that they were influenced by Ms. Smith. She was their foster guardian and it's my understanding that within the investigative file, Ms. Smith was surprised

that because they were legal noncitizens that they could not, in fact, vote.

And so we recommend that the proposed consent orders regarding Brenda and Yaritza Velazquez Gomez, the $100 civil penalties each be approved by the board.

JUDGE DUFFEY: Is there any further questions for Ms. Vaughan on either of these two consent orders? Is there a motion to approve the consent order as it relates to Yaritza Gomez and Brenda Gomez?

MR. LINDSEY: So moved.

JUDGE DUFFEY: Is there a second?

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded to approve the consent orders involving these two individuals in Case Number 2016-110. All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

Passes unanimously.

MS. VAUGHAN: The next consent order is for -- is State Election Board Case Number 2021-181 and it also includes 2022-025 which was a duplicate complaint that was identified by the

Secretary of State's Office.

The State Election Board voted to refer Case Number 2021-181 as it relates to the Fulton County Board of Registration and Elections and it's former election director, Richard Barron, to the Attorney General's Office following the March 16, 2022 meeting.

The proposed resolution in this consent order is an order to cease and desist. And the Fulton County Board of Registration and Elections would agree to implement written policies and procedures for risk limiting audits for all elections for which risk limiting audits occur.

The documentation regarding their written policies is attached as Exhibit A to the proposed consent order. That has been provided to the board.

We believe that this is an appropriate resolution given the findings of the investigation. The investigators concluded that the report had inconsistencies in this risk limiting audit from the November 3, 2020, general election, were the result of human error in entering the data that were not discovered in time to make corrections due to time limitations

in completing the risk limiting audit and the sheer amount of ballots and not due to intentional misconduct by the Fulton County elections staff.

Furthermore, the discovered errors were a fractional number of the total votes counted and did not affect the result of the 2020 general election in Fulton County which were confirmed as accurate by the risk limiting audit.

And this was stated in the investigative file. The purpose of the risk limiting audit was to confirm whether the results of the original tabulation of ballots were accurate, which the audit confirmed. As I noted before, it was Case 2021-181 that the State Election Board voted to refer to the Attorney General's Office and that occurred at the March 16, 2022, meeting.

On March 31, 2022, there was an additional complaint that was received by the investigations division and was designated as State Election Board Case Number 2022-025. The state -- Secretary of State's investigators made the determination that that complaint was duplicative of 2021-181 which had already been referred to the Attorney General's Office and so that file

was sent over as well. And it's concluded that -- it's included within this proposed consent order.

As noted in the consent order, Mr. Barron is no longer the elections director at Fulton County and would be dismissed as a result of the proposed consent order.

JUDGE DUFFEY: Any questions about this consent order, its resolution of 21-181 and 22-025?

MR. LINDSEY: Not so much a question but perhaps a quick comment --

JUDGE DUFFEY: Okay.

MR. LINDSEY: -- Mr. Chairman. This -- this case and referral of the matter to the Attorney General is an example of what we're trying to do and, quite frankly, oftentimes trying to avoid doing. And, you know, in terms of working with counties where there is an ongoing complaint, to see with the counties what they've done to fix a technical procedural issues before they come to us, before the matter comes to us so that we can see that the changes have already been made, that the county's already working toward it, it would have allowed us in March of last year to simply

send a letter of instruction rather than sending it to the Attorney General's Office.

And I simply sort of raise this as a precautionary tale but as a tale to my counties that we're not looking to send matters to the Attorney General, that what we would prefer to do is see where there has been some type of error taking place that the counties have undertaken affirmatively to fix the problem before they come to us so that we can see that progress is made, and then we can deal with the issue at the hearing rather than having to refer it to the Attorney General. And that's all I want to say.

I will make the motion, Mr. Chairman. I just want to encourage all counties to undertake that rather than have to have us send something to the Attorney General. Then they come back in a year and a half with exactly what we would've liked to see happen a year and a half ago. That's all.

So, Mr. Chairman, at the appropriate time, I move to accept.

JUDGE DUFFEY: So it's been moved and has it been seconded?

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded to accept the consent order in these two cases. Any further discussion? There being none, all in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

DR. JOHNSTON: No.

JUDGE DUFFEY: The motion passes four to one with Dr. Johnston voting against the motion.

All right. The next one --

Final Orders

MS. VAUGHAN: So the final matter that we have for the attorney general's report for today is a proposed final order which would dismiss the respondent Maxine Evans in Hancock County 2017-081.

Respondent Maxine Evans was bound over to the Attorney General's Office following the State Election Board's February 24, 2021, meeting. Miss Evans had assisted thirteen voters who were eligible for assistance in the 2017 City of Sparta municipal election. But the applicable code section at the time limited the number of persons an individual could assist to ten in elections where there was not a federal candidate

on the ballot.

In 2019 the law was amended to revise and remove that restriction regarding the number electors an individual could assist. Federal law provides that individuals who are eligible for assistance may be given assistance by a person of their choice, other than their employer or the employer's agent or union's agent.

As such, given this change in state law and the incongruity with federal law, we recommend the dismissal of these allegations that referred us to Miss Maxine Evans.

There are still some other individuals who are -- Miss Aretha Hill in particular, who have been referred to the Attorney General's Office under that matter number. That matter is still pending. This final order is proposed only as to the allegations for Maxine Evans to be dismissed.

JUDGE DUFFEY: Any questions of Ms. Vaughan on this proposed disposition?

Is there a motion to approve the consent order?

MS. GHAZAL: So moved.

MR. MASHBURN: Second.

JUDGE DUFFEY: It's been moved and seconded

to approve the consent -- the -- I'm sorry, the final order in SEB Case 2'17-081. Is there any further discussion?

All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: All those opposed, no?

It passes unanimously.

MS. VAUGHAN: Okay. That is all that I had in terms of pending proposed consent orders and final orders. I did want to provide just a brief update regarding a pending OSAH hearing.

So for those of you who may be new to this process, if a State Election Board case is referred to the Attorney General's Office and it cannot be resolved by a consent or a final order or it's appropriate, given the circumstances, that it proceed to a hearing before an administrative law judge, we'll begin that process with the Office of State Administrative Hearings.

We have such a hearing coming up on July 19th in Gilmer County regarding State Election Board Case 2016-0 -- 070, regarding respondent Brian Pritchard. And that is following a referral from the State Election

Board to the Attorney General's Office at the February 10, 2021, meeting. So I just wanted to provide an update since that hearing is coming up.

JUDGE DUFFEY: Is it fair to ask for a one- or two-sentence summary about what that is about?

MS. VAUGHAN: So the allegations are that Mr. Pritchard registered to vote and then voted while serving a probation for a felony sentence, I believe related to forgery.

JUDGE DUFFEY: All right, thank you very much. And thank you for the report.

MS. VAUGHAN: Okay, thank you.

JUDGE DUFFEY: Next order -- yep, next order of business is to allow people the opportunity to provide public comments. We have seventeen people who have signed in to comment. The time limit is two minutes.

And we begin with Judy Sophianopoulos.

MS. GHAZAL: Can we just turn on her microphone?

JUDGE DUFFEY: Oh, we can.

You may speak from there. I'm going to turn the microphone on. You don't have to come up. And you can sit down if you want.

MR. LINDSEY: There's a button.

MS. SOPHIANOPOULOS: Greetings.

JUDGE DUFFEY: Greetings.

MS. SOPHIANOPOULOS: And thank you for the opportunity for public comment. My name is Judy Sophianopoulos. I have lived in Atlanta since 1968. And my current address is Kingsbridge Retirement Center at 3055 Briarcliff Road, Apartment 10, Atlanta, Georgia 30329. I've been a voter for the past seven decades.

And I just want to say that I believe voting should be really easy for everyone. And I'm very grateful and appreciative that you all decided yesterday not to take control of the Fulton County Board of Registration and Elections. I've been a volunteer poll watcher and poll worker, and all the work that the poll workers do to provide smoothly run elections is one of the hardest jobs in the world, I think.

And, again, I think voting should be easy, and I think that we probably should do more public outreach and public information so people know what they're supposed to do. I'm all for more place to vote, more early voting, more drop boxes, more helpful information if it gets out to

the public and especially extra help to people who need extra help, like young voter and disabled voters, like people that are -- find themselves in the hospital when it's time to vote. And we need extra help for that.

And that's about all I have to say and thank you again.

JUDGE DUFFEY: Well, thank you. Thank you for coming down. We appreciate your comments.

Joy Wasson? You can -- you can speak from there if you want.

UNIDENTIFIED SPEAKER: Press that little button that says "talk."

JUDGE DUFFEY: Do you see a button that says "talk"? Okay, you should -- your mic should be active.

MS. WASSON: Hello, hello.

MS. GHAZAL: Yeah.

MS. WASSON: I'm Joy Wasson, a DeKalb County voter. Today's rules hearing and SOS office report on the updating of software were illuminating. It was made very clear that our state, its counties, taxpayers, and voters are not being well-served by the current voting system.

You punted on needed security rules and will have an advisory committee to consider some of the issues. This committee, in making rules and legislative suggestions should consider the incredible expense in security, personnel, and logistic needs of a mammoth system. Most other states more sensibly use ballot marking devices for accessibility only and use majority hand-marked ballots. There's no good reason for Georgia not to do the same. And I hope lawmakers hear these concerns.

I'm very troubled that proper cybersecurity protocols are not in place, especially given the complexity of our system and it's dependence on vulnerable devices.

Please listen to experts for guidance in what urgent improvements are needed. Thank you.

JUDGE DUFFEY: Thank you very much, Ms. Wasson.

Ms. Throop. Or Troop is it?

MS. THROOP: Yeah, I'm Liz Throop.

JUDGE DUFFEY: Okay. Sorry.

MS. THROOP: I'm a DeKalb County --

JUDGE DUFFEY: One second. I've got to --

MS. THROOP: Sorry. I'm Liz Throop, a

DeKalb County voter. Thank you for this opportunity to speak.

Large institutions employ whole departments to protect them from cyber threats. They limit access to their software and limit their attacked surfaces. They make sure personnel understand password protocol and spearfishing attacks. They regularly upgrade software.

Nevertheless, some institutions do get hacked. When they do, they study what they overlooked and double-down on protections. While probably no election system is a hundred percent secure, they do not give up on a chance at security. It may not be feasible to mitigate all remote threats, but this does not allow us to dismiss likely threats. We cannot throw up our hands or equate paper ballots with ballots generated from vulnerable electronic devices.

Different systems present different security risks, but we must always do our best to safeguard elections.

Thank you for your service.

JUDGE DUFFEY: Thank you very much, Mrs. Throop.

Aileen Nakamura.

MS. NAKAMURA: Is this working? Do you mind if I sit down? I'm frozen.

JUDGE DUFFEY: No. Happy to have you sit down.

MS. NAKAMURA: Okay, thank you.

Good afternoon. I'm Aileen Nakamura from Fulton County. First, I'd like to thank the board members for your service and your time to Georgia voters. I really appreciate it.

I'd like to comment on a few things that I heard this morning during the discussion after the proposed cybersecurity rules from the Coalition for Good Governance and the Morgan County Dems as well as the presentation of the Dominion 5.17 system.

I find it hard to understand how the body that promulgated the rule that emergency ballots can be used when lines are too long, after -- you know, when lines are over thirty minutes, feels that it cannot add a few words to the emergency balloting rule to include cybersecurity threats or equipment vulnerabilities to the range of scenarios that can prompt the usage of emergency ballots.

Does that mean that if actual mal --

malware, yeah, were found in the system today and the state had no way to mitigate it, as we don't think it would, we have no legal way to switch to emergency balloting procedures right now unless the legislature were to make a new law about it? Instead it seems the board feels that the best way that it can do whatever it can to respond to the massive breach that occurred in Coffee County right now is to start a study committee.

I hope that the study committee will act with the appropriate sense of urgency that the nation's top cybersecurity experts having been trying to convey to you and the Georgia Secretary of State's Office because the bottom line is our election system as it stands today is highly vulnerable to attack.

Mr. Lindsey, you mentioned the study committee was important, that they could recommend rules should a catastrophic breach occur. But experts are saying and they're telling you that the cyber -- the catastrophic cybersecurity breach has already occurred.

We've now heard from the state that implementing the new Dominion system 5.17 will not only be very, very expensive, but we don't

know if the vulnerabilities found by Dr. Halderman will be appropriately addressed by the new change. I hope the study committee will look at all of the facts concerning the danger of Georgia's elections that -- concerning the danger that Georgia elections are in and at this moment take action to mitigate the situation by recommending that cybersecurity breaches and system vulnerabilities should be added to the list of instances that can trigger emergency balloting procedures.

Thank you.

JUDGE DUFFEY: Thank you very much.

Sylvia Albea.

MS. ALBERT: Technology. Thank you for the opportunity to speak with you. My name is Sylvia Albert and I'm the director of voting in elections for Common Cause. Common Cause is a nonpartisan grassroots organization dedicated to upholding the core values of American democracy.

Common Cause Georgia would like to offer the following testimony regarding the implementation of SB222. SB222 requires that all funding for elections be from funds appropriated by the state of Georgia or the federal government and closes

off other sources.

The language of the bill, however, does not provide guidance on the process of implementing the requirement while at the same time including harsh penalties for violations by election officials.

To properly prepare for the 2024 election, officials in all hundred and fifty-nine counties of Georgia must have a clear understanding of what resources are available to them to run their elections and how they go about receiving them.

Just some examples of the confusion over SB222: The federal government is a major funder of election grants to local jurisdictions. While it is an acceptable funding source under SB222, the bill also says that counties cannot solicit funds. So does that mean that they will be unable to apply for grants? Does that mean that the state is no longer going to use the federal government as a source for funding? Or will the SEB be making application on behalf of the counties? And if so, what is that process? How do local election officials request that a grant application is made on their behalf?

Without guidance, election officials around

the state are paralyzed with fear of prosecution and unable to take actions to ensure they're able to receive the funding that is available to them and that should rightly be theirs.

Further if the SEB receives funding, how will be it -- how will it be distributed? Is it by need? By per capita? How will -- how will they be able to demonstrate their needs?

Furthermore, the lack of clarity has also left election officials unsure of how to support each other. Previously if they had excess materials, they could give it to a neighboring county. However, neighboring counties are not listed as an accepted source. So will the SEB be a middle man so that these materials can actually transfer for county?

So these are just a few examples of some uncertainties that come from SB222. So we urge you to promulgate rules or issue guidance on this around the administration of funds and establish policies that -- so that these election officials will receive funds need -- that they need to execute the 2024 election.

JUDGE DUFFEY: Well, thank you. Let me give you two pieces of information. We -- we filed a

report right before the General Assembly on the distribution method that we are recommending to the General Assembly. So that's already been in the works and has been for a few months.

And we're already discussing where there's material, how can that be done so that it can be moved from one place where it's not needed to another place where it is and how we can do that within the context of 222?

So we're already working on a number of those issues.

Ted Metz.

UNIDENTIFIED SPEAKER: He's not here.

JUDGE DUFFEY: Kristin Nabers.

MS. NABERS: Is it working? It is? Okay.

Hi, my name is Kristin Nabers. I'm the state director for All Voting is Local. We're a nonpartisan organization that advocates for counties that will aid how -- advocate for policies that will aid counties in running smooth elections.

Today I'm here to urge the State Election Board to issue guidance to counties regarding voter challenges. All Voting is Local has identified several reasons why we believe

guidance will be impactful.

First, the challenge procedure places a massive burden on election offices often at peak times. I knew I wouldn't have long here, so I actually made Alex a packet of some of the voter challenge coverage.

There's three articles in there but if I had to only pick one, it would've been the CNN piece which asked Zach Manifold in Gwinnett about the time it took his staff to research the mass challenge they received last fall.

Actually there were -- five of our largest counties all held hearings in October or November of last year while they were simultaneously running elections. It diverts staff capacity often during critical periods.

Second, county staff positions, of course, are funded by public dollars which means there's a financial cost to these as well. When a challenge is submitted, the county elections staff spends time researching the list and contacting the challenged voters. Even hearings alone -- because they set a hearing and then hearings alone use a significant amount of time.

Just in 2023, there have been at least nine

hearings with challenges to more than 6500 voters. One hearing in Gwinnett started at 6 p.m. and wrapped at midnight. So we have counted more than a hundred and twenty staff hours in just hearings this year. This estimate doesn't include any of the research time or any of the outreach time.

We didn't track the length of every hearing in 2022, but we do know it was a large number. There were more than sixty separate lists of challenges submitted last year, totaling more than 75,000 voters.

Third, challenge lists often rely on outdated or unreliable sources. I've seen challengers citing research from qPublic.net which is supposed to be tax records and voteref.com which is supposed to be voter registration data.

Both cites state on their home page that they do not guarantee the accuracy of their data.

(Timer)

MS. NABERS: I'll pick it up.

These cites don't include voter ID numbers. It's very easy to mix up voters with the same name. Voteref also doesn't update in real time.

The list they're using is from February 2021 and doesn't contain any updates since then.

Challengers -- we've seen challengers repeatedly challenging voters who've already been canceled or are in the process of being canceled.

So if the SEB was able to offer guidance on what kind of challenge evidence requires research by staff and what kind of evidence could be dismissed out of hand, it would really go a long way toward lessening the burden on the offices and also on the taxpayers. It would also decrease the likelihood that lawful voters would be disenfranchised.

And finally we would ask that you also consider a ninety-day lockout period prior to an election which is in line, of course, with the NVRA prohibition on systematic removals within ninety days. It would mean that challenges do not need to be adjudicated during the busiest times of the year.

Thank you so much.

JUDGE DUFFEY: Thank you. Guidance on challenges has been in the works for about a month. We hope to be able to distribute that soon to the counties.

MS. NABERS: Fantastic. Thank you so much.

MR. LINDSEY: Mr. Chairman, can we also recognize that a young lady's been on the best behavior for two days here. And that --

JUDGE DUFFEY: Can you stand up? Can she please stand up?

MR. LINDSEY: Can you stand up? Can you --

JUDGE DUFFEY: Can you introduce her for us or let her introduce herself?

MR. LINDSEY: Thank you.

MS. NABERS: This is my daughter, Matilda, who didn't have camp this week. So she's doing civics camp, social studies camp. Thank you.

JUDGE DUFFEY: And she's very shy.

Good to have you.

All right. Kelli Persons. So what -- where are you? Okay. Your mic should be live.

MS. PERSONS: There we go. Thank you, sir.

Thank you, Chairman, Members of the Board, for hearing our concerns today. I'm Kelli Persons with the League of Women Voters of Georgia. We're apparently in the advocacy row down here.

So our mission statement is to encourage the informed and active participation of citizens and

their government. We have volunteers that attend county commissions, board of education, and, of course, local board of elections.

First, we want to take a minute just to thank everyone. We know that elections are hard work, especially our county elections folks. So any opportunity we get, we want to raise them up.

We do have some concerns about the rollout of the GRVIS system. We've received several reports from Carroll County, Chatham County, Columbia, Fulton, Gwinnett, and Rockdale about issues with the GRVIS system, particularly that the data isn't stable, there are voters that have been removed that reappear, the redistricting information does not always seem correct, and that there are several counties that are not able to put out their voter registration cards because they're unsure about the data in the system.

So we wanted to highlight that and to also sort of implore the Secretary of State's Office, the elections office, the vendor, and you yourselves in your capacity to do what we can to fix the system so that our counties are actually able to utilize the database and be able to do the good work we want them to do.

JUDGE DUFFEY: Thank you very much.

By the way, we've heard the same things about GRVIS and had a -- had an hour-long telephone conversation with Blake Evans about that the other day. And they are aware of it and I -- if you haven't heard, two nights ago there was a long list of changes and -- that apparently were rolled out to the counties, and we have to see whether or not that fixed some of the issues that people have had.

Greg Landon.

MR. LANDON: Good afternoon, Board. Thanks for letting us have public comment here. My name is Greg Landon. I reside in Forsyth County, Georgia.

The release of the Halderman report was a shocking revelation to the many vulnerabilities that exist in the voting systems used throughout the state of Georgia. This damning report was suppressed by the Secretary of State's Office for years and we can all see now why he wanted that report never to see the light of day. Professor Halderman explains in plain detail how malicious actors can easily access these machines and alter the outcome of elections in our state.

One of the conclusions Professor Halderman states is: I explained how such malware can alter voter's votes while subverting all the procedural protections practiced by the state, including acceptance testing, hash validation, logic and accuracy testing, external firmware validation and risk limiting audits.

This is totally unacceptable. I'm appalled as a citizen, a taxpayer, and a vote -- voter in this state that this is allowed. The Secretary of State likes to tout the turnout and satisfaction of the public with our voting systems. But I ask, what choice do we have?

These voting machines need to be immediately replaced with hand-marked, hand-counted paper ballots, serialized ballots on currency grade paper. I would ask the board to use your influence to move in this direction of paper ballots as soon as possible. Thank you for your consideration on this critical issue.

JUDGE DUFFEY: Thank you, Mr. Landon.

Frank Schneider.

MR. SCHNEIDER: Thank you and good afternoon. My name's Frank Schneider. I am a resident of Forsyth County, and I'm here to

discuss my thoughts on the Halderman report.

My career is in finance and IT, including five years as an IT auditor. I've had a chance to read the entire report. I paid particular attention to chapters 8 and 9, dealing with unauthorized manual access and manipulation and remote access and manipulation. I read those a couple of times.

My assessment of the report is that it is both substantial and damning. There are multiple points of entry to these systems and multiple ways to manipulate and overwrite files in order to inject code to do nefarious things. Greg referenced that as well.

It is also possible to alter the audit logs so such activity can go undetected. We saw this sort of stuff in corporate system testing against potential attacks as well. This -- when I look at this, this is almost like malware 101.

I'll continue. Though Dr. Halderman acknowledged his report only picked out a handful of scenarios to evaluate and run scripted system hacks and penetrations against, there are likely many more that more sophisticated attackers could employ. In addition, the scope of his review and

report were just about marking devices and the printers. When you consider the scanners and the poll books, there could be well many more areas of significant risk.

I also had a chance to read Mr. Raffensperger's rather strongly worded reply to this report. It did little to address the issues brought up in chapters 8 and 9 or engender confidence an attack wouldn't take place either directly or remotely.

Frankly what I would've liked to have seen from his office is a moderate report that addressed the specific issues that Dr. Halderman raised in his report. But instead we got this rather aggressive rhetoric.

This is not going to blow over. Your constituents are focused, angry, and frustrated. They do not trust voting machines. All these recent events only provide further strong evidence that these electronic voting machines need to be done away with and paper ballots be hand-counted and this process be reintroduced.

We are working with our state legislators right now and through the judicial system to drive change. I'm not entirely clear what your

legal authority is in this, but my hope is that you'll take what actions you can and give some serious consideration to this information that we now have. We need some thoughtful action.

Thank you.

JUDGE DUFFEY: Thank you, Mr. Schneider.

Erik Christian[sic].

MR. CHRISTENSEN: Erik Christensen, DeKalb County. I'm a former auditor with Arthur Andersen and a former systems consultant with Deloitte. And I presented at the last meeting.

And I'm a little disappointed, I guess. I thought you guys had more power than you have, and hopefully the General Assembly can grant that to you because you should have the plenary power under Article I, Section IV of the constitution to set the rules and tell the Secretary of State how you want things done.

Now, all is not lost. You hear about hack, hack, hack, vulnerabilities, all that kind of stuff, and that would be true with any system that we have. There's no perfect system out there. There's no perfect process. There's no perfect people. That's okay. We can deal with that.

But uniformity is something that is required, I guess, by the Supreme Court and that's something that we don't have right now. We kind of have it at the precinct level, I would say. We certainly do not have it at the absentee ballot level. We basically have two types of ballot. We've got precinct level ballots; we've got absentee ballots.

Okay, so what is the solution? The system as it exists today is not auditable in any way, shape, or form. You can say we have a risk limiting audit. We don't have a risk limiting audit. We've never had one. Putting in some simple procedures, using the existing system today, we don't have to throw the baby out with the bath water.

We can use Dominion. I believe Dominion will work properly. Can it be hacked? I'm sure it can be. But if we do two things at the precinct level -- one is we turn on the -- the numbering system for the ballot marking device. Supposedly the ballot marking device will allow a number to be put on it. That would prevent ballots from being double-scanned. We saw evidence that ballots were double-scanned in the

last election. That's probably number one.

And number two -- and I've given you guys a write-up on this. I'll do a full presentation at the next meeting -- is print two copies of off the ballot marking devices, okay? So one copy gets scanned in the Dominion scanner, the other copy gets dropped into the audit bin. Everybody's familiar with carbon copies. We've been using them for a hundred years. Everybody's familiar with audit copies. You see them at hotels. They give you copies that say audit copy on it. That goes in the audit bin, okay?

So can they still cheat? Yeah, they can. If they are cheating -- we don't have evidence of that per se, but they will get caught because the audit bin will have a copy that will be handled by a different logistics company. And it could be an auditing firm, it could be a lawyer, it could be anybody that holds those until after the election's over. We can go back and verify it later. Won't slow the election, don't have to throw anything away, we can use the existing process that we have today.

Absentee, I've got a much longer presentation. Don't have time for that.

JUDGE DUFFEY: Thank you, Mr. Christensen.

Julie Adams. Did you press your button? It's the one that says talk. Okay?

MS. ADAMS: It doesn't say talk. Just though I'd tell you that.

So I'm a Fulton County resident and I was this morning at the Fulton County Board of Commissioners Meeting. I'd like to tell you guys what's going on there. I understand -- I'm pretty sure you guys already have a complaint about this situation.

So the -- in Fulton County, our board of registrations and elections members, the chairperson is chosen and nominated and appointed by the board of commissioners. And each major party gets to put forth two nominees that are to -- that shall be appointed by the board of commissioners.

A lot of debate on how this is worded. I know you guys have it in your complaint that you got which I believe was yesterday, it could be today. But from what I understand from every attorney I've talked to, the way the code is written, the board of commissioners is to approve the nominees and put them on the board as has

been the case for over ten years. I've gone back through the meetings, which was a very boring process, and found out that not once has any commissioner on -- in any party voted no for any nominee.

So we have -- there's a nominee and his name is Jason Frazier. He's very highly educated. He's an engineer. He's got an MBA. He's got a great work background. He's a great family man. And he started about a year ago cleaning the voter rolls in Fulton County as SB202 allows.

One of the things that's the problem with the voter rolls -- which it shouldn't really matter what his background is, I think the law's clear that the nominee should be appointed. But I do want to tell you one thing about Fulton County's voter rolls. They currently -- Fulton County currently has a voting age population of 758,000 people. But currently our voter rolls have 880,000 people that are registered to vote. Those people could walk in to a polling location at the next election and vote.

So typically 65 to 70 percent of the voting age population of a county is registered to vote. But we have in Fulton County a hundred and

twenty-two thousand more people registered to vote than are at the legal voting age in Fulton County. It's a problem. It is a serious problem.

So Mr. Frazier has spent hours and hours for the past year working on the voter rolls, helping Fulton County with the voter rolls. And for this, he is not getting voted in as a BRE member because they say he's not serious. They say he's a disruptor. What I'd like to say about the disruptor is he's very mild-mannered in the first place. But 95 percent of his challenges have been approved by Fulton County Elections.

So I mean, I just -- I just have a real problem with them not putting this nominee through and would really, really like to ask you all to really take a look at the complaint in this matter because the new board members all go into effect July 1st and I feel like this is very partisan and -- and, you know, I would defer to you attorneys, but that's not legal.

So I would appreciate your consideration. Thank you.

JUDGE DUFFEY: Is there litigation filed, challenging this? Do you know?

MS. ADAMS: I understand that there was a letter sent. Today was the second vote and there was a letter sent to try to avoid that. But I'm assuming that litigation will be filed. And, you know, personally I appreciate all you attorneys, but, you know, if it gets to that, then it's probably going to be, what, '25 before it's -- I mean, I -- I don't know, but I think that -- I think that it needs legal consideration now. And I don't know how you guys stand on -- what your power is with that.

JUDGE DUFFEY: Well, thank you. There's been a number of articles in the paper about that. And at least I was aware of it. I'm sure everyone else was.

MS. ADAMS: Right.

JUDGE DUFFEY: But thank you very much.

MS. ADAMS: Uh-huh.

JUDGE DUFFEY: Gail Lee. Okay.

UNIDENTIFIED SPEAKER: You're on. You're on.

MS. LEE: Hello?

MR. MASHBURN: Hello.

MS. LEE: There we go. My name is Gail Lee. I'm a resident of DeKalb County. And I have two

concerns that I'm bringing.

First, the absentee ballot application is inadequate to deter fraud under the current law. It asks for the elector's registered address, but the form does not ask if the elector has moved from that address or for a current residential address and it's effective date.

So if an elector is on the inactive list due to an NCOA report of their having moved, they can enter the registered address as required, obtain an absentee ballot, vote, and be returned to active status. And this defeats the removal process. And at the bottom of the form, the elector affirms that the information given is true, and it truly is their registered address.

I believe the form should ask whether or not the elector still resides at the registered address, and if the answer is no, there should be a place for the new address and it's effective date. Failure to answer should result in no ballot being sent.

My second concern is the lack of consistency among the counties for handling common issues in citizen challenges to electors. And I recommend that this board provide guidelines to the

counties on basic issues like post office and UPS addresses, criteria for removing challenged electors reported by the NCOA system, missing dates of birth, commercial addresses, and missing and incomplete addresses. Several examples are DeKalb won't remove electors with post office and UPS addresses for a residence. Gwinnett will remove those who have no other previous address. Currently Fulton notes them as challenged and they remain active. Fannin removes them if they don't provide a valid address after notice.

For missing date of birth, DeKalb and Fulton leave them active despite it being required for identity. Fannin makes their voting provisional until the date of birth is provided.

(Timer)

MS. LEE: And you have the rest.

JUDGE DUFFEY: Go ahead.

MS. LEE: Oh, okay. To remove challenged electors reported by the NCOA system who have moved to another state, DeKalb requires direct notice from the foreign secretary of state. Fulton and Cobb require proof of voting elsewhere. Gwinnett requires proof of registration or voting elsewhere.

Commercial addresses in Gwinnett will be removed. Fulton will note them as challenged and leave them active. Fannin will investigate to make sure there's no apartment at that location before removal.

Incomplete addresses in Fulton are noted as challenged and left active. Fannin requires them to vote provisionally.

I rest my case.

JUDGE DUFFEY: Thank you very much.

Elena Merin.

MS. MERINO: Merino.

JUDGE DUFFEY: Merino, I'm sorry.

MS. MERINO: Hi. This is my first SEB meeting. I've been avoiding it on purpose. No.

As you know, Mr. Duffey, I've been researching Dominion version testing, lab certifications, advisories, all this for about a year for pers -- partly personally reasons. I had a friend who has an excellent book at the National Press Club about this. He's Latino like I am. This has been happening in Latin America for decades. So while it's new to the U.S., it's not for us. And he spoke about it, wrote about it.

But anyway I started doing research online and I've sent you all the links of where I find things. But looking at the EAC database showed that we had 5.5A. While that's the version that the CISA -- the famous CISA advisory, June 22nd, was about, I quite didn't believe that we were still using that because I knew that they had approved B, C, and D. So I said well, maybe EAC's just not up to date.

So I spent a month back and forth with a -- with a Secretary of State open records request, asking for the last testing and certification of voting machines in Georgia. That was a struggle. This was before the 2022 election. Finally got it and, lo and behold, confirmed the last certification and testing of machines in Georgia was in 2019.

I pulled our agreement. The Dominion agreement very specifically says if contractor makes any revision, modification, enhancement, improvement, or otherwise updates a software patch, upgrades, upkeep -- it goes on and on -- such revisions must be provided by contractor on a no-charge basis. Somebody said it'd be expensive. No. No-charge basis.

And what's even worse is that advisory from CISA states -- Dominion acknowledges the issues, by the way, on that CISA advisory and it basically says that: Oh, but these have been addressed in subsequent versions. Okay? So what version? The B, C, or D we ignored or the 5.17 we're going to ignore?

Just so you know, I mean, the bottom line is I did a lot of research in the last few days because the excuse is so lame. And I think that's the last e-mail -- I think I e-mailed back to all of you. On May 22nd of this year, I kind of gave up. But we're going to be doing health checks. We've got nearly twenty months, eighteen plus months. We want to be doing health checks. And we can't insert a USB to update the system? That's just -- sorry, that's just not credible at all.

So I went onto Secretary of State -- I know I have a database on the -- what kind of -- what states, what country -- I mean, what -- countries -- what counties used Dominion. And I went into three, and all three -- in the first three -- I've only gone through three -- was Florida, California, and Michigan. Guess what?

They all have time to update to 5.17. They, in fact, will not accept an earlier version of Dominion. That's Florida, California, and Michigan. Matter of fact, Michigan has a municipal in August and they said they're hoping they can get an update by August but probably won't have it.

Anyway then I went to the EAC and -- I've got to cut, I guess, right?

JUDGE DUFFEY: Yeah. Well --

MS. MERINO: Well, I went to the EAC and, lo and behold, all of Iowa that uses Dominion, those have all been already updated to 5.17 and reported back to the EAC.

So this -- this is a game that we don't have the time. So --

JUDGE DUFFEY: You need to -- give you thirty seconds.

MS. MERINO: That's basically it. I can go on and on, but --

JUDGE DUFFEY: I know. That was what --

MS. MERINO: Thank you --

JUDGE DUFFEY: -- I was afraid of.

MS. MERINO: -- for your time.

JUDGE DUFFEY: Thank you, Ms. Merino.

All right, that's the last person to make public comment. There is nothing else on the agenda for this evening.

So I would entertain a motion to adjourn.

DR. JOHNSTON: So moved.

MS. GHAZAL: Second.

JUDGE DUFFEY: It's been moved and seconded to adjourn. All those in favor say aye.

THE BOARD MEMBERS: Aye.

JUDGE DUFFEY: Opposed, no?

We are adjourned.

(Adjourned at 4:51 p.m.)

CERTIFICATE

STATE OF GEORGIA

I hereby certify that the foregoing meeting was taken down and was reduced to typewriting under my direction; that the foregoing transcript is a true and correct record given to the best of my ability.

The above certification is expressly withdrawn upon the disassembly or photocopying of the foregoing transcript, unless said disassembly or photocopying is done under the auspices of the undersigned and electronic signature is attached thereon.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties; nor am I financially interested in the action.

This, the 24th day of July, 2023.

Mary K McMahan

Mary K McMahan, CCR, CVR, RPR, FPR
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